

FIFTY-FIRST DAY

St. Paul, Minnesota, Tuesday, May 9, 2017

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

CALL OF THE SENATE

Senator Limmer 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. Phil Shaw.

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:

Abeler	Dziedzic	Ingebrigtsen	Lourey	Schoen
Anderson, B.	Eaton	Isaacson	Marty	Senjem
Anderson, P.	Eichorn	Jasinski	Mathews	Simonson
Bakk	Eken	Jensen	Miller	Sparks
Benson	Fischbach	Johnson	Nelson	Tomassoni
Carlson	Franzen	Kent	Newman	Torres Ray
Chamberlain	Frentz	Kiffmeyer	Newton	Utke
Champion	Gazelka	Klein	Osmek	Weber
Clausen	Goggin	Koran	Pappas	Westrom
Cohen	Hall	Laine	Pratt	Wiger
Cwodzinski	Hawj	Lang	Relph	Wiklund
Dahms	Hayden	Latz	Rest	
Dibble	Hoffman	Limmer	Rosen	
Draheim	Housley	Little	Ruud	

The President declared a quorum present.

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

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 879 and 1549.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 8, 2017

Madam President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 678, 740, 1418 and 1443.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 8, 2017

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 678: A bill for an act relating to motor vehicles; establishing law enforcement memorial special license plates; proposing coding for new law in Minnesota Statutes, chapter 168.

Senator Limmer, designee of the Chair of the Committee on Rules and Administration, moved that H.F. No. 678 be laid on the table. The motion prevailed.

H.F. No. 740: A bill for an act relating to commerce; regulating motor vehicle franchises; specifying warranty and recall obligations; providing unfair practices by manufacturers, distributors, and factory branches; amending Minnesota Statutes 2016, sections 80E.11, subdivision 7; 80E.13; 80E.16, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 80E; repealing Minnesota Statutes 2016, section 80E.04.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 638, now on General Orders.

H.F. No. 1418: A bill for an act relating to state government; clarifying certain prize provisions of the lottery; providing for certain budget and expenses of the State Lottery; amending Minnesota Statutes 2016, sections 349A.08, subdivision 2; 349A.10, subdivision 6; repealing Minnesota Statutes 2016, section 349A.08, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1573, now on General Orders.

H.F. No. 1443: A bill for an act relating to commerce; regulating insurance fraud; modifying certain penalties and notices; defining a term; clarifying the authority of the Commerce Fraud Bureau to apply for or execute search warrants; amending Minnesota Statutes 2016, sections 13.82, subdivision 17; 45.0135, subdivision 9; 60A.27, subdivision 1; 65B.84, by adding a subdivision; 626.05, subdivision 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1344, now on General Orders.

REPORTS OF COMMITTEES

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

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

H.F. No. 952 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its 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.
952	818				

and that the above 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. Report adopted.

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

H.F. No. 827 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its 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.
827	648				

and that the above 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. Report adopted.

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

H.F. No. 1186 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.
1186	915				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 1186 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1186, the second engrossment; and insert the language after the enacting clause of S.F. No. 915, the first engrossment; further, delete

the title of H.F. No. 1186, the second engrossment; and insert the title of S.F. No. 915, the first engrossment.

And when so amended H.F. No. 1186 will be identical to S.F. No. 915, and further recommends that H.F. No. 1186 be given its second reading and substituted for S.F. No. 915, 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 Gazelka, from the Committee on Rules and Administration, to which was referred

H.F. No. 959 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.
959	815				

Pursuant to Rule 45, the Committee on Rules and Administration recommends that H.F. No. 959 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 959, the second engrossment; and insert the language after the enacting clause of S.F. No. 815, the first engrossment; further, delete the title of H.F. No. 959, the second engrossment; and insert the title of S.F. No. 815, the first engrossment.

And when so amended H.F. No. 959 will be identical to S.F. No. 815, and further recommends that H.F. No. 959 be given its second reading and substituted for S.F. No. 815, 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 Gazelka, from the Committee on Rules and Administration, to which was referred

H.F. No. 106 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its 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.
106	93				

and that the above 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. Report adopted.

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

H.F. No. 712 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its 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.
712	1184				

and that the above 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. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. Nos. 952, 827, 1186, 959, 106, and 712 were read the second time.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bill was read the first time.

Senator Housley introduced--

S.F. No. 2383: A bill for an act relating to health; requiring the commissioner to make information on human herpesvirus cytomegalovirus available to certain individuals; proposing coding for new law in Minnesota Statutes, chapter 144.

Referred to the Committee on Health and Human Services Finance and Policy.

MOTIONS AND RESOLUTIONS

Senator Osmek moved that the name of Senator Pratt be added as a co-author to S.F. No. 1490. The motion prevailed.

Senator Mathews moved that the name of Senator Newton be added as a co-author to S.F. No. 1703. The motion prevailed.

Senator Relph moved that the name of Senator Utke be added as a co-author to S.F. No. 2138. The motion prevailed.

Senator Housley moved that the name of Senator Benson be added as a co-author to S.F. No. 2355. The motion prevailed.

Senators Hawj, Pappas, Champion, Hayden, and Marty introduced --

Senate Resolution No. 88: A Senate resolution honoring Rev. Dr. Earl Fredrick Miller, Sr. on the occasion of his retirement.

Referred to the Committee on Rules and Administration.

RECESS

Senator Limmer 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 Dahms 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. 780 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. No. 780

A bill for an act relating to agriculture; appropriating money for agriculture-related purposes; making policy and technical changes to agriculture-related provisions; authorizing a transfer, a working group, and accounts; modifying certificate fees; requiring reports; amending Minnesota Statutes 2016, sections 3.7371; 17.119, subdivisions 1, 2; 18.79, subdivision 18; 28A.081; 41A.12, subdivision 3; Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 17; 18B.

May 8, 2017

The Honorable Michelle L. Fischbach
President of the Senate

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 780 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. 780 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1**AGRICULTURE APPROPRIATIONS****Section 1. AGRICULTURE 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 "2018" and "2019" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2018, or June 30, 2019, respectively. "The first year" is fiscal year 2018. "The second year" is fiscal year 2019. "The biennium" is fiscal years 2018 and 2019.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2018</u>	<u>2019</u>
Sec. 2. <u>DEPARTMENT OF AGRICULTURE</u>		
Subdivision 1. <u>Total Appropriation</u>	<u>\$ 51,019,000</u>	<u>\$ 50,869,000</u>
<u>Appropriations by Fund</u>		
	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>50,631,000</u>	<u>50,481,000</u>
<u>Remediation</u>	<u>388,000</u>	<u>388,000</u>

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

Subd. 2. <u>Protection Services</u>	<u>17,666,000</u>	<u>17,666,000</u>
<u>Appropriations by Fund</u>		
	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>17,278,000</u>	<u>17,278,000</u>
<u>Remediation</u>	<u>388,000</u>	<u>388,000</u>

(a) \$25,000 the first year and \$25,000 the second year are to develop and maintain cottage food license exemption outreach and training materials.

(b) \$75,000 the first year and \$75,000 the second year are to coordinate the correctional facility vocational training program and to assist entities that have explored the feasibility of establishing a USDA-certified

or state "equal to" food processing facility within 30 miles of the Northeast Regional Corrections Center.

(c) \$250,000 the first year and \$250,000 the second year are for transfer to the pollinator habitat and research account in the agricultural fund. These are onetime transfers.

(d) \$388,000 the first year and \$388,000 the second year are from the remediation fund for administrative funding for the voluntary cleanup program.

(e) \$125,000 the first year and \$125,000 the second year are for the industrial hemp pilot program under Minnesota Statutes, section 18K.09. These are onetime appropriations.

(f) \$175,000 the first year and \$175,000 the second year are for compensation for destroyed or crippled livestock under Minnesota Statutes, section 3.737. This appropriation may be spent to compensate for livestock that were destroyed or crippled during fiscal year 2017. If the amount in the first year is insufficient, the amount in the second year is available in the first year.

(g) \$155,000 the first year and \$155,000 the second year are for compensation for crop damage under Minnesota Statutes, section 3.7371. If the amount in the first year is insufficient, the amount in the second year is available in the first year. The commissioner may use up to \$30,000 of the appropriation each year to reimburse expenses incurred by the commissioner or the commissioner's approved agent to investigate and resolve claims.

If the commissioner determines that claims made under Minnesota Statutes, section 3.737 or 3.7371, are unusually high, amounts appropriated for either program may be transferred to the appropriation for the other program.

(h) \$250,000 the first year and \$250,000 the second year are to expand current capabilities for rapid detection, identification, containment, control, and management of high priority plant pests and pathogens. These are onetime appropriations.

(i) \$300,000 the first year and \$300,000 the second year are for transfer to the noxious weed and invasive plant species assistance account in the agricultural fund to award grants to local units of government under Minnesota Statutes, section 18.90, with preference given to local units of government responding to Palmer amaranth or other weeds on the eradicate list. These are onetime transfers. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the grant program.

(j) \$120,000 the first year and \$120,000 the second year are for wolf-livestock conflict prevention grants under article 2, section 12. The commissioner must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture policy and finance by January 15, 2020, on the outcomes of the wolf-livestock conflict prevention grants and whether livestock compensation claims were reduced in the areas that grants were awarded. This is a onetime appropriation.

Subd. 3. Agricultural Marketing and Development

3,996,000

3,996,000

(a) The commissioner must provide outreach to urban farmers regarding the department's financial and technical assistance programs and must assist urban farmers in applying for assistance.

(b) \$186,000 the first year and \$186,000 the second year are for transfer to the Minnesota grown account and may be used as grants for Minnesota grown promotion under Minnesota Statutes, section 17.102. Grants may be made for one year. Notwithstanding Minnesota Statutes, section 16A.28, the

appropriations encumbered under contract on or before June 30, 2019, for Minnesota grown grants in this paragraph are available until June 30, 2021.

(c) \$634,000 the first year and \$634,000 the second year are for continuation of the dairy development and profitability enhancement and dairy business planning grant programs established under Laws 1997, chapter 216, section 7, subdivision 2, and Laws 2001, First Special Session chapter 2, section 9, subdivision 2. The commissioner may allocate the available sums among permissible activities, including efforts to improve the quality of milk produced in the state, in the proportions that the commissioner deems most beneficial to Minnesota's dairy farmers. The commissioner must submit a detailed accomplishment report and a work plan detailing future plans for, and anticipated accomplishments from, expenditures under this program to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture policy and finance on or before the start of each fiscal year. If significant changes are made to the plans in the course of the year, the commissioner must notify the chairs and ranking minority members.

(d) The commissioner may use funds appropriated in this subdivision for annual cost-share payments to resident farmers or entities that sell, process, or package agricultural products in this state for the costs of organic certification. The commissioner may allocate these funds for assistance for persons transitioning from conventional to organic agriculture.

Subd. 4. Agriculture, Bioenergy, and Bioproduct Advancement

21,717,000

21,717,000

(a) \$9,300,000 the first year and \$9,300,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under

Minnesota Statutes, section 41A.14, subdivision 3. Of these amounts: at least \$600,000 the first year and \$600,000 the second year are for the Minnesota Agricultural Experiment Station's agriculture rapid response fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2); \$2,000,000 the first year and \$2,000,000 the second year are for grants to the Minnesota Agriculture Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants; up to \$350,000 the first year and up to \$350,000 the second year are for potato breeding; and up to \$450,000 the first year and up to \$450,000 the second year are for the cultivated wild rice breeding project at the North Central Research and Outreach Center to include a tenure track/research associate plant breeder. The commissioner shall transfer the remaining funds in this appropriation each year to the Board of Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14. Of the amount transferred to the Board of Regents, up to \$1,000,000 each year is for research on avian influenza, including prevention measures that can be taken.

To the extent practicable, funds expended under Minnesota Statutes, section 41A.14, subdivision 1, clauses (1) and (2), must supplement and not supplant existing sources and levels of funding. The commissioner may use up to one percent of this appropriation for costs incurred to administer the program.

(b) \$12,392,000 the first year and \$12,392,000 the second year are for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. Except as provided below, the commissioner may allocate the appropriation each year among the following areas: facilitating the start-up, modernization, or expansion of livestock operations including

beginning and transitioning livestock operations; developing new markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota school children; assisting value-added agricultural businesses to begin or expand, access new markets, or diversify; urban youth agricultural education; urban agriculture community development; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including by providing loans under Minnesota Statutes, section 41B.056; sustainable agriculture on-farm research and demonstration; development or expansion of food hubs and other alternative community-based food distribution systems; enhancing renewable energy infrastructure and use; crop research; Farm Business Management tuition assistance; good agricultural practices/good handling practices certification assistance; establishing and supporting farmer-led water management councils; and implementing farmer-led water quality improvement practices. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. Notwithstanding Minnesota Statutes, section 16A.28, appropriations encumbered under contract on or before June 30, 2019, for agricultural growth, research, and innovation grants are available until June 30, 2021.

Of the amount appropriated for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12:

(1) \$1,000,000 the first year and \$1,000,000 the second year are for distribution in equal amounts to each of the state's county fairs to preserve and promote Minnesota agriculture;

(2) \$1,500,000 the first year and \$1,500,000 the second year are for incentive payments

under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2019, and the second year appropriation is available until June 30, 2020;

(3) \$3,000,000 the first year and \$3,000,000 the second year are for livestock investment grants under Minnesota Statutes, section 17.118;

(4) \$3,000,000 the first year and \$3,000,000 the second year are for value-added agriculture grants;

(5) \$1,000,000 the first year and \$1,000,000 the second year are for grants to install equipment necessary to store or dispense biofuels to the public in order to meet the biofuel requirement goals established under Minnesota Statutes, section 239.7911;

(6) \$350,000 the first year and \$350,000 the second year are for grants to expand Minnesota agriculture, including Minnesota-grown hemp, to new markets;

(7) \$400,000 the first year is for a grant to the Board of Trustees of the Minnesota State Colleges and Universities to expand and renovate the GROW-IT Center at Metropolitan State University;

(8) Up to \$350,000 the first year and up to \$350,000 the second year are for urban youth agricultural education and urban agriculture community development on parcels of publicly owned land suitable for urban agriculture, in consultation with urban agriculture stakeholders. The commissioner must also consult with the commissioner of transportation, commissioner of administration, and local units of government to identify parcels of publicly owned land that are suitable for urban agriculture;

(9) \$100,000 the first year is for grants to ethnic minority chambers of commerce to connect immigrants and new American citizens to farming opportunities in this state; and

(10) \$450,000 the first year and \$450,000 the second year are for farm business management scholarships.

For value-added agriculture grants under clause (4), the commissioner may award up to two grants of up to \$750,000 per grant for new or expanding livestock product processing facilities or dairy product processing facilities that provide significant economic impact to the region. The remaining value-added agriculture grants are for awards between \$1,000 and \$200,000 per grant. The appropriations in clauses (1) to (10) are onetime. If the appropriation for incentive payments in clause (2) exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available for the agricultural growth, research, and innovation program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

The base budget for the agricultural growth, research, and innovation program for fiscal year 2020 and later is \$13,273,000 each fiscal year. Of this amount, \$4,500,000 each year is for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, 41A.18, and 41A.20.

(c) \$25,000 the first year and \$25,000 the second year are for grants to the Southern Minnesota Initiative Foundation to promote local foods through an annual event that raises public awareness of local foods and connects local food producers and processors with potential buyers.

Subd. 5. Administration and Financial Assistance7,640,0007,490,000

(a) \$474,000 the first year and \$474,000 the second year are for payments to county and district agricultural societies and associations under Minnesota Statutes, section 38.02, subdivision 1. Aid payments to county and district agricultural societies and associations shall be disbursed no later than July 15 of each year. These payments are the amount of aid from the state for an annual fair held in the previous calendar year.

(b) \$1,000 the first year and \$1,000 the second year are for grants to the Minnesota State Poultry Association.

(c) \$18,000 the first year and \$18,000 the second year are for grants to the Minnesota Livestock Breeders Association.

(d) \$47,000 the first year and \$47,000 the second year are for the Northern Crops Institute. These appropriations may be spent to purchase equipment.

(e) \$220,000 the first year and \$220,000 the second year are for farm advocate services.

(f) \$17,000 the first year and \$17,000 the second year are for grants to the Minnesota Horticultural Society.

(g) \$108,000 the first year and \$108,000 the second year are for annual grants to the Minnesota Turf Seed Council for basic and applied research on: (1) the improved production of forage and turf seed related to new and improved varieties; and (2) native plants, including plant breeding, nutrient management, pest management, disease management, yield, and viability. The grant recipient may subcontract with a qualified third party for some or all of the basic or applied research. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. This is a onetime appropriation.

(h) \$113,000 the first year and \$113,000 the second year are for transfer to the Board of Trustees of the Minnesota State Colleges and Universities for statewide mental health counseling support to farm families and business operators. South Central College shall serve as the fiscal agent.

(i) \$550,000 the first year and \$550,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Feeding America food banks for the purchase of milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Feeding America food bank serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance Program (TEFAP). Second Harvest Heartland must submit quarterly reports to the commissioner on forms prescribed by the commissioner. The reports must include, but are not limited to, information on the expenditure of funds, the amount of milk purchased, and the organizations to which the milk was distributed. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank receiving money from this appropriation may use up to two percent of the grant for administrative expenses. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(j) \$1,100,000 the first year and \$1,100,000 the second year are for grants to Second Harvest Heartland on behalf of the six Feeding America food banks that serve Minnesota to compensate agricultural

producers and processors for costs incurred to harvest and package for transfer surplus fruits, vegetables, and other agricultural commodities that would otherwise go unharvested, be discarded, or sold in a secondary market. Surplus commodities must be distributed statewide to food shelves and other charitable organizations that are eligible to receive food from the food banks. Surplus food acquired under this appropriation must be from Minnesota producers and processors. Second Harvest Heartland must report in the form prescribed by the commissioner. Second Harvest Heartland may use up to 15 percent of each grant for matching administrative and transportation expenses. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(k) \$150,000 the first year and \$150,000 the second year are for grants to the Center for Rural Policy and Development.

(l) \$235,000 the first year and \$235,000 the second year are for grants to the Minnesota Agricultural Education and Leadership Council for programs of the council under Minnesota Statutes, chapter 41D.

(m) \$600,000 the first year and \$600,000 the second year are for grants to the Board of Regents of the University of Minnesota to develop, in consultation with the commissioner of agriculture and the Board of Animal Health, a software tool or application through the Veterinary Diagnostic Laboratory that empowers veterinarians and producers to understand the movement of unique pathogen strains in livestock and poultry production systems, monitor antibiotic resistance, and implement effective biosecurity measures that promote animal health and limit production losses. This is a onetime appropriation.

(n) \$150,000 the first year is for the tractor rollover protection pilot program under

Minnesota Statutes, section 17.119. This is a onetime appropriation and is available until June 30, 2019.

By January 15, 2018, the commissioner shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over agricultural policy and finance with a list of inspections the department conducts at more frequent intervals than federal law requires, an explanation of why the additional inspections are necessary, and provide recommendations for eliminating any unnecessary inspections.

Sec. 3. <u>BOARD OF ANIMAL HEALTH</u>	<u>\$</u>	<u>5,384,000</u>	<u>\$</u>	<u>5,384,000</u>
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Sec. 4. <u>AGRICULTURAL UTILIZATION RESEARCH INSTITUTE</u>	<u>\$</u>	<u>3,643,000</u>	<u>\$</u>	<u>3,643,000</u>
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Sec. 5. Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended by Laws 2016, chapter 184, section 11, and Laws 2016, chapter 189, article 2, section 26, is amended to read:

Subd. 4. Agriculture, Bioenergy, and Bioproduct Advancement				19,010,000
		14,993,000		<u>18,316,000</u>

\$4,483,000 the first year and \$8,500,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under Minnesota Statutes, section 41A.14, subdivision 3. The transfer in this paragraph includes money for plant breeders at the University of Minnesota for wild rice, potatoes, and grapes. Of these amounts, at least \$600,000 each year is for the Minnesota Agricultural Experiment Station's Agriculture Rapid Response Fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2). Of the amount appropriated in this paragraph, \$1,000,000 each year is for transfer to the Board of Regents of the University of Minnesota for research to determine (1) what is causing avian influenza, (2) why some fowl are more susceptible, and (3) prevention measures that can be taken. Of the amount appropriated in this paragraph, \$2,000,000 each year is for

grants to the Minnesota Agriculture Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants. The commissioner shall transfer the remaining grant funds in this appropriation each year to the Board of Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14.

To the extent practicable, funds expended under Minnesota Statutes, section 41A.14, subdivision 1, clauses (1) and (2), must supplement and not supplant existing sources and levels of funding. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

~~\$10,235,000~~ the first year and ~~\$10,235,000~~ \$9,541,000 the second year are for the agricultural growth, research, and innovation program in Minnesota Statutes, section 41A.12. No later than February 1, 2016, and February 1, 2017, the commissioner must report to the legislative committees with jurisdiction over agriculture policy and finance regarding the commissioner's accomplishments and anticipated accomplishments in the following areas: facilitating the start-up, modernization, or expansion of livestock operations including beginning and transitioning livestock operations; developing new markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota school children; assisting value-added agricultural businesses to begin or expand, access new markets, or diversify products; developing urban agriculture; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including loans under Minnesota Statutes, section 41B.056; sustainable agriculture on farm research and

demonstration; development or expansion of food hubs and other alternative community-based food distribution systems; incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18; and research on bioenergy, biobased content, or biobased formulated products and other renewable energy development. The commissioner may use up to 4.5 percent of this appropriation for costs incurred to administer the program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2017, for agricultural growth, research, and innovation grants are available until June 30, 2019.

The commissioner may use funds appropriated for the agricultural growth, research, and innovation program as provided in this paragraph. The commissioner may award grants to owners of Minnesota facilities producing bioenergy, biobased content, or a biobased formulated product; to organizations that provide for on-station, on-farm field scale research and outreach to develop and test the agronomic and economic requirements of diverse strands of prairie plants and other perennials for bioenergy systems; or to certain nongovernmental entities. For the purposes of this paragraph, "bioenergy" includes transportation fuels derived from cellulosic material, as well as the generation of energy for commercial heat, industrial process heat, or electrical power from cellulosic materials via gasification or other processes. Grants are limited to 50 percent of the cost of research, technical assistance, or equipment related to bioenergy, biobased content, or biobased formulated product production or \$500,000, whichever is less. Grants to nongovernmental entities for the development of business plans and structures related to community ownership of eligible bioenergy facilities together may

not exceed \$150,000. The commissioner shall make a good-faith effort to select projects that have merit and, when taken together, represent a variety of bioenergy technologies, biomass feedstocks, and geographic regions of the state. Projects must have a qualified engineer provide certification on the technology and fuel source. Grantees must provide reports at the request of the commissioner.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$1,000,000 the first year and \$1,000,000 the second year are for distribution in equal amounts to each of the state's county fairs to preserve and promote Minnesota agriculture.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$500,000 in fiscal year 2016 and ~~\$1,500,000~~ \$806,000 in fiscal year 2017 are for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, and 41A.18. If the appropriation exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available to the commissioner for the agricultural growth, research, and innovation program. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2017, and the second year appropriation is available until June 30, 2018. The commissioner may use up to 4.5 percent of the appropriation for administration of the incentive payment programs.

Of the amount appropriated for the agricultural growth, research, and innovation program in this subdivision, \$250,000 the first year is for grants to communities to develop or expand food hubs and other alternative community-based food distribution systems. Of this amount, \$50,000 is for the commissioner to consult with

existing food hubs, alternative community-based food distribution systems, and University of Minnesota Extension to identify best practices for use by other Minnesota communities. No later than December 15, 2015, the commissioner must report to the legislative committees with jurisdiction over agriculture and health regarding the status of emerging alternative community-based food distribution systems in the state along with recommendations to eliminate any barriers to success. Any unencumbered balance does not cancel at the end of the first year and is available for the second year. This is a onetime appropriation.

\$250,000 the first year and \$250,000 the second year are for grants that enable retail petroleum dispensers to dispense biofuels to the public in accordance with the biofuel replacement goals established under Minnesota Statutes, section 239.7911. A retail petroleum dispenser selling petroleum for use in spark ignition engines for vehicle model years after 2000 is eligible for grant money under this paragraph if the retail petroleum dispenser has no more than 15 retail petroleum dispensing sites and each site is located in Minnesota. The grant money received under this paragraph must be used for the installation of appropriate technology that uses fuel dispensing equipment appropriate for at least one fuel dispensing site to dispense gasoline that is blended with 15 percent of agriculturally derived, denatured ethanol, by volume, and appropriate technical assistance related to the installation. A grant award must not exceed 85 percent of the cost of the technical assistance and appropriate technology, including remetering of and retrofits for retail petroleum dispensers and replacement of petroleum dispenser projects. The commissioner may use up to \$35,000 of this appropriation for administrative expenses. The commissioner shall cooperate with biofuel stakeholders in the implementation

of the grant program. The commissioner must report to the legislative committees with jurisdiction over agriculture policy and finance by February 1 each year, detailing the number of grants awarded under this paragraph and the projected effect of the grant program on meeting the biofuel replacement goals under Minnesota Statutes, section 239.7911. These are onetime appropriations.

\$25,000 the first year and \$25,000 the second year are for grants to the Southern Minnesota Initiative Foundation to promote local foods through an annual event that raises public awareness of local foods and connects local food producers and processors with potential buyers.

Sec. 6. **APPROPRIATION CANCELLATION.**

All unspent funds, estimated to be \$694,000, appropriated for the agricultural growth, research, and innovation program and designated for bioeconomy incentive payments under Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended by Laws 2016, chapter 184, section 11, and Laws 2016, chapter 189, article 2, section 26, are canceled to the general fund.

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

ARTICLE 2

AGRICULTURAL POLICY

Section 1. Minnesota Statutes 2016, section 3.7371, is amended to read:

3.7371 COMPENSATION FOR CROP OR FENCE DAMAGE CAUSED BY ELK.

Subdivision 1. **Authorization.** Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law, a person who owns an agricultural crop or pasture shall be compensated by the commissioner of agriculture for an agricultural crop, or fence surrounding the crop or pasture, that is damaged or destroyed by elk as provided in this section.

Subd. 2. **Claim form.** The ~~crop or pasture~~ owner must prepare a claim on forms provided by the commissioner and available ~~at on the county extension agent's office~~ Department of Agriculture's Web site or by request from the commissioner. The claim form must be filed with the commissioner.

Subd. 3. **Compensation.** (a) The crop owner is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner, upon recommendation of the ~~county extension~~

commissioner's approved agent for the owner's county. Verification of fence damage or destruction by elk may be provided by submitting photographs or other evidence and documentation together with a statement from an independent witness using forms prescribed by the commissioner. The commissioner, upon recommendation of the commissioner's approved agent, shall determine whether the crop damage or destruction or damage to or destruction of a fence surrounding a crop or pasture is caused by elk and, if so, the amount of the crop or fence that is damaged or destroyed. In any fiscal year, an owner may not be compensated for a damaged or destroyed crop or fence surrounding a crop or pasture that is less than \$100 in value and may be compensated up to \$20,000, as determined under this section, if normal harvest procedures for the area are followed.

(b) In any fiscal year, the commissioner may provide compensation for claims filed under this section up to the amount expressly appropriated for this purpose.

Subd. 4. **Insurance deduction.** Payments authorized by this section must be reduced by amounts received by the owner as proceeds from an insurance policy covering crop losses or damage to or destruction of a fence surrounding a crop or pasture, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. **Decision on claims; opening land to hunting.** If the commissioner finds that the ~~crop or pasture~~ owner has shown that the damage or destruction of the owner's crop or damage to or destruction of a fence surrounding a crop or pasture was caused more probably than not by elk, the commissioner shall pay compensation as provided in this section and the rules of the commissioner. ~~A crop~~ An owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. **Denial of claim; appeal.** (a) If the commissioner denies compensation claimed by a ~~crop or pasture~~ an owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be mailed to the ~~crop or pasture~~ owner.

(b) A decision denying compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but a ~~crop or pasture~~ an owner may have the claim reviewed in a trial de novo in a court in the county where the loss occurred. The decision of the court may be appealed as in other civil cases. Review in court may be obtained by filing a petition for review with the administrator of the court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator shall mail a copy to the commissioner and set a time for hearing within 90 days after the filing.

Subd. 7. **Rules.** The commissioner shall adopt rules and may amend rules to carry out this section. The commissioner may use the expedited rulemaking process in section 14.389 to adopt and amend rules authorized in this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop;

(4) compensation rates for fence damage or destruction that ~~shall include a minimum claim of \$75.00 per incident and a maximum of~~ must not exceed \$1,800 per claimant per fiscal year; and

(5) any other matters determined necessary by the commissioner to carry out this section.

Subd. 8. **Report.** The commissioner must submit a report to the chairs of the house of representatives and senate committees and divisions with jurisdiction over agriculture and environment and natural resources by December 15 each year that details the total amount of damages paid, by elk herd, in the previous two fiscal years.

Sec. 2. Minnesota Statutes 2016, section 17.119, subdivision 1, is amended to read:

Subdivision 1. **Grants; eligibility.** (a) The commissioner must award ~~cost-share~~ grants to Minnesota farmers who retrofit eligible tractors and Minnesota schools that retrofit eligible tractors with eligible rollover protective structures.

~~(b)~~ Grants for farmers are limited to 70 percent of the farmer's ~~or school's~~ documented cost to purchase, ship, and install an eligible rollover protective structure. The commissioner must increase ~~the a farmer's~~ grant award amount over the 70 percent grant limitation requirement if necessary to limit a farmer's ~~or school's~~ cost per tractor to no more than \$500.

~~(c)~~ Schools are eligible for grants that cover the full amount of a school's documented cost to purchase, ship, and install an eligible rollover protective structure.

~~(b)~~ ~~(d)~~ A rollover protective structure is eligible if it ~~meets or exceeds SAE International standard J2194~~ is certified to appropriate national or international rollover protection structure standards with a seat belt.

~~(e)~~ ~~(e)~~ A tractor is eligible if the tractor was built before 1987.

EFFECTIVE DATE. This section is effective retroactively from July 1, 2016.

Sec. 3. Minnesota Statutes 2016, section 17.119, subdivision 2, is amended to read:

Subd. 2. **Promotion; administration.** The commissioner may spend up to ~~20~~ six percent of total program dollars each fiscal year to promote and administer the program to Minnesota farmers and schools.

Sec. 4. Minnesota Statutes 2016, section 18.79, subdivision 18, is amended to read:

Subd. 18. **Noxious weed education and notification.** (a) The commissioner shall disseminate information and conduct educational campaigns with respect to control of noxious weeds or invasive plants to enhance regulatory compliance and voluntary efforts to eliminate or manage these plants. The commissioner shall call and attend meetings and conferences dealing with the subject of noxious weeds. The commissioner shall maintain on the department's Web site noxious weed management information including but not limited to the roles and responsibilities of citizens and government entities under sections 18.76 to 18.91 and specific guidance as to whom a person should contact to report a noxious weed issue.

(b) The commissioner shall post notice on the department's Web site and alert appropriate media outlets when a weed on the eradicate list is confirmed for the first time in a county.

Sec. 5. **[18B.051] POLLINATOR HABITAT AND RESEARCH ACCOUNT.**

A pollinator habitat and research account is established in the agricultural fund. Money in the account, including interest, is appropriated to the Board of Regents of the University of Minnesota for pollinator research and outreach including, but not limited to, science-based best practices and the identification and establishment of habitat beneficial to pollinators.

Sec. 6. Minnesota Statutes 2016, section 18B.33, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) A person may not apply a pesticide for hire without a commercial applicator license for the appropriate use categories or a structural pest control license.

(b) A commercial applicator licensee must have a valid license identification card to purchase a restricted use pesticide or apply pesticides for hire and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The commissioner shall prescribe the information required on the license identification card.

(c) A person licensed under this section is not required to verify, document, or otherwise prove a particular need prior to or following the application of a pesticide registered under FIFRA.

Sec. 7. Minnesota Statutes 2016, section 18B.34, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) Except for a licensed commercial applicator, certified private applicator, or licensed structural pest control applicator, a person, including a government employee, may not purchase or use a restricted use pesticide in performance of official duties without having a noncommercial applicator license for an appropriate use category.

(b) A licensee must have a valid license identification card when applying pesticides and must display it upon demand by an authorized representative of the commissioner or a law enforcement officer. The license identification card must contain information required by the commissioner.

(c) A person licensed under this section is not required to verify, document, or otherwise prove a particular need prior to or following the application of a pesticide registered under FIFRA.

Sec. 8. Minnesota Statutes 2016, section 18B.36, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) Except for a licensed commercial or noncommercial applicator, only a certified private applicator may use a restricted use pesticide to produce an agricultural commodity:

(1) as a traditional exchange of services without financial compensation;

(2) on a site owned, rented, or managed by the person or the person's employees; or

(3) when the private applicator is one of two or fewer employees and the owner or operator is a certified private applicator or is licensed as a noncommercial applicator.

(b) A person may not purchase a restricted use pesticide without presenting a license card, certified private applicator card, or the card number.

(c) A person certified under this section is not required to verify, document, or otherwise prove a particular need prior to or following the application of a pesticide registered under FIFRA.

Sec. 9. Minnesota Statutes 2016, section 41A.12, subdivision 3, is amended to read:

Subd. 3. **Oversight.** ~~The commissioner, in consultation with the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over agriculture finance, must allocate available appropriated funds among eligible uses as provided by law, develop competitive eligibility criteria, and award funds on a needs basis. By February 1 each year, the commissioner shall report to the legislature on the allocation among eligible uses and any financial assistance provided.~~ the outcomes achieved under this section.

Sec. 10. Minnesota Statutes 2016, section 41A.20, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) A facility eligible for payment under this section must source at least 80 percent raw materials from Minnesota. If a facility is sited 50 miles or less from the state border, raw materials may be sourced from within a 100-mile radius. Raw materials must be from forest resources. The facility must be located in Minnesota, must begin production at a specific location by June 30, 2025, and must not begin operating before July 1, ~~2017~~ 2019. Eligible facilities include existing companies and facilities that are adding siding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible siding production facilities must produce at least 200,000,000 siding square feet on a 3/8 inch nominal basis of siding each year.

(b) No payments shall be made for siding production that occurs after June 30, 2035, for those eligible producers under paragraph (a).

(c) An eligible producer of siding shall not transfer the producer's eligibility for payments under this section to a facility at a different location.

(d) A producer that ceases production for any reason is ineligible to receive payments under this section until the producer resumes production.

Sec. 11. Minnesota Statutes 2016, section 344.03, subdivision 1, is amended to read:

~~Subdivision 1. **Adjoining owners.** If all or a part of adjoining Minnesota land is improved and used,~~ (a) Except as provided in paragraph (b), if two adjoining lands are both used in whole or in part to produce or maintain livestock for agricultural or commercial purposes and one or both of the owners of the land desires the land to be partly or totally fenced, the land owners or occupants shall build and maintain a partition fence between their lands in equal shares.

(b) The requirement in this section and the procedures in this chapter apply to the Department of Natural Resources when it owns land adjoining privately owned land subject to this section and chapter and the landowner desires the land permanently fenced for the purpose of restraining livestock.

(c) For purposes of this section, "livestock" means beef cattle, dairy cattle, swine, poultry, goats, donkeys, hinnies, mules, farmed Cervidae, Ratitae, bison, sheep, horses, alpacas, and llamas.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to partition fences built pursuant to Minnesota Statutes, chapter 344, on or after that date.

Sec. 12. **WOLF-LIVESTOCK CONFLICT PREVENTION PILOT PROGRAM.**

(a) The commissioner of agriculture may award grants to livestock producers to prevent wolf-livestock conflicts. Livestock producers located in Minnesota are eligible to apply for reimbursement for the cost of practices to prevent wolf-livestock conflicts. The commissioner may establish a cap on the amount a recipient may receive annually.

(b) To be eligible for the grant under this section, a livestock producer must raise livestock within Minnesota's wolf range or on property determined by the commissioner to be affected by wolf-livestock conflicts.

(c) Eligible wolf-livestock conflict prevention activities include, but are not limited to:

(1) the purchase of guard animals;

(2) veterinary costs for guard animals;

(3) the installation of wolf barriers; wolf barriers may include pens, fladry, and fencing;

(4) the installation of wolf-detering lights and alarms; and

(5) calving or lambing shelters.

(d) Eligible grant recipients must:

(1) make a good-faith effort to avoid wolf-livestock conflicts;

(2) make a good-faith effort to care for guard animals paid for under this section;

(3) retain proper documentation of expenses;

(4) report annually to the commissioner on the effectiveness of the nonlethal methods employed;
and

(5) allow follow-up evaluation and monitoring by the commissioner.

(e) Grant recipients shall continue to be eligible for depredation payments under Minnesota Statutes, section 3.737.

Sec. 13. **BASE BUDGET REPORT REQUIRED.**

No later than October 15, 2018, the commissioner of agriculture must submit a report detailing the agency's base budget, including any prior appropriation riders, to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture finance.

Sec. 14. **REPEALER.**

Minnesota Statutes 2016, sections 41A.20, subdivision 6; and 383C.809, are repealed."

Renumber the sections in sequence and correct the internal references

Delete the title and insert:

"A bill for an act relating to agriculture; establishing a budget for the Department of Agriculture, the Board of Animal Health, and the Agricultural Utilization Research Institute; making policy and technical changes to various agriculture-related provisions; establishing programs; modifying partition fence law; requiring reports; appropriating money; amending Minnesota Statutes 2016, sections 3.7371; 17.119, subdivisions 1, 2; 18.79, subdivision 18; 18B.33, subdivision 1; 18B.34, subdivision 1; 18B.36, subdivision 1; 41A.12, subdivision 3; 41A.20, subdivision 2; 344.03, subdivision 1; Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 18B; repealing Minnesota Statutes 2016, sections 41A.20, subdivision 6; 383C.809."

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

Senate Conferees: Torrey N. Westrom, Bill Weber, Michael P. Goggin, Andrew Lang, Kent Eken

House Conferees: Rod Hamilton, Paul Anderson, Dale Lueck, Jeff Backer, Jeanne Poppe

Senator Westrom moved that the foregoing recommendations and Conference Committee Report on S.F. No. 780 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 780 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 31, as follows:

Those who voted in the affirmative were:

Abeler	Eken	Jensen	Nelson	Sparks
Anderson, B.	Fischbach	Johnson	Newman	Utke
Anderson, P.	Gazelka	Kiffmeyer	Osmek	Weber
Benson	Goggin	Koran	Pratt	Westrom
Chamberlain	Hall	Lang	Relph	
Dahms	Housley	Limmer	Rosen	
Draheim	Ingebrigtsen	Mathews	Ruud	
Eichorn	Jasinski	Miller	Senjem	

Those who voted in the negative were:

Bakk	Cohen	Eaton	Hayden	Klein
Carlson	Cwodzinski	Franzen	Hoffman	Laine
Champion	Dibble	Frentz	Isaacson	Latz
Clausen	Dziedzic	Hawj	Kent	Little

Lourey
Marty
Newton

Pappas
Rest
Schoen

Simonson
Tomassoni
Torres Ray

Wiger
Wiklund

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 605 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. No. 605

A bill for an act relating to the operation of state government; appropriating money for the legislature, governor's office, state auditor, attorney general, secretary of state, certain agencies, boards, councils, retirement funds; cancellation of certain appropriations; precluding agencies from transferring money to the governor's office for services; constraining the state auditor's use of funds for litigation expenses; requiring the state auditor to reimburse Wright, Becker, and Ramsey Counties for litigation expenses; limiting the state auditor's rates for 2017; requiring legislative approval for certain rules; making an ALJ decision the final decision in contested cases; creating an affirmative defense to certain rule violations; modifying the employee gainsharing program; requiring the Department of Administration to assess agencies for certain services; requiring the Office of MN.IT Services to report its project portfolio to the legislature; limiting severance pay for highly paid civil service employees; permitting state employees to opt out of insurance coverage under SEGIP; limiting public employer compensation under contracts to appropriated amounts; modifying uses for Support Our Troops account; requiring the Department of Veterans Affairs to develop a policy to grant free or reduced-cost burials in state veterans cemeteries to eligible indigent dependents of veterans; providing statutory appropriations to the Racing Commission in the event of a failure to pass a biennial appropriation; raising caps on Mighty Ducks grants; modifying expense calculation for the State Lottery; creating an advisory task force on fiscal notes; setting a deadline for consolidation of state information technology and for use of cloud-based solutions; creating a legislative commission to review consolidation of the state's information technology; establishing requirements for a grandfathered license for eyelash technicians; creating a working group for a rules status system; creating a grant program for election equipment; repealing the state auditor enterprise fund; repealing the campaign finance public subsidy program; repealing lottery payouts to people under 18; amending Minnesota Statutes 2016, sections 4.46; 6.481, subdivision 6; 6.56, subdivision 2; 6.581, subdivision 4; 14.18, subdivision 1; 14.27; 14.389, subdivision 3; 14.57; 16A.90; 16B.055, subdivision 1; 16B.371; 16B.4805, subdivisions 2, 4; 16E.0466; 43A.17, subdivision 11; 43A.24, by adding a subdivision; 155A.23, subdivisions 10, 15, 16, by adding a subdivision; 155A.29, subdivisions 1, 2; 155A.30, subdivisions 2, 5; 179A.20, by adding a subdivision; 190.19, subdivisions 2, 2a; 197.236, subdivision 9; 240.15, subdivision 6; 240.155, subdivision 1; 240A.09; 349A.08, subdivision 2; 349A.10, subdivision 6; Laws 2016, chapter 127, section 8; proposing coding for new law in Minnesota Statutes, chapters 6; 14; 16A; 240; repealing Minnesota Statutes 2016, sections 6.581, subdivision 1; 10A.30; 10A.31, subdivisions 1, 3, 3a, 4, 5, 5a, 6, 6a, 7, 7a, 10, 10a, 10b, 11; 10A.315; 10A.321; 10A.322, subdivisions 1, 2, 4; 10A.323; 155A.23, subdivision 8; 349A.08, subdivision 3.

May 8, 2017

The Honorable Michelle L. Fischbach
President of the Senate

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 605 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. 605 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

STATE GOVERNMENT APPROPRIATIONS

Section 1. **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 "2018" and "2019" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2018, or June 30, 2019, respectively. "The first year" is fiscal year 2018. "The second year" is fiscal year 2019. "The biennium" is fiscal years 2018 and 2019.

	<u>APPROPRIATIONS</u>	
	<u>Available for the Year</u>	
	<u>Ending June 30</u>	
	<u>2018</u>	<u>2019</u>
Sec. 2. <u>LEGISLATURE</u>		
Subdivision 1. <u>Total Appropriation</u>	<u>\$ 83,057,000</u>	<u>\$ 82,123,000</u>
<u>Appropriations by Fund</u>		
	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>82,929,000</u>	<u>81,995,000</u>
<u>Health Care Access</u>	<u>128,000</u>	<u>128,000</u>
<u>The amounts that may be spent for each purpose are specified in the following subdivisions.</u>		
Subd. 2. <u>Senate</u>	<u>32,299,000</u>	<u>32,105,000</u>
Subd. 3. <u>House of Representatives</u>	<u>32,383,000</u>	<u>32,383,000</u>

Subd. 4. Legislative Coordinating Commission 18,375,000 17,635,000

Appropriations by Fund

<u>General</u>	<u>18,247,000</u>	<u>17,507,000</u>
<u>Health Care Access</u>	<u>128,000</u>	<u>128,000</u>

Appropriations provided by this subdivision may be used for designated staff to support the following offices and commissions: Office of the Legislative Auditor; Office of the Revisor of Statutes; Legislative Reference Library; Geographic Information Services; Legislative Budget Office; Legislative-Citizen Commission on Minnesota Resources; Legislative Commission on Pensions and Retirement; Legislative Energy Commission; and the Lessard-Sams Outdoor Heritage Council. The operation of all other joint offices and commissions must be supported by the central administrative staff of the Legislative Coordinating Commission. This appropriation may additionally be used for central administrative staff to support the work of the Economic Status of Women Advisory Committee.

From its funds, \$10,000 each year is for purposes of the legislators' forum, through which Minnesota legislators meet with counterparts from South Dakota, North Dakota, and Manitoba to discuss issues of mutual concern.

Legislative Auditor. \$6,744,000 the first year and \$6,564,000 the second year are for the Office of the Legislative Auditor.

Of these amounts, \$130,000 the first year is for the transit financial activity reviews required by Minnesota Statutes, section 3.972, subdivision 4.

No later than January 15, 2018, the legislative auditor must complete a review of the small business investment tax credit incentive established in Minnesota Statutes, section 116J.8737. The review must follow

the evaluation plan established for review of a general incentive program under Minnesota Statutes, section 3.9735, subdivision 4.

No later than January 15, 2018, the legislative auditor must complete an assessment of the adequacy of the county audits performed by the state auditor in calendar year 2016. The standards for conducting the assessment must be identical to those described in the report of the state auditor dated March 2017, titled "Assessing the Adequacy of 2015 County Audits Performed by Private CPA Firms."

Revisor of Statutes. \$6,430,000 the first year and \$6,093,000 the second year are for the Office of the Revisor of Statutes.

Of these amounts, \$250,000 in the first year is for upgrades and repairs to the information technology data center located in the State Office Building.

Legislative Budget Office. \$864,000 the first year and \$818,000 the second year are for the Legislative Budget Office established in section 3.8853.

Legislative Reference Library. \$1,622,000 the first year and \$1,445,000 the second year are for the Legislative Reference Library.

Of these amounts, \$177,000 the first year is for the digital preservation of audio recordings documenting committee hearings and floor sessions of the legislature.

Sec. 3. GOVERNOR AND LIEUTENANT GOVERNOR

\$ 4,403,000 \$ 4,403,000

(a) This appropriation is to fund the Office of the Governor and Lieutenant Governor.

(b) Up to \$19,000 the first year and up to \$19,000 the second year are for necessary expenses in the normal performance of the Governor's and Lieutenant Governor's duties

for which no other reimbursement is provided.

(c) The following amounts that are appropriated from the general fund in fiscal years 2018 and 2019 to the specified agency and are budgeted to be transferred to the governor for personnel costs incurred by the Offices of the Governor and the Lieutenant Governor to support the agencies are canceled to the general fund and the base for each agency is reduced by the specified amount for fiscal years 2020 and 2021.

<u>Agency</u>	<u>2018</u>	<u>2019</u>
<u>Commerce</u>	<u>67,000</u>	<u>67,000</u>
<u>Employment and Economic Development</u>	<u>109,000</u>	<u>109,000</u>
<u>Education</u>	<u>58,000</u>	<u>58,000</u>
<u>Office of Higher Education</u>	<u>25,000</u>	<u>25,000</u>
<u>Administration</u>	<u>25,000</u>	<u>25,000</u>
<u>Management and Budget</u>	<u>21,000</u>	<u>21,000</u>
<u>MN.IT Services</u>	<u>25,000</u>	<u>25,000</u>
<u>Revenue</u>	<u>41,000</u>	<u>41,000</u>
<u>Health</u>	<u>58,000</u>	<u>58,000</u>
<u>Human Services</u>	<u>247,000</u>	<u>247,000</u>
<u>Veterans Affairs</u>	<u>16,000</u>	<u>16,000</u>
<u>Military Affairs</u>	<u>17,000</u>	<u>17,000</u>
<u>Corrections</u>	<u>58,000</u>	<u>58,000</u>
<u>Transportation</u>	<u>20,000</u>	<u>20,000</u>

(d) Appropriations provided by this section may not be used to support the hiring of additional personnel in the Office of the Governor, to support current personnel in the office assigned to oversee federal policy or federal government relations, or to maintain office space located in the District of Columbia.

Sec. 4. STATE AUDITOR

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>9,243,000</u>	<u>\$</u>	<u>9,488,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Audit Practice</u>		<u>7,449,000</u>		<u>7,694,000</u>
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Notwithstanding Minnesota Statutes, section 6.581, subdivision 3, or any other law to the contrary, the rates included in the state auditor's schedule of charges for examinations conducted in fiscal years 2018 and 2019 must be no greater than the rates included in the schedule of charges established for examinations conducted in calendar year 2016.

<u>Subd. 3. Legal and Special Investigations</u>		<u>272,000</u>		<u>272,000</u>
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<u>Subd. 4. Government Information</u>		<u>511,000</u>		<u>511,000</u>
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<u>Subd. 5. Pension Oversight</u>		<u>485,000</u>		<u>485,000</u>
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<u>Subd. 6. Operations Management</u>		<u>305,000</u>		<u>305,000</u>
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<u>Subd. 7. Constitutional Office</u>		<u>221,000</u>		<u>221,000</u>
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Sec. 5. ATTORNEY GENERAL

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>23,265,000</u>	<u>\$</u>	<u>23,265,000</u>
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Appropriations by Fund

	<u>2018</u>	<u>2019</u>
General	<u>20,465,000</u>	<u>20,465,000</u>
<u>State Government</u>		
Special Revenue	<u>2,405,000</u>	<u>2,405,000</u>
Environmental	<u>145,000</u>	<u>145,000</u>
Remediation	<u>250,000</u>	<u>250,000</u>

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

<u>Subd. 2. Government Legal Services</u>		<u>3,652,000</u>		<u>3,652,000</u>
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<u>Subd. 3. Regulatory Law and Professions</u>		<u>5,002,000</u>		<u>5,002,000</u>
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Appropriations by Fund

	<u>2018</u>	<u>2019</u>
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<u>General</u>	<u>2,223,000</u>	<u>2,223,000</u>		
<u>State Government</u>				
<u>Special Revenue</u>	<u>2,384,000</u>	<u>2,384,000</u>		
<u>Environmental</u>	<u>250,000</u>	<u>250,000</u>		
<u>Remediation</u>	<u>145,000</u>	<u>145,000</u>		

Subd. 4. State Government Services 6,157,000 6,157,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>		
<u>General</u>	<u>6,136,000</u>	<u>6,136,000</u>		
<u>State Government</u>				
<u>Special Revenue</u>	<u>21,000</u>	<u>21,000</u>		

Subd. 5. Civil Law Section 3,010,000 3,010,000

Subd. 6. Civil Litigation 1,495,000 1,495,000

Subd. 7. Administrative Operations 3,949,000 3,949,000

Sec. 6. SECRETARY OF STATE

Subdivision 1. Total Appropriation \$ 5,419,000 \$ 5,530,000

The base for fiscal year 2020 is \$5,419,000 and the base for fiscal year 2021 is \$5,419,000.

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

Subd. 2. Administration 512,000 525,000

Subd. 3. Safe at Home 659,000 676,000

Subd. 4. Business Services 1,422,000 1,174,000

Subd. 5. Elections 2,826,000 3,155,000

Sec. 7. CAMPAIGN FINANCE AND PUBLIC DISCLOSURE BOARD \$ 924,000 \$ 924,000

Sec. 8. STATE BOARD OF INVESTMENT \$ 139,000 \$ 139,000

Sec. 9. ADMINISTRATIVE HEARINGS

Subdivision 1. Total Appropriation \$ 8,170,000 \$ 8,170,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>383,000</u>	<u>383,000</u>
<u>Workers'</u> <u>Compensation</u>	<u>7,787,000</u>	<u>7,787,000</u>

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

Subd. 2. Campaign Violations 115,000 115,000

These amounts are for the cost of considering complaints filed under Minnesota Statutes, section 211B.32. These amounts may be used in either year of the biennium.

Subd. 3. Data Practices 6,000 6,000

These amounts are for the cost of considering data practices complaints filed under Minnesota Statutes, section 13.085. These amounts may be used in either year of the biennium.

Subd. 4. Municipal Boundary Adjustments 262,000 262,000

Sec. 10. OFFICE OF MN.IT SERVICES

Subdivision 1. Total Appropriation \$ 2,622,000 \$ 2,622,000

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

The state chief information officer must prioritize use of appropriations provided by this section to enhance cybersecurity across state government.

Subd. 2. State Chief Information Officer 1,316,000 1,316,000

The commissioner of management and budget is authorized to provide cash flow assistance of up to \$110,000,000 from the special revenue fund or other statutory general funds as defined in Minnesota Statutes, section 16A.671, subdivision 3, paragraph (a), to the Office of MN.IT Services for the purpose of managing revenue

and expenditure differences. These funds shall be repaid with interest by the end of the fiscal year 2019 closing period.

During the biennium ending June 30, 2019, the Office of MN.IT Services must not charge fees to a public noncommercial educational television broadcast station eligible for funding under Minnesota Statutes, chapter 129D, for access to the state broadcast infrastructure. If the access fees not charged to public noncommercial educational television broadcast stations total more than \$400,000 for the biennium, the office may charge for access fees in excess of these amounts.

<u>Subd. 3. Geospatial Information Office</u>	<u>871,000</u>	<u>871,000</u>
<u>Subd. 4. Enterprise IT Security</u>	<u>435,000</u>	<u>435,000</u>

Sec. 11. **ADMINISTRATION**

<u>Subdivision 1. Total Appropriation</u>	<u>\$ 19,984,000</u>	<u>\$ 19,584,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Government and Citizen Services</u>	<u>7,013,000</u>	<u>7,013,000</u>
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This appropriation includes funds for information technology project services and support subject to the provisions of Minnesota Statutes, section 16E.0466. Any ongoing information technology costs must be incorporated into the service level agreement and must be paid to the Office of MN.IT Services by the commissioner of administration under the rates and mechanism specified in that agreement.

Appropriations provided by this section may not be used to fund continuous improvement initiatives, including the Office of Continuous Improvement (LEAN).

Council on Developmental Disabilities. \$74,000 the first year and \$74,000 the second

year are for the Council on Developmental Disabilities.

Olmstead Plan. \$148,000 each year is for the Olmstead plan.

Materials Management. \$2,139,000 each year is for materials management.

Plant Management. \$390,000 each year is for plant management.

\$7,500,000 the first year of the balance in the facility repair and replacement account in the special revenue fund is canceled to the general fund. These amounts are in addition to amounts transferred under Minnesota Statutes, section 16B.24, subdivision 5, paragraph (d).

Real Estate and Construction Services. \$2,198,000 each year is for real estate and construction services.

Enterprise Real Property. \$601,000 each year is for enterprise real property.

State Agency Accommodation Reimbursement. \$200,000 the first year and \$200,000 the second year are credited to the accommodation account established in Minnesota Statutes, section 16B.4805.

Community Services. \$1,263,000 each year is for community services.

(a) \$192,000 the first year and \$192,000 the second year are for the state archaeologist.

(b) \$468,000 the first year and \$468,000 the second year are for information policy analysis.

(c) \$487,000 the first year and \$487,000 the second year are for the state demographer.

(d) \$116,000 the first year and \$116,000 the second year are for the Office of Grants Management.

<u>Subd. 3. Strategic Management Services</u>	<u>1,794,000</u>	<u>1,794,000</u>
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Executive Leadership/Partnerships. \$528,000 each year is for executive leadership/partnerships.

School Trust Lands Director. \$185,000 each year is for school trust lands director.

Financial Management and Reporting. \$706,000 each year is for financial management and reporting.

Human Resources. \$375,000 each year is for human resources.

<u>Subd. 4. Fiscal Agent</u>	<u>11,177,000</u>	<u>10,777,000</u>
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In-Lieu of Rent. \$8,158,000 the first year and \$8,158,000 the second year are for space costs of the legislature and veterans organizations, ceremonial space, and statutorily free space.

Public Television. (a) \$1,550,000 the first year and \$1,550,000 the second year are for matching grants for public television.

(b) \$250,000 the first year and \$250,000 the second year are for public television equipment grants under Minnesota Statutes, section 129D.13.

(c) The commissioner of administration must consider the recommendations of the Minnesota Public Television Association before allocating the amounts appropriated in paragraphs (a) and (b) for equipment or matching grants.

Public Radio. (a) \$392,000 the first year and \$392,000 the second year are for community service grants to public educational radio stations. This appropriation may be used to disseminate emergency information in foreign languages.

(b) \$117,000 the first year and \$117,000 the second year are for equipment grants to

public educational radio stations. This appropriation may be used for the repair, rental, and purchase of equipment including equipment under \$500.

(c) \$310,000 the first year and \$310,000 the second year are for equipment grants to Minnesota Public Radio, Inc., including upgrades to Minnesota's Emergency Alert and AMBER Alert Systems.

(d) \$400,000 the first year is for a grant to Minnesota Public Radio, Inc. for upgrades to Minnesota's Emergency Alert and AMBER Alert Systems.

(e) The appropriations in paragraphs (a) to (d) may not be used for indirect costs claimed by an institution or governing body.

(f) The commissioner of administration must consider the recommendations of the Association of Minnesota Public Educational Radio Stations before awarding grants under Minnesota Statutes, section 129D.14, using the appropriations in paragraphs (a) and (b). No grantee is eligible for a grant unless they are a member of the Association of Minnesota Public Educational Radio Stations on or before July 1, 2017.

(g) Any unencumbered balance remaining the first year for grants to public television or public radio stations does not cancel and is available for the second year.

<u>Sec. 12. CAPITOL AREA ARCHITECTURAL AND PLANNING BOARD</u>	<u>\$</u>	<u>345,000</u>	<u>\$</u>	<u>345,000</u>
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<u>Sec. 13. MINNESOTA MANAGEMENT AND BUDGET</u>	<u>\$</u>	<u>17,920,000</u>	<u>\$</u>	<u>18,320,000</u>
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Subdivision 1. Appropriations

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

This appropriation includes funds for information technology project services and support subject to the provisions of Minnesota Statutes, section 16E.0466. Any ongoing information technology costs must be incorporated into the service level agreement and must be paid to the Office of MN.IT Services by the commissioner of management and budget under the rates and mechanism specified in that agreement.

Subd. 2. <u>Accounting Services</u>	<u>3,758,000</u>	<u>3,958,000</u>
Subd. 3. <u>Budget Services</u>	<u>2,416,000</u>	<u>2,616,000</u>
Subd. 4. <u>Economic Analysis</u>	<u>424,000</u>	<u>424,000</u>
Subd. 5. <u>Debt Management</u>	<u>367,000</u>	<u>367,000</u>
Subd. 6. <u>Enterprise Communications and Planning</u>	<u>830,000</u>	<u>830,000</u>
Subd. 7. <u>Enterprise Human Resources</u>	<u>2,681,000</u>	<u>2,681,000</u>

Appropriations provided by this section or transferred to the commissioner from another agency may not be used to support a statewide executive recruiting program.

Subd. 8. <u>Labor Relations</u>	<u>868,000</u>	<u>868,000</u>
Subd. 9. <u>Agency Administration</u>	<u>6,576,000</u>	<u>6,576,000</u>

No later than June 30, 2018, the commissioner must credit at least \$1,000,000 to the general fund based on savings realized through implementation of the employee gainsharing program required by Minnesota Statutes, section 16A.90. If a credit of at least this amount has not been made to the general fund as of that date, the appropriation provided in this subdivision for fiscal year 2019 is reduced in an amount equal to the difference between the amount actually credited to the general fund and the total credit required by this paragraph.

Sec. 14. **REVENUE**

Subdivision 1. <u>Total Appropriation</u>	<u>\$</u>	<u>141,485,000</u>	<u>\$</u>	<u>141,310,000</u>
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Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>137,249,000</u>	<u>137,074,000</u>
<u>Health Care Access</u>	<u>1,749,000</u>	<u>1,749,000</u>
<u>Highway User Tax</u>		
<u>Distribution</u>	<u>2,184,000</u>	<u>2,184,000</u>
<u>Environmental</u>	<u>303,000</u>	<u>303,000</u>

Notwithstanding the appropriations provided by this section, the amounts allocated for tax compliance activities of the department must be no less than the amounts allocated for those activities during fiscal year 2017, and the commissioner must prioritize processing personal income tax returns, taxpayer fraud prevention, and assuring that taxpayer refunds are not delayed when determining spending plans for each of the activities in this section.

This appropriation includes funds for information technology project services and support subject to the provisions of Minnesota Statutes, section 16E.0466. Any ongoing information technology costs must be incorporated into the service level agreement and must be paid to the Office of MN.IT Services by the commissioner of revenue under the rates and mechanism specified in that agreement.

Subd. 2. Tax System Management 114,128,000 113,953,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>109,892,000</u>	<u>109,717,000</u>
<u>Health Care Access</u>	<u>1,749,000</u>	<u>1,749,000</u>
<u>Highway User Tax</u>		
<u>Distribution</u>	<u>2,184,000</u>	<u>2,184,000</u>
<u>Environmental</u>	<u>303,000</u>	<u>303,000</u>

(a) Operations Support

<u>General</u>	<u>9,356,000</u>	<u>9,356,000</u>
<u>Health Care Access</u>	<u>126,000</u>	<u>126,000</u>

(b) Appeals, Legal Services, and Tax Research

<u>General</u>	<u>6,932,000</u>	<u>6,932,000</u>
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<u>Health Care Access</u>	<u>113,000</u>	<u>113,000</u>
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(c) Payment and Return Processing

<u>General</u>	<u>12,927,000</u>	<u>12,927,000</u>
<u>Health Care Access</u>	<u>51,000</u>	<u>51,000</u>
<u>Highway User Tax Distribution</u>	<u>343,000</u>	<u>343,000</u>

(d) Administration of State Taxes

<u>General</u>	<u>54,904,000</u>	<u>54,729,000</u>
<u>Health Care Access</u>	<u>1,407,000</u>	<u>1,407,000</u>
<u>Highway User Tax Distribution</u>	<u>1,621,000</u>	<u>1,621,000</u>
<u>Environmental</u>	<u>303,000</u>	<u>303,000</u>

(1) \$15,000 from the general fund in the first year is for preparing and submitting a supplemental 2017 tax incidence report meeting the requirements of Minnesota Statutes, section 270C.13, subdivision 1, as amended by this act. The supplemental report must be completed and submitted no later than January 2, 2018.

(2) \$160,000 from the general fund in the first year is for administration of a first-time home buyer savings account program. This appropriation is canceled to the general fund if income tax provisions related to first-time home buyer savings accounts are not enacted by law at the 2017 regular or special legislative session.

(e) Technology Development, Implementation, and Support

<u>General</u>	<u>21,781,000</u>	<u>21,781,000</u>
<u>Health Care Access</u>	<u>52,000</u>	<u>52,000</u>
<u>Highway User Tax Distribution</u>	<u>220,000</u>	<u>220,000</u>

(f) Property Tax Administration and State Aid

<u>General</u>	<u>3,992,000</u>	<u>3,992,000</u>
<u>Subd. 3. Debt Collection Management</u>	<u>27,357,000</u>	<u>27,357,000</u>

Sec. 15. <u>HUMAN RIGHTS</u>	<u>\$</u>	<u>3,954,000</u>	<u>\$</u>	<u>3,954,000</u>
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Sec. 16. <u>GAMBLING CONTROL</u>	<u>\$</u>	<u>3,422,000</u>	<u>\$</u>	<u>3,457,000</u>
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These appropriations are from the lawful gambling regulation account in the special revenue fund.

Sec. 17. <u>RACING COMMISSION</u>	\$	<u>845,000</u>	\$	<u>908,000</u>
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These appropriations are from the racing and card playing regulation accounts in the special revenue fund.

Sec. 18. STATE LOTTERY

Notwithstanding Minnesota Statutes, section 349A.10, subdivision 3, the State Lottery's operating budget must not exceed \$32,500,000 in fiscal year 2018 and \$33,000,000 in fiscal year 2019.

Sec. 19. <u>AMATEUR SPORTS COMMISSION</u>	\$	<u>300,000</u>	\$	<u>300,000</u>
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Sec. 20. <u>COUNCIL ON MINNESOTANS OF AFRICAN HERITAGE</u>	\$	<u>401,000</u>	\$	<u>401,000</u>
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Sec. 21. <u>COUNCIL ON LATINO AFFAIRS</u>	\$	<u>386,000</u>	\$	<u>386,000</u>
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Sec. 22. <u>COUNCIL ON ASIAN-PACIFIC MINNESOTANS</u>	\$	<u>364,000</u>	\$	<u>364,000</u>
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Sec. 23. <u>INDIAN AFFAIRS COUNCIL</u>	\$	<u>576,000</u>	\$	<u>576,000</u>
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Sec. 24. MINNESOTA HISTORICAL SOCIETY

Subdivision 1. <u>Total Appropriation</u>	\$	<u>22,893,000</u>	\$	<u>22,893,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <u>Operations and Programs</u>		<u>22,572,000</u>		<u>22,572,000</u>
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\$750,000 the first year and \$750,000 the second year are for digital preservation and access, including planning and implementation of a program to preserve and make available resources related to

Minnesota history. These are onetime appropriations.

Subd. 3. Fiscal Agent

<u>(a) Global Minnesota</u>	<u>39,000</u>	<u>39,000</u>
<u>(b) Minnesota Air National Guard Museum</u>	<u>17,000</u>	<u>17,000</u>
<u>(c) Minnesota Military Museum</u>	<u>50,000</u>	<u>50,000</u>
<u>(d) Farmamerica</u>	<u>115,000</u>	<u>115,000</u>
<u>(e) Hockey Hall of Fame</u>	<u>100,000</u>	<u>100,000</u>

Any unencumbered balance remaining in this subdivision the first year does not cancel but is available for the second year of the biennium.

Sec. 25. BOARD OF THE ARTS

Subdivision 1. Total Appropriation **\$** **7,530,000** **\$** **7,530,000**

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

<u>Subd. 2. Operations and Services</u>	<u>591,000</u>	<u>591,000</u>
<u>Subd. 3. Grants Program</u>	<u>4,800,000</u>	<u>4,800,000</u>
<u>Subd. 4. Regional Arts Councils</u>	<u>2,139,000</u>	<u>2,139,000</u>

Any unencumbered balance remaining in this section the first year does not cancel, but is available for the second year.

Money appropriated in this section and distributed as grants may only be spent on projects located in Minnesota. A recipient of a grant funded by an appropriation in this section must not use more than five percent of the total grant for costs related to travel outside the state of Minnesota.

Sec. 26. MINNESOTA HUMANITIES CENTER **\$** **950,000** **\$** **950,000**

(a) \$325,000 each year is for the Healthy Eating, Here at Home program under Minnesota Statutes, section 138.912. No

more than three percent of the appropriation may be used for the nonprofit administration of this program.

(b) \$250,000 each year is for grants to the Veterans Defense Project. Grants must be used to support, through education and outreach, military veterans who are involved with the criminal justice system. These are onetime appropriations.

Sec. 27. BOARD OF ACCOUNTANCY \$ 641,000 \$ 641,000

Sec. 28. BOARD OF ARCHITECTURE ENGINEERING, LAND SURVEYING, LANDSCAPE ARCHITECTURE, GEOSCIENCE, AND INTERIOR DESIGN \$ 794,000 \$ 794,000

Sec. 29. BOARD OF COSMETOLOGIST EXAMINERS \$ 1,346,000 \$ 1,346,000

The executive director must report quarterly to the chairs and ranking minority members of the committees in the house of representatives and senate with jurisdiction over state government finance on the number of inspections conducted by license type in the past quarter, number and percent of total salons and schools inspected within the last year, total number of licensees by type, and the number of inspectors employed by the board. The first report must be submitted by July 15, 2017.

Sec. 30. BOARD OF BARBER EXAMINERS \$ 325,000 \$ 325,000

Sec. 31. GENERAL CONTINGENT ACCOUNTS \$ 750,000 \$ 500,000

<u>Appropriations by Fund</u>		
	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>250,000</u>	<u>-0-</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>400,000</u>	<u>400,000</u>
<u>Workers'</u>		
<u>Compensation</u>	<u>100,000</u>	<u>100,000</u>

(a) The appropriations in this section may only be spent with the approval of the governor after consultation with the Legislative Advisory Commission pursuant to Minnesota Statutes, section 3.30.

(b) If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

(c) If a contingent account appropriation is made in one fiscal year, it should be considered a biennial appropriation.

Sec. 32. <u>TORT CLAIMS</u>	<u>\$</u>	<u>161,000</u>	<u>\$</u>	<u>161,000</u>
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These appropriations are to be spent by the commissioner of management and budget according to Minnesota Statutes, section 3.736, subdivision 7. If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 33. **MINNESOTA STATE RETIREMENT SYSTEM**

Subdivision 1. <u>Total Appropriation</u>	<u>\$</u>	<u>14,893,000</u>	<u>\$</u>	<u>15,071,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. <u>Combined Legislators and Constitutional Officers Retirement Plan</u>		<u>8,893,000</u>		<u>9,071,000</u>
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Under Minnesota Statutes, sections 3A.03, subdivision 2; 3A.04, subdivisions 3 and 4; and 3A.115.

If an appropriation in this section for either year is insufficient, the appropriation for the other year is available for it.

Subd. 3. <u>Judges Retirement Plan</u>		<u>6,000,000</u>		<u>6,000,000</u>
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For transfer to the judges retirement fund under Minnesota Statutes, section 490.123. \$6,000,000 each fiscal year is included in the base for fiscal years 2020 and 2021. This

transfer continues each fiscal year until the judges retirement plan reaches 100 percent funding as determined by an actuarial valuation prepared according to Minnesota Statutes, section 356.214.

Sec. 34. PUBLIC EMPLOYEES RETIREMENT ASSOCIATION

\$ 6,000,000 \$ 6,000,000

General employees retirement plan of the Public Employees Retirement Association relating to the merged former MERF division.

State payments from the general fund to the Public Employees Retirement Association on behalf of the former MERF division account are \$6,000,000 on September 15, 2017, and \$6,000,000 on September 15, 2018.

These amounts are estimated to be needed under Minnesota Statutes, section 353.505.

Sec. 35. TEACHERS RETIREMENT ASSOCIATION

\$ 29,831,000 \$ 29,831,000

The amounts estimated to be needed are as follows:

Special Direct State Aid. \$27,331,000 the first year and \$27,331,000 the second year are for special direct state aid authorized under Minnesota Statutes, section 354.436.

Special Direct State Matching Aid. \$2,500,000 the first year and \$2,500,000 the second year are for special direct state matching aid authorized under Minnesota Statutes, section 354.435.

Sec. 36. ST. PAUL TEACHERS RETIREMENT FUND

\$ 9,827,000 \$ 9,827,000

The amounts estimated to be needed for special direct state aid to the first class city teachers retirement fund association

authorized under Minnesota Statutes, section 354A.12, subdivisions 3a and 3c.

Sec. 37. **MILITARY AFFAIRS**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>25,616,000</u>	<u>\$</u>	<u>19,616,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Maintenance of Training Facilities</u>		<u>9,661,000</u>		<u>9,661,000</u>
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Of the funds transferred to maintenance of training facilities in Laws 2015, chapter 77, article 1, section 36, subdivision 4, \$2,000,000 in fiscal year 2017 may be transferred to the enlistment incentives appropriation to address a projected fiscal year 2017 deficit in the enlistment incentives program.

<u>Subd. 3. General Support</u>		<u>3,067,000</u>		<u>3,067,000</u>
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<u>Subd. 4. Enlistment Incentives</u>		<u>12,888,000</u>		<u>6,888,000</u>
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The appropriations in this subdivision are available until expended, except that any unspent amounts allocated to a program otherwise supported by this appropriation are canceled to the general fund upon receipt of federal funds in the same amount to support administration of that program.

If appropriations for either year of the biennium are insufficient, the appropriation from the other year is available. The appropriations for enlistment incentives are available until June 30, 2021.

Sec. 38. **VETERANS AFFAIRS**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>84,029,000</u>	<u>\$</u>	<u>74,029,000</u>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<u>Subd. 2. Veterans Programs and Services</u>		<u>16,811,000</u>		<u>16,811,000</u>
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Veterans Service Organizations. \$353,000 each year is for grants to the following congressionally chartered veterans service organizations as designated by the commissioner: Disabled American Veterans, Military Order of the Purple Heart, the American Legion, Veterans of Foreign Wars, Vietnam Veterans of America, AMVETS, and Paralyzed Veterans of America. This funding must be allocated in direct proportion to the funding currently being provided by the commissioner to these organizations.

Minnesota Assistance Council for Veterans. \$750,000 each year is for a grant to the Minnesota Assistance Council for Veterans to provide assistance throughout Minnesota to veterans and their families who are homeless or in danger of homelessness, including assistance with the following:

(1) utilities;

(2) employment; and

(3) legal issues.

The assistance authorized under this paragraph must be made only to veterans who have resided in Minnesota for 30 days prior to application for assistance and according to other guidelines established by the commissioner. In order to avoid duplication of services, the commissioner must ensure that this assistance is coordinated with all other available programs for veterans.

Honor Guards. \$200,000 each year is for compensation for honor guards at the funerals of veterans under Minnesota Statutes, section 197.231.

Minnesota GI Bill. \$200,000 each year is for the costs of administering the Minnesota GI Bill postsecondary educational benefits, on-the-job training, and apprenticeship

program under Minnesota Statutes, section 197.791.

Gold Star Program. \$100,000 each year is for administering the Gold Star Program for surviving family members of deceased veterans.

County Veterans Service Office. \$1,100,000 each year is for funding the County Veterans Service Office grant program under Minnesota Statutes, section 197.608.

Veterans Journey Home. \$350,000 each year is for grants to the veterans Journey Home program. Grants must support the development of new or rehabilitated affordable housing dedicated for low-to-moderate income veterans and their families. These are onetime appropriations.

Subd. 3. **Veterans Health Care**

67,218,000

57,218,000

The general fund appropriations made to the department may be transferred to a veterans homes special revenue account in the special revenue fund in the same manner as other receipts are deposited according to Minnesota Statutes, section 198.34, and are appropriated to the department for the operation of veterans homes facilities and programs.

No later than January 15, 2018, the commissioner must submit a report to the legislative committees with jurisdiction over veterans affairs and state government finance on reserve amounts maintained in the veterans homes special revenue account. The report must detail current and historical amounts maintained as a reserve, and uses of those amounts. The report must also include data on the utilization of existing veterans homes, including current and historical bed capacity and usage, staffing levels and staff vacancy rates, and staff-to-resident ratios.

New Veterans Homes. \$10,000,000 in the first year is for planning, design, construction, and operation of new veterans homes, and any other requirements necessary for federal approval of those homes. The commissioner must select locations for construction of new homes based on geographic need, consistent with any guidance or requirements provided by federal law. This is a onetime appropriation and is available until spent.

Maximize Federal Reimbursements. The department will seek opportunities to maximize federal reimbursements of Medicare-eligible expenses and will provide annual reports to the commissioner of management and budget on the federal Medicare reimbursements received. Contingent upon future federal Medicare receipts, reductions to the homes' general fund appropriation may be made.

Sec. 39. **PRESERVATION OF PROGRAMS AND SERVICES.**

To the extent that appropriations provided by this article are less than the amounts appropriated for fiscal year 2017, the affected constitutional office, agency, board, or commission must prioritize reductions to its central administration and general operations in absorbing those reductions. Costs for programs or services that are not provided a specific appropriation in this act must be funded through appropriations to the constitutional office, agency, board, or commission that are not designated for another purpose. Unless otherwise specified, reductions must not be made to programs or services of the constitutional office, agency, board, or commission that are provided directly to members of the public.

Sec. 40. **APPROPRIATION CANCELLATIONS.**

All unspent funds estimated to be \$7,166,000, as provided in Minnesota Statutes, section 240A.085, under Laws 2016, chapter 189, article 13, section 56, are canceled to the general fund on June 30, 2017.

Sec. 41. **SAVINGS FROM INSURANCE OPT OUT; APPROPRIATION REDUCTION FOR EXECUTIVE AGENCIES.**

The commissioner of management and budget must reduce general fund appropriations to executive agencies, including constitutional offices, for agency operations for the biennium ending June 30, 2019, by \$4,394,000 due to savings from permitting employees to opt out of insurance coverage under the state employee group insurance coverage.

If savings obtained through permitting employees to opt out of insurance coverage under the state employee group insurance coverage yield savings in nongeneral funds other than those established in the state constitution or protected by federal law, the commissioner of management and budget may transfer the amount of savings to the general fund. The amount transferred to the general fund from other funds reduces the required general fund reduction in this section. Reductions made in 2019 must be reflected as reductions in agency base budgets for fiscal years 2020 and 2021. The commissioner of management and budget must report to the chairs and ranking minority members of the committees in the senate Finance Committee and the house of representatives Ways and Means Committee regarding the amount of reductions in spending by each agency under this section.

Sec. 42. SAVINGS; APPROPRIATION REDUCTIONS FOR INFORMATION TECHNOLOGY CONSOLIDATION.

(a) The commissioner of management and budget must reduce general fund appropriations to agencies subject to the executive branch information technology consolidation required by Laws 2011, First Special Session chapter 10, article 4, by at least \$3,000,000 for the biennium ending June 30, 2019, to reflect savings on enterprise services personnel costs resulting from the consolidation.

(b) If savings obtained through the completion of information technology consolidation yield savings in nongeneral funds other than those established in the state constitution or protected by federal law, the commissioner may transfer the amount of savings to the general fund. The amount transferred to the general fund from other funds reduces the required general fund reduction in this section. Reductions made in 2019 must be reflected as reductions in agency base budgets for fiscal years 2020 and 2021.

Sec. 43. REDUCTION IN PROFESSIONAL AND TECHNICAL SERVICES CONTRACT EXPENDITURES.

During the biennium ending June 30, 2019, the commissioner of management and budget must reduce planned general fund expenditures by executive branch state agencies on contracts for professional or technical services by at least \$2,255,000. The commissioner must allocate this reduction among each executive branch state agency. For purposes of this section, "professional or technical services" has the meaning given in Minnesota Statutes, section 16C.08, subdivision 1, and "executive branch state agency" has the meaning given in Minnesota Statutes, section 16A.011, subdivision 12a, and includes the Minnesota State Colleges and Universities.

Sec. 44. BASE BUDGET REPORT.

No later than October 15, 2017, the commissioners of management and budget, revenue, and veterans affairs must each submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over state government finance that detail the agency's base budget, by fiscal year. At a minimum, the report must include:

(1) a description of each appropriation rider enacted for the agency, and the year the rider was first enacted in a substantially similar form;

(2) a description of the agency's use of appropriated funds that are not directed by a rider, including an itemization of programs that appeared in a rider in a prior biennium and continue to receive funding despite no longer appearing in a rider; and

(3) an itemization of any appropriations provided to the agency under a provision of statute or the state constitution.

ARTICLE 2

STATE GOVERNMENT OPERATIONS

Section 1. **[2.92] DISTRICTING PRINCIPLES.**

Subdivision 1. **Applicability.** The principles in this section apply to legislative and congressional districts.

Subd. 2. **Nesting.** A representative district may not be divided in the formation of a senate district.

Subd. 3. **Equal population.** (a) Legislative districts must be substantially equal in population. The population of a legislative district must not deviate from the ideal by more than 0.5 percent, plus or minus.

(b) Congressional districts must be as nearly equal in population as practicable.

Subd. 4. **Contiguity; compactness.** The districts must be composed of convenient contiguous territory. To the extent consistent with the other principles in this section, districts should be compact. Contiguity by water is sufficient if the water is not a serious obstacle to travel within the district. Point contiguity is not sufficient.

Subd. 5. **Numbering.** (a) Legislative districts must be numbered in a regular series, beginning with house district 1A in the northwest corner of the state and proceeding across the state from west to east, north to south, but bypassing the 11-county metropolitan area until the southeast corner has been reached; then to the 11-county metropolitan area. In a county that includes more than one whole senate district, the districts must be numbered consecutively.

(b) Congressional district numbers must begin with district one in the southeast corner of the state and end with district eight in the northeast corner of the state.

Subd. 6. **Minority representation.** (a) The dilution of racial or ethnic minority voting strength is contrary to the laws of the United States and the state of Minnesota. These principles must not be construed to supersede any provision of the Voting Rights Act of 1965, as amended.

(b) A redistricting plan must not have the intent or effect of dispersing or concentrating minority population in a manner that prevents minority communities from electing their candidates of choice.

Subd. 7. **Minor civil divisions.** (a) A county, city, or town must not be unduly divided unless required to meet equal population requirements or to form districts composed of convenient, contiguous territory.

(b) A county, city, or town is not unduly divided in the formation of a legislative or congressional district if:

(1) the division occurs because a portion of a city or town is noncontiguous with another portion of the same city or town; or

(2) despite the division, the known population of any affected county, city, or town remains wholly located within a single district.

Subd. 8. **Preserving communities of interest.** (a) Districts should attempt to preserve identifiable communities of interest where that can be done in compliance with the principles under this section.

(b) For purposes of this subdivision, "communities of interest" means recognizable areas with similarities of interests including but not limited to racial, ethnic, geographic, social, or cultural interests.

Subd. 9. **Incumbents.** The districts must not be drawn for the purpose of protecting or defeating an incumbent.

Subd. 10. **Data to be used.** (a) The geographic areas and population counts used in maps, tables, and legal descriptions of the districts must be those used by the Geographic Information Systems Office of the Legislative Coordinating Commission. The population counts shall be the block population counts provided to the state under Public Law 94-171 after each decennial census, subject to correction of any errors acknowledged by the United States Census Bureau.

(b) Nothing in this subdivision prohibits the use of additional data, as determined by the legislature.

Subd. 11. **Consideration of plans.** A redistricting plan must not be considered for adoption by the senate or house of representatives until a block equivalency file showing the district to which each census block has been assigned, in a form prescribed by the director of the Geographic Information Systems Office, has been filed with the director.

Subd. 12. **Priority of principles.** Where it is not possible to fully comply with the principles contained in subdivisions 2 to 9, a redistricting plan must give priority to those principles in the order in which they are listed, except to the extent that doing so would violate federal or state law.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to any plan for districts enacted or established for use on or after that date.

Sec. 2. Minnesota Statutes 2016, section 3.305, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) "Legislative commission" means a joint commission, committee, or other entity in the legislative branch composed exclusively of members of the senate and the house of representatives.

(b) "Joint offices" means the Revisor of Statutes, Legislative Reference Library, the Office of Legislative Auditor, the Legislative Budget Office, and any other joint legislative service office.

Sec. 3. Minnesota Statutes 2016, section 3.855, subdivision 2, is amended to read:

Subd. 2. **State employee negotiations.** (a) The commissioner of management and budget shall regularly advise the commission on the progress of collective bargaining activities with state employees under the state Public Employment Labor Relations Act. During negotiations, the commission may make recommendations to the commissioner as it deems appropriate but no recommendation shall impose any obligation or grant any right or privilege to the parties.

(b) The commissioner shall submit to the chair of the commission any negotiated collective bargaining agreements, arbitration awards, compensation plans, or salaries for legislative approval or disapproval. Negotiated agreements shall be submitted within five days of the date of approval by the commissioner or the date of approval by the affected state employees, whichever occurs later. Arbitration awards shall be submitted within five days of their receipt by the commissioner. If the commission disapproves a collective bargaining agreement, award, compensation plan, or salary, the commission shall specify in writing to the parties those portions with which it disagrees and its reasons. If the commission approves a collective bargaining agreement, award, compensation plan, or salary, it shall submit the matter to the legislature to be accepted or rejected under this section.

(c) When the legislature is not in session, the commission may give interim approval to a negotiated collective bargaining agreement, salary, compensation plan, or arbitration award. ~~When the legislature is not in session, failure of the commission to disapprove a collective bargaining agreement or arbitration award within 30 days constitutes approval.~~ The commission shall submit the negotiated collective bargaining agreements, salaries, compensation plans, or arbitration awards for which it has provided approval to the entire legislature for ratification at a special legislative session called to consider them or at its next regular legislative session as provided in this section. Approval or disapproval by the commission is not binding on the legislature.

(d) When the legislature is not in session, the proposed collective bargaining agreement, arbitration decision, salary, or compensation plan must be implemented upon its approval by the commission, and state employees covered by the proposed agreement or arbitration decision do not have the right to strike while the interim approval is in effect. Wages and economic fringe benefit increases provided for in the agreement or arbitration decision paid in accordance with the interim approval by the commission are not affected, but the wages or benefit increases must cease to be paid or provided effective upon the rejection of the agreement, arbitration decision, salary, or compensation plan, or upon adjournment of the legislature without acting on it.

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

Sec. 4. Minnesota Statutes 2016, section 3.8843, subdivision 7, is amended to read:

Subd. 7. **Expiration.** This section expires June 30, ~~2017~~ 2019.

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

Sec. 5. **[3.8853] LEGISLATIVE BUDGET OFFICE.**

The Legislative Budget Office is established under control of the Legislative Coordinating Commission to provide the house of representatives and the senate with nonpartisan, accurate, and timely information on the fiscal impact of proposed legislation, without regard to political factors. The Legislative Coordinating Commission shall appoint a director who may hire staff necessary to

do the work of the office. The director serves a term of six years and may not be removed during a term except for cause after a public hearing.

Sec. 6. Minnesota Statutes 2016, section 3.971, subdivision 2, is amended to read:

Subd. 2. **Staff; compensation.** (a) The legislative auditor shall establish a Financial Audits Division and a Program Evaluation Division to fulfill the duties prescribed in this section.

(b) Each division may be supervised by a deputy auditor, appointed by the legislative auditor, with the approval of the commission, for a term coterminous with the legislative auditor's term. The deputy auditors may be removed before the expiration of their terms only for cause. The legislative auditor and deputy auditors may each appoint a confidential secretary to serve at pleasure. The salaries and benefits of the legislative auditor, deputy auditors and confidential secretaries shall be determined by the compensation plan approved by the Legislative Coordinating Commission. The deputy auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legislative auditor when authorized by the legislative auditor.

(c) The legislative auditor must appoint a fiscal oversight officer with duties that include performing the review under section 3.972, subdivision 4.

(d) The deputy auditors and the confidential secretaries serve in the unclassified civil service, but the fiscal oversight officer and all other employees of the legislative auditor are in the classified civil service. Compensation for employees of the legislative auditor in the classified service shall be governed by a plan prepared by the legislative auditor and approved by the Legislative Coordinating Commission and the legislature under section 3.855, subdivision 3.

(e) While in office, a person appointed deputy for the Financial Audit Division must hold an active license as a certified public accountant.

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

Sec. 7. Minnesota Statutes 2016, section 3.971, subdivision 6, is amended to read:

Subd. 6. **Financial audits.** The legislative auditor shall audit the financial statements of the state of Minnesota required by section 16A.50 and, as resources permit, Minnesota State Colleges and Universities, the University of Minnesota, state agencies, departments, boards, commissions, offices, courts, and other organizations subject to audit by the legislative auditor, including, but not limited to, the State Agricultural Society, Agricultural Utilization Research Institute, Enterprise Minnesota, Inc., Minnesota Historical Society, ClearWay Minnesota, Minnesota Sports Facilities Authority, Metropolitan Council, Metropolitan Airports Commission, and Metropolitan Mosquito Control District. Financial audits must be conducted according to generally accepted government auditing standards. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds and other public resources are complied with and may, as part of a financial audit or separately, investigate allegations of noncompliance.

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

Sec. 8. Minnesota Statutes 2016, section 3.972, is amended by adding a subdivision to read:

Subd. 4. **Certain transit financial activity reporting.** (a) The legislative auditor must perform a transit financial activity review of financial information for the Metropolitan Council's Transportation Division and the joint powers board under section 297A.992. Within 14 days of the end of each fiscal quarter, the legislative auditor must submit the review to the Legislative Audit Commission and the chairs and ranking minority members of the legislative committees with jurisdiction over transportation policy and finance, finance, and ways and means.

(b) At a minimum, each transit financial activity review must include:

(1) a summary of monthly financial statements, including balance sheets and operating statements, that shows income, expenditures, and fund balance;

(2) a list of any obligations and agreements entered into related to transit purposes, whether for capital or operating, including but not limited to bonds, notes, grants, and future funding commitments;

(3) the amount of funds in clause (2) that has been committed;

(4) independent analysis by the fiscal oversight officer of the fiscal viability of revenues and fund balance compared to expenditures, taking into account:

(i) all expenditure commitments;

(ii) cash flow;

(iii) sufficiency of estimated funds; and

(iv) financial solvency of anticipated transit projects; and

(5) a notification concerning whether the requirements under paragraph (c) have been met.

(c) The Metropolitan Council and the joint powers board under section 297A.992 must produce monthly financial statements as necessary for the review under paragraph (b), clause (1), and provide timely information as requested by the legislative auditor.

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

Sec. 9. Minnesota Statutes 2016, section 3.98, subdivision 1, is amended to read:

~~Subdivision 1. **Preparation.** (a) The head or chief administrative officer of each department or agency of the state government, including the Supreme Court, Legislative Budget Office shall prepare a fiscal note at the request of the chair of the standing committee to which a bill has been referred, or the chair of the house of representatives Ways and Means Committee, or the chair of the senate Committee on Finance.~~

(b) The head or chief administrative officer of each department or agency of state government, including the Supreme Court, shall supply information for fiscal notes upon request of the director of the Legislative Budget Office. The Legislative Budget Office may adopt standards and guidelines governing timing of responses to requests for information and governing access to data, consistent with laws governing access to data. Agencies must comply with these standards and guidelines.

(c) For purposes of this subdivision, "Supreme Court" includes all agencies, committees, and commissions supervised or appointed by the state Supreme Court or the state court administrator.

Sec. 10. Minnesota Statutes 2016, section 3.98, subdivision 4, is amended to read:

Subd. 4. **Uniform procedure.** The ~~commissioner of management and budget~~ Legislative Budget Office shall prescribe a uniform procedure to govern the departments and agencies of the state in complying with the requirements of this section.

Sec. 11. Minnesota Statutes 2016, section 3.987, subdivision 1, is amended to read:

Subdivision 1. **Local impact notes.** The ~~commissioner of management and budget~~ Legislative Budget Office shall coordinate the development of a local impact note for any proposed legislation ~~introduced after June 30, 1997,~~ upon request of the chair or the ranking minority member of either legislative Tax, Finance, or Ways and Means Committee. Upon receipt of a request to prepare a local impact note, the ~~commissioner~~ office must notify the authors of the proposed legislation that the request has been made. The local impact note must be made available to the public upon request. If the action is among the exceptions listed in section 3.988, a local impact note need not be requested nor prepared. The ~~commissioner~~ office shall make a reasonable and timely estimate of the local fiscal impact on each type of political subdivision that would result from the proposed legislation. The ~~commissioner of management and budget~~ office may require any political subdivision or the commissioner of an administrative agency of the state to supply in a timely manner any information determined to be necessary to determine local fiscal impact. The political subdivision, its representative association, or commissioner shall convey the requested information to the ~~commissioner of management and budget~~ office with a signed statement to the effect that the information is accurate and complete to the best of its ability. The political subdivision, its representative association, or commissioner, when requested, shall update its determination of local fiscal impact based on actual cost or revenue figures, improved estimates, or both. Upon completion of the note, the ~~commissioner~~ office must provide a copy to the authors of the proposed legislation and to the chair and ranking minority member of each committee to which the proposed legislation is referred.

Sec. 12. Minnesota Statutes 2016, section 6.481, subdivision 3, is amended to read:

Subd. 3. **CPA firm audit.** A county audit performed by a CPA firm must meet the standards and be in ~~the~~ a form required by the state auditor meeting recognized industry auditing standards. The state auditor may require additional information from the CPA firm if the state auditor determines that is in the public interest, but the state auditor must accept the audit unless the state auditor determines ~~if the audit or its form~~ does not meet recognized industry auditing standards or is not in the form required by the state auditor. The state auditor may make additional examinations as the auditor determines to be in the public interest.

Sec. 13. Minnesota Statutes 2016, section 6.481, subdivision 6, is amended to read:

Subd. 6. **Payments to state auditor.** A county audited by the state auditor must pay the state auditor for the costs and expenses of the audit. If the state auditor makes additional examinations of a county whose audit is performed by a CPA firm, the county must pay the auditor for the cost of these examinations. Payments must be deposited in the ~~state auditor enterprise~~ general fund.

Sec. 14. Minnesota Statutes 2016, section 6.56, subdivision 2, is amended to read:

Subd. 2. **Billings by state auditor.** Upon the examination of the books, records, accounts, and affairs of any political subdivision, as provided by law, such political subdivision shall be liable to the state for the total cost and expenses of such examination, including the salaries paid to the examiners while actually engaged in making such examination. The state auditor may bill such political subdivision periodically for service rendered and the officials responsible for approving and paying claims are authorized to pay said bill promptly. Said payments shall be without prejudice to any defense against said claims that may exist or be asserted. ~~The state auditor enterprise general fund shall be credited with all collections made for any such examinations, including interest payments made pursuant to subdivision 3.~~

Sec. 15. Minnesota Statutes 2016, section 6.581, subdivision 4, is amended to read:

Subd. 4. **Reports to legislature.** At least 30 days before implementing increased charges for examinations, the state auditor must report the proposed increases to the chairs and ranking minority members of the committees in the house of representatives and the senate with jurisdiction over the budget of the state auditor. By January 15 of each odd-numbered year, the state auditor must report to the chairs and ranking minority members of the legislative committees and divisions with primary jurisdiction over the budget of the state auditor a summary of ~~the state auditor enterprise fund~~ anticipated revenues, and expenditures related to examinations for the biennium ending June 30 of that year. The report must also include ~~for the biennium ending June 30 of that year~~ for the biennium ending June 30 of that year the number of full-time equivalents ~~paid by the fund,~~ by division, employed by the Office of the State Auditor, any audit rate changes stated as a percentage, the number of audit reports issued, and the number of counties audited.

Sec. 16. **[6.92] LITIGATION EXPENSES.**

(a) Unless funds are otherwise expressly provided by law for this purpose, all costs incurred by the state auditor in preparing and asserting a civil claim or appeal, or in defending against a civil claim or appeal, related to the proper exercise of the auditor's constitutionally authorized core functions must be paid by the auditor's constitutional office division. Only allocations made to the constitutional office division may be used to pay these costs. The state auditor must report to the chairs and ranking minority members of the committees in the house of representatives and the senate with jurisdiction over the Office of the State Auditor by May 1, 2017, and January 1, 2018, and each January 1 thereafter, on the state auditor's litigation expenses. The report must list each lawsuit the state auditor has brought or is defending, the grounds for each suit, the litigation expenses incurred since the previous report under this section, and the projected expenses to complete the suit.

(b) In complying with paragraph (a), the state auditor may not, directly or indirectly, decrease allocations previously made to, transfer funds from, or otherwise reduce services provided by any other division of the office.

Sec. 17. **[15.0395] INTERAGENCY AGREEMENTS AND INTRA-AGENCY TRANSFERS.**

(a) The head of each agency must provide quarterly reports to the chairs and ranking minority members of the legislative committees with jurisdiction over the department or agency's budget on:

(1) interagency agreements or service-level agreements and any renewals or extensions of existing interagency or service-level agreements with another agency if the cumulative value of those agreements is more than \$50,000 in a single fiscal year; and

(2) transfers of appropriations between accounts within or between agencies, if the cumulative value of the transfers is more than \$50,000 in a single fiscal year.

The report must include the statutory citation authorizing the agreement, transfer or dollar amount, purpose, and effective date of the agreement, the duration of the agreement, and a copy of the agreement.

(b) As used in this section, "agency" includes the departments of the state listed in section 15.01, a multimember state agency in the executive branch described in section 15.012, paragraph (a), the Office of MN.IT Services, and the Office of Higher Education.

Sec. 18. **[16A.1282] TRANSFERS TO THE GOVERNOR.**

An agency shall not transfer money to the governor for services provided by the governor or to reimburse expenses incurred by the governor.

Sec. 19. Minnesota Statutes 2016, section 16A.90, is amended to read:

16A.90 EMPLOYEE GAINSHARING SYSTEM.

Subdivision 1. **Commissioner must establish program.** (a) The commissioner shall establish a program to provide onetime bonus compensation to state employees for efforts made to reduce the costs of operating state government or for ways of providing better or more efficient state services. The commissioner may authorize an executive branch appointing authority to make a onetime award to an employee or group of employees whose suggestion or involvement in a project is determined by the commissioner to have resulted in documented cost-savings to the state. Before authorizing awards under this section, the commissioner shall establish guidelines for the program including but not limited to:

(1) the maximum award is ten percent of the documented savings in the first fiscal year in which the savings are realized up to \$50,000;

(2) the award must be paid from the appropriation to which the savings accrued; and

(3) employees whose primary job responsibility is to identify cost savings or ways of providing better or more efficient state services are generally not eligible for bonus compensation under this section except in extraordinary circumstances as defined by the commissioner.

(b) The program required by this section must be in addition to any existing monetary or nonmonetary performance-based recognition programs for state employees, including achievement awards, continuous improvement awards, and general employee recognitions.

Subd. 2. **Biannual legislative report.** No later than August 1, 2017, and biannually thereafter, the commissioner must report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over Minnesota Management and Budget on the status of the program required by this section. The report must detail:

(1) the specific program guidelines established by the commissioner as required by subdivision 1, if the guidelines have not been described in a previous report;

(2) any proposed modifications to the established guidelines under consideration by the commissioner, including the reason for the proposed modifications;

(3) the methods used by the commissioner to promote the program to state employees, if the methods have not been described in a previous report;

(4) a summary of the results of the program that includes the following, categorized by agency:

(i) the number of state employees whose suggestions or involvement in a project were considered for possible bonus compensation, and a description of each suggestion or project that was considered;

(ii) the total amount of bonus compensation actually awarded, itemized by each suggestion or project that resulted in an award and the amount awarded for that suggestion or project; and

(iii) the total amount of documented cost-savings that accrued to the agency as a result of each suggestion or project for which bonus compensation was granted; and

(5) any recommendations for legislation that, in the judgment of the commissioner, would improve the effectiveness of the bonus compensation program established by this section or which would otherwise increase opportunities for state employees to actively participate in the development and implementation of strategies for reducing the costs of operating state government or for providing better or more efficient state services.

Sec. 20. Minnesota Statutes 2016, section 16B.04, subdivision 2, is amended to read:

Subd. 2. **Powers and duties, generally.** Subject to other provisions of this chapter, the commissioner is authorized to:

(1) supervise, control, review, and approve all state contracts and purchasing, provided that the commissioner may not approve a state contract with, or the purchase of goods from, a vendor who intentionally refuses to do business, or who intentionally discriminates in the basic terms, conditions, or performance of a contract or sale, on the basis of a person's national origin;

(2) provide agencies with supplies and equipment;

(3) investigate and study the management and organization of agencies, and reorganize them when necessary to ensure their effective and efficient operation;

(4) manage and control state property, real and personal;

(5) maintain and operate all state buildings, as described in section 16B.24, subdivision 1;

(6) supervise, control, review, and approve all capital improvements to state buildings and the capitol building and grounds;

(7) provide central mail facilities;

(8) oversee publication of official documents and provide for their sale;

(9) manage and operate parking facilities for state employees and a central motor pool for travel on state business;

(10) provide rental space within the capitol complex for a private day care center for children of state employees. The commissioner shall contract for services as provided in this chapter;

(11) settle state employee workers' compensation claims;

(12) purchase, accept, transfer, warehouse, sell, distribute, or dispose of surplus property in accordance with state and federal rules and regulations. The commissioner may charge a fee to cover any expenses incurred in connection with any of these acts; and

(13) provide and manage a central distribution center for federal and state surplus personal property, as defined in section 16B.2975, and may provide and manage a warehouse facility.

Sec. 21. Minnesota Statutes 2016, section 16B.055, subdivision 1, is amended to read:

Subdivision 1. **Federal Assistive Technology Act.** (a) The Department of Administration is designated as the lead agency to carry out all the responsibilities under the Assistive Technology Act of 1998, as provided by Public Law 108-364, as amended. The Minnesota Assistive Technology Advisory Council is established to fulfill the responsibilities required by the Assistive Technology Act, as provided by Public Law 108-364, as amended. Because the existence of this council is required by federal law, this council does not expire.

(b) Except as provided in paragraph (c), the governor shall appoint the membership of the council as required by the Assistive Technology Act of 1998, as provided by Public Law 108-364, as amended. After the governor has completed the appointments required by this subdivision, the commissioner of administration, or the commissioner's designee, shall convene the first meeting of the council following the appointments. Members shall serve two-year terms commencing July 1 of each odd-numbered year, and receive the compensation specified by the Assistive Technology Act of 1998, as provided by Public Law 108-364, as amended. The members of the council shall select their chair at the first meeting following their appointment.

(c) After consulting with the appropriate commissioner, the commissioner of administration shall appoint a representative from:

(1) State Services for the Blind who has assistive technology expertise;

(2) vocational rehabilitation services who has assistive technology expertise;

(3) the Workforce Development Council; and

(4) the Department of Education who has assistive technology expertise.

Sec. 22. Minnesota Statutes 2016, section 16B.335, subdivision 1, is amended to read:

Subdivision 1. **Construction and major remodeling.** (a) The commissioner, or any other recipient to whom an appropriation is made to acquire or better public lands or buildings or other

public improvements of a capital nature, must not prepare final plans and specifications for any construction, major remodeling, or land acquisition in anticipation of which the appropriation was made until the agency that will use the project has presented the program plan and cost estimates for all elements necessary to complete the project to the chair of the senate Finance Committee and the chair of the house of representatives Ways and Means Committee and the chairs have made their recommendations, and the chair and ranking minority member of the senate Capital Investment Committee and the chair and ranking minority member of the house of representatives Capital Investment Committee are notified. "Construction or major remodeling" means construction of a new building, a substantial addition to an existing building, or a substantial change to the interior configuration of an existing building. The presentation must note any significant changes in the work that will be done, or in its cost, since the appropriation for the project was enacted or from the predesign submittal. The program plans and estimates must be presented for review at least two weeks before a recommendation is needed. The recommendations are advisory only. Failure or refusal to make a recommendation is considered a negative recommendation.

(b) The chairs and ranking minority members of the senate Finance and Capital Investment Committees and the house of representatives Capital Investment and Ways and Means Committees, and the house of representatives and senate budget committees or divisions with jurisdiction over the agency that will use the project must also be notified whenever there is a substantial change in a construction or major remodeling project, or in its cost. This notice must include the nature and reason for the change and the anticipated cost of the change. The notice must be given no later than ten days after signing a change order or other document authorizing a change in the project, or if there is not a change order or other document, no later than ten days after the project owner becomes aware of a substantial change in the project or its cost.

~~(b)~~ (c) Capital projects exempt from the requirements of this subdivision in paragraph (a) to seek recommendations before preparing final plans and specifications include demolition or decommissioning of state assets, hazardous material projects, utility infrastructure projects, environmental testing, parking lots, parking structures, park and ride facilities, bus rapid transit stations, light rail lines, passenger rail projects, exterior lighting, fencing, highway rest areas, truck stations, storage facilities not consisting primarily of offices or heated work areas, roads, bridges, trails, pathways, campgrounds, athletic fields, dams, floodwater retention systems, water access sites, harbors, sewer separation projects, water and wastewater facilities, port development projects for which the commissioner of transportation has entered into an assistance agreement under section 457A.04, ice centers, a local government project with a construction cost of less than \$1,500,000, or any other capital project with a construction cost of less than \$750,000. The requirements in paragraph (b) to give notice of changes applies to these projects.

Sec. 23. Minnesota Statutes 2016, section 16B.371, is amended to read:

16B.371 ASSISTANCE TO SMALL AGENCIES.

(a) The commissioner may provide administrative support services to small agencies. To promote efficiency and cost-effective use of state resources, and to improve financial controls, the commissioner may require a small agency to receive administrative support services through the Department of Administration or through another agency designated by the commissioner. Services subject to this section include finance, accounting, payroll, purchasing, human resources, and other services designated by the commissioner. The commissioner may determine what constitutes a small

agency for purposes of this section. The commissioner, in consultation with the commissioner of management and budget and small agencies, shall evaluate small agencies' needs for administrative support services. If the commissioner provides administrative support services to a small agency, the commissioner must enter into a service level agreement with the agency, specifying the services to be provided and the costs and anticipated outcomes of the services.

(b) The Minnesota Council on Latino Affairs, the Council for Minnesotans of African Heritage, the Council on Asian-Pacific Minnesotans, the Indian Affairs Council, and the Minnesota State Council on Disability ~~must~~ may use the services specified in paragraph (a).

(c) The commissioner of administration ~~may~~ must assess agencies for services it provides under this section. The amounts assessed are appropriated to the commissioner.

(d) For agencies covered in this section, the commissioner has the authority to require the agency to comply with applicable state finance, accounting, payroll, purchasing, and human resources policies. The agencies served retain the ownership and responsibility for spending decisions and for ongoing implementation of appropriate business operations.

Sec. 24. Minnesota Statutes 2016, section 16B.4805, subdivision 2, is amended to read:

Subd. 2. **Reimbursement for making reasonable accommodation.** The commissioner of administration shall reimburse state agencies for up to 50 percent of the cost of expenses incurred in making reasonable accommodations eligible for reimbursement for agency employees and applicants for employment to the extent that funds are available in the accommodation account established under subdivision 3 for this purpose.

Sec. 25. Minnesota Statutes 2016, section 16B.4805, subdivision 4, is amended to read:

Subd. 4. **Administration costs.** The commissioner may use up to ~~15 percent~~ \$5,000 of the biennial appropriation for administration of this section.

Sec. 26. Minnesota Statutes 2016, section 16B.97, is amended by adding a subdivision to read:

Subd. 6. **Commerce grants.** The office must monitor grants made by the Department of Commerce.

Sec. 27. **[16B.991] TERMINATION OF GRANT.**

Each grant agreement subject to sections 16B.97 and 16B.98 must provide that the agreement will immediately be terminated if:

(1) the recipient is convicted of a criminal offense relating to a state grant agreement; or

(2) the agency entering into the grant agreement or the commissioner of administration determines that the grant recipient is under investigation by a federal agency, a state agency, or a local law enforcement agency for matters relating to administration of a state grant.

Sec. 28. Minnesota Statutes 2016, section 16E.016, is amended to read:

16E.016 RESPONSIBILITY FOR INFORMATION TECHNOLOGY SERVICES AND EQUIPMENT.

(a) The chief information officer is responsible for providing or entering into managed services contracts for the provision, improvement, and development of the following information technology systems and services to state agencies:

- (1) state data centers;
- (2) mainframes including system software;
- (3) servers including system software;
- (4) desktops including system software;
- (5) laptop computers including system software;
- (6) a data network including system software;
- (7) database, electronic mail, office systems, reporting, and other standard software tools;
- (8) business application software and related technical support services;
- (9) help desk for the components listed in clauses (1) to (8);
- (10) maintenance, problem resolution, and break-fix for the components listed in clauses (1) to (8);
- (11) regular upgrades and replacement for the components listed in clauses (1) to (8); and
- (12) network-connected output devices.

(b) All state agency employees whose work primarily involves functions specified in paragraph (a) are employees of the Office of MN.IT Services. This includes employees who directly perform the functions in paragraph (a), as well as employees whose work primarily involves managing, supervising, or providing administrative services or support services to employees who directly perform these functions. The chief information officer may assign employees of the office to perform work exclusively for another state agency.

(c) Subject to sections 16C.08 and 16C.09, the chief information officer may allow a state agency to obtain services specified in paragraph (a) through a contract with an outside vendor when the chief information officer and the agency head agree that a contract would provide best value, as defined in section 16C.02, under the service-level agreement. The chief information officer must require that agency contracts with outside vendors ensure that systems and services are compatible with standards established by the Office of MN.IT Services.

(d) The Minnesota State Retirement System, the Public Employees Retirement Association, the Teachers Retirement Association, and the State Board of Investment, ~~the Campaign Finance and Public Disclosure Board, the State Lottery, and the Statewide Radio Board~~ are not state agencies for purposes of this section.

(e) Effective upon certification by the chief information officer that the information technology systems and services provided under this section meet all professional and technical standards necessary for the entity to perform its functions, the following are state agencies for purposes of this section: the Campaign Finance and Public Disclosure Board, the State Lottery, and the Statewide Radio Board.

Sec. 29. Minnesota Statutes 2016, section 16E.0466, is amended to read:

16E.0466 STATE AGENCY TECHNOLOGY PROJECTS.

Subdivision 1. Consultation required. (a) Every state agency with an information or telecommunications project must consult with the Office of MN.IT Services to determine the information technology cost of the project. Upon agreement between the commissioner of a particular agency and the chief information officer, the agency must transfer the information technology cost portion of the project to the Office of MN.IT Services. Service level agreements must document all project-related transfers under this section. Those agencies specified in section 16E.016, paragraph (d), are exempt from the requirements of this section.

(b) Notwithstanding section 16A.28, subdivision 3, any unexpended operating balance appropriated to a state agency may be transferred to the information and telecommunications technology systems and services account for the information technology cost of a specific project, subject to the review of the Legislative Advisory Commission, under section 16E.21, subdivision 3.

Subd. 2. Legislative report. No later than October 1, 2017, and quarterly thereafter, the state chief information officer must submit a comprehensive project portfolio report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over state government finance on projects requiring consultation under subdivision 1. The report must itemize:

- (1) each project presented to the office for consultation in the time since the last report;
- (2) the information technology cost associated with the project, including the information technology cost as a percentage of the project's complete budget;
- (3) the status of the information technology components of the project's development;
- (4) the date the information technology components of the project are expected to be completed;
and
- (5) the projected costs for ongoing support and maintenance of the information technology components after the project is complete.

Sec. 30. [43A.035] LIMIT ON NUMBER OF FULL-TIME EQUIVALENT EMPLOYEES; USE OF AGENCY SAVINGS.

Subdivision 1. Number of full-time equivalent employees limited. The total number of full-time equivalent employees employed in all executive branch agencies may not exceed 31,691. The commissioner of management and budget may forbid an executive agency from hiring a new

employee or from filling a vacancy as the commissioner determines necessary to ensure compliance with this section. Any reductions in staff should prioritize protecting client-facing health care workers, corrections officers, public safety workers, and mental health workers. As a means of achieving compliance with this subdivision, the commissioner may authorize an agency to provide an early retirement incentive to an executive branch employee, under which the state will continue to make the employer contribution for health insurance after the employee has terminated state service. The commissioner must prescribe eligibility requirements and the maximum duration of the payments.

Subd. 2. **Use of savings resulting from vacant positions.** To the extent that an executive branch agency accrues savings in personnel costs resulting from the departure of an agency employee or the maintenance of a vacant position, those savings may only be used to support a new employee in that position at an equal or lesser rate of compensation, and for an equal or lesser full-time equivalent work status. Savings accrued from departed personnel or maintenance of a vacant position may not be transferred or reallocated to another program or activity within the executive branch agency, or used to increase the number of full-time equivalent employees at the agency, unless expressly authorized by law.

Subd. 3. **Definition.** For purposes of this section, an "executive branch agency" does not include the Minnesota State Colleges and Universities or statewide pension plans.

Sec. 31. Minnesota Statutes 2016, section 43A.17, subdivision 11, is amended to read:

Subd. 11. **Severance pay for certain employees.** (a) For purposes of this subdivision, "highly compensated employee" means an employee of the state whose estimated annual compensation is greater than 60 percent of the governor's annual salary, and who is not covered by a collective bargaining agreement negotiated under chapter 179A or a compensation plan authorized under section 43A.18, subdivision 3a.

(b) Severance pay for a highly compensated employee includes benefits or compensation with a quantifiable monetary value, that are provided for an employee upon termination of employment and are not part of the employee's annual wages and benefits and are not specifically excluded by this subdivision. Severance pay does not include payments for accumulated vacation, accumulated sick leave, and accumulated sick leave liquidated to cover the cost of group term insurance. Severance pay for a highly compensated employee does not include payments of periodic contributions by an employer toward premiums for group insurance policies. The severance pay for a highly compensated employee must be excluded from retirement deductions and from any calculations of retirement benefits. Severance pay for a highly compensated employee must be paid in a manner mutually agreeable to the employee and the employee's appointing authority over a period not to exceed five years from retirement or termination of employment. If a retired or terminated employee dies before all or a portion of the severance pay has been disbursed, the balance due must be paid to a named beneficiary or, lacking one, to the deceased's estate. Except as provided in paragraph (c), severance pay provided for a highly compensated employee leaving employment may not exceed ~~an amount~~ equivalent to six months of pay the lesser of:

(1) six months pay; or

(2) the highly compensated employee's regular rate of pay multiplied by 35 percent of the highly compensated employee's accumulated but unused sick leave hours.

(c) Severance pay for a highly compensated employee may exceed ~~an amount equivalent to six months of pay~~ the limit prescribed in paragraph (b) if the severance pay is part of an early retirement incentive offer approved by the state and the same early retirement incentive offer is also made available to all other employees of the appointing authority who meet generally defined criteria relative to age or length of service.

(d) An appointing authority may make severance payments to a highly compensated employee, up to the limits prescribed in this subdivision, only if doing so is authorized by a compensation plan under section 43A.18 that governs the employee, provided that the following highly compensated employees are not eligible for severance pay:

(1) a commissioner, deputy commissioner, or assistant commissioner of any state department or agency as listed in section 15.01 or 15.06, including the state chief information officer; and

(2) any unclassified employee who is also a public official, as defined in section 10A.01, subdivision 35.

(e) Severance pay shall not be paid to a highly compensated employee who has been employed by the appointing authority for less than six months or who voluntarily terminates employment.

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

Sec. 32. Minnesota Statutes 2016, section 43A.24, is amended by adding a subdivision to read:

Subd. 1a. **Opt out.** (a) An individual eligible for state-paid hospital, medical, and dental benefits under this section has the right to decline those benefits, provided the individual declining the benefits can prove health insurance coverage from another source. Any individual declining benefits must do so in writing, signed and dated, on a form provided by the commissioner.

(b) The commissioner must create, and make available in hard copy and online a form for individuals to use in declining state-paid hospital, medical, and dental benefits. The form must, at a minimum, include notice to the declining individual of the next available opportunity and procedure to re-enroll in the benefits.

(c) No later than January 15 of each year, the commissioner of management and budget must provide a report to the chairs and ranking minority members of the legislative committees with jurisdiction over state government finance on the number of employees choosing to opt-out of state employee group insurance coverage under this section. The report must provide itemized statistics, by agency, and include the total amount of savings accrued to each agency resulting from the opt-outs.

Sec. 33. **[118A.09] ADDITIONAL LONG-TERM EQUITY INVESTMENT AUTHORITY.**

Subdivision 1. **Definition; qualifying government.** "Qualifying government" means:

(1) a county or statutory or home rule charter city with a population of more than 100,000;

(2) a county or statutory or home rule charter city which had its most recently issued general obligation bonds rated in the highest category by a national bond rating agency; or

(3) a self-insurance pool listed in section 471.982, subdivision 3.

A county or statutory or home rule charter city with a population of 100,000 or less that is a qualifying government, but is subsequently rated less than the highest category by a national bond rating agency on a general obligation bond issue, may not invest additional funds under this section but may continue to manage funds previously invested under subdivision 2.

Subd. 2. **Additional investment authority.** Qualifying governments may invest the amount described in subdivision 3:

(1) in index mutual funds based in the United States and indexed to a broad market United States equity index; or

(2) with the Minnesota State Board of Investment subject to such terms and minimum amounts as may be adopted by the board. Index mutual fund investments must be made directly with the main sales office of the fund.

Subd. 3. **Funds.** (a) Qualifying governments may only invest under subdivision 2 according to the limitations in this subdivision. A qualifying government under subdivision 1, clause (1) or (2), may only invest its funds that are held for long-term capital plans authorized by the city council or county board, or long-term obligations of the qualifying government. Long-term obligations of the qualifying government include long-term capital plan reserves, funds held to offset long-term environmental exposure, other postemployment benefit liabilities, compensated absences, and other long-term obligations established by applicable accounting standards.

(b) Qualifying governments under subdivision 1, clause (1) or (2), may invest up to 15 percent of the sum of:

(1) unassigned cash;

(2) cash equivalents;

(3) deposits; and

(4) investments.

This calculation must be based on the qualifying government's most recent audited statement of net position, which must be compliant and audited pursuant to governmental accounting and auditing standards. Once the amount invested reaches 15 percent of the sum of unassigned cash, cash equivalents, deposits, and investments, no further funds may be invested under this section; however, a qualifying government may continue to manage the funds previously invested under this section even if the total amount subsequently exceeds 15 percent of the sum of unassigned cash, cash equivalents, deposits, and investments.

(c) A qualified government under subdivision 1, clause (3), may invest up to the lesser of:

(1) 15 percent of the sum of its cash, cash equivalents, deposits, and investments; or

(2) 25 percent of its net assets as reported on the pool's most recent audited statement of net position, which must be compliant and audited pursuant to governmental accounting and auditing standards.

Subd. 4. **Approval.** Before investing pursuant to this section, the governing body of the qualifying government must adopt a resolution that includes the following statements:

(1) the governing body understands that investments under subdivision 2 have a risk of loss;

(2) the governing body understands the type of funds that are being invested and the specific investment itself; and

(3) the governing body certifies that all funds designated for investment through the State Board of Investment meet the requirements of this section and the policies and procedures established by the State Board of Investment.

Subd. 5. **Public Employees Retirement Association to act as account administrator.** A qualifying government exercising authority under this section to invest amounts with the State Board of Investment shall establish an account with the Public Employees Retirement Association (PERA), which shall act as the account administrator.

Subd. 6. **Purpose of account.** The account established under subdivision 5 may only be used for the purposes provided under subdivision 3. PERA may rely on representations made by the qualifying government in exercising its duties as account administrator and has no duty to further verify qualifications, use, or intended use of the funds that are invested or withdrawn.

Subd. 7. **Account maintenance.** (a) A qualifying government may establish an account to be held under the supervision of PERA for the purposes of investing funds with the State Board of Investment under subdivision 2. PERA shall establish a separate account for each qualifying government. PERA may charge participating qualifying governments a fee for reasonable administrative costs. The amount of any fee charged by PERA is annually appropriated to the association from the account. PERA may establish other reasonable terms and conditions for creation and maintenance of these accounts.

(b) PERA must report to the qualifying government on the investment returns of invested funds and on all investment fees or costs incurred by the account.

Subd. 8. **Investment.** (a) The assets of an account shall be invested and held as required by this subdivision.

(b) PERA must certify all money in the accounts for which it is account administrator to the State Board of Investment for investment under section 11A.14, subject to the policies and procedures established by the State Board of Investment. Investment earnings must be credited to the account of the individual qualifying government.

(c) For accounts invested by the State Board of Investment, the investment restrictions shall be the same as those generally applicable to the State Board of Investment.

(d) A qualifying government may provide investment direction to PERA, subject to the policies and procedures established by the State Board of Investment.

Subd. 9. **Withdrawal of funds and termination of account.** (a) A government may withdraw some or all of its money or terminate the account.

(b) A government requesting withdrawal of money from an account created under this section must do so at a time and in the manner required by the executive director of PERA, subject to the policies and procedures established by the State Board of Investment.

Sec. 34. Minnesota Statutes 2016, section 138.69, is amended to read:

138.69 PUBLIC AREAS OF THE CAPITOL.

The Minnesota State Historical Society is designated the research agency and is responsible for the interpretation of the public areas for visitors to the Capitol. This involves conducting or approving public programs and tours in the Capitol and State Office Building, including exhibits held in the Capitol, providing informational services, acting as advisor on preservation, recommending appropriate custodial policies, and maintaining and repairing all works of art. Notwithstanding section 138.668, the society may not charge a fee for general tours at the Capitol but may charge fees for special programs other than general tours.

Sec. 35. Minnesota Statutes 2016, section 155A.30, subdivision 5, is amended to read:

Subd. 5. **Conditions precedent to issuance.** A license must not be issued unless the board first determines that the applicant has met the requirements in clauses (1) to ~~(8)~~ (9):

(1) the applicant must have a sound financial condition with sufficient resources available to meet the school's financial obligations; to refund all tuition and other charges, within a reasonable period of time, in the event of dissolution of the school or in the event of any justifiable claims for refund against the school; to provide adequate service to its students and prospective students; and to maintain proper use and support of the school;

(2) the applicant must have satisfactory training facilities with sufficient tools and equipment and the necessary number of work stations to adequately train the students currently enrolled, and those proposed to be enrolled;

(3) the applicant must employ a sufficient number of qualified instructors trained by experience and education to give the training contemplated;

(4) the premises and conditions under which the students work and study must be sanitary, healthful, and safe according to modern standards;

(5) each occupational course or program of instruction or study must be of such quality and content as to provide education and training that will adequately prepare enrolled students for testing, licensing, and entry level positions ~~as a cosmetologist, esthetician, or nail technician;~~

(6) the school must have coverage by professional liability insurance of at least \$25,000 per incident and an accumulation of \$150,000 for each premium year;

(7) the applicant shall provide evidence of the school's compliance with section 176.182;

(8) the applicant, except the state and its political subdivisions as described in section ~~471.617~~ 13.02, subdivision ~~1~~ 11, ~~shall~~ must file with the board a continuous corporate surety bond in the amount of no less than ten percent of the preceding year's gross income from student tuition, fees, and other required institutional charges, but in no event less than \$10,000, conditioned upon the

faithful performance of all contracts and agreements with students made by the applicant. New schools must base the bond amount on the anticipated gross income from student tuition, fees, and other required institutional charges for the third year of operation, but in no event less than \$10,000. The applicant must compute the amount of the surety bond and verify that the amount of the surety bond complies with this subdivision. The bond shall run to the ~~state of Minnesota~~ board and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. ~~The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed \$10,000.~~ The surety of the bond may cancel it upon giving 60 days' notice in writing to the board and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation; and

(9) the applicant must, ~~at all times during the term of the license, employ~~ appoint a designated ~~licensed school manager who maintains a cosmetology salon manager license.~~

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

Sec. 36. Minnesota Statutes 2016, section 179A.20, is amended by adding a subdivision to read:

Subd. 2b. **Limited by appropriation.** The commissioner of management and budget may not contract to pay more to employees in compensation and benefits in a biennium than is permitted under an approved spending plan as provided in section 16A.14.

Sec. 37. Minnesota Statutes 2016, section 270C.13, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** The commissioner shall report to the legislature by March 1 of each odd-numbered year on the overall incidence of the income tax, sales and excise taxes, and property tax. The report shall present information on the distribution of the tax burden as follows: (1) for the overall income distribution, using a systemwide incidence measure such as the Suits index or other appropriate measures of equality and inequality; (2) by income classes, including at a minimum deciles of the income distribution; and (3) by other appropriate taxpayer characteristics. The report must also include information on the distribution of the burden of federal taxes borne by Minnesota residents.

Sec. 38. Minnesota Statutes 2016, section 353.27, subdivision 3c, is amended to read:

Subd. 3c. **Former MERF members; member and employer contributions.** (a) For the period July 1, 2015, through December 31, 2031, the member contributions for former members of the Minneapolis Employees Retirement Fund and by the former Minneapolis Employees Retirement Fund-covered employing units are governed by this subdivision.

(b) The member contribution for a public employee who was a member of the former Minneapolis Employees Retirement Fund on June 29, 2010, is 9.75 percent of the salary of the employee.

(c) The employer regular contribution with respect to a public employee who was a member of the former Minneapolis Employees Retirement Fund on June 29, 2010, is 9.75 percent of the salary of the employee.

(d) ~~For calendar years 2015 and 2016, The annual employer supplemental contribution is the employing unit's share of \$31,000,000. For calendar years 2017 through 2031, the employer supplemental contribution is the employing unit's share of \$21,000,000.~~

(e) Each employing unit's share under paragraph (d) is the amount determined from an allocation between each employing unit in the portion equal to the unit's employer supplemental contribution paid or payable under Minnesota Statutes 2012, section 353.50, during calendar year 2014.

(f) The employer supplemental contribution amount under paragraph (d) for calendar year 2015 must be invoiced by the executive director of the Public Employees Retirement Association by July 1, 2015. The calendar year 2015 payment is payable in a single amount on or before September 30, 2015. For subsequent calendar years, the employer supplemental contribution under paragraph (d) must be invoiced on January 31 of each year and is payable in two parts, with the first half payable on or before July 31 and with the second half payable on or before December 15. Late payments are payable with compound interest at the rate of 0.71 percent per month for each month or portion of a month that has elapsed after the due date.

(g) The employer supplemental contribution under paragraph (d) terminates on December 31, 2031.

Sec. 39. Minnesota Statutes 2016, section 353.505, is amended to read:

353.505 STATE CONTRIBUTIONS; FORMER MERF DIVISION.

(a) On September 15, 2015, ~~and~~ September 15, 2016, and annually thereafter, the state shall pay to the general employees retirement plan of the Public Employees Retirement Association, with respect to the former MERF division, \$6,000,000. ~~By September 15 of each year after 2016, the state shall pay to the general employees retirement plan of the Public Employees Retirement Association, with respect to the former MERF division, \$16,000,000.~~

(b) State contributions under this section end on September 15, 2031.

Sec. 40. Minnesota Statutes 2016, section 471.6161, subdivision 8, is amended to read:

Subd. 8. School districts; group health insurance coverage. (a) Any entity providing group health insurance coverage to a school district must provide the school district with school district-specific nonidentifiable aggregate claims records for the most recent 24 months within 30 days of the request.

(b) School districts shall request proposals for group health insurance coverage as provided in subdivision 2 from a minimum of three potential sources of coverage. ~~One of these requests must go to an administrator governed by chapter 43A.~~ Entities referenced in subdivision 1 must respond to requests for proposals received directly from a school district. School districts that are self-insured must also follow these provisions, except as provided in paragraph (f). School districts must make requests for proposals at least 150 days prior to the expiration of the existing contract but not more frequently than once every 24 months. The request for proposals must include the most recently available 24 months of nonidentifiable aggregate claims data. The request for proposals must be publicly released at or prior to its release to potential sources of coverage.

(c) School district contracts for group health insurance must not be longer than ~~two~~ four years unless the exclusive representative of the largest employment group and the school district agree otherwise.

(d) All initial proposals shall be sealed upon receipt until they are all opened no less than 90 days prior to the plan's renewal date in the presence of up to three representatives selected by the exclusive representative of the largest group of employees. Section 13.591, subdivision 3, paragraph (b), applies to data in the proposals. The representatives of the exclusive representative must maintain the data according to this classification and are subject to the remedies and penalties under sections 13.08 and 13.09 for a violation of this requirement.

(e) A school district, in consultation with the same representatives referenced in paragraph (d), may continue to negotiate with any entity that submitted a proposal under paragraph (d) in order to reduce costs or improve services under the proposal. Following the negotiations any entity that submitted an initial proposal may submit a final proposal incorporating the negotiations, which is due no less than 75 days prior to the plan's renewal date. All the final proposals submitted must be opened at the same time in the presence of up to three representatives selected by the exclusive representative of the largest group of employees. Notwithstanding section 13.591, subdivision 3, paragraph (b), following the opening of the final proposals, all the proposals, including any made under paragraph (d), and other data submitted in connection with the proposals are public data. The school district may choose from any of the initial or final proposals without further negotiations and in accordance with subdivision 5, but not sooner than 15 days after the proposals become public data.

(f) School districts that are self-insured shall follow all of the requirements of this section, except that:

(1) their requests for proposals may be for third-party administrator services, where applicable;

(2) these requests for proposals must be from a minimum of three different sources, which may include both entities referenced in subdivision 1 and providers of third-party administrator services;

~~(3) for purposes of fulfilling the requirement to request a proposal for group insurance coverage from an administrator governed by chapter 43A, self-insured districts are not required to include in the request for proposal the coverage to be provided;~~

~~(4) a district that is self-insured on or before the date of enactment, or that is self-insured with more than 1,000 insured lives, or a district in which the school board adopted a motion on or before May 14, 2014, to approve a self-insured health care plan to be effective July 1, 2014, may, but need not, request a proposal from an administrator governed by chapter 43A;~~

~~(5)~~ (3) requests for proposals must be sent to providers no less than 90 days prior to the expiration of the existing contract; and

~~(6)~~ (4) proposals must be submitted at least 60 days prior to the plan's renewal date and all proposals shall be opened at the same time and in the presence of the exclusive representative, where applicable.

(g) Nothing in this section shall restrict the authority granted to school district boards of education by section 471.59, ~~except that districts will not be considered self-insured for purposes of this subdivision solely through participation in a joint powers arrangement.~~

(h) An entity providing group health insurance to a school district under a multiyear contract must give notice of any rate or plan design changes applicable under the contract at least 90 days before the effective date of any change. The notice must be given to the school district and to the exclusive representatives of employees.

(i) The exclusive representative of the largest group of employees shall comply with this subdivision and must not exercise any of their abilities under section 43A.316, subdivision 5, notwithstanding anything contained in that section, or any other law to the contrary.

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

Sec. 41. Minnesota Statutes 2016, section 471.617, subdivision 2, is amended to read:

Subd. 2. **Jointly.** Any two or more statutory or home rule charter cities, counties, school districts, or instrumentalities thereof which together have more than 100 employees may jointly self-insure for any employee health benefits including long-term disability, but not for employee life benefits, subject to the same requirements as an individual self-insurer under subdivision 1. Self-insurance pools under this section are subject to section 62L.045. A self-insurance pool established and operated by one or more service cooperatives governed by section 123A.21 to provide coverage described in this subdivision qualifies under this subdivision, ~~but the individual school district members of such a pool shall not be considered to be self-insured for purposes of section 471.6161, subdivision 8, paragraph (f).~~ The commissioner of commerce may adopt rules pursuant to chapter 14, providing standards or guidelines for the operation and administration of self-insurance pools.

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

Sec. 42. Minnesota Statutes 2016, section 508.12, subdivision 1, is amended to read:

Subdivision 1. **Examiner and deputy examiner.** The judges of the district court shall appoint a competent attorney in each county within their respective districts to be an examiner of titles and legal adviser to the registrar in said county, to which examiner all applications to register title to land are referred without further order, and may appoint attorneys to serve as deputy examiners who shall act in the name of the examiner and under the examiner's supervision and control, and the deputy's acts shall be the acts of the examiners. The examiner of titles and deputy examiners shall hold office subject to the will and discretion of the district court by whom appointed. The examiner's compensation and that of the examiner's deputies shall be fixed and determined by the court and paid in the same manner as the compensation of other county employees is paid except that in all counties having fewer than 75,000 inhabitants, and in Stearns, Dakota, Scott, Wright, Sherburne, and Olmsted Counties the fees and compensation of the examiners for services as legal adviser to the registrar shall be determined by the judges of the district court and paid in the same manner as the compensation of other county employees is paid, but in every other instance shall be paid by the person applying to have the person's title registered or for other action or relief which requires the services, certification or approval of the examiner.

Sec. 43. Minnesota Statutes 2016, section 518A.79, is amended by adding a subdivision to read:

Subd. 3a. **Open meetings.** Except as otherwise provided in this section, the task force is subject to chapter 13D. A meeting of the task force occurs when a quorum is present and the members receive information, discuss, or take action on any matter relating to the duties of the task force. The task force may conduct meetings as provided in section 13D.015 or 13D.02. The task force may conduct meetings at any location in the state that is appropriate for the purposes of the task force as long as the location is open and accessible to the public. For legislative members of the task force, enforcement of this subdivision is governed by section 3.055, subdivision 2. For nonlegislative members of the task force, enforcement of this subdivision is governed by section 13D.06, subdivisions 1 and 2.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 44. Laws 2016, chapter 127, section 8, is amended to read:

Sec. 8. **EFFECTIVE DATE; APPLICATION.**

Sections 1 to 7 are effective the day following final enactment. With respect to eyelash technicians, the Board of Cosmetologist Examiners must not enforce sections 1 to 7 until ~~July 1, 2017~~ February 1, 2018. Any educational or training requirements developed by the board regarding eyelash technicians must be 14 hours.

Sec. 45. **COMMISSIONER OF REVENUE TO DETERMINE ADEQUACY OF CURRENT RULES AND VALUATION PRACTICES FOR STATE-ASSESSED PIPELINES.**

The commissioner of revenue must review all current rules and practices relating to the valuation of pipeline companies that are assessed by the state. The commissioner must determine whether current rules and practices provide accurate estimates of market value. By February 1, 2018, the commissioner must prepare testimony for the house of representatives and senate committees having jurisdiction over property taxes recommending changes to the rules and practices to provide more accurate assessments and reduce the number and amount of judgments against the state and counties for state-assessed pipeline property. Costs associated with conducting the review required by this section must be paid from existing funds appropriated to the commissioner by law.

Sec. 46. **OFFICE OF MN.IT SERVICES; PERFORMANCE OUTCOMES REQUIRED.**

Subdivision 1. **Completion of agency consolidation.** No later than December 31, 2018, the state chief information officer must complete the executive branch information technology consolidation required by Laws 2011, First Special Session chapter 10, article 4. The head of any state agency subject to consolidation must assist the state chief information officer as necessary to implement the requirements of this subdivision.

Subd. 2. **Information technology efficiencies and solutions.** No later than December 31, 2018, the state chief information officer shall:

- (1) host at least 25 percent of all state agency servers on a public cloud solution;
- (2) store at least 35 percent of all state agency data on a public cloud solution; and
- (3) operate no more than six data centers statewide.

Subd. 3. **Enterprise services; personnel efficiencies.** No later than June 30, 2019, the state chief information officer shall reduce the Office of MN.IT Services' total cost for enterprise services personnel by at least \$3,000,000.

Subd. 4. **Legislative report; application consolidation.** No later than January 1, 2018, the state chief information officer must submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over state government finance on the status of business application software consolidation across state agencies. At a minimum, the report must describe the outcomes achieved to date, a plan and timeline for continued consolidation of business application software with measurable outcome goals, and recommendations, if any, on legislation necessary to facilitate achievement of these goals.

Sec. 47. INITIAL TRANSIT FINANCIAL ACTIVITY REPORTING.

(a) The first transit financial activity review and report submitted under Minnesota Statutes, section 3.972, subdivision 4, must include financial information from the period beginning on January 1, 2016, and through the end of the fiscal quarter immediately preceding the date of the report.

(b) The legislative auditor must provide a copy of the review under paragraph (a) to each county that is party to the joint powers agreement under Minnesota Statutes, section 297A.992.

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

Sec. 48. LIMIT ON EXPENDITURES FOR ADVERTISING.

During the fiscal years ending June 30, 2018, and June 30, 2019, an executive branch agency's spending on advertising and promotions may not exceed 90 percent of the amount the agency spent on advertising and promotions during the fiscal year ending June 30, 2016. The commissioner of management and budget must ensure compliance with this limit and may issue guidelines and policies to executive agencies. The commissioner may forbid an agency from engaging in advertising as the commissioner determines necessary to ensure compliance with this section. This section does not apply to the Minnesota Lottery, Explore Minnesota Tourism, or the Minnesota State Colleges and Universities. Spending during the biennium ending June 30, 2019, on advertising relating to a declared emergency, an emergency, or a disaster, as those terms are defined in Minnesota Statutes, section 12.03, is excluded for purposes of this section.

Sec. 49. TRANSITION; STATE AUDITOR ENTERPRISE FUND.

Notwithstanding any law to the contrary, receipts received by the state auditor on or after July 1, 2017, from examinations conducted by the state auditor under Minnesota Statutes, chapter 6, must be credited to the general fund. Amounts in the state auditor enterprise fund at the end of fiscal year 2017 are transferred to the general fund.

Sec. 50. REIMBURSEMENT OF LEGAL COSTS FOR WRIGHT, BECKER, AND RAMSEY COUNTIES.

The state auditor shall reimburse Wright, Becker, and Ramsey Counties for legal fees incurred and costs and disbursements made as a result of defending against the state auditor's lawsuit against them.

Sec. 51. **LIMIT ON INCREASE IN MANAGERIAL COMPENSATION.**

(a) Except as provided in paragraph (b), during the biennium ending June 30, 2019, an employee covered by the managerial plan in Minnesota Statutes, section 43A.18, subdivision 3, may not be granted a percentage increase in annual salary that exceeds the lesser of:

(1) the percentage increase in Minnesota median household income, as determined by the American Community Survey compiled by the United States Bureau of the Census, for the most recent 12-month period for which data is available; or

(2) the percentage increase in the Consumer Price Index, as determined by the United States Bureau of Labor Statistics, for the most recent 12-month period for which data is available.

(b) This section does not apply to an employee whose salary is established according to Minnesota Statutes, section 15A.083.

Sec. 52. **SALARY LIMIT.**

(a) During the fiscal year ending June 30, 2018, the aggregate amount spent by all executive branch agencies on employee salaries may not exceed 101 percent of the aggregate amount these agencies spent on employee salaries in the fiscal year ending June 30, 2017.

(b) During the fiscal year ending June 30, 2019, the aggregate amount spent by all executive branch agencies on employee salaries may not exceed 103 percent of the aggregate amount these agencies spent on employee salaries in the fiscal year ending June 30, 2017.

(c) For purposes of this section, "executive branch" has the meaning given in Minnesota Statutes, section 43A.02, subdivision 22, and includes the Minnesota State Colleges and Universities but not constitutional offices.

Sec. 53. **ICE PALACE ON CAPITOL GROUNDS AUTHORIZED.**

Subdivision 1. **Use agreement; terms required.** The commissioner of administration may enter a use agreement with the St. Paul Festival and Heritage Foundation for the construction, operation, and removal of an ice palace and related temporary structures on the grounds of the State Capitol complex. If a use agreement for this purpose is entered, the terms must include the following:

(1) mutually agreed upon beginning and end dates for access to the grounds for construction, operation, and removal of the ice palace and related temporary structures;

(2) notwithstanding Minnesota Rules, part 7525.0400, an allowance for the St. Paul Festival and Heritage Foundation to establish fees for admission to the ice palace and for participation in related activities, and for vendors to sell concessions subject to terms negotiated in the use agreement. Any fees established must allow a reasonable opportunity for all Minnesotans, regardless of income, to access the palace and participate in related activities, and must allow free or discounted admission to members of the military, military veterans, and their families. A fee may not be charged for

general admission to the Capitol grounds or, to the extent practicable, for access to public memorials and monuments located on the Capitol grounds;

(3) notwithstanding Minnesota Statutes, section 15B.28, and related rules of the Capitol Area Architectural and Planning Board, an allowance for the St. Paul Festival and Heritage Foundation to erect advertising devices promoting the ice palace and its sponsors and donors, subject to terms negotiated in the use agreement;

(4) a restriction on private events that limit public access to the ice palace or surrounding Capitol grounds, without prior approval of the commissioner of administration; and

(5) a requirement that, following removal of the ice palace and related temporary structures, the St. Paul Festival and Heritage Foundation restore the Capitol grounds to the same condition as existed prior to their construction.

Subd. 2. **Additional terms.** In addition to the terms required by subdivision 1, a use agreement authorized by this section may include additional terms as necessary to preserve the integrity, dignity, and security of the State Capitol building, the Capitol grounds, and the surrounding public buildings, memorials, and monuments, and to ensure compliance with other applicable laws governing commercial activity on public property.

Subd. 3. **Costs, expenses, and liabilities.** Unless expressly provided in the use agreement, any costs or expenses incurred by the state or the city of St. Paul in implementing a use agreement entered under this section must be paid or reimbursed by the St. Paul Festival and Heritage Foundation. Notwithstanding Minnesota Statutes, section 3.736, subdivision 1, and Minnesota Statutes, section 466.02, the state, the city of St. Paul, and their employees are not liable for losses incurred during the construction, operation, or removal of an ice palace or related temporary structures, or losses incurred by a person while visiting the ice palace or participating in related activities.

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

Sec. 54. **WAITE PARK; HOTEL INSPECTION.**

(a) Notwithstanding any other law to the contrary and in addition to any other requirement in law, the city of Waite Park may adopt an ordinance to require a hotel, motel, or lodging establishment operating within the city's jurisdiction to have a valid license issued by the city. The license may prohibit the licensee from:

(1) knowingly allowing a room to be occupied for purposes of sex trafficking;

(2) knowingly allowing a room to be occupied for the purposes of illegal drug activity;

(3) knowingly allowing a room to be occupied by a minor for the consumption of alcoholic beverages;

(4) prohibiting the inspection of the licensed premises;

(5) failing to report observed or suspected illegal activity to the police in a reasonable period of time; and

(6) failure to maintain the licensed premises to all building, fire, mechanical, zoning or licensing codes.

The ordinance may provide for inspections related to the activities the license addresses. The city may collect a reasonable fee related to the cost of issuing the license and conducting inspections.

(b) "Hotel," "motel," and "lodging establishment" are as defined in Minnesota Statutes, section 157.15.

(c) The authority in this section does not replace or diminish the authority of the community health board to inspect and license any hotel, motel, or lodging establishment in the city.

EFFECTIVE DATE. This section is effective the day following final enactment without local approval, as provided in Minnesota Statutes, section 645.023, subdivision 1, paragraph (a).

Sec. 55. **EYELASH TECHNICIAN GRANDFATHERING.**

(a) The board must issue grandfathered eyelash technician licenses no later than February 1, 2018, under the conditions in this section.

(b) A complete grandfathering application for an eyelash technician license must be received in the board office between August 1, 2017, and January 31, 2018, and must contain:

(1) proof of a high school diploma or equivalent;

(2) proof of completion of an eyelash extension training course before July 1, 2017;

(3) proof of completion of a six-hour board-approved public health and safety course provided by a board-licensed school or a board-recognized professional association organized under Minnesota Statutes, chapter 317A. Four hours must be related to health, safety, and infection control and two hours must be related to Minnesota laws and rules governing cosmetology;

(4) original passing results no more than one year old of board-approved laws and rules test and theory tests; and

(5) the practitioner fees required under Minnesota Statutes, section 155A.25.

(c) A complete grandfathering application for an eyelash salon manager license must be received in the board office between August 1, 2017, and January 31, 2018, and must contain:

(1) proof of a high school diploma or equivalent;

(2) proof of completion of an eyelash extension training course before July 1, 2017;

(3) documentation of at least 2,700 hours of experience performing eyelash extensions within the last three years;

(4) original passing results no more than one year old of board-approved laws and rules test and theory tests;

(5) original passing results no more than one year old of board-approved salon manager test;

(6) proof of a six-hour board-approved public health and safety course provided by a board-licensed school or a board-recognized professional association organized under Minnesota Statutes, chapter 317A. Four hours must be related to infection control and two hours must be related to Minnesota laws and rules; and

(7) the practitioner fees required under Minnesota Statutes, section 155A.25.

(d) Grandfathered licenses must not be expedited under Minnesota Statutes, section 155A.25, subdivision 7. The application timelines under Minnesota Statutes, section 155A.25, subdivisions 5, 6, and 8, do not apply to grandfathered licenses.

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

Sec. 56. **EYELASH TECHNICIAN RULEMAKING.**

The Board of Cosmetologist Examiners shall adopt rules governing the eyelash technician and salon licenses, which must include scope of practice, the conditions and process of issuing and renewing the license, requirements related to education and testing, and 14 hours of training regarding application of eyelash extensions in a board-licensed school. The board may use the expedited rule process in Minnesota Statutes, section 14.389. The grant of rulemaking authority under this section expires May 31, 2019.

Sec. 57. **EYELASH TECHNICIAN LICENSING.**

The Board of Cosmetologist Examiners must not issue an eyelash practitioner license before February 1, 2018, except for grandfathered licenses issued under section 55. The Board of Cosmetologist Examiners must not require a person to have an eyelash practitioner license for eyelash extensions before February 1, 2018.

Sec. 58. **REPEALER.**

Subdivision 1. **State auditor enterprise fund.** Minnesota Statutes 2016, section 6.581, subdivision 1, is repealed.

Subd. 2. **Washington, D.C. office.** Minnesota Statutes 2016, section 4.46, is repealed.

ARTICLE 3

STATE BUDGETING TECHNICAL

Section 1. Minnesota Statutes 2016, section 15.0596, is amended to read:

15.0596 ADDITIONAL COMPENSATION FROM CONTINGENT FUND PROHIBITED.

In all cases where the compensation of an officer of the state is fixed by law at a specified sum, it shall be unlawful for any such officer or employee to receive additional compensation for the performance of official services out of the contingent fund of the officer or the department, and it shall be unlawful for the head of any department of the state government to direct the payment of such additional compensation out of the contingent fund; and the commissioner of management and

budget is hereby prohibited from issuing a ~~warrant~~ payment upon such contingent fund in payment of such additional compensation.

Every person offending against the provisions of this section shall be guilty of a misdemeanor.

Sec. 2. Minnesota Statutes 2016, section 15.191, subdivision 1, is amended to read:

Subdivision 1. **Emergency disbursements.** Imprest cash funds for the purpose of making minor disbursements, providing for change, and providing employees with travel advances or a portion or all of their payroll ~~warrant~~ where the ~~warrant~~ payment has not been received through the payroll system, may be established by state departments or agencies from existing appropriations in the manner prescribed by this section.

Sec. 3. Minnesota Statutes 2016, section 15.191, subdivision 3, is amended to read:

Subd. 3. **Warrant Payment against designated appropriation.** Imprest cash funds established under this section shall be created by ~~warrant drawn~~ payment issued against the appropriation designated by the commissioner of management and budget.

Sec. 4. Minnesota Statutes 2016, section 16A.065, is amended to read:

16A.065 PREPAY SOFTWARE, SUBSCRIPTIONS, UNITED STATES DOCUMENTS.

Notwithstanding section 16A.41, subdivision 1, the commissioner may allow an agency to make advance deposits or payments for software or software maintenance services for state-owned or leased electronic data processing equipment, for information technology hosting services, for sole source maintenance agreements where it is not cost-effective to pay in arrears, for exhibit booth space or boat slip rental when required by the renter to guarantee the availability of space, for registration fees where advance payment is required or advance payment discount is provided, ~~and~~ and for newspaper, magazine, and other subscription fees, and other costs where advance payment discount is provided or are customarily paid for in advance. The commissioner may also allow advance deposits by any department with the Library of Congress and federal Supervisor of Documents for items to be purchased from those federal agencies.

Sec. 5. Minnesota Statutes 2016, section 16A.13, subdivision 2a, is amended to read:

Subd. 2a. **Procedure.** The commissioner shall see that the deduction for the withheld tax is made from an employee's pay on the payroll abstract. The commissioner shall approve one ~~warrant payable~~ payment to the commissioner for the total amount deducted on the abstract. Deductions from the pay of an employee paid direct by an agency shall be made by the employee's payroll authority. A later deduction must correct an error made on an earlier deduction. The paying authority shall see that a ~~warrant or check~~ payment for the deductions is promptly sent to the commissioner. The commissioner shall deposit the amount of the ~~warrant or check~~ payment to the credit of the proper federal authority or other person authorized by federal law to receive it.

Sec. 6. Minnesota Statutes 2016, section 16A.134, is amended to read:

16A.134 CHARITABLE ORGANIZATIONS PAYROLL DEDUCTIONS.

An employee's contribution to a registered combined charitable organization defined in section 43A.50 may be deducted from the employee's pay. On the employee's written request, the commissioner shall deduct a requested amount from the pay of the employee for each pay period. The commissioner shall issue a ~~warrant~~ payment in that amount to the specified organization.

Sec. 7. Minnesota Statutes 2016, section 16A.15, subdivision 3, is amended to read:

Subd. 3. **Allotment and encumbrance.** (a) A payment may not be made without prior obligation. An obligation may not be incurred against any fund, allotment, or appropriation unless the commissioner has certified a sufficient unencumbered balance or the accounting system shows sufficient allotment or encumbrance balance in the fund, allotment, or appropriation to meet it. The commissioner shall determine when the accounting system may be used to incur obligations without the commissioner's certification of a sufficient unencumbered balance. An expenditure or obligation authorized or incurred in violation of this chapter is invalid and ineligible for payment until made valid. A payment made in violation of this chapter is illegal. An employee authorizing or making the payment, or taking part in it, and a person receiving any part of the payment, are jointly and severally liable to the state for the amount paid or received. If an employee knowingly incurs an obligation or authorizes or makes an expenditure in violation of this chapter or takes part in the violation, the violation is just cause for the employee's removal by the appointing authority or by the governor if an appointing authority other than the governor fails to do so. In the latter case, the governor shall give notice of the violation and an opportunity to be heard on it to the employee and to the appointing authority. A claim presented against an appropriation without prior allotment or encumbrance may be made valid on investigation, review, and approval by the agency head in accordance with the commissioner's policy, if the services, materials, or supplies to be paid for were actually furnished in good faith without collusion and without intent to defraud. The commissioner may then ~~draw a warrant to~~ pay the claim just as properly allotted and encumbered claims are paid.

(b) The commissioner may approve payment for materials and supplies in excess of the obligation amount when increases are authorized by section 16C.03, subdivision 3.

(c) To minimize potential construction delay claims, an agency with a project funded by a building appropriation may allow a contractor to proceed with supplemental work within the limits of the appropriation before money is encumbered. Under this circumstance, the agency may requisition funds and allow contractors to expeditiously proceed with a construction sequence. While the contractor is proceeding, the agency shall immediately act to encumber the required funds.

Sec. 8. Minnesota Statutes 2016, section 16A.17, subdivision 5, is amended to read:

Subd. 5. **Payroll duties.** When the department prepares the payroll for an agency, the commissioner assumes the agency head's duties to make authorized or required deductions from, or employer contributions on, the pay of the agency's employees and to prepare and issue the necessary ~~warrants~~ payments.

Sec. 9. Minnesota Statutes 2016, section 16A.272, subdivision 3, is amended to read:

Subd. 3. **Section 7-19 16A.271 to apply.** The provisions of Minnesota Statutes ~~1941~~, section ~~7-19~~ 16A.271, shall apply to deposits of securities made pursuant to this section.

Sec. 10. Minnesota Statutes 2016, section 16A.40, is amended to read:

16A.40 WARRANTS AND ELECTRONIC FUND TRANSFERS.

Money must not be paid out of the state treasury except upon the warrant of the commissioner or an electronic fund transfer approved by the commissioner. Warrants must be drawn on printed blanks that are in numerical order. The commissioner shall enter, in numerical order in a ~~warrant~~ payment register, the number, amount, date, and payee for every ~~warrant~~ payment issued.

The commissioner may require payees to supply their bank routing information to enable the payments to be made through an electronic fund transfer.

Sec. 11. Minnesota Statutes 2016, section 16A.42, subdivision 2, is amended to read:

Subd. 2. **Approval.** If the claim is approved, the commissioner shall ~~complete and sign a warrant~~ issue a payment in the amount of the claim.

Sec. 12. Minnesota Statutes 2016, section 16A.42, subdivision 4, is amended to read:

Subd. 4. **Register.** The commissioner shall enter a ~~warrant~~ payment in the ~~warrant-payment~~ register as if it were a cash payment.

Sec. 13. Minnesota Statutes 2016, section 16A.42, is amended by adding a subdivision to read:

Subd. 5. **Invalid claims.** If the commissioner determines that a claim is invalid after issuing a warrant, the commissioner may void an unpaid warrant. The commissioner is not liable to any holder who took the void warrant for value.

Sec. 14. Minnesota Statutes 2016, section 16A.56, is amended to read:

16A.56 COMMISSIONER'S RECEIPT AND CLAIM DUTIES.

The commissioner or a designee shall examine every receipt and claim, and if proper, approve them, name the account to be charged or credited, and issue ~~warrants~~ payments to pay claims.

Sec. 15. Minnesota Statutes 2016, section 16A.671, subdivision 1, is amended to read:

Subdivision 1. **Authority; advisory recommendation.** To ensure that cash is available when needed to ~~pay warrants~~ make payments drawn on the general fund under appropriations and allotments, the commissioner may (1) issue certificates of indebtedness in anticipation of the collection of taxes levied for and other revenues appropriated to the general fund for expenditure during each biennium; and (2) issue additional certificates to refund outstanding certificates and interest on them, under the Constitution, article XI, section 6.

Sec. 16. Minnesota Statutes 2016, section 16B.37, subdivision 4, is amended to read:

Subd. 4. **Work of department for another.** To avoid duplication and improve efficiency, the commissioner may direct an agency to do work for another agency or may direct a division or section of an agency to do work for another division or section within the same agency and shall require reimbursement for the work. Reimbursements received by an agency are reappropriated to the account making the original expenditure in accordance with the transfer ~~warrant~~ procedure established by the commissioner of management and budget.

Sec. 17. Minnesota Statutes 2016, section 16D.03, subdivision 2, is amended to read:

Subd. 2. **State agency reports.** State agencies shall report quarterly to the commissioner of management and budget the debts owed to them. The commissioner of management and budget, ~~in consultation with the commissioners of revenue and human services, and the attorney general,~~ shall establish internal guidelines for the recognition, tracking, and reporting, ~~and collection~~ of debts owed the state. The internal guidelines must include accounting standards, performance measurements, and uniform reporting requirements applicable to all state agencies. The commissioner of management and budget shall require a state agency to recognize, track, report, and attempt to collect debts according to the internal guidelines. The commissioner, in consultation with the commissioner of management and budget and the attorney general, shall establish internal guidelines for the collection of debt owed to the state.

Sec. 18. Minnesota Statutes 2016, section 16D.09, subdivision 1, is amended to read:

Subdivision 1. **Generally.** When a debt is determined by a state agency to be uncollectible, the debt may be written off by the state agency from the state agency's financial accounting records and no longer recognized as an account receivable for financial reporting purposes. A debt is considered to be uncollectible when (1) all reasonable collection efforts have been exhausted, (2) the cost of further collection action will exceed the amount recoverable, (3) the debt is legally without merit or cannot be substantiated by evidence, (4) the debtor cannot be located, (5) the available assets or income, current or anticipated, that may be available for payment of the debt are insufficient, (6) the debt has been discharged in bankruptcy, (7) the applicable statute of limitations for collection of the debt has expired, or (8) it is not in the public interest to pursue collection of the debt. ~~The determination of the uncollectibility of a~~ Uncollectible debt must be reported by the state agency ~~along with the basis for that decision~~ as part of its quarterly reports to the commissioner of management and budget. The basis for the determination of the uncollectibility of the debt must be maintained by the state agency. Determining that the debt is uncollectible does not cancel the legal obligation of the debtor to pay the debt.

Sec. 19. Minnesota Statutes 2016, section 21.116, is amended to read:

21.116 EXPENSES.

All necessary expenses incurred in carrying out the provisions of sections 21.111 to 21.122 and the compensation of officers, inspectors, and employees appointed, designated, or employed by the commissioner, as provided in such sections, together with their necessary traveling expenses, together with the traveling expenses of the members of the advisory seed potato certification committee, and other expenses necessary in attending committee meetings, shall be paid from, and only from, the seed potato inspection account, on order of the commissioner and commissioner of management and ~~budget's voucher warrant~~ budget.

Sec. 20. Minnesota Statutes 2016, section 43A.30, subdivision 2, is amended to read:

Subd. 2. **Payroll deduction.** If an eligible person who is on any payroll of the state or an eligible person's dependents is enrolled for any of the optional coverages made available by the commissioner pursuant to section 43A.26 the commissioner of management and budget, upon the person's written order, shall deduct from the salary or wages of the person those amounts required from time to time

to maintain the optional coverages in force, and issue a ~~warrant~~ payment therefor to the appropriate carrier.

Sec. 21. Minnesota Statutes 2016, section 43A.49, is amended to read:

43A.49 VOLUNTARY UNPAID LEAVE OF ABSENCE.

(a) Appointing authorities in state government may allow each employee to take unpaid leaves of absence for up to 1,040 hours in each two-year period beginning July 1 of each odd-numbered year. Each appointing authority approving such a leave shall allow the employee to continue accruing vacation and sick leave, be eligible for paid holidays and insurance benefits, accrue seniority, and accrue service credit and credited salary in retirement plans as if the employee had actually been employed during the time of leave. An employee covered by the unclassified plan may voluntarily make the employee contributions to the unclassified plan during the leave of absence. If the employee makes these contributions, the appointing authority must make the employer contribution. If the leave of absence is for one full pay period or longer, any holiday pay shall be included in the first payroll ~~warrant~~ payment after return from the leave of absence. The appointing authority shall attempt to grant requests for the unpaid leaves of absence consistent with the need to continue efficient operation of the agency. However, each appointing authority shall retain discretion to grant or refuse to grant requests for leaves of absence and to schedule and cancel leaves, subject to the applicable provisions of collective bargaining agreements and compensation plans.

(b) To receive eligible service credit and credited salary in a defined benefit plan, the member shall pay an amount equal to the applicable employee contribution rates. If an employee pays the employee contribution for the period of the leave under this section, the appointing authority must pay the employer contribution. The appointing authority may, at its discretion, pay the employee contributions. Contributions must be made in a time and manner prescribed by the executive director of the applicable retirement system.

Sec. 22. Minnesota Statutes 2016, section 49.24, subdivision 13, is amended to read:

Subd. 13. **Disposition of unclaimed dividends.** Upon the liquidation of any financial institution liquidated by the commissioner as statutory liquidator, if any dividends or other moneys set apart for the payment of claims remain unpaid, and the places of residence of the owners thereof are unknown to the commissioner, the commissioner may pay same into the state treasury as hereinafter provided. Whenever the commissioner shall be satisfied that the process of liquidation should not be further continued the commissioner may make and certify triplicate lists of any such unclaimed dividends or other moneys, specifying the name of each owner, the amount due, and the last known address. Upon one of such lists, to be retained by the commissioner shall be endorsed the commissioner's order that such unclaimed moneys be forthwith deposited in the state treasury. When so deposited, one of said lists shall be delivered to the commissioner of management and budget and the commissioner shall retain in the commissioner's office such records and proofs concerning said claims as the commissioner may have, which shall thereafter remain on file in the office. The commissioner of management and budget shall execute upon the list retained by the commissioner a receipt for such money, which shall operate as a full discharge of the commissioner on account of such claims. At any time within six years after such receipt, but not afterward, the claimant may apply to the commissioner for the amount so deposited for the claimant's benefit, and upon proof satisfactory to the governor, the attorney general and the commissioner, or to a majority of them,

they shall give an order to the commissioner of management and budget to issue a warrant payment for such amount, and such warrant payment shall thereupon be issued. If no such claim be presented within six years, the commissioner shall so note upon the commissioner's copy of said list and certify the fact to the commissioner of management and budget who shall make like entries upon the commissioner of management and budget's corresponding lists; and all further claims to said money shall be barred. Provided, that the commissioner of management and budget shall transfer to the commissioner of commerce's liquidation fund created by this section not to exceed 50 percent of the amount so turned over by the commissioner, to be used to partially defray expenses in connection with the liquidation of closed banks and the conduct of the liquidation division, in such amounts and at such times as the commissioner shall request.

There is hereby appropriated to the persons entitled to such amounts, from such moneys in the state treasury not otherwise appropriated, an amount sufficient to make such payment.

Sec. 23. Minnesota Statutes 2016, section 49.24, subdivision 16, is amended to read:

Subd. 16. **Transfers to liquidation fund.** The following moneys shall be transferred to and deposited in the commissioner of commerce's liquidation fund:

(1) All moneys paid to the commissioner of management and budget by the commissioner out of funds of any financial institution in the commissioner's hands as reimbursement for services and expenses pursuant to the provisions of subdivision 7.

(2) All moneys in the possession of the commissioner set aside for the purpose of meeting unforeseen and contingent expenses incident to the liquidation of closed financial institutions, which funds have been or shall be hereafter established by withholding portions of final liquidating dividends in such cases.

(3) All moneys which the commissioner shall request the commissioner of management and budget to transfer to such fund pursuant to the provisions of subdivision 13.

(4) All moneys in the possession of the commissioner now carried on the commissioner's books in "stamp account," "suspense account," and "unclaimed deposit account."

(5) All moneys in the possession of the commissioner which the commissioner may be authorized by order of any district court having jurisdiction of any liquidation proceedings to transfer to such fund, or to use for any of the purposes for which the fund is established.

(6) All moneys in the possession of the commissioner carried on the commissioner's books in the "unclaimed bonds account." At any time within six years after any bond the proceeds of the sale of which constitute a portion of the moneys in this paragraph referred to came into the possession of the commissioner as liquidator of any financial institution, any claimant thereto may apply to the commissioner for the proceeds of the sale of such bond, and, upon proof satisfactory to the governor, the attorney general, and the commissioner, or a majority of them, they shall give an order to the commissioner of management and budget to issue a warrant payment for such amount, without interest, and such warrant payment shall thereupon be issued and the amount thereof paid out of the commissioner of commerce's liquidation fund. If no such claim be presented within such period, all further claims to the proceeds of any such bond shall be barred.

(7) All sums which the commissioner may receive from the sale of personal property of liquidated financial institutions where the final dividend has been paid and no disposition of said property made by any order of the court, and the proceeds of sales of any personal property used by the liquidation division which have been purchased with funds of financial institutions in liquidation.

Sec. 24. Minnesota Statutes 2016, section 69.031, subdivision 1, is amended to read:

Subdivision 1. **Commissioner's ~~warrant~~ payment.** (a) The commissioner of management and budget shall issue to the Public Employees Retirement Association on behalf of a municipality or independent nonprofit firefighting corporation that is a member of the voluntary statewide lump-sum volunteer firefighter retirement plan under chapter 353G, to the Department of Natural Resources, the Department of Public Safety, or the county, municipality, or independent nonprofit firefighting corporation certified to the commissioner of management and budget by the commissioner a ~~warrant~~ payment for an amount equal to the amount of fire state aid or police state aid, whichever applies, certified for the applicable state aid recipient by the commissioner under section 69.021.

(b) Fire state aid and police state aid is payable on October 1 annually. The amount of state aid due and not paid by October 1 accrues interest payable to the state aid recipient at the rate of one percent for each month or part of a month that the amount remains unpaid after October 1.

Sec. 25. Minnesota Statutes 2016, section 80A.65, subdivision 9, is amended to read:

Subd. 9. **Generally.** No filing for which a fee is required shall be deemed to be filed or given any effect until the proper fee is paid. All fees and charges collected by the administrator shall be covered into the state treasury. When any person is entitled to a refund under this section, the administrator shall certify to the commissioner of management and budget the amount of the fee to be refunded to the applicant, and the commissioner of management and budget shall issue a ~~warrant~~ in payment thereof out of the fund to which such fee was credited in the manner provided by law. There is hereby appropriated to the person entitled to such refunds from the fund in the state treasury to which such fees were credited an amount to make such refunds and payments.

Sec. 26. Minnesota Statutes 2016, section 84A.23, subdivision 4, is amended to read:

Subd. 4. **Drainage ditch bonds; reports.** (a) Immediately after a project is approved and accepted and then after each distribution of the tax collections on the June and November tax settlements, the county auditor shall certify to the commissioner of management and budget the following information relating to bonds issued to finance or refinance public drainage ditches wholly or partly within the projects, and the collection of assessments levied on account of the ditches:

(1) the amount of principal and interest to become due on the bonds before the next tax settlement and distribution;

(2) the amount of money collected from the drainage assessments and credited to the funds of the ditches; and

(3) the amount of the deficit in the ditch fund of the county chargeable to the ditches.

(b) On approving the certificate, the commissioner of management and budget shall ~~draw a warrant~~ issue a payment, payable out of the fund pertaining to the project, for the amount of the deficit in favor of the county.

(c) As to public drainage ditches wholly within a project, the amount of money paid to or for the benefit of the county under paragraph (b) must never exceed the principal and interest of the bonds issued to finance or refinance the ditches outstanding at the time of the passage and approval of sections 84A.20 to 84A.30, less money on hand in the county ditch fund to the credit of the ditches. The liabilities must be reduced from time to time by the amount of all payments of assessments after April 25, 1931, made by the owners of lands assessed before that date for benefits on account of the ditches.

(d) As to public drainage ditches partly within and partly outside a project, the amount paid from the fund pertaining to the project to or for the benefit of the county must never exceed a certain percentage of bonds issued to finance and refinance the ditches so outstanding, less money on hand in the county ditch fund to the credit of the ditches on April 25, 1931. The percentage must bear the same proportion to the whole amount of these bonds as the original benefits assessed against lands within the project bear to the original total benefits assessed to the entire system of the ditches. This liability shall be reduced from time to time by the payments of all assessments extended after April 25, 1931, made by the owners of lands within the project of assessments for benefits assessed before that date on account of a ditch.

(e) The commissioner of management and budget may provide and prescribe forms for reports required by sections 84A.20 to 84A.30 and require any additional information from county officials that the commissioner of management and budget considers necessary for the proper administration of sections 84A.20 to 84A.30.

Sec. 27. Minnesota Statutes 2016, section 84A.33, subdivision 4, is amended to read:

Subd. 4. **Ditch bonds; funds; payments to counties.** (a) Upon the approval and acceptance of a project and after each distribution of the tax collections for the June and November tax settlements, the county auditor shall certify to the commissioner of management and budget the following information about bonds issued to finance or refinance public drainage ditches wholly or partly within the projects, and the collection of assessments levied for the ditches:

(1) the amount of principal and interest to become due on the bonds before the next tax settlement and distribution;

(2) the amount of money collected from the drainage assessments and credited to the funds of the ditches, not already sent to the commissioner of management and budget as provided in sections 84A.31 to 84A.42; and

(3) the amount of the deficit in the ditch fund of the county chargeable to the ditches.

(b) On approving this certificate of the county auditor, the commissioner of management and budget shall ~~draw a warrant~~ issue a payment, payable out of the fund provided for in sections 84A.31 to 84A.42, and send it to the county treasurer of the county. These funds must be credited to the proper ditch of the county and placed in the ditch bond fund of the county, which is created, and used only to pay the ditch bonded indebtedness of the county assumed by the state under sections

84A.31 to 84A.42. The total amount of ~~warrants drawn~~ payments issued must not exceed in any one year the total amount of the deficit provided for under this section.

(c) The state is subrogated to all title, right, interest, or lien of the county in or on the lands so certified within these projects.

(d) As to public drainage ditches wholly within a project, the amount paid to, or for the benefit of, the county under this subdivision must never exceed the principal and interest of the bonds issued to finance or refinance a ditch outstanding on April 22, 1933, less money on hand in the county ditch fund to the credit of a ditch. These liabilities must be reduced from time to time by the amount of any payments of assessments extended after April 22, 1933, made by the owners of lands assessed before that date for benefits on account of the ditches.

As to public drainage ditches partly within and partly outside a project the amount paid from the fund pertaining to the project to or for the benefit of the county must never exceed a certain percentage of bonds issued to finance and refinance a ditch so outstanding, less money on hand in the county ditch fund to the credit of a ditch on April 22, 1932. The percentage must bear the same proportion to the whole amount of the bonds as the original benefits assessed against these lands within the project bear to the original total benefits assessed to the entire system for a ditch. This liability must be reduced from time to time by the payments of all assessments extended after April 22, 1933, made by the owners of lands within the project of assessments for benefits assessed before that date on account of a ditch.

Sec. 28. Minnesota Statutes 2016, section 84A.40, is amended to read:

84A.40 COUNTY MAY ASSUME BONDS.

Any county where a project or portion of it is located may voluntarily assume, in the manner specified in this section, the obligation to pay a portion of the principal and interest of the bonds issued before the approval and acceptance of the project and remaining unpaid at maturity, of any school district or town in the county and wholly or partly within the project. The portion must bear the same proportion to the whole of the unpaid principal and interest as the last net tax capacity, before the acceptance of the project, of lands then acquired by the state under sections 84A.31 to 84A.42 in the school districts or towns bears to the total net tax capacity for the same year of the school district or town. This assumption must be evidenced by a resolution of the county board of the county. A copy of the resolution must be certified to the commissioner of management and budget within one year after the acceptance of the project.

Later, if any of the bonds remains unpaid at maturity, the county board shall, upon demand of the governing body of the school district or town or of a bondholder, provide for the payment of the portion assumed. The county shall levy general taxes on all the taxable property of the county for that purpose, or issue its bonds to raise the sum needed, conforming to law respecting the issuance of county refunding bonds. The proceeds of taxes or bonds must be paid by the county treasurer to the treasurer of the school district or town. No payments shall be made by the county to the school district or town until the money in the treasury of the school district or town, together with the money to be paid by the county, is sufficient to pay in full each of the bonds as it becomes due.

If a county fails to adopt and certify the resolution, the commissioner of management and budget shall withhold from the payments to be made to the county under section 84A.32 a sum equal to

that portion of the principal and interest of the outstanding bonds that bears the same proportion to the whole of the bonds as the above determined net tax capacity of lands acquired by the state within the project bears to the total net tax capacity for the same year of the school district or town. Money withheld from the county must be set aside in the state treasury and not paid to the county until the full principal and interest of the school district and town bonds have been paid.

If any bonds remain unpaid at maturity, upon the demand of the governing body of the school district or town, or a bondholder, the commissioner of management and budget shall issue to the treasurer of the school district or town a ~~warrant~~ payment for that portion of the past due principal and interest computed as in the case of the county's liability authorized in this section to be voluntarily assumed. Money received by a school district or town under this section must be applied to the payment of past-due bonds and interest.

Sec. 29. Minnesota Statutes 2016, section 84A.52, is amended to read:

84A.52 ACCOUNTS; EXAMINATION, APPROPRIATION, PAYMENT.

As a part of the examination provided for by section 6.481, of the accounts of the several counties within a game preserve, area, or project established under section 84A.01, 84A.20, or 84A.31, the state auditor shall segregate the audit of the accounts reflecting the receipt and disbursement of money collected or disbursed under this chapter or from the sale of tax-forfeited lands held by the state under section 84A.07, 84A.26, or 84A.36. The auditor shall also include in the reports required by section 6.481 summary statements as of December 31 before the examination that set forth the proportionate amount of principal and interest due from the state to the individual county and any money due the state from the county remaining unpaid under this chapter, or from the sale of any tax-forfeited lands referred to in this section, and other information required by the commissioner of management and budget. On receiving a report, the commissioner of management and budget shall determine the net amount due to the county for the period covered by the report and shall ~~draw a warrant~~ issue a payment upon the state treasury payable out of the consolidated fund for that amount. It must be paid to and received by the county as payment in full of all amounts due for the period stated on the ~~warrants~~ payments from the state under any provision of this chapter.

Money to ~~pay the warrants~~ make the payments is appropriated to the counties entitled to payment from the consolidated fund in the state treasury.

Sec. 30. Minnesota Statutes 2016, section 88.12, subdivision 1, is amended to read:

Subdivision 1. **Limitation.** The compensation and expenses of persons temporarily employed in emergencies in suppression or control of wildfires shall be fixed by the commissioner of natural resources or an authorized agent and paid as provided by law. Such compensation shall not exceed the maximum rate for comparable labor established as provided by law or rules, but shall not be subject to any minimum rate so established. The commissioner is authorized to draw and expend from money appropriated for the purposes of sections 88.03 to 88.22 a reasonable sum and through forest officers or other authorized agent be used in paying emergency expenses, including just compensation for services rendered by persons summoned and for private property used, damaged, or appropriated under sections 88.03 to 88.22. The commissioner of management and budget is authorized to ~~draw a warrant~~ issue a payment for this sum when duly approved by the commissioner. The commissioner or agent in charge shall take proper subvouchers or receipts from all persons to

whom these moneys are paid, and after these subvouchers have been approved they shall be filed with the commissioner of management and budget. Authorized funds as herein provided at any time shall be deposited, subject to withdrawal or disbursement by check or otherwise for the purposes herein prescribed, in a bank authorized and bonded to receive state deposits; and the bond of this bank to the state shall cover and include this deposit.

Sec. 31. Minnesota Statutes 2016, section 94.522, is amended to read:

94.522 TRANSMISSION OF ~~WARRANTS~~ PAYMENTS TO COUNTY TREASURERS; USE OF PROCEEDS.

It shall be the duty of the commissioner of management and budget to transmit ~~warrants on payments from~~ the state treasury to the county treasurer of the respective counties for the sums that may be due in accordance with section 94.521, which sums are hereby appropriated out of the state treasury from the amounts received from the United States government pursuant to the aforesaid acts of Congress, and such money shall be used by the counties receiving the same for the purposes and in the proportions herein provided.

Sec. 32. Minnesota Statutes 2016, section 94.53, is amended to read:

94.53 ~~WARRANT~~ PAYMENT TO COUNTY TREASURERS; FEDERAL LOANS TO COUNTIES.

It shall be the duty of the commissioner of management and budget to transmit ~~warrants on payments from~~ the state treasury to the county treasurers of the respective counties for the sum that may be due in accordance with sections 94.52 to 94.54, which sum or sums are hereby appropriated out of the state treasury from the amounts received from the United States government pursuant to the aforesaid act of Congress. The commissioner of management and budget, upon being notified by the federal government or any agencies thereof that a loan has been made to any such county the repayment of which is to be made from such fund, is authorized to transmit a ~~warrant or warrants payment~~ to the federal government or any agency thereof sufficient to repay such loan out of any money apportioned or due to such county under the provisions of such act of Congress, approved May 23, 1908 (Statutes at Large, volume 35, page 260).

Sec. 33. Minnesota Statutes 2016, section 116J.64, subdivision 7, is amended to read:

Subd. 7. **Processing.** (a) An Indian desiring a loan for the purpose of starting a business enterprise or expanding an existing business shall make application to the appropriate tribal government. The application shall be forwarded to the appropriate eligible organization, if it is participating in the program, for consideration in conformity with the plans submitted by said tribal governments. The tribal government may approve the application if it determines that the loan would advance the goals of the Indian business loan program. If the tribal government is not participating in the program, the agency may directly approve or deny the loan application.

(b) If the application is approved, the tribal government shall forward the application, together with all relevant documents pertinent thereto, to the commissioner of the agency, who shall ~~cause a warrant~~ request a payment to be ~~drawn in favor of~~ issued to the applicant or the applicable tribal government, or the agency, if it is administering the loan, with appropriate notations identifying the borrower.

(c) The tribal government, eligible organization, or the agency, if it is administering the loan, shall maintain records of transactions for each borrower in a manner consistent with good accounting practice. The interest rate on a loan shall be established by the tribal government or the agency, but may be no less than two percent per annum nor more than ten percent per annum. When any portion of a debt is repaid, the tribal government, eligible organization, or the agency, if it is administering the loan, shall remit the amount so received plus interest paid thereon to the commissioner of management and budget through the agency. The amount so received shall be credited to the Indian business loan account.

(d) On the placing of a loan, additional money equal to ten percent of the total amount made available to any tribal government, eligible organization, or the agency, if it is administering the loan, for loans during the fiscal year shall be paid to the tribal government, eligible organization, or the agency, prior to December 31 for the purpose of financing administrative costs.

Sec. 34. Minnesota Statutes 2016, section 126C.55, subdivision 2, is amended to read:

Subd. 2. **Notifications; payment; appropriation.** (a) If a school district or intermediate school district believes that it may be unable to make a principal or interest payment on any outstanding debt obligation on the date that payment is due, it must notify the commissioner as soon as possible, but not less than 15 working days before the date that principal or interest payment is due. The notice must include the name of the school district or intermediate school district, an identification of the debt obligation issue in question, the date the payment is due, the amount of principal and interest due on the payment date, the amount of principal or interest that the school district or intermediate school district will be unable to repay on that date, the paying agent for the debt obligation, the wire transfer instructions to transfer funds to that paying agent, and an indication as to whether a payment is being requested by the school district or intermediate school district under this section. If a paying agent becomes aware of a potential default, it shall inform the commissioner of that fact. After receipt of a notice which requests a payment under this section, after consultation with the school district or intermediate school district and the paying agent, and after verification of the accuracy of the information provided, the commissioner shall notify the commissioner of management and budget of the potential default. The notice must include a final figure as to the amount due that the school district or intermediate school district will be unable to repay on the date due.

(b) Except as provided in subdivision 9, upon receipt of this notice from the commissioner, the commissioner of management and budget shall issue a ~~warrant~~ payment and authorize the commissioner of education to pay to the paying agent for the debt obligation the specified amount on or before the date due. The amounts needed for the purposes of this subdivision are annually appropriated to the department from the state general fund.

(c) The Departments of Education and Management and Budget must jointly develop detailed procedures for school districts and intermediate school districts to notify the state that they have obligated themselves to be bound by the provisions of this section, procedures for school districts or intermediate school districts and paying agents to notify the state of potential defaults and to request state payment under this section, and procedures for the state to expedite payments to prevent defaults. The procedures are not subject to chapter 14.

Sec. 35. Minnesota Statutes 2016, section 126C.55, subdivision 9, is amended to read:

Subd. 9. **State bond rating.** If the commissioner of management and budget determines that the credit rating of the state would be adversely affected thereby, the commissioner of management and budget shall not issue ~~warrants payments~~ under subdivision 2 for the payment of principal or interest on any debt obligations for which a district did not, prior to their issuance, obligate itself to be bound by the provisions of this section.

Sec. 36. Minnesota Statutes 2016, section 126C.68, subdivision 3, is amended to read:

Subd. 3. **Warrant Payment.** The commissioner shall issue to each district whose note has been so received a ~~warrant payment~~ on the debt service loan account of the maximum effort school loan fund, payable on presentation to the commissioner of management and budget out of any money in such account. The ~~warrant payment~~ shall be issued by the commissioner in sufficient time to coincide with the next date on which the district is obligated to make principal or interest payments on its bonded debt in the ensuing year. Interest must accrue from the date such ~~warrant payment~~ is issued. The proceeds thereof must be used by the district to pay principal or interest on its bonded debt falling due in the ensuing year.

Sec. 37. Minnesota Statutes 2016, section 126C.69, subdivision 14, is amended to read:

Subd. 14. **Participation by county auditor; record of contract; payment of loan.** The district must file a copy of the capital loan contract with the county auditor of each county in which any part of the district is situated. The county auditor shall enter the capital loan, evidenced by the contract, in the auditor's bond register. The commissioner shall keep a record of each capital loan and contract showing the name and address of the district, the date of the contract, and the amount of the loan initially approved. On receipt of the resolution required in subdivision 12, the commissioner shall issue ~~warrants payments~~, which may be dispersed in accordance with the schedule in the contract, on the capital loan account for the amount that may be disbursed under subdivision 1. Interest on each disbursement of the capital loan amount accrues from the date on which the commissioner of management and budget issues the ~~warrant payment~~.

Sec. 38. Minnesota Statutes 2016, section 127A.34, subdivision 1, is amended to read:

Subdivision 1. **Copy to commissioner of management and budget; appropriation.** The commissioner shall furnish a copy of the apportionment of the school endowment fund to the commissioner of management and budget, who thereupon shall ~~draw warrants on~~ issue payments from the state treasury, payable to the several districts, for the amount due each district. There is hereby annually appropriated from the school endowment fund the amount of such apportionments.

Sec. 39. Minnesota Statutes 2016, section 127A.40, is amended to read:

127A.40 MANNER OF PAYMENT OF STATE AIDS.

It shall be the duty of the commissioner to deliver to the commissioner of management and budget a certificate for each district entitled to receive state aid under the provisions of this chapter. Upon the receipt of such certificate, it shall be the duty of the commissioner of management and budget to ~~draw a warrant in favor of~~ issue a payment to the district for the amount shown by each certificate to be due to the district. The commissioner of management and budget shall transmit such ~~warrants payments~~ to the district together with a copy of the certificate prepared by the commissioner.

Sec. 40. Minnesota Statutes 2016, section 136F.46, subdivision 1, is amended to read:

Subdivision 1. **Request; ~~warrant~~ payment.** The commissioner of management and budget, upon the written request of an employee of the board, may deduct from an employee's salary or wages the amount requested for payment to a nonprofit state college or university foundation meeting the requirements in subdivision 2. The commissioner shall issue a ~~warrant~~ payment for the deducted amount to the nonprofit foundation. The Penny Fellowship and the Nellie Stone Johnson Scholarship Program of the Minnesota State University Student Association shall be considered nonprofit state college and university foundations for purposes of this section.

Sec. 41. Minnesota Statutes 2016, section 136F.70, subdivision 3, is amended to read:

Subd. 3. **Refunds.** The board may make refunds to students for tuition, activity fees, union fees, and any other fees from imprest cash funds. The imprest cash fund shall be reimbursed periodically by ~~checks or warrants drawn on~~ payments issued from the funds and accounts to which the refund should ultimately be charged. The amounts necessary to pay the refunds are appropriated from the funds and accounts to which they are charged.

Sec. 42. Minnesota Statutes 2016, section 162.08, subdivision 10, is amended to read:

Subd. 10. **Project approval, reports.** When the county board of any county determines to do any construction work on a county state-aid highway or other road eligible for the expenditure of state aid funds within the county, and desires to expend on such work a portion of the money apportioned or allocated to it out of the county state-aid highway fund, the county shall first obtain approval of the project by the commissioner. Thereafter the county engineer shall make such reports in such manner as the commissioner requires under rules of the commissioner. Upon receipt of satisfactory reports, the commissioner shall certify to the commissioner of management and budget the amount of money that is eligible to be paid from the county's apportionment or allocation for the work under contract or actually completed. The commissioner of management and budget shall thereupon issue a ~~warrant~~ payment in that amount payable to the county treasurer. In no event shall the ~~warrant~~ payment with all other ~~warrants~~ payments issued exceed the amount apportioned and allocated to the county.

Sec. 43. Minnesota Statutes 2016, section 162.08, subdivision 11, is amended to read:

Subd. 11. **Certification required to issue ~~warrants~~ payment.** The commissioner of management and budget shall not issue any ~~warrants~~ payments without the certification of the commissioner.

Sec. 44. Minnesota Statutes 2016, section 162.14, subdivision 4, is amended to read:

Subd. 4. **Project approval and reports.** When the governing body of any such city determines to do any construction work on any municipal state-aid street or other streets within the city upon which money apportioned out of the municipal state-aid street fund may be used as provided in subdivision 2, the governing body shall first obtain the approval of the commissioner. Thereafter, the engineer of the city shall make reports in such manner as the commissioner requires in accordance with the commissioner's rules. Upon receipt of satisfactory reports the commissioner shall certify to the commissioner of management and budget the amount of money that is eligible to be paid from the city's apportionment for the work under contract or actually completed. The commissioner of management and budget shall thereupon issue a ~~warrant~~ payment in that amount payable to the

fiscal officers of the city. In no event shall the ~~warrant payment~~ with all other ~~warrants payments~~ issued exceed the amount apportioned to the city.

Sec. 45. Minnesota Statutes 2016, section 162.14, subdivision 5, is amended to read:

Subd. 5. **Certification required to issue ~~warrant payment~~.** The commissioner of management and budget shall not issue any ~~warrants payments~~ as provided for in subdivision 4 without the prior certification of the commissioner.

Sec. 46. Minnesota Statutes 2016, section 162.18, subdivision 4, is amended to read:

Subd. 4. **Certification to commissioner of money required.** Any municipality issuing and selling bonds pursuant to this section shall certify to the commissioner the amount of money required annually for the payment of principal and interest on the obligation. Upon receipt thereof, the commissioner shall certify to the commissioner of management and budget the sum of money needed annually by the municipality for the principal and interest, provided that the amount certified by the commissioner shall not exceed the limit heretofore specified. The commissioner of management and budget shall thereafter, until said bonds are retired, issue a ~~warrant payment~~ annually in the amount certified payable to the fiscal officer of the municipality, and the amount thereof shall be deposited by the fiscal officer in the sinking fund from which the obligations are payable.

Sec. 47. Minnesota Statutes 2016, section 162.181, subdivision 4, is amended to read:

Subd. 4. **Certification to commissioner of money required.** Any county issuing and selling bonds pursuant to this section shall certify to the commissioner the amount of money required annually for the payment of principal and interest on the obligation. Upon receipt thereof, the commissioner shall certify to the commissioner of management and budget the sum of money needed annually by the county for the principal and interest, provided that the amount certified by the commissioner shall not exceed the limit heretofore specified. The commissioner of management and budget shall thereafter, until said bonds are retired, issue a ~~warrant payment~~ annually in the amount certified payable to the county treasurer of the county, and the amount thereof shall be deposited by the county treasurer in the sinking fund from which the obligations are payable.

Sec. 48. Minnesota Statutes 2016, section 163.051, subdivision 3, is amended to read:

Subd. 3. **Distribution to county; appropriation.** On a monthly basis, the registrar of motor vehicles shall issue a ~~warrant payment~~ in favor of the treasurer of each county for which the registrar has collected a wheelage tax in the amount of such tax then on hand in the county wheelage tax account. There is hereby appropriated from the county wheelage tax account each year, to each county entitled to payments authorized by this section, sufficient moneys to make such payments.

Sec. 49. Minnesota Statutes 2016, section 176.181, subdivision 2, is amended to read:

Subd. 2. **Compulsory insurance; self-insurers.** (a) Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of compensation with some insurance carrier authorized to insure workers' compensation liability in this state, or obtain a written order from the commissioner of commerce exempting the employer from insuring liability for compensation and permitting self-insurance of the liability. The terms, conditions and requirements governing self-insurance shall be established by the commissioner

pursuant to chapter 14. The commissioner of commerce shall also adopt, pursuant to paragraph (d), rules permitting two or more employers, whether or not they are in the same industry, to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as group self-insurers. With the approval of the commissioner of commerce, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure the other portion of operations as a distinct and separate risk. An employer desiring to be exempted from insuring liability for compensation shall make application to the commissioner of commerce, showing financial ability to pay the compensation, whereupon by written order the commissioner of commerce, on deeming it proper, may make an exemption. An employer may establish financial ability to pay compensation by providing financial statements of the employer to the commissioner of commerce. Upon ten days' written notice the commissioner of commerce may revoke the order granting an exemption, in which event the employer shall immediately insure the liability. As a condition for the granting of an exemption the commissioner of commerce may require the employer to furnish security the commissioner of commerce considers sufficient to insure payment of all claims under this chapter, consistent with subdivision 2b. If the required security is in the form of currency or negotiable bonds, the commissioner of commerce shall deposit it with the commissioner of management and budget. In the event of any default upon the part of a self-insurer to abide by any final order or decision of the commissioner of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days' notice to the self-insurer, the commissioner of commerce may by written order to the commissioner of management and budget require the commissioner of management and budget to sell the pledged and assigned securities or a part thereof necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of labor and industry or any judgment obtained thereon. When securities are sold the money obtained shall be deposited in the state treasury to the credit of the commissioner of commerce and awards made against any such self-insurer by the commissioner of commerce shall be paid to the persons entitled thereto by the commissioner of management and budget upon ~~warrants prepared~~ payments requested by the commissioner of commerce out of the proceeds of the sale of securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of commerce, at any time, upon at least ten days' notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner as the award may be enforced.

(b) No association, corporation, partnership, sole proprietorship, trust or other business entity shall provide services in the design, establishment or administration of a group self-insurance plan under rules adopted pursuant to this subdivision unless it is licensed, or exempt from licensure, pursuant to section 60A.23, subdivision 8, to do so by the commissioner of commerce. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license shall be granted only when the commissioner of commerce is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner of commerce may issue a license subject to restrictions or limitations, including restrictions or limitations on the type of services which may be supplied or the activities which may be engaged in. The license is for a two-year period.

(c) To assure that group self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner, entities licensed to engage in such business are subject to supervision and examination by the commissioner of commerce.

(d) To carry out the purposes of this subdivision, the commissioner of commerce may promulgate administrative rules pursuant to sections 14.001 to 14.69. These rules may:

- (1) establish reporting requirements for administrators of group self-insurance plans;
- (2) establish standards and guidelines consistent with subdivision 2b to assure the adequacy of the financing and administration of group self-insurance plans;
- (3) establish bonding requirements or other provisions assuring the financial integrity of entities administering group self-insurance plans;
- (4) establish standards, including but not limited to minimum terms of membership in self-insurance plans, as necessary to provide stability for those plans;
- (5) establish standards or guidelines governing the formation, operation, administration, and dissolution of self-insurance plans; and
- (6) establish other reasonable requirements to further the purposes of this subdivision.

Sec. 50. Minnesota Statutes 2016, section 176.581, is amended to read:

176.581 PAYMENT TO STATE EMPLOYEES.

Upon a ~~warrant~~ warrant request prepared by the commissioner of administration, and in accordance with the terms of the order awarding compensation, the commissioner of management and budget shall pay compensation to the employee or the employee's dependent. These payments shall be made from money appropriated for this purpose.

Sec. 51. Minnesota Statutes 2016, section 176.591, subdivision 3, is amended to read:

Subd. 3. **Compensation payments upon warrants request.** The commissioner of management and budget shall make compensation payments from the fund only as authorized by this chapter upon ~~warrants~~ warrant request of the commissioner of administration.

Sec. 52. Minnesota Statutes 2016, section 192.55, is amended to read:

192.55 PAYMENTS TO BE MADE THROUGH ADJUTANT GENERAL.

All pay and allowances and necessary expenses for any of the military forces shall, when approved by the adjutant general, be paid by the commissioner of management and ~~budget's warrants issued~~ budget to the several officers and enlisted members entitled thereto; provided, that upon the request of the adjutant general, approved by the governor, the sum required for any such pay or allowances and necessary expenses shall be paid by the commissioner of management and ~~budget's warrant~~ budget to the adjutant general, who shall immediately pay and distribute the same to the several officers or enlisted members entitled thereto or to their commanding officers or to a finance

officer designated by the adjutant general. The receipt of any such commanding officer or finance officer for any such payment shall discharge the adjutant general from liability therefor. Every commanding officer or finance officer receiving any such payment shall, as soon as practicable, pay and distribute the same to the several officers or enlisted members entitled thereto. The officer making final payment shall, as evidence thereof, secure the signature of the person receiving the same upon a payroll or other proper voucher.

Sec. 53. Minnesota Statutes 2016, section 196.052, is amended to read:

196.052 GIFT ACCEPTANCE AND INVESTMENT.

On the behalf of the state, the commissioner may accept any gift, grant, bequest, or devise made for the purposes of this chapter and chapter 197. The commissioner must administer the funds as directed by the donor. All funds must be deposited in the state treasury and credited to the veterans affairs endowment, bequest, and devises fund. The balance of the fund is annually appropriated to the commissioner of veterans affairs to accomplish the purposes of this chapter and chapter 197. Funds received by the commissioner under this section in excess of current needs must be invested by the State Board of Investment in accordance with section 11A.24. Disbursements from this fund must be in the manner provided for the issuance of other state ~~warrants~~ payments. The commissioner may refuse to accept any gift, grant, bequest, or devise if acceptance would not be in the best interest of the state or Minnesota's veterans.

Sec. 54. Minnesota Statutes 2016, section 198.16, is amended to read:

198.16 PLANNED GIVING.

The commissioner is authorized to accept on behalf of the state any gift, grant, bequest, or devise made for the purposes of this chapter, and administer the same as directed by the donor. All proceeds therefrom including money derived from the sale of any real or personal property must be deposited in the state treasury, invested by the State Board of Investment in accordance with sections 11A.24 and 11A.25, and credited to the Minnesota veterans home endowment, bequest, and devises fund. That fund consists of separate accounts for investing general and restricted gifts, money, and donations received and for any currently expendable proceeds.

The commissioner shall maintain records of all gifts received, clearly showing the identity of the donor, the purpose of the donation, and the ultimate disposition of the donation. Each donation must be duly receipted and must be expended or used by the commissioner as nearly in accordance with the condition of the gift or donation as is compatible with the best interests of the residents of the homes. Money in the fund is appropriated to the commissioner for the purposes for which it was received. Disbursements from this fund shall be made in the manner provided for the issuance of other state ~~warrants~~ payments.

Whenever the commissioner shall deem it advisable, in accordance with law, to sell or otherwise dispose of any real or personal property thus acquired, the commissioner of administration upon the request of the commissioner shall sell or otherwise dispose of said property in the manner provided by law for the sale or disposition of other state property by the commissioner of administration.

Sec. 55. Minnesota Statutes 2016, section 237.30, is amended to read:

237.30 TELEPHONE INVESTIGATION FUND; APPROPRIATION.

A Minnesota Telephone Investigation Fund shall exist for the use of the Department of Commerce and of the attorney general in investigations, valuations, and revaluations under section 237.295. All sums paid by the telephone companies to reimburse the department for its expenses pursuant to section 237.295 shall be credited to the revolving fund and shall be deposited in a separate bank account and not commingled with any other state funds or moneys, but any balance in excess of \$25,000 in the revolving fund at the end of each fiscal year shall be paid into the state treasury and credited to the general fund. All subsequent credits to said revolving fund shall be paid ~~upon the warrant of~~ by the commissioner of management and budget upon application of the department or of the attorney general to an aggregate amount of not more than one-half of such sums to each of them, which proportion shall be constantly maintained in all credits and withdrawals from the revolving fund.

Sec. 56. Minnesota Statutes 2016, section 241.13, subdivision 1, is amended to read:

Subdivision 1. **Contingent account.** The commissioner of corrections may permit a contingent account to remain in the hands of the accounting officer of any such institution from which expenditures may be made in case of actual emergency requiring immediate payment to prevent loss or danger to the institution or its inmates and for the purpose of paying freight, purchasing produce, livestock and other commodities requiring a cash settlement, and for the purpose of discounting bills incurred, but in all cases subject to revision by the commissioner of corrections. An itemized statement of every expenditure made during the month from such account shall be submitted to the commissioner under rules established by the commissioner. If necessary, the commissioner shall make proper requisition upon the commissioner of management and budget for a ~~warrant~~ payment to secure the contingent account for each institution.

Sec. 57. Minnesota Statutes 2016, section 244.19, subdivision 7, is amended to read:

Subd. 7. **Certificate of counties entitled to state aid.** On or before January 1 of each year, until 1970 and on or before April 1 thereafter, the commissioner of corrections shall deliver to the commissioner of management and budget a certificate in duplicate for each county of the state entitled to receive state aid under the provisions of this section. Upon the receipt of such certificate, the commissioner of management and budget shall ~~draw a warrant in favor of~~ issue a payment to the county treasurer for the amount shown by each certificate to be due to the county specified. The commissioner of management and budget shall transmit such ~~warrant~~ payment to the county treasurer together with a copy of the certificate prepared by the commissioner of corrections.

Sec. 58. Minnesota Statutes 2016, section 256B.20, is amended to read:

256B.20 COUNTY APPROPRIATIONS.

The providing of funds necessary to carry out the provisions hereof on the part of the counties and the manner of administering the funds of the counties and the state shall be as follows:

(1) The board of county commissioners of each county shall annually set up in its budget an item designated as the county medical assistance fund and levy taxes and fix a rate therefor sufficient to produce the full amount of such item, in addition to all other tax levies and tax rate, however fixed or determined, sufficient to carry out the provisions hereof and sufficient to pay in full the

county share of assistance and administrative expense for the ensuing year; and annually on or before October 10 shall certify the same to the county auditor to be entered by the auditor on the tax rolls. Such tax levy and tax rate shall make proper allowance and provision for shortage in tax collections.

(2) Any county may transfer surplus funds from any county fund, except the sinking or ditch fund, to the general fund or to the county medical assistance fund in order to provide money necessary to pay medical assistance awarded hereunder. The money so transferred shall be used for no other purpose, but any portion thereof no longer needed for such purpose shall be transferred back to the fund from which taken.

(3) Upon the order of the county agency the county auditor shall draw a warrant on the proper fund in accordance with the order, and the county treasurer shall pay out the amounts ordered to be paid out as medical assistance hereunder. When necessary by reason of failure to levy sufficient taxes for the payment of the medical assistance in the county, the county auditor shall carry any such payments as an overdraft on the medical assistance funds of the county until sufficient tax funds shall be provided for such assistance payments. The board of county commissioners shall include in the tax levy and tax rate in the year following the year in which such overdraft occurred, an amount sufficient to liquidate such overdraft in full.

(4) Claims for reimbursement and reports shall be presented to the state agency by the respective counties as required under section 256.01, subdivision 2, paragraph (p). The state agency shall audit such claims and certify to the commissioner of management and budget the amounts due the respective counties without delay. The amounts so certified shall be paid within ten days after such certification, from the state treasury upon ~~warrant~~ payment of the commissioner of management and budget from any money available therefor. The money available to the state agency to carry out the provisions hereof, including all federal funds available to the state, shall be kept and deposited by the commissioner of management and budget in the revenue fund and disbursed ~~upon warrants~~ in the same manner as other state funds.

Sec. 59. Minnesota Statutes 2016, section 260B.331, subdivision 2, is amended to read:

Subd. 2. **Cost of group foster care.** Whenever a child is placed in a group foster care facility as provided in section 260B.198, subdivision 1, clause (2) or (3), item (v), the cost of providing the care shall, upon certification by the juvenile court, be paid from the welfare fund of the county in which the proceedings were held. To reimburse the counties for the costs of providing group foster care for delinquent children and to promote the establishment of suitable group foster homes, the state shall quarterly, from funds appropriated for that purpose, reimburse counties 50 percent of the costs not paid by federal and other available state aids and grants. Reimbursement shall be prorated if the appropriation is insufficient.

The commissioner of corrections shall establish procedures for reimbursement and certify to the commissioner of management and budget each county entitled to receive state aid under the provisions of this subdivision. Upon receipt of a certificate the commissioner of management and budget shall issue a state ~~warrant~~ payment to the county treasurer for the amount due, together with a copy of the certificate prepared by the commissioner of corrections.

Sec. 60. Minnesota Statutes 2016, section 260C.331, subdivision 2, is amended to read:

Subd. 2. **Cost of group foster care.** Whenever a child is placed in a group foster care facility as provided in section 260C.201, subdivision 1, paragraph (b), clause (2) or (3), the cost of providing the care shall, upon certification by the juvenile court, be paid from the welfare fund of the county in which the proceedings were held. To reimburse the counties for the costs of promoting the establishment of suitable group foster homes, the state shall quarterly, from funds appropriated for that purpose, reimburse counties 50 percent of the costs not paid by federal and other available state aids and grants. Reimbursement shall be prorated if the appropriation is insufficient.

The commissioner of corrections shall establish procedures for reimbursement and certify to the commissioner of management and budget each county entitled to receive state aid under the provisions of this subdivision. Upon receipt of a certificate the commissioner of management and budget shall issue a state ~~warrant~~ warrant payment to the county treasurer for the amount due, together with a copy of the certificate prepared by the commissioner of corrections.

Sec. 61. Minnesota Statutes 2016, section 273.121, subdivision 1, is amended to read:

Subdivision 1. **Notice.** Any county assessor or city assessor having the powers of a county assessor, valuing or classifying taxable real property shall in each year notify those persons whose property is to be included on the assessment roll that year if the person's address is known to the assessor, otherwise the occupant of the property. The notice shall be in writing and shall be sent by ordinary mail at least ten days before the meeting of the local board of appeal and equalization under section 274.01 or the review process established under section 274.13, subdivision 1c. Upon written request by the owner of the property, the assessor may send the notice in electronic form or by electronic mail instead of on paper or by ordinary mail. It shall contain: (1) the market value for the current and prior assessment, (2) the qualifying amount of any improvements under section 273.11, subdivision 16, for the current assessment, (3) the market value subject to taxation after subtracting the amount of any qualifying improvements for the current assessment, (4) the classification of the property for the current and prior assessment, (5) the assessor's office address, and (6) the dates, places, and times set for the meetings of the local board of appeal and equalization, the review process established under section 274.13, subdivision 1c, and the county board of appeal and equalization. If the classification of the property has changed between the current and prior assessments, a specific note to that effect shall be prominently listed on the statement. The commissioner of revenue shall specify the form of the notice. The assessor shall attach to the assessment roll a statement that the notices required by this section have been mailed. Any assessor who is not provided sufficient funds from the assessor's governing body to provide such notices, may make application to the commissioner of revenue to finance such notices. The commissioner of revenue shall conduct an investigation and, if satisfied that the assessor does not have the necessary funds, issue a certification to the commissioner of management and budget of the amount necessary to provide such notices. The commissioner of management and budget shall issue a ~~warrant~~ warrant payment for such amount and shall deduct such amount from any state payment to such county or municipality. The necessary funds to make such payments are hereby appropriated. Failure to receive the notice shall in no way affect the validity of the assessment, the resulting tax, the procedures of any board of review or equalization, or the enforcement of delinquent taxes by statutory means.

Sec. 62. Minnesota Statutes 2016, section 287.08, is amended to read:

287.08 TAX, HOW PAYABLE; RECEIPTS.

(a) The tax imposed by sections 287.01 to 287.12 must be paid to the treasurer of any county in this state in which the real property or some part is located at or before the time of filing the mortgage for record. The treasurer shall endorse receipt on the mortgage and the receipt is conclusive proof that the tax has been paid in the amount stated and authorizes any county recorder or registrar of titles to record the mortgage. Its form, in substance, shall be "registration tax hereon of dollars paid." If the mortgage is exempt from taxation the endorsement shall, in substance, be "exempt from registration tax." In either case the receipt must be signed by the treasurer. In case the treasurer is unable to determine whether a claim of exemption should be allowed, the tax must be paid as in the case of a taxable mortgage. For documents submitted electronically, the endorsements and tax amount shall be affixed electronically and no signature by the treasurer will be required. The actual payment method must be arranged in advance between the submitter and the receiving county.

(b) The county treasurer may refund in whole or in part any mortgage registry tax overpayment if a written application by the taxpayer is submitted to the county treasurer within 3-1/2 years from the date of the overpayment. If the county has not issued a denial of the application, the taxpayer may bring an action in Tax Court in the county in which the tax was paid at any time after the expiration of six months from the time that the application was submitted. A denial of refund may be appealed within 60 days from the date of the denial by bringing an action in Tax Court in the county in which the tax was paid. The action is commenced by the serving of a petition for relief on the county treasurer, and by filing a copy with the court. The county attorney shall defend the action. The county treasurer shall notify the treasurer of each county that has or would receive a portion of the tax as paid.

(c) If the county treasurer determines a refund should be paid, or if a refund is ordered by the court, the county treasurer of each county that actually received a portion of the tax shall immediately pay a proportionate share of three percent of the refund using any available county funds. The county treasurer of each county that received, or would have received, a portion of the tax shall also pay their county's proportionate share of the remaining 97 percent of the court-ordered refund on or before the 20th day of the following month using solely the mortgage registry tax funds that would be paid to the commissioner of revenue on that date under section 287.12. If the funds on hand under this procedure are insufficient to fully fund 97 percent of the court-ordered refund, the county treasurer of the county in which the action was brought shall file a claim with the commissioner of revenue under section 16A.48 for the remaining portion of 97 percent of the refund, and shall pay over the remaining portion upon receipt of a ~~warrant~~ payment from the state issued pursuant to the claim.

(d) When any mortgage covers real property located in more than one county in this state the total tax must be paid to the treasurer of the county where the mortgage is first presented for recording, and the payment must be receipted as provided in paragraph (a). If the principal debt or obligation secured by such a multiple county mortgage exceeds \$10,000,000, the nonstate portion of the tax must be divided and paid over by the county treasurer receiving it, on or before the 20th day of each month after receipt, to the county or counties entitled in the ratio that the estimated market value of the real property covered by the mortgage in each county bears to the estimated market value of all the real property in this state described in the mortgage. In making the division and payment the county treasurer shall send a statement giving the description of the real property described in the mortgage and the estimated market value of the part located in each county. For this purpose, the

treasurer of any county may require the treasurer of any other county to certify to the former the estimated market value of any tract of real property in any mortgage.

(e) The mortgagor must pay the tax imposed by sections 287.01 to 287.12. The mortgagee may undertake to collect and remit the tax on behalf of the mortgagor. If the mortgagee collects money from the mortgagor to remit the tax on behalf of the mortgagor, the mortgagee has a fiduciary duty to remit the tax on behalf of the mortgagor as to the amount of the tax collected for that purpose and the mortgagor is relieved of any further obligation to pay the tax as to the amount collected by the mortgagee for this purpose.

Sec. 63. Minnesota Statutes 2016, section 297I.10, subdivision 1, is amended to read:

Subdivision 1. **Cities of the first class.** (a) The commissioner shall order and direct a surcharge to be collected of two percent of the fire, lightning, and sprinkler leakage gross premiums, less return premiums, on all direct business received by any licensed foreign or domestic fire insurance company on property in a city of the first class, or by its agents for it, in cash or otherwise.

(b) By July 31 and December 31 of each year, the commissioner of management and budget shall ~~pay~~ issue to each city of the first class a ~~warrant~~ payment for an amount equal to the total amount of the surcharge on the premiums collected within that city since the previous payment.

(c) The treasurer of the city shall place the money received under this subdivision in a special account or fund to defray all or a portion of the employer contribution requirement of public employees police and fire plan coverage for city firefighters.

Sec. 64. Minnesota Statutes 2016, section 299C.21, is amended to read:

299C.21 PENALTY ON LOCAL OFFICER REFUSING INFORMATION.

If any public official charged with the duty of furnishing to the bureau fingerprint records, biological specimens, reports, or other information required by sections 299C.06, 299C.10, 299C.105, 299C.11, 299C.17, shall neglect or refuse to comply with such requirement, the bureau, in writing, shall notify the state, county, or city officer charged with the issuance of a ~~warrant~~ for the payment of the salary of such official. Upon the receipt of the notice the state, county, or city official shall withhold the issuance of a ~~warrant~~ for the payment of the salary or other compensation accruing to such officer for the period of 30 days thereafter until notified by the bureau that such suspension has been released by the performance of the required duty.

Sec. 65. Minnesota Statutes 2016, section 348.05, is amended to read:

348.05 COMMISSIONER OF MANAGEMENT AND BUDGET TO ISSUE ~~WARRANT~~ PAYMENT.

The commissioner of management and budget shall audit all such claims, and, on the first Monday of October, in each year, shall issue a ~~warrant~~ payment to the several claimants for the amount to which each is entitled; but, if the aggregate of compensation due to all such claimants shall exceed the appropriation therefor, the commissioner shall distribute the available amount amongst them pro rata, which distribution shall relieve the state from further obligation to such claimants for the year.

Sec. 66. Minnesota Statutes 2016, section 352.04, subdivision 9, is amended to read:

Subd. 9. **Erroneous deductions, canceled ~~warrants payments~~.** (a) Deductions taken from the salary of an employee for the retirement fund in excess of required amounts must, upon discovery and verification by the department making the deduction, be refunded to the employee.

(b) If a deduction for the retirement fund is taken from a salary ~~warrant or check payment~~, and the ~~check payment~~ is canceled or the amount of the ~~warrant or check payment~~ returned to the funds of the department making the payment, the sum deducted, or the part of it required to adjust the deductions, must be refunded to the department or institution if the department applies for the refund on a form furnished by the director. The department's payments must likewise be refunded to the department.

(c) If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the plan and any other plans specified in section 356.99, that section applies. If the employee should have been covered by the plan governed by chapter 352D, 353D, 354B, or 354D, the employee deductions and employer contributions taken in error must be directly transferred to the applicable employee's account in the correct retirement plan, with interest at the rate of 0.71 percent per month until June 30, 2015, and 0.667 percent per month thereafter, compounded annually, from the first day of the month following the month in which coverage should have commenced in the correct defined contribution plan until the end of the month in which the transfer occurs.

Sec. 67. Minnesota Statutes 2016, section 352.05, is amended to read:

352.05 COMMISSIONER OF MANAGEMENT AND BUDGET TO BE TREASURER OF SYSTEM.

The commissioner of management and budget is ex officio treasurer of the retirement funds of the system. The general bond to the state shall cover all liability for actions as treasurer of these funds. Funds of the system received by the commissioner of management and budget must be set aside in the state treasury to the credit of the proper fund. The commissioner of management and budget shall deliver to the director copies of all payroll abstracts of the state together with the commissioner of management and budget's ~~warrants payments~~ covering the deductions made on these payroll abstracts for the retirement fund. The director shall have a list made of the commissioner of management and budget's ~~warrants payments~~. These ~~warrants payments~~ must then be credited to the retirement fund. The commissioner of management and budget shall pay out of this fund only upon abstracts signed by the director, or by the finance officer designated by the director during the disability or the absence of the director from the city of St. Paul, Minnesota. Abstracts for investments may be signed by the executive director of the State Board of Investment.

Sec. 68. Minnesota Statutes 2016, section 352.115, subdivision 12, is amended to read:

Subd. 12. **Death, return of ~~warrants payments~~.** If at the time of death a retired employee, a disabled employee, or a survivor has in possession the commissioner of management and budget's ~~warrants payments~~ covering a retirement annuity, disability benefit, or survivor benefit from the retirement fund, in the absence of probate proceedings, and upon the return of the ~~warrants payments~~ for cancellation, payment of the accrued annuity or benefit; shall be made as provided in subdivision 11, or 352.12, subdivision 4. Payments made under this subdivision shall be a bar to recovery by any other person or persons.

Sec. 69. Minnesota Statutes 2016, section 352.12, subdivision 13, is amended to read:

Subd. 13. **Refund, beneficiary.** If upon death a former employee has in possession a commissioner of management and budget's ~~warrant payment~~ which does not exceed \$1,000 covering a refund of accumulated contributions in the retirement fund, in the absence of probate proceedings the commissioner of management and budget's ~~warrant payment~~ may be returned for cancellation, and then upon application made by the last designated beneficiary of the deceased former employee, refund of the accumulated contributions must be paid to the last designated beneficiary. Payments made under this subdivision are a bar to recovery by any other person or persons.

Sec. 70. Minnesota Statutes 2016, section 353.05, is amended to read:

353.05 CUSTODIAN OF FUNDS.

The commissioner of management and budget shall be ex officio treasurer of the retirement funds of the association and the general bond of the commissioner of management and budget to the state must be so conditioned as to cover all liability for acts as treasurer of these funds. All money of the association received by the commissioner of management and budget must be set aside in the state treasury to the credit of the proper fund or account. The commissioner of management and budget shall transmit monthly to the executive director a detailed statement of all amounts so received and credited to the funds. Payments out of the funds may only be made ~~on warrants~~ as payments issued by the commissioner of management and budget, upon abstracts signed by the executive director; provided that abstracts for investment may be signed by the executive director of the State Board of Investment.

Sec. 71. Minnesota Statutes 2016, section 353.27, subdivision 7, is amended to read:

Subd. 7. **Adjustment for erroneous receipts or disbursements.** (a) Except as provided in paragraph (b), erroneous employee deductions and erroneous employer contributions and additional employer contributions to the general employees retirement plan of the Public Employees Retirement Association or to the public employees police and fire retirement plan for a person who otherwise does not qualify for membership under this chapter, are considered:

(1) valid if the initial erroneous deduction began before January 1, 1990. Upon determination of the error by the association, the person may continue membership in the association while employed in the same position for which erroneous deductions were taken, or file a written election to terminate membership and apply for a refund upon termination of public service or defer an annuity under section 353.34; or

(2) invalid, if the initial erroneous employee deduction began on or after January 1, 1990. Upon determination of the error, the association shall refund all erroneous employee deductions and all erroneous employer contributions as specified in paragraph (e). No person may claim a right to continued or past membership in the association based on erroneous deductions which began on or after January 1, 1990.

(b) Erroneous deductions taken from the salary of a person who did not qualify for membership in the general employees retirement plan of the Public Employees Retirement Association or in the public employees police and fire retirement plan by virtue of concurrent employment before July 1, 1978, which required contributions to another retirement fund or relief association established

for the benefit of officers and employees of a governmental subdivision, are invalid. Upon discovery of the error, allowable service credit for all invalid service is forfeited and, upon termination of public service, the association shall refund all erroneous employee deductions to the person, with interest as determined under section 353.34, subdivision 2, and all erroneous employer contributions without interest to the employer. This paragraph has both retroactive and prospective application.

(c) Adjustments to correct employer contributions and employee deductions taken in error from amounts which are not salary under section 353.01, subdivision 10, must be made as specified in paragraph (e). The period of adjustment must be limited to the fiscal year in which the error is discovered by the association and the immediate two preceding fiscal years.

(d) If there is evidence of fraud or other misconduct on the part of the employee or the employer, the board of trustees may authorize adjustments to the account of a member or former member to correct erroneous employee deductions and employer contributions on invalid salary and the recovery of any overpayments for a period longer than provided for under paragraph (c).

(e) Upon discovery of the receipt of erroneous employee deductions and employer contributions under paragraph (a), clause (2), or paragraph (c), the association must require the employer to discontinue the erroneous employee deductions and erroneous employer contributions reported on behalf of a member. Upon discontinuation, the association must:

(1) for a member, provide a refund in the amount of the invalid employee deductions with interest on the invalid employee deductions at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made;

(2) for a former member who:

(i) is not receiving a retirement annuity or benefit, return the erroneous employee deductions to the former member through a refund with interest at the rate specified under section 353.34, subdivision 2, from the received date of each invalid salary transaction through the date the credit or refund is made; or

(ii) is receiving a retirement annuity or disability benefit, or a person who is receiving an optional annuity or survivor benefit, for whom it has been determined an overpayment must be recovered, adjust the payment amount and recover the overpayments as provided under this section; and

(3) return the invalid employer contributions reported on behalf of a member or former member to the employer by providing a credit against future contributions payable by the employer.

(f) In the event that a salary ~~warrant or check~~ payment from which a deduction for the retirement fund was taken has been canceled or the amount of the ~~warrant or check~~ payment returned to the funds of the department making the payment, a refund of the sum deducted, or any portion of it that is required to adjust the deductions, must be made to the department or institution.

(g) If the association discovers that a retirement annuity, survivor benefit, or disability benefit has been incorrectly calculated by using invalid service or salary, or due to any erroneous calculation procedure, the association must recalculate the annuity or benefit payable and begin payment of the corrected annuity or benefit effective the first of the month following discovery of the error. Any

overpayment resulting from the incorrect calculation must be recovered as provided under subdivision 7b, if the accrual date, or any adjustment in the amount of the annuity or benefit calculated after the accrual date, except adjustments required under section 353.656, subdivision 4, falls within the current fiscal year and the two immediate previous fiscal years.

(h) Notwithstanding the provisions of this subdivision, the association may apply the Revenue Procedures defined in the federal Internal Revenue Service Employee Plans Compliance Resolution System and not issue a refund of erroneous employee deductions and employer contributions or not recover a small overpayment of benefits if the cost to correct the error would exceed the amount of the member refund or overpayment.

(i) Any fees or penalties assessed by the federal Internal Revenue Service for any failure by an employer to follow the statutory requirements for reporting eligible members and salary must be paid by the employer.

Sec. 72. Minnesota Statutes 2016, section 354.42, subdivision 7, is amended to read:

Subd. 7. Erroneous salary deductions or direct payments. (a) Any deductions taken from the salary of an employee for the retirement fund in excess of amounts required must be refunded to the employee upon the discovery of the error and after the verification of the error by the employing unit making the deduction. The corresponding excess employer contribution and excess additional employer contribution amounts attributable to the erroneous salary deduction must be refunded to the employing unit.

(b) If salary deductions and employer contributions were erroneously transmitted to the retirement fund and should have been transmitted to the plan covered by chapter 352D, 353D, 354B, or 354D, the executive director must transfer these salary deductions and employer contributions to the account of the appropriate person under the applicable plan. The transfer to the applicable defined contribution plan account must include interest at the rate of 0.71 percent per month, compounded annually, from the first day of the month following the month in which coverage should have commenced in the defined contribution plan until the end of the month in which the transfer occurs.

(c) A potential transfer under paragraph (b) that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, must not be made by the executive director. Within 30 days after being notified by the Teachers Retirement Association of an unmade potential transfer under this paragraph, the employer of the affected person must transmit an amount representing the applicable salary deductions and employer contributions, without interest, to the account of the applicable person under the appropriate plan. The retirement association must provide a credit for the amount of the erroneous salary deductions and employer contributions against future contributions from the employer.

(d) If a salary ~~warrant or check~~ payment from which a deduction for the retirement fund was taken has been canceled or the amount of the ~~warrant or if a check~~ payment has been returned to the funds of the employing unit making the payment, a refund of the amount deducted, or any portion of it that is required to adjust the salary deductions, must be made to the employing unit.

(e) Erroneous direct payments of member-paid contributions or erroneous salary deductions that were not refunded during the regular payroll cycle processing must be refunded to the member, plus interest computed using the rate and method specified in section 354.49, subdivision 2.

(f) Any refund under this subdivision that would cause the plan to fail to be a qualified plan under section 401(a) of the Internal Revenue Code, as amended, may not be refunded and instead must be credited against future contributions payable by the employer. The employer is responsible for refunding to the applicable employee any amount that was erroneously deducted from the salary of the employee, with interest as specified in paragraph (e).

(g) If erroneous employee deductions and employer contributions are caused by an error in plan coverage involving the plan and any other plan specified in section 356.99, that section applies.

Sec. 73. Minnesota Statutes 2016, section 354.52, subdivision 4, is amended to read:

Subd. 4. **Reporting and remittance requirements.** An employer shall remit all amounts due to the association and furnish a statement indicating the amount due and transmitted with any other information required by the executive director. If an amount due is not received by the association within 14 calendar days of the payroll ~~warrant~~ payment, the amount accrues interest at an annual rate of 8.5 percent compounded annually from the due date until the amount is received by the association. All amounts due and other employer obligations not remitted within 60 days of notification by the association must be certified to the commissioner of management and budget who shall deduct the amount from any state aid or appropriation amount applicable to the employing unit.

Sec. 74. Minnesota Statutes 2016, section 354.52, subdivision 4b, is amended to read:

Subd. 4b. **Payroll cycle reporting requirements.** An employing unit shall provide the following data to the association for payroll ~~warrants~~ payments on an ongoing basis within 14 calendar days after the date of the payroll ~~warrant~~ payments in a format prescribed by the executive director:

- (1) association member number;
- (2) employer-assigned employee number;
- (3) Social Security number;
- (4) amount of each salary deduction;
- (5) amount of salary as defined in section 354.05, subdivision 35, from which each deduction was made;
- (6) reason for payment;
- (7) the beginning and ending dates of the payroll period covered and the date of actual payment;
- (8) fiscal year of salary earnings;
- (9) total remittance amount including employee, employer, and additional employer contributions;
- (10) reemployed annuitant salary under section 354.44, subdivision 5; and
- (11) other information as may be required by the executive director.

Sec. 75. Minnesota Statutes 2016, section 401.15, subdivision 1, is amended to read:

Subdivision 1. **Certified statements; determinations; adjustments.** Within 60 days of the end of each calendar quarter, participating counties which have received the payments authorized by section 401.14 shall submit to the commissioner certified statements detailing the amounts expended and costs incurred in furnishing the correctional services provided in sections 401.01 to 401.16. Upon receipt of certified statements, the commissioner shall, in the manner provided in sections 401.10 and 401.12, determine the amount each participating county is entitled to receive, making any adjustments necessary to rectify any disparity between the amounts received pursuant to the estimate provided in section 401.14 and the amounts actually expended. If the amount received pursuant to the estimate is greater than the amount actually expended during the quarter, the commissioner may withhold the difference from any subsequent monthly payments made pursuant to section 401.14. Upon certification by the commissioner of the amount a participating county is entitled to receive under the provisions of section 401.14 or of this subdivision the commissioner of management and budget shall thereupon issue a ~~state warrant~~ payment to the chief fiscal officer of each participating county for the amount due together with a copy of the certificate prepared by the commissioner.

Sec. 76. Minnesota Statutes 2016, section 446A.086, subdivision 4, is amended to read:

Subd. 4. **Notifications; payment; appropriation.** (a) After receipt of a notice of a default or potential default in payment of principal or interest in debt obligations covered by this section or an agreement under this section, and after consultation with the governmental unit and the paying agent, and after verification of the accuracy of the information provided, the authority shall notify the commissioner of the potential default. The notice must include a final figure as to the amount due that the governmental unit will be unable to repay on the date due.

(b) Upon receipt of this notice from the authority, the commissioner shall issue a ~~warrant~~ payment and authorize the authority to pay to the bond holders or paying agent for the debt obligation the specified amount on or before the date due. The amounts needed for the purposes of this subdivision are annually appropriated to the authority from the general fund.

Sec. 77. Minnesota Statutes 2016, section 446A.16, subdivision 1, is amended to read:

Subdivision 1. **Functions of commissioner of management and budget.** Except as otherwise provided in this section, money of the authority must be paid to the commissioner of management and budget as agent of the authority and the commissioner shall not commingle the money with other money. The money in the accounts of the authority must be paid out only ~~on warrants drawn~~ by the commissioner of management and budget on requisition of the chair of the authority or of another officer or employee as the authority authorizes. Deposits of the authority's money must, if required by the commissioner or the authority, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give security for the deposits.

Sec. 78. Minnesota Statutes 2016, section 462A.18, subdivision 1, is amended to read:

Subdivision 1. **Functions of commissioner of management and budget.** All moneys of the agency, except as otherwise authorized or provided in this section, shall be paid to the commissioner of management and budget as agent of the agency, who shall not commingle such moneys with any

other moneys. The moneys in such accounts shall be paid out ~~on warrants drawn~~ by the commissioner on requisition of the chair of the agency or of such other officer or employee as the agency shall authorize to make such requisition. All deposits of such moneys shall, if required by the commissioner or the agency, be secured by obligations of the United States or of the state of a market value equal at all times to the amount of the deposit and all banks and trust companies are authorized to give such security for such deposits.

Sec. 79. Minnesota Statutes 2016, section 475A.04, subdivision 1, is amended to read:

Subdivision 1. **Procedure.** In the event that funds sufficient to pay all of the principal and interest due on any guaranteed bond are not in the hands of the municipal treasurer or the paying agent at least 15 days before the due date, the treasurer or agent shall report the amount of the deficiency to the paying agent and the auditor who shall grant a loan to the issuer in this amount and shall certify to the issuer, the paying agent, and the auditor and treasurer of each county in which property subject to taxation by the issuer is situated, the amount of the loan and interest to accrue thereon to the due date of the loan, and the commissioner of management and budget shall issue a ~~warrant~~ payment for the principal amount and shall remit it to the paying agent on or before the due date. If the municipal treasurer fails to deposit funds with the paying agent sufficient to pay all principal and interest due on any guaranteed bond on any date, without having previously given the notice herein required, the paying agent may report the amount of the deficiency to the commissioner of management and budget, who shall forthwith grant a loan to the issuer for this amount plus interest to accrue thereon for one month at the rate represented by the coupons then due, and the loan shall be certified and remitted as provided above. The paying agent may advance its own funds for the payment of any guaranteed bonds and interest due for which it has not received sufficient funds from the municipality, and may contract with the municipality to make such advances, and shall be entitled to reimbursement therefor from the proceeds of the loan, with interest at the rate represented by the coupons due. The issuing municipality shall give a receipt to the commissioner of management and budget for the amount of the loan and interest.

Sec. 80. Minnesota Statutes 2016, section 525.841, is amended to read:

525.841 ESCHEAT RETURNED.

In all such cases the commissioner of management and budget shall be furnished with a certified copy of the court's order assigning the escheated property to the persons entitled thereto, and upon notification of payment of the estate tax, the commissioner of management and budget shall ~~draw a warrant~~ issue a payment or execute a proper conveyance to the persons designated in such order. In the event any escheated property has been sold pursuant to sections 11A.04, clause (9), and 11A.10, subdivision 2, or 16B.281 to 16B.287, then the ~~warrant~~ payment shall be for the appraised value as established during the administration of the decedent's estate. There is hereby annually appropriated from any moneys in the state treasury not otherwise appropriated an amount sufficient to make payment to all such designated persons. No interest shall be allowed on any amount paid to such persons.

ARTICLE 4

ADMINISTRATIVE RULEMAKING

Section 1. Minnesota Statutes 2016, section 3.842, subdivision 4a, is amended to read:

Subd. 4a. **Objections to rules or proposed rules.** (a) For purposes of this subdivision, "committee" means the house of representatives policy committee or senate policy committee with primary jurisdiction over state governmental operations. The commission or a committee may object to a rule or proposed rule as provided in this subdivision. ~~If the commission or a committee objects to all or some portion of a rule because the commission or committee considers it to be~~ on the grounds that the rule or proposed rule:

(1) is beyond the procedural or substantive authority delegated to the agency, including a proposed rule submitted under section 14.15, subdivision 4, or 14.26, subdivision 3, paragraph (e);

(2) is inconsistent with the enabling statute;

(3) is unnecessary or redundant;

(4) has a substantial economic impact as defined in section 14.02, subdivision 5;

(5) is not based on sound, reasonably available scientific, technical, economic, or other information;

(6) is not cost-effective;

(7) is unduly burdensome; or

(8) is more restrictive than the standard, limitation, or requirement imposed by federal law or rule pertaining to the same subject matter.

If the commission or committee objects to all or some portion of a rule or proposed rule, the commission or committee may shall file that objection in the Office of the Secretary of State. The filed objection must contain a concise statement of the commission's or committee's reasons for its action. An objection to a proposed rule submitted by the commission or a committee under section 14.15, subdivision 4, or 14.26, subdivision 3, paragraph (e), may not be filed before the rule is adopted. For a proposed rule, the objection must be filed within 30 days of receipt of the notice under section 14.14, 14.22, 14.386, 14.388, 14.389, or 14.3895.

(b) The secretary of state shall affix to each objection a certification of the date and time of its filing and as soon after the objection is filed as practicable shall electronically transmit a ~~certified~~ copy of it to the agency issuing the rule in question and to the revisor of statutes. The secretary of state shall also maintain a permanent register open to public inspection of all objections by the commission or committee.

(c) The commission or committee shall publish and index an objection filed under this section in the next issue of the State Register. The revisor of statutes shall indicate the existence of the objection adjacent to the rule in question when that rule is published in Minnesota Rules.

(d) Within 14 days after the filing of an objection by the commission or committee to a rule or proposed rule, the issuing agency shall respond in writing to the objecting entity. After receipt of the response, the commission or committee may withdraw or modify its objection. After the filing of an objection that is not subsequently withdrawn, the agency may not adopt the rule until the legislature adjourns the annual legislative session that began after the objection was filed. If the commission files an objection that is not subsequently withdrawn, the commission may, as soon as practical, make a recommendation on a bill that approves the proposed rule, prohibits adoption of the proposed rule, or amends or repeals the law governing a previously adopted rule for which an objection was filed.

(e) After the filing of an objection by the commission or committee that is not subsequently withdrawn, the burden is upon the agency in any proceeding for judicial review or for enforcement of the rule to establish that the whole or portion of the rule objected to is valid and demonstrates that the objection raised under paragraph (a) is not justified, based on the criteria for objecting to a rule under paragraph (a).

(f) The failure of the commission or a committee to object to a rule is not an implied legislative authorization of its validity.

(g) In accordance with sections 14.44 and 14.45, the commission or a committee may petition for a declaratory judgment to determine the validity of a rule objected to by the commission or committee. The action must be started within two years after an objection is filed in the Office of the Secretary of State.

(h) The commission or a committee may intervene in litigation arising from agency action. For purposes of this paragraph, agency action means the whole or part of a rule, or the failure to issue a rule.

Sec. 2. Minnesota Statutes 2016, section 14.002, is amended to read:

14.002 STATE REGULATORY POLICY.

The legislature recognizes the important and sensitive role for administrative rules in implementing policies and programs created by the legislature. However, the legislature finds that some regulatory rules and programs have become overly prescriptive and inflexible, thereby increasing costs to the state, local governments, and the regulated community and decreasing the effectiveness of the regulatory program. Therefore, ~~whenever feasible~~, state agencies must develop rules and regulatory programs that emphasize superior achievement in meeting the agency's regulatory objectives and maximum flexibility for the regulated party and the agency in meeting those goals.

Sec. 3. Minnesota Statutes 2016, section 14.02, is amended by adding a subdivision to read:

Subd. 5. **Substantial economic impact.** A rule has a "substantial economic impact" if the rule would result in, or likely result in:

(1) an adverse effect or impact on the private-sector economy of the state of Minnesota of \$5,000,000 or more in a single year;

(2) a significant increase in costs or prices for consumers, individual private-sector industries, state agencies, local governments, individuals, or private-sector enterprises within certain geographic regions inside the state of Minnesota;

(3) significant adverse impacts on the competitiveness of private-sector Minnesota-based enterprises, or on private-sector employment, investment, productivity, or innovation within the state of Minnesota; or

(4) compliance costs, in the first year after the rule takes effect, of more than \$25,000 for any one business that has fewer than 50 full-time employees, or for any one statutory or home rule charter city that has fewer than ten full-time employees.

Sec. 4. Minnesota Statutes 2016, section 14.05, subdivision 1, is amended to read:

Subdivision 1. **Authority to adopt original rules restricted.** (a) Each agency shall adopt, amend, suspend, or repeal its rules:

(1) in accordance with the procedures specified in sections 14.001 to 14.69, and;

(2) only pursuant to authority delegated by law; and

(3) in full compliance with its duties and obligations.

(b) If a law authorizing rules is repealed, the rules adopted pursuant to that law are automatically repealed on the effective date of the law's repeal unless there is another law authorizing the rules.

(c) Except as provided in ~~section~~ sections 14.055, 14.06, 14.388, 14.389, and 14.3895, sections 14.001 to 14.69 shall not be authority for an agency to adopt, amend, suspend, or repeal rules.

Sec. 5. Minnesota Statutes 2016, section 14.05, is amended by adding a subdivision to read:

Subd. 1a. **Limitation regarding certain policies, guidelines, and other interpretive statements.** An agency shall not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule under this chapter if the policy, guideline, or other interpretive statement has not been adopted as a rule in accordance with this chapter including but not limited to solid waste policy plan revisions authorized by other law. In any proceeding under chapter 14 challenging an agency action prohibited by this subdivision, the reviewing authority must independently and without deference to the agency determine if the agency has violated this subdivision. The agency must overcome the presumption that its action may not be enforced as a rule.

Sec. 6. Minnesota Statutes 2016, section 14.05, subdivision 2, is amended to read:

Subd. 2. **Authority to modify proposed rule.** (a) An agency may modify a proposed rule in accordance with the procedures of the Administrative Procedure Act. However, an agency may not modify a proposed rule so that it is substantially different from the proposed rule in the notice of intent to adopt rules or notice of hearing.

(b) A modification does not make a proposed rule substantially different if:

(1) the differences are within the scope of the matter announced in the notice of intent to adopt or notice of hearing and are in character with the issues raised in that notice;

(2) the differences are a logical outgrowth of the contents of the notice of intent to adopt or notice of hearing and the comments submitted in response to the notice; and

(3) the notice of intent to adopt or notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question.

(c) In determining whether the notice of intent to adopt or notice of hearing provided fair warning that the outcome of that rulemaking proceeding could be the rule in question the following factors must be considered:

(1) the extent to which persons who will be affected by the rule should have understood that the rulemaking proceeding on which it is based could affect their interests;

(2) the extent to which the subject matter of the rule or issues determined by the rule are different from the subject matter or issues contained in the notice of intent to adopt or notice of hearing; and

(3) the extent to which the effects of the rule differ from the effects of the proposed rule contained in the notice of intent to adopt or notice of hearing.

(d) A modification makes a proposed rule substantially different if the modification causes a rule that did not previously have a substantial economic impact to have a substantial economic impact.

Sec. 7. Minnesota Statutes 2016, section 14.05, is amended by adding a subdivision to read:

Subd. 5a. **Review and repeal of rules.** By December 1 of each odd-numbered year, beginning December 1, 2017, an agency must submit to the governor, the Legislative Coordinating Commission, the policy and funding committees and divisions with jurisdiction over the agency, and the revisor of statutes, a list of any rules or portions of rules that are obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The list must also include an explanation of why the rule or portion of the rule is obsolete, unnecessary, or duplicative of other state or federal statutes or rules. The agency must either report a timetable for repeal of the rule or portion of the rule, or must develop a bill for submission to the appropriate policy committee to repeal the obsolete, unnecessary, or duplicative rule. A report submitted under this subdivision must be signed by the person in the agency who is responsible for identifying and initiating repeal of obsolete rules. The report also must identify the status of any rules identified in the prior report as obsolete, unnecessary, or duplicative. If none of an agency's rules are obsolete, unnecessary, or duplicative, an agency's report must state that conclusion.

Sec. 8. Minnesota Statutes 2016, section 14.05, is amended by adding a subdivision to read:

Subd. 5b. **Review and repeal of environmental assessment worksheets and impact statements.** By December 1, 2017, and each odd-numbered year thereafter, the Environmental Quality Board, Pollution Control Agency, Department of Natural Resources, and Department of Transportation, after consultation with political subdivisions, shall submit to the governor, the Legislative Coordinating Commission, the chairs and ranking minority members of the house of

representatives and senate committees having jurisdiction over environment and natural resources, and the revisor of statutes a list of mandatory environmental assessment worksheets or mandatory environmental impact statements for which the agency or a political subdivision is designated as the responsible government unit, and for each worksheet or statement, a document including:

- (1) intended outcomes of the specific worksheet or statement;
- (2) the cost to state and local government and the private sector;
- (3) the relationship of the worksheet or statement to other local, state, and federal permits; and
- (4) a justification for why the mandatory worksheet or statement should not be eliminated and its intended outcomes achieved through an existing permit or other federal, state, or local law.

Sec. 9. Minnesota Statutes 2016, section 14.05, subdivision 6, is amended to read:

Subd. 6. **Veto of adopted rules.** The governor may veto all or a severable portion of a rule of an agency as defined in section 14.02, subdivisions 2 and 4, by submitting notice of the veto to the State Register within 14 days of receiving a copy of the rule from the secretary of state under section 14.16, subdivision 3, 14.26, subdivision ~~3~~ 5, ~~or~~ 14.386₂ or the agency under section 14.389, subdivision 3, or section 14.3895. The veto is effective when the veto notice is submitted to the State Register. This authority applies only to the extent that the agency itself would have authority, through rulemaking, to take such action. If the governor vetoes a rule or portion of a rule under this section, the governor shall notify the chairs of the legislative committees having jurisdiction over the agency whose rule was vetoed.

Sec. 10. Minnesota Statutes 2016, section 14.05, subdivision 7, is amended to read:

Subd. 7. **Electronic documents permitted.** (a) If sections 14.05 to 14.3895 require an agency to provide notice or documents to the public, the legislature, or other state agency, the agency may send the notice or document, or a link to the notice or document, using any reliable method of electronic transmission.

(b) The agency must also send a paper copy of the notice or document if requested to do so by a member of the public, legislature, or other state agency.

(c) An agency may file rule-related documents with the Office of Administrative Hearings by electronic transmission in the manner approved by that office and the Office of the Revisor of Statutes by electronic transmission in the manner approved by that office.

Sec. 11. Minnesota Statutes 2016, section 14.101, subdivision 1, is amended to read:

Subdivision 1. **Required notice.** In addition to seeking information by other methods designed to reach persons or ~~classes~~ categories of persons who might be affected by the proposal, an agency, at least 60 days before publication of a notice of intent to adopt or a notice of hearing, shall solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by causing notice to be published in the State Register. The notice must include a description of the subject matter of the proposal and the types of groups and individuals

likely to be affected, and must indicate where, when, and how persons may comment on the proposal and whether and how drafts of any proposal may be obtained from the agency.

This notice must be published within 60 days of the effective date of any new or amendatory law requiring rules to be adopted, amended, or repealed.

An agency intending to adopt an expedited rule under section 14.389 is exempt from the requirements of this section.

Sec. 12. **[14.105] RULE NOTIFICATION.**

Subdivision 1. **Rule notification list.** (a) Each agency shall maintain a list of all persons who have registered with the agency for the purpose of receiving notice of rule proceedings. A person may register to receive notice of rule proceedings by submitting to the agency:

(1) the person's electronic mail address; or

(2) the person's name and United States mail address, along with a request to receive copies of the notices by mail.

(b) The agency shall post information on its Web site describing the registration process.

(c) The agency may inquire as to whether those persons on the list in paragraph (a) wish to remain on it and may remove persons for whom there is a negative reply or no reply within 60 days.

Subd. 2. **Additional notice.** (a) Each agency shall make reasonable efforts to notify persons or categories of persons who may be significantly affected by the rule being proposed by giving notice of its rule proceedings in newsletters, newspapers, or other publications, or through other means of communication.

(b) For each rulemaking, the agency shall develop an additional notice plan describing its efforts to provide additional notification to persons or categories of persons who may be affected by the proposed rule or must explain why these efforts were not made. The additional notice plan must be submitted to the administrative law judge with the other submissions required by section 14.14, subdivision 2a, or 14.26. The agency also may seek prior approval of the additional notice plan under the rules of the Office of Administrative Hearings.

Sec. 13. Minnesota Statutes 2016, section 14.116, is amended to read:

14.116 NOTICE TO LEGISLATURE.

(a) By January 15 each year, each agency must submit its current rulemaking docket maintained under section 14.366, and the official rulemaking record required under section 14.365 for any rule adopted during the preceding calendar year, to the chairs and ranking minority members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule and to the Legislative Coordinating Commission. Each agency must post a link to its rulemaking docket on the agency Web site home page.

(b) When an agency mails sends a notice of intent to adopt rules hearing under section 14.14 or a notice of intent to adopt rules or dual notice under section 14.22, the agency must send a copy

of the same notice ~~and a copy of the statement of need and reasonableness~~ to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules and to the Legislative Coordinating Commission.

~~(e) In addition, if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency shall make reasonable efforts to send a copy of the notice and the statement to all sitting legislators who were chief house of representatives and senate authors of the bill granting the rulemaking authority. If the bill was amended to include this rulemaking authority, the agency shall make reasonable efforts to send the notice and the statement to the chief house of representatives and senate authors of the amendment granting rulemaking authority, rather than to the chief authors of the bill.~~

Sec. 14. Minnesota Statutes 2016, section 14.125, is amended to read:

14.125 TIME LIMIT ON AUTHORITY TO ADOPT, AMEND, OR REPEAL RULES.

~~An agency shall publish a notice of intent to adopt rules or a notice of hearing under section 14.14, or a notice of intent to adopt rules or dual notice under section 14.22, within 18 months of the effective date of the law authorizing or requiring rules to be adopted, amended, or repealed. If the notice is not published within the time limit imposed by this section, the authority for the rules expires. The agency shall not use other law in existence at the time of the expiration of rulemaking authority under this section as authority to adopt, amend, or repeal these rules.~~ agency shall report to the Legislative Coordinating Commission, other appropriate committees of the legislature, and the governor its failure to publish a notice and the reasons for that failure.

~~An agency that publishes a notice of intent to adopt rules or a notice of hearing within the time limit specified in this section may subsequently amend or repeal the rules without additional legislative authorization.~~

Sec. 15. Minnesota Statutes 2016, section 14.127, is amended to read:

14.127 LEGISLATIVE APPROVAL REQUIRED.

Subdivision 1. ~~Cost thresholds~~ **Substantial economic impact.** ~~An agency must determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for: (1) any one business that has less than 50 full-time employees; or (2) any one statutory or home rule charter city that has less than ten full-time employees. For purposes of this section, "business" means a business entity organized for profit or as a nonprofit, and includes an individual, partnership, corporation, joint venture, association, or cooperative~~ has a substantial economic impact, as defined in section 14.02, subdivision 5.

Subd. 2. **Agency determination.** ~~An agency must make the determination required by subdivision 1 before the close of the hearing record, or before the agency submits the record to the administrative law judge if there is no hearing. The administrative law judge must review and approve or disapprove the agency determination under this section~~ agency gives notice under section 14.14, 14.22, 14.225, or 14.389.

Subd. 3. **Legislative approval required.** (a) If the agency determines that a proposed rule has a substantial economic impact, the agency must request the legislative auditor to convene a five-person

peer review advisory panel to conduct an impact analysis of the proposed rule. Within 30 days of receipt of the agency's request, the legislative auditor shall convene a peer review advisory panel. The advisory panel must be made up of individuals who have not directly or indirectly been involved in the work conducted or contracted by the agency and who are not employed by the agency. The agency must pay each panel member for the costs of the person's service on the panel, as determined by the legislative auditor. The agency shall transfer an amount from the agency's operating budget to the legislative auditor to pay for costs for convening the peer review advisory panel process. The panel may receive written and oral comments from the public during its review. The panel must submit its report within 60 days of being convened. The agency must receive a final report from the panel before the agency conducts a public hearing on a proposed rule or, if no hearing is held, before the rule is submitted to the administrative law judge. The panel's report must include its conclusions on the extent to which the proposed rule:

(1) is based on sound, reasonably available scientific, technical, economic, or other information or rationale; and

(2) is more restrictive than a standard, limitation, or requirement imposed by federal law or rule pertaining to the same subject matter, and a justification based on sound, reasonably available scientific, technical, economic, or other information and rationale that the more stringent standard is necessary to protect the public's health, safety, or welfare.

(b) If the agency determines that a rule does not have a substantial economic impact, the administrative law judge must review this determination. If the administrative law judge determines that a rule may have a substantial economic impact, the agency must have the legislative auditor arrange for the analysis required by paragraph (a), and the agency must give new notice of intent to adopt the proposed rule after receiving this analysis. The administrative law judge may make this determination as part of the administrative law judge's report on the proposed rule, or at any earlier time after the administrative law judge is assigned to the rule proceeding.

(c) If the agency determines that the ~~cost exceeds the threshold in subdivision 1~~ proposed rule has a substantial economic impact, or if the administrative law judge disapproves the agency's determination that the ~~cost rule~~ does not exceed the threshold in subdivision 1, any business that has less than 50 full-time employees or any statutory or home rule charter city that has less than ten full-time employees may file a written statement with the agency claiming a temporary exemption from the rules. Upon filing of such a statement with the agency, the rules do not apply to that business or that city until the rules are ~~have~~ a substantial economic impact, the agency or the administrative law judge shall deliver the determination and peer review advisory panel report to the Legislative Coordinating Commission and to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over the subject matter of the rule, and the proposed rule does not take effect until the rule is approved by a law enacted after the agency determination or administrative law judge disapproval.

Subd. 4. **Exceptions.** (a) Subdivision 3 does not apply if the administrative law judge approves an agency's determination that the legislature has appropriated money to sufficiently fund the expected cost of the rule upon the business or city proposed to be regulated by the rule.

~~(b)~~ (a) Subdivision 3 does not apply if the administrative law judge approves an agency's determination that the rule has been proposed pursuant to a specific federal statutory or regulatory mandate.

~~(c)~~ (b) This section does not apply if the rule is adopted under section 14.388 or under another law specifying that the rulemaking procedures of this chapter do not apply.

~~(d)~~ (c) This section does not apply to a rule adopted by the Public Utilities Commission.

~~(e)~~ Subdivision 3 does not apply if the governor waives application of subdivision 3. The governor may issue a waiver at any time, either before or after the rule would take effect, but for the requirement of legislative approval. As soon as possible after issuing a waiver under this paragraph, the governor must send notice of the waiver to the speaker of the house and the president of the senate and must publish notice of this determination in the State Register.

Subd. 5. **Severability.** If an administrative law judge determines that part of a proposed rule exceeds the threshold specified in subdivision 4 has a substantial economic impact, but that a severable portion of a proposed rule does not exceed the threshold in subdivision 4 have a substantial economic impact, the administrative law judge may provide that the severable portion of the rule that does not exceed the threshold have a substantial economic impact may take effect without legislative approval.

Sec. 16. [14.1275] RULES IMPACTING RESIDENTIAL CONSTRUCTION OR REMODELING; LEGISLATIVE NOTICE AND REVIEW.

Subdivision 1. **Definition.** As used in this section, "residential construction" means the new construction or remodeling of any building subject to the Minnesota Residential Code.

Subd. 2. **Impact on housing cost; agency determination.** An agency must determine if implementation of a proposed rule, or any portion of a proposed rule, will, on average, increase the cost of residential construction or remodeling by \$1,000 or more per unit. The agency must make this determination before the close of the hearing record. Upon request of a party affected by the proposed rule, an administrative law judge must review and approve or disapprove an agency's determination that any portion of a proposed rule will increase the cost of a dwelling unit by \$1,000 or more.

Subd. 3. **Notice to legislature; legislative approval.** (a) If the agency determines that the impact of a proposed rule meets or exceeds the cost threshold provided in subdivision 2, or if the administrative law judge separately confirms the cost of any portion of a rule exceeds the cost threshold provided in subdivision 2, the agency must notify, in writing, the chairs and ranking minority members of the policy committees of the house of representatives and the senate with jurisdiction over the subject matter of the proposed rule within ten days of the determination.

(b) If a committee of either the house of representatives or senate with jurisdiction over the subject matter of the proposed rule or a portion of a rule that meets or exceeds the threshold in subdivision 2 votes to advise an agency that the rule should not be adopted as proposed, the agency may not adopt the rule unless the rule is approved by a law enacted after the vote of the committee. Section 14.126, subdivision 2, applies to a vote of a committee under this subdivision.

Subd. 4. **Severability.** If the agency or an administrative law judge determines that part of a proposed rule meets or exceeds the threshold provided in subdivision 2, but that a severable portion of the proposed rule does not meet or exceed that threshold, the agency may proceed to adopt the severable portions of the proposed rule regardless of whether a legislative committee has voted under subdivision 3 to advise an agency that the rule should not be adopted as proposed.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to administrative rules proposed on or after that date.

Sec. 17. **[14.129] IMPACT ANALYSIS OF PROPOSED RULE.**

Subdivision 1. **Analysis.** (a) Within 30 days of receipt of the notice required under section 14.116, paragraph (b), a standing committee with jurisdiction over the subject matter of a proposed rule may request the legislative auditor to conduct an impact analysis of the proposed rule. The request must be sent in writing to the legislative auditor and the agency. Upon receipt of the request, the agency may not proceed to adopt the proposed rule until it has received a positive declaration from the requesting standing committee. Within 60 days of receipt of a request, the legislative auditor shall convene a five-person peer review panel to review the proposed rule. The advisory panel must be made up of individuals who have not directly or indirectly been involved in work conducted or contracted by the agency and who are not employed by the agency. The panel may receive written and oral comments from the public during its review of the proposed rule. The panel must prepare a report that includes a conclusion on whether the proposed rule:

(1) is based on sound, reasonably available scientific, technical, economic, and other information and rationale; and

(2) if the proposed rule is more restrictive than a standard, limitation, or requirement imposed by federal law or rule pertaining to the same subject matter, a justification based on sound, reasonably available scientific, technical, economic, or other information and rationale that the more stringent standard is necessary to protect the public's health, safety, or welfare.

(b) Within 150 days of being convened, the panel must submit its report to the chairs and ranking minority members of the requesting committee and the legislative auditor. Within five days of receipt of the panel's report, the requesting standing committee shall send the report to the agency along with either:

(1) a positive declaration that the agency may proceed with the proposed rule; or

(2) a negative declaration that the agency may not proceed with the proposed rule in its current form.

(c) If the requesting standing committee issues a negative declaration to an agency under paragraph (b), clause (2), the agency may not adopt the rule until the legislature adjourns the annual legislative session that began after the issuance of the negative declaration.

Subd. 2. **Severability.** If any one or more provision, sentence, clause, phrase, or word in this section or the application thereof to any person or circumstance is found to be unconstitutional, the same is hereby declared to be severable and the balance of this section shall remain effective notwithstanding such unconstitutionality. The legislature hereby declares that it would have passed

this section and each provision, sentence, clause, phrase, or word thereof irrespective of the fact that any one or more provision, sentence, clause, phrase, or word be declared unconstitutional.

Sec. 18. Minnesota Statutes 2016, section 14.131, is amended to read:

14.131 STATEMENT OF NEED AND REASONABLENESS.

By the date of the section 14.14, subdivision 1a, notice, the agency must prepare, review, and make available for public review a statement of the need for and reasonableness of the rule. The statement of need and reasonableness must be prepared under rules adopted by the chief administrative law judge and must include a citation to the most specific statutory authority for the rule and the following to the extent the agency, through reasonable effort, can ascertain this information:

~~(1) a description of the classes of persons who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule;~~

~~(2) the probable costs to the agency and to any other agency of the implementation and enforcement of the proposed rule and any anticipated effect on state revenues;~~

~~(3) a determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule;~~

~~(4) a description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the agency and the reasons why they were rejected in favor of the proposed rule;~~

~~(5) the probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, businesses, or individuals;~~

~~(6) the probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals;~~

(1) a description of the persons or classifications of persons who will probably be affected by the proposed rule;

(2) the probable costs of the rule to affected persons and the agency, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals, and the probable benefits of adopting the rule;

~~(7)~~ (3) an assessment of any differences between the proposed rule and existing or proposed federal regulations standards and similar standards in relevant states bordering Minnesota or within Environmental Protection Agency Region 5 and a specific analysis of the need for and reasonableness of each difference; and

~~(8)~~ (4) an assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule: all rules adopted by the agency or any other agency, and

all federal regulations and local ordinances or regulations, related to the specific purpose for which the rule is being adopted; and

(5) the agency's findings and conclusions that support its determination that the proposed rule is based on sound, reasonably available scientific, technical, economic, or other information and rationale; and if the proposed rule is more restrictive than a standard, limitation, or requirement imposed by federal law or rule pertaining to the same subject matter, a justification based on sound, reasonably available scientific, technical, economic, or other information and rationale that the more stringent standard is necessary to protect the public's health, safety, or welfare.

The statement must describe how the agency, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in section 14.002 in a cost-effective and timely manner.

For purposes of clause ~~(8)~~ (4), "cumulative effect" means the impact that results from incremental impact of the proposed rule in addition to other rules, regardless of what state or federal agency has adopted the other rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.

~~The statement must also describe the agency's efforts to provide additional notification under section 14.14, subdivision 1a, to persons or classes of persons who may be affected by the proposed rule or must explain why these efforts were not made.~~

The statement must describe, with reasonable particularity, the scientific, technical, and economic information that supports the proposed rule.

The agency must consult with the commissioner of management and budget to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government. The agency must send a copy of the statement of need and reasonableness to the Legislative Reference Library no later than when the notice of hearing is ~~mailed under section 14.14, subdivision 1a~~ sent.

Sec. 19. Minnesota Statutes 2016, section 14.14, subdivision 1a, is amended to read:

Subd. 1a. **Notice of rule hearing.** (a) ~~Each agency shall maintain a list of all persons who have registered with the agency for the purpose of receiving notice of rule proceedings. Persons may register to receive notice of rule proceedings by submitting to the agency:~~

~~(1) their electronic mail address; or~~

~~(2) their name and United States mail address.~~

~~The agency may inquire as to whether those persons on the list wish to remain on it and may remove persons for whom there is a negative reply or no reply within 60 days. The agency shall, at least 30 days before the date set for the hearing, give notice of its intention to ~~adopt~~ hold a hearing on the proposed rules by United States mail or electronic mail to all persons ~~on its list~~ who have registered with the agency under section 14.105, and by publication in the State Register.~~

~~The mailed notice must include either a copy of the proposed rule or an easily readable and understandable description of its nature and effect and an announcement that a free copy of the~~

~~proposed rule is available on request from the agency. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication.~~ The notice in the State Register must include the proposed rule or an amended rule in the form required by the revisor under section 14.07, together with an easily readable and understandable summary of the overall nature and effect of the proposed rule, a citation to the most specific statutory authority for the proposed rule, a statement of the place, date, and time of the public hearing, a statement that a free copy of the proposed rule and the statement of need and reasonableness may be requested from the agency, a statement that persons may register with the agency for the purpose of receiving notice of rule proceedings ~~and notice that the agency intends to adopt a rule,~~ and other information required by law or rule. When an entire rule is proposed to be repealed, the agency need only publish that fact, along with an easily readable and understandable summary of the overall nature of the rules proposed for repeal, and a citation to the rule to be repealed.

The mailed notice of hearing must be the same as the notice published in the State Register, except that the mailed notice may omit the text of the proposed rule if it includes an announcement of where a copy of the proposed rule may be obtained.

(b) The chief administrative law judge may authorize an agency to omit from the notice of rule hearing the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of rule hearing states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of rule hearing states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Sec. 20. Minnesota Statutes 2016, section 14.14, subdivision 2a, is amended to read:

Subd. 2a. **Hearing procedure.** When a hearing is held on a proposed rule, it shall be conducted by an administrative law judge assigned by the chief administrative law judge. The administrative law judge shall ensure that all persons involved in the rule hearing are treated fairly and impartially. The agency shall submit into the record the jurisdictional documents, including the statement of need and reasonableness, comments and hearing requests received, and any written exhibits in support of the proposed rule. The agency may also present additional oral evidence. Interested persons may present written and oral evidence. The administrative law judge shall allow questioning of agency representatives or witnesses, or of interested persons making oral statements, in order to explain the purpose or intended operation of a proposed rule, or a suggested modification, or for other purposes if material to the evaluation or formulation of the proposed rule. The administrative law judge may limit repetitive or immaterial oral statements and questioning.

Sec. 21. Minnesota Statutes 2016, section 14.18, subdivision 1, is amended to read:

Subdivision 1. **Generally.** Unless a later date is required by section 14.126 or other law or is specified in the rule, a rule is effective after:

(1) it has been subjected to all requirements described in sections 14.131 to 14.20 and five working days after;

(2) the notice of adoption is published in the State Register unless a later date is required by section 14.126 or other law or specified in the rule; and

(3) it has been approved by a law enacted after publication of the notice of adoption; if any of the following applies:

(i) the rule is enacted without a specific authorization of rulemaking to enact rules to implement a specific statute section;

(ii) a sanction or penalty can be imposed for failure to comply with the rule; or

(iii) the regulating agency has the authority to adjudicate a dispute with a regulated entity about enforcement of or violation of the rule.

If the rule adopted is the same as the proposed rule, publication may be made by publishing notice in the State Register that the rule has been adopted as proposed and by citing the prior publication. If the rule adopted differs from the proposed rule, the portions of the adopted rule that differ from the proposed rule must be included in the notice of adoption together with a citation to the prior State Register publication of the remainder of the proposed rule. The nature of the modifications must be clear to a reasonable person when the notice of adoption is considered together with the State Register publication of the proposed rule, except that modifications may also be made that comply with the form requirements of section 14.07, subdivision 7.

If the agency omitted from the notice of proposed rule adoption the text of the proposed rule, as permitted by section 14.14, subdivision 1a, paragraph (b), the chief administrative law judge may provide that the notice of the adopted rule need not include the text of any changes from the proposed rule. However, the notice of adoption must state in detail the substance of the changes made from the proposed rule, and must state that a free copy of the portion of the adopted rule that was the subject of the rulemaking proceeding, not including any material adopted by reference as permitted by section 14.07, is available upon request to the agency.

Sec. 22. Minnesota Statutes 2016, section 14.19, is amended to read:

14.19 DEADLINE TO COMPLETE RULEMAKING.

Within 180 days after issuance of the administrative law judge's report or that of the chief administrative law judge, the agency shall submit its notice of adoption, amendment, or repeal to the State Register for publication. If the agency has not submitted its notice to the State Register within 180 days, the rule is automatically withdrawn. The agency may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge. The agency shall report to the Legislative Coordinating Commission, other appropriate committees of the legislature, and the governor its failure to adopt rules and the reasons for that failure. The 180-day time limit of this section does not include:

(1) any days used for review by the chief administrative law judge or the commission if the review is required by law; or

(2) days during which the rule cannot be adopted, because of votes by legislative committees under section 14.126; ~~or.~~

~~(3) days during which the rule cannot be adopted because approval of the legislature is required under section 14.127.~~

Sec. 23. Minnesota Statutes 2016, section 14.22, subdivision 1, is amended to read:

Subdivision 1. **Contents.** (a) ~~Unless an agency proceeds directly to a public hearing on a proposed rule and gives the notice prescribed in section 14.14, subdivision 1a, the agency shall give notice of its intention to adopt a rule without public hearing. The agency shall give the notice required by this section, unless the agency gives notice of a hearing under section 14.14 or a notice under section 14.389, subdivision 2. The agency shall give notice must be given of its intention to adopt a rule by publication in the State Register and by United States mail or electronic mail to persons who have registered their names with the agency under section 14.14, subdivision 1a 14.105. The mailed notice must include either a copy of the proposed rule or an easily readable and understandable description of its nature and effect and an announcement that a free copy of the proposed rule is available on request from the agency. In addition, each agency shall make reasonable efforts to notify persons or classes of persons who may be significantly affected by the rule by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication. The notice in the State Register must include the proposed rule or the amended rule in the form required by the revisor under section 14.07; an easily readable and understandable summary of the overall nature and effect of the proposed rule; a citation to the most specific statutory authority for the proposed rule; a statement that a free copy of the statement of need and reasonableness may be requested from the agency; a statement that persons may register with the agency for the purpose of receiving to receive notice of rule proceedings and notice that a rule has been submitted to the chief administrative law judge; and other information required by law or rule. When an entire rule is proposed to be repealed, the notice need only state that fact, along with an easily readable and understandable summary of the overall nature of the rules rule proposed for repeal, and a citation to the rule to be repealed. The notice must include a statement advising the public:~~

(1) that the public has at least 30 days in which to submit comment in support of or in opposition to the proposed rule and that comment is encouraged;

(2) that each comment should identify the ~~portion~~ part and subpart, if any, of the proposed rule addressed, the reason for the comment, and any change proposed;

(3) that the requester is encouraged to propose any change desired;

~~(3) (4) that if 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held and the agency will use the process under section 14.14;~~

~~(4)~~ (5) of the manner in which persons must request a public hearing on the proposed rule, including the requirements contained in section 14.25 relating to a written request for a public hearing; and

~~(5) of the requirements contained in section 14.25 relating to a written request for a public hearing, and that the requester is encouraged to propose any change desired;~~

(6) that the agency may modify the proposed rule ~~may be modified~~ if the modifications are supported by the data and views submitted; ~~and~~.

~~(7) that if a hearing is not required, notice of the date of submission of the proposed rule to the chief administrative law judge for review will be mailed to any person requesting to receive the notice.~~

In connection with the statements required in clauses (1) and ~~(3)~~ (4), the notice must also include the date on which the ~~30-day~~ comment period ends. The mailed notice of intent to adopt a rule must be the same as the notice published in the State Register, except that the mailed notice may omit the text of the proposed rule if it includes an announcement of where a copy of the proposed rule may be obtained.

(b) The chief administrative law judge may authorize an agency to omit from the notice of intent to adopt the text of any proposed rule, the publication of which would be unduly cumbersome, expensive, or otherwise inexpedient if:

(1) knowledge of the rule is likely to be important to only a small class of persons;

(2) the notice of intent to adopt states that a free copy of the entire rule is available upon request to the agency; and

(3) the notice of intent to adopt states in detail the specific subject matter of the omitted rule, cites the statutory authority for the proposed rule, and details the proposed rule's purpose and motivation.

Sec. 24. Minnesota Statutes 2016, section 14.23, is amended to read:

14.23 STATEMENT OF NEED AND REASONABLENESS.

By the date of the section 14.22 notice, the agency shall prepare a statement of need and reasonableness, which must be available to the public. The statement of need and reasonableness must include the analysis information required in section 14.131. ~~The statement must also describe the agency's efforts to provide additional notification under section 14.22 to persons or classes of persons who may be affected by the proposed rules or must explain why these efforts were not made. For at least 30 days following the notice, the agency shall afford the public an opportunity to request a public hearing and to submit data and views on the proposed rule in writing.~~

The agency shall send a copy of the statement of need and reasonableness to the Legislative Reference Library no later than when the notice of intent to adopt is ~~mailed~~ sent.

Sec. 25. Minnesota Statutes 2016, section 14.25, subdivision 1, is amended to read:

Subdivision 1. **Requests for hearing.** If, during the ~~30-day~~ period allowed for comment under section 14.22, 25 or more persons submit to the agency a written request for a public hearing of the proposed rule, the agency shall proceed under the provisions of sections 14.14 to 14.20. The written request must include:

(1) the name and address of the person requesting the public hearing; ~~and~~

(2) ~~the portion or portions part or subpart, if any, of the rule to which the person objects or a statement that the person opposes the entire rule. If not previously published under section 14.22, subdivision 2, a notice of the public hearing must be published in the State Register and mailed to those persons who submitted a written request for the public hearing. Unless the agency has modified the proposed rule, the notice need not include the text of the proposed rule but only a citation to the State Register pages where the text appears; and~~

(3) the reasons for the objection to each portion of the rule identified.

A written request for a public hearing that does not comply with the requirements of this section is invalid and may not be counted by the agency for purposes of determining whether a public hearing must be held. A written request for a public hearing is not invalid due to failure of the request to correctly identify the portion of the rule to which the person objects if the agency reasonably can determine which portion of the rule is the basis for the objection.

Sec. 26. Minnesota Statutes 2016, section 14.26, is amended to read:

14.26 ADOPTION OF PROPOSED RULE; SUBMISSION TO ADMINISTRATIVE LAW JUDGE.

Subdivision 1. **Submission.** If no hearing is required, the agency shall submit to an administrative law judge assigned by the chief administrative law judge the proposed rule and notice as published, the rule as adopted, any written comments received by the agency, and a statement of need and reasonableness for the rule. The agency shall give notice to all persons who requested to be informed that these materials have been submitted to the administrative law judge. This notice must be given on the same day that the record is submitted. If the proposed rule has been modified, the notice must state that fact, and must also state that a free copy of the proposed rule, as modified, is available upon request from the agency. The rule and these materials must be submitted to the administrative law judge within 180 days of the day that the comment period for the rule is over or the rule is automatically withdrawn. The agency may not adopt the withdrawn rules without again following the procedures of sections 14.05 to 14.28, with the exception of section 14.101, if the noncompliance is approved by the chief administrative law judge. The agency shall report its failure to adopt the rules and the reasons for that failure to the Legislative Coordinating Commission, other appropriate legislative committees, and the governor.

~~Subd. 2. **Resubmission.** Even if the 180-day period expires while the administrative law judge reviews the rule, if the administrative law judge rejects the rule, the agency may resubmit it after taking corrective action. The resubmission must occur within 30 days of when the agency receives written notice of the disapproval. If the rule is again disapproved, the rule is withdrawn. An agency may resubmit at any time before the expiration of the 180-day period. If the agency withholds some of the proposed rule, it may not adopt the withheld portion without again following the procedures of sections 14.14 to 14.28.~~

Subd. 3. **Review.** ~~(a)~~ Within 14 days of receiving a submission under subdivision 1, the administrative law judge shall approve or disapprove the rule as to its legality and its form to the extent that the form relates to legality, including the issues of whether the rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed, whether the agency has the authority to adopt the rule, and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. ~~If the rule is approved, the administrative law judge shall promptly file four paper copies or an electronic copy of the adopted rule in the Office of the Secretary of State. The secretary of state shall forward one copy of each rule to the revisor of statutes, to the agency, and to the governor.~~ If the rule is disapproved, the administrative law judge shall state in writing the reasons for the disapproval and make recommendations to overcome the defects.

Subd. 3b. **Harmless error.** The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or rule if the administrative law judge finds:

(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or

(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Subd. 3c. **Correction of defects.** ~~(b)~~ (a) The written disapproval must be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves of the findings of the administrative law judge, the chief administrative law judge shall send the statement of the reasons for disapproval of the rule to the agency, the Legislative Coordinating Commission, the house of representatives and senate policy committees with primary jurisdiction over state governmental operations, and the revisor of statutes and advise the agency and the revisor of statutes of actions that will correct the defects. The rule may not be filed in the Office of the Secretary of State, nor be published, until the chief administrative law judge determines that the defects have been corrected or, if applicable, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

(b) The agency may resubmit the disapproved rule under paragraph (a) to the chief administrative law judge after correcting the defects. If the 180-day period expires while the chief administrative law judge is reviewing the rule, the agency may resubmit the rule within 30 days of the date the agency received written notice of disapproval. In all other cases, the agency may resubmit the rule at any time before the expiration of the 180-day period in subdivision 1. If the resubmitted rule is disapproved by the chief administrative law judge, the rule is withdrawn. If the agency does not resubmit a portion of the rule, it may not adopt that portion of the rule without again following the procedures of sections 14.14 to 14.28.

Subd. 3d. **Need or reasonableness not established.** (e) If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the Legislative Coordinating Commission and to the house of representatives and senate policy committees with primary jurisdiction over

state governmental operations for advice and comment. The agency may not adopt the rule until it has received and considered the advice of the commission and committees. However, the agency need not wait for advice for more than 60 days after the commission and committees have received the agency's submission.

~~(d) The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or rule if the administrative law judge finds:~~

~~(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or~~

~~(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.~~

~~Subd. 3a. **Filing.** If the rule is approved, the administrative law judge shall promptly file four paper copies or an electronic copy of the adopted rule in the Office of the Secretary of State. The secretary of state shall forward one copy of each rule to the revisor of statutes, to the agency, and to the governor.~~

~~Subd. 4. **Costs.** The Office of Administrative Hearings shall assess an agency for the actual cost of processing rules under this section. Each agency shall include in its budget money to pay the assessment. Receipts from the assessment must be deposited in the administrative hearings account created in section 14.54.~~

Subd. 5. **Filing.** If the rule is approved, the chief administrative law judge shall promptly file four paper copies or an electronic copy of it in the Office of the Secretary of State. The secretary of state shall forward one copy of the rule to the revisor of statutes, one copy to the agency, and one copy to the governor.

Subd. 6. **Costs.** The Office of Administrative Hearings shall assess an agency for the actual cost of processing rules under this section. Each agency shall include in its budget money to pay the assessment. Receipts from the assessment must be deposited in the administrative hearings account created in section 14.54.

Sec. 27. Minnesota Statutes 2016, section 14.27, is amended to read:

14.27 PUBLICATION OF ADOPTED RULE; EFFECTIVE DATE.

(a) Except as provided in paragraph (b), the rule is effective ~~upon~~ after publication of the notice of adoption in the State Register in the same manner as provided for adopted rules in section 14.18.

(b) A rule is effective after publication of the notice of adoption in the State Register and after approval by law in the same manner as provided for adopted rules in section 14.18, if any of the following applies:

(1) the rule is enacted without a specific authorization of rulemaking to enact rules to implement a specific statute section;

(2) a sanction or penalty can be imposed for failure to comply with the rule; or

(3) the regulating agency has the authority to adjudicate a dispute with a regulated entity about enforcement of or violation of the rule.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to rules for which a notice of adoption is published on or after that date.

Sec. 28. Minnesota Statutes 2016, section 14.365, is amended to read:

14.365 OFFICIAL RULEMAKING RECORD.

The agency shall maintain the official rulemaking record for every rule adopted under sections 14.05 to ~~14.389~~ 14.3895. The record must be available for public inspection. The record required by this section constitutes the official and exclusive agency rulemaking record with respect to agency action on or judicial review of the rule. The record must contain:

(1) copies of all publications in the State Register pertaining to the rule;

(2) all written petitions, and all requests, submissions, or comments received by the agency or the administrative law judge after publication of the notice of intent to adopt or the notice of hearing in the State Register pertaining to the rule;

(3) the statement of need and reasonableness for the rule;

(4) any report prepared by the peer review panel pursuant to section 14.129;

~~(4)~~ (5) the official transcript of the hearing if one was held, or the tape recording of the hearing if a transcript was not prepared;

~~(5)~~ (6) the report of the administrative law judge, if any;

~~(6)~~ (7) the rule in the form last submitted to the administrative law judge under sections 14.14 to 14.20 or first submitted to the administrative law judge under sections 14.22 to 14.28;

~~(7)~~ (8) the administrative law judge's written statement of required modifications and of approval or disapproval by the chief administrative law judge, if any;

~~(8)~~ (9) any documents required by applicable rules of the Office of Administrative Hearings;

~~(9)~~ (10) the agency's order adopting the rule;

~~(10)~~ (11) the revisor's certificate approving the form of the rule; and

~~(11)~~ (12) a copy of the adopted rule as filed with the secretary of state.

Sec. 29. Minnesota Statutes 2016, section 14.381, subdivision 3, is amended to read:

Subd. 3. **Costs.** The agency is liable for all Office of Administrative Hearings costs associated with review of the petition. If the administrative law judge rules in favor of the agency, the agency may recover all or a portion of the costs from the petitioner unless the petitioner is entitled to proceed

in forma pauperis under section 563.01 or the administrative law judge determines that the petition was brought in good faith and that an assessment of the costs would constitute an undue hardship for the petitioner. ~~If an agency has reason to believe it will prevail in the consideration of a petition, and that an effort to recover costs from the petitioner will be unsuccessful, it may request the chief administrative law judge to require the petitioner to provide bond or a deposit to the agency in an amount the chief administrative law judge estimates will be the cost to the Office of Administrative Hearings to review the petition.~~

Sec. 30. Minnesota Statutes 2016, section 14.388, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** If an agency for good cause finds that the rulemaking provisions of this chapter are unnecessary, impracticable, or contrary to the public interest when adopting, amending, or repealing a rule to:

- (1) address a serious and immediate threat to the public health, safety, or welfare;
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with sections 14.14 to 14.28;
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required; or
- (4) make changes that do not alter the sense, meaning, or effect of a rule,

the agency may adopt, amend, or repeal the rule after satisfying the requirements of subdivision 2 and section 14.386, paragraph (a), clauses (1) to (4). The agency shall incorporate its findings and a brief statement of its supporting reasons in its order adopting, amending, or repealing the rule.

After considering the agency's statement and any comments received, the Office of Administrative Hearings shall determine whether the agency has provided adequate justification for its use of this section.

Rules adopted, amended, or repealed under ~~clauses clause~~ clause (1) and (2) are effective for a period of two years from the date of publication of the rule in the State Register.

Rules adopted, amended, or repealed under clause (2), (3), or (4) are effective upon publication in the State Register.

Sec. 31. Minnesota Statutes 2016, section 14.388, subdivision 2, is amended to read:

Subd. 2. **Notice.** An agency proposing to adopt, amend, or repeal a rule under this section must give notice to the chairs and ranking minority members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rules and to the Legislative Coordinating Commission, must give electronic notice of its intent in accordance with section 16E.07, subdivision 3, and must give notice by United States mail or electronic mail to persons who have registered their names with the agency under section 14.14, subdivision 1a. The notice must be given no later than the date the agency submits the proposed rule to the Office of Administrative Hearings for review of its legality and must include:

- (1) the proposed rule, amendment, or repeal;

(2) an explanation of why the rule meets the requirements of the good cause exemption under subdivision 1; and

(3) a statement that interested parties have five business days after the date of the notice to submit comments to the Office of Administrative Hearings.

Sec. 32. Minnesota Statutes 2016, section 14.389, subdivision 3, is amended to read:

Subd. 3. **Adoption.** (a) The agency may modify a proposed rule if the modifications do not result in a substantially different rule, as defined in section 14.05, subdivision 2, paragraphs (b) and (c). If the final rule is identical to the rule originally published in the State Register, the agency must publish a notice of adoption in the State Register. If the final rule is different from the rule originally published in the State Register, the agency must publish a copy of the changes in the State Register. The agency must also file a copy of the rule with the governor. ~~The rule is effective upon publication in the State Register.~~

(b) Except as provided in paragraph (c), the rule is effective upon publication in the State Register.

(c) The rule is effective upon publication of the notice of adoption if it has been approved by a law enacted after publication of the notice of adoption, if any of the following applies:

(1) the rule is enacted without a specific authorization of rulemaking to enact rules to implement a specific statute section;

(2) a sanction or penalty can be imposed for failure to comply with the rule; or

(3) the regulating agency has the authority to adjudicate a dispute with a regulated entity about enforcement of or violation of the rule.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to rules for which a notice of adoption is published on or after that date.

Sec. 33. Minnesota Statutes 2016, section 14.44, is amended to read:

14.44 DETERMINATION OF VALIDITY OF RULE.

(a) The validity of any rule, or the validity of any agency policy, guideline, bulletin, criterion, manual standard, or similar pronouncement that the petitioner believes is a rule as defined in section 14.02, subdivision 4, may be determined upon the petition for a declaratory judgment thereon, addressed to the Court of Appeals, when it appears that the rule or pronouncement, or its threatened application, interferes with or impairs, or threatens to interfere with or impair the legal rights or privileges of the petitioner. The agency shall be made a party to the proceeding. The declaratory judgment may be rendered whether or not the petitioner has first requested the agency to pass upon the validity of the rule in question, whether or not the petitioner has petitioned the Office of Administrative Hearings under section 14.381, and whether or not the agency has commenced an action against the petitioner to enforce the rule.

(b) If the subject of the petition is an agency policy, guideline, bulletin, criterion, manual standard, or similar pronouncement, the agency must cease enforcement of the pronouncement upon filing

of the petition until the Court of Appeals rules on the matter. The agency is liable for all costs associated with review of the petition. If the Court of Appeals rules in favor of the agency, the agency may recover all or a portion of the cost from the petitioner unless the petitioner is entitled to proceed in a forma pauperis under section 563.01, or the court determines that the petition was brought in good faith or the assessment of the costs would constitute an undue hardship for the petitioner.

Sec. 34. Minnesota Statutes 2016, section 14.45, is amended to read:

14.45 RULE DECLARED INVALID.

In proceedings under section 14.44, the court shall declare the rule or agency policy, guideline, bulletin, criterion, manual standard, or similar pronouncement invalid if it finds that it violates constitutional provisions or exceeds the statutory authority of the agency or if the rule was adopted or the policy, guideline, bulletin, criterion, manual standard, or similar pronouncement was improperly implemented without compliance with statutory rulemaking procedures. Any party to proceedings under section 14.44, including the agency, may appeal an adverse decision of the Court of Appeals to the Supreme Court as in other civil cases.

Sec. 35. Minnesota Statutes 2016, section 14.51, is amended to read:

14.51 PROCEDURAL RULES.

The chief administrative law judge shall adopt rules to govern: (1) the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings, contested case hearings, and workers' compensation hearings, and to govern the conduct of voluntary mediation sessions for rulemaking and contested cases other than those within the jurisdiction of the Bureau of Mediation Services; and (2) the review of rules adopted without a public hearing. The chief administrative law judge may adopt rules to govern the procedural conduct of other hearings conducted by the Office of Administrative Hearings. The procedural rules shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules shall include in addition to normal procedural matters provisions relating to the procedure to be followed when the proposed final rule of an agency is substantially different, as determined under section 14.05, subdivision 2, from that which was proposed. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief administrative law judge on the issue of whether the proposed final rule of the agency is substantially different than that which was proposed or failure of the agency to meet the requirements of chapter 14. The rules must also provide: (1) an expedited procedure, consistent with section 14.001, clauses (1) to (5), for the adoption of substantially different rules by agencies; and (2) a procedure to allow an agency to receive prior binding approval of its plan regarding the additional notice contemplated under sections 14.101, 14.131, 14.14, 14.22, ~~and~~ 14.23, and 14.389. Upon the chief administrative law judge's own initiative or upon written request of an interested party, the chief administrative law judge may issue a subpoena for the attendance of a witness or the production of books, papers, records or other documents as are material to any matter being heard by the Office of Administrative Hearings. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 36. Minnesota Statutes 2016, section 14.57, is amended to read:

14.57 INITIATION; DECISION; AGREEMENT TO ARBITRATE.

(a) An agency shall initiate a contested case proceeding when one is required by law. ~~Unless otherwise provided by law, An agency shall decide~~ submit a contested case ~~only to the Office of Administrative Hearings for disposition~~ in accordance with the contested case procedures of the Administrative Procedure Act. Upon initiation of a contested case proceeding, ~~an agency may, by order, provide that~~ the report or order of the administrative law judge constitutes the final decision in the case.

(b) As an alternative to initiating or continuing with a contested case proceeding, the parties, subsequent to agency approval, may enter into a written agreement to submit the issues raised to arbitration by an administrative law judge according to sections 572B.01 to 572B.31.

EFFECTIVE DATE. This section is effective August 1, 2017, and applies to contested cases initiated on or after that date.

Sec. 37. [14.605] AFFIRMATIVE DEFENSE.

In a contested case or any other action to enforce a rule or to sanction or penalize a person for violation of a rule, a person shall have an affirmative defense if the person shows by a preponderance of the evidence that the cost for the person to comply with the rule exceeds \$50,000.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to rules for which a notice of adoption is published on or after that date.

Sec. 38. MINNESOTA ADMINISTRATIVE RULES STATUS SYSTEM (MARSS) WORKING GROUP.

Subdivision 1. Creation. The MARSS working group consists of the following nine members:

- (1) the chief judge of the Office of Administrative Hearings, or a designee;
- (2) the secretary of state, or a designee;
- (3) a representative from the Interagency Rules Committee (IRC) appointed by the committee;
- (4) a representative from each of the following agencies with rulemaking experience appointed by the appropriate commissioner:
 - (i) the Department of Health;
 - (ii) the Minnesota Pollution Control Agency;
 - (iii) the Department of Transportation; and
 - (iv) the Department of Labor and Industry;
- (5) as designated by the IRC, a representative from a health-related board; and
- (6) as designated by the IRC, a representative from a non-health-related board.

Subd. 2. **MARSS description.** The Minnesota Administrative Rules Status System (MARSS) is a concept for a new software application. The application would be built and maintained by the Revisor's Office. Executive branch agencies and others would upload official rulemaking record documents to the system. The goal is to improve public access, security, preservation, and transparency of state agencies' official rulemaking records through the creation of a single online records system. The system would serve as a single Internet location for the public to track rulemaking progress and access the official rulemaking record. Agencies would fulfill their requirement to maintain and preserve the official rulemaking record by submitting required documents to the revisor for inclusion in the online records system.

Subd. 3. **Duties.** The working group must report by February 1, 2018, to the chairs and ranking minority members of the committees in the house of representatives and senate with jurisdiction over policy and finance for the legislature. The report must identify the functional and nonfunctional requirements of the MARSS system. The working group must define a funding mechanism to share the cost to build and maintain the MARSS system among state agencies and departments.

Subd. 4. **Administration provisions.** (a) The revisor of statutes or the revisor's designee must convene the initial meeting of the working group by August 1, 2017. Upon request of the working group, the revisor must provide meeting space and administrative services for the group.

(b) The working group must elect a chair from among its members at the first meeting.

(c) Members serve without compensation and without reimbursement for expenses.

(d) The working group expires on February 1, 2018, or upon submission of documents fulfilling its duties, whichever is earlier.

Subd. 5. **Deadline for appointments and designations.** The appointments and designations authorized by this section must be completed by July 1, 2017.

Sec. 39. **REVISOR'S INSTRUCTION.**

By January 15, 2018, the revisor of statutes shall present a bill to the legislature to make the conforming statutory changes to incorporate changes in this article to the contested case procedures under Minnesota Statutes, section 14.57.

Sec. 40. **REPEALER.**

Minnesota Statutes 2016, section 14.05, subdivision 5, is repealed.

Sec. 41. **EFFECTIVE DATE; APPLICATION.**

Except where otherwise provided, this article is effective August 1, 2017, and applies to rules for which a notice of hearing under Minnesota Statutes, section 14.14; a notice of intent to adopt under Minnesota Statutes, section 14.22; or a dual notice under Minnesota Statutes, section 14.225, is published in the State Register on or after that date.

ARTICLE 5**MILITARY AFFAIRS AND VETERANS AFFAIRS**

Section 1. Minnesota Statutes 2016, section 190.19, subdivision 2, is amended to read:

Subd. 2. **Uses.** (a) Money appropriated from the Minnesota "Support Our Troops" account to the Department of Military Affairs may be used for:

(1) grants directly to eligible individuals;

(2) grants to one or more eligible foundations for the purpose of making grants to eligible individuals, as provided in this section;

(3) veterans' services; or

(4) grants to family readiness groups chartered by the adjutant general.

(b) As used in paragraph (a), the term "eligible individual" includes any person who is:

(1) a member in good standing of the Minnesota National Guard or a reserve unit based in Minnesota ~~who has been called to active service as defined in section 190.05, subdivision 5;~~

(2) a Minnesota resident who is a member of a military reserve unit not based in Minnesota, if the member is called to active service as defined in section 190.05, subdivision 5;

(3) any other Minnesota resident performing active service for any branch of the military of the United States;

(4) a person who honorably served in one of the capacities listed in clause (1), (2), or (3) who has current financial needs ~~directly related to that service;~~ and

(5) a member of the immediate family of an individual identified in clause (1), (2), (3), or (4). For purposes of this clause, "immediate family" means the individual's spouse and minor children and, if they are dependents of the member of the military, the member's parents, grandparents, siblings, stepchildren, and adult children.

(c) As used in paragraph (a), the term "eligible foundation" includes any organization that:

(1) is a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code;

(2) has articles of incorporation under chapter 317A specifying the purpose of the organization as including the provision of financial assistance to members of the Minnesota National Guard and other United States armed forces reserves and their families and survivors; and

(3) agrees in writing to distribute any grant money received from the adjutant general under this section to eligible individuals as defined in this section and in accordance with any written policies and rules the adjutant general may impose as conditions of the grant to the foundation.

(d) The maximum grant awarded to an eligible individual under paragraph (a) in a calendar year with funds from the Minnesota "Support Our Troops" account, either through an eligible institution or directly from the adjutant general, may not exceed ~~\$2,000~~ \$4,000.

Sec. 2. Minnesota Statutes 2016, section 190.19, subdivision 2a, is amended to read:

Subd. 2a. **Uses; veterans.** (a) Money appropriated to the Department of Veterans Affairs from the Minnesota "Support Our Troops" account may be used for:

- (1) grants to veterans service organizations;
- (2) outreach to underserved veterans;
- (3) providing services and programs for veterans and their families;
- (4) transfers to the vehicle services account for Gold Star license plates under section 168.1253;
- (5) grants of up to \$100,000 to any organization approved by the commissioner of veterans affairs for the purpose of supporting and improving the lives of veterans and their families; ~~and~~
- (6) grants to an eligible foundation; and
- (7) the agency's uncompensated burial costs for eligible dependents to whom the commissioner grants a no-fee or reduced-fee burial in the state's veteran cemeteries pursuant to section 197.236, subdivision 9, paragraph (b).

(b) For purposes of this subdivision, "eligible foundation" includes any organization that:

- (1) is a tax-exempt organization under section 501(c) of the Internal Revenue Code; and
- (2) is a nonprofit corporation under chapter 317A and the organization's articles of incorporation specify that a purpose of the organization includes: (i) providing assistance to veterans and their families; or (ii) enhancing the lives of veterans and their families.

Sec. 3. Minnesota Statutes 2016, section 196.05, subdivision 1, is amended to read:

Subdivision 1. **General duties.** The commissioner shall:

- (1) act as the agent of a resident of the state having a claim against the United States for benefits arising out of or by reason of service in the armed forces and prosecute the claim without charge;
- (2) act as custodian of veterans' bonus records;
- (3) administer the laws relating to the providing of bronze flag holders at veterans' graves for memorial purposes;
- (4) administer the laws relating to recreational or rest camps for veterans so far as applicable to state agencies;

(5) administer the state soldiers' assistance fund and veterans' relief fund and other funds appropriated for the payment of bonuses or other benefits to veterans or for the rehabilitation of veterans;

(6) cooperate with national, state, county, municipal, and private social agencies in securing to veterans and their dependents the benefits provided by national, state, and county laws, municipal ordinances, or public and private social agencies;

(7) provide necessary assistance where other adequate aid is not available to the dependent family of a veteran while the veteran is hospitalized and after the veteran is released for as long a period as is necessary as determined by the commissioner;

(8) cooperate with United States governmental agencies providing compensation, pensions, insurance, or other benefits provided by federal law, by supplementing the benefits prescribed therein, when conditions in an individual case make it necessary;

(9) assist dependent family members of military personnel who are called from reserve status to extended federal active duty during a time of war or national emergency through the state soldiers' assistance fund provided by section 197.03;

(10) exercise other powers as may be authorized and necessary to carry out the provisions of this chapter and chapter 197, consistent with that chapter; ~~and~~

(11) provide information, referral, and counseling services to those veterans who may have suffered adverse health conditions as a result of possible exposure to chemical agents; and

(12) in coordination with the Minnesota Association of County Veterans Service Officers, develop a written disclosure statement for use by private providers of veterans benefits services as required under section 197.6091. At a minimum, the written disclosure statement shall include a signature line, contact information for the department, and a statement that veterans benefits services are offered at no cost by federally chartered veterans service organizations and by county veterans service officers.

Sec. 4. Minnesota Statutes 2016, section 197.236, subdivision 9, is amended to read:

Subd. 9. **Burial fees.** (a) The commissioner of veterans affairs shall establish a fee schedule, which may be adjusted from time to time, for the interment of eligible spouses and dependent children. The fees shall cover as nearly as practicable the actual costs of interment, excluding the value of the plot.

(b) Upon application, the commissioner may waive or reduce the burial fee in the case of for an indigent eligible person. The commissioner shall develop a policy, eligibility standards, and application form for requests to waive or reduce the burial fee to indigent eligible applicants.

(c) No plot or interment fees may be charged for the burial of service members who die on active duty or eligible veterans, as defined in United States Code, title 38, section 101, paragraph (2).

Sec. 5. [197.6091] VETERANS BENEFITS SERVICES; DISCLOSURE REQUIREMENTS.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b)(1) "Advertising" or "advertisement" means any of the following:

(i) any written or printed communication made for the purpose of soliciting business for veterans benefits appeal services, including but not limited to a brochure, letter, pamphlet, newspaper, telephone listing, periodical, or other writing;

(ii) any directory listing caused or permitted by a person and made available by that person indicating that veterans benefits appeal services are being offered; or

(iii) any radio, television, computer network, or similar airwave or electronic transmission that solicits business for or promotes a person offering veterans benefits appeal services.

(2) "Advertising" or "advertisement" does not include any of the following:

(i) any printing or writing used on buildings, uniforms, or badges, where the purpose of the writing is for identification; or

(ii) any printing or writing in a memorandum or other communication used in the ordinary course of business where the sole purpose of the writing is other than soliciting business for veterans benefits appeal services.

(c) "Veterans benefits appeal services" means services that a veteran might reasonably require in order to appeal a denial of federal or state veterans benefits, including but not limited to denials of disability, limited income, home loan, insurance, education and training, burial and memorial, and dependent and survivor benefits.

(d) "Veterans benefits services" means services that a veteran or a family member of a veteran might reasonably use in order to obtain federal, state, or county veterans benefits.

(e) "Written disclosure statement" means the written disclosure statement developed by the commissioner of veterans affairs pursuant to section 196.05, subdivision 1.

Subd. 2. **Advertising disclosure requirements.** A person advertising veterans benefits appeal services must conspicuously disclose in the advertisement, in similar type size or voice-over, that veterans benefits appeal services are also offered at no cost by county veterans service officers under sections 197.603 and 197.604.

Subd. 3. **Veterans benefits services disclosure requirements.** A person who provides veterans benefits services in exchange for compensation shall provide a written disclosure statement to each client or prospective client. Before a person enters into an agreement to provide veterans benefits services or accepts money or any other thing of value for the provision of veterans benefits services, the person must obtain the signature of the client on a written disclosure statement containing an attestation by the client that the client has read and understands the written disclosure statement.

Subd. 4. **Violations; penalties.** A person who fails to comply with this section is subject to a civil penalty not to exceed \$1,000 for each violation. Civil penalties shall be assessed by the district court in an action initiated by the attorney general. For the purposes of computing the amount of

each civil penalty, each day of a continuing violation constitutes a separate violation. Additionally, the attorney general may accept a civil penalty as determined by the attorney general in settlement of an investigation of a violation of this section regardless of whether an action has been filed under this section. Any civil penalty recovered shall be deposited in the Support Our Troops account established under section 190.19.

Subd. 5. **Nonapplicability.** This section does not apply to the owner or personnel of any medium in which an advertisement appears or through which an advertisement is disseminated.

Sec. 6. Minnesota Statutes 2016, section 197.791, subdivision 2, is amended to read:

Subd. 2. **Program established.** The Minnesota GI Bill program is established to provide postsecondary educational assistance, apprenticeship and on-the-job training benefits, and other professional and educational benefits to eligible Minnesota veterans and to the children and spouses of deceased and severely disabled Minnesota veterans.

The commissioner, in cooperation with eligible postsecondary educational institutions, shall administer the program for the purpose of providing postsecondary educational assistance to eligible persons in accordance with this section. Each public postsecondary educational institution in the state must participate in the program and each private postsecondary educational institution in the state is encouraged to participate in the program. Any participating private institution may suspend or terminate its participation in the program at the end of any semester or other academic term.

Sec. 7. Minnesota Statutes 2016, section 197.791, subdivision 3, is amended to read:

Subd. 3. **Duties; responsibilities.** (a) The commissioner shall establish policies and procedures including, but not limited to, procedures for student application record keeping, information sharing, payment of educational assistance benefits under subdivision 5, payment of apprenticeship or on-the-job training benefits under subdivision 5a, payment of other educational or professional benefits under subdivision 5, and other procedures the commissioner considers appropriate and necessary for effective and efficient administration of the program established in this section.

(b) The commissioner may delegate part or all of the administrative procedures for the program to responsible representatives of participating eligible institutions. The commissioner may execute an interagency agreement with the Minnesota Office of Higher Education for services the commissioner determines necessary to administer the program.

Sec. 8. Minnesota Statutes 2016, section 197.791, subdivision 4, is amended to read:

Subd. 4. **Eligibility.** (a) A person is eligible for educational assistance under ~~this section~~ subdivisions 5 and 5a if:

(1) the person is:

(i) a veteran who is serving or has served honorably in any branch or unit of the United States armed forces at any time;

(ii) a nonveteran who has served honorably for a total of five years or more cumulatively as a member of the Minnesota National Guard or any other active or reserve component of the United States armed forces, and any part of that service occurred on or after September 11, 2001;

(iii) the surviving spouse or child of a person who has served in the military and who has died as a direct result of that military service, only if the surviving spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35, as amended; or

(iv) the spouse or child of a person who has served in the military at any time and who has a total and permanent service-connected disability as rated by the United States Veterans Administration, only if the spouse or child is eligible to receive federal education benefits under United States Code, title 38, chapter 33, as amended, or United States Code, title 38, chapter 35, as amended; and

(2) the person receiving the educational assistance is a Minnesota resident, as defined in section 136A.101, subdivision 8; and

(3) the person receiving the educational assistance:

(i) is an undergraduate or graduate student at an eligible institution;

(ii) is maintaining satisfactory academic progress as defined by the institution for students participating in federal Title IV programs;

(iii) is enrolled in an education program leading to a certificate, diploma, or degree at an eligible institution;

(iv) has applied for educational assistance under this section prior to the end of the academic term for which the assistance is being requested;

(v) is in compliance with child support payment requirements under section 136A.121, subdivision 2, clause (5); and

(vi) has completed the Free Application for Federal Student Aid (FAFSA).

(b) A person's eligibility terminates when the person becomes eligible for benefits under section 135A.52.

(c) To determine eligibility, the commissioner may require official documentation, including the person's federal form DD-214 or other official military discharge papers; correspondence from the United States Veterans Administration; birth certificate; marriage certificate; proof of enrollment at an eligible institution; signed affidavits; proof of residency; proof of identity; or any other official documentation the commissioner considers necessary to determine eligibility.

(d) The commissioner may deny eligibility or terminate benefits under this section to any person who has not provided sufficient documentation to determine eligibility for the program. An applicant may appeal the commissioner's eligibility determination or termination of benefits in writing to the commissioner at any time. The commissioner must rule on any application or appeal within 30 days of receipt of all documentation that the commissioner requires. The decision of the commissioner

regarding an appeal is final. However, an applicant whose appeal of an eligibility determination has been rejected by the commissioner may submit an additional appeal of that determination in writing to the commissioner at any time that the applicant is able to provide substantively significant additional information regarding the applicant's eligibility for the program. An approval of an applicant's eligibility by the commissioner following an appeal by the applicant is not retroactively effective for more than one year or the semester of the person's original application, whichever is later.

(e) Upon receiving an application with insufficient documentation to determine eligibility, the commissioner must notify the applicant within 30 days of receipt of the application that the application is being suspended pending receipt by the commissioner of sufficient documentation from the applicant to determine eligibility.

Sec. 9. Minnesota Statutes 2016, section 197.791, subdivision 5, is amended to read:

Subd. 5. **Benefit Educational assistance amount.** (a) On approval by the commissioner of eligibility for the program, the applicant shall be awarded, on a funds-available basis, the educational assistance under the program for use at any time according to program rules at any eligible institution.

(b) The amount of educational assistance in any semester or term for an eligible person must be determined by subtracting from the eligible person's cost of attendance the amount the person received or was eligible to receive in that semester or term from:

(1) the federal Pell Grant;

(2) the state grant program under section 136A.121; and

(3) any federal military or veterans educational benefits including but not limited to the Montgomery GI Bill, GI Bill Kicker, the federal tuition assistance program, vocational rehabilitation benefits, and any other federal benefits associated with the person's status as a veteran, except veterans disability payments from the United States Veterans Administration and payments made under the Veterans Retraining Assistance Program (VRAP).

(c) The amount of educational assistance for any eligible person who is a full-time student must not exceed the following:

~~(1) \$1,000 per semester or term of enrollment;~~

~~(2) (1) \$3,000 per state fiscal year; and~~

~~(3) (2) \$10,000 in a lifetime.~~

(d) A person eligible under this subdivision may use the benefit amounts for the following purposes:

(1) licensing or certification tests, the successful completion of which demonstrates an individual's possession of the knowledge or skill required to enter into, maintain, or advance in employment in a predetermined and identified vocation or profession, provided that the tests and the licensing or credentialing organizations or entities that offer the tests are approved by the commissioner;

(2) tests for admission to institutions of higher learning or graduate schools;

(3) national tests providing an opportunity for course credit at institutions of higher learning;

(4) a preparatory course for a test that is required or used for admission to an institution of higher education or a graduate program; and

(5) any fee associated with the pursuit of a professional or educational objective specified in clauses (1) to (4).

(e) If an eligible person receives benefits under subdivision 5, the eligible person's aggregate benefits under this subdivision and subdivision 5 must not exceed \$10,000 in the eligible person's lifetime.

(f) If an eligible person receives benefits under subdivision 5a, the eligible person's aggregate benefits under this subdivision and subdivision 5a must not exceed \$10,000 in the eligible person's lifetime.

For a part-time student, the amount of educational assistance must not exceed \$500 per semester or term of enrollment. For the purpose of this paragraph, a part-time undergraduate student is a student taking fewer than 12 credits or the equivalent for a semester or term of enrollment and a part-time graduate student is a student considered part time by the eligible institution the graduate student is attending. The minimum award for undergraduate and graduate students is \$50 per term.

Sec. 10. Minnesota Statutes 2016, section 197.791, subdivision 5a, is amended to read:

Subd. 5a. **Apprenticeship and on-the-job training.** (a) The commissioner, in consultation with the commissioners of employment and economic development and labor and industry, shall develop and implement an apprenticeship and on-the-job training program to administer a portion of the Minnesota GI Bill program to pay benefit amounts to eligible ~~applicants~~ persons, as provided in this subdivision.

(b) An "eligible employer" means an employer operating a qualifying apprenticeship or on-the-job training program that has been approved by the commissioner.

(c) A person is eligible for apprenticeship and on-the-job training assistance under this subdivision if the person meets the criteria established under subdivision 4, ~~paragraphs paragraph (a), clause (1), and (e) to (e).~~ The commissioner may determine eligibility as provided in subdivision 4, paragraph (c), and may deny or terminate benefits as prescribed under subdivision 4, paragraphs (d) and (e). The amount of assistance paid to or on behalf of an eligible individual under this subdivision must not exceed the following:

(1) ~~\$2,000~~ \$3,000 per fiscal year for apprenticeship expenses;

(2) ~~\$2,000~~ \$3,000 per fiscal year for on-the-job training;

(3) \$1,000 for a job placement credit payable to an eligible employer upon hiring and completion of six consecutive months' employment of a person receiving assistance under this subdivision; and

(4) \$1,000 for a job placement credit payable to an eligible employer after a person receiving assistance under this subdivision has been employed by the eligible employer for at least 12 consecutive months as a full-time employee.

No more than ~~\$3,000~~ \$5,000 in aggregate benefits under this paragraph may be paid to or on behalf of an individual in one fiscal year, and not more than ~~\$9,000~~ \$10,000 in aggregate benefits under this paragraph may be paid to or on behalf of an individual over any period of time.

(d) Assistance for apprenticeship expenses and on-the-job training is available for qualifying programs, which must, at a minimum, meet the following criteria:

- (1) the training must be with an eligible employer;
- (2) the training must be documented and reported;
- (3) the training must reasonably be expected to lead to an entry-level position; and
- (4) the position must require at least six months of training to become fully trained.

ARTICLE 6

CAMPAIGN FINANCE AND ELECTIONS

Section 1. Minnesota Statutes 2016, section 10A.01, subdivision 12, is amended to read:

Subd. 12. **Depository.** "Depository" means a bank, savings association, or credit union organized under federal or state law and transacting business within this state. The depositories of a political committee or political fund include any depository in which the committee or fund has a savings, checking, or similar account, or purchases a money market certificate or certificate of deposit.

Sec. 2. Minnesota Statutes 2016, section 10A.01, subdivision 16, is amended to read:

Subd. 16. **Election cycle.** "Election cycle" means the period from January 1 following a general election for an office to December 31 following the next general election for that office, except that "election cycle" for a special election means the period from the date the special election writ is issued to ~~60~~ 15 days after the special election is held. For a regular election, the period from January 1 of the year prior to an election year through December 31 of the election year is the "election segment" of the election cycle. Each other two-year segment of an election cycle is a "nonelection segment" of the election cycle. An election cycle that consists of two calendar years has only an election segment. The election segment of a special election cycle includes the entire special election cycle.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to any special election cycle that starts on or after that date.

Sec. 3. Minnesota Statutes 2016, section 10A.01, subdivision 26, is amended to read:

Subd. 26. **Noncampaign disbursement.** "Noncampaign disbursement" means a purchase or payment of money or anything of value made, or an advance of credit incurred, or a donation in kind received, by a principal campaign committee for any of the following purposes:

- (1) payment for accounting and legal services;
- (2) return of a contribution to the source;
- (3) repayment of a loan made to the principal campaign committee by that committee;
- ~~(4) return of a public subsidy;~~
- ~~(5)~~ (4) payment for food, beverages, and necessary utensils and supplies, entertainment, and facility rental for a fund-raising event;
- ~~(6)~~ (5) services for a constituent by a member of the legislature or a constitutional officer in the executive branch, including the costs of preparing and distributing a suggestion or idea solicitation to constituents, performed from the beginning of the term of office to adjournment sine die of the legislature in the election year for the office held, and half the cost of services for a constituent by a member of the legislature or a constitutional officer in the executive branch performed from adjournment sine die to 60 days after adjournment sine die;
- ~~(7)~~ (6) payment for food and beverages consumed by a candidate or volunteers while they are engaged in campaign activities;
- ~~(8)~~ (7) payment for food or a beverage consumed while attending a reception or meeting directly related to legislative duties;
- ~~(9)~~ (8) payment of expenses incurred by elected or appointed leaders of a legislative caucus in carrying out their leadership responsibilities;
- ~~(10)~~ (9) payment by a principal campaign committee of the candidate's expenses for serving in public office, other than for personal uses;
- ~~(11)~~ (10) costs of child care for the candidate's children when campaigning;
- ~~(12)~~ (11) fees paid to attend a campaign school;
- ~~(13)~~ (12) costs of a postelection party during the election year when a candidate's name will no longer appear on a ballot or the general election is concluded, whichever occurs first;
- ~~(14)~~ (13) interest on loans paid by a principal campaign committee on outstanding loans;
- ~~(15)~~ (14) filing fees;
- ~~(16)~~ (15) post-general election holiday or seasonal cards, thank-you notes, or advertisements in the news media mailed or published prior to the end of the election cycle;
- ~~(17)~~ (16) the cost of campaign material purchased to replace defective campaign material, if the defective material is destroyed without being used;
- ~~(18)~~ (17) contributions to a party unit;
- ~~(19)~~ (18) payments for funeral gifts or memorials;

~~(20)~~ (19) the cost of a magnet less than six inches in diameter containing legislator contact information and distributed to constituents;

~~(21)~~ (20) costs associated with a candidate attending a political party state or national convention in this state;

~~(22)~~ (21) other purchases or payments specified in board rules or advisory opinions as being for any purpose other than to influence the nomination or election of a candidate or to promote or defeat a ballot question; and

~~(23)~~ (22) costs paid to a third party for processing contributions made by a credit card, debit card, or electronic check.

The board must determine whether an activity involves a noncampaign disbursement within the meaning of this subdivision.

A noncampaign disbursement is considered to be made in the year in which the candidate made the purchase of goods or services or incurred an obligation to pay for goods or services.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to elections held on or after that date.

Sec. 4. Minnesota Statutes 2016, section 10A.02, subdivision 13, is amended to read:

Subd. 13. **Rules.** (a) Chapter 14 applies to the board. The board may adopt rules to carry out the purposes of this chapter, if, before June 1, 2017, the board has published a notice of intent to adopt a rule without public hearing under section 14.22, subdivision 1, paragraph (a); 14.389, subdivision 2; or 14.3895, subdivision 3; a dual notice under section 14.22, subdivision 2; or a notice of hearing on a proposed rule under section 14.14.

(b) After May 31, 2017, the board may only adopt rules that (1) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or (2) make changes to rules that do not alter the sense, meaning, or effect of a rule.

(c) In addition to the notice required under chapter 14, the board shall notify the chairs and ranking minority members of the committees or subcommittees in the senate and house of representatives with primary jurisdiction over elections within seven calendar days of taking the following actions:

- (1) publication of a notice of intent to adopt rules or a notice of hearing;
- (2) publication of proposed rules in the State Register;
- (3) issuance of a statement of need and reasonableness; or
- (4) adoption of final rules.

EFFECTIVE DATE. This section is effective the day following final enactment for rules for which a notice of intent to adopt a rule without public hearing under Minnesota Statutes, section 14.22, subdivision 1, paragraph (a); 14.389, subdivision 2; or 14.3895, subdivision 3; a dual notice

under Minnesota Statutes, section 14.22, subdivision 2; or a notice of hearing on a proposed rule under Minnesota Statutes, section 14.14, was published before June 1, 2017.

Sec. 5. Minnesota Statutes 2016, section 10A.025, subdivision 1a, is amended to read:

Subd. 1a. **Electronic filing.** (a) A report or statement required to be filed under this chapter may be filed electronically. The board shall adopt rules to regulate on the technical aspects of regulating electronic filing and to ensure ensuring that the electronic filing process is secure.

(b) A document filed by facsimile transmission or electronic filing system has the same force and effect as filing an original paper document.

(c) In order to provide a secure environment for the submission of electronic files, the board must require that a filer use a personal identification code when submitting an electronic file. The board may also request the filer to provide a valid e-mail address in order to receive confirmation and verification messages from the board.

(d) After an electronic file is processed by the board, the information contained in the electronic file becomes the property of the state subject to the terms of the Data Practices Act under chapter 13.

(e) In the case of a filing by facsimile transmission, the filer must retain the original of the filed document and a record of the date and time of the transmission. If an electronic filing system is used to submit an electronic file to the board, the filer must retain as documentation the database and information on which the electronic submission of data is based. The database and records are subject to audit as provided in this chapter.

(f) Within five days of a request by the board, any person filing a document by facsimile transmission or electronic filing system shall refile the document by one of the other filing methods provided in Minnesota Rules, part 4501.0500, subpart 1.

(g) Technical problems that prevent the successful submission of a facsimile transmission or electronic file do not relieve the filer of the responsibility of meeting the requirements of this chapter. An audit trail that demonstrates that the facsimile transmission or electronic file was successfully submitted in a timely fashion may be used by the board to waive late filing fees.

Sec. 6. Minnesota Statutes 2016, section 10A.04, is amended by adding a subdivision to read:

Subd. 9. **Reporting by multiple lobbyists representing the same entity.** Clauses (1) to (6) apply when a single individual, association, political subdivision, or public higher education system is represented by more than one lobbyist.

(1) The entity must appoint one designated lobbyist to report lobbyist disbursements made by the entity. The designated lobbyist must indicate that status on the periodic reports of lobbyist disbursements.

(2) A reporting lobbyist may consent to report on behalf of one or more other lobbyists for the same entity, in which case, the other lobbyists are persons whose activities the reporting lobbyist must disclose and are subject to the disclosure requirements of subdivision 3. Lobbyist disbursement

reports filed by a reporting lobbyist must include the names and registration numbers of the other lobbyists whose activities are included in the report.

(3) Lobbyists whose activities are accounted for by a reporting lobbyist are not required to file lobbyist disbursement reports.

(4) A lobbyist whose lobbying disbursements are provided to the board through a reporting lobbyist must supply all relevant information on disbursements to the reporting lobbyist no later than five days before the prescribed filing date.

(5) The reporting periods and due dates for a reporting lobbyist are those provided in subdivision 2. The late filing provisions in subdivision 5 apply to reports required by this subdivision.

(6) The reporting lobbyist must indicate the names and registration numbers of any lobbyists who did not provide their lobbying disbursements for inclusion in a report. The late filing provisions in subdivision 5 apply to lobbyists who fail to report information to the reporting lobbyist.

Sec. 7. Minnesota Statutes 2016, section 10A.071, subdivision 1, is amended to read:

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

(b) "Gift" means money, real or personal property, a service, a loan, a forbearance or forgiveness of indebtedness, or a promise of future employment, that is given and received without the giver receiving consideration of equal or greater value in return.

(c) "Official" means a public official, an employee of the legislature, or a local official of a metropolitan governmental unit.

(d) "Plaque" means a decorative item with an inscription recognizing an individual for an accomplishment.

Sec. 8. Minnesota Statutes 2016, section 10A.09, subdivision 5, is amended to read:

Subd. 5. **Form.** (a) A statement of economic interest required by this section must be on a form prescribed by the board. The individual filing must provide the following information:

(1) name, address, occupation, and principal place of business;

(2) the name of each associated business and the nature of that association;

(3) a listing of all real property within the state, excluding homestead property, in which the individual holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000;

(4) a listing of all real property within the state in which a partnership of which the individual is a member holds: (i) a fee simple interest, a mortgage, a contract for deed as buyer or seller, or an option to buy, whether direct or indirect, if the individual's share of the partnership interest is valued in excess of \$2,500; or (ii) an option to buy, if the property has a fair market value of more than \$50,000. A listing under this clause or clause (3) must indicate the street address and the municipality

or the section, township, range and approximate acreage, whichever applies, and the county in which the property is located;

(5) a listing of any investments, ownership, or interests in property connected with pari-mutuel horse racing in the United States and Canada, including a racehorse, in which the individual directly or indirectly holds a partial or full interest or an immediate family member holds a partial or full interest;

(6) a listing of the principal business or professional activity category of each business from which the individual receives more than \$50 in any month as an employee, if the individual has an ownership interest of 25 percent or more in the business; ~~and~~

(7) a listing of each principal business or professional activity category from which the individual received compensation of more than \$2,500 in the past 12 months as an independent contractor; and

(8) the full name of each security with a value of more than \$2,500 owned in part or in full by the public official at any time during the reporting period.

(b) The business or professional categories for purposes of paragraph (a), clauses (6) and (7), must be the general topic headings used by the federal Internal Revenue Service for purposes of reporting self-employment income on Schedule C. This paragraph does not require an individual to report any specific code number from that schedule. Any additional principal business or professional activity category may only be adopted if the category is enacted by law.

(c) For the purpose of an original statement of economic interest, "compensation in any month" includes only compensation received in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate.

(d) For the purpose of calculating the amount of compensation received from any single source in a single month, the amount shall include the total amount received from the source during the month, whether or not the amount covers compensation for more than one month.

Sec. 9. Minnesota Statutes 2016, section 10A.09, subdivision 6, is amended to read:

Subd. 6. **Annual statement.** (a) Each individual who is required to file a statement of economic interest must also file an annual statement by the last Monday in January of each year that the individual remains in office. The annual statement must cover the period through December 31 of the year prior to the year when the statement is due. The annual statement must include the amount of each honorarium in excess of \$50 received since the previous statement and the name and address of the source of the honorarium. The board must maintain each annual statement of economic interest submitted by an officeholder in the same file with the statement submitted as a candidate.

(b) For the purpose of annual statements of economic interest to be filed, "compensation in any month" includes compensation and honoraria received in any month between the end of the period covered in the preceding statement of economic interest and the end of the current period.

(c) An individual must file the annual statement of economic interest required by this subdivision to cover the period for which the individual served as a public official even though at the time the statement was filed, the individual is no longer holding that office as a public official.

Sec. 10. Minnesota Statutes 2016, section 10A.105, subdivision 1, is amended to read:

Subdivision 1. **Single committee.** A candidate must not accept contributions from a source, other than self, in aggregate in excess of \$750 ~~or accept a public subsidy~~ unless the candidate designates and causes to be formed a single principal campaign committee for each office sought. A candidate may not authorize, designate, or cause to be formed any other political committee bearing the candidate's name or title or otherwise operating under the direct or indirect control of the candidate. However, a candidate may be involved in the direct or indirect control of a party unit.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to elections held on or after that date.

Sec. 11. Minnesota Statutes 2016, section 10A.15, subdivision 1, is amended to read:

Subdivision 1. **Anonymous contributions.** A political committee, political fund, principal campaign committee, or party unit may not retain an anonymous contribution in excess of \$20, but must forward it to the board for deposit in the general ~~account of the state elections campaign account~~ fund.

Sec. 12. Minnesota Statutes 2016, section 10A.15, is amended by adding a subdivision to read:

Subd. 6. **Contributions from Hennepin County registered associations.** In lieu of registration with the board, an association registered with the Hennepin County filing officer under sections 383B.041 to 383B.058 that makes contributions of more than \$500 to a committee or fund in a calendar year may notify the recipient committee of its registration with Hennepin County, including its registration number, and instruct the recipient committee to include the notice when the recipient committee discloses receipt of the contribution.

Sec. 13. **[10A.155] VALUE OF CONTRIBUTIONS OF AUTOMOBILE USE.**

Automobile use provided to a committee by an individual may be valued at the lowest rate used by the state to reimburse its employees for automobile use. Alternatively, the value of the automobile may be calculated as the actual cost of fuel, maintenance, repairs, and insurance directly related to the use of the automobile. An automobile provided by an association must be valued at the fair market value for renting an equivalent automobile.

Sec. 14. Minnesota Statutes 2016, section 10A.20, subdivision 3, is amended to read:

Subd. 3. **Contents of report.** (a) The report required by this section must include each of the items listed in paragraphs (b) to ~~(h)~~ (q) that are applicable to the filer. The board shall prescribe forms based on filer type indicating which of those items must be included on the filer's report.

(b) The report must disclose the amount of liquid assets on hand at the beginning of the reporting period.

(c) The report must disclose the name, address, employer, or occupation if self-employed, and registration number if registered with the board, of each individual or association that has made one or more contributions to the reporting entity, including the purchase of tickets for a fund-raising effort, that in aggregate within the year exceed \$200 for legislative or statewide candidates or more than \$500 for ballot questions, together with the amount and date of each contribution, and the aggregate amount of contributions within the year from each source so disclosed. A donation in kind must be disclosed at its fair market value. An approved expenditure must be listed as a donation in kind. A donation in kind is considered consumed in the reporting period in which it is received. The names of contributors must be listed in alphabetical order. Contributions from the same contributor must be listed under the same name. When a contribution received from a contributor in a reporting period is added to previously reported unitemized contributions from the same contributor and the aggregate exceeds the disclosure threshold of this paragraph, the name, address, and employer, or occupation if self-employed, of the contributor must then be listed on the report.

(d) The report must disclose the sum of contributions to the reporting entity during the reporting period.

(e) The report must disclose each loan made or received by the reporting entity within the year in aggregate in excess of \$200, continuously reported until repaid or forgiven, together with the name, address, occupation, principal place of business, if any, and registration number if registered with the board of the lender and any endorser and the date and amount of the loan. If a loan made to the principal campaign committee of a candidate is forgiven or is repaid by an entity other than that principal campaign committee, it must be reported as a contribution for the year in which the loan was made.

(f) The report must disclose each receipt over \$200 during the reporting period not otherwise listed under paragraphs (c) to (e).

(g) The report must disclose the sum of all receipts of the reporting entity during the reporting period.

(h) The report must disclose the name, address, and registration number if registered with the board of each individual or association to whom aggregate expenditures, approved expenditures, independent expenditures, and ballot question expenditures have been made by or on behalf of the reporting entity within the year in excess of \$200, together with the amount, date, and purpose of each expenditure and the name and address of, and office sought by, each candidate on whose behalf the expenditure was made, identification of the ballot question that the expenditure was intended to promote or defeat and an indication of whether the expenditure was to promote or to defeat the ballot question, and in the case of independent expenditures made in opposition to a candidate, the candidate's name, address, and office sought. A reporting entity making an expenditure on behalf of more than one candidate for state or legislative office must allocate the expenditure among the candidates on a reasonable cost basis and report the allocation for each candidate.

(i) The report must disclose the sum of all expenditures made by or on behalf of the reporting entity during the reporting period.

(j) The report must disclose the amount and nature of an advance of credit incurred by the reporting entity, continuously reported until paid or forgiven. If an advance of credit incurred by

the principal campaign committee of a candidate is forgiven by the creditor or paid by an entity other than that principal campaign committee, it must be reported as a donation in kind for the year in which the advance of credit was made.

(k) The report must disclose the name, address, and registration number if registered with the board of each political committee, political fund, principal campaign committee, or party unit to which contributions have been made that aggregate in excess of \$200 within the year and the amount and date of each contribution.

(l) The report must disclose the sum of all contributions made by the reporting entity during the reporting period.

(m) The report must disclose the name, address, and registration number if registered with the board of each individual or association to whom noncampaign disbursements have been made that aggregate in excess of \$200 within the year by or on behalf of the reporting entity and the amount, date, and purpose of each noncampaign disbursement.

(n) The report must disclose the sum of all noncampaign disbursements made within the year by or on behalf of the reporting entity.

(o) The report must disclose the name and address of a nonprofit corporation that provides administrative assistance to a political committee or political fund as authorized by section 211B.15, subdivision 17, the type of administrative assistance provided, and the aggregate fair market value of each type of assistance provided to the political committee or political fund during the reporting period.

(p) Legislative, statewide, and judicial candidates, party units, and political committees and funds must itemize contributions that in aggregate within the year exceed \$200 for legislative or statewide candidates or more than \$500 for ballot questions on reports submitted to the board. The itemization must include the date on which the contribution was received, the individual or association that provided the contribution, and the address of the contributor. Additionally, the itemization for a donation in kind must provide a description of the item or service received. Contributions that are less than the itemization amount must be reported as an aggregate total.

(q) Legislative, statewide, and judicial candidates, party units, political committees and funds, and committees to promote or defeat a ballot question must itemize expenditures and noncampaign disbursements that in aggregate exceed \$200 in a calendar year on reports submitted to the board. The itemization must include the date on which the committee made or became obligated to make the expenditure or disbursement, the name and address of the vendor that provided the service or item purchased, and a description of the service or item purchased. Expenditures and noncampaign disbursements must be listed on the report alphabetically by vendor.

Sec. 15. Minnesota Statutes 2016, section 10A.20, subdivision 15, is amended to read:

Subd. 15. **Equitable relief.** A candidate whose opponent does not timely file the report due 15 days before the primary, or the report due ten days before the general election, or the notice required under section 10A.25, subdivision 10, may petition the district court for immediate equitable relief to enforce the filing requirement. A prevailing party under this subdivision may be awarded attorney fees and costs by the court.

Sec. 16. Minnesota Statutes 2016, section 10A.245, subdivision 2, is amended to read:

Subd. 2. **Termination by board.** The board may terminate the registration of a principal campaign committee, party unit, political committee, or political fund found to be inactive under this section 60 days after sending written notice of inactivity by certified mail to the affected association at the last address on record with the board for that association. Within 60 days after the board sends notice under this section, the affected association must dispose of its assets as provided in this subdivision. The assets of the principal campaign committee, party unit, or political committee must be used for the purposes authorized by this chapter or section 211B.12 or must be liquidated and deposited in the general ~~account of the state elections campaign account~~ fund. The assets of an association's political fund that were derived from the association's general treasury money revert to the association's general treasury. Assets of a political fund that resulted from contributions to the political fund must be used for the purposes authorized by this chapter or section 211B.12 or must be liquidated and deposited in the general ~~account of the state elections campaign account~~ fund.

Sec. 17. Minnesota Statutes 2016, section 10A.25, subdivision 1, is amended to read:

Subdivision 1. **Limits are voluntary.** The expenditure limits imposed by this section apply only to a candidate who has signed ~~an agreement~~ a pledge under section 10A.322 ~~to be bound by them as a condition of receiving a public subsidy for the candidate's campaign.~~

Sec. 18. Minnesota Statutes 2016, section 10A.25, subdivision 2, is amended to read:

Subd. 2. **Amounts.** (a) In a segment of an election cycle, the principal campaign committee of the candidate must not make campaign expenditures nor permit approved expenditures to be made on behalf of the candidate that result in aggregate expenditures in excess of the following:

(1) for governor and lieutenant governor, running together, \$3,651,200 in the election segment and \$1,564,800 in the nonelection segment;

(2) for attorney general, \$626,000 in the election segment and \$208,700 in the nonelection segment;

(3) for secretary of state and state auditor, separately, \$417,300 in the election segment and \$104,400 in the nonelection segment;

(4) for state senator, \$94,700 in the election segment and \$31,600 in a nonelection segment;

(5) for state representative, \$63,100 in the election segment.

(b) In addition to the amount in paragraph (a), clause (1), a candidate for endorsement for the office of lieutenant governor at the convention of a political party may make campaign expenditures and approved expenditures of five percent of that amount to seek endorsement.

(c) If a special election cycle occurs during a general election cycle, expenditures by or on behalf of a candidate in the special election do not count as expenditures by or on behalf of the candidate in the general election.

(d) The expenditure limits in this subdivision for an office are increased by ten percent for a candidate who has not previously held the same office, whose name has not previously been on the primary or general election ballot for that office, and who has not in the past ten years raised or spent more than \$750 in a run for any other office whose territory now includes a population that is more than one-third of the population in the territory of the new office. Candidates who qualify for first-time candidate status receive a ten percent increase in the campaign expenditure limit in all segments of the applicable election cycle. In the case of a legislative candidate, the office is that of a member of the house of representatives or senate without regard to any specific district.

Sec. 19. Minnesota Statutes 2016, section 10A.25, subdivision 10, is amended to read:

Subd. 10. **Effect of opponent's conduct.** (a) After the deadline for filing a ~~spending limit agreement~~ pledge under section 10A.322, a candidate who has ~~agreed~~ pledged to be bound by the expenditure limits imposed by this section ~~as a condition of receiving a public subsidy~~ for the candidate's campaign may choose to be released from the expenditure limits ~~but remain eligible to receive a public subsidy~~ if the candidate has an opponent who has not ~~agreed~~ pledged to be bound by the limits and has received contributions or made or become obligated to make expenditures during that election cycle in excess of the following limits:

(1) up to the close of the reporting period before the primary election, receipts or expenditures equal to 20 percent of the election segment expenditure limit for that office as set forth in subdivision 2; or

(2) after the close of the reporting period before the primary election, cumulative receipts or expenditures during that election cycle equal to 50 percent of the election cycle expenditure limit for that office as set forth in subdivision 2.

Before the primary election, a candidate's "opponents" are only those who will appear on the ballot of the same party in the primary election.

(b) A candidate who has not ~~agreed~~ pledged to be bound by expenditure limits, or the candidate's principal campaign committee, must file written notice with the board and provide written notice to any opponent of the candidate for the same office within 24 hours of exceeding the limits in paragraph (a). The notice must state only that the candidate or candidate's principal campaign committee has received contributions or made or become obligated to make campaign expenditures in excess of the limits in paragraph (a).

(c) Upon receipt of the notice, a candidate who had ~~agreed~~ pledged to be bound by the limits may file with the board a notice that the candidate chooses to be no longer bound by the expenditure limits. A notice of a candidate's choice not to be bound by the expenditure limits that is based on the conduct of an opponent in the state primary election may not be filed more than one day after the State Canvassing Board has declared the results of the state primary.

(d) A candidate who has ~~agreed~~ pledged to be bound by the expenditure limits imposed by this section and whose opponent in the general election has chosen, as provided in paragraph (c), not to be bound by the expenditure limits because of the conduct of an opponent in the primary election is no longer bound by the limits ~~but remains eligible to receive a public subsidy~~.

Sec. 20. Minnesota Statutes 2016, section 10A.257, subdivision 1, is amended to read:

Subdivision 1. **Unused funds.** For election cycles ending on or before December 31, 2018, after all campaign expenditures and noncampaign disbursements for an election cycle have been made, an amount up to 25 percent of the 2016 election cycle expenditure limit for the office may be carried forward. Any remaining amount up to the total amount of the 2016 public subsidy from the state elections campaign fund must be returned to the state treasury for credit to the general fund under Minnesota Statutes 2016, section 10A.324. Any remaining amount in excess of the total 2016 public subsidy must be contributed to the state elections campaign account or a political party for multicandidate expenditures as defined in section 10A.275.

EFFECTIVE DATE. This section is effective July 1, 2017, and applies to elections held on or after that date.

Sec. 21. Minnesota Statutes 2016, section 10A.27, subdivision 10, is amended to read:

Subd. 10. **Limited personal contributions.** A candidate who signs ~~an agreement~~ a pledge under section 10A.322 may not contribute to the candidate's own campaign during a segment of an election cycle more than five times the candidate's contribution limit for that segment under subdivision 1.

Sec. 22. Minnesota Statutes 2016, section 10A.27, is amended by adding a subdivision to read:

Subd. 11a. **Contributions from the sale of goods or services.** Proceeds from the sale of goods or services by a political committee must be reported as a contribution to that committee, as provided in section 10A.13. A political committee selling goods or services must disclose to each purchaser, prior to a sale, that proceeds may be used to make a contribution to an independent expenditure political committee or fund, or may be used by the committee for other political purposes as authorized by law, and must offer the purchaser an opportunity to review the committee's most recent report submitted to the board under section 10A.20. A copy of the report must be clearly posted in a conspicuous location on at least 8.5-inch by 11-inch sized paper and available for public inspection at the point of sale.

Sec. 23. Minnesota Statutes 2016, section 10A.27, is amended by adding a subdivision to read:

Subd. 16a. **Return of contributions after merger of governor and lieutenant governor funds.** Funds transferred to the joint committee for candidates for governor and lieutenant governor that result in aggregate contributions in excess of the applicable limits may be returned to the contributor within 90 days of the transfer of funds to the joint committee.

Sec. 24. Minnesota Statutes 2016, section 10A.27, is amended by adding a subdivision to read:

Subd. 16b. **Special election contribution limits.** Election segment contribution limits set forth in this section apply to a special election cycle.

Sec. 25. Minnesota Statutes 2016, section 10A.27, is amended by adding a subdivision to read:

Subd. 16c. **Contribution limits apply independently.** Contribution limits apply independently for election segments, nonelection segments, and special election cycles.

Sec. 26. Minnesota Statutes 2016, section 10A.28, subdivision 3, is amended to read:

Subd. 3. **Conciliation agreement.** If the board finds that there is reason to believe that ~~excess expenditures have been made or~~ excess contributions have been accepted contrary to subdivision 1 or 2, the board must make every effort for a period of at least 14 days after its finding to correct the matter by informal methods of conference and conciliation and to enter a conciliation agreement with the person involved. A conciliation agreement under this subdivision is a matter of public record. Unless violated, a conciliation agreement is a bar to any civil proceeding under subdivision 4.

Sec. 27. Minnesota Statutes 2016, section 10A.31, is amended by adding a subdivision to read:

Subd. 7b. **Failure to repay.** A candidate who fails to repay money required by the agreement cannot be paid additional public subsidy funds during the current or future election cycles until the entirety of the unexpended funds and any associated collection fees are either repaid to the board or discharged by court action.

Sec. 28. Minnesota Statutes 2016, section 10A.322, subdivision 1, is amended to read:

Subdivision 1. **Agreement Pledge by candidate.** ~~(a) As a condition of receiving a public subsidy,~~ A candidate ~~must~~ may sign and file with the board a written agreement pledge in which the candidate agrees that the candidate will comply with sections 10A.25; 10A.27, subdivision 10; ~~10A.324;~~ and 10A.38 until the dissolution of the principal campaign committee of the candidate or the end of the first election cycle completed after the pledge was filed, whichever occurs first.

(b) Before the first day of filing for office, the board must forward agreement pledge forms to all filing officers. The board must also provide agreement pledge forms to candidates on request at any time. The candidate must file the agreement pledge with the board at least three weeks before the candidate's state primary. ~~An agreement~~ A pledge may not be filed after that date. ~~An agreement~~ The board must post a copy of each pledge filed by a candidate on the board's Web site. For purposes of public posting, a pledge once filed may not be rescinded.

~~(c) The board must notify the commissioner of revenue of any agreement signed under this subdivision.~~

~~(d) Notwithstanding paragraph (b), if a vacancy occurs that will be filled by means of a special election and the filing period does not coincide with the filing period for the general election, a candidate may sign and submit a spending limit agreement not later than the day after the close of the filing period for the special election for which the candidate filed.~~

(c) A pledge filed by a candidate under this subdivision is a voluntary agreement by the candidate to comply with the sections listed in paragraph (a). Compliance with the terms of a pledge, or any provisions of law cited within the pledge, may not be the subject of an advisory opinion issued under section 10A.02, subdivision 12, and is not subject to an audit, investigation, or enforcement action by the board under section 10A.02, 10A.022, or any other applicable law.

Sec. 29. Minnesota Statutes 2016, section 10A.38, is amended to read:

10A.38 CAPTIONING OF CAMPAIGN ADVERTISEMENTS.

(a) This section applies to a campaign advertisement by a candidate who ~~is governed by an agreement~~ has filed a pledge under section 10A.322.

(b) "Campaign advertisement" means a professionally produced visual or audio recording of two minutes or less produced by the candidate for the purpose of influencing the nomination or election of a candidate.

(c) A campaign advertisement that is disseminated as an advertisement by broadcast or cable television must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement that is disseminated as an advertisement to the public on the candidate's Web site must include closed captioning for deaf and hard-of-hearing viewers, unless the candidate has posted on the Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so. A campaign advertisement must not be disseminated as an advertisement by radio unless the candidate has posted on the candidate's Web site a transcript of the spoken content of the advertisement or the candidate has filed with the board before the advertisement is disseminated a statement setting forth the reasons for not doing so.

Sec. 30. VOTING EQUIPMENT GRANT.

Subdivision 1. Voting equipment grant account. A voting equipment grant program is established. The secretary of state must use money appropriated for the program to provide grants to counties and municipalities as authorized by this section. Funds appropriated for the grant are available until June 30, 2020.

Subd. 2. Authorized equipment. (a) A county or municipality may apply to receive a grant under this section for the purchase or lease of the following equipment:

(1) electronic roster equipment and software that meets the technology requirements of Minnesota Statutes, section 201.225, subdivision 2;

(2) assistive voting technology; or

(3) automatic tabulating equipment.

A purchase or lease of equipment is eligible for a grant under this section if the purchase is made, or lease entered, on or after July 1, 2017. A county or municipality that has purchased or leased eligible equipment before July 1, 2017, may apply for reimbursement.

(b) The grant funds must not be used for maintenance or repair of voting equipment.

Subd. 3. Amount of grant. A county or municipal government is eligible to receive a grant equal to 75 percent of the total cost of the electronic roster equipment and software or 50 percent of the total cost for assistive voting technology or automatic tabulating equipment. The secretary of state must first award grants to counties and municipalities leasing or purchasing new equipment or software. If funds remain after awarding grants for new equipment or software, the secretary of state must use the remaining funds for grants to counties and municipalities seeking reimbursement for equipment or software already purchased.

Subd. 4. **Application for grant; certification of costs.** (a) To receive a grant, a county or municipality must submit an application to the secretary of state. The secretary of state shall prescribe a form for this purpose. At a minimum, the application must describe:

(1) the type of equipment or software proposed for purchase or lease;

(2) the expected total cost of the equipment or software, and sources of funding that will be used for the purchase or lease in addition to the grant funding provided by this section;

(3) the county's or municipality's plan to address the long-term maintenance, repair, and eventual replacement costs for the equipment or software without using any funds from the grant for these purposes; and

(4) any other information required by the secretary of state.

(b) The secretary of state must establish:

(1) a deadline for receipt of grant applications;

(2) a procedure for awarding and distributing grants;

(3) criteria for the fair, proportional distribution of grants if the funds do not completely cover the requests for a particular type of equipment; and

(4) a process for verifying the proper use of the grants after distribution.

Subd. 5. **Report to legislature.** No later than January 15, 2018, and annually thereafter until the appropriations provided for grants under this section have been exhausted, the secretary of state must submit a report to the legislative committees with jurisdiction over elections policy on grants awarded by this section. The report must detail each grant awarded, including the jurisdiction, the amount of the grant, and the type of equipment or software purchased.

Sec. 31. **REPEALER.**

Subdivision 1. **Campaign subsidy.** Minnesota Statutes 2016, sections 10A.28, subdivision 1; 10A.30; 10A.31, subdivisions 1, 3, 3a, 4, 5, 5a, 6, 6a, 7, 7a, 10, 10a, 10b, and 11; 10A.315; 10A.321; 10A.322, subdivisions 2 and 4; 10A.323; and 10A.324, subdivisions 1 and 3, and Minnesota Rules, parts 4503.1400, subparts 2, 3, 4, 5, 6, 7, 8, and 9; and 4503.1450, are repealed effective July 1, 2017, and apply to elections held on or after that date. Money in the account under Minnesota Statutes, section 10A.30, on June 30, 2017, cancels to the general fund, and amounts designated under Minnesota Statutes, section 10A.31, on income tax and property tax refund returns filed after June 30, 2017, are not effective and remain in the general fund.

Subd. 2. **Rules.** Minnesota Rules, parts 4501.0300, subpart 3; 4501.0500, subpart 2; 4503.0200, subpart 6; 4503.0300, subpart 4; 4503.0400, subpart 1; 4503.0500, subparts 5 and 8; 4503.0700, subparts 2 and 3; 4503.1300, subpart 5; 4503.1600; 4503.1700; 4503.1800; 4505.0100, subpart 3; 4505.0900, subparts 2, 3, 4, 5, 6, and 7; 4511.0500, subpart 2; 4512.0100, subparts 2, 4, and 5; and 4525.0210, subpart 1, are repealed."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Delete the title and insert:

"A bill for an act relating to the operation of state government; appropriating money for the legislature, governor's office, state auditor, attorney general, secretary of state, certain agencies, boards, councils, and retirement funds; changing provisions in state government operations; making technical changes to state budgeting terms; changing administrative rules provisions; changing provisions in veterans affairs, campaign finance, and elections; amending Minnesota Statutes 2016, sections 3.305, subdivision 1; 3.842, subdivision 4a; 3.855, subdivision 2; 3.8843, subdivision 7; 3.971, subdivisions 2, 6; 3.972, by adding a subdivision; 3.98, subdivisions 1, 4; 3.987, subdivision 1; 6.481, subdivisions 3, 6; 6.56, subdivision 2; 6.581, subdivision 4; 10A.01, subdivisions 12, 16, 26; 10A.02, subdivision 13; 10A.025, subdivision 1a; 10A.04, by adding a subdivision; 10A.071, subdivision 1; 10A.09, subdivisions 5, 6; 10A.105, subdivision 1; 10A.15, subdivision 1, by adding a subdivision; 10A.20, subdivisions 3, 15; 10A.245, subdivision 2; 10A.25, subdivisions 1, 2, 10; 10A.257, subdivision 1; 10A.27, subdivision 10, by adding subdivisions; 10A.28, subdivision 3; 10A.31, by adding a subdivision; 10A.322, subdivision 1; 10A.38; 14.002; 14.02, by adding a subdivision; 14.05, subdivisions 1, 2, 6, 7, by adding subdivisions; 14.101, subdivision 1; 14.116; 14.125; 14.127; 14.131; 14.14, subdivisions 1a, 2a; 14.18, subdivision 1; 14.19; 14.22, subdivision 1; 14.23; 14.25, subdivision 1; 14.26; 14.27; 14.365; 14.381, subdivision 3; 14.388, subdivisions 1, 2; 14.389, subdivision 3; 14.44; 14.45; 14.51; 14.57; 15.0596; 15.191, subdivisions 1, 3; 16A.065; 16A.13, subdivision 2a; 16A.134; 16A.15, subdivision 3; 16A.17, subdivision 5; 16A.272, subdivision 3; 16A.40; 16A.42, subdivisions 2, 4, by adding a subdivision; 16A.56; 16A.671, subdivision 1; 16A.90; 16B.04, subdivision 2; 16B.055, subdivision 1; 16B.335, subdivision 1; 16B.37, subdivision 4; 16B.371; 16B.4805, subdivisions 2, 4; 16B.97, by adding a subdivision; 16D.03, subdivision 2; 16D.09, subdivision 1; 16E.016; 16E.0466; 21.116; 43A.17, subdivision 11; 43A.24, by adding a subdivision; 43A.30, subdivision 2; 43A.49; 49.24, subdivisions 13, 16; 69.031, subdivision 1; 80A.65, subdivision 9; 84A.23, subdivision 4; 84A.33, subdivision 4; 84A.40; 84A.52; 88.12, subdivision 1; 94.522; 94.53; 116J.64, subdivision 7; 126C.55, subdivisions 2, 9; 126C.68, subdivision 3; 126C.69, subdivision 14; 127A.34, subdivision 1; 127A.40; 136F.46, subdivision 1; 136F.70, subdivision 3; 138.69; 155A.30, subdivision 5; 162.08, subdivisions 10, 11; 162.14, subdivisions 4, 5; 162.18, subdivision 4; 162.181, subdivision 4; 163.051, subdivision 3; 176.181, subdivision 2; 176.581; 176.591, subdivision 3; 179A.20, by adding a subdivision; 190.19, subdivisions 2, 2a; 192.55; 196.05, subdivision 1; 196.052; 197.236, subdivision 9; 197.791, subdivisions 2, 3, 4, 5, 5a; 198.16; 237.30; 241.13, subdivision 1; 244.19, subdivision 7; 256B.20; 260B.331, subdivision 2; 260C.331, subdivision 2; 270C.13, subdivision 1; 273.121, subdivision 1; 287.08; 297I.10, subdivision 1; 299C.21; 348.05; 352.04, subdivision 9; 352.05; 352.115, subdivision 12; 352.12, subdivision 13; 353.05; 353.27, subdivisions 3c, 7; 353.505; 354.42, subdivision 7; 354.52, subdivisions 4, 4b; 401.15, subdivision 1; 446A.086, subdivision 4; 446A.16, subdivision 1; 462A.18, subdivision 1; 471.6161, subdivision 8; 471.617, subdivision 2; 475A.04, subdivision 1; 508.12, subdivision 1; 518A.79, by adding a subdivision; 525.841; Laws 2016, chapter 127, section 8; proposing coding for new law in Minnesota Statutes, chapters 2; 3; 6; 10A; 14; 15; 16A; 16B; 43A; 118A; 197; repealing Minnesota Statutes 2016, sections 4.46; 6.581, subdivision 1; 10A.28, subdivision 1; 10A.30; 10A.31, subdivisions 1, 3, 3a, 4, 5, 5a, 6, 6a, 7, 7a, 10, 10a, 10b, 11; 10A.315; 10A.321; 10A.322, subdivisions 2, 4; 10A.323; 10A.324, subdivisions 1, 3; 14.05, subdivision 5; Minnesota Rules, parts 4501.0300, subpart 3; 4501.0500, subpart 2; 4503.0200, subpart 6; 4503.0300, subpart 4; 4503.0400, subpart 1; 4503.0500, subparts 5, 8; 4503.0700, subparts 2, 3; 4503.1300,

subpart 5; 4503.1400, subparts 2, 3, 4, 5, 6, 7, 8, 9; 4503.1450; 4503.1600; 4503.1700; 4503.1800; 4505.0100, subpart 3; 4505.0900, subparts 2, 3, 4, 5, 6, 7; 4511.0500, subpart 2; 4512.0100, subparts 2, 4, 5; 4525.0210, subpart 1."

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

Senate Conferees: Mary Kiffmeyer, Bruce D. Anderson, Mark Koran, Dan D. Hall

House Conferees: Sarah Anderson, Tim O'Driscoll, Bob Dettmer, Kelly Fenton, Jim Nash

Senator Kiffmeyer moved that the foregoing recommendations and Conference Committee Report on S.F. No. 605 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 605 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 34 and nays 33, as follows:

Those who voted in the affirmative were:

Abeler	Eichorn	Jasinski	Mathews	Rosen
Anderson, B.	Fischbach	Jensen	Miller	Ruud
Anderson, P.	Gazelka	Johnson	Nelson	Senjem
Benson	Goggin	Kiffmeyer	Newman	Utke
Chamberlain	Hall	Koran	Osmek	Weber
Dahms	Housley	Lang	Pratt	Westrom
Draheim	Ingebrigtsen	Limmer	Relph	

Those who voted in the negative were:

Bakk	Dziedzic	Hoffman	Lourey	Sparks
Carlson	Eaton	Isaacson	Marty	Tomassoni
Champion	Eken	Kent	Newton	Torres Ray
Clausen	Franzen	Klein	Pappas	Wiger
Cohen	Frentz	Laine	Rest	Wiklund
Cwodzinski	Hawj	Latz	Schoen	
Dibble	Hayden	Little	Simonson	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 800 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. No. 800

A bill for an act relating to human services finance and policy; appropriating money for human services and health-related programs; modifying various provisions governing community supports, housing, continuing care, health care, managed care organizations, health insurance, direct care and treatment, children and families, chemical and mental health services, Department of Human Services

operations, Department of Health policy, and health licensing boards; establishing a license for substance abuse disorder treatment; authorizing transfers; providing for supplemental rates; modifying reimbursement rates and premium scales; making forecast adjustments; providing for audits; establishing crumb rubber playground moratorium; authorizing pilot projects and studies; requiring reports; establishing a legislative commission; making technical and terminology changes; amending Minnesota Statutes 2016, sections 3.972, by adding a subdivision; 13.32, by adding a subdivision; 13.46, subdivisions 1, 2, 4; 13.69, subdivision 1; 13.84, subdivision 5; 62A.04, subdivision 1; 62A.21, subdivision 2a; 62A.3075; 62D.105, subdivisions 1, 2; 62E.04, subdivision 11; 62E.05, subdivision 1; 62E.06, by adding a subdivision; 62M.07; 62U.02; 62V.05, subdivision 12; 103I.101, subdivisions 2, 5; 103I.111, subdivisions 6, 7, 8; 103I.205; 103I.301; 103I.501; 103I.505; 103I.515; 103I.535, subdivisions 3, 6, by adding a subdivision; 103I.541; 103I.545, subdivisions 1, 2; 103I.711, subdivision 1; 103I.715, subdivision 2; 119B.011, by adding subdivisions; 119B.02, subdivision 5; 119B.09, subdivision 9a; 119B.125, subdivisions 4, 6; 119B.13, subdivisions 1, 6; 119B.16, subdivisions 1, 1a, 1b, by adding subdivisions; 144.05, subdivision 6; 144.0724, subdivisions 4, 6; 144.122; 144.1501, subdivision 2; 144.551, subdivision 1; 144A.071, subdivision 4d; 144A.351; 144A.472, subdivision 7; 144A.474, subdivision 11; 144A.4799, subdivision 3; 144A.70, subdivision 6, by adding a subdivision; 144D.04, subdivision 2, by adding a subdivision; 144D.06; 145.4716, subdivision 2; 145.986, subdivision 1a; 146B.02, subdivisions 2, 5, 8, by adding subdivisions; 146B.03, subdivisions 6, 7; 146B.07, subdivision 4; 146B.10, subdivision 1; 147.01, subdivision 7; 147.02, subdivision 1; 147.03, subdivision 1; 147B.08, by adding a subdivision; 147C.40, by adding a subdivision; 148.5194, subdivision 7; 148.6402, subdivision 4; 148.6405; 148.6408, subdivision 2; 148.6410, subdivision 2; 148.6412, subdivision 2; 148.6415; 148.6418, subdivisions 1, 2, 4, 5; 148.6420, subdivisions 1, 3, 5; 148.6423; 148.6425, subdivisions 2, 3; 148.6428; 148.6443, subdivisions 5, 6, 7, 8; 148.6445, subdivisions 1, 10; 148.6448; 157.16, subdivision 1; 214.01, subdivision 2; 245.4889, subdivision 1; 245.91, subdivisions 4, 6; 245.97, subdivision 6; 245A.02, subdivision 2b, by adding a subdivision; 245A.03, subdivisions 2, 7; 245A.04, subdivision 14; 245A.06, subdivision 2; 245A.07, subdivision 3; 245A.11, by adding subdivisions; 245A.191; 245A.50, subdivision 5; 245D.03, subdivision 1; 245D.04, subdivision 3; 245D.071, subdivision 3; 245D.11, subdivision 4; 245D.24, subdivision 3; 245E.01, by adding a subdivision; 245E.02, subdivisions 1, 3, 4; 245E.03, subdivisions 2, 4; 245E.04; 245E.05, subdivision 1; 245E.06, subdivisions 1, 2, 3; 245E.07, subdivision 1; 252.27, subdivision 2a; 252.41, subdivision 3; 253B.10, subdivision 1; 253B.22, subdivision 1; 254A.01; 254A.02, subdivisions 2, 3, 5, 6, 8, 10, by adding subdivisions; 254A.03; 254A.035, subdivision 1; 254A.04; 254A.08; 254A.09; 254A.19, subdivision 3; 254B.01, subdivision 3, by adding a subdivision; 254B.03, subdivision 2; 254B.04, subdivisions 1, 2b; 254B.05, subdivisions 1, 1a, 5; 254B.051; 254B.07; 254B.08; 254B.09; 254B.12, subdivision 2; 254B.13, subdivision 2a; 256.01, subdivision 41, by adding a subdivision; 256.045, subdivision 3; 256.969, subdivisions 2b, 4b, by adding a subdivision; 256.975, subdivision 7, by adding a subdivision; 256.98, subdivision 8; 256B.04, subdivisions 21, 22; 256B.056, subdivision 5c; 256B.0621, subdivision 10; 256B.0625, subdivisions 3b, 7, 20, 45a, 57, 64, by adding subdivisions; 256B.0659, subdivisions 1, 2, 11, 21, by adding a subdivision; 256B.072; 256B.0755, subdivisions 1, 3, 4, by adding a subdivision; 256B.0911, subdivisions 1a, 3a, 4d, by adding subdivisions; 256B.0915, subdivisions 1, 1a, 3a, 3e, 3h, 5, by adding subdivisions; 256B.092, subdivision 4; 256B.0922, subdivision 1; 256B.0924, by adding a subdivision; 256B.0943, subdivision 13; 256B.0945, subdivisions 2, 4; 256B.196, subdivision 2; 256B.431, subdivisions 10, 16, 30; 256B.434, subdivisions 4, 4f; 256B.49, subdivisions 11, 15; 256B.4913, subdivision 4a, by adding a subdivision; 256B.4914, subdivisions 2, 3, 5, 6, 7, 8, 9, 10, 16; 256B.493, subdivisions 1, 2, by adding a subdivision; 256B.50, subdivision 1b; 256B.5012, by adding a subdivision; 256B.69, subdivision

9e; 256B.76, subdivisions 1, 2; 256B.766; 256B.85, subdivisions 3, 5, 6; 256C.23, subdivision 2, by adding subdivisions; 256C.233, subdivisions 1, 2; 256C.24, subdivisions 1, 2, by adding a subdivision; 256C.261; 256D.44, subdivisions 4, 5; 256E.30, subdivision 2; 256I.03, subdivision 8; 256I.04, subdivisions 1, 2d, 2g, 3; 256I.05, subdivisions 1a, 1c, 1e, 1j, 1m, 8, by adding subdivisions; 256I.06, subdivisions 2, 8; 256J.24, subdivision 5; 256J.45, subdivision 2; 256L.03, subdivisions 1, 1a, 5; 256L.15, subdivision 2; 256P.06, subdivision 2; 256R.02, subdivisions 4, 18; 256R.07, by adding a subdivision; 256R.10, by adding a subdivision; 256R.37; 256R.40, subdivision 5; 256R.41; 256R.47; 256R.49, subdivision 1; 260C.451, subdivision 6; 317A.811, subdivision 1, by adding a subdivision; 327.15, subdivision 3; 609.5315, subdivision 5c; 626.556, subdivisions 2, 3, 3c, 10d, 10j; Laws 2009, chapter 101, article 1, section 12; Laws 2012, chapter 247, article 6, section 2, subdivision 2; Laws 2013, chapter 108, article 15, section 2, subdivision 2; Laws 2014, chapter 312, article 23, section 9, subdivision 8, by adding a subdivision; Laws 2015, chapter 71, article 14, section 3, subdivision 2, as amended; Laws 2017, chapter 2, article 1, sections 1, subdivision 3; 2, subdivision 4, by adding a subdivision; 3; 5; 7; article 2, section 13; proposing coding for new law in Minnesota Statutes, chapters 62J; 62K; 62Q; 119B; 144; 144D; 145; 147A; 148; 245; 245A; 256; 256B; 256I; 256N; 256R; 317A; 448; proposing coding for new law as Minnesota Statutes, chapters 144H; 245G; repealing Minnesota Statutes 2016, sections 13.468; 147A.21; 147B.08, subdivisions 1, 2, 3; 147C.40, subdivisions 1, 2, 3, 4; 148.6402, subdivision 2; 148.6450; 245A.1915; 245A.192; 254A.02, subdivision 4; 256B.0659, subdivision 22; 256B.19, subdivision 1c; 256B.4914, subdivision 16; 256B.64; 256C.23, subdivision 3; 256C.233, subdivision 4; 256C.25, subdivisions 1, 2; 256J.626, subdivision 5; Laws 2014, chapter 312, article 23, section 9, subdivision 5; Minnesota Rules, parts 5600.2500; 9530.6405, subparts 1, 1a, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 14a, 15, 15a, 16, 17, 17a, 17b, 17c, 18, 20, 21; 9530.6410; 9530.6415; 9530.6420; 9530.6422; 9530.6425; 9530.6430; 9530.6435; 9530.6440; 9530.6445; 9530.6450; 9530.6455; 9530.6460; 9530.6465; 9530.6470; 9530.6475; 9530.6480; 9530.6485; 9530.6490; 9530.6495; 9530.6500; 9530.6505.

May 8, 2017

The Honorable Michelle L. Fischbach
President of the Senate

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 800 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. 800 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

COMMUNITY SUPPORTS

Section 1. Minnesota Statutes 2016, section 144A.351, subdivision 1, is amended to read:

Subdivision 1. **Report requirements.** The commissioners of health and human services, with the cooperation of counties and in consultation with stakeholders, including persons who need or are using long-term care services and supports, lead agencies, regional entities, senior, disability, and mental health organization representatives, service providers, and community members shall prepare a report to the legislature by August 15, 2013, and biennially thereafter, regarding the status of the full range of long-term care services and supports for the elderly and children and adults with disabilities and mental illnesses in Minnesota. Any amounts appropriated for this report are available in either year of the biennium. The report shall address:

- (1) demographics and need for long-term care services and supports in Minnesota;
- (2) summary of county and regional reports on long-term care gaps, surpluses, imbalances, and corrective action plans;
- (3) status of long-term care services and related mental health services, housing options, and supports by county and region including:
 - (i) changes in availability of the range of long-term care services and housing options;
 - (ii) access problems, including access to the least restrictive and most integrated services and settings, regarding long-term care services; and
 - (iii) comparative measures of long-term care services availability, including serving people in their home areas near family, and changes over time; and
- (4) recommendations regarding goals for the future of long-term care services and supports, policy and fiscal changes, and resource development and transition needs.

Sec. 2. Minnesota Statutes 2016, section 245D.03, subdivision 1, is amended to read:

Subdivision 1. **Applicability.** (a) The commissioner shall regulate the provision of home and community-based services to persons with disabilities and persons age 65 and older pursuant to this chapter. The licensing standards in this chapter govern the provision of basic support services and intensive support services.

(b) Basic support services provide the level of assistance, supervision, and care that is necessary to ensure the health and welfare of the person and do not include services that are specifically directed toward the training, treatment, habilitation, or rehabilitation of the person. Basic support services include:

- (1) in-home and out-of-home respite care services as defined in section 245A.02, subdivision 15, and under the brain injury, community alternative care, community access for disability inclusion, developmental disability, and elderly waiver plans, excluding out-of-home respite care provided to children in a family child foster care home licensed under Minnesota Rules, parts 2960.3000 to 2960.3100, when the child foster care license holder complies with the requirements under section 245D.06, subdivisions 5, 6, 7, and 8, or successor provisions; and section 245D.061 or successor provisions, which must be stipulated in the statement of intended use required under Minnesota Rules, part 2960.3000, subpart 4;

(2) adult companion services as defined under the brain injury, community access for disability inclusion, and elderly waiver plans, excluding adult companion services provided under the Corporation for National and Community Services Senior Companion Program established under the Domestic Volunteer Service Act of 1973, Public Law 98-288;

(3) personal support as defined under the developmental disability waiver plan;

(4) 24-hour emergency assistance, personal emergency response as defined under the community access for disability inclusion and developmental disability waiver plans;

(5) night supervision services as defined under the brain injury waiver plan; ~~and~~

(6) homemaker services as defined under the community access for disability inclusion, brain injury, community alternative care, developmental disability, and elderly waiver plans, excluding providers licensed by the Department of Health under chapter 144A and those providers providing cleaning services only; and

(7) individual community living support under section 256B.0915, subdivision 3j.

(c) Intensive support services provide assistance, supervision, and care that is necessary to ensure the health and welfare of the person and services specifically directed toward the training, habilitation, or rehabilitation of the person. Intensive support services include:

(1) intervention services, including:

(i) behavioral support services as defined under the brain injury and community access for disability inclusion waiver plans;

(ii) in-home or out-of-home crisis respite services as defined under the developmental disability waiver plan; and

(iii) specialist services as defined under the current developmental disability waiver plan;

(2) in-home support services, including:

(i) in-home family support and supported living services as defined under the developmental disability waiver plan;

(ii) independent living services training as defined under the brain injury and community access for disability inclusion waiver plans; ~~and~~

(iii) semi-independent living services; and

(iv) individualized home supports services as defined under the brain injury, community alternative care, and community access for disability inclusion waiver plans;

(3) residential supports and services, including:

(i) supported living services as defined under the developmental disability waiver plan provided in a family or corporate child foster care residence, a family adult foster care residence, a community residential setting, or a supervised living facility;

(ii) foster care services as defined in the brain injury, community alternative care, and community access for disability inclusion waiver plans provided in a family or corporate child foster care residence, a family adult foster care residence, or a community residential setting; and

(iii) residential services provided to more than four persons with developmental disabilities in a supervised living facility, including ICFs/DD;

(4) day services, including:

(i) structured day services as defined under the brain injury waiver plan;

(ii) day training and habilitation services under sections 252.41 to 252.46, and as defined under the developmental disability waiver plan; and

(iii) prevocational services as defined under the brain injury and community access for disability inclusion waiver plans; and

~~(5) supported employment as defined under the brain injury, developmental disability, and community access for disability inclusion waiver plans~~ employment exploration services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disability waiver plans;

(6) employment development services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disability waiver plans; and

(7) employment support services as defined under the brain injury, community alternative care, community access for disability inclusion, and developmental disability waiver plans.

EFFECTIVE DATE. (a) The amendment to paragraphs (b) and (c), clause (2), is effective the day following final enactment.

(b) The amendments to paragraph (c), clauses (5) to (7), are effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 3. Minnesota Statutes 2016, section 252.41, subdivision 3, is amended to read:

Subd. 3. **Day training and habilitation services for adults with developmental disabilities.**

(a) "Day training and habilitation services for adults with developmental disabilities" means services that:

(1) include supervision, training, assistance, ~~and supported employment,~~ center-based work-related activities, or other community-integrated activities designed and implemented in accordance with the individual service and individual habilitation plans required under Minnesota Rules, parts 9525.0004 to 9525.0036, to help an adult reach and maintain the highest possible level of independence, productivity, and integration into the community; and

(2) are provided by a vendor licensed under sections 245A.01 to 245A.16 and 252.28, subdivision 2, to provide day training and habilitation services.

(b) Day training and habilitation services reimbursable under this section do not include special education and related services as defined in the Education of the Individuals with Disabilities Act, United States Code, title 20, chapter 33, section 1401, clauses (6) and (17), or vocational services funded under section 110 of the Rehabilitation Act of 1973, United States Code, title 29, section 720, as amended.

(c) Day training and habilitation services do not include employment exploration, employment development, or employment support services as defined in the home and community-based services waivers for people with disabilities authorized under sections 256B.092 and 256B.49.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 4. **[256.477] SELF-ADVOCACY GRANTS.**

(a) The commissioner shall make available a grant for the purposes of establishing and maintaining a statewide self-advocacy network for persons with intellectual and developmental disabilities. The self-advocacy network shall:

(1) ensure that persons with intellectual and developmental disabilities are informed of their rights in employment, housing, transportation, voting, government policy, and other issues pertinent to the intellectual and developmental disability community;

(2) provide public education and awareness of the civil and human rights issues persons with intellectual and developmental disabilities face;

(3) provide funds, technical assistance, and other resources for self-advocacy groups across the state; and

(4) organize systems of communications to facilitate an exchange of information between self-advocacy groups.

(b) An organization receiving a grant under paragraph (a) must be an organization governed by people with intellectual and developmental disabilities that administers a statewide network of disability groups in order to maintain and promote self-advocacy services and supports for persons with intellectual and developmental disabilities throughout the state.

Sec. 5. Minnesota Statutes 2016, 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 or in the community where normal life activities take the recipient. 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 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.0653.

Sec. 6. Minnesota Statutes 2016, section 256B.0625, subdivision 31, is amended to read:

Subd. 31. **Medical supplies and equipment.** (a) Medical assistance covers medical supplies and equipment. Separate payment outside of the facility's payment rate shall be made for wheelchairs and wheelchair accessories for recipients who are residents of intermediate care facilities for the developmentally disabled. Reimbursement for wheelchairs and wheelchair accessories for ICF/DD recipients shall be subject to the same conditions and limitations as coverage for recipients who do not reside in institutions. A wheelchair purchased outside of the facility's payment rate is the property of the recipient.

(b) Vendors of durable medical equipment, prosthetics, orthotics, or medical supplies must enroll as a Medicare provider.

(c) When necessary to ensure access to durable medical equipment, prosthetics, orthotics, or medical supplies, the commissioner may exempt a vendor from the Medicare enrollment requirement if:

(1) the vendor supplies only one type of durable medical equipment, prosthetic, orthotic, or medical supply;

(2) the vendor serves ten or fewer medical assistance recipients per year;

(3) the commissioner finds that other vendors are not available to provide same or similar durable medical equipment, prosthetics, orthotics, or medical supplies; and

(4) the vendor complies with all screening requirements in this chapter and Code of Federal Regulations, title 42, part 455. The commissioner may also exempt a vendor from the Medicare enrollment requirement if the vendor is accredited by a Centers for Medicare and Medicaid Services approved national accreditation organization as complying with the Medicare program's supplier and quality standards and the vendor serves primarily pediatric patients.

(d) Durable medical equipment means a device or equipment that:

(1) can withstand repeated use;

(2) is generally not useful in the absence of an illness, injury, or disability; and

(3) is provided to correct or accommodate a physiological disorder or physical condition or is generally used primarily for a medical purpose.

(e) Electronic tablets may be considered durable medical equipment if the electronic tablet will be used as an augmentative and alternative communication system as defined under subdivision 31a, paragraph (a). To be covered by medical assistance, the device must be locked in order to prevent use not related to communication.

(f) Notwithstanding the requirement in paragraph (e) that an electronic tablet must be locked to prevent use not as an augmentative communication device, a recipient of waiver services may use an electronic tablet for a use not related to communication when the recipient has been authorized under the waiver to receive one or more additional applications that can be loaded onto the electronic tablet, such that allowing the additional use prevents the purchase of a separate electronic tablet with waiver funds.

(g) An order or prescription for medical supplies, equipment, or appliances must meet the requirements in Code of Federal Regulations, title 42, part 470.

Sec. 7. Minnesota Statutes 2016, section 256B.0653, subdivision 2, is amended to read:

Subd. 2. **Definitions.** 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 in settings permitted under section 256B.0625, subdivision 6a.

(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.

(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.

Sec. 8. Minnesota Statutes 2016, section 256B.0653, subdivision 3, is amended to read:

Subd. 3. **Home health aide visits.** (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, including assuring that the person gets to medical appointments if identified in the written plan of care. Home health aide visits ~~must~~ may be provided in the recipient's home or in the community where normal life activities take the recipient.

(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.

Sec. 9. Minnesota Statutes 2016, section 256B.0653, subdivision 4, is amended to read:

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 or in the community where normal life activities take the recipient, 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 nurse visits per calendar year do not require authorization. All telehomecare skilled nurse visits require authorization.

Sec. 10. Minnesota Statutes 2016, section 256B.0653, subdivision 5, is amended to read:

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 or in the community where normal life activities take the recipient 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.

Sec. 11. Minnesota Statutes 2016, section 256B.0653, subdivision 6, is amended to read:

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, prefiling 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; and

(5) home health agency services without qualifying documentation of a face-to-face encounter as specified in subdivision 7.

Sec. 12. Minnesota Statutes 2016, section 256B.0653, is amended by adding a subdivision to read:

Subd. 7. **Face-to-face encounter.** (a) A face-to-face encounter by a qualifying provider must be completed for all home health services regardless of the need for prior authorization, except when providing a onetime perinatal visit by skilled nursing. The face-to-face encounter may occur through telemedicine as defined in section 256B.0625, subdivision 3b. The encounter must be related to the primary reason the recipient requires home health services and must occur within the 90 days before or the 30 days after the start of services. The face-to-face encounter may be conducted by one of the following practitioners, licensed in Minnesota:

(1) a physician;

(2) a nurse practitioner or clinical nurse specialist;

(3) a certified nurse midwife; or

(4) a physician assistant.

(b) The allowed nonphysician practitioner, as described in this subdivision, performing the face-to-face encounter must communicate the clinical findings of that face-to-face encounter to the ordering physician. Those clinical findings must be incorporated into a written or electronic document included in the recipient's medical record. To assure clinical correlation between the face-to-face encounter and the associated home health services, the physician responsible for ordering the services must:

(1) document that the face-to-face encounter, which is related to the primary reason the recipient requires home health services, occurred within the required time period; and

(2) indicate the practitioner who conducted the encounter and the date of the encounter.

(c) For home health services requiring authorization, including prior authorization, home health agencies must retain the qualifying documentation of a face-to-face encounter as part of the recipient

health service record, and submit the qualifying documentation to the commissioner or the commissioner's designee upon request.

Sec. 13. Minnesota Statutes 2016, section 256B.0659, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in paragraphs (b) to ~~(s)~~ (s) 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) "Complex personal care assistance services" means personal care assistance services:

(1) for a person who qualifies for ten hours or more of personal care assistance services per day; and

(2) provided by a personal care assistant who is qualified to provide complex personal assistance services under subdivision 11, paragraph (d).

~~(e)~~ (f) "Critical activities of daily living," effective January 1, 2010, means transferring, mobility, eating, and toileting.

~~(f)~~ (g) "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)~~ (h) "Extended personal care assistance service" means personal care assistance services included in a service plan under one of the home and community-based services waivers authorized under sections 256B.0915, 256B.092, subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state plan personal care assistance services for participants who:

(1) need assistance provided periodically during a week, but less than daily will not be able to remain in their homes without the assistance, and other replacement services are more expensive or are not available when personal care assistance services are to be reduced; or

(2) need additional personal care assistance services beyond the amount authorized by the state plan personal care assistance assessment in order to ensure that their safety, health, and welfare are provided for in their homes.

~~(h)~~ (i) "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.

~~(j)~~ (j) "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.

~~(k)~~ (k) "Managing employee" has the same definition as Code of Federal Regulations, title 42, section 455.

~~(l)~~ (l) "Qualified professional" means a professional providing supervision of personal care assistance services and staff as defined in section 256B.0625, subdivision 19c.

~~(m)~~ (m) "Personal care assistance provider agency" means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes a personal care assistance provider organization, personal care assistance choice agency, class A licensed nursing agency, and Medicare-certified home health agency.

~~(n)~~ (n) "Personal care assistant" or "PCA" means an individual employed by a personal care assistance agency who provides personal care assistance services.

~~(o)~~ (o) "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.

~~(p)~~ (p) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

~~(q)~~ (q) "Self-administered medication" means medication taken orally, by injection, nebulizer, or insertion, or applied topically without the need for assistance.

~~(r)~~ (r) "Service plan" means a written summary of the assessment and description of the services needed by the recipient.

~~(s)~~ (s) "Wages and benefits" means wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, and contributions to employee retirement accounts.

EFFECTIVE DATE. This section is effective July 1, 2018.

Sec. 14. Minnesota Statutes 2016, section 256B.0659, subdivision 2, is amended to read:

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, including medications given through a nebulizer;

(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. A personal care assistant must not determine the medication dose or time for medication.

(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 ~~(i)~~ (j).

EFFECTIVE DATE. This section is effective July 1, 2018.

Sec. 15. Minnesota Statutes 2016, section 256B.0659, subdivision 11, is amended to read:

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. Except as provided in subdivision 11a, 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. The training must be available in languages other than English and to those who need accommodations due to disabilities. 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; and

(10) be limited to providing and being paid for up to 275 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. The number of hours worked per day shall not be disallowed by the department unless in violation of the law.

(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) Persons who do not qualify as a personal care assistant include parents, stepparents, and legal guardians of minors; spouses; paid legal guardians of adults; family foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a; and staff of a residential setting.

(d) A personal care assistant is qualified to provide complex personal care assistance services as defined in subdivision 1, paragraph (e), if the personal care assistant:

(1) provides services according to the care plan in subdivision 7 to an individual described in subdivision 1, paragraph (e), clause (1); and

(2) satisfies the current requirements of Medicare for training and competency or competency evaluation of home health aides or nursing assistants, as provided by Code of Federal Regulations, title 42, section 483.151 or 484.36, or alternative, comparable, state-approved training and competency requirements.

EFFECTIVE DATE. This section is effective July 1, 2018.

Sec. 16. Minnesota Statutes 2016, section 256B.0659, is amended by adding a subdivision to read:

Subd. 17a. **Rate for complex personal care assistance services.** The rate paid to a provider for complex personal care assistance services shall be 110 percent of the rate paid for personal care assistance services.

EFFECTIVE DATE. This section is effective July 1, 2018.

Sec. 17. Minnesota Statutes 2016, section 256B.0659, subdivision 21, is amended to read:

Subd. 21. Requirements for provider enrollment of personal care assistance provider agencies. (a) All personal care assistance provider agencies must provide, at the time of enrollment, reenrollment, and revalidation 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. Upon new enrollment, or if the provider's Medicaid revenue in the previous calendar year is up to and including \$300,000, the provider agency must purchase a surety bond of \$50,000. If the Medicaid revenue in the previous year is over \$300,000, the provider agency must purchase a surety bond of \$100,000. The surety bond must be in a form approved by the commissioner, must be renewed annually, and must allow for recovery of costs and fees in pursuing a claim on the bond;

(3) proof of fidelity bond coverage in the amount of \$20,000;

(4) proof of workers' compensation insurance coverage;

(5) proof of liability insurance;

(6) 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;

(7) 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;

(8) 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 for the written agreement in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

(9) a list of all training and classes that the personal care assistance provider agency requires of its staff providing personal care assistance services;

(10) documentation that the personal care assistance provider agency and staff have successfully completed all the training required by this section, including the requirements under subdivision 11, paragraph (d), if complex personal care assistance services are provided and submitted for payment;

(11) documentation of the agency's marketing practices;

(12) disclosure of ownership, leasing, or management of all residential properties that is used or could be used for providing home care services;

(13) 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. The revenue generated by the qualified professional and the reasonable costs associated with the qualified professional shall not be used in making this calculation; and

(14) effective May 15, 2010, documentation that the agency does not burden recipients' free exercise of their right to choose service providers by requiring personal care assistants to sign an agreement not to work with any particular personal care assistance recipient or for another personal care assistance provider agency after leaving the agency and that the agency is not taking action on any such agreements or requirements regardless of the date signed.

(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 July 1, 2009.

(c) All personal care assistance provider agencies shall require all employees in management and supervisory positions and owners of the agency who are active in the day-to-day management and operations of the agency to complete mandatory training as determined by the commissioner before enrollment of the agency as a provider. Employees in management and supervisory positions and owners who are active in the day-to-day operations of an agency who have completed the required training as an employee with a personal care assistance provider agency do not need to repeat the required training if they are hired by another agency, if they have completed the training within the past three years. By September 1, 2010, the required training must be available with meaningful access according to title VI of the Civil Rights Act and federal regulations adopted under that law or any guidance from the United States Health and Human Services Department. The required training must be available online or by electronic remote connection. The required training must provide for competency testing. Personal care assistance provider agency billing staff shall

complete training about personal care assistance program financial management. This training is effective July 1, 2009. Any personal care assistance provider agency enrolled before that date shall, if it has not already, complete the provider training within 18 months of July 1, 2009. Any new owners or employees in management and supervisory positions involved in the day-to-day operations are required to complete mandatory training as a requisite of working for the agency. Personal care assistance provider agencies certified for participation in Medicare as home health agencies are exempt from the training required in this subdivision. When available, Medicare-certified home health agency owners, supervisors, or managers must successfully complete the competency test.

Sec. 18. Minnesota Statutes 2016, section 256B.0911, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

(a) Until additional requirements apply under paragraph (b), "long-term care consultation services" means:

(1) intake for and access to assistance in identifying services needed to maintain an individual in the most inclusive environment;

(2) providing recommendations for and referrals to cost-effective community services that are available to the individual;

(3) development of an individual's person-centered community support plan;

(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;

(6) determination of home and community-based waiver and other service eligibility as required under sections 256B.0913, 256B.0915, and 256B.49, including level of care determination for individuals who need an institutional level of care as determined under subdivision 4e, based on assessment and community support plan development, appropriate referrals to obtain necessary diagnostic information, and including an eligibility determination for consumer-directed community supports;

(7) providing recommendations for institutional placement when there are no cost-effective community services available;

(8) providing access to assistance to transition people back to community settings after institutional admission; and

(9) providing information about competitive employment, with or without supports, for school-age youth and working-age adults and referrals to the Disability Linkage Line and Disability Benefits 101 to ensure that an informed choice about competitive employment can be made. For the purposes of this subdivision, "competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of

benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(b) Upon statewide implementation of lead agency requirements in subdivisions 2b, 2c, and 3a, "long-term care consultation services" also means:

(1) service eligibility determination for state plan home care services identified in:

(i) section 256B.0625, subdivisions 7, 19a, and 19c;

(ii) consumer support grants under section 256.476; or

(iii) section 256B.85;

(2) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024, determination of eligibility for case management services available under sections 256B.0621, subdivision 2, paragraph (4), and 256B.0924 and Minnesota Rules, part 9525.0016;

(3) determination of institutional level of care, home and community-based service waiver, and other service eligibility as required under section 256B.092, determination of eligibility for family support grants under section 252.32, semi-independent living services under section 252.275, and day training and habilitation services under section 256B.092; and

(4) obtaining necessary diagnostic information to determine eligibility under clauses (2) and (3).

(c) "Long-term care options counseling" means the services provided by the linkage lines as mandated by sections 256.01, subdivision 24, and 256.975, subdivision 7, and also includes telephone assistance and follow up once a long-term care consultation assessment has been completed.

(d) "Minnesota health care programs" means the medical assistance program under this chapter and the alternative care program under section 256B.0913.

(e) "Lead agencies" means counties administering or tribes and health plans under contract with the commissioner to administer long-term care consultation assessment and support planning services.

(f) "Person-centered planning" is a process that includes the active participation of a person in the planning of the person's services, including in making meaningful and informed choices about the person's own goals, talents, and objectives, as well as making meaningful and informed choices about the services the person receives. For the purposes of this section, "informed choice" means a voluntary choice of services by a person from all available service options based on accurate and complete information concerning all available service options and concerning the person's own preferences, abilities, goals, and objectives. In order for a person to make an informed choice, all available options must be developed and presented to the person to empower the person to make decisions.

Sec. 19. Minnesota Statutes 2016, section 256B.0911, subdivision 2b, is amended to read:

Subd. 2b. **MnCHOICES certified assessors.** (a) Each lead agency shall use certified assessors who have completed MnCHOICES training and the certification processes determined by the

commissioner in subdivision 2c. Certified assessors shall demonstrate best practices in assessment and support planning including person-centered planning ~~principals~~ principles and have a common set of skills that must ensure consistency and equitable access to services statewide. ~~A lead agency may choose, according to departmental policies, to contract with a qualified, certified assessor to conduct assessments and reassessments on behalf of the lead agency.~~ Certified assessors must use person-centered planning principles to conduct an interview that identifies what is important to the person, the person's needs for supports, health and safety concerns, and the person's abilities, interests, and goals.

Certified assessors are responsible for:

- (1) ensuring persons are offered objective, unbiased access to resources;
- (2) ensuring persons have the needed information to support informed choice, including where and how they choose to live and the opportunity to pursue desired employment;
- (3) determining level of care and eligibility for long-term services and supports;
- (4) using the information gathered from the interview to develop a person-centered community support plan that reflects identified needs and support options within the context of values, interests, and goals important to the person; and
- (5) providing the person with a community support plan that summarizes the person's assessment findings, support options, and agreed-upon next steps.

(b) MnCHOICES 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 registered nurse with at least two years of home and community-based experience who has received training and certification specific to assessment and consultation for long-term care services in the state.

Sec. 20. Minnesota Statutes 2016, section 256B.0911, is amended by adding a subdivision to read:

Subd. 3f. **Long-term care reassessments and community support plan updates.** Face-to-face reassessments must be conducted annually or as required by federal and state laws and rules. Reassessments build upon all previous assessments conducted and include a review of needs and services to identify any changes. Reassessments provide information to support the person's informed choice and opportunities to express choice regarding activities that contribute to quality of life, as well as information and opportunity to identify goals related to desired employment, community activities, and preferred living environment. Reassessments allow for a review of the current support plan's effectiveness, monitoring of services, and the development of an updated person-centered community support plan. Reassessments verify continued eligibility or offer alternatives as warranted and provide an opportunity for quality assurance of service delivery.

Sec. 21. Minnesota Statutes 2016, section 256B.0911, subdivision 4d, is amended to read:

Subd. 4d. **Preadmission screening of individuals under 65 years of age.** (a) It is the policy of the state of Minnesota to ensure that individuals with disabilities or chronic illness are served in

the most integrated setting appropriate to their needs and have the necessary information to make informed choices about home and community-based service options.

(b) Individuals under 65 years of age who are admitted to a Medicaid-certified nursing facility must be screened prior to admission according to the requirements outlined in section 256.975, subdivisions 7a to 7c. This shall be provided by the Senior LinkAge Line as required under section 256.975, subdivision 7.

(c) Individuals under 65 years of age who are admitted to nursing facilities with only a telephone screening must receive a face-to-face assessment from the long-term care consultation team member of the county in which the facility is located or from the recipient's county case manager within ~~40 calendar days of admission~~ the timeline established by the commissioner, based on review of data.

(d) At the face-to-face assessment, the long-term care consultation team member or county case manager must perform the activities required under subdivision 3b.

(e) For individuals under 21 years of age, a screening interview which recommends nursing facility admission must be face-to-face and approved by the commissioner before the individual is admitted to the nursing facility.

(f) In the event that an individual under 65 years of age is admitted to a nursing facility on an emergency basis, the Senior LinkAge Line must be notified of the admission on the next working day, and a face-to-face assessment as described in paragraph (c) must be conducted within ~~40 calendar days of admission~~ the timeline established by the commissioner, based on review of data.

(g) At the face-to-face assessment, the long-term care consultation team member or the case manager must present information about home and community-based options, including consumer-directed options, so the individual can make informed choices. If the individual chooses home and community-based services, the long-term care consultation team member or case manager must complete a written relocation plan within 20 working days of the visit. The plan shall describe the services needed to move out of the facility and a time line for the move which is designed to ensure a smooth transition to the individual's home and community.

(h) An individual under 65 years of age residing in a nursing facility shall receive a face-to-face assessment at least every 12 months to review the person's service choices and available alternatives unless the individual indicates, in writing, that annual visits are not desired. In this case, the individual must receive a face-to-face assessment at least once every 36 months for the same purposes.

(i) Notwithstanding the provisions of subdivision 6, the commissioner may pay county agencies directly for face-to-face assessments for individuals under 65 years of age who are being considered for placement or residing in a nursing facility.

(j) Funding for preadmission screening follow-up shall be provided to the Disability Linkage Line for the under-60 population by the Department of Human Services to cover options counseling salaries and expenses to provide the services described in subdivisions 7a to 7c. The Disability Linkage Line shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide preadmission screening follow-up services and shall seek to maximize federal funding for the service as provided under section 256.01, subdivision 2, paragraph (dd).

Sec. 22. Minnesota Statutes 2016, section 256B.0911, subdivision 5, is amended to read:

Subd. 5. **Administrative activity.** (a) The commissioner shall 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.

(b) The commissioner of human services shall work with lead agencies responsible for conducting long-term consultation services to modify the MnCHOICES application and assessment policies to create efficiencies while ensuring federal compliance with medical assistance and long-term services and supports eligibility criteria.

Sec. 23. Minnesota Statutes 2016, section 256B.0921, is amended to read:

256B.0921 HOME AND COMMUNITY-BASED SERVICES INCENTIVE POOL.

The commissioner of human services shall develop an initiative to provide incentives for innovation in: (1) achieving integrated competitive employment; (2) achieving integrated competitive employment for youth under age 25 upon their graduation from school; (3) living in the most integrated setting; and (4) other outcomes determined by the commissioner. The commissioner shall seek requests for proposals and shall contract with one or more entities to provide incentive payments for meeting identified outcomes. ~~The initial requests for proposals must be issued by October 1, 2016.~~

Sec. 24. Minnesota Statutes 2016, section 256B.4913, subdivision 4a, is amended to read:

Subd. 4a. **Rate stabilization adjustment.** (a) For purposes of this subdivision, "implementation period" means the period beginning January 1, 2014, and ending on the last day of the month in which the rate management system is populated with the data necessary to calculate rates for substantially all individuals receiving home and community-based waiver services under sections 256B.092 and 256B.49. "Banding period" means the time period beginning on January 1, 2014, and ending upon the expiration of the 12-month period defined in paragraph (c), clause (5).

(b) For purposes of this subdivision, the historical rate for all service recipients means the individual reimbursement rate for a recipient in effect on December 1, 2013, except that:

(1) for a day service recipient who was not authorized to receive these waiver services prior to January 1, 2014; added a new service or services on or after January 1, 2014; or changed providers on or after January 1, 2014, the historical rate must be the weighted average authorized rate for the provider number in the county of service, effective December 1, 2013; or

(2) for a unit-based service with programming or a unit-based service without programming recipient who was not authorized to receive these waiver services prior to January 1, 2014; added a new service or services on or after January 1, 2014; or changed providers on or after January 1, 2014, the historical rate must be the weighted average authorized rate for each provider number in the county of service, effective December 1, 2013; or

(3) for residential service recipients who change providers on or after January 1, 2014, the historical rate must be set by each lead agency within their county aggregate budget using their respective methodology for residential services effective December 1, 2013, for determining the provider rate for a similarly situated recipient being served by that provider.

(c) The commissioner shall adjust individual reimbursement rates determined under this section so that the unit rate is no higher or lower than:

(1) 0.5 percent from the historical rate for the implementation period;

(2) 0.5 percent from the rate in effect in clause (1), for the 12-month period immediately following the time period of clause (1);

(3) 0.5 percent from the rate in effect in clause (2), for the 12-month period immediately following the time period of clause (2);

(4) 1.0 percent from the rate in effect in clause (3), for the 12-month period immediately following the time period of clause (3);

(5) 1.0 percent from the rate in effect in clause (4), for the 12-month period immediately following the time period of clause (4); ~~and~~

(6) no adjustment to the rate in effect in clause (5) for the 12-month period immediately following the time period of clause (5). During this banding rate period, the commissioner shall not enforce any rate decrease or increase that would otherwise result from the end of the banding period. The commissioner shall, upon enactment, seek federal approval for the addition of this banding period; and

(7) one percent from the rate in effect in clause (6) for the 12-month period immediately following the time period of clause (6).

(d) The commissioner shall review all changes to rates that were in effect on December 1, 2013, to verify that the rates in effect produce the equivalent level of spending and service unit utilization on an annual basis as those in effect on October 31, 2013.

(e) By December 31, 2014, the commissioner shall complete the review in paragraph (d), adjust rates to provide equivalent annual spending, and make appropriate adjustments.

(f) During the banding period, the Medicaid Management Information System (MMIS) service agreement rate must be adjusted to account for change in an individual's need. The commissioner shall adjust the Medicaid Management Information System (MMIS) service agreement rate by:

(1) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the individual with variables reflecting the level of service in effect on December 1, 2013;

(2) calculating a service rate under section 256B.4914, subdivision 6, 7, 8, or 9, for the individual with variables reflecting the updated level of service at the time of application; and

(3) adding to or subtracting from the Medicaid Management Information System (MMIS) service agreement rate, the difference between the values in clauses (1) and (2).

(g) This subdivision must not apply to rates for recipients served by providers new to a given county after January 1, 2014. Providers of personal supports services who also acted as fiscal support entities must be treated as new providers as of January 1, 2014.

EFFECTIVE DATE. (a) The amendment to paragraph (b) is effective the day following final enactment.

(b) The amendment to paragraph (c) is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 25. Minnesota Statutes 2016, section 256B.4913, is amended by adding a subdivision to read:

Subd. 7. New services. (a) A service added to section 256B.4914 after January 1, 2014, is not subject to rate stabilization adjustment in this section.

(b) Employment support services authorized after January 1, 2018, under the new employment support services definition according to the home and community-based services waivers for people with disabilities under sections 256B.092 and 256B.49 are not subject to rate stabilization adjustment in this section.

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

Sec. 26. Minnesota Statutes 2016, section 256B.4914, subdivision 2, is amended to read:

Subd. 2. Definitions. (a) For purposes of this section, the following terms have the meanings given them, unless the context clearly indicates otherwise.

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

(c) "Component value" means underlying factors that are part of the cost of providing services that are built into the waiver rates methodology to calculate service rates.

(d) "Customized living tool" means a methodology for setting service rates that delineates and documents the amount of each component service included in a recipient's customized living service plan.

(e) "Disability waiver rates system" means a statewide system that establishes rates that are based on uniform processes and captures the individualized nature of waiver services and recipient needs.

(f) "Individual staffing" means the time spent as a one-to-one interaction specific to an individual recipient by staff to provide direct support and assistance with activities of daily living, instrumental activities of daily living, and training to participants, and is based on the requirements in each individual's coordinated service and support plan under section 245D.02, subdivision 4b; any coordinated service and support plan addendum under section 245D.02, subdivision 4c; and an assessment tool. Provider observation of an individual's needs must also be considered.

(g) "Lead agency" means a county, partnership of counties, or tribal agency charged with administering waived services under sections 256B.092 and 256B.49.

(h) "Median" means the amount that divides distribution into two equal groups, one-half above the median and one-half below the median.

(i) "Payment or rate" means reimbursement to an eligible provider for services provided to a qualified individual based on an approved service authorization.

(j) "Rates management system" means a Web-based software application that uses a framework and component values, as determined by the commissioner, to establish service rates.

(k) "Recipient" means a person receiving home and community-based services funded under any of the disability waivers.

(l) "Shared staffing" means time spent by employees, not defined under paragraph (f), providing or available to provide more than one individual with direct support and assistance with activities of daily living as defined under section 256B.0659, subdivision 1, paragraph (b); instrumental activities of daily living as defined under section 256B.0659, subdivision 1, paragraph (i); ancillary activities needed to support individual services; and training to participants, and is based on the requirements in each individual's coordinated service and support plan under section 245D.02, subdivision 4b; any coordinated service and support plan addendum under section 245D.02, subdivision 4c; an assessment tool; and provider observation of an individual's service need. Total shared staffing hours are divided proportionally by the number of individuals who receive the shared service provisions.

(m) "Staffing ratio" means the number of recipients a service provider employee supports during a unit of service based on a uniform assessment tool, provider observation, case history, and the recipient's services of choice, and not based on the staffing ratios under section 245D.31.

(n) "Unit of service" means the following:

(1) for residential support services under subdivision 6, a unit of service is a day. Any portion of any calendar day, within allowable Medicaid rules, where an individual spends time in a residential setting is billable as a day;

(2) for day services under subdivision 7:

(i) for day training and habilitation services, a unit of service is either:

(A) a day unit of service is defined as six or more hours of time spent providing direct services and transportation; or

(B) a partial day unit of service is defined as fewer than six hours of time spent providing direct services and transportation; and

(C) for new day service recipients after January 1, 2014, 15 minute units of service must be used for fewer than six hours of time spent providing direct services and transportation;

(ii) for adult day and structured day services, a unit of service is a day or 15 minutes. A day unit of service is six or more hours of time spent providing direct services;

(iii) for prevocational services, a unit of service is a day or an hour. A day unit of service is six or more hours of time spent providing direct service;

(3) for unit-based services with programming under subdivision 8:

(i) for supported living services, a unit of service is a day or 15 minutes. When a day rate is authorized, any portion of a calendar day where an individual receives services is billable as a day; and

(ii) for all other services, a unit of service is 15 minutes; and

(4) for unit-based services without programming under subdivision 9:

~~(i) for respite services, a unit of service is a day or 15 minutes. When a day rate is authorized, any portion of a calendar day when an individual receives services is billable as a day; and~~

~~(ii) for all other services, a unit of service is 15 minutes.~~

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 27. Minnesota Statutes 2016, section 256B.4914, subdivision 3, is amended to read:

Subd. 3. **Applicable services.** Applicable services are those authorized under the state's home and community-based services waivers under sections 256B.092 and 256B.49, including the following, as defined in the federally approved home and community-based services plan:

- (1) 24-hour customized living;
- (2) adult day care;
- (3) adult day care bath;
- (4) behavioral programming;
- (5) companion services;
- (6) customized living;
- (7) day training and habilitation;
- (8) housing access coordination;
- (9) independent living skills;
- (10) in-home family support;
- (11) night supervision;
- (12) personal support;
- (13) prevocational services;

- (14) residential care services;
- (15) residential support services;
- (16) respite services;
- (17) structured day services;
- ~~(18) supported employment services;~~
- ~~(19)~~ (18) supported living services;
- ~~(20)~~ (19) transportation services; ~~and~~
- (20) individualized home supports;
- (21) independent living skills specialist services;
- (22) employment exploration services;
- (23) employment development services;
- (24) employment support services; and

~~(24)~~ (25) other services as approved by the federal government in the state home and community-based services plan.

EFFECTIVE DATE. (a) Clause (20) is effective the day following final enactment.

(b) Clauses (21) to (24) are effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 28. Minnesota Statutes 2016, section 256B.4914, subdivision 5, is amended to read:

Subd. 5. **Base wage index and standard component values.** (a) The base wage index is established to determine staffing costs associated with providing services to individuals receiving home and community-based services. For purposes of developing and calculating the proposed base wage, Minnesota-specific wages taken from job descriptions and standard occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in the most recent edition of the Occupational Handbook must be used. The base wage index must be calculated as follows:

(1) for residential direct care staff, the sum of:

(i) 15 percent of the subtotal of 50 percent of the median wage for personal and home health aide (SOC code 39-9021); 30 percent of the median wage for nursing ~~aide~~ assistant (SOC code ~~31-1012~~ 31-1014); and 20 percent of the median wage for social and human services aide (SOC code 21-1093); and

(ii) 85 percent of the subtotal of 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing ~~aide~~ assistant (SOC code ~~31-1012~~ 31-1014); 20 percent

of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

(2) for day services, 20 percent of the median wage for nursing ~~aide~~ assistant (SOC code ~~31-1012~~ 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(3) for residential asleep-overnight staff, the wage ~~will be \$7.66 per hour~~ is the minimum wage in Minnesota for large employers, except in a family foster care setting, the wage is \$2.80 per hour 36 percent of the minimum wage in Minnesota for large employers;

(4) for behavior program analyst staff, 100 percent of the median wage for mental health counselors (SOC code 21-1014);

(5) for behavior program professional staff, 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

(6) for behavior program specialist staff, 100 percent of the median wage for psychiatric technicians (SOC code 29-2053);

(7) for supportive living services staff, 20 percent of the median wage for nursing ~~aide~~ assistant (SOC code ~~31-1012~~ 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 60 percent of the median wage for social and human services aide (SOC code 21-1093);

(8) for housing access coordination staff, ~~50~~ 100 percent of the median wage for community and social services specialist (SOC code 21-1099); ~~and 50 percent of the median wage for social and human services aide (SOC code 21-1093);~~

(9) for in-home family support staff, 20 percent of the median wage for nursing aide (SOC code 31-1012); 30 percent of the median wage for community social service specialist (SOC code 21-1099); 40 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(10) for individualized home supports services staff, 40 percent of the median wage for community social service specialist (SOC code 21-1099); 50 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(11) for independent living skills staff, 40 percent of the median wage for community social service specialist (SOC code 21-1099); 50 percent of the median wage for social and human services aide (SOC code 21-1093); and ten percent of the median wage for psychiatric technician (SOC code 29-2053);

(12) for independent living skills specialist staff, 100 percent of mental health and substance abuse social worker (SOC code 21-1023);

~~(11)~~ (13) for supported employment support services staff, 20 50 percent of the median wage for nursing aide rehabilitation counselor (SOC code 31-1012 21-1015); 20 percent of the median

wage for psychiatric technician (SOC code 29-2053); and ~~60~~ 50 percent of the median wage for community and social and human services aide specialist (SOC code ~~21-1093~~ 21-1099);

(14) for employment exploration services staff, 50 percent of the median wage for rehabilitation counselor (SOC code 21-1015); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

(15) for employment development services staff, 50 percent of the median wage for education, guidance, school, and vocational counselors (SOC code 21-1012); and 50 percent of the median wage for community and social services specialist (SOC code 21-1099);

~~(12)~~ (16) for adult companion staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants assistant (SOC code ~~31-1012~~ 31-1014);

~~(13)~~ (17) for night supervision staff, 20 percent of the median wage for home health aide (SOC code 31-1011); 20 percent of the median wage for personal and home health aide (SOC code 39-9021); 20 percent of the median wage for nursing aide assistant (SOC code ~~31-1012~~ 31-1014); 20 percent of the median wage for psychiatric technician (SOC code 29-2053); and 20 percent of the median wage for social and human services aide (SOC code 21-1093);

~~(14)~~ (18) for respite staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants assistant (SOC code ~~31-1012~~ 31-1014);

~~(15)~~ (19) for personal support staff, 50 percent of the median wage for personal and home care aide (SOC code 39-9021); and 50 percent of the median wage for nursing aides, orderlies, and attendants assistant (SOC code ~~31-1012~~ 31-1014);

~~(16)~~ (20) for supervisory staff, ~~the basic wage is \$17.43 per hour~~, 100 percent of the median wage for community and social services specialist (SOC code 21-1099), with the exception of the supervisor of behavior professional, behavior analyst, and behavior specialists, which ~~must be \$30.75 per hour~~ is 100 percent of the median wage for clinical counseling and school psychologist (SOC code 19-3031);

~~(17)~~ (21) for registered nurse staff, ~~the basic wage is \$30.82 per hour~~, 100 percent of the median wage for registered nurses (SOC code 29-1141); and

~~(18)~~ (22) for licensed practical nurse staff, ~~the basic wage is \$18.64 per hour~~ 100 percent of the median wage for licensed practical nurses (SOC code 29-2061).

(b) Component values for residential support services are:

- (1) supervisory span of control ratio: 11 percent;
- (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
- (3) employee-related cost ratio: 23.6 percent;
- (4) general administrative support ratio: 13.25 percent;

- (5) program-related expense ratio: 1.3 percent; and
- (6) absence and utilization factor ratio: 3.9 percent.
- (c) Component values for family foster care are:
 - (1) supervisory span of control ratio: 11 percent;
 - (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
 - (3) employee-related cost ratio: 23.6 percent;
 - (4) general administrative support ratio: 3.3 percent;
 - (5) program-related expense ratio: 1.3 percent; and
 - (6) absence factor: 1.7 percent.
- (d) Component values for day services for all services are:
 - (1) supervisory span of control ratio: 11 percent;
 - (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
 - (3) employee-related cost ratio: 23.6 percent;
 - (4) program plan support ratio: 5.6 percent;
 - (5) client programming and support ratio: ten percent;
 - (6) general administrative support ratio: 13.25 percent;
 - (7) program-related expense ratio: 1.8 percent; and
 - (8) absence and utilization factor ratio: ~~3.9~~ 9.4 percent.
- (e) Component values for unit-based services with programming are:
 - (1) supervisory span of control ratio: 11 percent;
 - (2) employee vacation, sick, and training allowance ratio: 8.71 percent;
 - (3) employee-related cost ratio: 23.6 percent;
 - (4) program plan supports ratio: ~~3.4~~ 15.5 percent;
 - (5) client programming and supports ratio: ~~8.6~~ 4.7 percent;
 - (6) general administrative support ratio: 13.25 percent;
 - (7) program-related expense ratio: 6.1 percent; and

(8) absence and utilization factor ratio: 3.9 percent.

(f) Component values for unit-based services without programming except respite are:

(1) supervisory span of control ratio: 11 percent;

(2) employee vacation, sick, and training allowance ratio: 8.71 percent;

(3) employee-related cost ratio: 23.6 percent;

(4) program plan support ratio: ~~3.1~~ 7.0 percent;

(5) client programming and support ratio: ~~8.6~~ 2.3 percent;

(6) general administrative support ratio: 13.25 percent;

(7) program-related expense ratio: ~~6.1~~ 2.9 percent; and

(8) absence and utilization factor ratio: 3.9 percent.

(g) Component values for unit-based services without programming for respite are:

(1) supervisory span of control ratio: 11 percent;

(2) employee vacation, sick, and training allowance ratio: 8.71 percent;

(3) employee-related cost ratio: 23.6 percent;

(4) general administrative support ratio: 13.25 percent;

(5) program-related expense ratio: ~~6.1~~ 2.9 percent; and

(6) absence and utilization factor ratio: 3.9 percent.

(h) On July 1, 2017, the commissioner shall update the base wage index in paragraph (a) based on the wage data by standard occupational code (SOC) from the Bureau of Labor Statistics available on December 31, 2016. The commissioner shall publish these updated values and load them into the rate management system. ~~This adjustment occurs every five years. For adjustments in 2021 and beyond, the commissioner shall use the data available on December 31 of the calendar year five years prior.~~ On January 1, 2022, and every two years thereafter, the commissioner shall update the base wage index in paragraph (a) based on the most recently available wage data by SOC from the Bureau of Labor Statistics. The commissioner shall publish these updated values and load them into the rate management system.

(i) On July 1, 2017, the commissioner shall update the framework components in ~~paragraphs (b) to (g)~~ ~~paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause (5);~~ subdivision 6, clauses (8) and (9); and subdivision 7, clauses ~~(10), (16), and (17)~~, (10), (16), and (17), for changes in the Consumer Price Index. The commissioner will adjust these values higher or lower by the percentage change in the Consumer Price Index-All Items, United States city average (CPI-U) from January 1, 2014, to January 1, 2017. The commissioner shall publish these updated values and load them into the rate management system. ~~This adjustment occurs every five years. For adjustments in 2021 and~~

beyond, the commissioner shall use the data available on January 1 of the calendar year four years prior and January 1 of the current calendar year. On January 1, 2022, and every two years thereafter, the commissioner shall update the framework components in paragraph (d), clause (5); paragraph (e), clause (5); and paragraph (f), clause (5); subdivision 6, clauses (8) and (9); and subdivision 7, clauses (10), (16), and (17), for changes in the Consumer Price Index. The commissioner shall adjust these values higher or lower by the percentage change in the CPI-U from the date of the previous update to the date of the data most recently available prior to the scheduled update. The commissioner shall publish these updated values and load them into the rate management system.

(j) In this subdivision, if Bureau of Labor Statistics occupational codes or Consumer Price Index items are unavailable in the future, the commissioner shall recommend to the legislature codes or items to update and replace missing component values.

(k) The commissioner must ensure that wage values and component values in subdivisions 5 to 9 reflect the cost to provide the service. As determined by the commissioner, in consultation with stakeholders identified in section 256B.4913, subdivision 5, a provider enrolled to provide services with rates determined under this section must submit requested cost data to the commissioner to support research on the cost of providing services that have rates determined by the disability waiver rates system. Requested cost data may include, but is not limited to:

(1) worker wage costs;

(2) benefits paid;

(3) supervisor wage costs;

(4) executive wage costs;

(5) vacation, sick, and training time paid;

(6) taxes, workers' compensation, and unemployment insurance costs paid;

(7) administrative costs paid;

(8) program costs paid;

(9) transportation costs paid;

(10) vacancy rates; and

(11) other data relating to costs required to provide services requested by the commissioner.

(l) At least once in any five-year period, a provider must submit cost data for a fiscal year that ended not more than 18 months prior to the submission date. The commissioner shall provide each provider a 90-day notice prior to its submission due date. If a provider fails to submit required reporting data, the commissioner shall provide notice to providers that have not provided required data 30 days after the required submission date, and a second notice for providers who have not provided required data 60 days after the required submission date. The commissioner shall temporarily suspend payments to the provider if cost data is not received 90 days after the required submission date. Withheld payments shall be made once data is received by the commissioner.

(m) The commissioner shall conduct a random validation of data submitted under paragraph (k) to ensure data accuracy. The commissioner shall analyze cost documentation in paragraph (k) and provide recommendations for adjustments to cost components.

(n) The commissioner shall analyze cost documentation in paragraph (k) and, in consultation with stakeholders identified in section 256B.4913, subdivision 5, may submit recommendations on component values and inflationary factor adjustments to the chairs and ranking minority members of the legislative committees with jurisdiction over human services every four years beginning January 1, 2020. The commissioner shall make recommendations in conjunction with reports submitted to the legislature according to subdivision 10, paragraph (e). The commissioner shall release business cost data in an aggregate form, and business cost data from individual providers shall not be released except as provided for in current law.

(o) The commissioner, in consultation with stakeholders identified in section 256B.4913, subdivision 5, shall develop and implement a process for providing training and technical assistance necessary to support provider submission of cost documentation required under paragraph (k).

EFFECTIVE DATE. (a) The amendments to paragraphs (a) to (g) are effective January 1, 2018, except the amendment to paragraph (d), clause (8), which is effective January 1, 2019, and the amendment to paragraph (a), clause (10), which is effective the day following final enactment.

(b) The amendments to paragraphs (h) to (o) are effective the day following final enactment.

Sec. 29. Minnesota Statutes 2016, section 256B.4914, subdivision 6, is amended to read:

Subd. 6. **Payments for residential support services.** (a) Payments for residential support services, as defined in sections 256B.092, subdivision 11, and 256B.49, subdivision 22, must be calculated as follows:

(1) determine the number of shared staffing and individual direct staff hours to meet a recipient's needs provided on site or through monitoring technology;

(2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in subdivision 5. This is defined as the direct-care rate;

(3) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (2). This is defined as the customized direct-care rate;

(4) multiply the number of shared and individual direct staff hours provided on site or through monitoring technology and nursing hours by the appropriate staff wages in subdivision 5, paragraph (a), or the customized direct-care rate;

(5) multiply the number of shared and individual direct staff hours provided on site or through monitoring technology and nursing hours by the product of the supervision span of control ratio in subdivision 5, paragraph (b), clause (1), and the appropriate supervision wage in subdivision 5, paragraph (a), clause ~~(16)~~ (20);

(6) combine the results of clauses (4) and (5), excluding any shared and individual direct staff hours provided through monitoring technology, and multiply the result by one plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (b), clause (2). This is defined as the direct staffing cost;

(7) for employee-related expenses, multiply the direct staffing cost, excluding any shared and individual direct staff hours provided through monitoring technology, by one plus the employee-related cost ratio in subdivision 5, paragraph (b), clause (3);

(8) for client programming and supports, the commissioner shall add \$2,179; and

(9) for transportation, if provided, the commissioner shall add \$1,680, or \$3,000 if customized for adapted transport, based on the resident with the highest assessed need.

(b) The total rate must be calculated using the following steps:

(1) subtotal paragraph (a), clauses (7) to (9), and the direct staffing cost of any shared and individual direct staff hours provided through monitoring technology that was excluded in clause (7);

(2) sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization ratio;

(3) divide the result of clause (1) by one minus the result of clause (2). This is the total payment amount; and

(4) adjust the result of clause (3) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

(c) The payment methodology for customized living, 24-hour customized living, and residential care services must be the customized living tool. Revisions to the customized living tool must be made to reflect the services and activities unique to disability-related recipient needs.

(d) For individuals enrolled prior to January 1, 2014, the days of service authorized must meet or exceed the days of service used to convert service agreements in effect on December 1, 2013, and must not result in a reduction in spending or service utilization due to conversion during the implementation period under section 256B.4913, subdivision 4a. If during the implementation period, an individual's historical rate, including adjustments required under section 256B.4913, subdivision 4a, paragraph (c), is equal to or greater than the rate determined in this subdivision, the number of days authorized for the individual is 365.

(e) The number of days authorized for all individuals enrolling after January 1, 2014, in residential services must include every day that services start and end.

Sec. 30. Minnesota Statutes 2016, section 256B.4914, subdivision 7, is amended to read:

Subd. 7. **Payments for day programs.** Payments for services with day programs including adult day care, day treatment and habilitation, prevocational services, and structured day services must be calculated as follows:

- (1) determine the number of units of service and staffing ratio to meet a recipient's needs:
 - (i) the staffing ratios for the units of service provided to a recipient in a typical week must be averaged to determine an individual's staffing ratio; and
 - (ii) the commissioner, in consultation with service providers, shall develop a uniform staffing ratio worksheet to be used to determine staffing ratios under this subdivision;
- (2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in subdivision 5;
- (3) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (2). This is defined as the customized direct-care rate;
- (4) multiply the number of day program direct staff hours and nursing hours by the appropriate staff wage in subdivision 5, paragraph (a), or the customized direct-care rate;
- (5) multiply the number of day direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (d), clause (1), and the appropriate supervision wage in subdivision 5, paragraph (a), clause ~~(16)~~ (20);
- (6) combine the results of clauses (4) and (5), and multiply the result by one plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (d), clause (2). This is defined as the direct staffing rate;
- (7) for program plan support, multiply the result of clause (6) by one plus the program plan support ratio in subdivision 5, paragraph (d), clause (4);
- (8) for employee-related expenses, multiply the result of clause (7) by one plus the employee-related cost ratio in subdivision 5, paragraph (d), clause (3);
- (9) for client programming and supports, multiply the result of clause (8) by one plus the client programming and support ratio in subdivision 5, paragraph (d), clause (5);
- (10) for program facility costs, add \$19.30 per week with consideration of staffing ratios to meet individual needs;
- (11) for adult day bath services, add \$7.01 per 15 minute unit;
- (12) this is the subtotal rate;
- (13) sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization factor ratio;
- (14) divide the result of clause (12) by one minus the result of clause (13). This is the total payment amount;
- (15) adjust the result of clause (14) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services;

(16) for transportation provided as part of day training and habilitation for an individual who does not require a lift, add:

(i) \$10.50 for a trip between zero and ten miles for a nonshared ride in a vehicle without a lift, \$8.83 for a shared ride in a vehicle without a lift, and \$9.25 for a shared ride in a vehicle with a lift;

(ii) \$15.75 for a trip between 11 and 20 miles for a nonshared ride in a vehicle without a lift, \$10.58 for a shared ride in a vehicle without a lift, and \$11.88 for a shared ride in a vehicle with a lift;

(iii) \$25.75 for a trip between 21 and 50 miles for a nonshared ride in a vehicle without a lift, \$13.92 for a shared ride in a vehicle without a lift, and \$16.88 for a shared ride in a vehicle with a lift; or

(iv) \$33.50 for a trip of 51 miles or more for a nonshared ride in a vehicle without a lift, \$16.50 for a shared ride in a vehicle without a lift, and \$20.75 for a shared ride in a vehicle with a lift;

(17) for transportation provided as part of day training and habilitation for an individual who does require a lift, add:

(i) \$19.05 for a trip between zero and ten miles for a nonshared ride in a vehicle with a lift, and \$15.05 for a shared ride in a vehicle with a lift;

(ii) \$32.16 for a trip between 11 and 20 miles for a nonshared ride in a vehicle with a lift, and \$28.16 for a shared ride in a vehicle with a lift;

(iii) \$58.76 for a trip between 21 and 50 miles for a nonshared ride in a vehicle with a lift, and \$58.76 for a shared ride in a vehicle with a lift; or

(iv) \$80.93 for a trip of 51 miles or more for a nonshared ride in a vehicle with a lift, and \$80.93 for a shared ride in a vehicle with a lift.

Sec. 31. Minnesota Statutes 2016, section 256B.4914, subdivision 8, is amended to read:

Subd. 8. **Payments for unit-based services with programming.** Payments for unit-based services with programming, including behavior programming, housing access coordination, in-home family support, independent living skills training, independent living skills specialist services, individualized home supports, hourly supported living services, employment exploration services, employment development services, and ~~supported~~ employment support services provided to an individual outside of any day or residential service plan must be calculated as follows, unless the services are authorized separately under subdivision 6 or 7:

(1) determine the number of units of service to meet a recipient's needs;

(2) personnel hourly wage rate must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rates or rates derived by the commissioner as provided in subdivision 5;

(3) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (2). This is defined as the customized direct-care rate;

(4) multiply the number of direct staff hours by the appropriate staff wage in subdivision 5, paragraph (a), or the customized direct-care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (e), clause (1), and the appropriate supervision wage in subdivision 5, paragraph (a), clause ~~(16)~~ (20);

(6) combine the results of clauses (4) and (5), and multiply the result by one plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (e), clause (2). This is defined as the direct staffing rate;

(7) for program plan support, multiply the result of clause (6) by one plus the program plan supports ratio in subdivision 5, paragraph (e), clause (4);

(8) for employee-related expenses, multiply the result of clause (7) by one plus the employee-related cost ratio in subdivision 5, paragraph (e), clause (3);

(9) for client programming and supports, multiply the result of clause (8) by one plus the client programming and supports ratio in subdivision 5, paragraph (e), clause (5);

(10) this is the subtotal rate;

(11) sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization factor ratio;

(12) divide the result of clause (10) by one minus the result of clause (11). This is the total payment amount;

(13) for ~~supported~~ employment support services provided in a shared manner, divide the total payment amount in clause (12) by the number of service recipients, not to exceed ~~three~~ six. For independent living skills training and individualized home supports provided in a shared manner, divide the total payment amount in clause (12) by the number of service recipients, not to exceed two; and

(14) adjust the result of clause (13) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

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

Sec. 32. Minnesota Statutes 2016, section 256B.4914, subdivision 9, is amended to read:

Subd. 9. **Payments for unit-based services without programming.** Payments for unit-based services without programming, including night supervision, personal support, respite, and companion care provided to an individual outside of any day or residential service plan must be calculated as follows unless the services are authorized separately under subdivision 6 or 7:

(1) for all services except respite, determine the number of units of service to meet a recipient's needs;

(2) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

(3) for a recipient requiring customization for deaf and hard-of-hearing language accessibility under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (2). This is defined as the customized direct care rate;

(4) multiply the number of direct staff hours by the appropriate staff wage in subdivision 5 or the customized direct care rate;

(5) multiply the number of direct staff hours by the product of the supervision span of control ratio in subdivision 5, paragraph (f), clause (1), and the appropriate supervision wage in subdivision 5, paragraph (a), clause ~~(16)~~ (20);

(6) combine the results of clauses (4) and (5), and multiply the result by one plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (f), clause (2). This is defined as the direct staffing rate;

(7) for program plan support, multiply the result of clause (6) by one plus the program plan support ratio in subdivision 5, paragraph (f), clause (4);

(8) for employee-related expenses, multiply the result of clause (7) by one plus the employee-related cost ratio in subdivision 5, paragraph (f), clause (3);

(9) for client programming and supports, multiply the result of clause (8) by one plus the client programming and support ratio in subdivision 5, paragraph (f), clause (5);

(10) this is the subtotal rate;

(11) sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization factor ratio;

(12) divide the result of clause (10) by one minus the result of clause (11). This is the total payment amount;

(13) for respite services, determine the number of day units of service to meet an individual's needs;

(14) personnel hourly wage rates must be based on the 2009 Bureau of Labor Statistics Minnesota-specific rate or rates derived by the commissioner as provided in subdivision 5;

(15) for a recipient requiring deaf and hard-of-hearing customization under subdivision 12, add the customization rate provided in subdivision 12 to the result of clause (14). This is defined as the customized direct care rate;

(16) multiply the number of direct staff hours by the appropriate staff wage in subdivision 5, paragraph (a);

(17) multiply the number of direct staff hours by the product of the supervisory span of control ratio in subdivision 5, paragraph (g), clause (1), and the appropriate supervision wage in subdivision 5, paragraph (a), clause ~~(16)~~ (20);

(18) combine the results of clauses (16) and (17), and multiply the result by one plus the employee vacation, sick, and training allowance ratio in subdivision 5, paragraph (g), clause (2). This is defined as the direct staffing rate;

(19) for employee-related expenses, multiply the result of clause (18) by one plus the employee-related cost ratio in subdivision 5, paragraph (g), clause (3);

(20) this is the subtotal rate;

(21) sum the standard general and administrative rate, the program-related expense ratio, and the absence and utilization factor ratio;

(22) divide the result of clause (20) by one minus the result of clause (21). This is the total payment amount; and

(23) adjust the result of clauses (12) and (22) by a factor to be determined by the commissioner to adjust for regional differences in the cost of providing services.

Sec. 33. Minnesota Statutes 2016, section 256B.4914, subdivision 10, is amended to read:

Subd. 10. **Updating payment values and additional information.** (a) From January 1, 2014, through December 31, 2017, the commissioner shall develop and implement uniform procedures to refine terms and adjust values used to calculate payment rates in this section.

(b) No later than July 1, 2014, the commissioner shall, within available resources, begin to conduct research and gather data and information from existing state systems or other outside sources on the following items:

(1) differences in the underlying cost to provide services and care across the state; and

(2) mileage, vehicle type, lift requirements, incidents of individual and shared rides, and units of transportation for all day services, which must be collected from providers using the rate management worksheet and entered into the rates management system; and

(3) the distinct underlying costs for services provided by a license holder under sections 245D.05, 245D.06, 245D.07, 245D.071, 245D.081, and 245D.09, and for services provided by a license holder certified under section 245D.33.

(c) Beginning January 1, 2014, through December 31, 2018, using a statistically valid set of rates management system data, the commissioner, in consultation with stakeholders, shall analyze for each service the average difference in the rate on December 31, 2013, and the framework rate at the individual, provider, lead agency, and state levels. The commissioner shall issue semiannual reports to the stakeholders on the difference in rates by service and by county during the banding period under section 256B.4913, subdivision 4a. The commissioner shall issue the first report by October 1, 2014, and the final report shall be issued by December 31, 2018.

(d) No later than July 1, 2014, the commissioner, in consultation with stakeholders, shall begin the review and evaluation of the following values already in subdivisions 6 to 9, or issues that impact all services, including, but not limited to:

- (1) values for transportation rates ~~for day services;~~
 - ~~(2) values for transportation rates in residential services;~~
 - ~~(3)~~ (2) values for services where monitoring technology replaces staff time;
 - ~~(4)~~ (3) values for indirect services;
 - ~~(5)~~ (4) values for nursing;
 - ~~(6) component values for independent living skills;~~
 - ~~(7) component values for family foster care that reflect licensing requirements;~~
 - ~~(8) adjustments to other components to replace the budget neutrality factor;~~
 - ~~(9) remote monitoring technology for nonresidential services;~~
 - ~~(10) values for basic and intensive services in residential services;~~
 - ~~(11)~~ (5) values for the facility use rate in day services, and the weightings used in the day service ratios and adjustments to those weightings;
 - ~~(12)~~ (6) values for workers' compensation as part of employee-related expenses;
 - ~~(13)~~ (7) values for unemployment insurance as part of employee-related expenses;
 - ~~(14) a component value to reflect costs for individuals with rates previously adjusted for the inclusion of group residential housing rate 3 costs, only for any individual enrolled as of December 31, 2013; and~~
 - ~~(15)~~ (8) any changes in state or federal law with ~~an~~ a direct impact on the underlying cost of providing home and community-based services; and
- (9) outcome measures, determined by the commissioner, for home and community-based services rates determined under this section.

(e) The commissioner shall report to the chairs and the ranking minority members of the legislative committees and divisions with jurisdiction over health and human services policy and finance with the information and data gathered under paragraphs (b) to (d) on the following dates:

- (1) January 15, 2015, with preliminary results and data;
- (2) January 15, 2016, with a status implementation update, and additional data and summary information;
- (3) January 15, 2017, with the full report; and

(4) January 15, ~~2019~~ 2020, with another full report, and a full report once every four years thereafter.

~~(f) Based on the commissioner's evaluation of the information and data collected in paragraphs (b) to (d), the commissioner shall make recommendations to the legislature by January 15, 2015, to address any issues identified during the first year of implementation. After January 15, 2015, the commissioner may make recommendations to the legislature to address potential issues.~~

~~(g)~~ (f) The commissioner shall implement a regional adjustment factor to all rate calculations in subdivisions 6 to 9, effective no later than January 1, 2015. Beginning July 1, 2017, the commissioner shall renew analysis and implement changes to the regional adjustment factors when adjustments required under subdivision 5, paragraph (h), occur. Prior to implementation, the commissioner shall consult with stakeholders on the methodology to calculate the adjustment.

~~(h)~~ (g) The commissioner shall provide a public notice via LISTSERV in October of each year beginning October 1, 2014, containing information detailing legislatively approved changes in:

- (1) calculation values including derived wage rates and related employee and administrative factors;
- (2) service utilization;
- (3) county and tribal allocation changes; and
- (4) information on adjustments made to calculation values and the timing of those adjustments.

The information in this notice must be effective January 1 of the following year.

~~(i) No later than July 1, 2016, the commissioner shall develop and implement, in consultation with stakeholders, a methodology sufficient to determine the shared staffing levels necessary to meet, at a minimum, health and welfare needs of individuals who will be living together in shared residential settings, and the required shared staffing activities described in subdivision 2, paragraph (l). This determination methodology must ensure staffing levels are adaptable to meet the needs and desired outcomes for current and prospective residents in shared residential settings.~~

~~(j)~~ (h) When the available shared staffing hours in a residential setting are insufficient to meet the needs of an individual who enrolled in residential services after January 1, 2014, or insufficient to meet the needs of an individual with a service agreement adjustment described in section 256B.4913, subdivision 4a, paragraph (f), then individual staffing hours shall be used.

(i) The commissioner shall study the underlying cost of absence and utilization for day services. Based on the commissioner's evaluation of the data collected under this paragraph, the commissioner shall make recommendations to the legislature by January 15, 2018, for changes, if any, to the absence and utilization factor ratio component value for day services.

(j) Beginning July 1, 2017, the commissioner shall collect transportation and trip information for all day services through the rates management system.

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

Sec. 34. Minnesota Statutes 2016, section 256B.4914, subdivision 16, is amended to read:

Subd. 16. **Budget neutrality adjustments.** (a) The commissioner shall use the following adjustments to the rate generated by the framework to assure budget neutrality until the rate information is available to implement paragraph (b). The rate generated by the framework shall be multiplied by the appropriate factor, as designated below:

- (1) for residential services: 1.003;
- (2) for day services: 1.000;
- (3) for unit-based services with programming: 0.941; and
- (4) for unit-based services without programming: 0.796.

(b) Within 12 months of January 1, 2014, the commissioner shall compare estimated spending for all home and community-based waiver services under the new payment rates defined in subdivisions 6 to 9 with estimated spending for the same recipients and services under the rates in effect on July 1, 2013. This comparison must distinguish spending under each of subdivisions 6, 7, 8, and 9. The comparison must be based on actual recipients and services for one or more service months after the new rates have gone into effect. The commissioner shall consult with the commissioner of management and budget on this analysis to ensure budget neutrality. If estimated spending under the new rates for services under one or more subdivisions differs in this comparison by 0.3 percent or more, the commissioner shall assure aggregate budget neutrality across all service areas by adjusting the budget neutrality factor in paragraph (a) in each subdivision so that total estimated spending for each subdivision under the new rates matches estimated spending under the rates in effect on July 1, 2013.

(c) A service rate developed using values in subdivision 5, paragraph (a), clause (10), is not subject to budget neutrality adjustments.

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

Sec. 35. Minnesota Statutes 2016, section 256C.23, is amended by adding a subdivision to read:

Subd. 1a. **Culturally affirmative.** "Culturally affirmative" describes services that are designed and delivered within the context of the culture, language, and life experiences of a person who is deaf, a person who is deafblind, and a person who is hard-of-hearing.

Sec. 36. Minnesota Statutes 2016, section 256C.23, subdivision 2, is amended to read:

Subd. 2. **Deaf.** "Deaf" means a hearing loss of such severity that the individual must depend primarily on visual communication such as American Sign Language or other signed language, visual and manual means of communication such as signing systems in English or Cued Speech, writing, lip speech reading, manual communication, and gestures.

Sec. 37. Minnesota Statutes 2016, section 256C.23, is amended by adding a subdivision to read:

Subd. 2c. **Interpreting services.** "Interpreting services" means services that include:

(1) interpreting between a spoken language, such as English, and a visual language, such as American Sign Language;

(2) interpreting between a spoken language and a visual representation of a spoken language, such as Cued Speech and signing systems in English;

(3) interpreting within one language where the interpreter uses natural gestures and silently repeats the spoken message, replacing some words or phrases to give higher visibility on the lips;

(4) interpreting using low vision or tactile methods for persons who have a combined hearing and vision loss or are deafblind; and

(5) interpreting from one communication mode or language into another communication mode or language that is linguistically and culturally appropriate for the participants in the communication exchange.

Sec. 38. Minnesota Statutes 2016, section 256C.23, is amended by adding a subdivision to read:

Subd. 6. **Real-time captioning.** "Real-time captioning" means a method of captioning in which a caption is simultaneously prepared and displayed or transmitted at the time of origination by specially trained real-time captioners.

Sec. 39. Minnesota Statutes 2016, section 256C.233, subdivision 1, is amended to read:

Subdivision 1. **Deaf and Hard-of-Hearing Services Division.** The commissioners of ~~human services~~; education, employment and economic development, and health shall ~~create a distinct and separate organizational unit to be known as~~ advise the commissioner of human services on the activities of the Deaf and Hard-of-Hearing Services Division to address. This division addresses the developmental, ~~social, educational, and occupational~~ and social-emotional needs of persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons through a statewide network of ~~collaborative services and by coordinating the promulgation of public policies, regulations, legislation, and programs affecting~~ advocates on behalf of and provides information and training about how to best serve persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons. ~~An interdepartmental management team shall advise the activities of the Deaf and Hard-of-Hearing Services Division.~~ The commissioner of human services shall coordinate the work of the interagency ~~management team~~ advisers and receive legislative appropriations for the division.

Sec. 40. Minnesota Statutes 2016, section 256C.233, subdivision 2, is amended to read:

Subd. 2. **Responsibilities.** The Deaf and Hard-of-Hearing Services Division shall:

(1) establish and maintain a statewide network of regional ~~service centers~~ culturally affirmative services for Minnesotans who are deaf, Minnesotans who are deafblind, and Minnesotans who are hard-of-hearing Minnesotans;

(2) assist work across divisions within the ~~Departments~~ Department of Human Services, Education, and Employment and Economic Development to coordinate the promulgation and

implementation of public policies, regulations, legislation, programs, and services affecting as well as with other agencies and counties, to ensure that there is an understanding of:

(i) the communication challenges faced by persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons;

(ii) the best practices for accommodating and mitigating communication challenges; and

(iii) the legal requirements for providing access to and effective communication with persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing; and

(3) provide a coordinated system of assess the supply and demand statewide interpreting or for interpreter referral services; and real-time captioning services, implement strategies to provide greater access to these services in areas without sufficient supply, and build the base of service providers across the state;

(4) maintain a statewide information resource that includes contact information and professional certification credentials of interpreting service providers and real-time captioning service providers;

(5) provide culturally affirmative mental health services to persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing who:

(i) use a visual language such as American Sign Language or a tactile form of a language; or

(ii) otherwise need culturally affirmative therapeutic services;

(6) research and develop best practices and recommendations for emerging issues;

(7) provide as much information as practicable on the division's stand-alone Web site in American Sign Language; and

(8) report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services biennially, beginning on January 1, 2019, on the following:

(i) the number of regional service center staff, the location of the office of each staff person, other service providers with which they are colocated, the number of people served by each staff person and a breakdown of whether each person was served on-site or off-site, and for those served off-site, a list of locations where services were delivered and the number who were served in-person and the number who were served via technology;

(ii) the amount and percentage of the division budget spent on reasonable accommodations for staff;

(iii) the number of people who use demonstration equipment and consumer evaluations of the experience;

(iv) the number of training sessions provided by division staff, the topics covered, the number of participants, and consumer evaluations, including a breakdown by delivery method such as in-person or via technology;

(v) the number of training sessions hosted at a division location provided by another service provider, the topics covered, the number of participants, and consumer evaluations, including a breakdown by delivery method such as in-person or via technology;

(vi) for each grant awarded, the amount awarded to the grantee and a summary of the grantee's results, including consumer evaluations of the services or products provided;

(vii) the number of people on waiting lists for any services provided by division staff or for services or equipment funded through grants awarded by the division;

(viii) the amount of time staff spent driving to appointments to deliver direct one-to-one client services in locations outside of the regional service centers;

(ix) the amount spent on mileage reimbursement and the number of clients who received mileage reimbursement for traveling to the regional service centers for services; and

(x) the regional needs and feedback on addressing service gaps identified by the advisory committees.

Sec. 41. Minnesota Statutes 2016, section 256C.24, subdivision 1, is amended to read:

Subdivision 1. **Location.** The Deaf and Hard-of-Hearing Services Division shall establish ~~up to eight~~ at least six regional service centers for persons who are deaf and persons who are hard-of-hearing persons. The centers shall be distributed regionally to provide access for persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons in all parts of the state.

Sec. 42. Minnesota Statutes 2016, section 256C.24, subdivision 2, is amended to read:

Subd. 2. **Responsibilities.** Each regional service center shall:

~~(1) serve as a central entry point for~~ establish connections and collaborations and explore co-locating with other public and private entities providing services to persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons in need of services and make referrals to the services needed in the region;

(2) for those in need of services, assist in coordinating services between service providers and persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing, and the persons' families, and make referrals to the services needed;

~~(2)~~ (3) employ staff trained to work with persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons;

~~(3)~~ (4) if adequate services are not available from another public or private service provider in the region, provide to all individual assistance to persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons access to interpreter services which are necessary to help them obtain services, and the persons' families. Individual culturally affirmative assistance may be provided using technology only in areas of the state where a person has access to sufficient quality telecommunications or broadband services to allow effective communication. When a person who is deaf, a person who is deafblind, or a person who is hard-of-hearing does not have access to

sufficient telecommunications or broadband service, individual assistance shall be available in person;

(5) identify regional training needs, work with deaf and hard-of-hearing services training staff, and collaborate with others to deliver training for persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing, and the persons' families, and other service providers about subjects including the persons' rights under the law, American Sign Language, and the impact of hearing loss and options for accommodating it;

~~(4) implement a plan to provide loaned equipment and resource materials to deaf, deafblind, and hard-of-hearing~~ (6) have a mobile or permanent lab where persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing can try a selection of modern assistive technology and equipment to determine what would best meet the persons' needs;

~~(5) cooperate with responsible departments and administrative authorities to provide access for deaf, deafblind, and hard-of-hearing persons to services provided by state, county, and regional agencies;~~

~~(6)~~ (7) collaborate with the Resource Center for the Deaf and Hard-of-Hearing Persons, other divisions of the Department of Education; and local school districts to develop and deliver programs and services for families with children who are deaf, children who are deafblind, or children who are hard-of-hearing children and to support school personnel serving these children;

~~(7) when possible,~~ (8) provide training to the social service or income maintenance staff employed by counties or by organizations with whom counties contract for services to ensure that communication barriers which prevent persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons from using services are removed;

~~(8) when possible,~~ (9) provide training to state and regional human service agencies in the region regarding program access for persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons; and

~~(9)~~ (10) assess the ongoing need and supply of services for persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing persons in all parts of the state, annually consult with the division's advisory committees to identify regional needs and solicit feedback on addressing service gaps, and cooperate with public and private service providers to develop these services;

(11) provide culturally affirmative mental health services to persons who are deaf, persons who are deafblind, and persons who are hard-of-hearing who:

(i) use a visual language such as American Sign Language or a tactile form of a language; or

(ii) otherwise need culturally affirmative therapeutic services; and

(12) establish partnerships with state and regional entities statewide that have the technological capacity to provide Minnesotans with virtual access to the division's services and division-sponsored training via technology.

Sec. 43. Minnesota Statutes 2016, section 256C.261, is amended to read:

256C.261 SERVICES FOR PERSONS WHO ARE DEAFBLIND PERSONS.

~~(a) The commissioner of human services shall combine the existing biennial base level funding for deafblind services into a single grant program. At least 35 percent of the total funding is awarded for services and other supports to deafblind children and their families and at least 25 percent is awarded for services and other supports to deafblind adults.~~ use at least 35 percent of the deafblind services biennial base level grant funding for services and other supports for a child who is deafblind and the child's family. The commissioner shall use at least 25 percent of the deafblind services biennial base level grant funding for services and other supports for an adult who is deafblind.

The commissioner shall award grants for the purposes of:

(1) providing services and supports to ~~individuals~~ persons who are deafblind; and

(2) developing and providing training to counties and the network of senior citizen service providers. The purpose of the training grants is to teach counties how to use existing programs that capture federal financial participation to meet the needs of eligible persons who are deafblind persons and to build capacity of senior service programs to meet the needs of seniors with a dual sensory hearing and vision loss.

(b) The commissioner may make grants:

(1) for services and training provided by organizations; and

(2) to develop and administer consumer-directed services.

(c) Consumer-directed services shall be provided in whole by grant-funded providers. The deaf and hard-of-hearing regional service centers shall not provide any aspect of a grant-funded consumer-directed services program.

~~(e)~~ (d) Any entity that is able to satisfy the grant criteria is eligible to receive a grant under paragraph (a).

~~(d)~~ (e) Deafblind service providers may, but are not required to, provide intervenor services as part of the service package provided with grant funds under this section.

Sec. 44. EXPANSION OF CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY EXCEPTION.

(a) No later than September 30, 2017, if necessary, the commissioner of human services shall submit an amendment to the Centers for Medicare and Medicaid Services for the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49, to expand the exception to the consumer-directed community supports budget methodology under Laws 2015, chapter 71, article 7, section 54, to provide up to 30 percent more funds for either:

(1) consumer-directed community supports participants who have a coordinated service and support plan which identifies the need for an increased amount of services or supports under consumer-directed community supports than the amount they are currently receiving under the consumer-directed community supports budget methodology;

(i) to increase the amount of time a person works or otherwise improves employment opportunities;

(ii) to plan a transition to, move to, or live in a setting described in Minnesota Statutes, section 256D.44, subdivision 5, paragraph (f), clause (1), item (ii), or paragraph (g); or

(iii) to develop and implement a positive behavior support plan; or

(2) home and community-based waiver participants who are currently using licensed providers for (i) employment supports or services during the day; or (ii) residential services, either of which cost more annually than the person would spend under a consumer-directed community supports plan for any or all of the supports needed to meet the goals identified in paragraph (a), clause (1), items (i), (ii), and (iii).

(b) The exception under paragraph (a), clause (1), is limited to those persons who can demonstrate that they will have to discontinue using consumer-directed community supports and accept other non-self-directed waiver services because their supports needed for the goals described in paragraph (a), clause (1), items (i), (ii), and (iii), cannot be met within the consumer-directed community supports budget limits.

(c) The exception under paragraph (a), clause (2), is limited to those persons who can demonstrate that, upon choosing to become a consumer-directed community supports participant, the total cost of services, including the exception, will be less than the cost of current waiver services.

EFFECTIVE DATE. The exception under this section is effective October 1, 2017, or upon federal approval, whichever is later. Notwithstanding any other law to the contrary, the exception in Laws 2016, chapter 144, section 1, remains in effect until the exception under Laws 2015, chapter 71, article 7, section 54, or under this section becomes effective, whichever occurs first. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 45. **CONSUMER-DIRECTED COMMUNITY SUPPORTS BUDGET METHODOLOGY EXCEPTION FOR PERSONS LEAVING INSTITUTIONS AND CRISIS RESIDENTIAL SETTINGS.**

(a) By September 30, 2017, the commissioner shall establish an institutional and crisis bed consumer-directed community supports budget exception process in the home and community-based services waivers under Minnesota Statutes, sections 256B.092 and 256B.49. This budget exception process shall be available for any individual who:

(1) is not offered available and appropriate services within 60 days since approval for discharge from the individual's current institutional setting; and

(2) requires services that are more expensive than appropriate services provided in a noninstitutional setting using the consumer-directed community supports option.

(b) Institutional settings for purposes of this exception include intermediate care facilities for persons with developmental disabilities; nursing facilities; acute care hospitals; Anoka Metro Regional Treatment Center; Minnesota Security Hospital; and crisis beds. The budget exception shall be limited to no more than the amount of appropriate services provided in a noninstitutional

setting as determined by the lead agency managing the individual's home and community-based services waiver. The lead agency shall notify the Department of Human Services of the budget exception.

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

Sec. 46. CONSUMER-DIRECTED COMMUNITY SUPPORTS REVISED BUDGET METHODOLOGY REPORT.

(a) The commissioner of human services, in consultation with stakeholders and others including representatives of lead agencies, home and community-based services waiver participants using consumer-directed community supports, advocacy groups, state agencies, the Institute on Community Integration at the University of Minnesota, and service and financial management providers, shall develop a revised consumer-directed community supports budget methodology. The new methodology shall be based on (1) the costs of providing services as reflected by the wage and other relevant components incorporated in the disability waiver rate formulas under Minnesota Statutes, chapter 256B, and (2) state-to-county waiver-funding methodologies. The new methodology should develop individual consumer-directed community supports budgets comparable to those provided for similar needs individuals if paying for non-consumer-directed community supports waiver services.

(b) By December 15, 2018, the commissioner shall report a revised consumer-directed community supports budget methodology, including proposed legislation and funding necessary to implement the new methodology, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over health and human services.

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

Sec. 47. FEDERAL WAIVER AMENDMENTS.

The commissioner of human services shall submit necessary waiver amendments to the Centers for Medicare and Medicaid Services to add employment exploration services, employment development services, and employment support services to the home and community-based services waivers authorized under Minnesota Statutes, sections 256B.092 and 256B.49. The commissioner shall also submit necessary waiver amendments to remove community-based employment services from day training and habilitation and prevocational services. The commissioner shall submit all necessary waiver amendments by October 1, 2017.

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

Sec. 48. TRANSPORTATION STUDY.

The commissioner of human services, with cooperation from lead agencies and in consultation with stakeholders, shall conduct a study to identify opportunities to increase access to transportation services for an individual who receives home and community-based services. The commissioner shall submit a report with recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over human services by January 15, 2019. The report shall:

(1) study all aspects of the current transportation service network, including the fleet available, the different rate-setting methods currently used, methods that an individual uses to access transportation, and the diversity of available provider agencies;

(2) identify current barriers for an individual accessing transportation and for a provider providing waiver services transportation in the marketplace;

(3) identify efficiencies and collaboration opportunities to increase available transportation, including transportation funded by medical assistance, and available regional transportation and transit options;

(4) study transportation solutions in other states for delivering home and community-based services;

(5) study provider costs required to administer transportation services;

(6) make recommendations for coordinating and increasing transportation accessibility across the state; and

(7) make recommendations for the rate setting of waived transportation.

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

Sec. 49. DIRECTION TO COMMISSIONER; TELECOMMUNICATION EQUIPMENT PROGRAM.

The commissioner of human services shall work in consultation with the Commission of Deaf, Deafblind, and Hard-of-Hearing Minnesotans to provide recommendations by January 15, 2018, to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over human services to modernize the telecommunication equipment program. The recommendations must address:

(1) types of equipment and supports the program should provide to ensure people with communication difficulties have equitable access to telecommunications services;

(2) additional services the program should provide, such as education about technology options that can improve a person's access to telecommunications services; and

(3) how the current program's service delivery structure might be improved to better meet the needs of people with communication disabilities.

The commissioner shall also provide draft legislative language to accomplish the recommendations. Final recommendations, the final report, and draft legislative language must be approved by both the commissioner and the chair of the Commission of Deaf, Deafblind, and Hard-of-Hearing Minnesotans.

Sec. 50. DIRECTION TO COMMISSIONER; BILLING FOR MENTAL HEALTH SERVICES.

By January 1, 2018, the commissioner of human services shall report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over deaf and hard-of-hearing services on the potential costs and benefits of the Deaf and Hard-of-Hearing Services Division billing for the cost of providing mental health services.

Sec. 51. **DIRECTION TO COMMISSIONER; MnCHOICES ASSESSMENT TOOL.**

The commissioner of human services shall work with lead agencies responsible for conducting long-term consultation services under Minnesota Statutes, section 256B.0911, to modify the MnCHOICES assessment tool and related policies to:

(1) reduce assessment times;

(2) create efficiencies within the tool and within practice and policy for conducting assessments and support planning;

(3) implement policy changes reducing the frequency and depth of assessment and reassessment, while ensuring federal compliance with medical assistance and disability waiver eligibility requirements; and

(4) evaluate alternative payment methods.

Sec. 52. **RANDOM MOMENT TIME STUDY EVALUATION REQUIRED.**

The commissioner of human services shall evaluate the random moment time study methodology for reimbursement of costs associated with county duties required under Minnesota Statutes, section 256B.0911. The study must determine whether random moment is efficient and effective in supporting functions of assessment and support planning and the purpose under Minnesota Statutes, section 256B.0911, subdivision 1. The commissioner shall submit a report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over health and human services by January 15, 2019. The report must provide recommendations for changes to payment methodologies and functions related to assessment, eligibility determination, and support planning.

Sec. 53. **REPEALER.**

(a) Minnesota Statutes 2016, sections 144A.351, subdivision 2; 256C.23, subdivision 3; 256C.233, subdivision 4; and 256C.25, subdivisions 1 and 2, are repealed.

(b) Minnesota Statutes 2016, section 256B.4914, subdivision 16, is repealed effective January 1, 2018.

(c) Laws 2012, chapter 247, article 4, section 47, as amended by Laws 2014, chapter 312, article 27, section 72, Laws 2015, chapter 71, article 7, section 58, Laws 2016, chapter 144, section 1; and Laws 2015, chapter 71, article 7, section 54, are repealed upon the effective date of section 44.

ARTICLE 2**HOUSING**

Section 1. Minnesota Statutes 2016, section 144D.04, subdivision 2, is amended to read:

Subd. 2. **Contents of contract.** A housing with services contract, which need not be entitled as such to comply with this section, shall include at least the following elements in itself or through supporting documents or attachments:

- (1) the name, street address, and mailing address of the establishment;
- (2) the name and mailing address of the owner or owners of the establishment and, if the owner or owners is not a natural person, identification of the type of business entity of the owner or owners;
- (3) the name and mailing address of the managing agent, through management agreement or lease agreement, of the establishment, if different from the owner or owners;
- (4) the name and address of at least one natural person who is authorized to accept service of process on behalf of the owner or owners and managing agent;
- (5) a statement describing the registration and licensure status of the establishment and any provider providing health-related or supportive services under an arrangement with the establishment;
- (6) the term of the contract;
- (7) a description of the services to be provided to the resident in the base rate to be paid by resident, including a delineation of the portion of the base rate that constitutes rent and a delineation of charges for each service included in the base rate;
- (8) a description of any additional services, including home care services, available for an additional fee from the establishment directly or through arrangements with the establishment, and a schedule of fees charged for these services;
- (9) a description of the process through which the contract may be modified, amended, or terminated, including whether a move to a different room or sharing a room would be required in the event that the tenant can no longer pay the current rent;
- (10) a description of the establishment's complaint resolution process available to residents including the toll-free complaint line for the Office of Ombudsman for Long-Term Care;
- (11) the resident's designated representative, if any;
- (12) the establishment's referral procedures if the contract is terminated;
- (13) requirements of residency used by the establishment to determine who may reside or continue to reside in the housing with services establishment;
- (14) billing and payment procedures and requirements;

(15) a statement regarding the ability of ~~residents~~ a resident to receive services from service providers with whom the establishment does not have an arrangement;

(16) a statement regarding the availability of public funds for payment for residence or services in the establishment; and

(17) a statement regarding the availability of and contact information for long-term care consultation services under section 256B.0911 in the county in which the establishment is located.

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

Sec. 2. Minnesota Statutes 2016, section 144D.04, is amended by adding a subdivision to read:

Subd. 2a. **Additional contract requirements.** (a) For a resident receiving one or more health-related services from the establishment's arranged home care provider, as defined in section 144D.01, subdivision 6, the contract must include the requirements in paragraph (b). A restriction of a resident's rights under this subdivision is allowed only if determined necessary for health and safety reasons identified by the home care provider's registered nurse in an initial assessment or reassessment, as defined under section 144A.4791, subdivision 8, and documented in the written service plan under section 144A.4791, subdivision 9. Any restrictions of those rights for people served under sections 256B.0915 and 256B.49 must be documented in the resident's coordinated service and support plan (CSSP), as defined under sections 256B.0915, subdivision 6 and 256B.49, subdivision 15.

(b) The contract must include a statement:

(1) regarding the ability of a resident to furnish and decorate the resident's unit within the terms of the lease;

(2) regarding the resident's right to access food at any time;

(3) regarding a resident's right to choose the resident's visitors and times of visits;

(4) regarding the resident's right to choose a roommate if sharing a unit; and

(5) notifying the resident of the resident's right to have and use a lockable door to the resident's unit. The landlord shall provide the locks on the unit. Only a staff member with a specific need to enter the unit shall have keys, and advance notice must be given to the resident before entrance, when possible.

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

Sec. 3. Minnesota Statutes 2016, section 245A.03, subdivision 7, is amended 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. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. 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 May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; ~~or~~

(5) new foster care licenses or community residential setting licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal;

(6) new foster care licenses or community residential setting licenses determined to be needed by the commissioner for the transition of people from the residential care waiver services to foster care services. This exception applies only when:

(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service to help the person make an informed choice; and

(ii) the person's foster care services are less than or equal to the cost of the person's services delivered in the residential care waiver service setting as determined by the lead agency; or

(7) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:

(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(ii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the unlicensed setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in 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) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department shall may decrease the statewide licensed capacity for adult foster care settings where the physical location is not the primary residence of the license holder, or for adult community residential settings, if the voluntary changes described in paragraph (e) are not sufficient to meet the savings required by reductions in licensed bed capacity under Laws 2011, First Special Session chapter 9, article 7, sections 1 and 40, paragraph (f), and maintain statewide long-term care residential services capacity within budgetary limits. Implementation of the statewide licensed capacity reduction shall begin on July 1, 2013. The commissioner shall delicense up to 128 beds by June 30, 2014, using the needs determination process. Prior to any involuntary reduction of licensed capacity, the commissioner shall consult with lead agencies and license holders to determine which adult foster care settings, where the physical location is not the primary residence of the license holder, or community residential settings, are licensed for up to five beds, but have operated at less than full capacity for 12 or more months as of March 1, 2014. The settings that meet these criteria must be the first to be considered for an involuntary decrease in statewide licensed capacity, up to a maximum of 35 beds. If more than 35 beds are identified that meet these criteria, the commissioner shall prioritize the selection of those beds to be closed based on the length of time the beds have been vacant. The longer a bed has been vacant, the higher priority it must be given for closure. Under this paragraph, the commissioner has the authority to reduce unused licensed capacity of a current foster care program, or the community residential settings, to accomplish the consolidation or closure of settings. Under this paragraph, the commissioner has the authority to manage statewide capacity, including adjusting the capacity available to each county and adjusting statewide available capacity, to meet the statewide needs identified through the process in paragraph (e). A decreased licensed capacity according to this paragraph is not subject to appeal under this chapter.~~

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available reports required by section 144A.351, and other data and information shall be used to determine where the reduced capacity ~~required determined under paragraph (e) section 256B.493~~ will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term care service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term care services and supports reports and statewide data and information. By February 1, 2013, and August 1, 2014, and each following year, the commissioner shall provide information and data and targets on the overall capacity of licensed long-term care services and supports, actions taken under this subdivision to manage statewide long-term care services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over health and human services budget.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under section 256B.0915, 256B.092, or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

Sec. 4. Minnesota Statutes 2016, section 245A.04, subdivision 14, is amended to read:

Subd. 14. Policies and procedures for program administration required and enforceable.

(a) The license holder shall develop program policies and procedures necessary to maintain compliance with licensing requirements under Minnesota Statutes and Minnesota Rules.

(b) The license holder shall:

(1) provide training to program staff related to their duties in implementing the program's policies and procedures developed under paragraph (a);

(2) document the provision of this training; and

(3) monitor implementation of policies and procedures by program staff.

(c) The license holder shall keep program policies and procedures readily accessible to staff and index the policies and procedures with a table of contents or another method approved by the commissioner.

(d) An adult foster care license holder that provides foster care services to a resident under section 256B.0915 must annually provide a copy of the resident termination policy under section 245A.11, subdivision 11, to a resident covered by the policy.

Sec. 5. Minnesota Statutes 2016, section 245A.11, is amended by adding a subdivision to read:

Subd. 9. Adult foster care bedrooms. (a) A resident receiving services must have a choice of roommate. Each roommate must consent in writing to sharing a bedroom with one another. The license holder is responsible for notifying a resident of the resident's right to request a change of roommate.

(b) The license holder must provide a lock for each resident's bedroom door, unless otherwise indicated for the resident's health, safety, or well-being. A restriction on the use of the lock must be documented and justified in the resident's individual abuse prevention plan required by sections 245A.65, subdivision 2, paragraph (b), and 626.557, subdivision 14. For a resident served under section 256B.0915, the case manager must be part of the interdisciplinary team under section 245A.65, subdivision 2, paragraph (b).

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

Sec. 6. Minnesota Statutes 2016, section 245A.11, is amended by adding a subdivision to read:

Subd. 10. **Adult foster care resident rights.** (a) The license holder shall ensure that a resident and a resident's legal representative are given, at admission:

(1) an explanation and copy of the resident's rights specified in paragraph (b);

(2) a written summary of the Vulnerable Adults Protection Act prepared by the department; and

(3) the name, address, and telephone number of the local agency to which a resident or a resident's legal representative may submit an oral or written complaint.

(b) Adult foster care resident rights include the right to:

(1) have daily, private access to and use of a non-coin-operated telephone for local and long-distance telephone calls made collect or paid for by the resident;

(2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;

(3) have use of and free access to common areas in the residence and the freedom to come and go from the residence at will;

(4) have privacy for visits with the resident's spouse, next of kin, legal counsel, religious adviser, or others, according to section 363A.09 of the Human Rights Act, including privacy in the resident's bedroom;

(5) keep, use, and access the resident's personal clothing and possessions as space permits, unless this right infringes on the health, safety, or rights of another resident or household member, including the right to access the resident's personal possessions at any time;

(6) choose the resident's visitors and time of visits and participate in activities of commercial, religious, political, and community groups without interference if the activities do not infringe on the rights of another resident or household member;

(7) if married, privacy for visits by the resident's spouse, and, if both spouses are residents of the adult foster home, the residents have the right to share a bedroom and bed;

(8) privacy, including use of the lock on the resident's bedroom door or unit door. A resident's privacy must be respected by license holders, caregivers, household members, and volunteers by knocking on the door of a resident's bedroom or bathroom and seeking consent before entering, except in an emergency;

(9) furnish and decorate the resident's bedroom or living unit;

(10) engage in chosen activities and have an individual schedule supported by the license holder that meets the resident's preferences;

(11) freedom and support to access food at any time;

(12) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;

(13) access records and recorded information about the resident according to applicable state and federal law, regulation, or rule;

(14) be free from maltreatment;

(15) be treated with courtesy and respect and receive respectful treatment of the resident's property;

(16) reasonable observance of cultural and ethnic practice and religion;

(17) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;

(18) be informed of and use the license holder's grievance policy and procedures, including how to contact the highest level of authority in the program;

(19) assert the resident's rights personally, or have the rights asserted by the resident's family, authorized representative, or legal representative, without retaliation; and

(20) give or withhold written informed consent to participate in any research or experimental treatment.

(c) A restriction of a resident's rights under paragraph (b), clauses (1) to (4), (6), (8), (10), and (11), is allowed only if determined necessary to ensure the health, safety, and well-being of the resident. Any restriction of a resident's right must be documented and justified in the resident's individual abuse prevention plan required by sections 245A.65, subdivision 2, paragraph (b) and 626.557, subdivision 14. For a resident served under section 256B.0915, the case manager must be part of the interdisciplinary team under section 245A.65, subdivision 2, paragraph (b). The restriction must be implemented in the least restrictive manner necessary to protect the resident and provide support to reduce or eliminate the need for the restriction.

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

Sec. 7. Minnesota Statutes 2016, section 245A.11, is amended by adding a subdivision to read:

Subd. 11. Adult foster care service termination for elderly waiver participants. (a) This subdivision applies to foster care services for a resident served under section 256B.0915.

(b) The foster care license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the resident and the case manager and with another licensed caregiver, if any, who also provides support to the resident. The policy must include the requirements specified in paragraphs (c) to (h).

(c) The license holder must allow a resident to remain in the program and cannot terminate services unless:

(1) the termination is necessary for the resident's health, safety, and well-being and the resident's needs cannot be met in the facility;

(2) the safety of the resident or another resident in the program is endangered and positive support strategies were attempted and have not achieved and effectively maintained safety for the resident or another resident in the program;

(3) the health, safety, and well-being of the resident or another resident in the program would otherwise be endangered;

(4) the program was not paid for services;

(5) the program ceases to operate; or

(6) the resident was terminated by the lead agency from waiver eligibility.

(d) Before giving notice of service termination, the license holder must document the action taken to minimize or eliminate the need for termination. The action taken by the license holder must include, at a minimum:

(1) consultation with the resident's interdisciplinary team to identify and resolve issues leading to a notice of service termination; and

(2) a request to the case manager or other professional consultation or intervention services to support the resident in the program. This requirement does not apply to a notice of service termination issued under paragraph (c), clause (4) or (5).

(e) If, based on the best interests of the resident, the circumstances at the time of notice were such that the license holder was unable to take the action specified in paragraph (d), the license holder must document the specific circumstances and the reason the license holder was unable to take the action.

(f) The license holder must notify the resident or the resident's legal representative and the case manager in writing of the intended service termination. The notice must include:

(1) the reason for the action;

(2) except for service termination under paragraph (c), clause (4) or (5), a summary of the action taken to minimize or eliminate the need for termination and the reason the action failed to prevent the termination;

(3) the resident's right to appeal the service termination under section 256.045, subdivision 3, paragraph (a); and

(4) the resident's right to seek a temporary order staying the service termination according to the procedures in section 256.045, subdivision 4a, or subdivision 6, paragraph (c).

(g) Notice of the proposed service termination must be given at least 30 days before terminating a resident's service.

(h) After the resident receives the notice of service termination and before the services are terminated, the license holder must:

(1) work with the support team or expanded support team to develop reasonable alternatives to support continuity of care and to protect the resident;

(2) provide information requested by the resident or case manager; and

(3) maintain information about the service termination, including the written notice of service termination, in the resident's record.

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

Sec. 8. Minnesota Statutes 2016, section 245D.04, subdivision 3, is amended to read:

Subd. 3. **Protection-related rights.** (a) A person's protection-related rights include the right to:

(1) have personal, financial, service, health, and medical information kept private, and be advised of disclosure of this information by the license holder;

(2) access records and recorded information about the person in accordance with applicable state and federal law, regulation, or rule;

(3) be free from maltreatment;

(4) be free from restraint, time out, seclusion, restrictive intervention, or other prohibited procedure identified in section 245D.06, subdivision 5, or successor provisions, except for: (i) emergency use of manual restraint to protect the person from imminent danger to self or others according to the requirements in section 245D.061 or successor provisions; or (ii) the use of safety interventions as part of a positive support transition plan under section 245D.06, subdivision 8, or successor provisions;

(5) receive services in a clean and safe environment when the license holder is the owner, lessor, or tenant of the service site;

(6) be treated with courtesy and respect and receive respectful treatment of the person's property;

(7) reasonable observance of cultural and ethnic practice and religion;

(8) be free from bias and harassment regarding race, gender, age, disability, spirituality, and sexual orientation;

(9) be informed of and use the license holder's grievance policy and procedures, including knowing how to contact persons responsible for addressing problems and to appeal under section 256.045;

(10) know the name, telephone number, and the Web site, e-mail, and street addresses of protection and advocacy services, including the appropriate state-appointed ombudsman, and a brief description of how to file a complaint with these offices;

(11) assert these rights personally, or have them asserted by the person's family, authorized representative, or legal representative, without retaliation;

(12) give or withhold written informed consent to participate in any research or experimental treatment;

(13) associate with other persons of the person's choice;

(14) personal privacy, including the right to use the lock on the person's bedroom or unit door;
~~and~~

(15) engage in chosen activities; and

(16) access to the person's personal possessions at any time, including financial resources.

(b) For a person residing in a residential site licensed according to chapter 245A, or where the license holder is the owner, lessor, or tenant of the residential service site, protection-related rights also include the right to:

(1) have daily, private access to and use of a non-coin-operated telephone for local calls and long-distance calls made collect or paid for by the person;

(2) receive and send, without interference, uncensored, unopened mail or electronic correspondence or communication;

(3) have use of and free access to common areas in the residence and the freedom to come and go from the residence at will; ~~and~~

(4) choose the person's visitors and time of visits and have privacy for visits with the person's spouse, next of kin, legal counsel, religious ~~advisor~~ adviser, or others, in accordance with section 363A.09 of the Human Rights Act, including privacy in the person's bedroom;

(5) the freedom and support to access food at any time;

(6) the freedom to furnish and decorate the person's bedroom or living unit;

(7) a setting that is clean and free from accumulation of dirt, grease, garbage, peeling paint, mold, vermin, and insects;

(8) a setting that is free from hazards that threaten the person's health or safety;

(9) a setting that meets state and local building and zoning definitions of a dwelling unit in a residential occupancy; and

(10) have access to potable water and three nutritionally balanced meals and nutritious snacks between meals each day.

(c) Restriction of a person's rights under paragraph (a), clauses (13) to ~~(15)~~ (16), or paragraph (b) is allowed only if determined necessary to ensure the health, safety, and well-being of the person. Any restriction of those rights must be documented in the person's coordinated service and support plan or coordinated service and support plan addendum. The restriction must be implemented in the least restrictive alternative manner necessary to protect the person and provide support to reduce or

eliminate the need for the restriction in the most integrated setting and inclusive manner. The documentation must include the following information:

(1) the justification for the restriction based on an assessment of the person's vulnerability related to exercising the right without restriction;

(2) the objective measures set as conditions for ending the restriction;

(3) a schedule for reviewing the need for the restriction based on the conditions for ending the restriction to occur semiannually from the date of initial approval, at a minimum, or more frequently if requested by the person, the person's legal representative, if any, and case manager; and

(4) signed and dated approval for the restriction from the person, or the person's legal representative, if any. A restriction may be implemented only when the required approval has been obtained. Approval may be withdrawn at any time. If approval is withdrawn, the right must be immediately and fully restored.

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

Sec. 9. Minnesota Statutes 2016, section 245D.071, subdivision 3, is amended to read:

Subd. 3. **Assessment and initial service planning.** (a) Within 15 days of service initiation the license holder must complete a preliminary coordinated service and support plan addendum based on the coordinated service and support plan.

(b) Within the scope of services, the license holder must, at a minimum, complete assessments in the following areas before the 45-day planning meeting:

(1) the person's ability to self-manage health and medical needs to maintain or improve physical, mental, and emotional well-being, including, when applicable, allergies, seizures, choking, special dietary needs, chronic medical conditions, self-administration of medication or treatment orders, preventative screening, and medical and dental appointments;

(2) the person's ability to self-manage personal safety to avoid injury or accident in the service setting, including, when applicable, risk of falling, mobility, regulating water temperature, community survival skills, water safety skills, and sensory disabilities; and

(3) the person's ability to self-manage symptoms or behavior that may otherwise result in an incident as defined in section 245D.02, subdivision 11, clauses (4) to (7), suspension or termination of services by the license holder, or other symptoms or behaviors that may jeopardize the health and welfare of the person or others.

Assessments must produce information about the person that describes the person's overall strengths, functional skills and abilities, and behaviors or symptoms. Assessments must be based on the person's status within the last 12 months at the time of service initiation. Assessments based on older information must be documented and justified. Assessments must be conducted annually at a minimum or within 30 days of a written request from the person or the person's legal representative or case manager. The results must be reviewed by the support team or expanded support team as part of a service plan review.

(c) Within 45 days of service initiation, the license holder must meet with the person, the person's legal representative, the case manager, and other members of the support team or expanded support team to determine the following based on information obtained from the assessments identified in paragraph (b), the person's identified needs in the coordinated service and support plan, and the requirements in subdivision 4 and section 245D.07, subdivision 1a:

- (1) the scope of the services to be provided to support the person's daily needs and activities;
- (2) the person's desired outcomes and the supports necessary to accomplish the person's desired outcomes;
- (3) the person's preferences for how services and supports are provided, including how the provider will support the person to have control of the person's schedule;
- (4) whether the current service setting is the most integrated setting available and appropriate for the person; and
- (5) how services must be coordinated across other providers licensed under this chapter serving the person and members of the support team or expanded support team to ensure continuity of care and coordination of services for the person.

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

Sec. 10. Minnesota Statutes 2016, section 245D.11, subdivision 4, is amended to read:

Subd. 4. **Admission criteria.** The license holder must establish policies and procedures that promote continuity of care by ensuring that admission or service initiation criteria:

- (1) is consistent with the service-related rights identified in section 245D.04, subdivisions 2, clauses (4) to (7), and 3, clause (8);
- (2) identifies the criteria to be applied in determining whether the license holder can develop services to meet the needs specified in the person's coordinated service and support plan;
- (3) requires a license holder providing services in a health care facility to comply with the requirements in section 243.166, subdivision 4b, to provide notification to residents when a registered predatory offender is admitted into the program or to a potential admission when the facility was already serving a registered predatory offender. For purposes of this clause, "health care facility" means a facility licensed by the commissioner as a residential facility under chapter 245A to provide adult foster care or residential services to persons with disabilities; ~~and~~
- (4) requires that when a person or the person's legal representative requests services from the license holder, a refusal to admit the person must be based on an evaluation of the person's assessed needs and the license holder's lack of capacity to meet the needs of the person. The license holder must not refuse to admit a person based solely on the type of residential services the person is receiving, or solely on the person's severity of disability, orthopedic or neurological handicaps, sight or hearing impairments, lack of communication skills, physical disabilities, toilet habits, behavioral disorders, or past failure to make progress. Documentation of the basis for refusal must be provided to the person or the person's legal representative and case manager upon request; and

(5) requires the person or the person's legal representative and license holder to sign and date the residency agreement when the license holder provides foster care or supported living services under section 245D.03, subdivision 1, paragraph (c), clause (3), item (i) or (ii), to a person living in a community residential setting defined in section 245D.02, subdivision 4a; an adult foster home defined in Minnesota Rules, part 9555.5105, subpart 5; or a foster family home defined in Minnesota Rules, part 9560.0521, subpart 12. The residency agreement must include service termination requirements specified in section 245D.10, subdivision 3a, paragraphs (b) to (f). The residency agreement must be reviewed annually, dated, and signed by the person or the person's legal representative and license holder.

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

Sec. 11. Minnesota Statutes 2016, section 245D.24, subdivision 3, is amended to read:

Subd. 3. **Bedrooms.** (a) ~~People~~ Each person receiving services must have a choice of roommate and must mutually consent, in writing, to sharing a bedroom with one another. No more than two people receiving services may share one bedroom.

(b) A single occupancy bedroom must have at least 80 square feet of floor space with a 7-1/2 foot ceiling. A double occupancy room must have at least 120 square feet of floor space with a 7-1/2 foot ceiling. Bedrooms must be separated from halls, corridors, and other habitable rooms by floor-to-ceiling walls containing no openings except doorways and must not serve as a corridor to another room used in daily living.

(c) A person's personal possessions and items for the person's own use are the only items permitted to be stored in a person's bedroom.

(d) Unless otherwise documented through assessment as a safety concern for the person, each person must be provided with the following furnishings:

(1) a separate bed of proper size and height for the convenience and comfort of the person, with a clean mattress in good repair;

(2) clean bedding appropriate for the season for each person;

(3) an individual cabinet, or dresser, shelves, and a closet, for storage of personal possessions and clothing; and

(4) a mirror for grooming.

(e) When possible, a person must be allowed to have items of furniture that the person personally owns in the bedroom, unless doing so would interfere with safety precautions, violate a building or fire code, or interfere with another person's use of the bedroom. A person may choose not to have a cabinet, dresser, shelves, or a mirror in the bedroom, as otherwise required under paragraph (d), clause (3) or (4). A person may choose to use a mattress other than an innerspring mattress and may choose not to have the mattress on a mattress frame or support. If a person chooses not to have a piece of required furniture, the license holder must document this choice and is not required to provide the item. If a person chooses to use a mattress other than an innerspring mattress or chooses

not to have a mattress frame or support, the license holder must document this choice and allow the alternative desired by the person.

(f) A person must be allowed to bring personal possessions into the bedroom and other designated storage space, if such space is available, in the residence. The person must be allowed to accumulate possessions to the extent the residence is able to accommodate them, unless doing so is contraindicated for the person's physical or mental health, would interfere with safety precautions or another person's use of the bedroom, or would violate a building or fire code. The license holder must allow for locked storage of personal items. Any restriction on the possession or locked storage of personal items, including requiring a person to use a lock provided by the license holder, must comply with section 245D.04, subdivision 3, paragraph (c), and allow the person to be present if and when the license holder opens the lock.

(g) A person must be allowed to lock the person's bedroom door. The license holder must document and assess the physical plant and the environment, and the population served, and identify the risk factors that require using locked doors, and the specific action taken to minimize the safety risk to a person receiving services at the site.

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

Sec. 12. Minnesota Statutes 2016, 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 investigative 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;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23, 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, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services judge 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;

(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;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), that is not otherwise subject to appeal under subdivision 4a; ~~or~~

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914; or

(14) a person issued a notice of service termination under section 245A.11, subdivision 11, that is not otherwise subject to appeal under subdivision 4a.

(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), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or 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) The scope of hearings under paragraph (a), ~~clause~~ clauses (12) and (14), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements of section 245D.10, subdivision 3a, ~~paragraph~~ paragraphs (c) to (e), or 245A.11, subdivision 2a, paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

(f) 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.

(g) 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.

(h) 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.

(i) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization 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, as defined in section 256.0451, subdivision 13, why the request was not submitted within the 30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

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

Sec. 13. **[256B.051] HOUSING SUPPORT SERVICES.**

Subdivision 1. Purpose. Housing support services are established to provide housing support services to an individual with a disability that limits the individual's ability to obtain or maintain stable housing. The services support an individual's transition to housing in the community and increase long-term stability in housing, to avoid future periods of being at risk of homelessness or institutionalization.

Subd. 2. Definitions. (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "At-risk of homelessness" means (1) an individual that is faced with a set of circumstances likely to cause the individual to become homeless, or (2) an individual previously homeless, who

will be discharged from a correctional, medical, mental health, or treatment center, who lacks sufficient resources to pay for housing and does not have a permanent place to live.

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

(d) "Homeless" means an individual or family lacking a fixed, adequate nighttime residence.

(e) "Individual with a disability" means:

(1) an individual who is aged, blind, or disabled as determined by the criteria used by the title 11 program of the Social Security Act, United States Code, title 42, section 416, paragraph (i), item (1); or

(2) an individual who meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), clauses (1), (3), (5) to (9), or (14).

(f) "Institution" means a setting as defined in section 256B.0621, subdivision 2, clause (3), and the Minnesota Security Hospital as defined in section 253.20.

Subd. 3. **Eligibility.** An individual with a disability is eligible for housing support services if the individual:

(1) is 18 years of age or older;

(2) is enrolled in medical assistance;

(3) has an assessment of functional need that determines a need for services due to limitations caused by the individual's disability;

(4) resides in or plans to transition to a community-based setting as defined in Code of Federal Regulations, title 42, section 441.301(c); and

(5) has housing instability evidenced by:

(i) being homeless or at-risk of homelessness;

(ii) being in the process of transitioning from, or having transitioned in the past six months from, an institution or licensed or registered setting;

(iii) being eligible for waiver services under section 256B.0915, 256B.092, or 256B.49; or

(iv) having been identified by a long-term care consultation under section 256B.0911 as at risk of institutionalization.

Subd. 4. **Assessment requirements.** (a) An individual's assessment of functional need must be conducted by one of the following methods:

(1) an assessor according to the criteria established in section 256B.0911, subdivision 3a, using a format established by the commissioner;

(2) documented need for services as verified by a professional statement of need as defined in section 256I.03, subdivision 12; or

(3) according to the continuum of care coordinated assessment system established in Code of Federal Regulations, title 24, section 578.3, using a format established by the commissioner.

(b) An individual must be reassessed within one year of initial assessment, and annually thereafter.

Subd. 5. **Housing support services.** (a) Housing support services include housing transition services and housing and tenancy sustaining services.

(b) Housing transition services are defined as:

(1) tenant screening and housing assessment;

(2) assistance with the housing search and application process;

(3) identifying resources to cover onetime moving expenses;

(4) ensuring a new living arrangement is safe and ready for move-in;

(5) assisting in arranging for and supporting details of a move; and

(6) developing a housing support crisis plan.

(c) Housing and tenancy sustaining services include:

(1) prevention and early identification of behaviors that may jeopardize continued stable housing;

(2) education and training on roles, rights, and responsibilities of the tenant and the property manager;

(3) coaching to develop and maintain key relationships with property managers and neighbors;

(4) advocacy and referral to community resources to prevent eviction when housing is at risk;

(5) assistance with housing recertification process;

(6) coordination with the tenant to regularly review, update, and modify housing support and crisis plan; and

(7) continuing training on being a good tenant, lease compliance, and household management.

(d) A housing support service may include person-centered planning for people who are not eligible to receive person-centered planning through any other service, if the person-centered planning is provided by a consultation service provider that is under contract with the department and enrolled as a Minnesota health care program.

Subd. 6. **Provider qualifications and duties.** A provider eligible for reimbursement under this section shall:

(1) enroll as a medical assistance Minnesota health care program provider and meet all applicable provider standards and requirements;

(2) demonstrate compliance with federal and state laws and policies for housing support services as determined by the commissioner;

(3) comply with background study requirements under chapter 245C and maintain documentation of background study requests and results; and

(4) directly provide housing support services and not use a subcontractor or reporting agent.

Subd. 7. **Housing support supplemental service rates.** Supplemental service rates for individuals in settings according to sections 144D.025, 256I.04, subdivision 3, paragraph (a), clause (3), and 256I.05, subdivision 1g, shall be reduced by one-half over a two-year period. This reduction only applies to supplemental service rates for individuals eligible for housing support services under this section.

EFFECTIVE DATE. (a) Subdivisions 1 to 6 are contingent upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

(b) Subdivision 7 is contingent upon federal approval of subdivisions 1 to 6. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 14. Minnesota Statutes 2016, 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 20 calendar days after the date on which an assessment was requested or recommended. Upon statewide implementation of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person requesting personal care assistance services and home care nursing. The commissioner shall provide at least a 90-day notice to lead agencies prior to the effective date of this requirement. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

(b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified assessors to conduct the assessment. For a person with complex health care needs, a public health or registered nurse from the team must be consulted.

(c) The MnCHOICES assessment provided by the commissioner to lead agencies must be used to complete a comprehensive, person-centered assessment. The assessment must include the health, psychological, functional, environmental, and social needs of the individual necessary to develop a community support plan that meets the individual's needs and preferences.

(d) The assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative. At the request of the person, other individuals may participate in the assessment to provide information on the needs, strengths, and preferences of the person necessary to develop a community support plan that ensures the person's health and safety. Except for legal representatives or family members invited by the person, persons participating in the

assessment may not be a provider of service or have any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living services under section 256B.0915, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment. For a person who is to be assessed for waiver services under section 256B.092 or 256B.49, with the permission of the person being assessed or the person's designated legal representative, the person's current provider of services may submit a written report outlining recommendations regarding the person's care needs prepared by a direct service employee with at least 20 hours of service to that client. The person conducting the assessment or reassessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment and the person or the person's legal representative, and must be considered prior to the finalization of the assessment or reassessment.

(e) The person or the person's legal representative must be provided with a written community support plan within 40 calendar days of the assessment visit, regardless of whether the individual is eligible for Minnesota health care programs. The written community support plan must include:

- (1) a summary of assessed needs as defined in paragraphs (c) and (d);
- (2) the individual's options and choices to meet identified needs, including all available options for case management services and providers;
- (3) identification of health and safety risks and how those risks will be addressed, including personal risk management strategies;
- (4) referral information; and
- (5) informal caregiver supports, if applicable.

For a person determined eligible for state plan home care under subdivision 1a, paragraph (b), clause (1), the person or person's representative must also receive a copy of the home care service plan developed by the certified assessor.

(f) A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to long-term care options counseling services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(g) The person has the right to make the final decision between institutional placement and community placement after the recommendations have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d).

(h) The lead agency 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) written recommendations for community-based services and consumer-directed options;
- (2) documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this clause, "cost-effective" means community services and living arrangements that cost the same as or less than institutional care. For an individual found to meet eligibility criteria for home and community-based service programs under section 256B.0915 or 256B.49, "cost-effectiveness" has the meaning found in the federally approved waiver plan for each program;
- (3) the need for and purpose of preadmission screening conducted by long-term care options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects nursing facility placement. If the individual selects nursing facility placement, the lead agency shall forward information needed to complete the level of care determinations and screening for developmental disability and mental illness collected during the assessment to the long-term care options counselor using forms provided by the commissioner;
- (4) the role of long-term care consultation assessment and support planning in eligibility determination for waiver and alternative care programs, and state plan home care, case management, and other services as defined in subdivision 1a, paragraphs (a), clause (6), and (b);
- (5) information about Minnesota health care programs;
- (6) the person's freedom to accept or reject the recommendations of the team;
- (7) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;
- (8) the certified assessor's decision regarding the person's need for institutional level of care as determined under criteria established in subdivision 4e and the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clause (6), and (b); and
- (9) the person's right to appeal the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and (8), and (b), and incorporating the decision regarding the need for institutional level of care or the lead agency'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 access for disability inclusion, community alternative care, and brain injury waiver programs under sections 256B.0913, 256B.0915, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment.
 - (j) The effective eligibility start date for programs in paragraph (i) 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 and documented in the department's Medicaid Management Information System (MMIS). Notwithstanding retroactive medical assistance coverage of state plan services, the effective date of eligibility for programs included in paragraph (i) cannot be prior to the date the most recent updated assessment is completed.

(k) At the time of reassessment, the certified assessor shall assess each person receiving waiver services currently residing in a community residential setting, or licensed adult foster care home that is not the primary residence of the license holder, or in which the license holder is not the primary caregiver, to determine if that person would prefer to be served in a community-living settings as defined in section 256B.49, subdivision 23. The certified assessor shall offer the person, through a person-centered planning process, the option to receive alternative housing and service options.

Sec. 15. Minnesota Statutes 2016, section 256B.0915, subdivision 1, is amended to read:

Subdivision 1. **Authority.** (a) The commissioner is authorized to apply for a home and community-based services waiver for the elderly, authorized under section 1915(c) of the Social Security Act, in order to obtain federal financial participation to expand the availability of services for persons who are eligible for medical assistance. The commissioner may apply for additional waivers or pursue other federal financial participation which is advantageous to the state for funding home care services for the frail elderly who are eligible for medical assistance. The provision of waived services to elderly and disabled medical assistance recipients must comply with the criteria for service definitions and provider standards approved in the waiver.

(b) The commissioner shall comply with the requirements in the federally approved transition plan for the home and community-based services waivers authorized under this section.

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

Sec. 16. Minnesota Statutes 2016, section 256B.092, subdivision 4, is amended to read:

Subd. 4. **Home and community-based services for developmental disabilities.** (a) The commissioner shall make payments to approved vendors participating in the medical assistance program to pay costs of providing home and community-based services, including case management service activities provided as an approved home and community-based service, to medical assistance eligible persons with developmental disabilities who have been screened under subdivision 7 and according to federal requirements. Federal requirements include those services and limitations included in the federally approved application for home and community-based services for persons with developmental disabilities and subsequent amendments.

(b) Effective July 1, 1995, contingent upon federal approval and state appropriations made available for this purpose, and in conjunction with Laws 1995, chapter 207, article 8, section 40, the commissioner of human services shall allocate resources to county agencies for home and community-based waived services for persons with developmental disabilities authorized but not receiving those services as of June 30, 1995, based upon the average resource need of persons with similar functional characteristics. To ensure service continuity for service recipients receiving home and community-based waived services for persons with developmental disabilities prior to July 1, 1995, the commissioner shall make available to the county of financial responsibility home and community-based waived services resources based upon fiscal year 1995 authorized levels.

(c) Home and community-based resources for all recipients shall be managed by the county of financial responsibility within an allowable reimbursement average established for each county. Payments for home and community-based services provided to individual recipients shall not exceed amounts authorized by the county of financial responsibility. For specifically identified former

residents of nursing facilities, the commissioner shall be responsible for authorizing payments and payment limits under the appropriate home and community-based service program. Payment is available under this subdivision only for persons who, if not provided these services, would require the level of care provided in an intermediate care facility for persons with developmental disabilities.

(d) The commissioner shall comply with the requirements in the federally approved transition plan for the home and community-based services waivers for the elderly authorized under this section.

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

Sec. 17. Minnesota Statutes 2016, section 256B.49, subdivision 11, is amended to read:

Subd. 11. **Authority.** (a) The commissioner is authorized to apply for home and community-based service waivers, as authorized under section 1915(c) of the Social Security Act to serve persons under the age of 65 who are determined to require the level of care provided in a nursing home and persons who require the level of care provided in a hospital. The commissioner shall apply for the home and community-based waivers in order to:

- (1) promote the support of persons with disabilities in the most integrated settings;
- (2) expand the availability of services for persons who are eligible for medical assistance;
- (3) promote cost-effective options to institutional care; and
- (4) obtain federal financial participation.

(b) The provision of waived services to medical assistance recipients with disabilities shall comply with the requirements outlined in the federally approved applications for home and community-based services and subsequent amendments, including provision of services according to a service plan designed to meet the needs of the individual. For purposes of this section, the approved home and community-based application is considered the necessary federal requirement.

(c) The commissioner shall provide interested persons serving on agency advisory committees, task forces, the Centers for Independent Living, and others who request to be on a list to receive, notice of, and an opportunity to comment on, at least 30 days before any effective dates, (1) any substantive changes to the state's disability services program manual, or (2) changes or amendments to the federally approved applications for home and community-based waivers, prior to their submission to the federal Centers for Medicare and Medicaid Services.

(d) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Security Act, to allow medical assistance eligibility under this section for children under age 21 without deeming of parental income or assets.

(e) The commissioner shall seek approval, as authorized under section 1915(c) of the Social Act, to allow medical assistance eligibility under this section for individuals under age 65 without deeming the spouse's income or assets.

(f) The commissioner shall comply with the requirements in the federally approved transition plan for the home and community-based services waivers authorized under this section.

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

Sec. 18. Minnesota Statutes 2016, section 256B.49, subdivision 15, is amended to read:

Subd. 15. **Coordinated service and support plan; comprehensive transitional service plan; maintenance service plan.** (a) Each recipient of home and community-based waived services shall be provided a copy of the written coordinated service and support plan which meets the requirements in section 256B.092, subdivision 1b.

(b) In developing the comprehensive transitional service plan, the individual receiving services, the case manager, and the guardian, if applicable, will identify the transitional service plan fundamental service outcome and anticipated timeline to achieve this outcome. Within the first 20 days following a recipient's request for an assessment or reassessment, the transitional service planning team must be identified. A team leader must be identified who will be responsible for assigning responsibility and communicating with team members to ensure implementation of the transition plan and ongoing assessment and communication process. The team leader should be an individual, such as the case manager or guardian, who has the opportunity to follow the recipient to the next level of service.

Within ten days following an assessment, a comprehensive transitional service plan must be developed incorporating elements of a comprehensive functional assessment and including short-term measurable outcomes and timelines for achievement of and reporting on these outcomes. Functional milestones must also be identified and reported according to the timelines agreed upon by the transitional service planning team. In addition, the comprehensive transitional service plan must identify additional supports that may assist in the achievement of the fundamental service outcome such as the development of greater natural community support, increased collaboration among agencies, and technological supports.

The timelines for reporting on functional milestones will prompt a reassessment of services provided, the units of services, rates, and appropriate service providers. It is the responsibility of the transitional service planning team leader to review functional milestone reporting to determine if the milestones are consistent with observable skills and that milestone achievement prompts any needed changes to the comprehensive transitional service plan.

For those whose fundamental transitional service outcome involves the need to procure housing, a plan for the recipient to seek the resources necessary to secure the least restrictive housing possible should be incorporated into the plan, including employment and public supports such as housing access and shelter needy funding.

(c) Counties and other agencies responsible for funding community placement and ongoing community supportive services are responsible for the implementation of the comprehensive transitional service plans. Oversight responsibilities include both ensuring effective transitional service delivery and efficient utilization of funding resources.

(d) Following one year of transitional services, the transitional services planning team will make a determination as to whether or not the individual receiving services requires the current level of continuous and consistent support in order to maintain the recipient's current level of functioning. Recipients who are determined to have not had a significant change in functioning for 12 months must move from a transitional to a maintenance service plan. Recipients on a maintenance service

plan must be reassessed to determine if the recipient would benefit from a transitional service plan at least every 12 months and at other times when there has been a significant change in the recipient's functioning. This assessment should consider any changes to technological or natural community supports.

(e) When a county is evaluating denials, reductions, or terminations of home and community-based services under this section for an individual, the case manager shall offer to meet with the individual or the individual's guardian in order to discuss the prioritization of service needs within the coordinated service and support plan, comprehensive transitional service plan, or maintenance service plan. The reduction in the authorized services for an individual due to changes in funding for waived services may not exceed the amount needed to ensure medically necessary services to meet the individual's health, safety, and welfare.

~~(f) At the time of reassessment, local agency case managers shall assess each recipient of community access for disability inclusion or brain injury waived services currently residing in a licensed adult foster home that is not the primary residence of the license holder, or in which the license holder is not the primary caregiver, to determine if that recipient could appropriately be served in a community living setting. If appropriate for the recipient, the case manager shall offer the recipient, through a person-centered planning process, the option to receive alternative housing and service options. In the event that the recipient chooses to transfer from the adult foster home, the vacated bed shall not be filled with another recipient of waiver services and group residential housing and the licensed capacity shall be reduced accordingly, unless the savings required by the licensed bed closure reductions under Laws 2011, First Special Session chapter 9, article 7, sections 1 and 40, paragraph (f), for foster care settings where the physical location is not the primary residence of the license holder are met through voluntary changes described in section 245A.03, subdivision 7, paragraph (e), or as provided under paragraph (a), clauses (3) and (4). If the adult foster home becomes no longer viable due to these transfers, the county agency, with the assistance of the department, shall facilitate a consolidation of settings or closure. This reassessment process shall be completed by July 1, 2013.~~

Sec. 19. Minnesota Statutes 2016, section 256B.493, subdivision 1, is amended to read:

Subdivision 1. **Commissioner's duties; report.** The commissioner of human services ~~shall solicit proposals for the conversion of services provided for persons with disabilities in settings licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, or community residential settings licensed under chapter 245D, to other types of community settings in conjunction with the closure of identified licensed adult foster care settings~~ has the authority to manage statewide licensed corporate foster care or community residential settings capacity, including the reduction and realignment of licensed capacity of a current foster care or community residential settings to accomplish the consolidation or closure of settings. The commissioner shall implement a program for planned closure of licensed corporate adult foster care or community residential settings, necessary as a preferred method to: (1) respond to the informed decisions of those individuals who want to move out of these settings into other types of community settings; and (2) achieve necessary budgetary savings required in section 245A.03, subdivision 7, paragraphs (c) and (d).

Sec. 20. Minnesota Statutes 2016, section 256B.493, subdivision 2, is amended to read:

Subd. 2. **Planned closure process needs determination.** ~~The commissioner shall announce and implement a program for planned closure of adult foster care homes. Planned closure shall be the preferred method for achieving necessary budgetary savings required by the licensed bed closure budget reduction in section 245A.03, subdivision 7, paragraph (c). If additional closures are required to achieve the necessary savings, the commissioner shall use the process and priorities in section 245A.03, subdivision 7, paragraph (c).~~ A resource need determination process, managed at the state level, using available reports required by section 144A.351 and other data and information shall be used by the commissioner to align capacity where needed.

Sec. 21. Minnesota Statutes 2016, section 256B.493, is amended by adding a subdivision to read:

Subd. 2a. **Closure process.** (a) The commissioner shall work with stakeholders to establish a process for the application, review, approval, and implementation of setting closures. Voluntary proposals from license holders for consolidation and closure of adult foster care or community residential settings are encouraged. Whether voluntary or involuntary, all closure plans must include:

(1) a description of the proposed closure plan, identifying the home or homes and occupied beds;

(2) the proposed timetable for the proposed closure, including the proposed dates for notification to people living there and the affected lead agencies, commencement of closure, and completion of closure;

(3) the proposed relocation plan jointly developed by the counties of financial responsibility, the people living there and their legal representatives, if any, who wish to continue to receive services from the provider, and the providers for current residents of any adult foster care home designated for closure; and

(4) documentation from the provider in a format approved by the commissioner that all the adult foster care homes or community residential settings receiving a planned closure rate adjustment under the plan have accepted joint and severable for recovery of overpayments under section 256B.0641, subdivision 2, for the facilities designated for closure under this plan.

(b) The commissioner shall give first priority to closure plans which:

(1) target counties and geographic areas which have:

(i) need for other types of services;

(ii) need for specialized services;

(iii) higher than average per capita use of licensed corporate foster care or community residential settings; or

(iv) residents not living in the geographic area of their choice;

(2) demonstrate savings of medical assistance expenditures; and

(3) demonstrate that alternative services are based on the recipient's choice of provider and are consistent with federal law, state law, and federally approved waiver plans.

The commissioner shall also consider any information provided by people using services, their legal representatives, family members, or the lead agency on the impact of the planned closure on people and the services they need.

(c) For each closure plan approved by the commissioner, a contract must be established between the commissioner, the counties of financial responsibility, and the participating license holder.

Sec. 22. Minnesota Statutes 2016, section 256D.44, subdivision 4, is amended to read:

Subd. 4. **Temporary absence due to illness.** For the purposes of this subdivision, "home" means a residence owned or rented by a recipient or the recipient's spouse. ~~Home does not include a group residential housing facility.~~ Assistance payments for recipients who are temporarily absent from their home due to hospitalization for illness must continue at the same level of payment during their absence if the following criteria are met:

- (1) a physician certifies that the absence is not expected to continue for more than three months;
- (2) a physician certifies that the recipient will be able to return to independent living; and
- (3) the recipient has expenses associated with maintaining a residence in the community.

Sec. 23. Minnesota Statutes 2016, section 256D.44, subdivision 5, is amended to read:

Subd. 5. **Special needs.** (a) 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 setting authorized to receive housing facility support payments under chapter 256I.~~

~~(a)~~ (b) 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)~~ (c) 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.

~~(e)~~ (d) 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)~~ (e) 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)~~ (f) 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)~~ (g)(1) Notwithstanding the language in this subdivision, an amount equal to one-half of the maximum allotment authorized by the federal Food Stamp Program for a federal Supplemental Security Income payment amount 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 in need of housing assistance and are:

(i) relocating from an institution, a setting authorized to receive housing support under chapter 256I, or an adult mental health residential treatment program under section 256B.0622; ~~or~~

(ii) eligible for personal care assistance under section 256B.0659; 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, unless allowed under paragraph (g).

(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~~ Housing assistance" 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~~ in need of housing assistance for purposes of this paragraph.

~~(g) Notwithstanding this subdivision, to access housing and services as provided in paragraph (f), the recipient may choose housing that may be owned, operated, or controlled by the recipient's service provider. When housing is controlled by the service provider, the individual may choose the individual's own service provider as provided in section 256B.49, subdivision 23, clause (3). When the housing is controlled by the service provider, the service provider shall implement a plan with the recipient to transition the lease to the recipient's name. Within two years of signing the initial lease, the service provider shall transfer the lease entered into under this subdivision to the recipient. In the event the landlord denies this transfer, the commissioner may approve an exception within sufficient time to ensure the continued occupancy by the recipient. This paragraph expires June 30, 2016.~~

EFFECTIVE DATE. Paragraphs (a) to (f) are effective July 1, 2017. Paragraph (g), clause (1), is effective July 1, 2020, except paragraph (g), clause (1), items (ii) and (iii), are effective July 1, 2017.

Sec. 24. Minnesota Statutes 2016, section 256I.03, subdivision 8, is amended to read:

Subd. 8. **Supplementary services.** "Supplementary services" means housing support services provided to ~~residents of group residential housing providers~~ individuals in addition to room and board including, but not limited to, oversight and up to 24-hour supervision, medication reminders, assistance with transportation, arranging for meetings and appointments, and arranging for medical and social services.

Sec. 25. Minnesota Statutes 2016, section 256I.04, subdivision 1, is amended to read:

Subdivision 1. **Individual eligibility requirements.** An individual is eligible for and entitled to a ~~group residential~~ housing support payment to be made on the individual's behalf if the agency has approved the ~~individual's residence in a group residential setting where the individual will receive housing setting support~~ and the individual meets the requirements in paragraph (a) ~~or~~ (b), or (c).

(a) The individual is aged, blind, or is over 18 years of age and disabled as determined under the criteria used by the title II program of the Social Security Act, and meets the resource restrictions and standards of section 256P.02, and the individual's countable income after deducting the (1) exclusions and disregards of the SSI program, (2) the medical assistance personal needs allowance under section 256B.35, and (3) an amount equal to the income actually made available to a community spouse by an elderly waiver participant under the provisions of sections 256B.0575, paragraph (a),

clause (4), and 256B.058, subdivision 2, is less than the monthly rate specified in the agency's agreement with the provider of ~~group residential~~ housing support in which the individual resides.

(b) The individual meets a category of eligibility under section 256D.05, subdivision 1, paragraph (a), clauses (1), (3), (5) to (9), and (14), and paragraph (b), if applicable, and the individual's resources are less than the standards specified by section 256P.02, and the individual's countable income as determined under section 256P.06, less the medical assistance personal needs allowance under section 256B.35 is less than the monthly rate specified in the agency's agreement with the provider of ~~group residential~~ housing support in which the individual resides.

(c) The individual receives licensed residential crisis stabilization services under section 256B.0624, subdivision 7, and is receiving medical assistance. The individual may receive concurrent housing support payments if receiving licensed residential crisis stabilization services under section 256B.0624, subdivision 7.

EFFECTIVE DATE. Paragraph (c) is effective October 1, 2017.

Sec. 26. Minnesota Statutes 2016, section 256I.04, subdivision 2d, is amended to read:

Subd. 2d. **Conditions of payment; commissioner's right to suspend or terminate agreement.**

(a) ~~Group residential Housing or supplementary services support~~ must be provided to the satisfaction of the commissioner, as determined at the sole discretion of the commissioner's authorized representative, and in accordance with all applicable federal, state, and local laws, ordinances, rules, and regulations, including business registration requirements of the Office of the Secretary of State. A provider shall not receive payment for room and board or supplementary services ~~or housing~~ found by the commissioner to be performed or provided in violation of federal, state, or local law, ordinance, rule, or regulation.

(b) The commissioner has the right to suspend or terminate the agreement immediately when the commissioner determines the health or welfare of the housing or service recipients is endangered, or when the commissioner has reasonable cause to believe that the provider has breached a material term of the agreement under subdivision 2b.

(c) Notwithstanding paragraph (b), if the commissioner learns of a curable material breach of the agreement by the provider, the commissioner shall provide the provider with a written notice of the breach and allow ten days to cure the breach. If the provider does not cure the breach within the time allowed, the provider shall be in default of the agreement and the commissioner may terminate the agreement immediately thereafter. If the provider has breached a material term of the agreement and cure is not possible, the commissioner may immediately terminate the agreement.

Sec. 27. Minnesota Statutes 2016, section 256I.04, subdivision 2g, is amended to read:

Subd. 2g. **Crisis shelters.** Secure crisis shelters for battered women and their children designated by the Minnesota Department of Corrections are not ~~group residences~~ eligible for housing support under this chapter.

Sec. 28. Minnesota Statutes 2016, section 256I.04, subdivision 3, is amended to read:

Subd. 3. **Moratorium on development of ~~group residential housing support~~ beds.** (a) Agencies shall not enter into agreements for new ~~group residential housing support~~ beds with total rates in excess of the MSA equivalent rate except:

(1) for ~~group residential housing~~ establishments licensed under chapter 245D provided the facility is needed to meet the census reduction targets for persons with developmental disabilities at regional treatment centers;

(2) up to 80 beds in a single, specialized facility located in Hennepin County that will provide housing for chronic inebriates who are repetitive users of detoxification centers and are refused placement in emergency shelters because of their state of intoxication, and planning for the specialized facility must have been initiated before July 1, 1991, in anticipation of receiving a grant from the Housing Finance Agency under section 462A.05, subdivision 20a, paragraph (b);

(3) notwithstanding the provisions of subdivision 2a, for up to ~~490~~ 226 supportive housing units in Anoka, Dakota, Hennepin, or Ramsey County for homeless adults with a mental illness, a history of substance abuse, or human immunodeficiency virus or acquired immunodeficiency syndrome. For purposes of this section, "homeless adult" means a person who is living on the street or in a shelter or discharged from a regional treatment center, community hospital, or residential treatment program and has no appropriate housing available and lacks the resources and support necessary to access appropriate housing. At least 70 percent of the supportive housing units must serve homeless adults with mental illness, substance abuse problems, or human immunodeficiency virus or acquired immunodeficiency syndrome who are about to be or, within the previous six months, has been discharged from a regional treatment center, or a state-contracted psychiatric bed in a community hospital, or a residential mental health or chemical dependency treatment program. If a person meets the requirements of subdivision 1, paragraph (a), and receives a federal or state housing subsidy, the ~~group residential housing support~~ rate for that person is limited to the supplementary rate under section 256I.05, subdivision 1a, and is determined by subtracting the amount of the person's countable income that exceeds the MSA equivalent rate from the ~~group residential housing support~~ supplementary service rate. A resident in a demonstration project site who no longer participates in the demonstration program shall retain eligibility for a ~~group residential housing support~~ payment in an amount determined under section 256I.06, subdivision 8, using the MSA equivalent rate. Service funding under section 256I.05, subdivision 1a, will end June 30, 1997, if federal matching funds are available and the services can be provided through a managed care entity. If federal matching funds are not available, then service funding will continue under section 256I.05, subdivision 1a;

(4) for an additional two beds, resulting in a total of 32 beds, for a facility located in Hennepin County providing services for recovering and chemically dependent men that has had a ~~group residential housing support~~ contract with the county and has been licensed as a board and lodge facility with special services since 1980;

(5) for a ~~group residential housing support~~ provider located in the city of St. Cloud, or a county contiguous to the city of St. Cloud, that operates a 40-bed facility, that received financing through the Minnesota Housing Finance Agency Ending Long-Term Homelessness Initiative and serves chemically dependent clientele, providing 24-hour-a-day supervision;

(6) for a new 65-bed facility in Crow Wing County that will serve chemically dependent persons, operated by a ~~group residential~~ housing support provider that currently operates a 304-bed facility in Minneapolis, and a 44-bed facility in Duluth;

(7) for a ~~group residential~~ housing support provider that operates two ten-bed facilities, one located in Hennepin County and one located in Ramsey County, that provide community support and 24-hour-a-day supervision to serve the mental health needs of individuals who have chronically lived unsheltered; and

(8) for a ~~group residential~~ facility authorized for recipients of housing support in Hennepin County with a capacity of up to 48 beds that has been licensed since 1978 as a board and lodging facility and that until August 1, 2007, operated as a licensed chemical dependency treatment program.

(b) An agency may enter into a ~~group residential~~ housing support agreement for beds with rates in excess of the MSA equivalent rate in addition to those currently covered under a ~~group residential~~ housing support agreement if the additional beds are only a replacement of beds with rates in excess of the MSA equivalent rate which have been made available due to closure of a setting, a change of licensure or certification which removes the beds from ~~group residential~~ housing support payment, or as a result of the downsizing of a ~~group residential housing~~ setting authorized for recipients of housing support. The transfer of available beds from one agency to another can only occur by the agreement of both agencies.

Sec. 29. Minnesota Statutes 2016, 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.0659, for personal care services for residents in the setting; or residing in a setting which receives funding under section 245.73. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section 256B.0659, then the ~~GRH~~ housing support 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~~ housing support 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 housing support fund to county human service agencies for beds permanently removed from the GRH housing support 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) Counties must not negotiate supplementary service rates with providers of ~~group residential housing support~~ that are licensed as board and lodging with special services and that do not encourage a policy of sobriety on their premises and make referrals to available community services for volunteer and employment opportunities for residents.

Sec. 30. Minnesota Statutes 2016, section 256I.05, subdivision 1c, is amended to read:

Subd. 1c. **Rate increases.** An agency may not increase the rates negotiated for ~~group residential housing support~~ above those in effect on June 30, 1993, except as provided in paragraphs (a) to (f).

(a) An agency may increase the rates for ~~group residential housing settings~~ room and board to the MSA equivalent rate for those settings whose current rate is below the MSA equivalent rate.

(b) An agency may increase the rates for residents in adult foster care whose difficulty of care has increased. The total ~~group residential housing support~~ rate for these residents must not exceed the maximum rate specified in subdivisions 1 and 1a. Agencies must not include nor increase ~~group residential housing~~ difficulty of care rates for adults in foster care whose difficulty of care is eligible for funding by home and community-based waiver programs under title XIX of the Social Security Act.

(c) The room and board rates will be increased each year when the MSA equivalent rate is adjusted for SSI cost-of-living increases by the amount of the annual SSI increase, less the amount of the increase in the medical assistance personal needs allowance under section 256B.35.

(d) When ~~a group residential housing rate is used to pay support~~ support pays for an individual's room and board, or other costs necessary to provide room and board, the rate payable to the residence must continue for up to 18 calendar days per incident that the person is temporarily absent from the residence, not to exceed 60 days in a calendar year, if the absence or absences have received the prior approval of the county agency's social service staff. Prior approval is not required for emergency absences due to crisis, illness, or injury.

(e) For facilities meeting substantial change criteria within the prior year. Substantial change criteria exists if the ~~group residential housing~~ establishment experiences a 25 percent increase or decrease in the total number of its beds, if the net cost of capital additions or improvements is in excess of 15 percent of the current market value of the residence, or if the residence physically moves, or changes its licensure, and incurs a resulting increase in operation and property costs.

(f) Until June 30, 1994, an agency may increase by up to five percent the total rate paid for recipients of assistance under sections 256D.01 to 256D.21 or 256D.33 to 256D.54 who reside in residences that are licensed by the commissioner of health as a boarding care home, but are not certified for the purposes of the medical assistance program. However, an increase under this clause must not exceed an amount equivalent to 65 percent of the 1991 medical assistance reimbursement rate for nursing home resident class A, in the geographic grouping in which the facility is located, as established under Minnesota Rules, parts 9549.0051 to 9549.0058.

Sec. 31. Minnesota Statutes 2016, section 256I.05, subdivision 1e, is amended to read:

Subd. 1e. **Supplementary rate for certain facilities.** (a) Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2005, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a ~~group residential~~ housing support provider that:

(1) is located in Hennepin County and has had a ~~group residential~~ housing support contract with the county since June 1996;

(2) operates in three separate locations a 75-bed facility, a 50-bed facility, and a 26-bed facility; and

(3) serves a chemically dependent clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

(b) Notwithstanding subdivisions 1a and 1c, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, of a ~~group residential~~ housing support provider that:

(1) is located in St. Louis County and has had a ~~group residential~~ housing support contract with the county since 2006;

(2) operates a 62-bed facility; and

(3) serves a chemically dependent adult male clientele, providing 24 hours per day supervision and limiting a resident's maximum length of stay to 13 months out of a consecutive 24-month period.

(c) Notwithstanding subdivisions 1a and 1c, beginning July 1, 2013, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for the ~~group residential~~ provider described under paragraphs (a) and (b), not to exceed an additional 115 beds.

Sec. 32. Minnesota Statutes 2016, section 256I.05, subdivision 1j, is amended to read:

Subd. 1j. **Supplementary rate for certain facilities; Crow Wing County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2007, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a new 65-bed facility in Crow Wing County that will serve chemically dependent persons operated by a ~~group residential~~ housing support provider that currently operates a 304-bed facility in Minneapolis and a 44-bed facility in Duluth which opened in January of 2006.

Sec. 33. Minnesota Statutes 2016, section 256I.05, subdivision 1m, is amended to read:

Subd. 1m. **Supplemental rate for certain facilities; Hennepin and Ramsey Counties.** (a) Notwithstanding the provisions of this section, beginning July 1, 2007, a county agency shall negotiate a supplemental service rate in addition to the rate specified in subdivision 1, not to exceed \$700 per

month or the existing monthly rate, whichever is higher, including any legislatively authorized inflationary adjustments, for a ~~group residential~~ housing support provider that operates two ten-bed facilities, one located in Hennepin County and one located in Ramsey County, which provide community support and serve the mental health needs of individuals who have chronically lived unsheltered, providing 24-hour-per-day supervision.

(b) An individual who has lived in one of the facilities under paragraph (a), who is being transitioned to independent living as part of the program plan continues to be eligible for ~~group residential housing~~ room and board and the supplemental service rate negotiated with the county under paragraph (a).

Sec. 34. Minnesota Statutes 2016, section 256I.05, is amended by adding a subdivision to read:

Subd. 1p. **Supplementary rate; St. Louis County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2017, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$700 per month, including any legislatively authorized inflationary adjustments, for a housing support provider that:

(1) is located in St. Louis County and has had a housing support contract with the county since July 2016;

(2) operates a 35-bed facility;

(3) serves women who are chemically dependent, mentally ill, or both;

(4) provides 24-hour per day supervision;

(5) provides on-site support with skilled professionals, including a licensed practical nurse, registered nurses, peer specialists, and resident counselors; and

(6) provides independent living skills training and assistance with family reunification.

Sec. 35. Minnesota Statutes 2016, section 256I.05, is amended by adding a subdivision to read:

Subd. 1q. **Supplemental rate; Olmsted County.** Notwithstanding the provisions of subdivisions 1a and 1c, beginning July 1, 2017, a county agency shall negotiate a supplementary rate in addition to the rate specified in subdivision 1, not to exceed \$750 per month, including any legislatively authorized inflationary adjustments, for a housing support provider located in Olmsted County that operates long-term residential facilities with a total of 104 beds that serve chemically dependent men and women and provide 24-hour-a-day supervision and other support services.

Sec. 36. Minnesota Statutes 2016, section 256I.05, is amended by adding a subdivision to read:

Subd. 1r. **Supplemental rate; Anoka County.** Notwithstanding the provisions in this section, a county agency shall negotiate a supplemental rate for 42 beds in addition to the rate specified in subdivision 1, not to exceed the maximum rate allowed under subdivision 1a, including any legislatively authorized inflationary adjustments, for a housing support provider that is located in Anoka County and provides emergency housing on the former Anoka Regional Treatment Center campus.

Sec. 37. Minnesota Statutes 2016, section 256I.05, is amended by adding a subdivision to read:

Subd. 11. **Transfer of emergency shelter funds.** (a) The commissioner shall make a cost-neutral transfer of funding from the housing support fund to county human service agencies for emergency shelter beds removed from the housing support census under a biennial plan submitted by the county and approved by the commissioner. The plan must describe: (1) anticipated and actual outcomes for persons experiencing homelessness in emergency shelters; (2) improved efficiencies in administration; (3) requirements for individual eligibility; and (4) plans for quality assurance monitoring and quality assurance outcomes. The commissioner shall review the county plan to monitor implementation and outcomes at least biennially, and more frequently if the commissioner deems necessary.

(b) The funding under paragraph (a) may be used for the provision of room and board or supplemental services according to section 256I.03, subdivisions 2 and 8. Providers must meet the requirements of section 256I.04, subdivisions 2a to 2f. Funding must be allocated annually, and the room and board portion of the allocation shall be adjusted according to the percentage change in the housing support room and board rate. The room and board portion of the allocation shall be determined at the time of transfer. The commissioner or county may return beds to the housing support fund with 180 days' notice, including financial reconciliation.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 38. Minnesota Statutes 2016, section 256I.06, subdivision 2, is amended to read:

Subd. 2. **Time of payment.** A county agency may make payments to a group residence in advance for an individual whose stay in the group residence is expected to last beyond the calendar month for which the payment is made. ~~Group residential~~ Housing support payments made by a county agency on behalf of an individual who is not expected to remain in the group residence beyond the month for which payment is made must be made subsequent to the individual's departure from the group residence.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 39. Minnesota Statutes 2016, section 256I.06, subdivision 8, is amended to read:

Subd. 8. **Amount of group residential housing support payment.** (a) The amount of a ~~group residential housing~~ room and board payment to be made on behalf of an eligible individual is determined by subtracting the individual's countable income under section 256I.04, subdivision 1, for a whole calendar month from the ~~group residential housing charge~~ room and board rate for that same month. The ~~group residential housing charge~~ support payment is determined by multiplying the ~~group residential housing support~~ rate times the period of time the individual was a resident or temporarily absent under section 256I.05, subdivision 1c, paragraph (d).

(b) For an individual with earned income under paragraph (a), prospective budgeting must be used to determine the amount of the individual's payment for the following six-month period. An increase in income shall not affect an individual's eligibility or payment amount until the month following the reporting month. A decrease in income shall be effective the first day of the month after the month in which the decrease is reported.

(c) For an individual who receives licensed residential crisis stabilization services under section 256B.0624, subdivision 7, the amount of housing support payment is determined by multiplying the housing support rate times the period of time the individual was a resident.

EFFECTIVE DATE. Paragraph (c) is effective October 1, 2017.

Sec. 40. [256I.09] COMMUNITY LIVING INFRASTRUCTURE.

The commissioner shall awards grants to agencies through an annual competitive process. Grants awarded under this section may be used for: (1) outreach to locate and engage people who are homeless or residing in segregated settings to screen for basic needs and assist with referral to community living resources; (2) building capacity to provide technical assistance and consultation on housing and related support service resources for persons with both disabilities and low income; or (3) streamlining the administration and monitoring activities related to housing support funds. Agencies may collaborate and submit a joint application for funding under this section.

Sec. 41. DIRECTION TO COMMISSIONER; HOUSING SUPPORT STUDY.

Within available appropriations, the commissioner of human services shall study the housing support supplementary service rates under Minnesota Statutes, section 256I.05, and make recommendations on the supplementary service rate structure to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance by January 15, 2018.

Sec. 42. REVISOR'S INSTRUCTION.

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall change the phrase in column B to the phrase in column C. The revisor may make technical and other necessary changes to sentence structure to preserve the meaning of the text. The revisor shall make other changes in chapter titles; section, subdivision, part, and subpart headnotes; and in other terminology necessary as a result of the enactment of this section.

<u>Column A</u>	<u>Column B</u>	<u>Column C</u>
<u>144A.071, subdivision 4d</u>	<u>group residential housing</u>	<u>housing support under chapter 256I</u>
<u>201.061, subdivision 3</u>	<u>group residential housing</u>	<u>setting authorized to provide housing support</u>
<u>244.052, subdivision 4c</u>	<u>group residential housing facility</u>	<u>licensed setting authorized to provide housing support under section 256I.04</u>
<u>245.466, subdivision 7</u>	<u>under group residential housing</u>	<u>by housing support under chapter 256I</u>
<u>245.466, subdivision 7</u>	<u>from group residential housing</u>	<u>from housing support</u>
<u>245.4661, subdivision 6</u>	<u>group residential housing</u>	<u>housing support under chapter 256I</u>
<u>245C.10, subdivision 11</u>	<u>group residential housing or supplementary services</u>	<u>housing support</u>

<u>256.01, subdivision 18</u>	<u>group residential housing</u>	<u>housing support under chapter 256I</u>
<u>256.017, subdivision 1</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256.98, subdivision 8</u>	<u>group residential housing</u>	<u>housing support under chapter 256I</u>
<u>256B.49, subdivision 15</u>	<u>group residential housing</u>	<u>housing support under chapter 256I</u>
<u>256B.4914, subdivision 10</u>	<u>group residential housing rate 3 costs</u>	<u>housing support rate 3 costs under chapter 256I</u>
<u>256B.501, subdivision 4b</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256B.77, subdivision 12</u>	<u>residential services covered under the group residential housing program</u>	<u>housing support services under chapter 256I</u>
<u>256D.44, subdivision 2</u>	<u>group residential housing facility</u>	<u>setting authorized to provide housing support</u>
<u>256G.01, subdivision 3</u>	<u>group residential housing</u>	<u>housing support under chapter 256I</u>
<u>256I.01</u>	<u>Group Residential Housing</u>	<u>Housing Support</u>
<u>256I.02</u>	<u>Group Residential Housing</u>	<u>Housing Support</u>
<u>256I.03, subdivision 2</u>	<u>"Group residential housing"</u>	<u>"Room and board"</u>
<u>256I.03, subdivision 2</u>	<u>Group residential housing</u>	<u>The room and board</u>
<u>256I.03, subdivision 3</u>	<u>"Group residential housing"</u>	<u>"Housing support"</u>
<u>256I.03, subdivision 6</u>	<u>group residential housing</u>	<u>room and board</u>
<u>256I.03, subdivisions 7 and 9</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256I.04, subdivisions 1a, 1b, 1c, and 2</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256I.04, subdivision 2a</u>	<u>provide group residential housing</u>	<u>provide housing support</u>
<u>256I.04, subdivision 2a</u>	<u>of group residential housing or supplementary services</u>	<u>of housing support</u>
<u>256I.04, subdivision 2a</u>	<u>complete group residential housing</u>	<u>complete housing support</u>
<u>256I.04, subdivision 2b</u>	<u>group residential housing or supplementary services</u>	<u>housing support</u>
<u>256I.04, subdivision 2b</u>	<u>provision of group residential housing</u>	<u>provision of housing support</u>
<u>256I.04, subdivision 2c</u>	<u>group residential housing or supplementary services</u>	<u>housing support</u>
<u>256I.04, subdivision 2e</u>	<u>group residential housing or supplementary services</u>	<u>housing support</u>
<u>256I.04, subdivision 4</u>	<u>group residential housing payment for room and board</u>	<u>room and board rate</u>

<u>256I.05, subdivision 1</u>	<u>living in group residential housing</u>	<u>receiving housing support</u>
<u>256I.05, subdivisions 1h, 1k, 1l, 7b, and 7c</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256I.05, subdivision 2</u>	<u>group residential housing</u>	<u>room and board</u>
<u>256I.05, subdivision 3</u>	<u>group residential housing</u>	<u>room and board</u>
<u>256I.05, subdivision 6</u>	<u>reside in group residential housing</u>	<u>receive housing support</u>
<u>256I.06, subdivisions 1, 3, 4, and 6</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256I.06, subdivision 7</u>	<u>group residential housing</u>	<u>the housing support</u>
<u>256I.08</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256P.03, subdivision 1</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256P.05, subdivision 1</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256P.07, subdivision 1</u>	<u>group residential housing</u>	<u>housing support</u>
<u>256P.08, subdivision 1</u>	<u>group residential housing</u>	<u>housing support</u>
<u>290A.03, subdivision 8</u>	<u>accepts group residential housing</u>	<u>accepts housing support</u>
<u>290A.03, subdivision 8</u>	<u>the group residential housing program</u>	<u>the housing support program</u>

ARTICLE 3

CONTINUING CARE

Section 1. Minnesota Statutes 2016, 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 MDS 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 3.0, and subsequent updates when issued by the Centers for Medicare and Medicaid Services. 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;

(2) an annual assessment which must have an assessment reference date (ARD) within 92 days of the previous assessment and the previous comprehensive assessment;

(3) a significant change in status assessment must be completed within 14 days of the identification of a significant change, whether improvement or decline, and regardless of the amount of time since the last significant change in status assessment;

(4) all quarterly assessments must have an assessment reference date (ARD) within 92 days of the ARD of the previous assessment;

(5) any significant correction to a prior comprehensive assessment, if the assessment being corrected is the current one being used for RUG classification; and

(6) any significant correction to a prior quarterly assessment, if the assessment being corrected is the current one being used for RUG classification.

(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 256.975, subdivisions 7a to 7c, by the Senior LinkAge Line or other organization under contract with the Minnesota Board on Aging; and

(2) a nursing facility level of care determination as provided for under section 256B.0911, subdivision 4e, as part of a face-to-face long-term care consultation assessment completed under section 256B.0911, by a county, tribe, or managed care organization under contract with the Department of Human Services.

Sec. 2. Minnesota Statutes 2016, section 144.0724, subdivision 6, is amended to read:

Subd. 6. Penalties for late or nonsubmission. (a) A facility that fails to complete or submit an assessment according to subdivisions 4 and 5 for a RUG-IV classification within seven days of the time requirements listed in the Long-Term Care Facility Resident Assessment Instrument User's Manual is subject to a reduced rate for that resident. The reduced rate shall be the lowest rate for that facility. The reduced rate is effective on the day of admission for new admission assessments, on the ARD for significant change in status assessments, or on the day that the assessment was due for all other assessments and continues in effect until the first day of the month following the date of submission and acceptance of the resident's assessment.

(b) If loss of revenue due to penalties incurred by a facility for any period of 92 days are equal to or greater than ~~1-0~~ 0.1 percent of the total operating costs on the facility's most recent annual statistical and cost report, a facility may apply to the commissioner of human services for a reduction in the total penalty amount. The commissioner of human services, in consultation with the commissioner of health, may, at the sole discretion of the commissioner of human services, limit the penalty for residents covered by medical assistance to ~~15~~ ten days.

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

Sec. 3. Minnesota Statutes 2016, section 144.562, subdivision 2, is amended to read:

Subd. 2. Eligibility for license condition. (a) A hospital is not eligible to receive a license condition for swing beds unless (1) it either has a licensed bed capacity of less than 50 beds defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 482.66, or it has

a licensed bed capacity of 50 beds or more and has swing beds that were approved for Medicare reimbursement before May 1, 1985, or it has a licensed bed capacity of less than 65 beds and the available nursing homes within 50 miles have had, in the aggregate, an average occupancy rate of 96 percent or higher in the most recent two years as documented on the statistical reports to the Department of Health; and (2) it is located in a rural area as defined in the federal Medicare regulations, Code of Federal Regulations, title 42, section 482.66.

(b) Except for those critical access hospitals established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that have an attached nursing home or that owned a nursing home located in the same municipality as of May 1, 2005, eligible hospitals are allowed a total of 2,000 days of swing bed use per year. Critical access hospitals that have an attached nursing home or that owned a nursing home located in the same municipality as of May 1, 2005, are allowed swing bed use as provided in federal law.

(c) Except for critical access hospitals that have an attached nursing home or that owned a nursing home located in the same municipality as of May 1, 2005, the commissioner of health may approve swing bed use beyond 2,000 days as long as there are no Medicare certified skilled nursing facility beds available within 25 miles of that hospital that are willing to admit the patient and the patient agrees to the referral being sent to the skilled nursing facility. Critical access hospitals exceeding 2,000 swing bed days must maintain documentation that they have contacted skilled nursing facilities within 25 miles to determine if any skilled nursing facility beds are available that are willing to admit the patient and the patient agrees to the referral being sent to the skilled nursing facility.

(d) After reaching 2,000 days of swing bed use in a year, an eligible hospital to which this limit applies may admit six additional patients to swing beds each year without seeking approval from the commissioner or being in violation of this subdivision. These six swing bed admissions are exempt from the limit of 2,000 annual swing bed days for hospitals subject to this limit.

(e) A health care system that is in full compliance with this subdivision may allocate its total limit of swing bed days among the hospitals within the system, provided that no hospital in the system without an attached nursing home may exceed 2,000 swing bed days per year.

Sec. 4. Minnesota Statutes 2016, section 144A.071, subdivision 4d, is amended to read:

Subd. 4d. Consolidation of nursing facilities. (a) The commissioner of health, in consultation with the commissioner of human services, may approve a request for consolidation of nursing facilities which includes the closure of one or more facilities and the upgrading of the physical plant of the remaining nursing facility or facilities, the costs of which exceed the threshold project limit under subdivision 2, clause (a). The commissioners shall consider the criteria in this section, section 144A.073, and section ~~256B.437~~ 256R.40, in approving or rejecting a consolidation proposal. In the event the commissioners approve the request, the commissioner of human services shall calculate an external fixed costs rate adjustment according to clauses (1) to (3):

(1) the closure of beds shall not be eligible for a planned closure rate adjustment under section ~~256B.437, subdivision 6~~ 256R.40, subdivision 5;

(2) the construction project permitted in this clause shall not be eligible for a threshold project rate adjustment under section 256B.434, subdivision 4f, or a moratorium exception adjustment under section 144A.073; and

(3) the payment rate for external fixed costs for a remaining facility or facilities shall be increased by an amount equal to 65 percent of the projected net cost savings to the state calculated in paragraph (b), divided by the state's medical assistance percentage of medical assistance dollars, and then divided by estimated medical assistance resident days, as determined in paragraph (c), of the remaining nursing facility or facilities in the request in this paragraph. The rate adjustment is effective on the ~~later of the first day of the month following~~ first day of the month of January or July, whichever date occurs first following both the completion of the construction upgrades in the consolidation plan or the first day of the month following and the complete closure of a facility closure of the facility or facilities designated for closure in the consolidation plan. If more than one facility is receiving upgrades in the consolidation plan, each facility's date of construction completion must be evaluated separately.

(b) For purposes of calculating the net cost savings to the state, the commissioner shall consider clauses (1) to (7):

(1) the annual savings from estimated medical assistance payments from the net number of beds closed taking into consideration only beds that are in active service on the date of the request and that have been in active service for at least three years;

(2) the estimated annual cost of increased case load of individuals receiving services under the elderly waiver;

(3) the estimated annual cost of elderly waiver recipients receiving support under group residential housing;

(4) the estimated annual cost of increased case load of individuals receiving services under the alternative care program;

(5) the annual loss of license surcharge payments on closed beds;

(6) the savings from not paying planned closure rate adjustments that the facilities would otherwise be eligible for under section ~~256B.437~~ 256R.40; and

(7) the savings from not paying external fixed costs payment rate adjustments from submission of renovation costs that would otherwise be eligible as threshold projects under section 256B.434, subdivision 4f.

(c) For purposes of the calculation in paragraph (a), clause (3), the estimated medical assistance resident days of the remaining facility or facilities shall be computed assuming 95 percent occupancy multiplied by the historical percentage of medical assistance resident days of the remaining facility or facilities, as reported on the facility's or facilities' most recent nursing facility statistical and cost report filed before the plan of closure is submitted, multiplied by 365.

(d) For purposes of net cost of savings to the state in paragraph (b), the average occupancy percentages will be those reported on the facility's or facilities' most recent nursing facility statistical

and cost report filed before the plan of closure is submitted, and the average payment rates shall be calculated based on the approved payment rates in effect at the time the consolidation request is submitted.

(e) To qualify for the external fixed costs payment rate adjustment under this subdivision, the closing facilities shall:

(1) submit an application for closure according to section ~~256B.437, subdivision 3~~ 256R.40, subdivision 2; and

(2) follow the resident relocation provisions of section 144A.161.

(f) The county or counties in which a facility or facilities are closed under this subdivision shall not be eligible for designation as a hardship area under subdivision 3 for five years from the date of the approval of the proposed consolidation. The applicant shall notify the county of this limitation and the county shall acknowledge this in a letter of support.

EFFECTIVE DATE. This section is effective for consolidations occurring after July 1, 2017.

Sec. 5. Minnesota Statutes 2016, section 144A.74, is amended to read:

144A.74 MAXIMUM CHARGES.

A supplemental nursing services agency must not bill or receive payments from a nursing home licensed under this chapter at a rate higher than 150 percent of the sum of the weighted average wage rate, plus a factor determined by the commissioner to incorporate payroll taxes as defined in ~~Minnesota Rules, part 9549.0020, subpart 33~~ section 256R.02, subdivision 37, for the applicable employee classification for the geographic group ~~to which the nursing home is assigned under Minnesota Rules, part 9549.0052~~ specified in section 256R.23, subdivision 4. The weighted average wage rates must be determined by the commissioner of human services and reported to the commissioner of health on an annual basis. Wages are defined as hourly rate of pay and shift differential, including weekend shift differential and overtime. Facilities shall provide information necessary to determine weighted average wage rates to the commissioner of human services in a format requested by the commissioner. The maximum rate must include all charges for administrative fees, contract fees, or other special charges in addition to the hourly rates for the temporary nursing pool personnel supplied to a nursing home. A nursing home that pays for the actual travel and housing costs for supplemental nursing services agency staff working at the facility and that pays these costs to the employee, the agency, or another vendor, is not violating the limitation on charges described in this section.

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

Sec. 6. Minnesota Statutes 2016, section 256.975, subdivision 7, is amended to read:

Subd. 7. **Consumer information and assistance and long-term care options counseling; Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a statewide 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, shall serve older adults as the designated

Aging and Disability Resource Center under United States Code, title 42, section 3001, the Older Americans Act Amendments of 2006 in partnership with the Disability Linkage Line under section 256.01, subdivision 24, and must be available during business hours through a statewide toll-free number and the Internet. The Minnesota Board on Aging shall consult with, and when appropriate work through, the area agencies on aging counties, and other entities that serve aging and disabled populations of all ages, to provide and maintain the telephone infrastructure and related support for the Aging and Disability Resource Center partners which agree by memorandum to access the infrastructure, including the designated providers of the Senior LinkAge Line and the Disability Linkage Line.

(b) The service must 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 and provide for regular updating of a comprehensive database that includes detailed listings in both consumer- and provider-oriented formats that can provide search results down to the neighborhood level;

(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 home and community-based services providers developed by the commissioners of health and human services;

(9) develop an outreach plan to seniors and their caregivers with a particular focus on establishing a clear presence in places that seniors recognize and:

(i) place a significant emphasis on improved outreach and service to seniors and their caregivers by establishing annual plans by neighborhood, city, and county, as necessary, to address the unique needs of geographic areas in the state where there are dense populations of seniors;

(ii) establish an efficient workforce management approach and assign community living specialist staff and volunteers to geographic areas as well as aging and disability resource center sites so that

seniors and their caregivers and professionals recognize the Senior LinkAge Line as the place to call for aging services and information;

(iii) recognize the size and complexity of the metropolitan area service system by working with metropolitan counties to establish a clear partnership with them, including seeking county advice on the establishment of local aging and disabilities resource center sites; and

(iv) maintain dashboards with metrics that demonstrate how the service is expanding and extending or enhancing its outreach efforts in dispersed or hard to reach locations in varied population centers;

(10) incorporate information about the availability of housing options, as well as registered 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 that will facilitate price comparisons, including delineation of charges for rent and for services available. The commissioners of health and human services shall align the data elements required by section 144G.06, the Uniform Consumer Information Guide, and this section to provide consumers standardized information and ease of comparison of long-term care options. 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;

(11) 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;

(12) using risk management and support planning protocols, provide long-term care options counseling under clause (13) to current residents of nursing homes deemed appropriate for discharge by the commissioner, ~~former residents of nursing homes who were discharged to community settings, and older adults who request service after consultation with the Senior LinkAge Line under clause (13).~~ The Senior LinkAge Line shall also receive referrals from the residents or staff of nursing homes who meet a profile that demonstrates that the consumer is either at risk of readmission to a nursing home or hospital, or would benefit from long-term care options counseling to age in place.

The Senior LinkAge Line shall identify and contact residents or patients deemed appropriate ~~for discharge~~ by developing targeting criteria and creating a profile in consultation with the commissioner ~~who~~. The commissioner shall provide designated Senior LinkAge Line contact centers with a list of current or former nursing home residents or people discharged from a hospital or for whom Medicare home care has ended, that meet the criteria as being appropriate for ~~discharge planning~~ long-term care options counseling through a referral 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 and, if appropriate, a referral to:

(i) long-term care consultation services under section 256B.0911;

(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 eligible for relocation service coordination due to high-risk factors or psychological or physical disability; and

(13) develop referral protocols and processes that will assist certified health care homes, Medicare home care, and hospitals to identify at-risk older adults and determine when to refer these individuals to the Senior LinkAge Line for long-term care options counseling under this section. The commissioner is directed to work with the commissioner of health to develop protocols that would comply with the health care home designation criteria and protocols available at the time of hospital discharge or the end of Medicare home care. The commissioner shall keep a record of the number of people who choose long-term care options counseling as a result of this section.

(c) Nursing homes shall provide contact information to the Senior LinkAge Line for residents identified in paragraph (b), clause (12), to provide long-term care options counseling pursuant to paragraph (b), clause (11). The contact information for residents shall include all information reasonably necessary to contact residents, including first and last names, permanent and temporary addresses, telephone numbers, and e-mail addresses.

(d) The Senior LinkAge Line shall determine when it is appropriate to refer a consumer who receives long-term care options counseling under paragraph (b), clause (12) or (13), and who uses an unpaid caregiver to the self-directed caregiver service under subdivision 12.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 7. Minnesota Statutes 2016, section 256.975, is amended by adding a subdivision to read:

Subd. 12. **Self-directed caregiver grants.** Beginning on July 1, 2019, the Minnesota Board on Aging shall administer self-directed caregiver grants to support at risk family caregivers of older adults or others eligible under the Older Americans Act of 1965, United States Code, title 42, chapter 35, sections 3001 to 3058ff, to sustain family caregivers in the caregivers' roles so older adults can remain at home longer. The board shall give priority to consumers referred under section 256.975, subdivision 7, paragraph (d).

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 8. **[256.9755] CAREGIVER SUPPORT PROGRAMS.**

Subdivision 1. **Program goals.** It is the goal of all area agencies on aging and caregiver support programs to support family caregivers of persons with Alzheimer's disease or other related dementias who are living in the community by:

(1) promoting caregiver support programs that serve Minnesotans in their homes and communities; and

(2) providing, within the limits of available funds, the caregiver support services that will enable the family caregiver to access caregiver support programs in the most cost-effective and efficient manner.

Subd. 2. **Authority.** The Minnesota Board on Aging shall allocate to area agencies on aging the state and federal funds which are received for the caregiver support program in a manner consistent with federal requirements.

Subd. 3. **Caregiver support services.** Funds allocated to an area agency on aging for caregiver support services must be used in a manner consistent with the National Family Caregiver Support Program to reach family caregivers of persons with Alzheimer's disease or related dementias. The funds must be used to provide social, nonmedical, community-based services and activities that provide respite for caregivers and social interaction for participants.

Sec. 9. Minnesota Statutes 2016, 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 20 calendar days after the date on which an assessment was requested or recommended. Upon statewide implementation of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person requesting personal care assistance services and home care nursing. The commissioner shall provide at least a 90-day notice to lead agencies prior to the effective date of this requirement. Face-to-face assessments must be conducted according to paragraphs (b) to (i).

(b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified assessors to conduct the assessment. For a person with complex health care needs, a public health or registered nurse from the team must be consulted.

(c) The MnCHOICES assessment provided by the commissioner to lead agencies must be used to complete a comprehensive, person-centered assessment. The assessment must include the health, psychological, functional, environmental, and social needs of the individual necessary to develop a community support plan that meets the individual's needs and preferences.

(d) The assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative. At the request of the person, other individuals may participate in the assessment to provide information on the needs, strengths, and preferences of the person necessary to develop a community support plan that ensures the person's health and safety. Except for legal representatives or family members invited by the person, persons participating in the assessment may not be a provider of service or have any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living or adult day services under

section 256B.0915, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment. For a person who is to be assessed for waiver services under section 256B.092 or 256B.49, with the permission of the person being assessed or the person's designated legal representative, the person's current provider of services may submit a written report outlining recommendations regarding the person's care needs prepared by a direct service employee with at least 20 hours of service to that client. The person conducting the assessment or reassessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment and the person or the person's legal representative, and must be considered prior to the finalization of the assessment or reassessment.

(e) The person or the person's legal representative must be provided with a written community support plan within 40 calendar days of the assessment visit, regardless of whether the individual is eligible for Minnesota health care programs.

(f) For a person being assessed for elderly waiver services under section 256B.0915, a provider who submitted information under paragraph (d) shall receive a copy of the assessment, the final written community support plan when available, the case mix level, and the Residential Services Workbook.

(g) The written community support plan must include:

- (1) a summary of assessed needs as defined in paragraphs (c) and (d);
- (2) the individual's options and choices to meet identified needs, including all available options for case management services and providers;
- (3) identification of health and safety risks and how those risks will be addressed, including personal risk management strategies;
- (4) referral information; and
- (5) informal caregiver supports, if applicable.

For a person determined eligible for state plan home care under subdivision 1a, paragraph (b), clause (1), the person or person's representative must also receive a copy of the home care service plan developed by the certified assessor.

~~(f)~~ (h) A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to long-term care options counseling services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

~~(g)~~ (i) The person has the right to make the final decision between institutional placement and community placement after the recommendations have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d).

~~(h)~~ (j) The lead agency 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) written recommendations for community-based services and consumer-directed options;

(2) documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this clause, "cost-effective" means community services and living arrangements that cost the same as or less than institutional care. For an individual found to meet eligibility criteria for home and community-based service programs under section 256B.0915 or 256B.49, "cost-effectiveness" has the meaning found in the federally approved waiver plan for each program;

(3) the need for and purpose of preadmission screening conducted by long-term care options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects nursing facility placement. If the individual selects nursing facility placement, the lead agency shall forward information needed to complete the level of care determinations and screening for developmental disability and mental illness collected during the assessment to the long-term care options counselor using forms provided by the commissioner;

(4) the role of long-term care consultation assessment and support planning in eligibility determination for waiver and alternative care programs, and state plan home care, case management, and other services as defined in subdivision 1a, paragraphs (a), clause (6), and (b);

(5) information about Minnesota health care programs;

(6) the person's freedom to accept or reject the recommendations of the team;

(7) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;

(8) the certified assessor's decision regarding the person's need for institutional level of care as determined under criteria established in subdivision 4e and the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clause (6), and (b); and

(9) the person's right to appeal the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and (8), and (b), and incorporating the decision regarding the need for institutional level of care or the lead agency's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

~~(i)~~ (k) Face-to-face assessment completed as part of eligibility determination for the alternative care, elderly waiver, community access for disability inclusion, community alternative care, and brain injury waiver programs under sections 256B.0913, 256B.0915, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment.

~~(j)~~ (l) The effective eligibility start date for programs in paragraph ~~(i)~~(k) 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 and documented in the department's Medicaid Management Information System (MMIS). Notwithstanding retroactive medical assistance coverage of state plan services, the effective date of eligibility for programs included in paragraph (k) cannot be prior to the date the most recent updated assessment is completed.

(m) If an eligibility update is completed within 90 days of the previous face-to-face assessment and documented in the department's Medicaid Management Information System (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date of the previous face-to-face assessment when all other eligibility requirements are met.

Sec. 10. Minnesota Statutes 2016, section 256B.0915, subdivision 3a, is amended to read:

Subd. 3a. **Elderly waiver cost limits.** (a) Effective on the first day of the state fiscal year in which the resident assessment system as described in section ~~256B.438~~ 256R.17 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 monthly limit of the case mix resident class to which the waiver client would be assigned under Minnesota Rules, parts 9549.0051 to 9549.0059, in effect on the last day of the previous state fiscal year, adjusted by any legislatively adopted home and community-based services percentage rate adjustment. If a legislatively authorized increase is service-specific, the monthly cost limit shall be adjusted based on the overall average increase to the elderly waiver program.

(b) The monthly limit for the cost of waived services under paragraph (a) to an individual elderly waiver client assigned to a case mix classification A with:

(1) no dependencies in activities of daily living; or

(2) up to two dependencies in bathing, dressing, grooming, walking, and eating when the dependency score in eating is three or greater as determined by an assessment performed under section 256B.0911 shall be \$1,750 per month effective on July 1, 2011, for all new participants enrolled in the program on or after July 1, 2011. 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 paragraphs (a) and (e).

(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), (b), (d), or (e), 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), (b), (d), or (e).

(d) Effective July 1, 2013, the monthly cost limit of waiver services, including any necessary home care services described in section 256B.0651, subdivision 2, for individuals who meet the criteria as ventilator-dependent given in section 256B.0651, subdivision 1, paragraph (g), shall be the average of the monthly medical assistance amount established for home care services as described in section 256B.0652, subdivision 7, and the annual average contracted amount established by the commissioner for nursing facility services for ventilator-dependent individuals. This monthly limit shall be increased annually as described in paragraphs (a) and (e).

(e) Effective ~~July 1, 2016~~ January 1, 2018, and each ~~July~~ January 1 thereafter, the monthly cost limits for elderly waiver services in effect on the previous ~~June 30~~ December 31 shall be increased by the difference between any legislatively adopted home and community-based provider rate increases effective on ~~July~~ January 1 or since the previous ~~July~~ January 1 and the average statewide percentage increase in nursing facility operating payment rates ~~under sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective the previous January 1. This paragraph shall only apply if the average statewide percentage increase in nursing facility operating payment rates is greater than any legislatively adopted home and community-based provider rate increases effective on ~~July~~ January 1, or occurring since the previous ~~July~~ January 1.

Sec. 11. Minnesota Statutes 2016, section 256B.0915, subdivision 3e, is amended to read:

Subd. 3e. **Customized living service rate.** (a) Payment for customized living services shall be a monthly rate authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the amount of each component service included in the recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized.

(b) The payment rate must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes shall use tools issued by the commissioner to develop and document customized living service plans and rates.

(c) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale. Customized living services must not include rent or raw food costs.

(d) With the exception of individuals described in subdivision 3a, paragraph (b), the individualized monthly authorized payment for the customized living service plan shall not exceed 50 percent of the ~~greater of either the statewide or any of the geographic groups'~~ weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0051 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a). ~~Effective On July 1 of the state fiscal each year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year,~~ the individualized monthly authorized payment for the services described in this clause shall not exceed the limit which was in effect on June 30 of the previous state fiscal year updated annually based on legislatively adopted changes to all service rate maximums for home and community-based service providers.

(e) For rates effective on or after January 1, 2022, the elderly waiver payment for customized living services includes a cognitive and behavioral needs factor equal to an additional 15 percent applied to the component service rates for a client:

(1) for whom the total monthly hours for customized living services divided by 30.4 is less than 3.62; and

(2) who is determined, based on responses to questions 45 and 51 of the Minnesota long-term care consultation assessment form, to have either:

(i) wandering or orientation issues; or

(ii) anxiety, verbal aggression, physical aggression, repetitive behavior, agitation, self-injurious behavior, or behavior related to property destruction.

~~(e)~~ Effective July 1, 2011, (f) The individualized monthly payment for the customized living service plan for individuals described in subdivision 3a, paragraph (b), must be the monthly authorized payment limit for customized living for individuals classified as case mix A, reduced by 25 percent. This rate limit must be applied to all new participants enrolled in the program on or after July 1, 2011, who meet the criteria described in subdivision 3a, paragraph (b). This monthly limit also applies to all other participants who meet the criteria described in subdivision 3a, paragraph (b), at reassessment.

~~(f)~~ (g) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D. Licensed home care providers are subject to section 256B.0651, subdivision 14.

~~(g)~~ (h) A provider may not bill or otherwise charge an elderly waiver participant or their family for additional units of any allowable component service beyond those available under the service rate limits described in paragraph ~~(d)~~ (e), nor for additional units of any allowable component service beyond those approved in the service plan by the lead agency.

~~(h)~~ (i) ~~Effective July 1, 2016~~ January 1, 2018, and each July January 1 thereafter, individualized service rate limits for customized living services under this subdivision shall be increased by the difference between any legislatively adopted home and community-based provider rate increases effective on ~~July January 1~~ July January 1 or since the previous ~~July January 1~~ July January 1 and the average statewide percentage increase in nursing facility operating payment rates under ~~sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective the previous January 1. This paragraph shall only apply if the average statewide percentage increase in nursing facility operating payment rates is greater than any legislatively adopted home and community-based provider rate increases effective on ~~July January 1~~ July January 1, or occurring since the previous ~~July January 1~~ July January 1.

EFFECTIVE DATE. This section prevails over any conflicting amendment regardless of the order of enactment.

Sec. 12. Minnesota Statutes 2016, section 256B.0915, subdivision 3h, is amended to read:

Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The payment rate for 24-hour customized living services is a monthly rate authorized by the lead agency within the parameters established by the commissioner of human services. The payment agreement must delineate the amount of each component service included in each recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized. The lead agency shall not authorize 24-hour customized living services unless there is a documented need for 24-hour supervision.

(b) For purposes of this section, "24-hour supervision" means that the recipient requires assistance due to needs related to one or more of the following:

- (1) intermittent assistance with toileting, positioning, or transferring;
- (2) cognitive or behavioral issues;
- (3) a medical condition that requires clinical monitoring; or

(4) for all new participants enrolled in the program on or after July 1, 2011, and all other participants at their first reassessment after July 1, 2011, dependency in at least three of the following activities of daily living as determined by assessment under section 256B.0911: bathing; dressing; grooming; walking; or eating when the dependency score in eating is three or greater; and needs medication management and at least 50 hours of service per month. The lead agency shall ensure that the frequency and mode of supervision of the recipient and the qualifications of staff providing supervision are described and meet the needs of the recipient.

(c) The payment rate for 24-hour customized living services must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes will use tools issued by the commissioner to develop and document customized living plans and authorize rates.

(d) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale.

(e) The individually authorized 24-hour customized living payments, in combination with the payment for other elderly waiver services, including case management, must not exceed the recipient's community budget cap specified in subdivision 3a. Customized living services must not include rent or raw food costs.

(f) The individually authorized 24-hour customized living payment rates shall not exceed the 95 percentile of statewide monthly authorizations for 24-hour customized living services in effect and in the Medicaid management information systems on March 31, 2009, for each case mix resident class under Minnesota Rules, parts 9549.0051 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 9549.0051 to 9549.0059, to determine the applicable payment rate maximum. Service payment rate maximums shall be updated annually based on legislatively adopted changes to all service rates for home and community-based service providers.

(g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may establish alternative payment rate systems for 24-hour customized living services in housing with services establishments which are freestanding buildings with a capacity of 16 or fewer, by applying a single hourly rate for covered component services provided in either:

- (1) licensed corporate adult foster homes; or
- (2) specialized dementia care units which meet the requirements of section 144D.065 and in which:
 - (i) each resident is offered the option of having their own apartment; or

(ii) the units are licensed as board and lodge establishments with maximum capacity of eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205, subparts 1, 2, 3, and 4, item A.

(h) Twenty-four-hour customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D. Licensed home care providers are subject to section 256B.0651, subdivision 14.

(i) A provider may not bill or otherwise charge an elderly waiver participant or their family for additional units of any allowable component service beyond those available under the service rate limits described in paragraph (e), nor for additional units of any allowable component service beyond those approved in the service plan by the lead agency.

(j) Effective ~~July 1, 2016~~ January 1, 2018, and each ~~July~~ January 1 thereafter, individualized service rate limits for 24-hour customized living services under this subdivision shall be increased by the difference between any legislatively adopted home and community-based provider rate increases effective on ~~July~~ January 1 or since the previous ~~July~~ January 1 and the average statewide percentage increase in nursing facility operating payment rates under ~~sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective the previous January 1. This paragraph shall only apply if the average statewide percentage increase in nursing facility operating payment rates is greater than any legislatively adopted home and community-based provider rate increases effective on ~~July~~ January 1, or occurring since the previous ~~July~~ January 1.

Sec. 13. Minnesota Statutes 2016, 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 256B.0911, subdivision 4e, 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.

(c) The lead agency shall conduct a change-in-condition reassessment before the annual reassessment in cases where a client's condition changed due to a major health event, an emerging need or risk, worsening health condition, or cases where the current services do not meet the client's needs. A change-in-condition reassessment may be initiated by the lead agency, or it may be requested by the client or requested on the client's behalf by another party, such as a provider of services. The lead agency shall complete a change-in-condition reassessment no later than 20 calendar days from the request. The lead agency shall conduct these assessments in a timely manner and expedite urgent

requests. The lead agency shall evaluate urgent requests based on the client's needs and risk to the client if a reassessment is not completed.

Sec. 14. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision to read:

Subd. 11. **Payment rates; application.** The payment methodologies in subdivisions 12 to 16 apply to elderly waiver and elderly waiver customized living under this section, alternative care under section 256B.0913, essential community supports under section 256B.0922, and community access for disability inclusion customized living, brain injury customized living, and elderly waiver foster care and residential care.

Sec. 15. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision to read:

Subd. 12. **Payment rates; phase-in.** (a) Effective January 1, 2019, through December 31, 2020, all rates and rate components for services under subdivision 11 shall be the sum of 12 percent of the rates calculated under subdivisions 13 to 16 and 88 percent of the rates calculated using the rate methodology in effect as of June 30, 2017.

(b) Effective January 1, 2021, all rates and rate components for services under subdivision 11 shall be the sum of 20 percent of the rates calculated under subdivisions 13 to 16 and 80 percent of the rates calculated using the rate methodology in effect as of June 30, 2017.

Sec. 16. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision to read:

Subd. 13. **Payment rates; establishment.** (a) The commissioner shall use standard occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in the most recent edition of the Occupational Handbook and data from the most recent and available nursing facility cost report, to establish rates and component rates every January 1 using Minnesota-specific wages taken from job descriptions.

(b) In creating the rates and component rates, the commissioner shall establish a base wage calculation for each component service and value, and add the following factors:

- (1) payroll taxes and benefits;
- (2) general and administrative;
- (3) program plan support;
- (4) registered nurse management and supervision; and
- (5) social worker supervision.

Sec. 17. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision to read:

Subd. 14. **Payment rates; base wage index.** (a) Base wages are calculated for customized living, foster care, and residential care component services as follows:

(1) the home management and support services base wage equals 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aide (SOC code 39-9021); 33.33 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for food preparation workers (SOC code 35-2021); and 33.34 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);

(2) the home care aide base wage equals 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for home health aides (SOC code 31-1011); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014);

(3) the home health aide base wage equals 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061); and 80 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014); and

(4) the medication setups by licensed practical nurse base wage equals ten percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061); and 90 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141).

(b) Base wages are calculated for the following services as follows:

(1) the chore services base wage equals 100 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for landscaping and groundskeeping workers (SOC code 37-3011);

(2) the companion services base wage equals 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aides (SOC code 39-9021); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);

(3) the homemaker services and assistance with personal care base wage equals 60 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);

(4) the homemaker services and cleaning base wage equals 60 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);

(5) the homemaker services and home management base wage equals 60 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and housekeeping cleaners (SOC code 37-2012);

(6) the in-home respite care services base wage equals five percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061);

(7) the out-of-home respite care services base wage equals five percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061); and

(8) the individual community living support base wage equals 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed vocational nurses (SOC code 29-2061); and 80 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code 31-1014).

(c) Base wages are calculated for the following values as follows:

(1) the registered nurse base wage equals 100 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code 29-1141); and

(2) the social worker base wage equals 100 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for medical and public health social workers (SOC code 21-1022).

(d) If any of the SOC codes and positions are no longer available, the commissioner shall, in consultation with stakeholders, select a new SOC code and position that is the closest match to the previously used SOC position.

Sec. 18. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision to read:

Subd. 15. **Payment rates; factors.** The commissioner shall use the following factors:

(1) the payroll taxes and benefits factor is the sum of net payroll taxes and benefits divided by the sum of all salaries for all nursing facilities on the most recent and available cost report;

(2) the general and administrative factor is the sum of net general and administrative expenses minus administrative salaries divided by total operating expenses for all nursing facilities on the most recent and available cost report;

(3) the program plan support factor is defined as the direct service staff needed to provide support for the home and community-based service when not engaged in direct contact with clients. Based on the 2016 Non-Wage Provider Costs in Home and Community-Based Disability Waiver Services Report, this factor equals 12.8 percent;

(4) the registered nurse management and supervision factor equals 15 percent of the product of the position's base wage and the sum of the factors in clauses (1) to (3); and

(5) the social worker supervision factor equals 15 percent of the product of the position's base wage and the sum of the factors in clauses (1) to (3).

Sec. 19. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision to read:

Subd. 16. **Payment rates; component rates.** (a) For the purposes of this subdivision, the "adjusted base wage" for a position equals the position's base wage plus:

(1) the position's base wage multiplied by the payroll taxes and benefits factor;

(2) the position's base wage multiplied by the general and administrative factor; and

(3) the position's base wage multiplied by the program plan support factor.

(b) For medication setups by licensed nurse, registered nurse, and social worker services, the component rate for each service equals the respective position's adjusted base wage.

(c) For home management and support services, home care aide, and home health aide services, the component rate for each service equals the respective position's adjusted base wage plus the registered nurse management and supervision factor.

(d) The home management and support services component rate shall be used for payment for socialization and transportation component rates under elderly waiver customized living.

(e) The 15-minute unit rates for chore services and companion services are calculated as follows:

(1) sum the adjusted base wage for the respective position and the social worker factor; and

(2) divide the result of clause (1) by four.

(f) The 15-minute unit rates for homemaker services and assistance with personal care, homemaker services and cleaning, and homemaker services and home management are calculated as follows:

(1) sum the adjusted base wage for the respective position and the registered nurse management and supervision factor; and

(2) divide the result of clause (1) by four.

(g) The 15-minute unit rate for in-home respite care services is calculated as follows:

(1) sum the adjusted base wage for in-home respite care services and the registered nurse management and supervision factor; and

(2) divide the result of clause (1) by four.

(h) The in-home respite care services daily rate equals the in-home respite care services 15-minute unit rate multiplied by 18.

(i) The 15-minute unit rate for out-of-home respite care is calculated as follows:

(1) sum the out-of-home respite care services adjusted base wage and the registered nurse management and supervision factor; and

(2) divide the result of clause (1) by four.

(j) The out-of-home respite care services daily rate equals the out-of-home respite care services 15-minute unit rate multiplied by 18.

(k) The individual community living support rate is calculated as follows:

(1) sum the adjusted base wage for the home care aide rate in subdivision 14, paragraph (a), clause (2), and the social worker factor; and

(2) divide the result of clause (1) by four.

(l) The home delivered meals rate equals \$9.30. Beginning July 1, 2018, the commissioner shall increase the home delivered meals rate every July 1 by the percent increase in the nursing facility dietary per diem using the two most recent nursing facility cost reports.

(m) The adult day services rate is based on the home care aide rate in subdivision 14, paragraph (a), clause (2), plus the additional factors from subdivision 15, except that the general and administrative factor used shall be 20 percent. The nonregistered nurse portion of the rate shall be multiplied by 0.25, to reflect an assumed-ratio staffing of one caregiver to four clients, and divided by four to determine the 15-minute unit rate. The registered nurse portion is divided by four to determine the 15-minute unit rate and \$0.63 per 15-minute unit is added to cover the cost of meals.

(n) The adult day services bath 15-minute unit rate is the same as the calculation of the adult day services 15-minute unit rate without the adjustment for staffing ratio.

(o) If a bath is authorized for an adult day services client, at least two 15-minute units must be authorized to allow for adequate time to meet client needs. Adult day services may be authorized for up to 48 units, or 12 hours, per day based on client and family caregiver needs.

Sec. 20. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision to read:

Subd. 17. **Evaluation of rate methodology.** The commissioner, in consultation with stakeholders, shall conduct a study to evaluate the following:

(1) base wages in subdivision 14, to determine if the standard occupational classification codes for each rate and component rate are an appropriate representation of staff who deliver the services; and

(2) factors in subdivision 15, and adjusted base wage calculation in subdivision 16, to determine if the factors and calculations appropriately address nonwage provider costs.

By January 1, 2019, the commissioner shall submit a report to the legislature on the changes to the rate methodology in this statute, based on the results of the evaluation. Where feasible, the report shall address the impact of the new rates on the workforce situation and client access to services. The report should include any changes to the rate calculations methods that the commissioner recommends.

Sec. 21. Minnesota Statutes 2016, section 256B.0922, subdivision 1, is amended to read:

Subdivision 1. **Essential community supports.** (a) The purpose of the essential community supports program is to provide targeted services to persons age 65 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) Essential community supports are available not to exceed ~~\$400~~ \$600 per person per month. Essential community supports may be used as authorized within an authorization period not to exceed 12 months. Services must be available to a person who:

(1) is age 65 or older;

(2) is not eligible for medical assistance;

(3) 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;

(4) meets the financial eligibility criteria for the alternative care program under section 256B.0913, subdivision 4;

(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) adult day services;

(ii) family caregiver support services;

(iii) respite care;

~~(iii)~~ (iv) homemaker support;

(v) companion services;

(iv) (vi) chores;

(v) (vii) a personal emergency response device or system;

(vi) (viii) home-delivered meals; or

(vii) (ix) community living assistance as defined by the commissioner.

(c) The person receiving any of the essential community supports in this subdivision must also receive service coordination, not to exceed \$600 in a 12-month authorization period, as part of their community support plan.

(d) A person who has been determined to be eligible for essential community supports must be reassessed at least annually and continue to meet the criteria in paragraph (b) to remain eligible for essential community supports.

(e) The commissioner is authorized to use federal matching funds for essential community supports as necessary and to meet demand for essential community supports as outlined in subdivision 2, and that amount of federal funds is appropriated to the commissioner for this purpose.

Sec. 22. Minnesota Statutes 2016, section 256B.431, subdivision 10, is amended to read:

Subd. 10. **Property rate adjustments and construction projects.** A nursing facility completing a construction project that is eligible for a rate adjustment under section 256B.434, subdivision 4f, and that was not approved through the moratorium exception process in section 144A.073 must request from the commissioner a property-related payment rate adjustment. ~~If the request is made within 60 days after the construction project's completion date,~~ The effective date of the rate adjustment is the first of the month of January or July, whichever occurs first following both the construction project's completion date and submission of the provider's rate adjustment request. ~~If the request is made more than 60 days after the completion date, the rate adjustment is effective on the first of the month following the request.~~ The commissioner shall provide a rate notice reflecting the allowable costs within 60 days after receiving all the necessary information to compute the rate adjustment. No sooner than the effective date of the rate adjustment for the construction project, a nursing facility may adjust its rates by the amount anticipated to be allowed. Any amounts collected from private pay residents in excess of the allowable rate must be repaid to private pay residents with interest at the rate used by the commissioner of revenue for the late payment of taxes and in effect on the date the rate increase is effective. Construction projects with completion dates within one year of the completion date associated with the property rate adjustment request and phased projects with project completion dates within three years of the last phase of the phased project must be aggregated for purposes of the minimum thresholds in subdivisions 16 and 17, and the maximum threshold in section 144A.071, subdivision 2. "Construction project" and "project construction costs" have the meanings given them in Minnesota Statutes, section 144A.071, subdivision 1a.

EFFECTIVE DATE. This section is effective for projects completed after January 1, 2018.

Sec. 23. Minnesota Statutes 2016, section 256B.431, subdivision 16, is amended to read:

Subd. 16. **Major additions and replacements; equity incentive.** For rate years beginning after June 30, 1993, if a nursing facility acquires capital assets in connection with a project approved

under the moratorium exception process in section 144A.073 or in connection with an addition to or replacement of buildings, attached fixtures, or land improvements for which the total historical cost of those capital asset additions exceeds the lesser of \$150,000 or ten percent of the most recent appraised value, the nursing facility shall be eligible for an equity incentive payment rate as in paragraphs (a) to (d). This computation is separate from the determination of the nursing facility's rental rate. An equity incentive payment rate as computed under this subdivision is limited to one in a 12-month period.

(a) An eligible nursing facility shall receive an equity incentive payment rate equal to the allowable historical cost of the capital asset acquired, minus the allowable debt directly identified to that capital asset, multiplied by the equity incentive factor as described in paragraphs (b) and (c), and divided by the nursing facility's occupancy factor under subdivision 3f, paragraph (c). This amount shall be added to the nursing facility's total payment rate and shall be effective the same day as the incremental increase in paragraph (d) or subdivision 17. The allowable historical cost of the capital assets and the allowable debt shall be determined as provided in Minnesota Rules, parts 9549.0010 to 9549.0080, and this section.

(b) The equity incentive factor shall be determined under clauses (1) to (4):

(1) divide the initial allowable debt in paragraph (a) by the initial historical cost of the capital asset additions referred to in paragraph (a), then cube the quotient,

(2) subtract the amount calculated in clause (1) from the number one,

(3) determine the difference between the rental factor and the lesser of two percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation as published in the Wall Street Journal and in effect on the first day of the month the debt or cost is incurred, or 16 percent,

(4) multiply the amount calculated in clause (2) by the amount calculated in clause (3).

(c) The equity incentive payment rate shall be limited to the term of the allowable debt in paragraph (a), not greater than 20 years nor less than ten years. If no debt is incurred in acquiring the capital asset, the equity incentive payment rate shall be paid for ten years. The sale of a nursing facility under subdivision 14 shall terminate application of the equity incentive payment rate effective on the date provided in subdivision 14, paragraph (f), for the sale.

(d) A nursing facility with an addition to or a renovation of its buildings, attached fixtures, or land improvements meeting the criteria in this subdivision and not receiving the property-related payment rate adjustment in subdivision 17, shall receive the incremental increase in the nursing facility's rental rate as determined under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section. The incremental increase shall be added to the nursing facility's property-related payment rate. The effective date of this incremental increase shall be the first day of the month of January or July, whichever occurs first following the month in date on which the addition or replacement is completed.

EFFECTIVE DATE. This section is effective for additions or replacements completed after January 1, 2018.

Sec. 24. Minnesota Statutes 2016, section 256B.431, subdivision 30, is amended to read:

Subd. 30. **Bed layaway and delicensure.** (a) For rate years beginning on or after July 1, 2000, a nursing facility reimbursed under this section which has placed beds on layaway shall, for purposes of application of the downsizing incentive in subdivision 3a, paragraph (c), and calculation of the rental per diem, have those beds given the same effect as if the beds had been delicensed so long as the beds remain on layaway. At the time of a layaway, a facility may change its single bed election for use in calculating capacity days under Minnesota Rules, part 9549.0060, subpart 11. The property payment rate increase shall be effective the first day of the month of January or July, whichever occurs first following the month in date on which the layaway of the beds becomes effective under section 144A.071, subdivision 4b.

(b) For rate years beginning on or after July 1, 2000, notwithstanding any provision to the contrary under section 256B.434, a nursing facility reimbursed under that section ~~which~~ that has placed beds on layaway shall, for so long as the beds remain on layaway, be allowed to:

(1) aggregate the applicable investment per bed limits based on the number of beds licensed immediately prior to entering the alternative payment system;

(2) retain or change the facility's single bed election for use in calculating capacity days under Minnesota Rules, part 9549.0060, subpart 11; and

(3) establish capacity days based on the number of beds immediately prior to the layaway and the number of beds after the layaway.

The commissioner shall increase the facility's property payment rate by the incremental increase in the rental per diem resulting from the recalculation of the facility's rental per diem applying only the changes resulting from the layaway of beds and clauses (1), (2), and (3). If a facility reimbursed under section 256B.434 completes a moratorium exception project after its base year, the base year property rate shall be the moratorium project property rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4, paragraph (c). The property payment rate increase shall be effective the first day of the month of January or July, whichever occurs first following the month in date on which the layaway of the beds becomes effective.

(c) If a nursing facility removes a bed from layaway status in accordance with section 144A.071, subdivision 4b, the commissioner shall establish capacity days based on the number of licensed and certified beds in the facility not on layaway and shall reduce the nursing facility's property payment rate in accordance with paragraph (b).

(d) For the rate years beginning on or after July 1, 2000, notwithstanding any provision to the contrary under section 256B.434, a nursing facility reimbursed under that section, ~~which~~ that has delicensed beds after July 1, 2000, by giving notice of the delicensure to the commissioner of health according to the notice requirements in section 144A.071, subdivision 4b, shall be allowed to:

(1) aggregate the applicable investment per bed limits based on the number of beds licensed immediately prior to entering the alternative payment system;

(2) retain or change the facility's single bed election for use in calculating capacity days under Minnesota Rules, part 9549.0060, subpart 11; and

(3) establish capacity days based on the number of beds immediately prior to the delicensure and the number of beds after the delicensure.

The commissioner shall increase the facility's property payment rate by the incremental increase in the rental per diem resulting from the recalculation of the facility's rental per diem applying only the changes resulting from the delicensure of beds and clauses (1), (2), and (3). If a facility reimbursed under section 256B.434 completes a moratorium exception project after its base year, the base year property rate shall be the moratorium project property rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4, paragraph (c). The property payment rate increase shall be effective the first day of the month of January or July, whichever occurs first following the ~~month in~~ date on which the delicensure of the beds becomes effective.

(e) For nursing facilities reimbursed under this section or section 256B.434, any beds placed on layaway shall not be included in calculating facility occupancy as it pertains to leave days defined in Minnesota Rules, part 9505.0415.

(f) For nursing facilities reimbursed under this section or section 256B.434, the rental rate calculated after placing beds on layaway may not be less than the rental rate prior to placing beds on layaway.

(g) A nursing facility receiving a rate adjustment as a result of this section shall comply with section ~~256B.47, subdivision 2~~ 256R.06, subdivision 5.

(h) A facility that does not utilize the space made available as a result of bed layaway or delicensure under this subdivision to reduce the number of beds per room or provide more common space for nursing facility uses or perform other activities related to the operation of the nursing facility shall have its property rate increase calculated under this subdivision reduced by the ratio of the square footage made available that is not used for these purposes to the total square footage made available as a result of bed layaway or delicensure.

EFFECTIVE DATE. This section is effective for layaways occurring after July 1, 2017.

Sec. 25. Minnesota Statutes 2016, section 256B.434, subdivision 4, is amended to read:

Subd. 4. **Alternate rates for nursing facilities.** Effective for the rate years beginning on and after January 1, 2019, a nursing facility's ~~base mix~~ property payment ~~rates~~ rate for the second and subsequent years of a facility's contract under this section are the previous rate year's ~~contract~~ property payment ~~rates~~ rate 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 management and budget's national economic consultant~~ Reports and Forecasts Division of the Department of Human Services, 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, this paragraph shall apply only to the property-related payment rate. For the rate years beginning on October 1, 2011, October 1, 2012,~~

~~October 1, 2013, October 1, 2014, October 1, 2015, January 1, 2016, and January 1, 2017, the rate adjustment under this paragraph shall be suspended. 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.~~

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

Sec. 26. Minnesota Statutes 2016, section 256B.434, subdivision 4f, is amended to read:

Subd. 4f. **Construction project rate adjustments effective October 1, 2006.** (a) Effective October 1, 2006, facilities reimbursed under this section may receive a property rate adjustment for construction projects exceeding the threshold in section 256B.431, subdivision 16, and below the threshold in section 144A.071, subdivision 2, clause (a). For these projects, capital assets purchased shall be counted as construction project costs for a rate adjustment request made by a facility if they are: (1) purchased within 24 months of the completion of the construction project; (2) purchased after the completion date of any prior construction project; and (3) are not purchased prior to July 14, 2005. Except as otherwise provided in this subdivision, the definitions, rate calculation methods, and principles in sections 144A.071 and 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, shall be used to calculate rate adjustments for allowable construction projects under this subdivision and section 144A.073. Facilities completing construction projects between October 1, 2005, and October 1, 2006, are eligible to have a property rate adjustment effective October 1, 2006. Facilities completing projects after October 1, 2006, are eligible for a property rate adjustment effective on the first day of the month following the completion date. Facilities completing projects after January 1, 2018, are eligible for a property rate adjustment effective on the first day of the month of January or July, whichever occurs immediately following the completion date.

(b) Notwithstanding subdivision 18, as of July 14, 2005, facilities with rates set under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, that commenced a construction project on or after October 1, 2004, and do not have a contract under subdivision 3 by September 30, 2006, are eligible to request a rate adjustment under section 256B.431, subdivision 10, through September 30, 2006. If the request results in the commissioner determining a rate adjustment is allowable, the rate adjustment is effective on the first of the month following project completion. These facilities shall be allowed to accumulate construction project costs for the period October 1, 2004, to September 30, 2006.

(c) Facilities shall be allowed construction project rate adjustments no sooner than 12 months after completing a previous construction project. Facilities must request the rate adjustment according to section 256B.431, subdivision 10.

(d) Capacity days shall be computed according to Minnesota Rules, part 9549.0060, subpart 11. For rate calculations under this section, the number of licensed beds in the nursing facility shall be the number existing after the construction project is completed and the number of days in the nursing facility's reporting period shall be 365.

(e) The value of assets to be recognized for a total replacement project as defined in section 256B.431, subdivision 17d, shall be computed as described in clause (1). The value of assets to be recognized for all other projects shall be computed as described in clause (2).

(1) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the number of beds allowed under subdivision 3a, paragraph (c), shall be used to compute the maximum amount of assets allowable in a facility's property rate calculation. If a facility's current request for a rate adjustment results from the completion of a construction project that was previously approved under section 144A.073, the assets to be used in the rate calculation cannot exceed the lesser of the amount determined under sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable costs of the construction project. A current request that is not the result of a project under section 144A.073 cannot exceed the limit under section 144A.071, subdivision 2, paragraph (a). Applicable credits must be deducted from the cost of the construction project.

(2)(i) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the number of beds allowed under section 256B.431, subdivision 3a, paragraph (c), shall be used to compute the maximum amount of assets allowable in a facility's property rate calculation.

(ii) The value of a facility's assets to be compared to the amount in item (i) begins with the total appraised value from the last rate notice a facility received when its rates were set under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080. This value shall be indexed by the factor in section 256B.431, subdivision 3f, paragraph (a), for each rate year the facility received an inflation factor on its property-related rate when its rates were set under this section. The value of assets listed as previous capital additions, capital additions, and special projects on the facility's base year rate notice and the value of assets related to a construction project for which the facility received a rate adjustment when its rates were determined under this section shall be added to the indexed appraised value.

(iii) The maximum amount of assets to be recognized in computing a facility's rate adjustment after a project is completed is the lesser of the aggregate replacement-cost-new limit computed in (i) minus the assets recognized in (ii) or the actual allowable costs of the construction project.

(iv) If a facility's current request for a rate adjustment results from the completion of a construction project that was previously approved under section 144A.073, the assets to be added to the rate calculation cannot exceed the lesser of the amount determined under sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable costs of the construction project. A current request that is not the result of a project under section 144A.073 cannot exceed the limit stated in section 144A.071, subdivision 2, paragraph (a). Assets disposed of as a result of a construction project and applicable credits must be deducted from the cost of the construction project.

(f) For construction projects approved under section 144A.073, allowable debt may never exceed the lesser of the cost of the assets purchased, the threshold limit in section 144A.071, subdivision 2, or the replacement-cost-new limit less previously existing capital debt.

(g) For construction projects that were not approved under section 144A.073, allowable debt is limited to the lesser of the threshold in section 144A.071, subdivision 2, for such construction projects or the applicable limit in paragraph (e), clause (1) or (2), less previously existing capital

debt. Amounts of debt taken out that exceed the costs of a construction project shall not be allowed regardless of the use of the funds.

For all construction projects being recognized, interest expense and average debt shall be computed based on the first 12 months following project completion. "Previously existing capital debt" means capital debt recognized on the last rate determined under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, and the amount of debt recognized for a construction project for which the facility received a rate adjustment when its rates were determined under this section.

For a total replacement project as defined in section 256B.431, subdivision 17d, the value of previously existing capital debt shall be zero.

(h) In addition to the interest expense allowed from the application of paragraph (f), the amounts allowed under section 256B.431, subdivision 17a, paragraph (a), clauses (2) and (3), will be added to interest expense.

(i) The equity portion of the construction project shall be computed as the allowable assets in paragraph (e), less the average debt in paragraph (f). The equity portion must be multiplied by 5.66 percent and the allowable interest expense in paragraph (f) must be added. This sum must be divided by 95 percent of capacity days to compute the construction project rate adjustment.

(j) For projects that are not a total replacement of a nursing facility, the amount in paragraph (i) is adjusted for nonreimbursable areas and then added to the current property payment rate of the facility.

(k) For projects that are a total replacement of a nursing facility, the amount in paragraph (i) becomes the new property payment rate after being adjusted for nonreimbursable areas. Any amounts existing in a facility's rate before the effective date of the construction project for equity incentives under section 256B.431, subdivision 16; capital repairs and replacements under section 256B.431, subdivision 15; or refinancing incentives under section 256B.431, subdivision 19, shall be removed from the facility's rates.

(l) No additional equipment allowance is allowed under Minnesota Rules, part 9549.0060, subpart 10, as the result of construction projects under this section. Allowable equipment shall be included in the construction project costs.

(m) Capital assets purchased after the completion date of a construction project shall be counted as construction project costs for any future rate adjustment request made by a facility under section 144A.071, subdivision 2, clause (a), if they are purchased within 24 months of the completion of the future construction project.

(n) In subsequent rate years, the property payment rate for a facility that results from the application of this subdivision shall be the amount inflated in subdivision 4.

(o) Construction projects are eligible for an equity incentive under section 256B.431, subdivision 16. When computing the equity incentive for a construction project under this subdivision, only the allowable costs and allowable debt related to the construction project shall be used. The equity incentive shall not be a part of the property payment rate and not inflated under subdivision 4.

Effective October 1, 2006, all equity incentives for nursing facilities reimbursed under this section shall be allowed for a duration determined under section 256B.431, subdivision 16, paragraph (c).

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 27. Minnesota Statutes 2016, section 256B.50, subdivision 1b, is amended to read:

Subd. 1b. **Filing an appeal.** To appeal, the provider shall file with the commissioner a written notice of appeal; the appeal must be postmarked or received by the commissioner within 60 days of the publication date the determination of the payment rate was mailed or personally received by a provider, whichever is earlier printed on the rate notice. The notice of appeal must specify each disputed item; the reason for the dispute; the total dollar amount in dispute for each separate disallowance, allocation, or adjustment of each cost item or part of a cost item; the computation that the provider believes is correct; the authority in statute or rule upon which the provider relies for each disputed item; the name and address of the person or firm with whom contacts may be made regarding the appeal; and other information required by the commissioner.

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

Sec. 28. Minnesota Statutes 2016, section 256B.5012, is amended by adding a subdivision to read:

Subd. 3a. **Therapeutic leave days.** Notwithstanding Minnesota Rules, part 9505.0415, subpart 7, a vacant bed in an intermediate care facility for persons with developmental disabilities shall be counted as a reserved bed when determining occupancy rates and eligibility for payment of a therapeutic leave day.

Sec. 29. Minnesota Statutes 2016, section 256B.5012, is amended by adding a subdivision to read:

Subd. 17. **ICF/DD rate increase effective July 1, 2017; Murray County.** Effective July 1, 2017, the daily rate for an intermediate care facility for persons with developmental disabilities located in Murray County that is classified as a class B facility and licensed for 14 beds is \$400. This increase is in addition to any other increase that is effective on July 1, 2017.

Sec. 30. Minnesota Statutes 2016, section 256R.02, subdivision 4, is amended to read:

Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for administering the overall activities of the nursing home. These costs include salaries and wages of the administrator, assistant administrator, business office employees, security guards, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related to business office functions, licenses, ~~and~~ permits except as provided in the external fixed costs category, employee recognition, travel including meals and lodging, all training except as specified in subdivision 17, voice and data communication or transmission, office supplies, property and liability insurance and other forms of insurance ~~not designated to other areas~~ except insurance that is a fringe benefit under subdivision 22, personnel recruitment, legal services, accounting services, management or business consultants, data processing, information technology, Web site, central or home office costs, business meetings and seminars, postage, fees for professional organizations, subscriptions, security services, advertising, board of directors fees, working capital interest expense, ~~and~~ bad debts, ~~and~~ bad debt collection

fees, and costs incurred for travel and housing for persons employed by a supplemental nursing services agency as defined in section 144A.70, subdivision 6.

EFFECTIVE DATE. This section is effective October 1, 2017.

Sec. 31. Minnesota Statutes 2016, section 256R.02, subdivision 17, is amended to read:

Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing administration, direct care registered nurses, licensed practical nurses, certified nursing assistants, trained medication aides, employees conducting training in resident care topics and associated fringe benefits and payroll taxes; services from a supplemental nursing services agency; supplies that are stocked at nursing stations or on the floor and distributed or used individually, including, but not limited to: alcohol, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, soap, medication cups, diapers, plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes, clinical reagents or similar diagnostic agents, drugs that are not paid on a separate fee schedule by the medical assistance program or any other payer, and technology related to the provision of nursing care to residents, such as electronic charting systems; costs of materials used for resident care training, and training courses outside of the facility attended by direct care staff on resident care topics; and costs for nurse consultants, pharmacy consultants, and medical directors. Salaries and payroll taxes for nurse consultants who work out of a central office must be allocated proportionately by total resident days or by direct identification to the nursing facilities served by those consultants.

Sec. 32. Minnesota Statutes 2016, section 256R.02, subdivision 18, is amended to read:

Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means premium expenses for group coverage ~~and reinsurance;~~ actual expenses incurred for self-insured plans, including reinsurance; and employer contributions to employee health reimbursement and health savings accounts. Premium and expense costs and contributions are allowable for (1) all employees and (2) the spouse and dependents of those employees who ~~meet the definition of full-time employees under the federal Affordable Care Act, Public Law 111-148~~ are employed on average at least 30 hours per week.

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

Sec. 33. Minnesota Statutes 2016, section 256R.02, subdivision 19, is amended to read:

Subd. 19. **External fixed costs.** "External fixed costs" means costs related to the nursing home surcharge under section 256.9657, subdivision 1; licensure fees under section 144.122; family advisory council fee under section 144A.33; scholarships under section 256R.37; planned closure rate adjustments under section 256R.40; consolidation rate adjustments under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d; single-bed room incentives under section 256R.41; property taxes, assessments, and payments in lieu of taxes; employer health insurance costs; quality improvement incentive payment rate adjustments under section 256R.39; performance-based incentive payments under section 256R.38; special dietary needs under section 256R.51; rate adjustments for compensation-related costs for minimum wage changes under section 256R.49 provided on or after January 1, 2018; and Public Employees Retirement Association employer costs.

Sec. 34. Minnesota Statutes 2016, section 256R.02, subdivision 22, is amended to read:

Subd. 22. **Fringe benefit costs.** "Fringe benefit costs" means the costs for group life, dental, workers' compensation, ~~and other employee insurances and short- and long-term disability, long-term care insurance, accident insurance, supplemental insurance, legal assistance insurance, profit sharing,~~ health insurance costs not covered under subdivision 18, including costs associated with part-time employee family members or retirees, and pension and retirement plan contributions, except for the Public Employees Retirement Association ~~and employer health insurance costs, profit sharing, and retirement plans for which the employer pays all or a portion of the costs.~~

Sec. 35. Minnesota Statutes 2016, section 256R.02, subdivision 42, is amended to read:

Subd. 42. **Raw food costs.** "Raw food costs" means the cost of food provided to nursing facility residents ~~and the allocation of dietary credits.~~ Also included are special dietary supplements used for tube feeding or oral feeding, such as elemental high nitrogen diet.

Sec. 36. Minnesota Statutes 2016, section 256R.02, is amended by adding a subdivision to read:

Subd. 42a. **Real estate taxes.** "Real estate taxes" means the real estate tax liability shown on the annual property tax statement of the nursing facility for the reporting period. The term does not include personnel costs or fees for late payment.

Sec. 37. Minnesota Statutes 2016, section 256R.02, is amended by adding a subdivision to read:

Subd. 48a. **Special assessments.** "Special assessments" means the actual special assessments ~~and related interest paid during the reporting period.~~ The term does not include personnel costs or fees for late payment.

Sec. 38. Minnesota Statutes 2016, section 256R.02, subdivision 52, is amended to read:

Subd. 52. **Therapy costs.** "Therapy costs" means any costs related to ~~medical assistance~~ therapy services provided to residents that are not ~~billed~~ separately billable from the daily operating rate.

Sec. 39. Minnesota Statutes 2016, section 256R.06, subdivision 5, is amended to read:

Subd. 5. **Notice to residents.** (a) No increase in nursing facility rates for private paying residents shall be effective unless the nursing facility notifies the resident or person responsible for payment of the increase in writing 30 days before the increase takes effect. The notice must include the amount of the rate increase, the new payment rate, and the date the rate increase takes effect.

A nursing facility may adjust its rates without giving the notice required by this subdivision when the purpose of the rate adjustment is to reflect a change in the case mix classification of the resident. The nursing facility shall notify private pay residents of any rate increase related to a change in case mix classifications in a timely manner after confirmation of the case mix classification change is received from the Department of Health.

If the state fails to set rates as required by section 256R.09, subdivision 1, the time required for giving notice is decreased by the number of days by which the state was late in setting the rates.

(b) If the state does not set rates by the date required in section 256R.09, subdivision 1, or otherwise provides nursing facilities with retroactive notification of the amount of a rate increase, nursing facilities shall meet the requirement for advance notice by informing the resident or person responsible for payments, on or before the effective date of the increase, that a rate increase will be effective on that date. The requirements of paragraph (a) do not apply to situations described in this paragraph.

If the exact amount has not yet been determined, the nursing facility may raise the rates by the amount anticipated to be allowed. Any amounts collected from private pay residents in excess of the allowable rate must be repaid to private pay residents with interest at the rate used by the commissioner of revenue for the late payment of taxes and in effect on the date the rate increase is effective.

Sec. 40. Minnesota Statutes 2016, section 256R.07, is amended by adding a subdivision to read:

Subd. 6. **Electronic signature.** For documentation requiring a signature under this chapter or section 256B.431 or 256B.434, use of an electronic signature as defined under section 325L.02, paragraph (h), is allowed.

Sec. 41. Minnesota Statutes 2016, section 256R.10, is amended by adding a subdivision to read:

Subd. 7. **Not specified allowed costs.** When the cost category for allowed cost items or services is not specified in this chapter or the provider reimbursement manual, the commissioner, in consultation with stakeholders, shall determine the cost category for the allowed cost item or service.

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

Sec. 42. **[256R.18] REPORT BY COMMISSIONER OF HUMAN SERVICES.**

Beginning January 1, 2019, the commissioner shall provide to the house of representatives and senate committees with jurisdiction over nursing facility payment rates a biennial report on the effectiveness of the reimbursement system in improving quality, restraining costs, and any other features of the system as determined by the commissioner.

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

Sec. 43. Minnesota Statutes 2016, section 256R.37, is amended to read:

256R.37 SCHOLARSHIPS.

(a) For the 27-month period beginning October 1, 2015, through December 31, 2017, the commissioner shall allow a scholarship per diem of up to 25 cents for each nursing facility with no scholarship per diem that is requesting a scholarship per diem to be added to the external fixed payment rate to be used:

(1) for employee scholarships that satisfy the following requirements:

(i) scholarships are available to all employees who work an average of at least ten hours per week at the facility except the administrator, and to reimburse student loan expenses for newly hired ~~and recently graduated~~ registered nurses and licensed practical nurses, and training expenses for

nursing assistants as specified in section 144A.611, subdivisions 2 and 4, who are newly hired ~~and have graduated within the last 12 months~~; and

(ii) the course of study is expected to lead to career advancement with the facility or in long-term care, including medical care interpreter services and social work; and

(2) to provide job-related training in English as a second language.

(b) All facilities may annually request a rate adjustment under this section by submitting information to the commissioner on a schedule and in a form supplied by the commissioner. The commissioner shall allow a scholarship payment rate equal to the reported and allowable costs divided by resident days.

(c) In calculating the per diem under paragraph (b), the commissioner shall allow costs related to tuition, direct educational expenses, and reasonable costs as defined by the commissioner for child care costs and transportation expenses related to direct educational expenses.

(d) The rate increase under this section is an optional rate add-on that the facility must request from the commissioner in a manner prescribed by the commissioner. The rate increase must be used for scholarships as specified in this section.

(e) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities that close beds during a rate year may request to have their scholarship adjustment under paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect the reduction in resident days compared to the cost report year.

Sec. 44. Minnesota Statutes 2016, section 256R.40, subdivision 1, is amended to read:

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

(b) "Closure" means the cessation of operations of a nursing facility and delicensure and decertification of all beds within the facility.

(c) "Closure plan" means a plan to close a nursing facility and reallocate a portion of the resulting savings to provide planned closure rate adjustments at other facilities.

(d) "Commencement of closure" means the date on which residents and designated representatives are notified of a planned closure as provided in section 144A.161, subdivision 5a, as part of an approved closure plan.

(e) "Completion of closure" means the date on which the final resident of the nursing facility designated for closure in an approved closure plan is discharged from the facility or the date that beds from a partial closure are delicensed and decertified.

(f) "Partial closure" means the delicensure and decertification of a portion of the beds within the facility.

(g) "Planned closure rate adjustment" means an increase in a nursing facility's operating rates resulting from a planned closure or a planned partial closure of another facility.

Sec. 45. Minnesota Statutes 2016, section 256R.40, subdivision 5, is amended to read:

Subd. 5. **Planned closure rate adjustment.** (a) The commissioner shall calculate the amount of the planned closure rate adjustment available under subdivision 6 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 of January or July, whichever occurs immediately following completion of closure of the facility designated for closure in the application and becomes part of the nursing facility's external fixed payment rate.

(c) 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.

(d) 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 is computed according to paragraph (a).

(e) 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 is effective from the date the per bed dollar amount is increased.

EFFECTIVE DATE. This section is effective for closures occurring after July 1, 2017.

Sec. 46. Minnesota Statutes 2016, section 256R.41, is amended to read:

256R.41 SINGLE-BED ROOM INCENTIVE.

(a) Beginning July 1, 2005, the operating payment rate for nursing facilities reimbursed under this chapter shall be increased by 20 percent multiplied by the ratio of the number of new single-bed rooms created divided by the number of active beds on July 1, 2005, for each bed closure that results in the creation of a single-bed room after July 1, 2005. The commissioner may implement rate adjustments for up to 3,000 new single-bed rooms each year. For eligible bed closures for which the commissioner receives a notice from a facility ~~during a calendar quarter~~ that a bed has been delicensed and a new single-bed room has been established, the rate adjustment in this paragraph shall be effective on either the first day of the second month of January or July, whichever occurs first following that calendar quarter the date of the bed delicensure.

(b) A nursing facility is prohibited from discharging residents for purposes of establishing single-bed rooms. A nursing facility must submit documentation to the commissioner in a form prescribed by the commissioner, certifying the occupancy status of beds closed to create single-bed rooms. In the event that the commissioner determines that a facility has discharged a resident for purposes of establishing a single-bed room, the commissioner shall not provide a rate adjustment under paragraph (a).

EFFECTIVE DATE. This section is effective for closures occurring after July 1, 2017.

Sec. 47. Minnesota Statutes 2016, section 256R.47, is amended to read:

256R.47 RATE ADJUSTMENT FOR CRITICAL ACCESS NURSING FACILITIES.

(a) The commissioner, in consultation with the commissioner of health, may designate certain nursing facilities as critical access nursing facilities. The designation shall be granted on a competitive basis, within the limits of funds appropriated for this purpose.

(b) The commissioner shall request proposals from nursing facilities every two years. Proposals must be submitted in the form and according to the timelines established by the commissioner. In selecting applicants to designate, the commissioner, in consultation with the commissioner of health, and with input from stakeholders, shall develop criteria designed to preserve access to nursing facility services in isolated areas, rebalance long-term care, and improve quality. To the extent practicable, the commissioner shall ensure an even distribution of designations across the state.

(c) The commissioner shall allow the benefits in clauses (1) to (5) for nursing facilities designated as critical access nursing facilities:

(1) partial rebasing, with the commissioner allowing a designated facility operating payment rates being the sum of up to 60 percent of the operating payment rate determined in accordance with section 256R.21, subdivision 3, and at least 40 percent, with the sum of the two portions being equal to 100 percent, of the operating payment rate that would have been allowed had the facility not been designated. The commissioner may adjust these percentages by up to 20 percent and may approve a request for less than the amount allowed;

(2) enhanced payments for leave days. Notwithstanding section 256R.43, upon designation as a critical access nursing facility, the commissioner shall limit payment for leave days to 60 percent of that nursing facility's total payment rate for the involved resident, and shall allow this payment only when the occupancy of the nursing facility, inclusive of bed hold days, is equal to or greater than 90 percent;

(3) two designated critical access nursing facilities, with up to 100 beds in active service, may jointly apply to the commissioner of health for a waiver of Minnesota Rules, part 4658.0500, subpart 2, in order to jointly employ a director of nursing. The commissioner of health shall consider each waiver request independently based on the criteria under Minnesota Rules, part 4658.0040;

(4) the minimum threshold under section 256B.431, subdivision 15, paragraph (e), shall be 40 percent of the amount that would otherwise apply; and

(5) the quality-based rate limits under section 256R.23, subdivisions 5 to 7, apply to designated critical access nursing facilities.

(d) Designation of a critical access nursing facility is for a period of two years, after which the benefits allowed under paragraph (c) shall be removed. Designated facilities may apply for continued designation.

(e) This section is suspended and no state or federal funding shall be appropriated or allocated for the purposes of this section from January 1, 2016, to December 31, ~~2017~~ 2019.

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

Sec. 48. Minnesota Statutes 2016, section 256R.49, subdivision 1, is amended to read:

Subdivision 1. **Rate adjustments for compensation-related costs.** ~~(a) Operating payment rates of all nursing facilities that are reimbursed under this chapter shall be increased effective for rate years beginning on and after October 1, 2014, to address changes in compensation costs for nursing facility employees paid less than \$14 per hour in accordance with this section. Rate increases provided under this section before October 1, 2016, expire effective January 1, 2018, and rate increases provided on or after October 1, 2016, expire effective January 1, 2019.~~

(b) Nursing facilities that receive approval of the applications in subdivision 2 must receive rate adjustments according to subdivision 4. The rate adjustments must be used to pay compensation costs for nursing facility employees paid less than \$14 per hour.

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

Sec. 49. Minnesota Statutes 2016, section 256R.53, subdivision 2, is amended to read:

Subd. 2. **Nursing facility facilities in Breckenridge border cities.** The operating payment rate of a nonprofit nursing facility that exists on January 1, 2015, is located within the boundaries of the ~~city~~ cities of Breckenridge or Moorhead, and is reimbursed under this chapter, is equal to the greater of:

(1) the operating payment rate determined under section 256R.21, subdivision 3; or

(2) the median case mix adjusted rates, including comparable rate components as determined by the median case mix adjusted rates, including comparable rate components as determined by the commissioner, for the equivalent case mix indices of the nonprofit nursing facility or facilities located in an adjacent city in another state and in cities contiguous to the adjacent city. The commissioner shall make the comparison required in this subdivision on November 1 of each year and shall apply it to the rates to be effective on the following January 1. The Minnesota facility's operating payment rate with a case mix index of 1.0 is computed by dividing the adjacent city's nursing facility or facilities' median operating payment rate with an index of 1.02 by 1.02. If the adjustments under this subdivision result in a rate that exceeds the limits in section 256R.23, subdivision 5, and whose costs exceed the rate in section 256R.24, subdivision 3, in a given rate year, the facility's rate shall not be subject to the limits in section 256R.23, subdivision 5, and shall not be limited to the rate established in section 256R.24, subdivision 3, for that rate year.

EFFECTIVE DATE. The rate increases for a facility located in Moorhead are effective for the rate year beginning January 1, 2020, and annually thereafter.

Sec. 50. **DIRECTION TO COMMISSIONER; ADULT DAY SERVICES STAFFING RATIOS.**

The commissioner of human services shall study the staffing ratio for adult day services clients and shall provide the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over adult day services with recommendations to adjust staffing ratios based on client needs by January 1, 2018.

Sec. 51. **ALZHEIMER'S DISEASE WORKING GROUP.**

Subdivision 1. **Members.** (a) The Minnesota Board on Aging must appoint 16 members to an Alzheimer's disease working group, as follows:

- (1) a caregiver of a person who has been diagnosed with Alzheimer's disease;
 - (2) a person who has been diagnosed with Alzheimer's disease;
 - (3) two representatives from the nursing facility or senior housing profession;
 - (4) a representative of the home care or adult day services profession;
 - (5) two geriatricians, one of whom serves a diverse or underserved community;
 - (6) a psychologist who specializes in dementia care;
 - (7) an Alzheimer's researcher;
 - (8) a representative of the Alzheimer's Association;
 - (9) two members from community-based organizations serving one or more diverse or underserved communities;
 - (10) the commissioner of human services or a designee;
 - (11) the commissioner of health or a designee;
 - (12) the ombudsman for long-term care or a designee; and
 - (13) one member of the Minnesota Board on Aging, selected by the board.
- (b) The executive director of the Minnesota Board on Aging serves on the working group as a nonvoting member.
- (c) The appointing authorities under this subdivision must complete their appointments no later than December 15, 2017.

(d) To the extent practicable, the membership of the working group must reflect the diversity in Minnesota, and must include representatives from rural and metropolitan areas and representatives of different ethnicities, races, genders, ages, cultural groups, and abilities.

Subd. 2. **Duties; recommendations.** The Alzheimer's disease working group must review and revise the 2011 report, Preparing Minnesota for Alzheimer's: the Budgetary, Social and Personal Impacts. The working group shall consider and make recommendations and findings on the following issues as related to Alzheimer's disease or other dementias:

(1) analysis and assessment of public health and health care data to accurately determine trends and disparities in cognitive decline;

(2) public awareness, knowledge, and attitudes, including knowledge gaps, stigma, availability of information, and supportive community environments;

(3) risk reduction, including health education and health promotion on risk factors, safety, and potentially avoidable hospitalizations;

(4) diagnosis and treatment, including early detection, access to diagnosis, quality of dementia care, and cost of treatment;

(5) professional education and training, including geriatric education for licensed health care professionals and dementia-specific training for direct care workers, first responders, and other professionals in communities;

(6) residential services, including cost to families as well as regulation and licensing gaps; and

(7) cultural competence and responsiveness to reduce health disparities and improve access to high-quality dementia care.

Subd. 3. **Meetings.** The Board on Aging must convene the first meeting of the working group no later than January 15, 2018. Before the first meeting, the Board on Aging must designate one member to serve as chair. Meetings of the working group must be open to the public, and to the extent practicable, technological means, such as Web casts, shall be used to reach the greatest number of people throughout the state. The working group may not meet more than five times.

Subd. 4. **Compensation.** Members of the working group serve without compensation, but may be reimbursed for allowed actual and necessary expenses incurred in the performance of the member's duties for the working group in the same manner and amount as authorized by the commissioner's plan adopted under Minnesota Statutes, section 43A.18, subdivision 2.

Subd. 5. **Administrative support.** The Minnesota Board on Aging shall provide administrative support and arrange meeting space for the working group.

Subd. 6. **Report.** The Board on Aging must submit a report providing the findings and recommendations of the working group, including any draft legislation necessary to implement the recommendations, to the governor and chairs and ranking minority members of the legislative committees with jurisdiction over health care by January 15, 2019.

Subd. 7. **Expiration.** The working group expires June 30, 2019, or the day after the working group submits the report required in subdivision 6, whichever is earlier.

Sec. 52. ELECTRONIC SERVICE DELIVERY DOCUMENTATION SYSTEM.

Subdivision 1. **Documentation; establishment.** The commissioner of human services shall establish implementation requirements and standards for an electronic service delivery documentation system to comply with the 21st Century Cures Act, Public Law 114-255.

Subd. 2. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Electronic service delivery documentation" means the electronic documentation of the:

- (1) type of service performed;
- (2) individual receiving the service;
- (3) date of the service;
- (4) location of the service delivery;
- (5) individual providing the service; and
- (6) time the service begins and ends.

(c) "Electronic service delivery documentation system" means a system that provides electronic service delivery documentation that complies with the 21st Century Cures Act, Public Law 114-255, and the requirements of subdivision 3.

(d) "Service" means one of the following:

- (1) personal care assistance services as defined in Minnesota Statutes, section 256B.0625, subdivision 19a, and provided according to Minnesota Statutes, section 256B.0659; or
- (2) community first services and supports under Minnesota Statutes, section 256B.85.

Subd. 3. **Requirements.** (a) In developing implementation requirements for an electronic service delivery documentation system, the commissioner shall consider electronic visit verification systems and other electronic service delivery documentation methods. The commissioner shall convene stakeholders that will be impacted by an electronic service delivery system, including service providers and their representatives, service recipients and their representatives, and, as appropriate, those with expertise in the development and operation of an electronic service delivery documentation system, to ensure that the requirements:

- (1) are minimally administratively and financially burdensome to a provider;
- (2) are minimally burdensome to the service recipient and the least disruptive to the service recipient in receiving and maintaining allowed services;
- (3) consider existing best practices and use of electronic service delivery documentation;

(4) are conducted according to all state and federal laws;

(5) are effective methods for preventing fraud when balanced against the requirements of clauses (1) and (2); and

(6) are consistent with the Department of Human Services' policies related to covered services, flexibility of service use, and quality assurance.

(b) The commissioner shall make training available to providers on the electronic service delivery documentation system requirements.

(c) The commissioner shall establish baseline measurements related to preventing fraud and establish measures to determine the effect of electronic service delivery documentation requirements on program integrity.

Subd. 4. **Legislative report.** (a) The commissioner shall submit a report by January 15, 2018, to the chairs and ranking minority members of the legislative committees with jurisdiction over human services with recommendations, based on the requirements of subdivision 3, to establish electronic service delivery documentation system requirements and standards. The report shall identify:

(1) the essential elements necessary to operationalize a base-level electronic service delivery documentation system to be implemented by January 1, 2019; and

(2) enhancements to the base-level electronic service delivery documentation system to be implemented by January 1, 2019, or after, with projected operational costs and the costs and benefits for system enhancements.

(b) The report must also identify current regulations on service providers that are either inefficient, minimally effective, or will be unnecessary with the implementation of an electronic service delivery documentation system.

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

Sec. 53. DIRECTION TO COMMISSIONER; ICF/DD PAYMENT RATE STUDY.

Within available appropriations, the commissioner of human services shall study the intermediate care facility for persons with developmental disabilities payment rates under Minnesota Statutes, sections 256B.5011 to 256B.5013, and make recommendations on the rate structure to the chairs and ranking minority members of the legislative committees with jurisdiction over human services policy and finance by January 15, 2018.

Sec. 54. REVISOR'S INSTRUCTION.

The revisor of statutes, in consultation with the House Research Department, Office of Senate Counsel, Research, and Fiscal Analysis, and Department of Human Services shall prepare legislation for the 2018 legislative session to recodify laws governing the elderly waiver program in Minnesota Statutes, chapter 256B.

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

ARTICLE 4**HEALTH CARE**

Section 1. Minnesota Statutes 2016, section 3.972, is amended by adding a subdivision to read:

Subd. 2a. **Audits of Department of Human Services.** (a) To ensure continuous legislative oversight and accountability, the legislative auditor shall give high priority to auditing the programs, services, and benefits administered by the Department of Human Services. The audits shall determine whether the department offered programs and provided services and benefits only to eligible persons and organizations, and complied with applicable legal requirements.

(b) The legislative auditor shall, based on an assessment of risk and using professional standards to provide a statistically significant sample, no less than three times each year, test a representative sample of persons enrolled in a medical assistance program or MinnesotaCare to determine whether they are eligible to receive benefits under those programs. The legislative auditor shall report the results to the commissioner of human services and recommend corrective actions. The commissioner shall provide a response to the legislative auditor within 20 business days, including corrective actions to be taken to address any problems identified by the legislative auditor and anticipated completion dates. The legislative auditor shall monitor the commissioner's implementation of corrective actions and periodically report the results to the Legislative Audit Commission and the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance. The legislative auditor's reports to the commission and the chairs and ranking minority members must include recommendations for any legislative actions needed to ensure that medical assistance and MinnesotaCare benefits are provided only to eligible persons.

Sec. 2. Minnesota Statutes 2016, section 3.972, is amended by adding a subdivision to read:

Subd. 2b. **Audits of managed care organizations.** (a) The legislative auditor shall audit each managed care organization that contracts with the commissioner of human services to provide health care services under sections 256B.69, 256B.692, and 256L.12. The legislative auditor shall design the audits to determine if a managed care organization used the public money in compliance with federal and state laws, rules, and in accordance with provisions in the managed care organization's contract with the commissioner of human services. The legislative auditor shall determine the schedule and scope of the audit work and may contract with vendors to assist with the audits. The managed care organization must cooperate with the legislative auditor and must provide the legislative auditor with all data, documents, and other information, regardless of classification, that the legislative auditor requests to conduct an audit. The legislative auditor shall periodically report audit results and recommendations to the Legislative Audit Commission and the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

(b) For purposes of this subdivision, a "managed care organization" means a demonstration provider as defined under section 256B.69, subdivision 2.

Sec. 3. Minnesota Statutes 2016, section 13.69, subdivision 1, is amended to read:

Subdivision 1. **Classifications.** (a) The following government data of the Department of Public Safety are private data:

(1) medical data on driving instructors, licensed drivers, and applicants for parking certificates and special license plates issued to physically disabled persons;

(2) other data on holders of a disability certificate under section 169.345, except that (i) data that are not medical data may be released to law enforcement agencies, and (ii) data necessary for enforcement of sections 169.345 and 169.346 may be released to parking enforcement employees or parking enforcement agents of statutory or home rule charter cities and towns;

(3) Social Security numbers in driver's license and motor vehicle registration records, except that Social Security numbers must be provided to the Department of Revenue for purposes of tax administration, the Department of Labor and Industry for purposes of workers' compensation administration and enforcement, and the Department of Natural Resources for purposes of license application administration, and except that the last four digits of the Social Security number must be provided to the Department of Human Services for purposes of recovery of Minnesota health care program benefits paid; and

(4) data on persons listed as standby or temporary custodians under section 171.07, subdivision 11, except that the data must be released to:

(i) law enforcement agencies for the purpose of verifying that an individual is a designated caregiver; or

(ii) law enforcement agencies who state that the license holder is unable to communicate at that time and that the information is necessary for notifying the designated caregiver of the need to care for a child of the license holder.

The department may release the Social Security number only as provided in clause (3) and must not sell or otherwise provide individual Social Security numbers or lists of Social Security numbers for any other purpose.

(b) The following government data of the Department of Public Safety are confidential data: data concerning an individual's driving ability when that data is received from a member of the individual's family.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 4. **[62J.815] HEALTH CARE PROVIDERS PRICE DISCLOSURES.**

(a) Each health care provider, as defined by section 62J.03, subdivision 8, except hospitals and outpatient surgical centers subject to the requirements of section 62J.82, shall maintain a list of the services or procedures that correspond with the 35 most frequent current procedural terminology (CPT) codes, and a list of the ten most frequent CPT codes for preventive services used by the provider for reimbursement purposes and the provider's charge for each of these services or procedures that the provider would charge to patients who are not covered by private or public health care coverage.

(b) This list must be updated annually and be readily available on site at no cost to the public. The provider must also post this information on the provider's Web site or the health care clinic's Web site where the provider practices.

Sec. 5. Minnesota Statutes 2016, section 256.9686, subdivision 8, is amended to read:

Subd. 8. **Rate year.** "Rate year" means a calendar year from January 1 to December 31. Effective with the 2012 base year, rate year means a state fiscal year from July 1 to June 30.

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

Sec. 6. Minnesota Statutes 2016, section 256.969, subdivision 1, is amended to read:

Subdivision 1. **Hospital cost index.** (a) The hospital cost index shall be the change in the Centers for Medicare and Medicaid Services Inpatient Hospital Market Basket. The commissioner shall use the indices as forecasted for the midpoint of the prior rate year to the midpoint of the current rate year.

(b) Except as authorized under this section, for fiscal years beginning on or after July 1, 1993, the commissioner of human services shall not provide automatic annual inflation adjustments for hospital payment rates under medical assistance.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 7. Minnesota Statutes 2016, section 256.969, subdivision 2b, is amended to read:

Subd. 2b. **Hospital payment rates.** (a) For discharges occurring on or after November 1, 2014, hospital inpatient services for hospitals located in Minnesota shall be paid according to the following:

(1) critical access hospitals as defined by Medicare shall be paid using a cost-based methodology;

(2) long-term hospitals as defined by Medicare shall be paid on a per diem methodology under subdivision 25;

(3) rehabilitation hospitals or units of hospitals that are recognized as rehabilitation distinct parts as defined by Medicare shall be paid according to the methodology under subdivision 12; and

(4) all other hospitals shall be paid on a diagnosis-related group (DRG) methodology.

(b) For the period beginning January 1, 2011, through October 31, 2014, rates shall not be rebased, except that a Minnesota long-term hospital shall be rebased effective January 1, 2011, based on its most recent Medicare cost report ending on or before September 1, 2008, with the provisions under subdivisions 9 and 23, based on the rates in effect on December 31, 2010. For rate setting periods after November 1, 2014, in which the base years are updated, a Minnesota long-term hospital's base year shall remain within the same period as other hospitals.

(c) Effective for discharges occurring on and after November 1, 2014, payment rates for hospital inpatient services provided by hospitals located in Minnesota or the local trade area, except for the hospitals paid under the methodologies described in paragraph (a), clauses (2) and (3), shall be rebased, incorporating cost and payment methodologies in a manner similar to Medicare. The base year for the rates effective November 1, 2014, shall be calendar year 2012. The rebasing under this paragraph shall be budget neutral, ensuring that the total aggregate payments under the rebased system are equal to the total aggregate payments that were made for the same number and types of services in the base year. Separate budget neutrality calculations shall be determined for payments

made to critical access hospitals and payments made to hospitals paid under the DRG system. Only the rate increases or decreases under subdivision 3a or 3c that applied to the hospitals being rebased during the entire base period shall be incorporated into the budget neutrality calculation.

(d) For discharges occurring on or after November 1, 2014, through the next rebasing that occurs, the rebased rates under paragraph (c) that apply to hospitals under paragraph (a), clause (4), shall include adjustments to the projected rates that result in no greater than a five percent increase or decrease from the base year payments for any hospital. Any adjustments to the rates made by the commissioner under this paragraph and paragraph (e) shall maintain budget neutrality as described in paragraph (c).

(e) For discharges occurring on or after November 1, 2014, through the next two rebasing ~~that occurs~~ periods the commissioner may make additional adjustments to the rebased rates, and when evaluating whether additional adjustments should be made, the commissioner shall consider the impact of the rates on the following:

- (1) pediatric services;
- (2) behavioral health services;
- (3) trauma services as defined by the National Uniform Billing Committee;
- (4) transplant services;
- (5) obstetric services, newborn services, and behavioral health services provided by hospitals outside the seven-county metropolitan area;
- (6) outlier admissions;
- (7) low-volume providers; and
- (8) services provided by small rural hospitals that are not critical access hospitals.

(f) Hospital payment rates established under paragraph (c) must incorporate the following:

(1) for hospitals paid under the DRG methodology, the base year payment rate per admission is standardized by the applicable Medicare wage index and adjusted by the hospital's disproportionate population adjustment;

(2) for critical access hospitals, payment rates for discharges between November 1, 2014, and June 30, 2015, shall be set to the same rate of payment that applied for discharges on October 31, 2014;

(3) the cost and charge data used to establish hospital payment rates must only reflect inpatient services covered by medical assistance; and

(4) in determining hospital payment rates for discharges occurring on or after the rate year beginning January 1, 2011, through December 31, 2012, the hospital payment rate per discharge shall be based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year or years. In determining hospital payment rates for discharges in subsequent

base years, the per discharge rates shall be based on the cost-finding methods and allowable costs of the Medicare program in effect during the base year or years.

(g) The commissioner shall validate the rates effective November 1, 2014, by applying the rates established under paragraph (c), and any adjustments made to the rates under paragraph (d) or (e), to hospital claims paid in calendar year 2013 to determine whether the total aggregate payments for the same number and types of services under the rebased rates are equal to the total aggregate payments made during calendar year 2013.

(h) Effective for discharges occurring on or after July 1, 2017, and every two years thereafter, payment rates under this section shall be rebased to reflect only those changes in hospital costs between the existing base year and the next base year. Changes in costs between base years shall be measured using the lower of the hospital cost index defined in subdivision 1, paragraph (a), or the percentage change in the case mix adjusted cost per claim. The commissioner shall establish the base year for each rebasing period considering the most recent year for which filed Medicare cost reports are available. The estimated change in the average payment per hospital discharge resulting from a scheduled rebasing must be calculated and made available to the legislature by January 15 of each year in which rebasing is scheduled to occur, and must include by hospital the differential in payment rates compared to the individual hospital's costs.

(i) Effective for discharges occurring on or after July 1, 2015, inpatient payment rates for critical access hospitals located in Minnesota or the local trade area shall be determined using a new cost-based methodology. The commissioner shall establish within the methodology tiers of payment designed to promote efficiency and cost-effectiveness. Payment rates for hospitals under this paragraph shall be set at a level that does not exceed the total cost for critical access hospitals as reflected in base year cost reports. Until the next rebasing that occurs, the new methodology shall result in no greater than a five percent decrease from the base year payments for any hospital, except a hospital that had payments that were greater than 100 percent of the hospital's costs in the base year shall have their rate set equal to 100 percent of costs in the base year. The rates paid for discharges on and after July 1, 2016, covered under this paragraph shall be increased by the inflation factor in subdivision 1, paragraph (a). The new cost-based rate shall be the final rate and shall not be settled to actual incurred costs. Hospitals shall be assigned a payment tier based on the following criteria:

(1) hospitals that had payments at or below 80 percent of their costs in the base year shall have a rate set that equals 85 percent of their base year costs;

(2) hospitals that had payments that were above 80 percent, up to and including 90 percent of their costs in the base year shall have a rate set that equals 95 percent of their base year costs; and

(3) hospitals that had payments that were above 90 percent of their costs in the base year shall have a rate set that equals 100 percent of their base year costs.

(j) The commissioner may refine the payment tiers and criteria for critical access hospitals to coincide with the next rebasing under paragraph (h). The factors used to develop the new methodology may include, but are not limited to:

(1) the ratio between the hospital's costs for treating medical assistance patients and the hospital's charges to the medical assistance program;

(2) the ratio between the hospital's costs for treating medical assistance patients and the hospital's payments received from the medical assistance program for the care of medical assistance patients;

(3) the ratio between the hospital's charges to the medical assistance program and the hospital's payments received from the medical assistance program for the care of medical assistance patients;

(4) the statewide average increases in the ratios identified in clauses (1), (2), and (3);

(5) the proportion of that hospital's costs that are administrative and trends in administrative costs; and

(6) geographic location.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 8. Minnesota Statutes 2016, 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. Services that have rates established under subdivision ~~11~~ 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 30 days prior to implementation. The rate setting data must reflect the admissions data used to establish relative values. 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 or corresponding APR-DRGs, 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 August 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 or corresponding APR-DRGs, 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, 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 or corresponding APR-DRGs, 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, 2011, 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 or corresponding APR-DRGs, 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, 2011, 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, 2011, 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 or corresponding APR-DRGs, 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, 2011, 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.

(i) In addition to the reductions in paragraphs (b), (c), (d), (g), and (h), the total payment for fee-for-service admissions occurring on or after July 1, 2011, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 1.96 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 January 1, 2011, to reflect this reduction.

(j) Effective for discharges on and after November 1, 2014, from hospitals paid under subdivision 2b, paragraph (a), clauses (1) and (4), the rate adjustments in this subdivision must be incorporated

into the rebased rates established under subdivision 2b, paragraph (c), and must not be applied to each claim.

(k) Effective for discharges on and after July 1, 2015, from hospitals paid under subdivision 2b, paragraph (a), clauses (2) and (3), the rate adjustments in this subdivision must be incorporated into the rates and must not be applied to each claim.

(l) Effective for discharges on and after July 1, 2017, from hospitals paid under subdivision 2b, paragraph (a), clause (2), the rate adjustments in this subdivision must be incorporated into the rates and must not be applied to each claim.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 9. Minnesota Statutes 2016, section 256.969, subdivision 8, is amended to read:

Subd. 8. **Unusual length of stay experience.** (a) The commissioner shall establish day outlier thresholds for each diagnostic category established under subdivision 2 at two standard deviations beyond the mean length of stay. Payment for the days beyond the outlier threshold shall be in addition to the operating and property payment rates per admission established under subdivisions 2 and 2b. Payment for outliers shall be at 70 percent of the allowable operating cost, after adjustment by the case mix index, hospital cost index, relative values and the disproportionate population adjustment. The outlier threshold for neonatal and burn diagnostic categories shall be established at one standard deviation beyond the mean length of stay, and payment shall be at 90 percent of allowable operating cost calculated in the same manner as other outliers. A hospital may choose an alternative to the 70 percent outlier payment that is at a minimum of 60 percent and a maximum of 80 percent if the commissioner is notified in writing of the request by October 1 of the year preceding the rate year. The chosen percentage applies to all diagnostic categories except burns and neonates. The percentage of allowable cost that is unrecognized by the outlier payment shall be added back to the base year operating payment rate per admission.

(b) Effective for admissions and transfers occurring on and after November 1, 2014, the commissioner shall establish payment rates for outlier payments that are based on Medicare methodologies.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 10. Minnesota Statutes 2016, section 256.969, subdivision 8c, is amended to read:

Subd. 8c. **Hospital residents.** (a) For discharges occurring on or after November 1, 2014, payments for hospital residents shall be made as follows:

(1) payments for the first 180 days of inpatient care shall be the APR-DRG system plus any outliers; and

(2) payment for all medically necessary patient care subsequent to the first 180 days shall be reimbursed at a rate computed by multiplying the statewide average cost-to-charge ratio by the usual and customary charges.

(b) For discharges occurring on or after July 1, 2017, payment for hospital residents shall be equal to the payments under subdivision 8, paragraph (b).

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 11. Minnesota Statutes 2016, section 256.969, subdivision 9, is amended to read:

Subd. 9. **Disproportionate numbers of low-income patients served.** (a) For admissions occurring on or after July 1, 1993, the medical assistance disproportionate population adjustment shall comply with federal law and shall be paid to a hospital, excluding regional treatment centers and facilities of the federal Indian Health Service, with a medical assistance inpatient utilization rate in excess of the arithmetic mean. The adjustment must be determined as follows:

(1) for a hospital with a medical assistance inpatient utilization rate above the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service but less than or equal to one standard deviation above the mean, the adjustment must be determined by multiplying the total of the operating and property payment rates by the difference between the hospital's actual medical assistance inpatient utilization rate and the arithmetic mean for all hospitals excluding regional treatment centers and facilities of the federal Indian Health Service; and

(2) for a hospital with a medical assistance inpatient utilization rate above one standard deviation above the mean, the adjustment must be determined by multiplying the adjustment that would be determined under clause (1) for that hospital by 1.1. The commissioner shall report annually on the number of hospitals likely to receive the adjustment authorized by this paragraph. The commissioner shall specifically report on the adjustments received by public hospitals and public hospital corporations located in cities of the first class.

(b) Certified public expenditures made by Hennepin County Medical Center shall be considered Medicaid disproportionate share hospital payments. Hennepin County and Hennepin County Medical Center shall report by June 15, 2007, on payments made beginning July 1, 2005, or another date specified by the commissioner, that may qualify for reimbursement under federal law. Based on these reports, the commissioner shall apply for federal matching funds.

(c) Upon federal approval of the related state plan amendment, paragraph (b) is effective retroactively from July 1, 2005, or the earliest effective date approved by the Centers for Medicare and Medicaid Services.

(d) Effective July 1, 2015, disproportionate share hospital (DSH) payments shall be paid in accordance with a new methodology using 2012 as the base year. Annual payments made under this paragraph shall equal the total amount of payments made for 2012. A licensed children's hospital shall receive only a single DSH factor for children's hospitals. Other DSH factors may be combined to arrive at a single factor for each hospital that is eligible for DSH payments. The new methodology shall make payments only to hospitals located in Minnesota and include the following factors:

(1) a licensed children's hospital with at least 1,000 fee-for-service discharges in the base year shall receive a factor of 0.868. A licensed children's hospital with less than 1,000 fee-for-service discharges in the base year shall receive a factor of 0.7880;

(2) a hospital that has in effect for the initial rate year a contract with the commissioner to provide extended psychiatric inpatient services under section 256.9693 shall receive a factor of 0.0160;

(3) a hospital that has received payment from the fee-for-service program for at least 20 transplant services in the base year shall receive a factor of 0.0435;

(4) a hospital that has a medical assistance utilization rate in the base year between 20 percent up to one standard deviation above the statewide mean utilization rate shall receive a factor of 0.0468;

(5) a hospital that has a medical assistance utilization rate in the base year that is at least one standard deviation above the statewide mean utilization rate but is less than three standard deviations above the mean shall receive a factor of 0.2300; and

(6) a hospital that has a medical assistance utilization rate in the base year that is at least three standard deviations above the statewide mean utilization rate shall receive a factor of 0.3711.

(e) Any payments or portion of payments made to a hospital under this subdivision that are subsequently returned to the commissioner because the payments are found to exceed the hospital-specific DSH limit for that hospital shall be redistributed, proportionate to the number of fee-for-service discharges, to other DSH-eligible ~~nonchildren's~~ non-children's hospitals that have a medical assistance utilization rate that is at least one standard deviation above the mean.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 12. Minnesota Statutes 2016, section 256.969, subdivision 12, is amended to read:

Subd. 12. **Rehabilitation hospitals and distinct parts.** (a) Units of hospitals that are recognized as rehabilitation distinct parts by the Medicare program shall have separate provider numbers under the medical assistance program for rate establishment and billing purposes only. These units shall also have operating payment rates and the disproportionate population adjustment, if allowed by federal law, established separately from other inpatient hospital services.

(b) The commissioner shall establish separate relative values under subdivision 2 for rehabilitation hospitals and distinct parts as defined by the Medicare program. Effective for discharges occurring on and after November 1, 2014, the commissioner, to the extent possible, shall replicate the existing payment rate methodology under the new diagnostic classification system. The result must be budget neutral, ensuring that the total aggregate payments under the new system are equal to the total aggregate payments made for the same number and types of services in the base year, calendar year 2012.

(c) For individual hospitals that did not have separate medical assistance rehabilitation provider numbers or rehabilitation distinct parts in the base year, hospitals shall provide the information needed to separate rehabilitation distinct part cost and claims data from other inpatient service data.

(d) Effective with discharges on or after July 1, 2017, payment to rehabilitation hospitals shall be established under subdivision 2b, paragraph (a), clause (4).

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 13. Minnesota Statutes 2016, section 256B.04, subdivision 12, is amended to read:

Subd. 12. **Limitation on services.** (a) Place limits on the types of services covered by medical assistance, the frequency with which the same or similar services may be covered by medical assistance for an individual recipient, and the amount paid for each covered service. The state agency shall promulgate rules establishing maximum reimbursement rates for emergency and nonemergency transportation.

The rules shall provide:

(1) an opportunity for all recognized transportation providers to be reimbursed for nonemergency transportation consistent with the maximum rates established by the agency; and

(2) reimbursement of public and private nonprofit providers serving the disabled population generally at reasonable maximum rates that reflect the cost of providing the service regardless of the fare that might be charged by the provider for similar services to individuals other than those receiving medical assistance or medical care under this chapter; ~~and~~

~~(3) reimbursement for each additional passenger carried on a single trip at a substantially lower rate than the first passenger carried on that trip.~~

(b) The commissioner shall encourage providers reimbursed under this chapter to coordinate their operation with similar services that are operating in the same community. To the extent practicable, the commissioner shall encourage eligible individuals to utilize less expensive providers capable of serving their needs.

(c) For the purpose of this subdivision and section 256B.02, subdivision 8, and effective on January 1, 1981, "recognized provider of transportation services" means an operator of special transportation service as defined in section 174.29 that has been issued a current certificate of compliance with operating standards of the commissioner of transportation or, if those standards do not apply to the operator, that the agency finds is able to provide the required transportation in a safe and reliable manner. Until January 1, 1981, "recognized transportation provider" includes an operator of special transportation service that the agency finds is able to provide the required transportation in a safe and reliable manner.

Sec. 14. Minnesota Statutes 2016, section 256B.056, subdivision 5c, is amended to read:

Subd. 5c. **Excess income standard.** (a) The excess income standard for parents and caretaker relatives, pregnant women, infants, and children ages two through 20 is the standard specified in subdivision 4, paragraph (b).

(b) The excess income standard for a person whose eligibility is based on blindness, disability, or age of 65 or more years shall equal ~~80~~ 81 percent of the federal poverty guidelines.

EFFECTIVE DATE. This section is effective June 1, 2019.

Sec. 15. Minnesota Statutes 2016, section 256B.0621, subdivision 10, is amended to read:

Subd. 10. **Payment rates.** The commissioner shall set payment rates for targeted case management under this subdivision. Case managers may bill according to the following criteria:

(1) for relocation targeted case management, case managers may bill for direct case management activities, including face-to-face ~~and contact~~, telephone ~~contacts~~ contact, and interactive video contact according to section 256B.0924, subdivision 4a, in the lesser of:

(i) 180 days preceding an eligible recipient's discharge from an institution; or

(ii) the limits and conditions which apply to federal Medicaid funding for this service;

(2) for home care targeted case management, case managers may bill for direct case management activities, including face-to-face and telephone contacts; and

(3) billings for targeted case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 16. Minnesota Statutes 2016, section 256B.0625, subdivision 3b, is amended to read:

Subd. 3b. **Telemedicine services.** (a) Medical assistance covers medically necessary services and consultations delivered by a licensed health care provider via telemedicine in the same manner as if the service or consultation was delivered in person. Coverage is limited to three telemedicine services per enrollee per calendar week. Telemedicine services shall be paid at the full allowable rate.

(b) The commissioner shall establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service via telemedicine. The attestation may include that the health care provider:

(1) has identified the categories or types of services the health care provider will provide via telemedicine;

(2) has written policies and procedures specific to telemedicine services that are regularly reviewed and updated;

(3) has policies and procedures that adequately address patient safety before, during, and after the telemedicine service is rendered;

(4) has established protocols addressing how and when to discontinue telemedicine services; and

(5) has an established quality assurance process related to telemedicine services.

(c) As a condition of payment, a licensed health care provider must document each occurrence of a health service provided by telemedicine to a medical assistance enrollee. Health care service records for services provided by telemedicine must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:

(1) the type of service provided by telemedicine;

(2) the time the service began and the time the service ended, including an a.m. and p.m. designation;

(3) the licensed health care provider's basis for determining that telemedicine is an appropriate and effective means for delivering the service to the enrollee;

(4) the mode of transmission of the telemedicine service and records evidencing that a particular mode of transmission was utilized;

(5) the location of the originating site and the distant site;

(6) if the claim for payment is based on a physician's telemedicine consultation with another physician, the written opinion from the consulting physician providing the telemedicine consultation; and

(7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).

(d) For purposes of this subdivision, unless otherwise covered under this chapter, "telemedicine" is defined as the delivery of health care services or consultations while the patient is at an originating site and the licensed health care provider is at a distant site. A communication between licensed health care providers, or a licensed health care provider and a patient that consists solely of a telephone conversation, e-mail, or facsimile transmission does not constitute telemedicine consultations or services. Telemedicine may be provided by means of real-time two-way, interactive audio and visual communications, including the application of secure video conferencing or store-and-forward technology to provide or support health care delivery, which facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care.

(e) For purposes of this section, "licensed health care provider" ~~is defined~~ means a licensed health care provider under section 62A.671, subdivision 6, and a mental health practitioner defined under section 245.462, subdivision 17, or 245.4871, subdivision 26, working under the general supervision of a mental health professional; "health care provider" is defined under section 62A.671, subdivision 3; and "originating site" is defined under section 62A.671, subdivision 7.

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

Sec. 17. Minnesota Statutes 2016, section 256B.0625, subdivision 7, is amended to read:

Subd. 7. **Home care nursing.** Medical assistance covers home care nursing services in a recipient's home. Recipients who are authorized to receive home care 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 home care 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 home care 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 home care nursing services or forgoes the facility per diem for the leave days that home care 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.0654 . All home care nursing services must be provided according to the limits established under sections 256B.0651, 256B.0653, and 256B.0654. Home care 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. 18. Minnesota Statutes 2016, 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) For the purpose of this subdivision and subdivision 13d, an "active pharmaceutical ingredient" is defined as a substance that is represented for use in a drug and when used in the manufacturing, processing, or packaging of a drug becomes an active ingredient of the drug product. An "excipient" is defined as an inert substance used as a diluent or vehicle for a drug. The commissioner shall establish a list of active pharmaceutical ingredients and excipients which are included in the medical assistance formulary. Medical assistance covers selected active pharmaceutical ingredients and excipients used in compounded prescriptions when the compounded combination is specifically approved by the commissioner or when a commercially available product:

(1) is not a therapeutic option for the patient;

(2) does not exist in the same combination of active ingredients in the same strengths as the compounded prescription; and

(3) cannot be used in place of the active pharmaceutical ingredient in the compounded prescription.

(d) 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. ~~Over-the-counter medications must be dispensed in a quantity that is the lowest of: (1) the number of dosage units contained in the manufacturer's original package; (2) the number of dosage units required to complete the patient's course of therapy; or (3) if applicable, the number of dosage units dispensed from a system using retrospective billing, as provided under subdivision 13e, paragraph (b).~~

(e) 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.

(f) Medical assistance covers drugs acquired through the federal 340B Drug Pricing Program and dispensed by 340B covered entities and ambulatory pharmacies under common ownership of the 340B covered entity. Medical assistance does not cover drugs acquired through the federal 340B Drug Pricing Program and dispensed by 340B contract pharmacies.

Sec. 19. Minnesota Statutes 2016, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. **Payment rates.** (a) Effective April 1, 2017, or upon federal approval, whichever is later, the basis for determining the amount of payment shall be the lower of the ~~actual acquisition costs~~ ingredient cost of the drugs or ~~the maximum allowable cost by the commissioner~~ plus the fixed professional dispensing fee; or the usual and customary price charged to the public. The usual and customary price is defined as the lowest price charged by the provider to a patient who pays for the prescription by cash, check, or charge account and includes those prices the pharmacy charges to customers enrolled in a prescription savings club or prescription discount club administered by the pharmacy or pharmacy chain. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any third-party 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 professional dispensing fee shall be \$3.65~~ \$11.35 for legend ~~prescription drugs~~ prescriptions filled with legend drugs meeting the definition of "covered outpatient drugs" according to United States Code, title 42, section 1396r-8(k)(2), except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 \$11.35 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. The professional dispensing fee for prescriptions filled with over-the-counter drugs meeting the definition of covered outpatient drugs shall be \$11.35 for dispensed quantities equal to or greater than the number of units contained in the manufacturer's original package. The professional dispensing fee shall be prorated based on the percentage of the package dispensed when the pharmacy dispenses a quantity less than the number of units contained in the manufacturer's original package. The pharmacy dispensing fee for prescribed over-the-counter drugs not meeting the definition of covered outpatient drugs shall be \$3.65, except that the fee shall be \$1.31 for retrospectively billing pharmacies when billing for quantities less than the number of units contained in the manufacturer's original package. ~~Actual acquisition cost includes quantity~~

~~and other special discounts except time and cash discounts. The actual acquisition for quantities equal to or greater than the number of units contained in the manufacturer's original package and shall be prorated based on the percentage of the package dispensed when the pharmacy dispenses a quantity less than the number of units contained in the manufacturer's original package. The National Average Drug Acquisition Cost (NADAC) shall be used to determine the ingredient cost of a drug shall be estimated by the commissioner at wholesale acquisition cost plus four percent for independently owned pharmacies located in a designated rural area within Minnesota, and at wholesale acquisition cost plus two percent for all other pharmacies. A pharmacy is "independently owned" if it is one of four or fewer pharmacies under the same ownership nationally. A "designated rural area" means an area defined as a small rural area or isolated rural area according to the four-category classification of the Rural Urban Commuting Area system developed for the United States Health Resources and Services Administration. Effective January 1, 2014, the actual acquisition. For drugs for which a NADAC is not reported, the commissioner shall estimate the ingredient cost at wholesale acquisition cost minus two percent. The commissioner shall establish the ingredient cost of a drug acquired through the federal 340B Drug Pricing Program shall be estimated by the commissioner at wholesale acquisition cost minus 40 percent at a 340B Drug Pricing Program maximum allowable cost. The 340B Drug Pricing Program maximum allowable cost shall be comparable to, but no higher than, the 340B Drug Pricing Program ceiling price established by the Health Resources and Services Administration. Wholesale acquisition cost is defined as the manufacturer's list price for a drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which information is available, as reported in wholesale price guides or other publications of drug or biological pricing data. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but the actual acquisition cost of the drug product and no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs and no higher than the NADAC of the generic product. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.~~

(b) Pharmacies dispensing prescriptions to residents of long-term care facilities using an automated drug distribution system meeting the requirements of section 151.58, or a packaging system meeting the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse, may employ retrospective billing for prescription drugs dispensed to long-term care facility residents. A retrospectively billing pharmacy must submit a claim only for the quantity of medication used by the enrolled recipient during the defined billing period. A retrospectively billing pharmacy must use a billing period not less than one calendar month or 30 days.

~~(c) 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. A pharmacy provider using packaging that meets the standards set forth in Minnesota Rules, part 6800.2700, is required to credit the department for the actual acquisition cost of all unused drugs that are eligible~~

for reuse, unless the pharmacy is using retrospective billing. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(d) ~~Whenever a maximum allowable cost has been set for~~ If a pharmacy dispenses a multisource drug, payment shall be the lower of the usual and customary price charged to the public or the ingredient cost shall be the NADAC of the generic product or the maximum allowable cost established by the commissioner unless prior authorization for the brand name product has been granted according to the criteria established by the Drug Formulary Committee as required by subdivision 13f, paragraph (a), and the prescriber has indicated "dispense as written" on the prescription in a manner consistent with section 151.21, subdivision 2.

(e) 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, 106 percent of the average sales price as determined by the United States Department of Health and Human Services pursuant to title XVIII, section 1847a of the federal Social Security Act, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. If average sales price is unavailable, the amount of payment must be lower of the usual and customary cost submitted by the provider, the wholesale acquisition cost, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. Effective January 1, 2014, the commissioner shall discount the payment rate for drugs obtained through the federal 340B Drug Pricing Program by 20 percent. The payment for drugs administered in an outpatient setting shall be made to the administering facility or practitioner. A retail or specialty pharmacy dispensing a drug for administration in an outpatient setting is not eligible for direct reimbursement.

(f) The commissioner may ~~negotiate lower reimbursement rates~~ establish maximum allowable cost rates for specialty pharmacy products ~~than the rates that are lower than the ingredient cost formulas 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~~ able to provide enhanced clinical services and willing to accept the specialty pharmacy reimbursement. 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, antihemophilic factor products, 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 maximum allowable cost reimbursement.~~ 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~~ maximum allowable cost to prevent access to care issues.

(g) Home infusion therapy services provided by home infusion therapy pharmacies must be paid at rates according to subdivision 8d.

(h) Effective for prescriptions filled on or after April 1, 2017, or upon federal approval, whichever is later, the commissioner shall increase the ingredient cost reimbursement calculated in paragraphs

(a) and (f) by two percent for prescription and nonprescription drugs subject to the wholesale drug distributor tax under section 295.52.

EFFECTIVE DATE. This section is effective retroactively from April 1, 2017, or from the effective date of federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 20. Minnesota Statutes 2016, section 256B.0625, subdivision 17, is amended to read:

Subd. 17. **Transportation costs.** (a) "Nonemergency medical transportation service" means motor vehicle transportation provided by a public or private person that serves Minnesota health care program beneficiaries who do not require emergency ambulance service, as defined in section 144E.001, subdivision 3, to obtain covered medical services.

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

(1) nonemergency medical transportation providers who meet the requirements of this subdivision;

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

(3) taxicabs that meet the requirements of this subdivision;

(4) public transit, as defined in section 174.22, subdivision 7; or

(5) not-for-hire vehicles, including volunteer drivers.

(c) Medical assistance covers nonemergency medical transportation provided by nonemergency medical transportation providers enrolled in the Minnesota health care programs. All nonemergency medical transportation providers must comply with the operating standards for special transportation service as defined in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840, and in consultation with the Minnesota Department of Transportation. All nonemergency medical transportation providers shall bill for nonemergency medical transportation services in accordance with Minnesota health care programs criteria. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements outlined in this paragraph.

(d) An organization may be terminated, denied, or suspended from enrollment if:

(1) the provider has not initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3); or

(2) the provider has initiated background studies on the individuals specified in section 174.30, subdivision 10, paragraph (a), clauses (1) to (3), and:

(i) the commissioner has sent the provider a notice that the individual has been disqualified under section 245C.14; and

(ii) the individual has not received a disqualification set-aside specific to the special transportation services provider under sections 245C.22 and 245C.23.

(e) The administrative agency of nonemergency medical transportation must:

(1) adhere to the policies defined by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee;

(2) pay nonemergency medical transportation providers for services provided to Minnesota health care programs beneficiaries to obtain covered medical services;

(3) provide data monthly to the commissioner on appeals, complaints, no-shows, canceled trips, and number of trips by mode; and

(4) by July 1, 2016, in accordance with subdivision 18e, utilize a Web-based single administrative structure assessment tool that meets the technical requirements established by the commissioner, reconciles trip information with claims being submitted by providers, and ensures prompt payment for nonemergency medical transportation services.

(f) Until the commissioner implements the single administrative structure and delivery system under subdivision 18e, clients shall obtain their level-of-service certificate from the commissioner or an entity approved by the commissioner that does not dispatch rides for clients using modes of transportation under paragraph (i), clauses (4), (5), (6), and (7).

(g) The commissioner may use an order by the recipient's attending physician or a medical or mental health professional to certify that the recipient requires nonemergency medical transportation services. Nonemergency medical transportation providers shall perform driver-assisted services for eligible individuals, when appropriate. 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, child seats, or stretchers in the vehicle.

Nonemergency medical transportation providers must take clients to the health care provider using the most direct route, and must not exceed 30 miles for a trip to a primary care provider or 60 miles for a trip to a specialty care provider, unless the client receives authorization from the local agency.

Nonemergency medical transportation providers may not bill for separate base rates for the continuation of a trip beyond the original destination. Nonemergency medical transportation providers must maintain trip logs, which include pickup and drop-off times, signed by the medical provider or client, whichever is deemed most appropriate, attesting to mileage traveled to obtain covered medical services. Clients requesting client mileage reimbursement must sign the trip log attesting mileage traveled to obtain covered medical services.

(h) The administrative agency shall use the level of service process established by the commissioner in consultation with the Nonemergency Medical Transportation Advisory Committee to determine the client's most appropriate mode of transportation. If public transit or a certified transportation provider is not available to provide the appropriate service mode for the client, the client may receive a onetime service upgrade.

(i) The covered modes of transportation, ~~which may not be implemented without a new rate structure,~~ are:

(1) client reimbursement, which includes client mileage reimbursement provided to clients who have their own transportation, or to family or an acquaintance who provides transportation to the client;

(2) volunteer transport, which includes transportation by volunteers using their own vehicle;

(3) unassisted transport, which includes transportation provided to a client by a taxicab or public transit. If a taxicab or public transit is not available, the client can receive transportation from another nonemergency medical transportation provider;

(4) assisted transport, which includes transport provided to clients who require assistance by a nonemergency medical transportation provider;

(5) lift-equipped/ramp transport, which includes transport provided to a client who is dependent on a device and requires a nonemergency medical transportation provider with a vehicle containing a lift or ramp;

(6) protected transport, which includes transport provided to a client who has received a prescreening that has deemed other forms of transportation inappropriate and who requires a provider: (i) with a protected vehicle that is not an ambulance or police car and has safety locks, a video recorder, and a transparent thermoplastic partition between the passenger and the vehicle driver; and (ii) who is certified as a protected transport provider; and

(7) stretcher transport, which includes transport for a client in a prone or supine position and requires a nonemergency medical transportation provider with a vehicle that can transport a client in a prone or supine position.

(j) The local agency shall be the single administrative agency and shall administer and reimburse for modes defined in paragraph (i) according to paragraphs (m) and (n) when the commissioner has developed, made available, and funded the Web-based single administrative structure, assessment tool, and level of need assessment under subdivision 18e. The local agency's financial obligation is limited to funds provided by the state or federal government.

(k) The commissioner shall:

(1) in consultation with the Nonemergency Medical Transportation Advisory Committee, verify that the mode and use of nonemergency medical transportation is appropriate;

(2) verify that the client is going to an approved medical appointment; and

(3) investigate all complaints and appeals.

(l) The administrative agency shall pay for the services provided in this subdivision and seek reimbursement from the commissioner, if appropriate. As vendors of medical care, local agencies are subject to the provisions in section 256B.041, the sanctions and monetary recovery actions in section 256B.064, and Minnesota Rules, parts 9505.2160 to 9505.2245.

(m) Payments for nonemergency medical transportation must be paid based on the client's assessed mode under paragraph (h), not the type of vehicle used to provide the service. The medical assistance reimbursement rates for nonemergency medical transportation services that are payable by or on behalf of the commissioner for nonemergency medical transportation services are:

(1) \$0.22 per mile for client reimbursement;

(2) up to 100 percent of the Internal Revenue Service business deduction rate for volunteer transport;

(3) equivalent to the standard fare for unassisted transport when provided by public transit, and \$11 for the base rate and \$1.30 per mile when provided by a nonemergency medical transportation provider;

(4) \$13 for the base rate and \$1.30 per mile for assisted transport;

(5) \$18 for the base rate and \$1.55 per mile for lift-equipped/ramp transport;

(6) \$75 for the base rate and \$2.40 per mile for protected transport; and

(7) \$60 for the base rate and \$2.40 per mile for stretcher transport, and \$9 per trip for an additional attendant if deemed medically necessary.

(n) The base rate for nonemergency medical transportation services in areas defined under RUCA to be super rural is equal to 111.3 percent of the respective base rate in paragraph (m), clauses (1) to (7). The mileage rate for nonemergency medical transportation services in areas defined under RUCA to be rural or super rural areas is:

(1) for a trip equal to 17 miles or less, equal to 125 percent of the respective mileage rate in paragraph (m), clauses (1) to (7); and

(2) for a trip between 18 and 50 miles, equal to 112.5 percent of the respective mileage rate in paragraph (m), clauses (1) to (7).

(o) For purposes of reimbursement rates for nonemergency medical transportation services under paragraphs (m) and (n), the zip code of the recipient's place of residence shall determine whether the urban, rural, or super rural reimbursement rate applies.

(p) 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.

(q) The commissioner, when determining reimbursement rates for nonemergency medical transportation under paragraphs (m) and (n), shall exempt all modes of transportation listed under paragraph (i) from Minnesota Rules, part 9505.0445, item R, subitem (2).

Sec. 21. Minnesota Statutes 2016, section 256B.0625, subdivision 17b, is amended to read:

Subd. 17b. **Documentation required.** (a) As a condition for payment, nonemergency medical transportation providers must document each occurrence of a service provided to a recipient according

to this subdivision. Providers must maintain odometer and other records sufficient to distinguish individual trips with specific vehicles and drivers. The documentation may be collected and maintained using electronic systems or software or in paper form but must be made available and produced upon request. Program funds paid for transportation that is not documented according to this subdivision shall be recovered by the department.

(b) A nonemergency medical transportation provider must compile transportation records that meet the following requirements:

(1) the record must be in English and must be legible according to the standard of a reasonable person;

(2) the recipient's name must be on each page of the record; and

(3) each entry in the record must document:

(i) the date on which the entry is made;

(ii) the date or dates the service is provided;

(iii) the printed last name, first name, and middle initial of the driver;

(iv) the signature of the driver attesting to the following: "I certify that I have accurately reported in this record the trip miles I actually drove and the dates and times I actually drove them. I understand that misreporting the miles driven and hours worked is fraud for which I could face criminal prosecution or civil proceedings.";

(v) the signature of the recipient or authorized party attesting to the following: "I certify that I received the reported transportation service.", or the signature of the provider of medical services certifying that the recipient was delivered to the provider;

(vi) the address, or the description if the address is not available, of both the origin and destination, and the mileage for the most direct route from the origin to the destination;

(vii) the mode of transportation in which the service is provided;

(viii) the license plate number of the vehicle used to transport the recipient;

(ix) whether the service was ambulatory or nonambulatory ~~until the modes under subdivision 17 are implemented;~~

(x) the time of the pickup and the time of the drop-off with "a.m." and "p.m." designations;

(xi) the name of the extra attendant when an extra attendant is used to provide special transportation service; and

(xii) the electronic source documentation used to calculate driving directions and mileage.

Sec. 22. Minnesota Statutes 2016, section 256B.0625, is amended by adding a subdivision to read:

Subd. 17c. **Nursing facility transports.** A Minnesota health care program enrollee residing in, or being discharged from, a licensed nursing facility is exempt from a level of need determination and is eligible for nonemergency medical transportation services until the enrollee no longer resides in a licensed nursing facility, as provided in section 256B.04, subdivision 14a.

Sec. 23. Minnesota Statutes 2016, section 256B.0625, subdivision 18h, is amended to read:

Subd. 18h. **Managed care.** (a) The following subdivisions ~~do not~~ apply to managed care plans and county-based purchasing plans:

- (1) subdivision 17, paragraphs ~~(d) to (k)~~ (a), (b), (i), and (n);
- (2) subdivision ~~18e~~ 18; and
- (3) subdivision ~~18g~~ 18a.

(b) A nonemergency medical transportation provider must comply with the operating standards for special transportation service specified in sections 174.29 to 174.30 and Minnesota Rules, chapter 8840. Publicly operated transit systems, volunteers, and not-for-hire vehicles are exempt from the requirements in this paragraph.

Sec. 24. Minnesota Statutes 2016, section 256B.0625, subdivision 20, is amended to read:

Subd. 20. **Mental health case management.** (a) To the extent authorized by rule of the state agency, medical assistance covers case management services to persons with serious and persistent mental illness and children with severe emotional disturbance. Services provided under this section must meet the relevant standards in sections 245.461 to 245.4887, the Comprehensive Adult and Children's Mental Health Acts, Minnesota Rules, parts 9520.0900 to 9520.0926, and 9505.0322, excluding subpart 10.

(b) Entities meeting program standards set out in rules governing family community support services as defined in section 245.4871, subdivision 17, are eligible for medical assistance reimbursement for case management services for children with severe emotional disturbance when these services meet the program standards in Minnesota Rules, parts 9520.0900 to 9520.0926 and 9505.0322, excluding subparts 6 and 10.

(c) Medical assistance and MinnesotaCare payment for mental health case management shall be made on a monthly basis. In order to receive payment for an eligible child, the provider must document at least a face-to-face contact with the child, the child's parents, or the child's legal representative. To receive payment for an eligible adult, the provider must document:

(1) at least a face-to-face contact with the adult or the adult's legal representative or a contact by interactive video that meets the requirements of subdivision 20b; or

(2) at least a telephone contact with the adult or the adult's legal representative and document a face-to-face contact or a contact by interactive video that meets the requirements of subdivision 20b with the adult or the adult's legal representative within the preceding two months.

(d) Payment for mental health case management provided by county or state staff shall be based on the monthly rate methodology under section 256B.094, subdivision 6, paragraph (b), with separate

rates calculated for child welfare and mental health, and within mental health, separate rates for children and adults.

(e) Payment for mental health case management provided by Indian health services or by agencies operated by Indian tribes may be made according to this section or other relevant federally approved rate setting methodology.

(f) Payment for mental health case management provided by vendors who contract with a county or Indian tribe shall be based on a monthly rate negotiated by the host county or tribe. The negotiated rate must not exceed the rate charged by the vendor for the same service to other payers. If the service is provided by a team of contracted vendors, the county or tribe may negotiate a team rate with a vendor who is a member of the team. The team shall determine how to distribute the rate among its members. No reimbursement received by contracted vendors shall be returned to the county or tribe, except to reimburse the county or tribe for advance funding provided by the county or tribe to the vendor.

(g) If the service is provided by a team which includes contracted vendors, tribal staff, and county or state staff, the costs for county or state staff participation in the team shall be included in the rate for county-provided services. In this case, the contracted vendor, the tribal agency, and the county may each receive separate payment for services provided by each entity in the same month. In order to prevent duplication of services, each entity must document, in the recipient's file, the need for team case management and a description of the roles of the team members.

(h) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of costs for mental health case management shall be provided by the recipient's county of responsibility, as defined in sections 256G.01 to 256G.12, from sources other than federal funds or funds used to match other federal funds. If the service is provided by a tribal agency, the nonfederal share, if any, shall be provided by the recipient's tribe. When this service is paid by the state without a federal share through fee-for-service, 50 percent of the cost shall be provided by the recipient's county of responsibility.

(i) Notwithstanding any administrative rule to the contrary, prepaid medical assistance and MinnesotaCare include mental health case management. When the service is provided through prepaid capitation, the nonfederal share is paid by the state and the county pays no share.

(j) The commissioner may suspend, reduce, or terminate the reimbursement to a provider that does not meet the reporting or other requirements of this section. The county of responsibility, as defined in sections 256G.01 to 256G.12, or, if applicable, the tribal agency, is responsible for any federal disallowances. The county or tribe may share this responsibility with its contracted vendors.

(k) The commissioner shall set aside a portion of the federal funds earned for county expenditures under this section to repay the special revenue maximization account under section 256.01, subdivision 2, paragraph (o). The repayment is limited to:

- (1) the costs of developing and implementing this section; and
- (2) programming the information systems.

(l) Payments to counties and tribal agencies for case management expenditures under this section shall only be made from federal earnings from services provided under this section. When this

service is paid by the state without a federal share through fee-for-service, 50 percent of the cost shall be provided by the state. Payments to county-contracted vendors shall include the federal earnings, the state share, and the county share.

(m) Case management services under this subdivision do not include therapy, treatment, legal, or outreach services.

(n) If the recipient is a resident of a nursing facility, intermediate care facility, or hospital, and the recipient's institutional care is paid by medical assistance, payment for case management services under this subdivision is limited to the lesser of:

(1) the last 180 days of the recipient's residency in that facility and may not exceed more than six months in a calendar year; or

(2) the limits and conditions which apply to federal Medicaid funding for this service.

(o) Payment for case management services under this subdivision shall not duplicate payments made under other program authorities for the same purpose.

(p) If the recipient is receiving care in a hospital, nursing facility, or residential setting licensed under chapter 245A or 245D that is staffed 24 hours a day, seven days a week, mental health targeted case management services must actively support identification of community alternatives for the recipient and discharge planning.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 25. Minnesota Statutes 2016, section 256B.0625, is amended by adding a subdivision to read:

Subd. 20b. **Mental health targeted case management through interactive video.** (a) Subject to federal approval, contact made for targeted case management by interactive video shall be eligible for payment if:

(1) the person receiving targeted case management services is residing in:

(i) a hospital;

(ii) a nursing facility; or

(iii) a residential setting licensed under chapter 245A or 245D or a boarding and lodging establishment or lodging establishment that provides supportive services or health supervision services according to section 157.17 that is staffed 24 hours a day, seven days a week;

(2) interactive video is in the best interests of the person and is deemed appropriate by the person receiving targeted case management or the person's legal guardian, the case management provider, and the provider operating the setting where the person is residing;

(3) the use of interactive video is approved as part of the person's written personal service or case plan, taking into consideration the person's vulnerability and active personal relationships; and

(4) interactive video is used for up to, but not more than, 50 percent of the minimum required face-to-face contact.

(b) The person receiving targeted case management or the person's legal guardian has the right to choose and consent to the use of interactive video under this subdivision and has the right to refuse the use of interactive video at any time.

(c) The commissioner shall establish criteria that a targeted case management provider must attest to in order to demonstrate the safety or efficacy of delivering the service via interactive video. The attestation may include that the case management provider has:

(1) written policies and procedures specific to interactive video services that are regularly reviewed and updated;

(2) policies and procedures that adequately address client safety before, during, and after the interactive video services are rendered;

(3) established protocols addressing how and when to discontinue interactive video services;
and

(4) established a quality assurance process related to interactive video services.

(d) As a condition of payment, the targeted case management provider must document the following for each occurrence of targeted case management provided by interactive video:

(1) the time the service began and the time the service ended, including an a.m. and p.m. designation;

(2) the basis for determining that interactive video is an appropriate and effective means for delivering the service to the person receiving case management services;

(3) the mode of transmission of the interactive video services and records evidencing that a particular mode of transmission was utilized;

(4) the location of the originating site and the distant site; and

(5) compliance with the criteria attested to by the targeted case management provider as provided in paragraph (c).

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 26. Minnesota Statutes 2016, section 256B.0625, subdivision 30, is amended to read:

Subd. 30. **Other clinic services.** (a) Medical assistance covers rural health clinic services, federally qualified health center services, nonprofit community health clinic services, and public health clinic services. Rural health clinic services and federally qualified health center services mean services defined in United States Code, title 42, section 1396d(a)(2)(B) and (C). Payment for rural health clinic and federally qualified health center services shall be made according to applicable federal law and regulation.

(b) A federally qualified health center (FQHC) that is beginning initial operation shall submit an estimate of budgeted costs and visits for the initial reporting period in the form and detail required by the commissioner. ~~A federally qualified health center~~ An FQHC that is already in operation shall submit an initial report using actual costs and visits for the initial reporting period. Within 90 days of the end of its reporting period, ~~a federally qualified health center~~ an FQHC shall submit, in the form and detail required by the commissioner, a report of its operations, including allowable costs actually incurred for the period and the actual number of visits for services furnished during the period, and other information required by the commissioner. ~~Federally qualified health centers~~ FQHCs that file Medicare cost reports shall provide the commissioner with a copy of the most recent Medicare cost report filed with the Medicare program intermediary for the reporting year which support the costs claimed on their cost report to the state.

(c) In order to continue cost-based payment under the medical assistance program according to paragraphs (a) and (b), ~~a federally qualified health center~~ an FQHC or rural health clinic must apply for designation as an essential community provider within six months of final adoption of rules by the Department of Health according to section 62Q.19, subdivision 7. For those ~~federally qualified health centers~~ FQHCs and rural health clinics that have applied for essential community provider status within the six-month time prescribed, medical assistance payments will continue to be made according to paragraphs (a) and (b) for the first three years after application. For ~~federally qualified health centers~~ FQHCs and rural health clinics that either do not apply within the time specified above or who have had essential community provider status for three years, medical assistance payments for health services provided by these entities shall be according to the same rates and conditions applicable to the same service provided by health care providers that are not ~~federally qualified health centers~~ FQHCs or rural health clinics.

(d) Effective July 1, 1999, the provisions of paragraph (c) requiring ~~a federally qualified health center~~ an FQHC or a rural health clinic to make application for an essential community provider designation in order to have cost-based payments made according to paragraphs (a) and (b) no longer apply.

(e) Effective January 1, 2000, payments made according to paragraphs (a) and (b) shall be limited to the cost phase-out schedule of the Balanced Budget Act of 1997.

(f) Effective January 1, 2001, ~~through December 31, 2018,~~ each ~~federally qualified health center~~ FQHC and rural health clinic may elect to be paid either under the prospective payment system established in United States Code, title 42, section 1396a(aa), or under an alternative payment methodology consistent with the requirements of United States Code, title 42, section 1396a(aa), and approved by the Centers for Medicare and Medicaid Services. The alternative payment methodology shall be 100 percent of cost as determined according to Medicare cost principles.

(g) Effective for services provided on or after January 1, 2019, all claims for payment of clinic services provided by FQHCs and rural health clinics shall be paid by the commissioner, according to an annual election by the FQHC or rural health clinic, under the current prospective payment system described in paragraph (f), the alternative payment methodology described in paragraph (f), or the alternative payment methodology described in paragraph (l).

~~(g)~~ (h) For purposes of this section, "nonprofit community clinic" is a clinic that:

(1) has nonprofit status as specified in chapter 317A;

(2) has tax exempt status as provided in Internal Revenue Code, section 501(c)(3);

(3) is established to provide health services to low-income population groups, uninsured, high-risk and special needs populations, underserved and other special needs populations;

(4) employs professional staff at least one-half of which are familiar with the cultural background of their clients;

(5) charges for services on a sliding fee scale designed to provide assistance to low-income clients based on current poverty income guidelines and family size; and

(6) does not restrict access or services because of a client's financial limitations or public assistance status and provides no-cost care as needed.

~~(h)~~ (i) Effective for services provided on or after January 1, 2015, all claims for payment of clinic services provided by ~~federally-qualified health centers~~ FQHCs and rural health clinics shall be paid by the commissioner. Effective for services provided on or after January 1, 2015, through July 1, 2017, the commissioner shall determine the most feasible method for paying claims from the following options:

(1) ~~federally-qualified health centers~~ FQHCs and rural health clinics submit claims directly to the commissioner for payment, and the commissioner provides claims information for recipients enrolled in a managed care or county-based purchasing plan to the plan, on a regular basis; or

(2) ~~federally-qualified health centers~~ FQHCs and rural health clinics submit claims for recipients enrolled in a managed care or county-based purchasing plan to the plan, and those claims are submitted by the plan to the commissioner for payment to the clinic.

Effective for services provided on or after January 1, 2019, FQHCs and rural health clinics shall submit claims directly to the commissioner for payment and the commissioner shall provide claims information for recipients enrolled in a managed care plan or county-based purchasing plan to the plan on a regular basis to be determined by the commissioner.

~~(j)~~ (j) For clinic services provided prior to January 1, 2015, the commissioner shall calculate and pay monthly the proposed managed care supplemental payments to clinics, and clinics shall conduct a timely review of the payment calculation data in order to finalize all supplemental payments in accordance with federal law. Any issues arising from a clinic's review must be reported to the commissioner by January 1, 2017. Upon final agreement between the commissioner and a clinic on issues identified under this subdivision, and in accordance with United States Code, title 42, section 1396a(bb), no supplemental payments for managed care plan or county-based purchasing plan claims for services provided prior to January 1, 2015, shall be made after June 30, 2017. If the commissioner and clinics are unable to resolve issues under this subdivision, the parties shall submit the dispute to the arbitration process under section 14.57.

~~(k)~~ (k) The commissioner shall seek a federal waiver, authorized under section 1115 of the Social Security Act, to obtain federal financial participation at the 100 percent federal matching percentage available to facilities of the Indian Health Service or tribal organization in accordance with section

1905(b) of the Social Security Act for expenditures made to organizations dually certified under Title V of the Indian Health Care Improvement Act, Public Law 94-437, and as a ~~federally qualified health center~~ FQHC under paragraph (a) that provides services to American Indian and Alaskan Native individuals eligible for services under this subdivision.

(l) Effective for services provided on or after January 1, 2019, all claims for payment of clinic services provided by FQHCs and rural health clinics shall be paid by the commissioner according to the current prospective payment system described in paragraph (f), or an alternative payment methodology with the following requirements:

(1) each FQHC and rural health clinic must receive a single medical and a single dental organization rate;

(2) the commissioner shall reimburse FQHCs and rural health clinics for allowable costs, including direct patient care costs and patient-related support services, based upon Medicare cost principles that apply at the time the alternative payment methodology is calculated;

(3) the 2019 payment rates for FQHCs and rural health clinics:

(i) must be determined using each FQHC's and rural health clinic's Medicare cost reports from 2015 and 2016. A provider must submit the required cost reports to the commissioner within six months of the second base year calendar or fiscal year end. Cost reports must be submitted six months before the quarter in which the base rate will take effect;

(ii) must be according to current Medicare cost principles applicable to FQHCs and rural health clinics at the time of the alternative payment rate calculation without the application of productivity screens and upper payment limits or the Medicare prospective payment system FQHC aggregate mean upper payment limit; and

(iii) must provide for a 60-day appeals process;

(4) the commissioner shall inflate the base year payment rate for FQHCs and rural health clinics to the effective date by using the Bureau of Economic Analysis's personal consumption expenditures medical care inflator;

(5) the commissioner shall establish a statewide trend inflator using 2015-2020 costs replacing the use of the personal consumption expenditures medical care inflator with the 2023 rate calculation forward;

(6) FQHC and rural health clinic payment rates shall be rebased by the commissioner every two years using the methodology described in clause (3), using the provider's Medicare cost reports from the previous third and fourth years. In nonrebasement years, the commissioner shall adjust using the Medicare economic index until 2023 when the statewide trend inflator is available;

(7) the commissioner shall increase payments by two percent according to Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 6. This is an add-on to the rate and must not be included in the base rate calculation;

(8) for FQHCs and rural health clinics seeking a change of scope of services:

(i) the commissioner shall require FQHCs and rural health clinics to submit requests to the commissioner, if the change of scope would result in the medical or dental payment rate currently received by the FQHC or rural health clinic increasing or decreasing by at least 2-1/2 percent;

(ii) FQHCs and rural health clinics shall submit the request to the commissioner within seven business days of submission of the scope change to the federal Health Resources Services Administration;

(iii) the effective date of the payment change is the date the Health Resources Services Administration approves the FQHC's or rural health clinic's change of scope request;

(iv) for change of scope requests that do not require Health Resources Services Administration approval, FQHCs and rural health clinics shall submit the request to the commissioner before implementing the change, and the effective date of the change is the date the commissioner receives the request from the FQHC or rural health clinic; and

(v) the commissioner shall provide a response to the FQHC's or rural health clinic's change of scope request within 45 days of submission and provide a final decision regarding approval or disapproval within 120 days of submission. If more information is needed to evaluate the request, this timeline may be waived by mutual agreement of the commissioner and the FQHC or rural health clinic; and

(9) the commissioner shall establish a payment rate for new FQHC and rural health clinic organizations, considering the following factors:

(i) a comparison of patient caseload of FQHCs and rural health clinics within a 60-mile radius for organizations established outside the seven-county metropolitan area and within a 30-mile radius for organizations within the seven-county metropolitan area; and

(ii) if a comparison is not feasible under item (i), the commissioner may use Medicare cost reports or audited financial statements to establish the base rate.

Sec. 27. Minnesota Statutes 2016, section 256B.0625, is amended by adding a subdivision to read:

Subd. 56a. **Post-arrest community-based service coordination.** (a) Medical assistance covers post-arrest community-based service coordination for an individual who:

(1) has been identified as having a mental illness or substance use disorder using a screening tool approved by the commissioner;

(2) does not require the security of a public detention facility and is not considered an inmate of a public institution as defined in Code of Federal Regulations, title 42, section 435.1010;

(3) meets the eligibility requirements in section 256B.056; and

(4) has agreed to participate in post-arrest community-based service coordination through a diversion contract in lieu of incarceration.

(b) Post-arrest community-based service coordination means navigating services to address a client's mental health, chemical health, social, economic, and housing needs, or any other activity targeted at reducing the incidence of jail utilization and connecting individuals with existing covered services available to them, including, but not limited to, targeted case management, waiver case management, or care coordination.

(c) Post-arrest community-based service coordination must be provided by individuals who are qualified under one of the following criteria:

(1) a licensed mental health professional as defined in section 245.462, subdivision 18, clauses (1) to (6);

(2) a mental health practitioner as defined in section 245.462, subdivision 17, working under the clinical supervision of a mental health professional; or

(3) a certified peer specialist under section 256B.0615, working under the clinical supervision of a mental health professional.

(d) Reimbursement must be made in 15-minute increments and allowed for up to 60 days following the initial determination of eligibility.

(e) Providers of post-arrest community-based service coordination shall annually report to the commissioner on the number of individuals served, and number of the community-based services that were accessed by recipients. The commissioner shall ensure that services and payments provided under post-arrest community-based service coordination do not duplicate services or payments provided under section 256B.0625, subdivision 20, 256B.0753, 256B.0755, or 256B.0757.

(f) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of cost for post-arrest community-based service coordination services shall be provided by the recipient's county of residence, from sources other than federal funds or funds used to match other federal funds.

EFFECTIVE DATE. This section is effective upon federal approval for services provided on or after July 1, 2017. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 28. Minnesota Statutes 2016, section 256B.0625, subdivision 64, is amended to read:

Subd. 64. **Investigational drugs, biological products, and devices.** (a) Medical assistance and the early periodic screening, diagnosis, and treatment (EPSDT) program do not cover costs incidental to, associated with, or resulting from the use of investigational drugs, biological products, or devices as defined in section 151.375.

(b) Notwithstanding paragraph (a), stiripentol may be covered by the EPSDT program if all the following conditions are met:

(1) the use of stiripentol is determined to be medically necessary;

(2) the enrollee has a documented diagnosis of Dravet syndrome, regardless of whether an SCN1A genetic mutation is found, or the enrollee is a child with malignant migrating partial epilepsy in infancy due to an SCN2A genetic mutation;

(3) all other available covered prescription medications that are medically necessary for the enrollee have been tried without successful outcomes; and

(4) the United States Food and Drug Administration has approved the treating physician's individual patient investigational new drug application (IND) for the use of stiripentol for treatment.

This paragraph does not apply to MinnesotaCare coverage under chapter 256L.

Sec. 29. Minnesota Statutes 2016, section 256B.072, is amended to read:

256B.072 PERFORMANCE REPORTING AND QUALITY IMPROVEMENT SYSTEM.

Subdivision 1. Performance measures. (a) The commissioner of human services shall establish a performance reporting system for health care providers who provide health care services to public program recipients covered under chapters 256B, 256D, and 256L, reporting separately for managed care and fee-for-service recipients.

(b) The measures used for the performance reporting system for medical groups shall include measures of care for asthma, diabetes, hypertension, and coronary artery disease and measures of preventive care services. The measures used for the performance reporting system for inpatient hospitals shall include measures of care for acute myocardial infarction, heart failure, and pneumonia, and measures of care and prevention of surgical infections. In the case of a medical group, the measures used shall be consistent with measures published by nonprofit Minnesota or national organizations that produce and disseminate health care quality measures or evidence-based health care guidelines. In the case of inpatient hospital measures, the commissioner shall appoint the Minnesota Hospital Association and Stratis Health to advise on the development of the performance measures to be used for hospital reporting. To enable a consistent measurement process across the community, the commissioner may use measures of care provided for patients in addition to those identified in paragraph (a). The commissioner shall ensure collaboration with other health care reporting organizations so that the measures described in this section are consistent with those reported by those organizations and used by other purchasers in Minnesota.

(c) The commissioner may require providers to submit information in a required format to a health care reporting organization or to cooperate with the information collection procedures of that organization. The commissioner may collaborate with a reporting organization to collect information reported and to prevent duplication of reporting.

(d) By October 1, 2007, and annually thereafter, the commissioner shall report through a public Web site the results by medical groups and hospitals, where possible, of the measures under this section, and shall compare the results by medical groups and hospitals for patients enrolled in public programs to patients enrolled in private health plans. To achieve this reporting, the commissioner may collaborate with a health care reporting organization that operates a Web site suitable for this purpose.

(e) Performance measures must be stratified as provided under section 62U.02, subdivision 1, paragraph (b), and risk-adjusted as specified in section 62U.02, subdivision 3, paragraph (b).

(f) Assessment of patient satisfaction with chronic pain management for the purpose of determining compensation or quality incentive payments is prohibited. The commissioner shall

require managed care plans, county-based purchasing plans, and integrated health partnerships to comply with this requirement as a condition of contract. This prohibition does not apply to:

(1) assessing patient satisfaction with chronic pain management for the purpose of quality improvement; and

(2) pain management as a part of a palliative care treatment plan to treat patients with cancer or patients receiving hospice care.

Subd. 2. **Adjustment of quality metrics for special populations.** Notwithstanding subdivision 1, paragraph (b), by January 1, 2019, the commissioner shall consider and appropriately adjust quality metrics and benchmarks for providers who primarily serve socio-economically complex patient populations and request to be scored on additional measures in this subdivision. This requirement applies to all medical assistance and MinnesotaCare programs and enrollees, including persons enrolled in managed care and county-based purchasing plans or other managed care organizations, persons receiving care under fee-for-service, and persons receiving care under value-based purchasing arrangements, including but not limited to initiatives operating under sections 256B.0751, 256B.0753, 256B.0755, 256B.0756, and 256B.0757.

Sec. 30. Minnesota Statutes 2016, section 256B.0755, subdivision 1, is amended to read:

Subdivision 1. **Implementation.** (a) The commissioner shall ~~develop and authorize~~ continue a demonstration project established under this section to test alternative and innovative integrated health care delivery systems partnerships, including accountable care organizations that provide services to a specified patient population for an agreed-upon total cost of care or risk/gain sharing payment arrangement. The commissioner shall develop a request for proposals for participation in the demonstration project in consultation with hospitals, primary care providers, health plans, and other key stakeholders.

(b) In developing the request for proposals, the commissioner shall:

(1) establish uniform statewide methods of forecasting utilization and cost of care for the appropriate Minnesota public program populations, to be used by the commissioner for the ~~health care delivery system~~ integrated health partnership projects;

(2) identify key indicators of quality, access, patient satisfaction, and other performance indicators that will be measured, in addition to indicators for measuring cost savings;

(3) allow maximum flexibility to encourage innovation and variation so that a variety of provider collaborations are able to become ~~health care delivery systems~~ integrated health partnerships, and may be customized for the special needs and barriers of patient populations experiencing health disparities due to social, economic, racial, or ethnic factors;

(4) encourage and authorize different levels and types of financial risk;

(5) encourage and authorize projects representing a wide variety of geographic locations, patient populations, provider relationships, and care coordination models;

(6) encourage projects that involve close partnerships between the ~~health care delivery system~~ integrated health partnership and counties and nonprofit agencies that provide services to patients enrolled with the ~~health care delivery system~~ integrated health partnership, including social services, public health, mental health, community-based services, and continuing care;

(7) encourage projects established by community hospitals, clinics, and other providers in rural communities;

(8) identify required covered services for a total cost of care model or services considered in whole or partially in an analysis of utilization for a risk/gain sharing model;

(9) establish a mechanism to monitor enrollment;

(10) establish quality standards for the ~~delivery system~~ integrated health partnership demonstrations that are appropriate for the particular patient population to be served; and

(11) encourage participation of privately insured population so as to create sufficient alignment in demonstration systems.

(c) To be eligible to participate in the ~~demonstration project~~ an integrated health partnership, a health care delivery system must:

(1) provide required covered services and care coordination to recipients enrolled in the ~~health care delivery system~~ integrated health partnership;

(2) establish a process to monitor enrollment and ensure the quality of care provided;

(3) in cooperation with counties and community social service agencies, coordinate the delivery of health care services with existing social services programs;

(4) provide a system for advocacy and consumer protection; and

(5) adopt innovative and cost-effective methods of care delivery and coordination, which may include the use of allied health professionals, telemedicine, patient educators, care coordinators, and community health workers.

(d) ~~A health care delivery system~~ An integrated health partnership demonstration may be formed by the following groups of providers of services and suppliers if they have established a mechanism for shared governance:

(1) professionals in group practice arrangements;

(2) networks of individual practices of professionals;

(3) partnerships or joint venture arrangements between hospitals and health care professionals;

(4) hospitals employing professionals; and

(5) other groups of providers of services and suppliers as the commissioner determines appropriate.

A managed care plan or county-based purchasing plan may participate in this demonstration in collaboration with one or more of the entities listed in clauses (1) to (5).

~~A health care delivery system~~ An integrated health partnership may contract with a managed care plan or a county-based purchasing plan to provide administrative services, including the administration of a payment system using the payment methods established by the commissioner for ~~health care delivery systems~~ integrated health partnerships.

(e) The commissioner may require ~~a health care delivery system~~ an integrated health partnership to enter into additional third-party contractual relationships for the assessment of risk and purchase of stop loss insurance or another form of insurance risk management related to the delivery of care described in paragraph (c).

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 31. Minnesota Statutes 2016, section 256B.0755, subdivision 3, is amended to read:

Subd. 3. **Accountability.** (a) ~~Health care delivery systems~~ Integrated health partnerships must accept responsibility for the quality of care based on standards established under subdivision 1, paragraph (b), clause (10), and the cost of care or utilization of services provided to its enrollees under subdivision 1, paragraph (b), clause (1). Accountability standards must be appropriate to the particular population served.

(b) ~~A health care delivery system~~ An integrated health partnership may contract and coordinate with providers and clinics for the delivery of services and shall contract with community health clinics, federally qualified health centers, community mental health centers or programs, county agencies, and rural clinics to the extent practicable.

(c) ~~A health care delivery system~~ An integrated health partnership must indicate how it will coordinate with other services affecting its patients' health, quality of care, and cost of care that are provided by other providers, county agencies, and other organizations in the local service area. The ~~health care delivery system~~ integrated health partnership must indicate how it will engage other providers, counties, and organizations, including county-based purchasing plans, that provide services to patients of the ~~health care delivery system~~ integrated health partnership on issues related to local population health, including applicable local needs, priorities, and public health goals. The ~~health care delivery system~~ integrated health partnership must describe how local providers, counties, organizations, including county-based purchasing plans, and other relevant purchasers were consulted in developing the application to participate in the demonstration project.

Sec. 32. Minnesota Statutes 2016, section 256B.0755, subdivision 4, is amended to read:

Subd. 4. **Payment system.** (a) In developing a payment system for ~~health care delivery systems~~ integrated health partnerships, the commissioner shall establish a total cost of care benchmark or a risk/gain sharing payment model to be paid for services provided to the recipients enrolled in a ~~health care delivery system~~ an integrated health partnership.

(b) The payment system may include incentive payments to ~~health care delivery systems~~ integrated health partnerships that meet or exceed annual quality and performance targets realized through the coordination of care.

(c) An amount equal to the savings realized to the general fund as a result of the demonstration project shall be transferred each fiscal year to the health care access fund.

(d) The payment system shall include a population-based payment that supports care coordination services for all enrollees served by the integrated health partnerships, and is risk-adjusted to reflect varying levels of care coordination intensiveness for enrollees with chronic conditions, limited English skills, cultural differences, are homeless, or experience health disparities or other barriers to health care. The population-based payment shall be a per member, per month payment paid at least on a quarterly basis. Integrated health partnerships receiving this payment must continue to meet cost and quality metrics under the program to maintain eligibility for the population-based payment. An integrated health partnership is eligible to receive a payment under this paragraph even if the partnership is not participating in a risk-based or gain-sharing payment model and regardless of the size of the patient population served by the integrated health partnership. Any integrated health partnership participant certified as a health care home under section 256B.0751 that agrees to a payment method that includes population-based payments for care coordination is not eligible to receive health care home payment or care coordination fee authorized under section 62U.03 or 256B.0753, subdivision 1, or in-reach care coordination under section 256B.0625, subdivision 56, for any medical assistance or MinnesotaCare recipients enrolled or attributed to the integrated health partnership under this demonstration.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 33. Minnesota Statutes 2016, section 256B.0755, is amended by adding a subdivision to read:

Subd. 9. **Patient incentives.** The commissioner may authorize an integrated health partnership to provide incentives for patients to:

- (1) see a primary care provider for an initial health assessment;
- (2) maintain a continuous relationship with the primary care provider; and
- (3) participate in ongoing health improvement and coordination of care activities.

Sec. 34. **[256B.0759] HEALTH CARE DELIVERY SYSTEMS DEMONSTRATION PROJECT.**

Subdivision 1. **Implementation.** (a) The commissioner shall develop and implement a demonstration project to test alternative and innovative health care delivery system payment and care models that provide services to medical assistance and MinnesotaCare enrollees for an agreed-upon, prospective per capita or total cost of care payment. The commissioner shall implement this demonstration project in coordination with, and as an expansion of, the demonstration project authorized under section 256B.0755.

(b) In developing the demonstration project, the commissioner shall:

(1) establish uniform statewide methods of forecasting utilization and cost of care for the medical assistance and MinnesotaCare populations to be served under the health care delivery system project;

(2) identify key indicators of quality, access, and patient satisfaction, and identify methods to measure cost savings;

(3) allow maximum flexibility to encourage innovation and variation so that a variety of provider collaborations are able to participate as health care delivery systems, and health care delivery systems can be customized to address the special needs and barriers of patient populations;

(4) authorize participation by health care delivery systems representing a variety of geographic locations, patient populations, provider relationships, and care coordination models;

(5) recognize the close partnerships between health care delivery systems and the counties and nonprofit agencies that also provide services to patients enrolled in the health care delivery system, including social services, public health, mental health, community-based services, and continuing care;

(6) identify services to be included under a prospective per capita payment model, and project utilization and cost of these services under a total cost of care risk/gain sharing model;

(7) establish a mechanism to monitor enrollment in each health care delivery system; and

(8) establish quality standards for delivery systems that are appropriate for the specific patient populations served.

Subd. 2. Requirements for health care delivery systems. (a) To be eligible to participate in the demonstration project, a health care delivery system must:

(1) provide required services and care coordination to individuals enrolled in the health care delivery system;

(2) establish a process to monitor enrollment and ensure the quality of care provided;

(3) in cooperation with counties and community social service agencies, coordinate the delivery of health care services with existing social services programs;

(4) provide a system for advocacy and consumer protection; and

(5) adopt innovative and cost-effective methods of care delivery and coordination, which may include the use of allied health professionals, telemedicine and patient educators, care coordinators, community paramedics, and community health workers.

(b) A health care delivery system may be formed by the following types of health care providers, if they have established, as applicable, a mechanism for shared governance:

(1) health care providers in group practice arrangements;

(2) networks of health care providers in individual practice;

(3) partnerships or joint venture arrangements between hospitals and health care providers;

(4) hospitals employing or contracting with the necessary range of health care providers; and

(5) other entities, as the commissioner determines appropriate.

(c) A health care delivery system must contract with a third-party administrator to provide administrative services, including the administration of the payment system established under the demonstration project. The third-party administrator must conduct an assessment of risk, and must purchase stop-loss insurance or another form of insurance risk management related to the delivery of care. The commissioner may waive the requirement for contracting with a third-party administrator if the health care delivery system can demonstrate to the commissioner that it can satisfactorily perform all of the duties assigned to the third-party administrator.

Subd. 3. **Enrollment.** (a) Individuals eligible for medical assistance or MinnesotaCare shall be eligible for enrollment in a health care delivery system. Individuals required to enroll in the prepaid medical assistance program or prepaid MinnesotaCare may opt out of receiving care from a managed care or county-based purchasing plan, and elect to receive care through a health care delivery system established under this section.

(b) Eligible applicants and recipients may enroll in a health care delivery system if the system serves the county in which the applicant or recipient resides. If more than one health care delivery system serves a county, the applicant or recipient may choose among the delivery systems. Enrollment in a specific health care delivery system shall be for a 12-month period, except that enrollees who do not maintain eligibility for medical assistance or MinnesotaCare shall be disenrolled, and enrollees experiencing a qualifying life event, as specified by the commissioner, may change health care delivery systems, or opt out of receiving coverage through a health care delivery system, within 60 days of the date of the qualifying life event.

(c) The commissioner shall assign an applicant or recipient to a health care delivery system if:

(1) the applicant or recipient is currently or has recently been attributed to the health care delivery system as part of an integrated health partnership under section 256B.0755; or

(2) no choice has been made by the applicant or recipient. In this case, the commissioner shall enroll an applicant or recipient based on geographic criteria or based on the health care providers from whom the applicant or recipient has received prior care.

Subd. 4. **Accountability.** (a) Health care delivery systems are responsible for the quality of care based on standards established by the commissioner, and for enrollee cost of care and utilization of services. The commissioner shall adjust accountability standards including the quality, cost, and utilization of care to take into account the social, economic, or cultural barriers experienced by the health care delivery system's patient population.

(b) A health care delivery system must contract with community health clinics, federally qualified health centers, community mental health centers or programs, county agencies, and rural health clinics to the extent practicable.

(c) A health care delivery system must indicate to the commissioner how it will coordinate its services with those delivered by other providers, county agencies, and other organizations in the local service area. The health care delivery system must indicate how it will engage other providers, counties, and organizations that provide services to patients of the health care delivery system on issues related to local population health, including applicable local needs, priorities, and public

health goals. The health care delivery system must describe how local providers, counties, and organizations were consulted in developing the application submitted to the commissioner requiring participation in the demonstration project.

Subd. 5. **Payment system.** The commissioner shall develop a payment system for the health care delivery system project that includes prospective per capita payments, total cost of care benchmarks, and risk/gain sharing payment options. The payment system may include incentive payments to health care delivery systems that meet or exceed annual quality and performance targets through the coordination of care.

Subd. 6. **Federal waiver or approval.** The commissioner shall seek all federal waivers or approval necessary to implement the health care delivery system demonstration project. The commissioner shall notify the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance of any federal action related to the request for waivers and approval.

EFFECTIVE DATE. This section is effective January 1, 2018, or upon receipt of federal waivers or approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 35. Minnesota Statutes 2016, section 256B.0924, is amended by adding a subdivision to read:

Subd. 4a. **Targeted case management through interactive video.** (a) Subject to federal approval, contact made for targeted case management by interactive video shall be eligible for payment under subdivision 6 if:

(1) the person receiving targeted case management services is residing in:

(i) a hospital;

(ii) a nursing facility; or

(iii) a residential setting licensed under chapter 245A or 245D or a boarding and lodging establishment or lodging establishment that provides supportive services or health supervision services according to section 157.17 that is staffed 24 hours a day, seven days a week;

(2) interactive video is in the best interests of the person and is deemed appropriate by the person receiving targeted case management or the person's legal guardian, the case management provider, and the provider operating the setting where the person is residing;

(3) the use of interactive video is approved as part of the person's written personal service or case plan; and

(4) interactive video is used for up to, but not more than, 50 percent of the minimum required face-to-face contact.

(b) The person receiving targeted case management or the person's legal guardian has the right to choose and consent to the use of interactive video under this subdivision and has the right to refuse the use of interactive video at any time.

(c) The commissioner shall establish criteria that a targeted case management provider must attest to in order to demonstrate the safety or efficacy of delivering the service via interactive video. The attestation may include that the case management provider has:

(1) written policies and procedures specific to interactive video services that are regularly reviewed and updated;

(2) policies and procedures that adequately address client safety before, during, and after the interactive video services are rendered;

(3) established protocols addressing how and when to discontinue interactive video services; and

(4) established a quality assurance process related to interactive video services.

(d) As a condition of payment, the targeted case management provider must document the following for each occurrence of targeted case management provided by interactive video:

(1) the time the service began and the time the service ended, including an a.m. and p.m. designation;

(2) the basis for determining that interactive video is an appropriate and effective means for delivering the service to the person receiving case management services;

(3) the mode of transmission of the interactive video services and records evidencing that a particular mode of transmission was utilized;

(4) the location of the originating site and the distant site; and

(5) compliance with the criteria attested to by the targeted case management provider as provided in paragraph (c).

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 36. Minnesota Statutes 2016, section 256B.196, subdivision 2, is amended to read:

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 and other billing professionals 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 and other billing professionals affiliated with Hennepin County Medical Center and to make supplementary payments to physicians and other billing professionals affiliated with Regions Hospital through HealthPartners Medical Group equal to the difference between the established medical assistance payment for physician and other billing professional services and the upper payment limit. Upon receipt of these periodic transfers, the commissioner shall make supplementary payments to physicians and other billing professionals affiliated with Hennepin County Medical Center and shall make supplementary payments to physicians and other billing professionals affiliated with Regions Hospital through HealthPartners Medical Group.

(c) Beginning January 1, 2010, Hennepin County and Ramsey County may make monthly voluntary intergovernmental transfers to the commissioner in amounts not to exceed \$12,000,000 per year from Hennepin County and \$6,000,000 per year from Ramsey County. The commissioner shall increase the medical assistance capitation payments to any licensed health plan under contract with the medical assistance program that agrees to make enhanced payments to Hennepin County Medical Center or Regions Hospital. The increase shall be in an amount equal to the annual value of the monthly transfers plus federal financial participation, with each health plan receiving its pro rata share of the increase based on the pro rata share of medical assistance admissions to Hennepin County Medical Center and Regions Hospital by those plans. Upon the request of the commissioner, health plans shall submit individual-level cost data for verification purposes. The commissioner may ratably reduce these payments on a pro rata basis in order to satisfy federal requirements for actuarial soundness. If payments are reduced, transfers shall be reduced accordingly. Any licensed health plan that receives increased medical assistance capitation payments under the intergovernmental transfer described in this paragraph shall increase its medical assistance payments to Hennepin County Medical Center and Regions Hospital by the same amount as the increased payments received in the capitation payment described in this paragraph.

(d) For the purposes of this subdivision and subdivision 3, the commissioner shall determine an upper payment limit for ambulance services affiliated with Hennepin County Medical Center and the city of St. Paul, and ambulance services owned and operated by another governmental entity that chooses to participate by requesting the commissioner to determine an upper payment limit. 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, the city of St. Paul, and other participating governmental entities of the periodic intergovernmental transfers necessary to match the federal Medicaid payments

available under this subdivision in order to make supplementary payments to Hennepin County Medical Center ~~and~~ the city of St. Paul, and other participating governmental entities equal to the difference between the established medical assistance payment for ambulance services and the upper payment limit. Upon receipt of these periodic transfers, the commissioner shall make supplementary payments to Hennepin County Medical Center ~~and~~ the city of St. Paul, and other participating governmental entities. A tribal government that owns and operates an ambulance service is not eligible to participate under this subdivision.

(e) For the purposes of this subdivision and subdivision 3, the commissioner shall determine an upper payment limit for physicians, dentists, and other billing professionals affiliated with the University of Minnesota and University of Minnesota Physicians. 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 the University of Minnesota Medical School and University of Minnesota School of Dentistry of the periodic intergovernmental transfers necessary to match the federal Medicaid payments available under this subdivision in order to make supplementary payments to physicians, dentists, and other billing professionals affiliated with the University of Minnesota and the University of Minnesota Physicians equal to the difference between the established medical assistance payment for physician, dentist, and other billing professional services and the upper payment limit. Upon receipt of these periodic transfers, the commissioner shall make supplementary payments to physicians, dentists, and other billing professionals affiliated with the University of Minnesota and the University of Minnesota Physicians.

(f) The commissioner shall inform the transferring governmental entities 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 ~~(d)~~ (e), at their maximum level, including increases in upper payment limits, changes in the federal Medicaid match, and other factors.

~~(g)~~ (g) The payments in paragraphs (a) to ~~(d)~~ (e) shall be implemented independently of each other, subject to federal approval and to the receipt of transfers under subdivision 3.

(h) All of the data and funding transactions related to the payments in paragraphs (a) to (e) shall be between the commissioner and the governmental entities.

(i) For purposes of this subdivision, billing professionals are limited to physicians, nurse practitioners, nurse midwives, clinical nurse specialists, physician assistants, anesthesiologists, certified registered nurse anesthetists, dentists, dental hygienists, and dental therapists.

EFFECTIVE DATE. Paragraph (d) is effective July 1, 2017, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is received.

Sec. 37. Minnesota Statutes 2016, section 256B.196, subdivision 3, is amended to read:

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) and (b). 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), and to physicians and other

billing professionals affiliated with Hennepin County Medical Center under subdivision 2, paragraph (b). All of the intergovernmental transfers made by Ramsey County shall be used to match federal payments to Regions Hospital under subdivision 2, paragraph (a), and to physicians and other billing professionals affiliated with Regions Hospital through HealthPartners Medical Group under subdivision 2, paragraph (b). All of the intergovernmental transfer payments made by the University of Minnesota Medical School and the University of Minnesota School of Dentistry shall be used to match federal payments to the University of Minnesota and the University of Minnesota Physicians under subdivision 2, paragraph (e).

Sec. 38. Minnesota Statutes 2016, section 256B.196, subdivision 4, is amended to read:

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, average commercial rates for physician and other professional services as defined in this section, 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, university schools, 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).

Sec. 39. Minnesota Statutes 2016, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and section 256L.12 shall be entered into or renewed on a calendar year basis. 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 and 256L is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B and 256L established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) The commissioner shall withhold five 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 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. Clinical or utilization performance targets and their related criteria must consider evidence-based research and reasonable interventions when available or applicable to the populations served, and must be developed with input from external clinical experts and stakeholders, including managed care plans, county-based purchasing

plans, and providers. The managed care or county-based purchasing 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.

(d) 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.

(e) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the health plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. For 2012, the reduction shall be based on the health plan's utilization in 2009. To earn the return of the withhold each subsequent year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of no less than ten percent of the plan's emergency department utilization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, compared to the previous measurement year until the final performance target is reached. When measuring performance, the commissioner must consider the difference in health risk in a managed care or county-based purchasing plan's membership in the baseline year compared to the measurement year, and work with the managed care or county-based purchasing plan to account for differences that they agree are significant.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a reduction in the utilization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue for each consecutive contract period until the plan's emergency room utilization rate for state health care program enrollees is reduced by 25 percent of the plan's emergency room utilization rate for medical assistance and MinnesotaCare enrollees for calendar year 2009. Hospitals shall cooperate with the health plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(f) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rate for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based

purchasing plan must achieve a qualifying reduction of no less than five percent of the plan's hospital admission rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, compared to the previous calendar year until the final performance target is reached. When measuring performance, the commissioner must consider the difference in health risk in a managed care or county-based purchasing plan's membership in the baseline year compared to the measurement year, and work with the managed care or county-based purchasing plan to account for differences that they agree are significant.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that this reduction in the hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph shall continue until there is a 25 percent reduction in the hospital admission rate compared to the hospital admission rates in calendar year 2011, as determined by the commissioner. The hospital admissions in this performance target do not include the admissions applicable to the subsequent hospital admission performance target under paragraph (g). Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that may be returned to the hospitals if the performance target is achieved.

(g) Effective for services rendered on or after January 1, 2012, the commissioner shall include as part of the performance targets described in paragraph (c) a reduction in the plan's hospitalization admission rates for subsequent hospitalizations within 30 days of a previous hospitalization of a patient regardless of the reason, for medical assistance and MinnesotaCare enrollees, as determined by the commissioner. To earn the return of the withhold each year, the managed care plan or county-based purchasing plan must achieve a qualifying reduction of the subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, of no less than five percent compared to the previous calendar year until the final performance target is reached.

The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if the managed care plan or county-based purchasing plan demonstrates to the satisfaction of the commissioner that a qualifying reduction in the subsequent hospitalization rate was achieved. The commissioner shall structure the withhold so that the commissioner returns a portion of the withheld funds in amounts commensurate with achieved reductions in utilization less than the targeted amount.

The withhold described in this paragraph must continue for each consecutive contract period until the plan's subsequent hospitalization rate for medical assistance and MinnesotaCare enrollees, excluding enrollees in programs described in subdivisions 23 and 28, is reduced by 25 percent of the plan's subsequent hospitalization rate for calendar year 2011. Hospitals shall cooperate with the plans in meeting this performance target and shall accept payment withholds that must be returned to the hospitals if the performance target is achieved.

(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 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.

(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.

(k) Contracts between the commissioner and a prepaid health plan are exempt from the set-aside and preference provisions of section 16C.16, subdivisions 6, paragraph (a), and 7.

(l) The return of the withhold under paragraphs (h) and (i) is not subject to the requirements of paragraph (c).

(m) Managed care plans and county-based purchasing plans shall maintain current and fully executed agreements for all subcontractors, including bargaining groups, for administrative services that are expensed to the state's public health care programs. Subcontractor agreements determined to be material, as defined by the commissioner after taking into account state contracting and relevant statutory requirements, must be in the form of a written instrument or electronic document containing the elements of offer, acceptance, consideration, payment terms, scope, duration of the contract, and how the subcontractor services relate to state public health care programs. Upon request, the commissioner shall have access to all subcontractor documentation under this paragraph. Nothing in this paragraph shall allow release of information that is nonpublic data pursuant to section 13.02.

(n) Effective for services provided on or after January 1, 2018, through December 31, 2018, the commissioner shall withhold two percent of the capitation payment provided to managed care plans under this section, and county-based purchasing plans under section 256B.692, for each medical assistance enrollee. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year, for capitation payments for enrollees for whom the plan has submitted to the commissioner a verification of coverage form completed and signed by the enrollee. The verification of coverage form must be developed by the commissioner and made available to managed care and county-based purchasing plans. The form must require the enrollee to provide the enrollee's name, street address, and the name of the managed care or county-based purchasing plan selected by or assigned to the enrollee, and must include a signature block that allows the enrollee to attest that the information provided is accurate. A plan shall request that all enrollees complete the verification of coverage form, and shall submit all completed forms to the commissioner by February 28, 2018. If a completed form for an enrollee is not received by the commissioner by that date:

(1) the commissioner shall not return to the plan funds withheld for that enrollee;

(2) the commissioner shall cease making capitation payments to the plan for that enrollee, effective with the April 2018 coverage month; and

(3) the commissioner shall disenroll the enrollee from medical assistance, subject to any enrollee appeal.

Sec. 40. Minnesota Statutes 2016, section 256B.69, subdivision 9e, is amended to read:

Subd. 9e. **Financial audits.** ~~(a) The legislative auditor shall conduct or contract with vendors to conduct independent third-party financial audits of the information required to be provided by audit managed care plans and county-based purchasing plans under subdivision 9e, paragraph (b). The audits by the vendors shall be conducted as vendor resources permit and in accordance with generally accepted government auditing standards issued by the United States Government Accountability Office. The contract with the vendors shall be designed and administered so as to render the independent third-party audits eligible for a federal subsidy, if available. The contract shall require the audits to include a determination of compliance with the federal Medicaid rate certification process to determine if a managed care plan or county-based purchasing plan used public money in compliance with federal and state laws, rules, and in accordance with provisions in the plan's contract with the commissioner. The legislative auditor shall conduct the audits in accordance with section 3.972, subdivision 2b.~~

~~(b) For purposes of this subdivision, "independent third-party" means a vendor that is independent in accordance with government auditing standards issued by the United States Government Accountability Office.~~

Sec. 41. Minnesota Statutes 2016, section 256B.69, is amended by adding a subdivision to read:

Subd. 36. **Competitive bidding and procurement.** (a) For managed care organization contracts effective on or after January 1, 2019, the commissioner shall utilize a competitive price and technical bidding program on a regional basis for nonelderly adults and children who are not eligible on the basis of a disability and are enrolled in medical assistance and MinnesotaCare. The commissioner shall establish geographic regions for the purposes of competitive price bidding. The commissioner shall not implement a competitive price bidding program in a single procurement that exceeds 40 percent of the total enrollment to which this paragraph applies except in cases when a managed care organization withdraws from their contract with the state, managed care organizations merge, other significant market changes occur within the purchasing or health care delivery system, or counties agree to a larger procurement. The commissioner shall ensure that there is an adequate choice of managed care organizations based on the potential enrollment, in a manner that is consistent with the requirements of section 256B.694. The commissioner shall operate the competitive bidding program by region, but shall award contracts by county and shall allow managed care organizations with a service area consisting of only a portion of a region to bid on those counties within their licensed service area only. For purposes of this subdivision, "managed care organization" means a demonstration provider as defined in subdivision 2, paragraph (b).

(b) The commissioner shall provide the scoring weight of selection criteria to be assigned in the procurement process and include the scoring weight in the request for proposals. Substantial weight shall be given to county board resolutions and priority areas identified by counties, when that input meets federal requirements under Code of Federal Regulations, title 42, part 338.58.

(c) If a best and final offer is requested, each responding managed care organization must be offered the opportunity to submit a best and final offer.

(d) The commissioner, when evaluating proposals, shall consider network adequacy for dental and other services.

(e) After the managed care organizations are notified about the award determination, but before contracts are signed, the commissioner shall meet with any responder upon request to discuss their individual results in detail. No evaluation materials will be provided in writing until final contracts are signed.

(f) The commissioner shall provide information to potential responders that outlines the goals and objectives of the procurement, in advance of any publication of a request for proposals under this section.

(g) A managed care organization that is aggrieved by the commissioner's decision related to the selection of managed care organizations to deliver services in a county or counties may appeal the commissioner's decision using the process outlined in section 256B.69, subdivision 3a, paragraph (d), except that the recommendation of the three-person mediation panel shall be binding on the commissioner.

(h) The commissioner shall contract for an independent evaluation of the competitive price bidding process. The contractor must solicit recommendations from all parties participating in the competitive price bidding process for service delivery in calendar year 2019 on how the competitive price bidding process may be improved for service delivery in calendar year 2020 and annually thereafter. The commissioner shall make evaluation results available to the public on the department's Web site.

Sec. 42. Minnesota Statutes 2016, section 256B.75, is amended to read:

256B.75 HOSPITAL OUTPATIENT REIMBURSEMENT.

(a) For outpatient hospital facility fee payments for services rendered on or after October 1, 1992, the commissioner of human services shall pay the lower of (1) submitted charge, or (2) 32 percent above the rate in effect on June 30, 1992, except for those services for which there is a federal maximum allowable payment. Effective for services rendered on or after January 1, 2000, payment rates for nonsurgical outpatient hospital facility fees and emergency room facility fees shall be increased by eight percent over the rates in effect on December 31, 1999, except for those services for which there is a federal maximum allowable payment. Services for which there is a federal maximum allowable payment shall be paid at the lower of (1) submitted charge, or (2) the federal maximum allowable payment. Total aggregate payment for outpatient hospital facility fee services shall not exceed the Medicare upper limit. If it is determined that a provision of this section conflicts with existing or future requirements of the United States government with respect to federal financial participation in medical assistance, the federal requirements prevail. The commissioner may, in the aggregate, prospectively reduce payment rates to avoid reduced federal financial participation resulting from rates that are in excess of the Medicare upper limitations.

(b) Notwithstanding paragraph (a), payment for outpatient, emergency, and ambulatory surgery hospital facility fee services for critical access hospitals designated under section 144.1483, clause (9), shall be paid on a cost-based payment system that is based on the cost-finding methods and allowable costs of the Medicare program. Effective for services provided on or after July 1, 2015, rates established for critical access hospitals under this paragraph for the applicable payment year

shall be the final payment and shall not be settled to actual costs. Effective for services delivered on or after the first day of the hospital's fiscal year ending in 2016, the rate for outpatient hospital services shall be computed using information from each hospital's Medicare cost report as filed with Medicare for the year that is two years before the year that the rate is being computed. Rates shall be computed using information from Worksheet C series until the department finalizes the medical assistance cost reporting process for critical access hospitals. After the cost reporting process is finalized, rates shall be computed using information from Title XIX Worksheet D series. The outpatient rate shall be equal to ancillary cost plus outpatient cost, excluding costs related to rural health clinics and federally qualified health clinics, divided by ancillary charges plus outpatient charges, excluding charges related to rural health clinics and federally qualified health clinics.

(c) Effective for services provided on or after July 1, 2003, rates that are based on the Medicare outpatient prospective payment system shall be replaced by a budget neutral prospective payment system that is derived using medical assistance data. The commissioner shall provide a proposal to the 2003 legislature to define and implement this provision.

(d) For fee-for-service services provided on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for outpatient hospital facility services is reduced by .5 percent from the current statutory rate.

(e) In addition to the reduction in paragraph (d), the total payment for fee-for-service services provided on or after July 1, 2003, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced five percent from the current statutory rates. Facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

(f) In addition to the reductions in paragraphs (d) and (e), the total payment for fee-for-service services provided on or after July 1, 2008, made to hospitals for outpatient hospital facility services before third-party liability and spenddown, is reduced three percent from the current statutory rates. Mental health services and facilities defined under section 256.969, subdivision 16, are excluded from this paragraph.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 43. [256B.7635] REIMBURSEMENT FOR EVIDENCE-BASED PUBLIC HEALTH NURSE HOME VISITS.

Effective for services provided on or after January 1, 2018, prenatal and postpartum follow-up home visits provided by public health nurses or registered nurses supervised by a public health nurse using evidence-based models shall be paid \$140 per visit. Evidence-based postpartum follow-up home visits must be administered by home visiting programs that meet the United States Department of Health and Human Services criteria for evidence-based models and are identified by the commissioner of health as eligible to be implemented under the Maternal, Infant, and Early Childhood Home Visiting program. Home visits must target mothers and their children beginning with prenatal visits through age three for the child.

Sec. 44. Minnesota Statutes 2016, section 256B.766, is amended to read:

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, except that for the period July 1, 2009, through June 30, 2011, total payments shall be reduced by 4.5 percent for the medical assistance and general assistance medical care programs, prior to third-party liability and spenddown calculation. Effective July 1, 2010, the commissioner shall classify physical therapy services, occupational therapy services, and speech-language pathology and related services as basic care services. The reduction in this paragraph shall apply to physical therapy services, occupational therapy services, and speech-language pathology and related services provided on or after July 1, 2010.

(b) 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 the reduction effective July 1, 2009, and payments made to the plans shall be reduced effective October 1, 2010, to reflect the reduction effective July 1, 2010.

(c) Effective for services provided on or after September 1, 2011, through June 30, 2013, total payments for outpatient hospital facility fees shall be reduced by five percent from the rates in effect on August 31, 2011.

(d) Effective for services provided on or after September 1, 2011, through June 30, 2013, total payments for ambulatory surgery centers facility fees, medical supplies and durable medical equipment not subject to a volume purchase contract, prosthetics and orthotics, renal dialysis services, laboratory services, public health nursing services, physical therapy services, occupational therapy services, speech therapy services, eyeglasses not subject to a volume purchase contract, hearing aids not subject to a volume purchase contract, and anesthesia services shall be reduced by three percent from the rates in effect on August 31, 2011.

(e) Effective for services provided on or after September 1, 2014, payments for ambulatory surgery centers facility fees, hospice services, renal dialysis services, laboratory services, public health nursing services, eyeglasses not subject to a volume purchase contract, and hearing aids not subject to a volume purchase contract shall be increased by three percent and payments for outpatient hospital facility fees shall be increased by three percent. Payments made to managed care plans and county-based purchasing plans shall not be adjusted to reflect payments under this paragraph.

(f) Payments for medical supplies and durable medical equipment not subject to a volume purchase contract, and prosthetics and orthotics, provided on or after July 1, 2014, through June 30, 2015, shall be decreased by .33 percent. Payments for medical supplies and durable medical equipment not subject to a volume purchase contract, and prosthetics and orthotics, provided on or after July 1, 2015, shall be increased by three percent from the rates as determined under paragraphs (i) and (j).

(g) Effective for services provided on or after July 1, 2015, payments for outpatient hospital facility fees, medical supplies and durable medical equipment not subject to a volume purchase contract, prosthetics and orthotics, and laboratory services to a hospital meeting the criteria specified in section 62Q.19, subdivision 1, paragraph (a), clause (4), shall be increased by 90 percent from the rates in effect on June 30, 2015. Payments made to managed care plans and county-based purchasing plans shall not be adjusted to reflect payments under this paragraph.

(h) This section does not apply to physician and professional services, inpatient hospital services, family planning services, mental health services, dental services, prescription drugs, medical transportation, federally qualified health centers, rural health centers, Indian health services, and Medicare cost-sharing.

(i) Effective for services provided on or after July 1, 2015, the following categories of medical supplies and durable medical equipment shall be individually priced items: enteral nutrition and supplies, customized and other specialized tracheostomy tubes and supplies, electric patient lifts, and durable medical equipment repair and service. This paragraph does not apply to medical supplies and durable medical equipment subject to a volume purchase contract, products subject to the preferred diabetic testing supply program, and items provided to dually eligible recipients when Medicare is the primary payer for the item. The commissioner shall not apply any medical assistance rate reductions to durable medical equipment as a result of Medicare competitive bidding.

(j) Effective for services provided on or after July 1, 2015, medical assistance payment rates for durable medical equipment, prosthetics, orthotics, or supplies shall be increased as follows:

(1) payment rates for durable medical equipment, prosthetics, orthotics, or supplies that were subject to the Medicare competitive bid that took effect in January of 2009 shall be increased by 9.5 percent; and

(2) payment rates for durable medical equipment, prosthetics, orthotics, or supplies on the medical assistance fee schedule, whether or not subject to the Medicare competitive bid that took effect in January of 2009, shall be increased by 2.94 percent, with this increase being applied after calculation of any increased payment rate under clause (1).

This paragraph does not apply to medical supplies and durable medical equipment subject to a volume purchase contract, products subject to the preferred diabetic testing supply program, items provided to dually eligible recipients when Medicare is the primary payer for the item, and individually priced items identified in paragraph (i). Payments made to managed care plans and county-based purchasing plans shall not be adjusted to reflect the rate increases in this paragraph.

(k) Effective for nonpressure support ventilators provided on or after January 1, 2016, the rate shall be the lower of the submitted charge or the Medicare fee schedule rate. Effective for pressure support ventilators provided on or after January 1, 2016, the rate shall be the lower of the submitted charge or 47 percent above the Medicare fee schedule rate.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2016.

Sec. 45. **[256B.90] DEFINITIONS.**

Subdivision 1. **Generally.** For the purposes of sections 256B.90 to 256B.92, the following terms have the meanings given.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 3. **Department.** "Department" means the Department of Human Services.

Subd. 4. **Hospital.** "Hospital" means a public or private institution licensed as a hospital under section 144.50 that participates in medical assistance.

Subd. 5. **Medical assistance.** "Medical assistance" means the state's Medicaid program under title XIX of the Social Security Act and administered according to this chapter.

Subd. 6. **Potentially avoidable complication.** "Potentially avoidable complication" means a harmful event or negative outcome with respect to an individual, including an infection or surgical complication, that: (1) occurs during the individual's transportation to a hospital or long-term care facility or after the individual's admission to a hospital or long-term care facility; and (2) may have resulted from the care caused by insufficient staffing due to nurses' union strikes in the hospital or long-term care facility by licensed practical nurses or registered nurses, lack of care, or treatment provided during the hospital or long-term care facility stay or during the individual's transportation to the hospital or long-term care facility rather than from a natural progression of an underlying disease.

Subd. 7. **Potentially avoidable event.** "Potentially avoidable event" means a potentially avoidable complication, potentially avoidable readmission, or a combination of those events.

Subd. 8. **Potentially avoidable readmission.** "Potentially avoidable readmission" means a return hospitalization of an individual within a period specified by the commissioner that may have resulted from deficiencies in the care or treatment provided to the individual during a previous hospital stay or from deficiencies in posthospital discharge follow-up. Potentially avoidable readmission does not include a hospital readmission necessitated by the occurrence of unrelated events after the discharge. Potentially avoidable readmission includes the readmission of an individual to a hospital for: (1) the same condition or procedure for which the individual was previously admitted; (2) an infection or other complication resulting from care previously provided; or (3) a condition or procedure that indicates that a surgical intervention performed during a previous admission was unsuccessful in achieving the anticipated outcome.

Sec. 46. **[256B.91] MEDICAL ASSISTANCE OUTCOMES-BASED PAYMENT PROGRAM.**

Subdivision 1. **Generally.** The commissioner must establish and implement a medical assistance outcomes-based payment program as a hospital outcomes program under section 256B.92 to provide hospitals with information and incentives to reduce potentially avoidable events.

Subd. 2. **Potentially avoidable event methodology.** (a) The commissioner shall issue a request for proposals to select a methodology for identifying potentially avoidable events and for the costs associated with these events, and for measuring hospital performance with respect to these events.

(b) The commissioner shall develop definitions for each potentially avoidable event according to the selected methodology.

(c) To the extent possible, the methodology shall be one that has been used by other title XIX programs under the Social Security Act or by commercial payers in health care outcomes performance measurement and in outcome-based payment programs. The methodology shall be open, transparent, and available for review by the public.

Subd. 3. **Medical assistance system waste.** (a) The commissioner must conduct a comprehensive analysis of relevant state databases to identify waste in the medical assistance system.

(b) The analysis must identify instances of potentially avoidable events in medical assistance, and the costs associated with these events. The overall estimate of waste must be broken down into actionable categories including but not limited to regions, hospitals, MCOs, physicians, licensed practical nurses and registered nurses, other unlicensed health care personnel, service lines, diagnosis-related groups, medical conditions and procedures, patient characteristics, provider characteristics, and medical assistance program type.

(c) Information collected from this analysis must be utilized in hospital outcomes programs described in this section.

Sec. 47. **[256B.92] HOSPITAL OUTCOMES PROGRAM.**

Subdivision 1. **Generally.** The hospital outcomes program shall:

(1) target reduction of potentially avoidable readmissions and complications;

(2) apply to all state acute care hospitals participating in medical assistance. Program adjustments may be made for certain types of hospitals; and

(3) be implemented in two phases: performance reporting and outcomes-based financial incentives.

Subd. 2. **Phase 1; performance reporting.** (a) The commissioner shall develop and maintain a reporting system to provide each hospital in Minnesota with regular confidential reports regarding the hospital's performance for potentially avoidable readmissions and potentially avoidable complications.

(b) The commissioner shall:

(1) conduct ongoing analyses of relevant state claims databases to identify instances of potentially avoidable readmissions and potentially avoidable complications, and the expenditures associated with these events;

(2) create or locate state readmission and complications norms;

(3) measure actual-to-expected hospital performance compared to state norms;

(4) compare hospitals with peers using risk adjustment procedures that account for the severity of illness of each hospital's patients;

(5) distribute reports to hospitals to provide actionable information to create policies, contracts, or programs designed to improve target outcomes; and

(6) foster collaboration among hospitals to share best practices.

(c) A hospital may share the information contained in the outcome performance reports with physicians and other health care providers providing services at the hospital to foster coordination and cooperation in the hospital's outcome improvement and waste reduction initiatives.

Subd. 3. **Phase 2; outcomes-based financial incentives.** Twelve months after implementation of performance reporting under subdivision 2, the commissioner must establish financial incentives for a hospital to reduce potentially avoidable readmissions and potentially avoidable complications.

Subd. 4. **Rate adjustment methodology.** (a) The commissioner must adjust the reimbursement that a hospital receives under the All Patients Refined Diagnosis-Related Group inpatient prospective payment system based on the hospital's performance exceeding, or failing to achieve, outcome results based on the rates of potentially avoidable readmissions and potentially avoidable complications.

(b) The rate adjustment methodology must:

(1) apply to each hospital discharge;

(2) determine a hospital-specific potentially avoidable outcome adjustment factor based on the hospital's actual versus expected risk-adjusted performance compared to the state norm;

(3) be based on a retrospective analysis of performance prospectively applied;

(4) include both rewards and penalties; and

(5) be communicated to a hospital in a clear and transparent manner.

Subd. 5. **Amendment of contracts.** The commissioner must amend contracts with participating hospitals as necessary to incorporate the financial incentives established under this section.

Subd. 6. **Budget neutrality.** The hospital outcomes program shall be implemented in a budget-neutral manner with respect to aggregate Medicaid hospital expenditures.

Sec. 48. **CAPITATION PAYMENT DELAY.**

(a) The commissioner of human services shall delay the medical assistance capitation payment to managed care plans and county-based purchasing plans due in May 2019 and the payment due in April 2019 for special needs basic care until July 1, 2019. The payment shall be made no earlier than July 1, 2019, and no later than July 31, 2019.

(b) The commissioner of human services shall delay the medical assistance capitation payment to managed care plans and county-based purchasing plans due in May 2021 and the payment due in April 2021 for special needs basic care until July 1, 2021. The payment shall be made no earlier than July 1, 2021, and no later than July 31, 2021.

Sec. 49. **COMMISSIONER DUTY TO SEEK FEDERAL APPROVAL.**

The commissioner of human services shall seek federal approval that is necessary to implement Minnesota Statutes, sections 256B.0621, subdivision 10; 256B.0924, subdivision 4a; and 256B.0625, subdivision 20b, for interactive video contact.

Sec. 50. LEGISLATIVE COMMISSION ON MANAGED CARE.

Subdivision 1. **Establishment.** (a) A legislative commission is created to study and make recommendations to the legislature on issues relating to the competitive bidding program and procurement process for the medical assistance and MinnesotaCare contracts with managed care organizations for nonelderly, nondisabled adults and children enrollees.

(b) For purposes of this section, "managed care organization" means a demonstration provider as defined under Minnesota Statutes, section 256B.69, subdivision 2.

Subd. 2. **Membership.** (a) The commission consists of:

(1) four members of the senate, two members appointed by the senate majority leader and two members appointed by the senate minority leader;

(2) four members of the house of representatives, two members appointed by the speaker of the house and two members appointed by the minority leader; and

(3) the commissioner of human services or the commissioner's designee.

(b) The appointing authorities must make their appointments by July 1, 2017.

(c) The ranking senator from the majority party appointed to the commission shall convene the first meeting no later than September 1, 2017.

(d) The commission shall elect a chair among its members at the first meeting.

(e) Members serve without compensation or reimbursement for expenses, except that legislative members may receive per diem and be reimbursed for expenses as provided in the rules governing their respective bodies.

Subd. 3. **Staff.** The commissioner of human services shall provide staff and administrative and research services, as needed, to the commission.

Subd. 4. **Duties.** (a) The commission shall study, review, and make recommendations on the competitive bidding process for the managed care contracts that provide services to the nonelderly, nondisabled adults and children enrolled in medical assistance and MinnesotaCare. When reviewing the competitive bidding process, the commission shall consider and make recommendations on the following:

(1) the number of geographic regions to be established for competitive bidding and each procurement cycle and the criteria to be used in determining the minimum number of managed care organizations to serve each region or statistical area;

(2) the specifications of the request for proposals, including whether managed care organizations must address in their proposals priority areas identified by counties;

(3) the criteria to be used to determine whether managed care organizations will be requested to provide a best and final offer;

(4) the evaluation process that the commissioner must consider when evaluating each proposal, including the scoring weight to be given when there is a county board resolution identifying a managed care organization preference, and whether consideration shall be given to network adequacy for such services as dental, mental health, and primary care;

(5) the notification process to inform managed care organizations about the award determinations, but before the contracts are signed;

(6) process for appealing the commissioner's decision on the selection of a managed care plan or county-based purchasing plan in a county or counties; and

(7) whether an independent evaluation of the competitive bidding process is necessary, and if so, what the evaluation should entail.

(b) The commissioner shall consider the frequency of the procurement process in terms of how often the commissioner should conduct the procurement of managed care contracts and whether procurement should be conducted on a statewide basis or at staggered times for a limited number of counties within a specified region.

(c) The commission shall review proposed legislation that incorporates new federal regulations into managed care statutes, including the recodification of the managed care requirements in Minnesota Statutes, sections 256B.69 and 256B.692.

(d) The commission shall study, review, and make recommendations on a process that meets federal regulations for ensuring that provider rate increases passed by the legislature and incorporated into the capitated rates paid to managed care organizations are recognized in the rates paid by the managed care organizations to the providers while still providing managed care organizations the flexibility in negotiating rates paid to their provider networks.

(e) The commission shall consult with interested stakeholders and may solicit public testimony, as deemed necessary.

Subd. 5. **Report.** (a) The commission shall report its recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 15, 2018. The report shall include any draft legislation necessary to implement the recommendations.

(b) The commission shall provide preliminary recommendations to the commissioner of human services to be used by the commissioner if the commissioner decides to conduct a procurement for managed care contracts for the 2019 contract year.

Subd. 6. **Open meetings.** The commission is subject to Minnesota Statutes, section 3.055.

Subd. 7. **Expiration.** This section expires June 30, 2018.

Sec. 51. **HEALTH CARE ACCESS FUND ASSESSMENT.**

(a) The commissioner of human services, in consultation with the commissioner of management and budget, shall assess any federal health care reform legislation passed at the federal level on its

effect on the MinnesotaCare program and the need for the health care access fund as its continued source of funding.

(b) The commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance within 90 days of the passage of any federal health care reform legislation.

Sec. 52. OPIOID USE AND ACUPUNCTURE STUDY.

(a) The commissioner of human services shall study the use of opiates for the treatment of chronic pain conditions when acupuncture services are also part of the treatment for chronic pain as compared to opiate use among medical assistance recipients who are not receiving acupuncture. In comparing the sample groups, the commissioner shall look at each group's opiate use and other services as identified by the commissioner.

(b) The aggregate findings of the study shall be submitted by the commissioner to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 15, 2018. The report shall not contain or disclose any patient identifying data.

Sec. 53. ENCOUNTER REPORTING OF 340B ELIGIBLE DRUGS.

(a) The commissioner of human services, in consultation with federally qualified health centers, managed care organizations, and contract pharmacies shall develop a report on the feasibility of a process to identify and report at point of sale the 340B drugs that are dispensed to enrollees of managed care organizations who are patients of a federally qualified health center to exclude these claims from the Medicaid drug rebate program and ensure that duplicate discounts for drugs do not occur.

(b) By January 1, 2018, the commissioner shall present the report to the chairs and ranking minority members of the legislative committees with jurisdiction over medical assistance.

Sec. 54. RATE-SETTING ANALYSIS REPORT.

The commissioner of human services shall conduct a comprehensive analysis report of the current rate-setting methodology for outpatient, professional, and physician services that do not have a cost-based, federally mandated, or contracted rate. The report shall include recommendations for changes to the existing fee schedule that utilizes the Resource-Based Relative Value System (RBRVS), and alternate payment methodologies for services that do not have relative values, to simplify the fee for service medical assistance rate structure and to improve consistency and transparency. In developing the report, the commissioner shall consult with outside experts in Medicaid financing. The commissioner shall provide a report on the analysis to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services finance by November 1, 2019.

Sec. 55. STUDY OF PAYMENT RATES FOR DURABLE MEDICAL EQUIPMENT AND SUPPLIES.

The commissioner of human services shall study the impact of basing medical assistance payment for durable medical equipment and medical supplies on Medicare payment rates, as limited by the payment provisions in the 21st Century Cures Act, Public Law 114-255, on access by medical assistance enrollees to these items. The study must include recommendations for ensuring and improving access by medical assistance enrollees to durable medical equipment and medical supplies. The commissioner shall report study results and recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by July 1, 2020.

Sec. 56. **REVISOR'S INSTRUCTION.**

The revisor of statutes, in the next edition of Minnesota Statutes, shall change the term "health care delivery system" and similar terms to "integrated health partnership" and similar terms, wherever it appears in Minnesota Statutes, section 256B.0755.

Sec. 57. **REPEALER.**

Minnesota Statutes 2016, section 256B.64, is repealed.

ARTICLE 5

HEALTH INSURANCE

Section 1. Minnesota Statutes 2016, section 62A.04, subdivision 1, is amended to read:

Subdivision 1. **Reference.** (a) Any reference to "standard provisions" which may appear in other sections and which refer to accident and sickness or accident and health insurance shall hereinafter be construed as referring to accident and sickness policy provisions.

(b) Notwithstanding paragraph (a), the following do not apply to health plans:

(1) subdivision 2, clauses (4) to (10) and (12);

(2) subdivision 3, clauses (1) and (3) to (7); and

(3) subdivisions 6 and 10.

EFFECTIVE DATE. This section is effective for policies offered, sold, issued, or renewed on or after January 1, 2018.

Sec. 2. Minnesota Statutes 2016, section 62A.21, subdivision 2a, is amended to read:

Subd. 2a. **Continuation privilege.** Every policy described in subdivision 1 shall contain a provision which permits continuation of coverage under the policy for the insured's ~~former spouse and dependent children upon~~, which is defined as required by section 62A.302, and former spouse, who was covered on the day before the entry of a valid decree of dissolution of marriage. The coverage shall be continued until the earlier of the following dates:

(a) the date the insured's former spouse becomes covered under any other group health plan; or

(b) the date coverage would otherwise terminate under the policy.

If the coverage is provided under a group policy, any required premium contributions for the coverage shall be paid by the insured on a monthly basis to the group policyholder for remittance to the insurer. The policy must require the group policyholder to, upon request, provide the insured with written verification from the insurer of the cost of this coverage promptly at the time of eligibility for this coverage and at any time during the continuation period. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated spouses and dependent children with respect to whom the marital relationship has not dissolved, without regard to whether such cost is paid by the employer or employee.

Upon request by the insured's former spouse, who was covered on the day before the entry of a valid decree of dissolution, or dependent child, a health carrier must provide the instructions necessary to enable the child or former spouse to elect continuation of coverage.

EFFECTIVE DATE. This section is effective for policies offered, sold, issued, or renewed on or after January 1, 2018.

Sec. 3. Minnesota Statutes 2016, section 62A.3075, is amended to read:

62A.3075 CANCER CHEMOTHERAPY TREATMENT COVERAGE.

(a) A health plan company that provides coverage under a health plan for cancer chemotherapy treatment shall not require a higher co-payment, deductible, or coinsurance amount for a prescribed, orally administered anticancer medication that is used to kill or slow the growth of cancerous cells than what the health plan requires for an intravenously administered or injected cancer medication that is provided, regardless of formulation or benefit category determination by the health plan company.

(b) A health plan company must not achieve compliance with this section by imposing an increase in co-payment, deductible, or coinsurance amount for an intravenously administered or injected cancer chemotherapy agent covered under the health plan.

(c) Nothing in this section shall be interpreted to prohibit a health plan company from requiring prior authorization or imposing other appropriate utilization controls in approving coverage for any chemotherapy.

(d) A plan offered by the commissioner of management and budget under section 43A.23 is deemed to be at parity and in compliance with this section.

(e) A health plan company is in compliance with this section if it does not include orally administered anticancer medication in the fourth tier of its pharmacy benefit.

(f) A health plan company that provides coverage under a health plan for cancer chemotherapy treatment must indicate the level of coverage for orally administered anticancer medication within its pharmacy benefit filing with the commissioner.

EFFECTIVE DATE. This section is effective January 1, 2018, and applies to health plans offered, sold, issued, or renewed on or after that date.

Sec. 4. Minnesota Statutes 2016, section 62D.105, is amended to read:

62D.105 COVERAGE OF CURRENT SPOUSE, FORMER SPOUSE, AND CHILDREN.

Subdivision 1. **Requirement.** Every health maintenance contract, which in addition to covering the enrollee also provides coverage to the spouse ~~and~~ dependent children, which is defined as required by section 62A.302, and former spouse who was covered on the day before the entry of a valid decree of dissolution of marriage, of the enrollee shall: (1) permit the spouse, former spouse, and dependent children to elect to continue coverage when the enrollee becomes enrolled for benefits under title XVIII of the Social Security Act (Medicare); and (2) permit the dependent children to continue coverage when they cease to be dependent children under the generally applicable requirement of the plan.

Subd. 2. **Continuation privilege.** The coverage described in subdivision 1 may be continued until the earlier of the following dates:

- (1) the date coverage would otherwise terminate under the contract;
- (2) 36 months after continuation by the spouse, former spouse, or dependent was elected; or
- (3) the date the spouse, former spouse, or dependent children become covered under another group health plan or Medicare.

If coverage is provided under a group policy, any required fees for the coverage shall be paid by the enrollee on a monthly basis to the group contract holder for remittance to the health maintenance organization. In no event shall the fee charged exceed 102 percent of the cost to the plan for such coverage for other similarly situated spouse and dependent children to whom subdivision 1 is not applicable, without regard to whether such cost is paid by the employer or employee.

EFFECTIVE DATE. This section is effective for policies offered, sold, issued, or renewed on or after January 1, 2018.

Sec. 5. Minnesota Statutes 2016, section 62E.04, subdivision 11, is amended to read:

Subd. 11. ~~Essential health benefits package~~ **Affordable Care Act compliant plans.** For ~~individual or small group health plans that include the essential health benefits package and are any~~ policy of accident and health insurance subject to the requirements of the Affordable Care Act, as defined under section 62A.011, subdivision 1a, that is offered, sold, issued, or renewed on or after January 1, 2014 ~~2018,~~ the requirements of this section do not apply.

EFFECTIVE DATE. This section is effective for policies offered, sold, issued, or renewed on or after January 1, 2018.

Sec. 6. Minnesota Statutes 2016, section 62E.05, subdivision 1, is amended to read:

Subdivision 1. **Certification.** Upon application by an insurer, fraternal, or employer for certification of a plan of health coverage as a qualified plan or a qualified Medicare supplement plan for the purposes of sections 62E.01 to 62E.19, the commissioner shall make a determination within 90 days as to whether the plan is qualified. All plans of health coverage, except Medicare supplement policies, shall be labeled as "qualified" or "nonqualified" on the front of the policy or

contract, or on the schedule page. All qualified plans shall indicate whether they are number one, two, or three coverage plans. For any policy of accident and health insurance subject to the requirements of the Affordable Care Act, as defined under section 62A.011, subdivision 1a, that is offered, sold, issued, or renewed on or after January 1, 2018, the requirements of this section do not apply.

EFFECTIVE DATE. This section is effective for policies offered, sold, issued, or renewed on or after January 1, 2018.

Sec. 7. Minnesota Statutes 2016, section 62E.06, is amended by adding a subdivision to read:

Subd. 5. Affordable Care Act compliant plans. For any policy of accident and health insurance subject to the requirements of the Affordable Care Act, as defined under section 62A.011, subdivision 1a, that is offered, sold, issued, or renewed on or after January 1, 2018, the requirements of this section do not apply.

EFFECTIVE DATE. This section is effective for policies offered, sold, issued, or renewed on or after January 1, 2018.

Sec. 8. Minnesota Statutes 2016, section 317A.811, subdivision 1, is amended to read:

Subdivision 1. **When required.** (a) Except as provided in subdivision 6, the following corporations shall notify the attorney general of their intent to dissolve, merge, or consolidate, or to transfer all or substantially all of their assets:

(1) a corporation that holds assets for a charitable purpose as defined in section 501B.35, subdivision 2; ~~or~~

(2) a health maintenance organization operating under chapter 62D;

(3) a service plan corporation operating under chapter 62C; or

~~(4)~~ (4) a corporation that is exempt under section 501(c)(3) of the Internal Revenue Code of 1986, or any successor section.

(b) The notice must include:

(1) the purpose of the corporation that is giving the notice;

(2) a list of assets owned or held by the corporation for charitable purposes;

(3) a description of restricted assets and purposes for which the assets were received;

(4) a description of debts, obligations, and liabilities of the corporation;

(5) a description of tangible assets being converted to cash and the manner in which they will be sold;

(6) anticipated expenses of the transaction, including attorney fees;

(7) a list of persons to whom assets will be transferred, if known;

- (8) the purposes of persons receiving the assets; and
- (9) the terms, conditions, or restrictions, if any, to be imposed on the transferred assets.

The notice must be signed on behalf of the corporation by an authorized person.

Sec. 9. Minnesota Statutes 2016, section 317A.811, is amended by adding a subdivision to read:

Subd. 1a. **Nonprofit health care entity; notice required.** A corporation that is a health maintenance organization or a service plan corporation is subject to notice requirements for certain transactions under section 317A.814.

Sec. 10. **[317A.814] NONPROFIT HEALTH CARE ENTITY CONVERSIONS.**

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

(b) "Commissioner" means the commissioner of commerce if the nonprofit health care entity at issue is a service plan corporation operating under chapter 62C, and the commissioner of health if the nonprofit health care entity at issue is a health maintenance organization operating under chapter 62D.

(c) "Conversion benefit entity" means a foundation, corporation, limited liability company, trust, partnership, or other entity that receives public benefit assets, or their value, in connection with a conversion transaction.

(d) "Conversion transaction" or "transaction" means a transaction in which a nonprofit health care entity merges, consolidates, converts, or transfers all or a substantial portion of its assets to an entity that is not a nonprofit corporation organized under this chapter that is also exempt under United States Code, title 26, section 501(c)(3). The substitution of a new corporate member that transfers the control, responsibility for, or governance of a nonprofit health care entity is also considered a transaction for purposes of this section.

(e) "Family member" means a spouse, parent, or child or other legal dependent.

(f) "Nonprofit health care entity" means a service plan corporation operating under chapter 62C and a health maintenance organization operating under chapter 62D.

(g) "Public benefit assets" means:

(1) assets that represent net earnings that were required to be devoted to the nonprofit purposes of the health maintenance organization according to Minnesota Statutes 2016, section 62D.12; and

(2) other assets that are identified as dedicated for a charitable or public purpose.

(h) "Related organization" has the meaning given in section 317A.011.

Subd. 2. **Private inurement.** A nonprofit health care entity must not enter into a conversion transaction if a person who has been an officer, director, or other executive of the nonprofit health care entity, or of a related organization, or a family member of that person:

(1) has or will receive any compensation or other financial benefit, directly or indirectly, in connection with the conversion transaction;

(2) has held or will hold, regardless of whether guaranteed or contingent, an ownership stake, stock, securities, investment, or other financial interest in, or receive any type of onetime compensation or other financial benefit from, any entity to which the nonprofit health care entity transfers public benefit assets in connection with a conversion transaction; or

(3) has held or will hold, regardless of whether guaranteed or contingent, an ownership stake, stock, securities, investment, or other financial interest in, or receive any type of compensation or other financial benefit from, any entity that has or will have a business relationship with any entity to which the nonprofit health care entity transfers public benefit assets in connection with a conversion transaction.

Subd. 3. **Attorney general notice required.** (a) Before entering into a conversion transaction, the nonprofit health care entity must notify the attorney general as specified under section 317A.811, subdivision 1. The notice required by this subdivision also must include an itemization of the nonprofit health care entity's public benefit assets and the valuation that the entity attributes to those assets, a proposed plan for distribution of the value of those assets to a conversion benefit entity that meets the requirements of subdivision 5, and other information from the health maintenance organization or the proposed conversion benefit entity that the attorney general reasonably considers necessary for review of the proposed transaction.

(b) A copy of the notice and other information required under this subdivision must be given to the commissioner.

Subd. 4. **Review elements.** In exercising the powers under this chapter, the attorney general, in consultation with the commissioner, shall consider any factors the attorney general considers relevant, including whether:

(1) the proposed transaction complies with this chapter and chapter 501B and other applicable laws;

(2) the proposed transaction involves or constitutes a breach of charitable trust;

(3) the nonprofit health care entity will receive full and fair value for its public benefit assets;

(4) the full and fair value of the public benefit assets to be transferred has been manipulated in a manner that causes or has caused the value of the assets to decrease;

(5) the proceeds of the proposed transaction will be used consistent with the public benefit for which the assets are held by the nonprofit health care entity;

(6) the proposed transaction will result in a breach of fiduciary duty, as determined by the attorney general, including whether:

(i) conflicts of interest exist related to payments to or benefits conferred upon officers, directors, board members, and executives of the nonprofit health care entity or a related organization;

(ii) the nonprofit health care entity's board of directors exercised reasonable care and due diligence in deciding to pursue the transaction, in selecting the entity with which to pursue the transaction, and in negotiating the terms and conditions of the transaction; and

(iii) the nonprofit health care entity's board of directors considered all reasonably viable alternatives, including any competing offers for its public benefit assets, or alternative transactions;

(7) the transaction will result in private inurement to any person, including owners, stakeholders, or directors, officers, or key staff of the nonprofit health care entity or entity to which the nonprofit health care entity proposes to transfer public benefit assets;

(8) the conversion benefit entity meets the requirements of subdivision 5; and

(9) the attorney general has been provided with sufficient information by the nonprofit health care entity to adequately evaluate the proposed transaction and the effects on the public, provided the attorney general has notified the nonprofit health care entity or the proposed conversion benefit entity of any inadequacy of the information and has provided a reasonable opportunity to remedy that inadequacy.

In addition, the attorney general shall consider the public comments received regarding the proposed conversion transaction and the proposed transaction's likely effect on the availability, accessibility, and affordability of health care services to the public.

Subd. 5. **Conversion benefit entity requirements.** (a) A conversion benefit entity must be an existing or new nonprofit corporation and also be exempt under United States Code, title 26, section 501(c)(3).

(b) The conversion benefit entity must have in place procedures and policies to prohibit conflicts of interest, including but not limited to prohibiting conflicts of interests relating to any grant-making activities that may benefit:

(1) the directors, officers, or other executives of the conversion benefit entity;

(2) any entity to which the nonprofit health care entity transfers any public benefit assets in connection with a conversion transaction; or

(3) any directors, officers, or other executives of any entity to which the nonprofit health care entity transfers any public benefit assets in connection with a conversion transaction.

(c) The charitable purpose and grant-making functions of the conversion benefit entity must be dedicated to meeting the health care needs of the people of this state.

Subd. 6. **Public comment.** The attorney general may solicit public comment regarding the proposed conversion transaction. The attorney general may hold one or more public meetings or solicit written or electronic correspondence. If a meeting is held, notice of the meeting must be published in a qualified newspaper of general circulation in this state at least seven days before the meeting.

Subd. 7. **Relation to other law.** (a) This section is in addition to, and does not affect or limit any power, remedy, or responsibility of a health maintenance organization, service plan corporation,

a conversion benefit entity, the attorney general, or the commissioner under this chapter, chapter 62C, 62D, 501B, or other law.

(b) Nothing in this section authorizes a nonprofit health care entity to enter into a conversion transaction not otherwise permitted under this chapter.

Sec. 11. Laws 2017, chapter 2, article 1, section 5, is amended to read:

Sec. 5. **SUNSET.**

This article ~~sunset~~ ~~June 30~~, other than section 2, subdivision 5, and section 3, sunset August 31, 2018.

Sec. 12. Laws 2017, chapter 2, article 1, section 7, is amended to read:

Sec. 7. **APPROPRIATIONS.**

(a) \$311,788,000 in fiscal year 2017 is appropriated from the general fund to the commissioner of management and budget for premium assistance under section 2. This appropriation is onetime and is available through ~~June 30~~ August 31, 2018.

(b) \$157,000 in fiscal year 2017 is appropriated from the general fund to the legislative auditor for purposes of section 3. This appropriation is onetime.

(c) Any unexpended amount from the appropriation in paragraph (a) after June 30, 2018, shall be transferred ~~on July 1~~ no later than August 31, 2018, from the general fund to the budget reserve account under Minnesota Statutes, section 16A.152, subdivision 1a.

ARTICLE 6

DIRECT CARE AND TREATMENT

Section 1. Minnesota Statutes 2016, section 253B.10, subdivision 1, is amended to read:

Subdivision 1. **Administrative requirements.** (a) When a person is committed, the court shall issue a warrant or an order committing the patient to the custody of the head of the treatment facility. The warrant or order shall state that the patient meets the statutory criteria for civil commitment.

(b) The commissioner shall prioritize patients being admitted from jail or a correctional institution who are:

(1) ordered confined in a state hospital for an examination under Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, paragraph (a), and 20.02, subdivision 2;

(2) under civil commitment for competency treatment and continuing supervision under Minnesota Rules of Criminal Procedure, rule 20.01, subdivision 7;

(3) found not guilty by reason of mental illness under Minnesota Rules of Criminal Procedure, rule 20.02, subdivision 8, and under civil commitment or are ordered to be detained in a state hospital or other facility pending completion of the civil commitment proceedings; or

(4) committed under this chapter to the commissioner after dismissal of the patient's criminal charges.

Patients described in this paragraph must be admitted to a service operated by the commissioner within 48 hours. The commitment must be ordered by the court as provided in section 253B.09, subdivision 1, paragraph (c).

(c) Upon the arrival of a patient at the designated treatment facility, the head of the facility shall retain the duplicate of the warrant and endorse receipt upon the original warrant or acknowledge receipt of the order. The endorsed receipt or acknowledgment must be filed in the court of commitment. After arrival, the patient shall be under the control and custody of the head of the treatment facility.

(d) Copies of the petition for commitment, the court's findings of fact and conclusions of law, the court order committing the patient, the report of the examiners, and the prepetition report shall be provided promptly to the treatment facility. This information shall also be provided by the head of the treatment facility to treatment facility staff in a consistent and timely manner and pursuant to all applicable laws.

Sec. 2. Minnesota Statutes 2016, section 253B.22, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The commissioner shall establish a review board ~~of three or more persons for each regional center~~ to review the admission and retention of its patients receiving services under this chapter. The review board shall be comprised of two members and one chair. Each board member shall be selected and appointed by the commissioner. The appointed members shall be limited to one term of no more than three years and no board member can serve more than three consecutive three-year terms. One member shall be qualified in the diagnosis of mental illness, developmental disability, or chemical dependency, and one member shall be an attorney. The commissioner may, upon written request from the appropriate federal authority, establish a review panel for any federal treatment facility within the state to review the admission and retention of patients hospitalized under this chapter. For any review board established for a federal treatment facility, one of the persons appointed by the commissioner shall be the commissioner of veterans affairs or the commissioner's designee.

Sec. 3. **REVIEW OF ALTERNATIVES TO STATE-OPERATED GROUP HOMES HOUSING ONE PERSON.**

The commissioner of human services shall review the potential for, and the viability of, alternatives to state-operated group homes housing one person. The intent is to create housing options for individuals who do not belong in an institutionalized setting, but need additional support before transitioning to a more independent community placement. The review shall include an analysis of existing housing settings operated by counties and private providers, as well as the potential for new housing settings, and determine the viability for use by state-operated services. The commissioner shall seek input from interested stakeholders as part of the review. An update, including alternatives identified, will be provided by the commissioner to the members of the legislative committees having jurisdiction over human services issues no later than January 15, 2018.

ARTICLE 7

CHILDREN AND FAMILIES

Section 1. Minnesota Statutes 2016, section 13.32, is amended by adding a subdivision to read:

Subd. 12. Access by welfare system. County personnel in the welfare system may request access to education data in order to coordinate services for a student or family. The request must be submitted to the chief administrative officer of the school and must include the basis for the request and a description of the information that is requested. The chief administrative officer must provide a copy of the request to the parent or legal guardian of the student who is the subject of the request, along with a form the parent or legal guardian may execute to consent to the release of specified information to the requester. Education data may be released under this subdivision only if the parent or legal guardian gives informed consent to the release.

Sec. 2. Minnesota Statutes 2016, section 13.46, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** As used in this section:

(a) "Individual" means an individual according to section 13.02, subdivision 8, but does not include a vendor of services.

(b) "Program" includes all programs for which authority is vested in a component of the welfare system according to statute or federal law, including, but not limited to, Native American tribe programs that provide a service component of the welfare system, the aid to families with dependent children program formerly codified in sections 256.72 to 256.87, Minnesota family investment program, temporary assistance for needy families program, medical assistance, general assistance, general assistance medical care formerly codified in chapter 256D, child care assistance program, and child support collections.

(c) "Welfare system" includes the Department of Human Services, local social services agencies, county welfare agencies, county public health agencies, county veteran services agencies, county housing agencies, private licensing agencies, the public authority responsible for child support enforcement, human services boards, community mental health center boards, state hospitals, state nursing homes, the ombudsman for mental health and developmental disabilities, Native American tribes to the extent a tribe provides a service component of the welfare system, and persons, agencies, institutions, organizations, and other entities under contract to any of the above agencies to the extent specified in the contract.

(d) "Mental health data" means data on individual clients and patients of community mental health centers, established under section 245.62, mental health divisions of counties and other providers under contract to deliver mental health services, or the ombudsman for mental health and developmental disabilities.

(e) "Fugitive felon" means a person who has been convicted of a felony and who has escaped from confinement or violated the terms of probation or parole for that offense.

(f) "Private licensing agency" means an agency licensed by the commissioner of human services under chapter 245A to perform the duties under section 245A.16.

Sec. 3. Minnesota Statutes 2016, section 13.46, subdivision 2, is amended to read:

Subd. 2. **General.** (a) Data on individuals collected, maintained, used, or disseminated by the welfare system are private data on individuals, and shall not be disclosed except:

(1) according to section 13.05;

(2) according to court order;

(3) according to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system and an investigator acting on behalf of a county, the state, or the federal government, including a law enforcement person or attorney in the investigation or prosecution of a criminal, civil, or administrative proceeding relating to the administration of a program;

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

(6) to administer federal funds or programs;

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) the participant:

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

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

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

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

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

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of

investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

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

(i) the member:

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

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

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

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

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

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

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

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

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

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

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a community health board as defined in section 145A.02, subdivision 5, when the commissioner or community health board has reason to believe

that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

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

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

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

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

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

(30) child support data on the child, the parents, and relatives of the child may be disclosed to agencies administering programs under titles IV-B and IV-E of the Social Security Act, as authorized by federal law; ~~or~~

(31) to a health care provider governed by sections 144.291 to 144.298, to the extent necessary to coordinate services;

(32) to the chief administrative officer of a school to coordinate services for a student and family; data that may be disclosed under this clause are limited to name, date of birth, gender, and address;
or

(33) to county correctional agencies to the extent necessary to coordinate services and diversion programs; data that may be disclosed under this clause are limited to name, client demographics, program, case status, and county worker information.

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

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

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

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

Sec. 4. Minnesota Statutes 2016, section 13.84, subdivision 5, is amended to read:

Subd. 5. **Disclosure.** Private or confidential court services data shall not be disclosed except:

(a) pursuant to section 13.05;

(b) pursuant to a statute specifically authorizing disclosure of court services data;

(c) with the written permission of the source of confidential data;

(d) to the court services department, parole or probation authority or state or local correctional agency or facility having statutorily granted supervision over the individual subject of the data, or to county personnel within the welfare system;

(e) pursuant to subdivision 6;

(f) pursuant to a valid court order; or

(g) pursuant to section 611A.06, subdivision 3a.

Sec. 5. **[119B.097] AUTHORIZATION WITH A SECONDARY PROVIDER.**

(a) If a child uses any combination of the following providers paid by child care assistance, a parent must choose one primary provider and one secondary provider per child that can be paid by child care assistance:

(1) an individual or child care center licensed under chapter 245A;

(2) an individual or child care center or facility holding a valid child care license issued by another state or tribe; or

(3) a child care center exempt from licensing under section 245A.03.

(b) The amount of child care authorized with the secondary provider cannot exceed 20 hours per two-week service period, per child, and the amount of care paid to a child's secondary provider is limited under section 119B.13, subdivision 1. The total amount of child care authorized with both the primary and secondary provider cannot exceed the amount of child care allowed based on the parents' eligible activity schedule, the child's school schedule, and any other factors relevant to the family's child care needs.

EFFECTIVE DATE. This section is effective April 23, 2018.

Sec. 6. Minnesota Statutes 2016, section 119B.13, subdivision 1, is amended to read:

Subdivision 1. **Subsidy restrictions.** (a) Beginning February 3, 2014, the maximum rate paid for child care assistance in any county or county price cluster under the child care fund shall be the greater of the 25th percentile of the 2011 child care provider rate survey or the maximum rate effective November 28, 2011. For a child care provider located within the boundaries of a city located in two or more of the counties of Benton, Sherburne, and Stearns, the maximum rate paid for child care assistance shall be equal to the maximum rate paid in the county with the highest maximum reimbursement rates or the provider's charge, whichever is less. The commissioner may: (1) assign a county with no reported provider prices to a similar price cluster; and (2) consider county level access when determining final price clusters.

(b) A rate which includes a special needs rate paid under subdivision 3 may be in excess of the maximum rate allowed under this subdivision.

(c) The department shall monitor the effect of this paragraph on provider rates. The county shall pay the provider's full charges for every child in care up to the maximum established. The commissioner shall determine the maximum rate for each type of care on an hourly, full-day, and weekly basis, including special needs and disability care.

~~(d)~~ If a child uses one provider, the maximum payment ~~to a provider~~ for one day of care must not exceed the daily rate. The maximum payment ~~to a provider~~ for one week of care must not exceed the weekly rate.

~~(e)~~ If a child uses two providers under section 119B.097, the maximum payment must not exceed:

(1) the daily rate for one day of care;

(2) the weekly rate for one week of care by the child's primary provider; and

(3) two daily rates during two weeks of care by a child's secondary provider.

~~(f)~~ (f) Child care providers receiving reimbursement under this chapter must not be paid activity fees or an additional amount above the maximum rates for care provided during nonstandard hours for families receiving assistance.

~~(e)~~ ~~When~~ (g) If the provider charge is greater than the maximum provider rate allowed, the parent is responsible for payment of the difference in the rates in addition to any family co-payment fee.

~~(f)~~ (h) All maximum provider rates changes shall be implemented on the Monday following the effective date of the maximum provider rate.

~~(g)~~ (i) Notwithstanding Minnesota Rules, part 3400.0130, subpart 7, maximum registration fees in effect on January 1, 2013, shall remain in effect.

EFFECTIVE DATE. Paragraph (a) is effective July 1, 2018. Paragraphs (d) to (i) are effective April 23, 2018.

Sec. 7. Minnesota Statutes 2016, section 245.814, subdivision 2, is amended to read:

Subd. 2. **Application of coverage.** Coverage shall apply to all foster homes licensed by the Department of Human Services, licensed by a federally recognized tribal government, or established by the juvenile court and certified by the commissioner of corrections pursuant to section 260B.198, subdivision 1, clause (3), item (v), to the extent that the liability is not covered by the provisions of the standard homeowner's or automobile insurance policy. The insurance shall not cover ~~property owned by the individual foster home provider, damage caused intentionally by a person over 12 years of age, or~~ property damage arising out of business pursuits or the operation of any vehicle, machinery, or equipment.

Sec. 8. Minnesota Statutes 2016, section 245.814, subdivision 3, is amended to read:

Subd. 3. **Compensation provisions.** If the commissioner of human services is unable to obtain insurance through ordinary methods for coverage of foster home providers, the appropriation shall be returned to the general fund and the state shall pay claims subject to the following limitations.

(a) Compensation shall be provided only for injuries, damage, or actions set forth in subdivision 1.

(b) Compensation shall be subject to the conditions and exclusions set forth in subdivision 2.

(c) The state shall provide compensation for bodily injury, property damage, or personal injury resulting from the foster home providers activities as a foster home provider while the foster child or adult is in the care, custody, and control of the foster home provider in an amount not to exceed \$250,000 for each occurrence.

(d) The state shall provide compensation for damage or destruction of property caused or sustained by a foster child or adult in an amount not to exceed ~~\$250~~ \$1,000 for each occurrence.

(e) The compensation in paragraphs (c) and (d) is the total obligation for all damages because of each occurrence regardless of the number of claims made in connection with the same occurrence, but compensation applies separately to each foster home. The state shall have no other responsibility to provide compensation for any injury or loss caused or sustained by any foster home provider or foster child or foster adult.

This coverage is extended as a benefit to foster home providers to encourage care of persons who need out-of-home care. Nothing in this section shall be construed to mean that foster home providers are agents or employees of the state nor does the state accept any responsibility for the selection, monitoring, supervision, or control of foster home providers which is exclusively the responsibility of the counties which shall regulate foster home providers in the manner set forth in the rules of the commissioner of human services.

Sec. 9. [245A.23] EXEMPTION FROM POSITIVE SUPPORT STRATEGIES REQUIREMENTS.

(a) A program licensed as a family day care or group family day care facility under Minnesota Rules, chapter 9502, and a program licensed as a child care center under Minnesota Rules, chapter 9503, are exempt from Minnesota Rules, chapter 9544, relating to positive support strategies and restrictive interventions.

(b) When providing services to a child with a developmental disability or related condition, a program licensed as a family day care or group family day care facility under Minnesota Rules, chapter 9502, or a program licensed as a child care center under Minnesota Rules, chapter 9503, is prohibited from using procedures identified in section 245D.06, subdivision 5.

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

Sec. 10. Minnesota Statutes 2016, section 245A.50, subdivision 5, is amended to read:

Subd. 5. Sudden unexpected infant death and abusive head trauma training. (a) License holders must document that before staff persons, caregivers, and helpers assist in the care of infants, they are instructed on the standards in section 245A.1435 and receive training on reducing the risk of sudden unexpected infant death. In addition, license holders must document that before staff persons, caregivers, and helpers assist in the care of infants and children under school age, they receive training on reducing the risk of abusive head trauma from shaking infants and young children. The training in this subdivision may be provided as initial training under subdivision 1 or ongoing annual training under subdivision 7.

(b) Sudden unexpected infant death reduction training required under this subdivision must, at a minimum, address the risk factors related to sudden unexpected infant death, means of reducing the risk of sudden unexpected infant death in child care, and license holder communication with parents regarding reducing the risk of sudden unexpected infant death.

(c) Abusive head trauma training required under this subdivision must, at a minimum, address the risk factors related to shaking infants and young children, means of reducing the risk of abusive head trauma in child care, and license holder communication with parents regarding reducing the risk of abusive head trauma.

(d) Training for family and group family child care providers must be developed by the commissioner in conjunction with the Minnesota Sudden Infant Death Center and approved by the Minnesota Center for Professional Development. Sudden unexpected infant death reduction training and abusive head trauma training may be provided in a single course of no more than two hours in length.

(e) Sudden unexpected infant death reduction training and abusive head trauma training required under this subdivision must be completed in person or as allowed under subdivision 10, clause (1) or (2), at least once every two years. On the years when the license holder is not receiving training in person or as allowed under subdivision 10, clause (1) or (2), the license holder must receive sudden unexpected infant death reduction training and abusive head trauma training through a video of no more than one hour in length. The video must be developed or approved by the commissioner.

(f) An individual who is related to the license holder as defined in section 245A.02, subdivision 13, and who is involved only in the care of the license holder's own infant or child under school age and who is not designated to be a caregiver, helper, or substitute, as defined in Minnesota Rules, part 9502.0315, for the licensed program, is exempt from the sudden unexpected infant death and abusive head trauma training.

Sec. 11. Minnesota Statutes 2016, section 252.27, subdivision 2a, is amended to read:

Subd. 2a. **Contribution amount.** (a) The natural or adoptive parents of a minor child, including a child determined eligible for medical assistance without consideration of parental income, must contribute to the cost of services used by making monthly payments on a sliding scale based on income, unless the child is married or has been married, parental rights have been terminated, or the child's adoption is subsidized according to chapter 259A or through title IV-E of the Social Security Act. The parental contribution is a partial or full payment for medical services provided for diagnostic, therapeutic, curing, treating, mitigating, rehabilitation, maintenance, and personal care services as defined in United States Code, title 26, section 213, needed by the child with a chronic illness or disability.

(b) For households with adjusted gross income equal to or greater than 275 percent of federal poverty guidelines, the parental contribution shall be computed by applying the following schedule of rates to the adjusted gross income of the natural or adoptive parents:

(1) if the adjusted gross income is equal to or greater than 275 percent of federal poverty guidelines and less than or equal to 545 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at ~~2.23~~ 1.6725 percent of adjusted gross income at 275 percent of federal poverty guidelines and increases to ~~6.08~~ 4.56 percent of adjusted gross income for those with adjusted gross income up to 545 percent of federal poverty guidelines;

(2) if the adjusted gross income is greater than 545 percent of federal poverty guidelines and less than 675 percent of federal poverty guidelines, the parental contribution shall be ~~6.08~~ 4.56 percent of adjusted gross income;

(3) if the adjusted gross income is equal to or greater than 675 percent of federal poverty guidelines and less than 975 percent of federal poverty guidelines, the parental contribution shall be determined using a sliding fee scale established by the commissioner of human services which begins at ~~6.08~~ 4.56 percent of adjusted gross income at 675 percent of federal poverty guidelines and increases to ~~8.1~~ 6.075 percent of adjusted gross income for those with adjusted gross income up to 975 percent of federal poverty guidelines; and

(4) if the adjusted gross income is equal to or greater than 975 percent of federal poverty guidelines, the parental contribution shall be ~~10.13~~ 7.5975 percent of adjusted gross income.

If the child lives with the parent, the annual adjusted gross income is reduced by \$2,400 prior to calculating the parental contribution. If the child resides in an institution specified in section 256B.35, the parent is responsible for the personal needs allowance specified under that section in addition to the parental contribution determined under this section. The parental contribution is reduced by any amount required to be paid directly to the child pursuant to a court order, but only if actually paid.

(c) The household size to be used in determining the amount of contribution under paragraph (b) includes natural and adoptive parents and their dependents, including the child receiving services. Adjustments in the contribution amount due to annual changes in the federal poverty guidelines shall be implemented on the first day of July following publication of the changes.

(d) For purposes of paragraph (b), "income" means the adjusted gross income of the natural or adoptive parents determined according to the previous year's federal tax form, except, effective

retroactive to July 1, 2003, taxable capital gains to the extent the funds have been used to purchase a home shall not be counted as income.

(e) The contribution shall be explained in writing to the parents at the time eligibility for services is being determined. The contribution shall be made on a monthly basis effective with the first month in which the child receives services. Annually upon redetermination or at termination of eligibility, if the contribution exceeded the cost of services provided, the local agency or the state shall reimburse that excess amount to the parents, either by direct reimbursement if the parent is no longer required to pay a contribution, or by a reduction in or waiver of parental fees until the excess amount is exhausted. All reimbursements must include a notice that the amount reimbursed may be taxable income if the parent paid for the parent's fees through an employer's health care flexible spending account under the Internal Revenue Code, section 125, and that the parent is responsible for paying the taxes owed on the amount reimbursed.

(f) The monthly contribution amount must be reviewed at least every 12 months; when there is a change in household size; and when there is a loss of or gain in income from one month to another in excess of ten percent. The local agency shall mail a written notice 30 days in advance of the effective date of a change in the contribution amount. A decrease in the contribution amount is effective in the month that the parent verifies a reduction in income or change in household size.

(g) Parents of a minor child who do not live with each other shall each pay the contribution required under paragraph (a). An amount equal to the annual court-ordered child support payment actually paid on behalf of the child receiving services shall be deducted from the adjusted gross income of the parent making the payment prior to calculating the parental contribution under paragraph (b).

(h) The contribution under paragraph (b) shall be increased by an additional five percent if the local agency determines that insurance coverage is available but not obtained for the child. For purposes of this section, "available" means the insurance is a benefit of employment for a family member at an annual cost of no more than five percent of the family's annual income. For purposes of this section, "insurance" means health and accident insurance coverage, enrollment in a nonprofit health service plan, health maintenance organization, self-insured plan, or preferred provider organization.

Parents who have more than one child receiving services shall not be required to pay more than the amount for the child with the highest expenditures. There shall be no resource contribution from the parents. The parent shall not be required to pay a contribution in excess of the cost of the services provided to the child, not counting payments made to school districts for education-related services. Notice of an increase in fee payment must be given at least 30 days before the increased fee is due.

(i) The contribution under paragraph (b) shall be reduced by \$300 per fiscal year if, in the 12 months prior to July 1:

(1) the parent applied for insurance for the child;

(2) the insurer denied insurance;

(3) the parents submitted a complaint or appeal, in writing to the insurer, submitted a complaint or appeal, in writing, to the commissioner of health or the commissioner of commerce, or litigated the complaint or appeal; and

(4) as a result of the dispute, the insurer reversed its decision and granted insurance.

For purposes of this section, "insurance" has the meaning given in paragraph (h).

A parent who has requested a reduction in the contribution amount under this paragraph shall submit proof in the form and manner prescribed by the commissioner or county agency, including, but not limited to, the insurer's denial of insurance, the written letter or complaint of the parents, court documents, and the written response of the insurer approving insurance. The determinations of the commissioner or county agency under this paragraph are not rules subject to chapter 14.

Sec. 12. Minnesota Statutes 2016, section 256E.30, subdivision 2, is amended to read:

Subd. 2. **Allocation of money.** (a) State money appropriated and community service block grant money allotted to the state and all money transferred to the community service block grant from other block grants shall be allocated annually to community action agencies and Indian reservation governments under clauses (b) and (c), and to migrant and seasonal farmworker organizations under clause (d).

(b) The available annual money will provide base funding to all community action agencies and the Indian reservations. Base funding amounts per agency are as follows: for agencies with low income populations up to ~~3,999~~ 1,999, \$25,000; ~~4,000~~ 2,000 to 23,999, \$50,000; and 24,000 or more, \$100,000.

(c) All remaining money of the annual money available after the base funding has been determined must be allocated to each agency and reservation in proportion to the size of the poverty level population in the agency's service area compared to the size of the poverty level population in the state.

(d) Allocation of money to migrant and seasonal farmworker organizations must not exceed three percent of the total annual money available. Base funding allocations must be made for all community action agencies and Indian reservations that received money under this subdivision, in fiscal year 1984, and for community action agencies designated under this section with a service area population of 35,000 or greater.

Sec. 13. Minnesota Statutes 2016, 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. The amount of the transitional standard is published annually by the Department of Human Services. The following table represents the cash portion of the transitional standard effective March 1, 2018.

<u>Number of eligible people</u>	<u>Cash portion</u>
<u>1</u>	<u>\$263</u>
<u>2</u>	<u>\$450</u>
<u>3</u>	<u>\$545</u>

<u>4</u>	<u>\$634</u>
<u>5</u>	<u>\$710</u>
<u>6</u>	<u>\$786</u>
<u>7</u>	<u>\$863</u>
<u>8</u>	<u>\$929</u>
<u>9</u>	<u>\$993</u>
<u>10</u>	<u>\$1,048</u>
<u>Over 10</u>	<u>add \$56 for each additional eligible person</u>

Sec. 14. Minnesota Statutes 2016, section 256J.45, subdivision 2, is amended to read:

Subd. 2. **General information.** The MFIP orientation must consist of a presentation that informs caregivers of:

- (1) the necessity to obtain immediate employment;
- (2) the work incentives under MFIP, including the availability of the federal earned income tax credit and the Minnesota working family tax credit;
- (3) the requirement to comply with the employment plan and other requirements of the employment and training services component of MFIP, including a description of the range of work and training activities that are allowable under MFIP to meet the individual needs of participants;
- (4) the consequences for failing to comply with the employment plan and other program requirements, and that the county agency may not impose a sanction when failure to comply is due to the unavailability of child care or other circumstances where the participant has good cause under subdivision 3;
- (5) the rights, responsibilities, and obligations of participants;
- (6) the types and locations of child care services available through the county agency;
- (7) the availability and the benefits of the early childhood health and developmental screening under sections 121A.16 to 121A.19; 123B.02, subdivision 16; and 123B.10;
- (8) the caregiver's eligibility for transition year child care assistance under section 119B.05;
- (9) the availability of all health care programs, including transitional medical assistance;
- (10) the caregiver's option to choose an employment and training provider and information about each provider, including but not limited to, services offered, program components, job placement rates, job placement wages, and job retention rates;
- (11) the caregiver's option to request approval of an education and training plan according to section 256J.53;
- (12) the work study programs available under the higher education system; ~~and~~

(13) information about the 60-month time limit exemptions under the family violence waiver and referral information about shelters and programs for victims of family violence; and

(14) information about the income exclusions under section 256P.06, subdivision 2.

EFFECTIVE DATE. This section is effective December 1, 2018.

Sec. 15. **[256N.261] SUPPORT FOR ADOPTIVE, FOSTER, AND KINSHIP FAMILIES.**

Subdivision 1. **Program established.** The commissioner shall design and implement a coordinated program to reduce the need for placement changes or out-of-home placements of children and youth in foster care, adoptive placements, and permanent physical and legal custody kinship placements, and to improve the functioning and stability of these families. To the extent federal funds are available, the commissioner shall provide the following adoption and foster care-competent services and ensure that placements are trauma-informed and child and family-centered:

(1) a program providing information, referrals, a parent-to-parent support network, peer support for youth, family activities, respite care, crisis services, educational support, and mental health services for children and youth in adoption, foster care, and kinship placements and adoptive, foster, and kinship families in Minnesota;

(2) training offered statewide in Minnesota for adoptive and kinship families, and training for foster families, and the professionals who serve the families, on the effects of trauma, common disabilities of adopted children and children in foster care, and kinship placements, and challenges in adoption, foster care, and kinship placements; and

(3) periodic evaluation of these services to ensure program effectiveness in preserving and improving the success of adoptive, foster, and kinship placements.

Subd. 2. Definitions. (a) The definitions in this subdivision apply to this section.

(b) "Child and family-centered" means individualized services that respond to a child's or youth's strengths, interests, and current developmental stage, including social, cognitive, emotional, physical, cultural, racial, and spiritual needs, and offer support to the entire adoptive, foster, or kinship family.

(c) "Trauma-informed" means care that acknowledges the effect trauma has on children and the children's families; modifies services to respond to the effects of trauma; emphasizes skill and strength-building rather than symptom management; and focuses on the physical and psychological safety of the child and family.

Sec. 16. Minnesota Statutes 2016, section 256P.06, subdivision 2, is amended to read:

Subd. 2. **Exempted individuals.** (a) The following members of an assistance unit under chapters 119B and 256J are exempt from having their earned income count towards the income of an assistance unit:

(1) children under six years old;

(2) caregivers under 20 years of age enrolled at least half-time in school; and

(3) minors enrolled in school full time.

(b) The following members of an assistance unit are exempt from having their earned and unearned income count towards the income of an assistance unit for 12 consecutive calendar months, beginning the month following the marriage date, for benefits under chapter 256J if the household income does not exceed 275 percent of the federal poverty guideline:

(1) a new spouse to a caretaker in an existing assistance unit; and

(2) the spouse designated by a newly married couple, both of whom were already members of an assistance unit under chapter 256J.

(c) If members identified in paragraph (b) also receive assistance under section 119B.05, they are exempt from having their earned and unearned income count towards the income of the assistance unit if the household income prior to the exemption does not exceed 67 percent of the state median income for recipients for 26 consecutive biweekly periods beginning the second biweekly period after the marriage date.

EFFECTIVE DATE. This section is effective December 1, 2018.

Sec. 17. Minnesota Statutes 2016, section 260C.451, subdivision 6, is amended to read:

Subd. 6. Reentering foster care and accessing services after 18 years of age and up to 21 years of age. (a) Upon request of an individual who had been under the guardianship of the commissioner and who has left foster care without being adopted, the responsible social services agency which had been the commissioner's agent for purposes of the guardianship shall develop with the individual a plan to increase the individual's ability to live safely and independently using the plan requirements of section 260C.212, subdivision 1, paragraph (c), clause (12), and to assist the individual to meet one or more of the eligibility criteria in subdivision 4 if the individual wants to reenter foster care. The responsible social services agency shall provide foster care as required to implement the plan. The responsible social services agency shall enter into a voluntary placement agreement under section 260C.229 with the individual if the plan includes foster care.

(b) Individuals who had not been under the guardianship of the commissioner of human services prior to 18 years of age may ask to reenter foster care after age 18 and, ~~to the extent funds are available,~~ the responsible social services agency that had responsibility for planning for the individual before discharge from foster care ~~may~~ shall provide foster care or other services to the individual for the purpose of increasing the individual's ability to live safely and independently and to meet the eligibility criteria in subdivision 3a, if the individual:

(1) was in foster care for the six consecutive months prior to the person's 18th birthday, or left foster care within six months prior to the person's 18th birthday, and was not discharged home, adopted, or received into a relative's home under a transfer of permanent legal and physical custody under section 260C.515, subdivision 4; or

(2) was discharged from foster care while on runaway status after age 15.

(c) In conjunction with a qualifying and eligible individual under paragraph (b) and other appropriate persons, the responsible social services agency shall develop a specific plan related to

that individual's vocational, educational, social, or maturational needs and; ~~to the extent funds are available~~, provide foster care as required to implement the plan. The responsible social services agency shall enter into a voluntary placement agreement with the individual if the plan includes foster care.

(d) A child who left foster care while under guardianship of the commissioner of human services retains eligibility for foster care for placement at any time prior to 21 years of age.

Sec. 18. **MINNESOTA BIRTH TO AGE EIGHT PILOT PROJECT.**

Subdivision 1. **Authorization.** The commissioner of human services shall award a grant to Dakota County to develop and implement pilots that will evaluate the impact of a coordinated systems and service delivery approach on key developmental milestones and outcomes that ultimately lead to reading proficiency by age eight within the target population. The pilot program is from July 1, 2017, to June 30, 2021.

Subd. 2. **Pilot design and goals.** The pilot will establish five key developmental milestone markers from birth to age eight. Enrollees in the pilot will be developmentally assessed and tracked by a technology solution that tracks developmental milestones along the established developmental continuum. If a child's progress falls below established milestones and the weighted scoring, the coordinated service system will focus on identified areas of concern, mobilize appropriate supportive services, and offer services to identified children and their families.

Subd. 3. **Program participants in phase 1 target population.** Pilot program participants must:

(1) be enrolled in a Women's Infant & Children (WIC) program;

(2) be participating in a family home visiting program, or nurse family practice, or Healthy Families America (HFA);

(3) be children and families qualifying for and participating in early language learners (ELL) in the school district in which they reside; and

(4) opt-in and provide parental consent to participate in the pilot project.

Subd. 4. **Evaluation and report.** The county or counties shall work with a third-party evaluator to evaluate the effectiveness of the pilot and report to the legislative committees with jurisdiction over human services policy and finance each year by February 1 with an update on the progress of the pilot. The final report on the pilot is due January 1, 2022.

Sec. 19. **MINNESOTA PATHWAYS TO PROSPERITY PILOT PROJECT.**

Subdivision 1. **Authorization.** The commissioner of human services may develop a pilot project that shall test an alternative financing model for the distribution of publicly funded benefits. The commissioner may work with interested counties to develop the pilot and determine the waivers that are necessary to implement the pilot project based on the pilot design in subdivisions 2 and 3, and outcome measures in subdivision 4.

Subd. 2. **Pilot project goals.** The goals of the pilot project are to:

(1) reduce the historical separation among the state programs and systems affecting families who are receiving public assistance;

(2) eliminate, where possible, funding restrictions to allow a more comprehensive approach to the needs of the families in the pilot project; and

(3) focus on upstream, prevention-oriented supports and interventions.

Subd. 3. **Project participants.** The pilot project developed by the commissioner may include requirements that participants:

(1) be 26 years of age or younger with a minimum of one child;

(2) voluntarily agree to participate in the pilot project;

(3) be eligible for, applying for, or receiving public benefits including but not limited to housing assistance, education supports, employment supports, child care, transportation supports, medical assistance, earned income tax credit, or the child care tax credit; and

(4) be enrolled in an education program that is focused on obtaining a career that will likely result in a livable wage.

Subd. 4. **Outcomes.** The outcome measures for the pilot project must include:

(1) improvement in the affordability, safety, and permanence of suitable housing;

(2) improvement in family functioning and stability, including in the areas of behavioral health, incarceration, involvement with the child welfare system, or equivalent indicators;

(3) improvement in education readiness and outcomes for parents and children from early childhood through high school, including reduction in absenteeism, preschool readiness scores, third grade reading competency, graduation, GPA, and standardized test improvement;

(4) improvement in attachment to the workforce of one or both parents, including enhanced job stability; wage gains; career advancement; progress in career preparation; or an equivalent combination of these or related measures; and

(5) improvement in health care access and health outcomes for parents and children.

Sec. 20. **INDIAN CHILD WELFARE ACT COMPLIANCE SYSTEM REVIEW.**

By February 1, 2018, the commissioner of human services shall report back to the legislature on a system for the review of cases reported by counties for aid payments under Minnesota Statutes, section 477A.0126, for compliance with the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act. The proposed case review system may include, but is not limited to, the cases to be reviewed, the criteria to be reviewed to demonstrate compliance with the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act, the rate of noncompliance, and training.

Sec. 21. **MOBILE FOOD SHELF GRANTS.**

Subdivision 1. **Grant amount.** Hunger Solutions shall award grants on a priority basis under subdivision 3. A grant to sustain an existing mobile program shall not exceed \$25,000. A grant to create a new mobile program shall not exceed \$75,000.

Subd. 2. **Application contents.** An applicant for a grant under this section must provide the following information to Hunger Solutions:

- (1) the location of the project;
- (2) a description of the mobile program, including the program's size and scope;
- (3) evidence regarding the unserved or underserved nature of the community in which the project is to be located;
- (4) evidence of community support for the project;
- (5) the total cost of the project;
- (6) the amount of the grant request and how funds will be used;
- (7) sources of funding or in-kind contributions for the project that may supplement any grant award;
- (8) the applicant's commitment to maintain the mobile program; and
- (9) any additional information requested by Hunger Solutions.

Subd. 3. **Awarding grants.** In evaluating applications and awarding grants, Hunger Solutions must give priority to an applicant who:

- (1) serves unserved or underserved areas;
- (2) creates a new mobile program or expands an existing mobile program;
- (3) serves areas where a high level of need is identified;
- (4) provides evidence of strong support for the project from residents and other institutions in the community;
- (5) leverages funding for the project from other private and public sources; and
- (6) commits to maintaining the program on a multiyear basis.

Sec. 22. **CHILD CARE CORRECTION ORDER POSTING GUIDELINES.**

No later than November 1, 2017, the commissioner shall develop guidelines for posting public licensing data for licensed child care programs. In developing the guidelines, the commissioner shall consult with stakeholders, including licensed child care center providers, family child care providers, and county agencies.

Sec. 23. **REPEALER.**

Minnesota Statutes 2016, sections 13.468; 179A.50; 179A.51; 179A.52; 179A.53; and 256J.626, subdivision 5, are repealed.

ARTICLE 8

CHEMICAL AND MENTAL HEALTH SERVICES

Section 1. [245.4662] GRANT PROGRAM; MENTAL HEALTH INNOVATION.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Community partnership" means a project involving the collaboration of two or more eligible applicants.

(c) "Eligible applicant" means an eligible county, Indian tribe, mental health service provider, hospital, or community partnership. Eligible applicant does not include a state-operated direct care and treatment facility or program under chapter 246.

(d) "Intensive residential treatment services" has the meaning given in section 256B.0622, subdivision 2.

(e) "Metropolitan area" means the seven-county metropolitan area, as defined in section 473.121, subdivision 2.

Subd. 2. **Grants authorized.** The commissioner of human services shall, in consultation with stakeholders, award grants to eligible applicants to plan, establish, or operate programs to improve accessibility and quality of community-based, outpatient mental health services and reduce the number of clients admitted to regional treatment centers and community behavioral health hospitals. This is a onetime appropriation that is available until June 30, 2021. The commissioner shall award half of all grant funds to eligible applicants in the metropolitan area and half of all grant funds to eligible applicants outside the metropolitan area. An applicant may apply for and the commissioner may award grants for two-year periods.

Subd. 3. **Allocation of grants.** (a) An application must be on a form and contain information as specified by the commissioner but at a minimum must contain:

(1) a description of the purpose or project for which grant funds will be used;

(2) a description of the specific problem the grant funds will address;

(3) a letter of support from the local mental health authority;

(4) a description of achievable objectives, a work plan, and a timeline for implementation and completion of processes or projects enabled by the grant; and

(5) a process for documenting and evaluating results of the grant.

(b) The commissioner shall review each application to determine whether the application is complete and whether the applicant and the project are eligible for a grant. In evaluating applications

according to paragraph (c), the commissioner shall establish criteria including, but not limited to: the eligibility of the project; the applicant's thoroughness and clarity in describing the problem grant funds are intended to address; a description of the applicant's proposed project; a description of the population demographics and service area of the proposed project; the manner in which the applicant will demonstrate the effectiveness of any projects undertaken; the proposed project's longevity and demonstrated financial sustainability after the initial grant period; and evidence of efficiencies and effectiveness gained through collaborative efforts. The commissioner may also consider other relevant factors. In evaluating applications, the commissioner may request additional information regarding a proposed project, including information on project cost. An applicant's failure to provide the information requested disqualifies an applicant. The commissioner shall determine the number of grants awarded.

(c) Eligible applicants may receive grants under this section for purposes including, but not limited to, the following:

(1) intensive residential treatment services providing time-limited mental health services in a residential setting;

(2) the creation of stand-alone urgent care centers for mental health and psychiatric consultation services, crisis residential services, or collaboration between crisis teams and critical access hospitals;

(3) establishing new community mental health services or expanding the capacity of existing services, including supportive housing; and

(4) other innovative projects that improve options for mental health services in community settings and reduce the number of clients who remain in regional treatment centers and community behavioral health hospitals beyond when discharge is determined to be clinically appropriate.

Subd. 4. **Report to legislature.** By December 1, 2019, the commissioner of human services shall deliver a report to the chairs and ranking minority members of the legislative committees with jurisdiction over mental health issues on the outcomes of the projects funded under this section. The report shall, at a minimum, include the amount of funding awarded for each project, a description of the programs and services funded, plans for the long-term sustainability of the projects, and data on outcomes for the programs and services funded. Grantees must provide information and data requested by the commissioner to support the development of this report.

Sec. 2. Minnesota Statutes 2016, section 245.4889, subdivision 1, is amended to read:

Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to make grants from available appropriations to assist:

(1) counties;

(2) Indian tribes;

(3) children's collaboratives under section 124D.23 or 245.493; or

(4) mental health service providers.

(b) The following services are eligible for grants under this section:

(1) services to children with emotional disturbances as defined in section 245.4871, subdivision 15, and their families;

(2) transition services under section 245.4875, subdivision 8, for young adults under age 21 and their families;

(3) respite care services for children with severe emotional disturbances who are at risk of out-of-home placement;

(4) children's mental health crisis services;

(5) mental health services for people from cultural and ethnic minorities;

(6) children's mental health screening and follow-up diagnostic assessment and treatment;

(7) services to promote and develop the capacity of providers to use evidence-based practices in providing children's mental health services;

(8) school-linked mental health services, including transportation for children receiving school-linked mental health services when school is not in session;

(9) building evidence-based mental health intervention capacity for children birth to age five;

(10) suicide prevention and counseling services that use text messaging statewide;

(11) mental health first aid training;

(12) training for parents, collaborative partners, and mental health providers on the impact of adverse childhood experiences and trauma and development of an interactive Web site to share information and strategies to promote resilience and prevent trauma;

(13) transition age services to develop or expand mental health treatment and supports for adolescents and young adults 26 years of age or younger;

(14) early childhood mental health consultation;

(15) evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis, and a public awareness campaign on the signs and symptoms of psychosis; ~~and~~

(16) psychiatric consultation for primary care practitioners; and

(17) providers to begin operations and meet program requirements when establishing a new children's mental health program. These may be start-up grants.

(c) Services under paragraph (b) must be designed to help each child to function and remain with the child's family in the community and delivered consistent with the child's treatment plan. Transition services to eligible young adults under this paragraph ~~(b)~~ must be designed to foster independent living in the community.

EFFECTIVE DATE. Clause (17) is effective the day following final enactment.

Sec. 3. Minnesota Statutes 2016, section 245.91, subdivision 4, is amended to read:

Subd. 4. **Facility or program.** "Facility" or "program" means a nonresidential or residential program as defined in section 245A.02, subdivisions 10 and 14, ~~that is required to be licensed by the commissioner of human services, and any agency, facility, or program that provides services or treatment for mental illness, developmental disabilities, chemical dependency, or emotional disturbance that is required to be licensed, certified, or registered by the commissioner of human services, health, or education;~~ and an acute care inpatient facility that provides services or treatment for mental illness, developmental disabilities, chemical dependency, or emotional disturbance.

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

Sec. 4. Minnesota Statutes 2016, section 245.91, subdivision 6, is amended to read:

Subd. 6. **Serious injury.** "Serious injury" means:

- (1) fractures;
- (2) dislocations;
- (3) evidence of internal injuries;
- (4) head injuries with loss of consciousness or potential for a closed head injury or concussion without loss of consciousness requiring a medical assessment by a health care professional, whether or not further medical attention was sought;
- (5) lacerations involving injuries to tendons or organs, and those for which complications are present;
- (6) extensive second-degree or third-degree burns, and other burns for which complications are present;
- (7) extensive second-degree or third-degree frostbite, and others for which complications are present;
- (8) irreversible mobility or avulsion of teeth;
- (9) injuries to the eyeball;
- (10) ingestion of foreign substances and objects that are harmful;
- (11) near drowning;
- (12) heat exhaustion or sunstroke; ~~and~~
- (13) attempted suicide; and
- (14) all other injuries and incidents considered serious after an assessment by a ~~physician~~ health care professional, including but not limited to self-injurious behavior, a medication error requiring medical treatment, a suspected delay of medical treatment, a complication of a previous injury, or a complication of medical treatment for an injury.

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

Sec. 5. Minnesota Statutes 2016, section 245.94, subdivision 1, is amended to read:

Subdivision 1. **Powers.** (a) The ombudsman may prescribe the methods by which complaints to the office are to be made, reviewed, and acted upon. The ombudsman may not levy a complaint fee.

(b) The ombudsman is a health oversight agency as defined in Code of Federal Regulations, title 45, section 164.501. The ombudsman may access patient records according to Code of Federal Regulations, title 42, section 2.53. For purposes of this paragraph, "records" has the meaning given in Code of Federal Regulations, title 42, section 2.53(a)(1)(i).

(c) The ombudsman may mediate or advocate on behalf of a client.

~~(d)~~ (d) The ombudsman may investigate the quality of services provided to clients and determine the extent to which quality assurance mechanisms within state and county government work to promote the health, safety, and welfare of clients, ~~other than clients in acute care facilities who are receiving services not paid for by public funds. The ombudsman is a health oversight agency as defined in Code of Federal Regulations, title 45, section 164.501.~~

~~(e)~~ (e) At the request of a client, or upon receiving a complaint or other information affording reasonable grounds to believe that the rights of ~~a client~~ one or more clients who is may not be capable of requesting assistance have been adversely affected, the ombudsman may gather information and data about and analyze, on behalf of the client, the actions of an agency, facility, or program.

~~(f)~~ (f) The ombudsman may gather, on behalf of ~~a client~~ one or more clients, records of an agency, facility, or program, or records related to clinical drug trials from the University of Minnesota Department of Psychiatry, if the records relate to a matter that is within the scope of the ombudsman's authority. If the records are private and the client is capable of providing consent, the ombudsman shall first obtain the client's consent. The ombudsman is not required to obtain consent for access to private data on clients with developmental disabilities and individuals served by the Minnesota sex offender program. The ombudsman may also take photographic or videographic evidence while reviewing the actions of an agency, facility, or program, with the consent of the client. The ombudsman is not required to obtain consent for access to private data on decedents who were receiving services for mental illness, developmental disabilities, chemical dependency, or emotional disturbance. All data collected, created, received, or maintained by the ombudsman are governed by chapter 13 and other applicable law.

~~(g)~~ (g) Notwithstanding any law to the contrary, the ombudsman may subpoena a person to appear, give testimony, or produce documents or other evidence that the ombudsman considers relevant to a matter under inquiry. The ombudsman may petition the appropriate court in Ramsey County to enforce the subpoena. A witness who is at a hearing or is part of an investigation possesses the same privileges that a witness possesses in the courts or under the law of this state. Data obtained from a person under this paragraph are private data as defined in section 13.02, subdivision 12.

~~(h)~~ (h) The ombudsman may, at reasonable times in the course of conducting a review, enter and view premises within the control of an agency, facility, or program.

(h)(i) The ombudsman may attend Department of Human Services Review Board and Special Review Board proceedings; proceedings regarding the transfer of clients, as defined in section 246.50, subdivision 4, between institutions operated by the Department of Human Services; and, subject to the consent of the affected client, other proceedings affecting the rights of clients. The ombudsman is not required to obtain consent to attend meetings or proceedings and have access to private data on clients with developmental disabilities and individuals served by the Minnesota sex offender program.

(h)(j) The ombudsman shall gather data of agencies, facilities, or programs classified as private or confidential as defined in section 13.02, subdivisions 3 and 12, regarding services provided to clients with developmental disabilities and individuals served by the Minnesota sex offender program.

(h)(k) To avoid duplication and preserve evidence, the ombudsman shall inform relevant licensing or regulatory officials before undertaking a review of an action of the facility or program.

(l) The Office of Ombudsman shall provide the services of the Civil Commitment Training and Resource Center.

(h)(m) The ombudsman shall monitor the treatment of individuals participating in a University of Minnesota Department of Psychiatry clinical drug trial and ensure that all protections for human subjects required by federal law and the Institutional Review Board are provided.

(h)(n) Sections 245.91 to 245.97 are in addition to other provisions of law under which any other remedy or right is provided.

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

Sec. 6. Minnesota Statutes 2016, section 245.97, subdivision 6, is amended to read:

Subd. 6. **Terms, compensation, and removal.** The membership terms, compensation, and removal of members of the committee and the filling of membership vacancies are governed by section ~~15.0575~~ 15.0597.

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

Sec. 7. Minnesota Statutes 2016, section 245A.03, subdivision 2, is amended to read:

Subd. 2. **Exclusion from licensure.** (a) This chapter does not apply to:

(1) residential or nonresidential programs that are provided to a person by an individual who is related unless the residential program is a child foster care placement made by a local social services agency or a licensed child-placing agency, except as provided in subdivision 2a;

(2) nonresidential programs that are provided by an unrelated individual to persons from a single related family;

(3) residential or nonresidential programs that are provided to adults who do not ~~abuse chemicals or who do not have a chemical dependency~~ misuse substances or have a substance use disorder, a mental illness, a developmental disability, a functional impairment, or a physical disability;

(4) sheltered workshops or work activity programs that are certified by the commissioner of employment and economic development;

(5) programs operated by a public school for children 33 months or older;

(6) nonresidential programs primarily for children that provide care or supervision for periods of less than three hours a day while the child's parent or legal guardian is in the same building as the nonresidential program or present within another building that is directly contiguous to the building in which the nonresidential program is located;

(7) nursing homes or hospitals licensed by the commissioner of health except as specified under section 245A.02;

(8) board and lodge facilities licensed by the commissioner of health that do not provide children's residential services under Minnesota Rules, chapter 2960, mental health or chemical dependency treatment;

(9) homes providing programs for persons placed by a county or a licensed agency for legal adoption, unless the adoption is not completed within two years;

(10) programs licensed by the commissioner of corrections;

(11) recreation programs for children or adults that are operated or approved by a park and recreation board whose primary purpose is to provide social and recreational activities;

(12) programs operated by a school as defined in section 120A.22, subdivision 4; YMCA as defined in section 315.44; YWCA as defined in section 315.44; or JCC as defined in section 315.51, whose primary purpose is to provide child care or services to school-age children;

(13) Head Start nonresidential programs which operate for less than 45 days in each calendar year;

(14) noncertified boarding care homes unless they provide services for five or more persons whose primary diagnosis is mental illness or a developmental disability;

(15) programs for children such as scouting, boys clubs, girls clubs, and sports and art programs, and nonresidential programs for children provided for a cumulative total of less than 30 days in any 12-month period;

(16) residential programs for persons with mental illness, that are located in hospitals;

(17) the religious instruction of school-age children; Sabbath or Sunday schools; or the congregational care of children by a church, congregation, or religious society during the period used by the church, congregation, or religious society for its regular worship;

(18) camps licensed by the commissioner of health under Minnesota Rules, chapter 4630;

(19) mental health outpatient services for adults with mental illness or children with emotional disturbance;

(20) residential programs serving school-age children whose sole purpose is cultural or educational exchange, until the commissioner adopts appropriate rules;

(21) community support services programs as defined in section 245.462, subdivision 6, and family community support services as defined in section 245.4871, subdivision 17;

(22) the placement of a child by a birth parent or legal guardian in a preadoptive home for purposes of adoption as authorized by section 259.47;

(23) settings registered under chapter 144D which provide home care services licensed by the commissioner of health to fewer than seven adults;

(24) ~~chemical dependency or substance abuse use disorder~~ treatment activities of licensed professionals in private practice as defined in ~~Minnesota Rules, part 9530.6405, subpart 15, when the treatment activities are not paid for by the consolidated chemical dependency treatment fund~~ section 245G.01, subdivision 17;

(25) consumer-directed community support service funded under the Medicaid waiver for persons with developmental disabilities when the individual who provided the service is:

(i) the same individual who is the direct payee of these specific waiver funds or paid by a fiscal agent, fiscal intermediary, or employer of record; and

(ii) not otherwise under the control of a residential or nonresidential program that is required to be licensed under this chapter when providing the service;

(26) a program serving only children who are age 33 months or older, that is operated by a nonpublic school, for no more than four hours per day per child, with no more than 20 children at any one time, and that is accredited by:

(i) an accrediting agency that is formally recognized by the commissioner of education as a nonpublic school accrediting organization; or

(ii) an accrediting agency that requires background studies and that receives and investigates complaints about the services provided.

A program that asserts its exemption from licensure under item (ii) shall, upon request from the commissioner, provide the commissioner with documentation from the accrediting agency that verifies: that the accreditation is current; that the accrediting agency investigates complaints about services; and that the accrediting agency's standards require background studies on all people providing direct contact services; ~~or~~

(27) a program operated by a nonprofit organization incorporated in Minnesota or another state that serves youth in kindergarten through grade 12; provides structured, supervised youth development activities; and has learning opportunities take place before or after school, on weekends, or during the summer or other seasonal breaks in the school calendar. A program exempt under this clause is not eligible for child care assistance under chapter 119B. A program exempt under this clause must:

(i) have a director or supervisor on site who is responsible for overseeing written policies relating to the management and control of the daily activities of the program, ensuring the health and safety of program participants, and supervising staff and volunteers;

(ii) have obtained written consent from a parent or legal guardian for each youth participating in activities at the site; and

(iii) have provided written notice to a parent or legal guardian for each youth at the site that the program is not licensed or supervised by the state of Minnesota and is not eligible to receive child care assistance payments;

(28) a county that is an eligible vendor under section 254B.05 to provide care coordination and comprehensive assessment services; or

(29) a recovery community organization that is an eligible vendor under section 254B.05 to provide peer recovery support services.

(b) For purposes of paragraph (a), clause (6), a building is directly contiguous to a building in which a nonresidential program is located if it shares a common wall with the building in which the nonresidential program is located or is attached to that building by skyway, tunnel, atrium, or common roof.

(c) Except for the home and community-based services identified in section 245D.03, subdivision 1, nothing in this chapter shall be construed to require licensure for any services provided and funded according to an approved federal waiver plan where licensure is specifically identified as not being a condition for the services and funding.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 8. Minnesota Statutes 2016, section 245A.191, is amended to read:

245A.191 PROVIDER ELIGIBILITY FOR PAYMENTS FROM THE CHEMICAL DEPENDENCY CONSOLIDATED TREATMENT FUND.

(a) When a ~~chemical dependency~~ substance use disorder treatment provider licensed under this chapter, and governed by the standards of chapter 245G or Minnesota Rules, parts 2960.0430 to 2960.0490 or 9530.6405 to 9530.6505, agrees to meet the applicable requirements under section 254B.05, subdivision 5, ~~paragraphs (b), clauses (1) to (4) and (6), (e), and (e)~~, to be eligible for enhanced funding from the chemical dependency consolidated treatment fund, the applicable requirements under section 254B.05 are also licensing requirements that may be monitored for compliance through licensing investigations and licensing inspections.

(b) Noncompliance with the requirements identified under paragraph (a) may result in:

(1) a correction order or a conditional license under section 245A.06, or sanctions under section 245A.07;

(2) nonpayment of claims submitted by the license holder for public program reimbursement;

(3) recovery of payments made for the service;

- (4) disenrollment in the public payment program; or
- (5) other administrative, civil, or criminal penalties as provided by law.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 9. **[245G.01] DEFINITIONS.**

Subdivision 1. Scope. The terms used in this chapter have the meanings given them.

Subd. 2. Administration of medication. "Administration of medication" means providing a medication to a client, and includes the following tasks, performed in the following order:

- (1) checking the client's medication record;
- (2) preparing the medication for administration;
- (3) administering the medication to the client;
- (4) documenting the administration of the medication, or the reason for not administering a medication as prescribed; and
- (5) reporting information to a licensed practitioner or a nurse regarding a problem with the administration of medication or the client's refusal to take the medication, if applicable.

Subd. 3. Adolescent. "Adolescent" means an individual under 18 years of age.

Subd. 4. Alcohol and drug counselor. "Alcohol and drug counselor" has the meaning given in section 148F.01, subdivision 5.

Subd. 5. Applicant. "Applicant" has the meaning given in section 245A.02, subdivision 3.

Subd. 6. Capacity management system. "Capacity management system" means a database maintained by the department to compile and make information available to the public about the waiting list status and current admission capability of each opioid treatment program.

Subd. 7. Central registry. "Central registry" means a database maintained by the department to collect identifying information from two or more programs about an individual applying for maintenance treatment or detoxification treatment for opioid addiction to prevent an individual's concurrent enrollment in more than one program.

Subd. 8. Client. "Client" means an individual accepted by a license holder for assessment or treatment of a substance use disorder. An individual remains a client until the license holder no longer provides or intends to provide the individual with treatment service.

Subd. 9. Commissioner. "Commissioner" means the commissioner of human services.

Subd. 10. Co-occurring disorders. "Co-occurring disorders" means a diagnosis of both a substance use disorder and a mental health disorder.

Subd. 11. Department. "Department" means the Department of Human Services.

Subd. 12. **Direct contact.** "Direct contact" has the meaning given for "direct contact" in section 245C.02, subdivision 11.

Subd. 13. **Face-to-face.** "Face-to-face" means two-way, real-time, interactive and visual communication between a client and a treatment service provider and includes services delivered in person or via telemedicine.

Subd. 14. **License.** "License" has the meaning given in section 245A.02, subdivision 8.

Subd. 15. **License holder.** "License holder" has the meaning given in section 245A.02, subdivision 9.

Subd. 16. **Licensed practitioner.** "Licensed practitioner" means an individual who is authorized to prescribe medication as defined in section 151.01, subdivision 23.

Subd. 17. **Licensed professional in private practice.** "Licensed professional in private practice" means an individual who:

(1) is licensed under chapter 148F, or is exempt from licensure under that chapter but is otherwise licensed to provide alcohol and drug counseling services;

(2) practices solely within the permissible scope of the individual's license as defined in the law authorizing licensure; and

(3) does not affiliate with other licensed or unlicensed professionals to provide alcohol and drug counseling services. Affiliation does not include conferring with another professional or making a client referral.

Subd. 18. **Nurse.** "Nurse" means an individual licensed and currently registered to practice professional or practical nursing as defined in section 148.171, subdivisions 14 and 15.

Subd. 19. **Opioid treatment program or OTP.** "Opioid treatment program" or "OTP" means a program or practitioner engaged in opioid treatment of an individual that provides dispensing of an opioid agonist treatment medication, along with a comprehensive range of medical and rehabilitative services, when clinically necessary, to an individual to alleviate the adverse medical, psychological, or physical effects of an opioid addiction. OTP includes detoxification treatment, short-term detoxification treatment, long-term detoxification treatment, maintenance treatment, comprehensive maintenance treatment, and interim maintenance treatment.

Subd. 20. **Paraprofessional.** "Paraprofessional" means an employee, agent, or independent contractor of the license holder who performs tasks to support treatment service. A paraprofessional may be referred to by a variety of titles including but not limited to technician, case aide, or counselor assistant. If currently a client of the license holder, the client cannot be a paraprofessional for the license holder.

Subd. 21. **Student intern.** "Student intern" means an individual who is authorized by a licensing board to provide services under supervision of a licensed professional.

Subd. 22. **Substance.** "Substance" means alcohol, solvents, controlled substances as defined in section 152.01, subdivision 4, and other mood-altering substances.

Subd. 23. **Substance use disorder.** "Substance use disorder" has the meaning given in the current Diagnostic and Statistical Manual of Mental Disorders.

Subd. 24. **Substance use disorder treatment.** "Substance use disorder treatment" means treatment of a substance use disorder, including the process of assessment of a client's needs, development of planned methods, including interventions or services to address a client's needs, provision of services, facilitation of services provided by other service providers, and ongoing reassessment by a qualified professional when indicated. The goal of substance use disorder treatment is to assist or support the client's efforts to recover from a substance use disorder.

Subd. 25. **Target population.** "Target population" means individuals with a substance use disorder and the specified characteristics that a license holder proposes to serve.

Subd. 26. **Telemedicine.** "Telemedicine" means the delivery of a substance use disorder treatment service while the client is at an originating site and the licensed health care provider is at a distant site as specified in section 254B.05, subdivision 5, paragraph (f).

Subd. 27. **Treatment director.** "Treatment director" means an individual who meets the qualifications specified in section 245G.11, subdivisions 1 and 3, and is designated by the license holder to be responsible for all aspects of the delivery of treatment service.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 10. **[245G.02] APPLICABILITY.**

Subdivision 1. **Applicability.** Except as provided in subdivisions 2 and 3, no person, corporation, partnership, voluntary association, controlling individual, or other organization may provide a substance use disorder treatment service to an individual with a substance use disorder unless licensed by the commissioner.

Subd. 2. **Exemption from license requirement.** This chapter does not apply to a county or recovery community organization that is providing a service for which the county or recovery community organization is an eligible vendor under section 254B.05. This chapter does not apply to an organization whose primary functions are information, referral, diagnosis, case management, and assessment for the purposes of client placement, education, support group services, or self-help programs. This chapter does not apply to the activities of a licensed professional in private practice.

Subd. 3. **Excluded hospitals.** This chapter does not apply to substance use disorder treatment provided by a hospital licensed under chapter 62J, or under sections 144.50 to 144.56, unless the hospital accepts funds for substance use disorder treatment from the consolidated chemical dependency treatment fund under chapter 254B, medical assistance under chapter 256B, or MinnesotaCare or health care cost containment under chapter 256L, or general assistance medical care formerly codified in chapter 256D.

Subd. 4. **Applicability of Minnesota Rules, chapter 2960.** A residential adolescent substance use disorder treatment program serving an individual younger than 16 years of age must be licensed according to Minnesota Rules, chapter 2960.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 11. **[245G.03] LICENSING REQUIREMENTS.**

Subdivision 1. **License requirements.** (a) An applicant for a license to provide substance use disorder treatment must comply with the general requirements in chapters 245A and 245C, sections 626.556 and 626.557, and Minnesota Rules, chapter 9544.

(b) The commissioner may grant variances to the requirements in this chapter that do not affect the client's health or safety if the conditions in section 245A.04, subdivision 9, are met.

Subd. 2. **Application.** Before the commissioner issues a license, an applicant must submit, on forms provided by the commissioner, any documents the commissioner requires.

Subd. 3. **Change in license terms.** (a) The commissioner must determine whether a new license is needed when a change in clauses (1) to (4) occurs. A license holder must notify the commissioner before a change in one of the following occurs:

(1) the Department of Health's licensure of the program;

(2) whether the license holder provides services specified in sections 245G.18 to 245G.22;

(3) location; or

(4) capacity if the license holder meets the requirements of section 245G.21.

(b) A license holder must notify the commissioner and must apply for a new license if there is a change in program ownership.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 12. **[245G.04] INITIAL SERVICES PLAN.**

(a) The license holder must complete an initial services plan on the day of service initiation. The plan must address the client's immediate health and safety concerns, identify the needs to be addressed in the first treatment session, and make treatment suggestions for the client during the time between intake and completion of the individual treatment plan.

(b) The initial services plan must include a determination of whether a client is a vulnerable adult as defined in section 626.5572, subdivision 21. An adult client of a residential program is a vulnerable adult. An individual abuse prevention plan, according to sections 245A.65, subdivision 2, paragraph (b), and 626.557, subdivision 14, paragraph (b), is required for a client who meets the definition of vulnerable adult.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 13. **[245G.05] COMPREHENSIVE ASSESSMENT AND ASSESSMENT SUMMARY.**

Subdivision 1. **Comprehensive assessment.** (a) A comprehensive assessment of the client's substance use disorder must be administered face-to-face by an alcohol and drug counselor within three calendar days after service initiation for a residential program or during the initial session for all other programs. If the comprehensive assessment is not completed during the initial session, the

client-centered reason for the delay must be documented in the client's file and the planned completion date. If the client received a comprehensive assessment that authorized the treatment service, an alcohol and drug counselor must review the assessment to determine compliance with this subdivision, including applicable timelines. If available, the alcohol and drug counselor may use current information provided by a referring agency or other source as a supplement. Information gathered more than 45 days before the date of admission is not considered current. The comprehensive assessment must include sufficient information to complete the assessment summary according to subdivision 2 and the individual treatment plan according to section 245G.06. The comprehensive assessment must include information about the client's needs that relate to substance use and personal strengths that support recovery, including:

(1) age, sex, cultural background, sexual orientation, living situation, economic status, and level of education;

(2) circumstances of service initiation;

(3) previous attempts at treatment for substance misuse or substance use disorder, compulsive gambling, or mental illness;

(4) substance use history including amounts and types of substances used, frequency and duration of use, periods of abstinence, and circumstances of relapse, if any. For each substance used within the previous 30 days, the information must include the date of the most recent use and previous withdrawal symptoms;

(5) specific problem behaviors exhibited by the client when under the influence of substances;

(6) family status, family history, including history or presence of physical or sexual abuse, level of family support, and substance misuse or substance use disorder of a family member or significant other;

(7) physical concerns or diagnoses, the severity of the concerns, and whether the concerns are being addressed by a health care professional;

(8) mental health history and psychiatric status, including symptoms, disability, current treatment supports, and psychotropic medication needed to maintain stability; the assessment must utilize screening tools approved by the commissioner pursuant to section 245.4863 to identify whether the client screens positive for co-occurring disorders;

(9) arrests and legal interventions related to substance use;

(10) ability to function appropriately in work and educational settings;

(11) ability to understand written treatment materials, including rules and the client's rights;

(12) risk-taking behavior, including behavior that puts the client at risk of exposure to blood-borne or sexually transmitted diseases;

(13) social network in relation to expected support for recovery and leisure time activities that are associated with substance use;

(14) whether the client is pregnant and, if so, the health of the unborn child and the client's current involvement in prenatal care;

(15) whether the client recognizes problems related to substance use and is willing to follow treatment recommendations; and

(16) collateral information. If the assessor gathered sufficient information from the referral source or the client to apply the criteria in parts 9530.6620 and 9530.6622, a collateral contact is not required.

(b) If the client is identified as having opioid use disorder or seeking treatment for opioid use disorder, the program must provide educational information to the client concerning:

(1) risks for opioid use disorder and dependence;

(2) treatment options, including the use of a medication for opioid use disorder;

(3) the risk of and recognizing opioid overdose; and

(4) the use, availability, and administration of naloxone to respond to opioid overdose.

(c) The commissioner shall develop educational materials that are supported by research and updated periodically. The license holder must use the educational materials that are approved by the commissioner to comply with this requirement.

(d) If the comprehensive assessment is completed to authorize treatment service for the client, at the earliest opportunity during the assessment interview the assessor shall determine if:

(1) the client is in severe withdrawal and likely to be a danger to self or others;

(2) the client has severe medical problems that require immediate attention; or

(3) the client has severe emotional or behavioral symptoms that place the client or others at risk of harm.

If one or more of the conditions in clauses (1) to (3) are present, the assessor must end the assessment interview and follow the procedures in the program's medical services plan under section 245G.08, subdivision 2, to help the client obtain the appropriate services. The assessment interview may resume when the condition is resolved.

Subd. 2. **Assessment summary.** (a) An alcohol and drug counselor must complete an assessment summary within three calendar days after service initiation for a residential program and within three sessions for all other programs. If the comprehensive assessment is used to authorize the treatment service, the alcohol and drug counselor must prepare an assessment summary on the same date the comprehensive assessment is completed. If the comprehensive assessment and assessment summary are to authorize treatment services, the assessor must determine appropriate services for the client using the dimensions in Minnesota Rules, part 9530.6622, and document the recommendations.

(b) An assessment summary must include:

(1) a risk description according to section 245G.05 for each dimension listed in paragraph (c);

(2) a narrative summary supporting the risk descriptions; and

(3) a determination of whether the client has a substance use disorder.

(c) An assessment summary must contain information relevant to treatment service planning and recorded in the dimensions in clauses (1) to (6). The license holder must consider:

(1) Dimension 1, acute intoxication/withdrawal potential; the client's ability to cope with withdrawal symptoms and current state of intoxication;

(2) Dimension 2, biomedical conditions and complications; the degree to which any physical disorder of the client would interfere with treatment for substance use, and the client's ability to tolerate any related discomfort. The license holder must determine the impact of continued chemical use on the unborn child, if the client is pregnant;

(3) Dimension 3, emotional, behavioral, and cognitive conditions and complications; the degree to which any condition or complication is likely to interfere with treatment for substance use or with functioning in significant life areas and the likelihood of harm to self or others;

(4) Dimension 4, readiness for change; the support necessary to keep the client involved in treatment service;

(5) Dimension 5, relapse, continued use, and continued problem potential; the degree to which the client recognizes relapse issues and has the skills to prevent relapse of either substance use or mental health problems; and

(6) Dimension 6, recovery environment; whether the areas of the client's life are supportive of or antagonistic to treatment participation and recovery.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 14. **[245G.06] INDIVIDUAL TREATMENT PLAN.**

Subdivision 1. **General.** Each client must have an individual treatment plan developed by an alcohol and drug counselor within seven days of service initiation for a residential program and within three sessions for all other programs. The client must have active, direct involvement in selecting the anticipated outcomes of the treatment process and developing the treatment plan. The individual treatment plan must be signed by the client and the alcohol and drug counselor and document the client's involvement in the development of the plan. The plan may be a continuation of the initial services plan required in section 245G.04. Treatment planning must include ongoing assessment of client needs. An individual treatment plan must be updated based on new information gathered about the client's condition and on whether methods identified have the intended effect. A change to the plan must be signed by the client and the alcohol and drug counselor. The plan must provide for the involvement of the client's family and people selected by the client as important to the success of treatment at the earliest opportunity, consistent with the client's treatment needs and written consent.

Subd. 2. **Plan contents.** An individual treatment plan must be recorded in the six dimensions listed in section 245G.05, subdivision 2, paragraph (c), must address each issue identified in the assessment summary, prioritized according to the client's needs and focus, and must include:

(1) specific methods to address each identified need, including amount, frequency, and anticipated duration of treatment service. The methods must be appropriate to the client's language, reading skills, cultural background, and strengths;

(2) resources to refer the client to when the client's needs are to be addressed concurrently by another provider; and

(3) goals the client must reach to complete treatment and terminate services.

Subd. 3. **Documentation of treatment services; treatment plan review.** (a) A review of all treatment services must be documented weekly and include a review of:

(1) care coordination activities;

(2) medical and other appointments the client attended;

(3) issues related to medications that are not documented in the medication administration record; and

(4) issues related to attendance for treatment services, including the reason for any client absence from a treatment service.

(b) A note must be entered immediately following any significant event. A significant event is an event that impacts the client's relationship with other clients, staff, the client's family, or the client's treatment plan.

(c) A treatment plan review must be entered in a client's file weekly or after each treatment service, whichever is less frequent, by the staff member providing the service. The review must indicate the span of time covered by the review and each of the six dimensions listed in section 245G.05, subdivision 2, paragraph (c). The review must:

(1) indicate the date, type, and amount of each treatment service provided and the client's response to each service;

(2) address each goal in the treatment plan and whether the methods to address the goals are effective;

(3) include monitoring of any physical and mental health problems;

(4) document the participation of others;

(5) document staff recommendations for changes in the methods identified in the treatment plan and whether the client agrees with the change; and

(6) include a review and evaluation of the individual abuse prevention plan according to section 245A.65.

(d) Each entry in a client's record must be accurate, legible, signed, and dated. A late entry must be clearly labeled "late entry." A correction to an entry must be made in a way in which the original entry can still be read.

Subd. 4. **Service discharge summary.** (a) An alcohol and drug counselor must write a discharge summary for each client. The summary must be completed within five days of the client's service termination or within five days from the client's or program's decision to terminate services, whichever is earlier.

(b) The service discharge summary must be recorded in the six dimensions listed in section 245G.05, subdivision 2, paragraph (c), and include the following information:

(1) the client's issues, strengths, and needs while participating in treatment, including services provided;

(2) the client's progress toward achieving each goal identified in the individual treatment plan;

(3) a risk description according to section 245G.05; and

(4) the reasons for and circumstances of service termination. If a program discharges a client at staff request, the reason for discharge and the procedure followed for the decision to discharge must be documented and comply with the program's policies on staff-initiated client discharge. If a client is discharged at staff request, the program must give the client crisis and other referrals appropriate for the client's needs and offer assistance to the client to access the services.

(c) For a client who successfully completes treatment, the summary must also include:

(1) the client's living arrangements at service termination;

(2) continuing care recommendations, including transitions between more or less intense services, or more frequent to less frequent services, and referrals made with specific attention to continuity of care for mental health, as needed;

(3) service termination diagnosis; and

(4) the client's prognosis.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 15. **[245G.07] TREATMENT SERVICE.**

Subdivision 1. **Treatment service.** (a) A license holder must offer the following treatment services, unless clinically inappropriate and the justifying clinical rationale is documented:

(1) individual and group counseling to help the client identify and address needs related to substance use and develop strategies to avoid harmful substance use after discharge and to help the client obtain the services necessary to establish a lifestyle free of the harmful effects of substance use disorder;

(2) client education strategies to avoid inappropriate substance use and health problems related to substance use and the necessary lifestyle changes to regain and maintain health. Client education must include information on tuberculosis education on a form approved by the commissioner, the human immunodeficiency virus according to section 245A.19, other sexually transmitted diseases, drug and alcohol use during pregnancy, and hepatitis. A licensed alcohol and drug counselor must be present during an educational group;

(3) a service to help the client integrate gains made during treatment into daily living and to reduce the client's reliance on a staff member for support;

(4) a service to address issues related to co-occurring disorders, including client education on symptoms of mental illness, the possibility of comorbidity, and the need for continued medication compliance while recovering from substance use disorder. A group must address co-occurring disorders, as needed. When treatment for mental health problems is indicated, the treatment must be integrated into the client's individual treatment plan;

(5) on July 1, 2018, or upon federal approval, whichever is later, peer recovery support services provided one-to-one by an individual in recovery. Peer support services include education, advocacy, mentoring through self-disclosure of personal recovery experiences, attending recovery and other support groups with a client, accompanying the client to appointments that support recovery, assistance accessing resources to obtain housing, employment, education, and advocacy services, and nonclinical recovery support to assist the transition from treatment into the recovery community; and

(6) on July 1, 2018, or upon federal approval, whichever is later, care coordination provided by an individual who meets the staff qualifications in section 245G.11, subdivision 7. Care coordination services include:

(i) assistance in coordination with significant others to help in the treatment planning process whenever possible;

(ii) assistance in coordination with and follow up for medical services as identified in the treatment plan;

(iii) facilitation of referrals to substance use disorder services as indicated by a client's medical provider, comprehensive assessment, or treatment plan;

(iv) facilitation of referrals to mental health services as identified by a client's comprehensive assessment or treatment plan;

(v) assistance with referrals to economic assistance, social services, housing resources, and prenatal care according to the client's needs;

(vi) life skills advocacy and support accessing treatment follow-up, disease management, and education services, including referral and linkages to long-term services and supports as needed; and

(vii) documentation of the provision of care coordination services in the client's file.

(b) A treatment service provided to a client must be provided according to the individual treatment plan and must consider cultural differences and special needs of a client.

Subd. 2. **Additional treatment service.** A license holder may provide or arrange the following additional treatment service as a part of the client's individual treatment plan:

(1) relationship counseling provided by a qualified professional to help the client identify the impact of the client's substance use disorder on others and to help the client and persons in the client's support structure identify and change behaviors that contribute to the client's substance use disorder;

(2) therapeutic recreation to allow the client to participate in recreational activities without the use of mood-altering chemicals and to plan and select leisure activities that do not involve the inappropriate use of chemicals;

(3) stress management and physical well-being to help the client reach and maintain an appropriate level of health, physical fitness, and well-being;

(4) living skills development to help the client learn basic skills necessary for independent living;

(5) employment or educational services to help the client become financially independent;

(6) socialization skills development to help the client live and interact with others in a positive and productive manner; and

(7) room, board, and supervision at the treatment site to provide the client with a safe and appropriate environment to gain and practice new skills.

Subd. 3. **Counselors.** A treatment service, including therapeutic recreation, must be provided by an alcohol and drug counselor according to section 245G.11, unless the individual providing the service is specifically qualified according to the accepted credential required to provide the service. Therapeutic recreation does not include planned leisure activities.

Subd. 4. **Location of service provision.** The license holder may provide services at any of the license holder's licensed locations or at another suitable location including a school, government building, medical or behavioral health facility, or social service organization, upon notification and approval of the commissioner. If services are provided off site from the licensed site, the reason for the provision of services remotely must be documented.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 16. **[245G.08] MEDICAL SERVICES.**

Subdivision 1. **Health care services.** An applicant or license holder must maintain a complete description of the health care services, nursing services, dietary services, and emergency physician services offered by the applicant or license holder.

Subd. 2. **Procedures.** The applicant or license holder must have written procedures for obtaining a medical intervention for a client, that are approved in writing by a physician who is licensed under chapter 147, unless:

(1) the license holder does not provide a service under section 245G.21; and

(2) a medical intervention is referred to 911, the emergency telephone number, or the client's physician.

Subd. 3. **Standing order protocol.** A license holder that maintains a supply of naloxone available for emergency treatment of opioid overdose must have a written standing order protocol by a physician who is licensed under chapter 147, that permits the license holder to maintain a supply of naloxone on site, and must require staff to undergo specific training in administration of naloxone.

Subd. 4. **Consultation services.** The license holder must have access to and document the availability of a licensed mental health professional to provide diagnostic assessment and treatment planning assistance.

Subd. 5. **Administration of medication and assistance with self-medication.** (a) A license holder must meet the requirements in this subdivision if a service provided includes the administration of medication.

(b) A staff member, other than a licensed practitioner or nurse, who is delegated by a licensed practitioner or a registered nurse the task of administration of medication or assisting with self-medication, must:

(1) successfully complete a medication administration training program for unlicensed personnel through an accredited Minnesota postsecondary educational institution. A staff member's completion of the course must be documented in writing and placed in the staff member's personnel file;

(2) be trained according to a formalized training program that is taught by a registered nurse and offered by the license holder. The training must include the process for administration of naloxone, if naloxone is kept on site. A staff member's completion of the training must be documented in writing and placed in the staff member's personnel records; or

(3) demonstrate to a registered nurse competency to perform the delegated activity. A registered nurse must be employed or contracted to develop the policies and procedures for administration of medication or assisting with self-administration of medication, or both.

(c) A registered nurse must provide supervision as defined in section 148.171, subdivision 23. The registered nurse's supervision must include, at a minimum, monthly on-site supervision or more often if warranted by a client's health needs. The policies and procedures must include:

(1) a provision that a delegation of administration of medication is limited to the administration of a medication that is administered orally, topically, or as a suppository, an eye drop, an ear drop, or an inhalant;

(2) a provision that each client's file must include documentation indicating whether staff must conduct the administration of medication or the client must self-administer medication, or both;

(3) a provision that a client may carry emergency medication such as nitroglycerin as instructed by the client's physician;

(4) a provision for the client to self-administer medication when a client is scheduled to be away from the facility;

(5) a provision that if a client self-administers medication when the client is present in the facility, the client must self-administer medication under the observation of a trained staff member;

(6) a provision that when a license holder serves a client who is a parent with a child, the parent may only administer medication to the child under a staff member's supervision;

(7) requirements for recording the client's use of medication, including staff signatures with date and time;

(8) guidelines for when to inform a nurse of problems with self-administration of medication, including a client's failure to administer, refusal of a medication, adverse reaction, or error; and

(9) procedures for acceptance, documentation, and implementation of a prescription, whether written, verbal, telephonic, or electronic.

Subd. 6. **Control of drugs.** A license holder must have and implement written policies and procedures developed by a registered nurse that contain:

(1) a requirement that each drug must be stored in a locked compartment. A Schedule II drug, as defined by section 152.02, subdivision 3, must be stored in a separately locked compartment, permanently affixed to the physical plant or medication cart;

(2) a system which accounts for all scheduled drugs each shift;

(3) a procedure for recording the client's use of medication, including the signature of the staff member who completed the administration of the medication with the time and date;

(4) a procedure to destroy a discontinued, outdated, or deteriorated medication;

(5) a statement that only authorized personnel are permitted access to the keys to a locked compartment;

(6) a statement that no legend drug supply for one client shall be given to another client; and

(7) a procedure for monitoring the available supply of naloxone on site, replenishing the naloxone supply when needed, and destroying naloxone according to clause (4).

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 17. [245G.09] CLIENT RECORDS.

Subdivision 1. **Client records required.** (a) A license holder must maintain a file of current and accurate client records on the premises where the treatment service is provided or coordinated. For services provided off site, client records must be available at the program and adhere to the same clinical and administrative policies and procedures as services provided on site. The content and format of client records must be uniform and entries in each record must be signed and dated by the staff member making the entry. Client records must be protected against loss, tampering, or

unauthorized disclosure according to section 254A.09, chapter 13, and Code of Federal Regulations, title 42, chapter 1, part 2, subpart B, sections 2.1 to 2.67, and title 45, parts 160 to 164.

(b) The program must have a policy and procedure that identifies how the program will track and record client attendance at treatment activities, including the date, duration, and nature of each treatment service provided to the client.

Subd. 2. **Record retention.** The client records of a discharged client must be retained by a license holder for seven years. A license holder that ceases to provide treatment service must retain client records for seven years from the date of facility closure and must notify the commissioner of the location of the client records and the name of the individual responsible for maintaining the client's records.

Subd. 3. **Contents.** Client records must contain the following:

(1) documentation that the client was given information on client rights and responsibilities, grievance procedures, tuberculosis, and HIV, and that the client was provided an orientation to the program abuse prevention plan required under section 245A.65, subdivision 2, paragraph (a), clause (4). If the client has an opioid use disorder, the record must contain documentation that the client was provided educational information according to section 245G.05, subdivision 1, paragraph (b);

(2) an initial services plan completed according to section 245G.04;

(3) a comprehensive assessment completed according to section 245G.05;

(4) an assessment summary completed according to section 245G.05, subdivision 2;

(5) an individual abuse prevention plan according to sections 245A.65, subdivision 2, and 626.557, subdivision 14, when applicable;

(6) an individual treatment plan according to section 245G.06, subdivisions 1 and 2;

(7) documentation of treatment services and treatment plan review according to section 245G.06, subdivision 3; and

(8) a summary at the time of service termination according to section 245G.06, subdivision 4.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 18. **[245G.10] STAFF REQUIREMENTS.**

Subdivision 1. **Treatment director.** A license holder must have a treatment director.

Subd. 2. **Alcohol and drug counselor supervisor.** A license holder must employ an alcohol and drug counselor supervisor who meets the requirements of section 245G.11, subdivision 4. An individual may be simultaneously employed as a treatment director, alcohol and drug counselor supervisor, and an alcohol and drug counselor if the individual meets the qualifications for each position. If an alcohol and drug counselor is simultaneously employed as an alcohol and drug counselor supervisor or treatment director, that individual must be considered a 0.5 full-time equivalent alcohol and drug counselor for staff requirements under subdivision 4.

Subd. 3. **Responsible staff member.** A treatment director must designate a staff member who, when present in the facility, is responsible for the delivery of treatment service. A license holder must have a designated staff member during all hours of operation. A license holder providing room and board and treatment at the same site must have a responsible staff member on duty 24 hours a day. The designated staff member must know and understand the implications of this chapter and sections 245A.65, 626.556, 626.557, and 626.5572.

Subd. 4. **Staff requirement.** It is the responsibility of the license holder to determine an acceptable group size based on each client's needs except that treatment services provided in a group shall not exceed 16 clients. A counselor in an opioid treatment program must not supervise more than 50 clients. The license holder must maintain a record that documents compliance with this subdivision.

Subd. 5. **Medical emergency.** When a client is present, a license holder must have at least one staff member on the premises who has a current American Red Cross standard first aid certificate or an equivalent certificate and at least one staff member on the premises who has a current American Red Cross community, American Heart Association, or equivalent CPR certificate. A single staff member with both certifications satisfies this requirement.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 19. **[245G.11] STAFF QUALIFICATIONS.**

Subdivision 1. **General qualifications.** (a) All staff members who have direct contact must be 18 years of age or older. At the time of employment, each staff member must meet the qualifications in this subdivision. For purposes of this subdivision, "problematic substance use" means a behavior or incident listed by the license holder in the personnel policies and procedures according to section 245G.13, subdivision 1, clause (5).

(b) A treatment director, supervisor, nurse, counselor, student intern, or other professional must be free of problematic substance use for at least the two years immediately preceding employment and must sign a statement attesting to that fact.

(c) A paraprofessional, recovery peer, or any other staff member with direct contact must be free of problematic substance use for at least one year immediately preceding employment and must sign a statement attesting to that fact.

Subd. 2. **Employment; prohibition on problematic substance use.** A staff member with direct contact must be free from problematic substance use as a condition of employment, but is not required to sign additional statements. A staff member with direct contact who is not free from problematic substance use must be removed from any responsibilities that include direct contact for the time period specified in subdivision 1. The time period begins to run on the date of the last incident of problematic substance use as described in the facility's policies and procedures according to section 245G.13, subdivision 1, clause (5).

Subd. 3. **Treatment directors.** A treatment director must:

(1) have at least one year of work experience in direct service to an individual with substance use disorder or one year of work experience in the management or administration of direct service to an individual with substance use disorder;

(2) have a baccalaureate degree or three years of work experience in administration or personnel supervision in human services; and

(3) know and understand the implications of this chapter, chapter 245A, and sections 626.556, 626.557, and 626.5572. Demonstration of the treatment director's knowledge must be documented in the personnel record.

Subd. 4. **Alcohol and drug counselor supervisors.** An alcohol and drug counselor supervisor must:

(1) meet the qualification requirements in subdivision 5;

(2) have three or more years of experience providing individual and group counseling to individuals with substance use disorder; and

(3) know and understand the implications of this chapter and sections 245A.65, 626.556, 626.557, and 626.5572.

Subd. 5. **Alcohol and drug counselor qualifications.** (a) An alcohol and drug counselor must either be licensed or exempt from licensure under chapter 148F.

(b) An individual who is exempt from licensure under chapter 148F, must meet one of the following additional requirements:

(1) completion of at least a baccalaureate degree with a major or concentration in social work, nursing, sociology, human services, or psychology, or licensure as a registered nurse; successful completion of a minimum of 120 hours of classroom instruction in which each of the core functions listed in chapter 148F is covered; and successful completion of 440 hours of supervised experience as an alcohol and drug counselor, either as a student or a staff member;

(2) completion of at least 270 hours of drug counselor training in which each of the core functions listed in chapter 148F is covered, and successful completion of 880 hours of supervised experience as an alcohol and drug counselor, either as a student or as a staff member;

(3) current certification as an alcohol and drug counselor or alcohol and drug counselor reciprocal, through the evaluation process established by the International Certification and Reciprocity Consortium Alcohol and Other Drug Abuse, Inc.;

(4) completion of a bachelor's degree including 480 hours of alcohol and drug counseling education from an accredited school or educational program and 880 hours of alcohol and drug counseling practicum; or

(5) employment in a program formerly licensed under Minnesota Rules, parts 9530.5000 to 9530.6400, and successful completion of 6,000 hours of supervised work experience in a licensed program as an alcohol and drug counselor prior to January 1, 2005.

(c) An alcohol and drug counselor may not provide a treatment service that requires professional licensure unless the individual possesses the necessary license. For the purposes of enforcing this section, the commissioner has the authority to monitor a service provider's compliance with the relevant standards of the service provider's profession and may issue licensing actions against the license holder according to sections 245A.05, 245A.06, and 245A.07, based on the commissioner's determination of noncompliance.

Subd. 6. **Paraprofessionals.** A paraprofessional must have knowledge of client rights, according to section 148F.165, and staff member responsibilities. A paraprofessional may not admit, transfer, or discharge a client but may be responsible for the delivery of treatment service according to section 245G.10, subdivision 3.

Subd. 7. **Care coordination provider qualifications.** (a) Care coordination must be provided by qualified staff. An individual is qualified to provide care coordination if the individual:

(1) is skilled in the process of identifying and assessing a wide range of client needs;

(2) is knowledgeable about local community resources and how to use those resources for the benefit of the client;

(3) has successfully completed 30 hours of classroom instruction on care coordination for an individual with substance use disorder;

(4) has either:

(i) a bachelor's degree in one of the behavioral sciences or related fields; or

(ii) current certification as an alcohol and drug counselor, level I, by the Upper Midwest Indian Council on Addictive Disorders; and

(5) has at least 2,000 hours of supervised experience working with individuals with substance use disorder.

(b) A care coordinator must receive at least one hour of supervision regarding individual service delivery from an alcohol and drug counselor weekly.

Subd. 8. **Recovery peer qualifications.** A recovery peer must:

(1) have a high school diploma or its equivalent;

(2) have a minimum of one year in recovery from substance use disorder;

(3) hold a current credential from a certification body approved by the commissioner that demonstrates skills and training in the domains of ethics and boundaries, advocacy, mentoring and education, and recovery and wellness support; and

(4) receive ongoing supervision in areas specific to the domains of the recovery peer's role by an alcohol and drug counselor or an individual with a certification approved by the commissioner.

Subd. 9. **Volunteers.** A volunteer may provide treatment service when the volunteer is supervised and can be seen or heard by a staff member meeting the criteria in subdivision 4 or 5, but may not practice alcohol and drug counseling unless qualified under subdivision 5.

Subd. 10. **Student interns.** A qualified staff member must supervise and be responsible for a treatment service performed by a student intern and must review and sign each assessment, progress note, and individual treatment plan prepared by a student intern. A student intern must receive the orientation and training required in section 245G.13, subdivisions 1, clause (7), and 2. No more than 50 percent of the treatment staff may be students or licensing candidates with time documented to be directly related to the provision of treatment services for which the staff are authorized.

Subd. 11. **Individuals with temporary permit.** An individual with a temporary permit from the Board of Behavioral Health and Therapy may provide chemical dependency treatment service according to this subdivision if they meet the requirements of either paragraph (a) or (b).

(a) An individual with a temporary permit must be supervised by a licensed alcohol and drug counselor assigned by the license holder. The supervising licensed alcohol and drug counselor must document the amount and type of supervision provided at least on a weekly basis. The supervision must relate to the clinical practice.

(b) An individual with a temporary permit must be supervised by a clinical supervisor approved by the Board of Behavioral Health and Therapy. The supervision must be documented and meet the requirements of section 148F.04, subdivision 4.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 20. **[245G.12] PROVIDER POLICIES AND PROCEDURES.**

A license holder must develop a written policies and procedures manual, indexed according to section 245A.04, subdivision 14, paragraph (c), that provides staff members immediate access to all policies and procedures and provides a client and other authorized parties access to all policies and procedures. The manual must contain the following materials:

(1) assessment and treatment planning policies, including screening for mental health concerns and treatment objectives related to the client's identified mental health concerns in the client's treatment plan;

(2) policies and procedures regarding HIV according to section 245A.19;

(3) the license holder's methods and resources to provide information on tuberculosis and tuberculosis screening to each client and to report a known tuberculosis infection according to section 144.4804;

(4) personnel policies according to section 245G.13;

(5) policies and procedures that protect a client's rights according to section 245G.15;

(6) a medical services plan according to section 245G.08;

(7) emergency procedures according to section 245G.16;

(8) policies and procedures for maintaining client records according to section 245G.09;

(9) procedures for reporting the maltreatment of minors according to section 626.556, and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;

(10) a description of treatment services, including the amount and type of services provided;

(11) the methods used to achieve desired client outcomes;

(12) the hours of operation; and

(13) the target population served.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 21. **[245G.13] PROVIDER PERSONNEL POLICIES.**

Subdivision 1. **Personnel policy requirements.** A license holder must have written personnel policies that are available to each staff member. The personnel policies must:

(1) ensure that staff member retention, promotion, job assignment, or pay are not affected by a good faith communication between a staff member and the department, the Department of Health, the ombudsman for mental health and developmental disabilities, law enforcement, or a local agency for the investigation of a complaint regarding a client's rights, health, or safety;

(2) contain a job description for each staff member position specifying responsibilities, degree of authority to execute job responsibilities, and qualification requirements;

(3) provide for a job performance evaluation based on standards of job performance conducted on a regular and continuing basis, including a written annual review;

(4) describe behavior that constitutes grounds for disciplinary action, suspension, or dismissal, including policies that address staff member problematic substance use and the requirements of section 245G.11, subdivision 1, policies prohibiting personal involvement with a client in violation of chapter 604, and policies prohibiting client abuse described in sections 245A.65, 626.556, 626.557, and 626.5572;

(5) identify how the program will identify whether behaviors or incidents are problematic substance use, including a description of how the facility must address:

(i) receiving treatment for substance use within the period specified for the position in the staff qualification requirements, including medication-assisted treatment;

(ii) substance use that negatively impacts the staff member's job performance;

(iii) chemical use that affects the credibility of treatment services with a client, referral source, or other member of the community;

(iv) symptoms of intoxication or withdrawal on the job; and

(v) the circumstances under which an individual who participates in monitoring by the health professional services program for a substance use or mental health disorder is able to provide services to the program's clients;

(6) include a chart or description of the organizational structure indicating lines of authority and responsibilities;

(7) include orientation within 24 working hours of starting for each new staff member based on a written plan that, at a minimum, must provide training related to the staff member's specific job responsibilities, policies and procedures, client confidentiality, HIV minimum standards, and client needs; and

(8) include policies outlining the license holder's response to a staff member with a behavior problem that interferes with the provision of treatment service.

Subd. 2. **Staff development.** (a) A license holder must ensure that each staff member has the training described in this subdivision.

(b) Each staff member must be trained every two years in:

(1) client confidentiality rules and regulations and client ethical boundaries; and

(2) emergency procedures and client rights as specified in sections 144.651, 148F.165, and 253B.03.

(c) Annually each staff member with direct contact must be trained on mandatory reporting as specified in sections 245A.65, 626.556, 626.5561, 626.557, and 626.5572, including specific training covering the license holder's policies for obtaining a release of client information.

(d) Upon employment and annually thereafter, each staff member with direct contact must receive training on HIV minimum standards according to section 245A.19.

(e) A treatment director, supervisor, nurse, or counselor must have a minimum of 12 hours of training in co-occurring disorders that includes competencies related to philosophy, trauma-informed care, screening, assessment, diagnosis and person-centered treatment planning, documentation, programming, medication, collaboration, mental health consultation, and discharge planning. A new staff member who has not obtained the training must complete the training within six months of employment. A staff member may request, and the license holder may grant, credit for relevant training obtained before employment, which must be documented in the staff member's personnel file.

Subd. 3. **Personnel files.** The license holder must maintain a separate personnel file for each staff member. At a minimum, the personnel file must conform to the requirements of this chapter. A personnel file must contain the following:

(1) a completed application for employment signed by the staff member and containing the staff member's qualifications for employment;

(2) documentation related to the staff member's background study data, according to chapter 245C;

(3) for a staff member who provides psychotherapy services, employer names and addresses for the past five years for which the staff member provided psychotherapy services, and documentation of an inquiry required by sections 604.20 to 604.205 made to the staff member's former employer regarding substantiated sexual contact with a client;

(4) documentation that the staff member completed orientation and training;

(5) documentation that the staff member meets the requirements in section 245G.11;

(6) documentation demonstrating the staff member's compliance with section 245G.08, subdivision 3, for a staff member who conducts administration of medication; and

(7) documentation demonstrating the staff member's compliance with section 245G.18, subdivision 2, for a staff member that treats an adolescent client.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 22. **[245G.14] SERVICE INITIATION AND TERMINATION POLICIES.**

Subdivision 1. Service initiation policy. A license holder must have a written service initiation policy containing service initiation preferences that comply with this section and Code of Federal Regulations, title 45, part 96.131, and specific service initiation criteria. The license holder must not initiate services for an individual who does not meet the service initiation criteria. The service initiation criteria must be either posted in the area of the facility where services for a client are initiated, or given to each interested person upon request. Titles of each staff member authorized to initiate services for a client must be listed in the services initiation and termination policies.

Subd. 2. License holder responsibilities. (a) The license holder must have and comply with a written protocol for (1) assisting a client in need of care not provided by the license holder, and (2) a client who poses a substantial likelihood of harm to the client or others, if the behavior is beyond the behavior management capabilities of the staff members.

(b) A service termination and denial of service initiation that poses an immediate threat to the health of any individual or requires immediate medical intervention must be referred to a medical facility capable of admitting the client.

(c) A service termination policy and a denial of service initiation that involves the commission of a crime against a license holder's staff member or on a license holder's premises, as provided under Code of Federal Regulations, title 42, section 2.12(c)(5), and title 45, parts 160 to 164, must be reported to a law enforcement agency with jurisdiction.

Subd. 3. Service termination policies. A license holder must have a written policy specifying the conditions when a client must be terminated from service. The service termination policy must include:

(1) procedures for a client whose services were terminated under subdivision 2;

(2) a description of client behavior that constitutes reason for a staff-requested service termination and a process for providing this information to a client;

(3) a requirement that before discharging a client from a residential setting, for not reaching treatment plan goals, the license holder must confer with other interested persons to review the issues involved in the decision. The documentation requirements for a staff-requested service termination must describe why the decision to discharge is warranted, the reasons for the discharge, and the alternatives considered or attempted before discharging the client;

(4) procedures consistent with section 253B.16, subdivision 2, that staff members must follow when a client admitted under chapter 253B is to have services terminated;

(5) procedures a staff member must follow when a client leaves against staff or medical advice and when the client may be dangerous to the client or others, including a policy that requires a staff member to assist the client with assessing needs of care or other resources;

(6) procedures for communicating staff-approved service termination criteria to a client, including the expectations in the client's individual treatment plan according to section 245G.06; and

(7) titles of each staff member authorized to terminate a client's service must be listed in the service initiation and service termination policies.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 23. **[245G.15] CLIENT RIGHTS PROTECTION.**

Subdivision 1. **Explanation.** A client has the rights identified in sections 144.651, 148F.165, 253B.03, and 254B.02, subdivision 2, as applicable. The license holder must give each client at service initiation a written statement of the client's rights and responsibilities. A staff member must review the statement with a client at that time.

Subd. 2. **Grievance procedure.** At service initiation, the license holder must explain the grievance procedure to the client or the client's representative. The grievance procedure must be posted in a place visible to clients, and made available upon a client's or former client's request. The grievance procedure must require that:

(1) a staff member helps the client develop and process a grievance;

(2) current telephone numbers and addresses of the Department of Human Services, Licensing Division; the Office of Ombudsman for Mental Health and Developmental Disabilities; the Department of Health Office of Health Facilities Complaints; and the Board of Behavioral Health and Therapy, when applicable, be made available to a client; and

(3) a license holder responds to the client's grievance within three days of a staff member's receipt of the grievance, and the client may bring the grievance to the highest level of authority in the program if not resolved by another staff member.

Subd. 3. **Photographs of client.** (a) A photograph, video, or motion picture of a client taken in the provision of treatment service is considered client records. A photograph for identification and a recording by video or audio technology to enhance either therapy or staff member supervision may be required of a client, but may only be available for use as communications within a program. A client must be informed when the client's actions are being recorded by camera or other technology,

and the client must have the right to refuse any recording or photography, except as authorized by this subdivision.

(b) A license holder must have a written policy regarding the use of any personal electronic device that can record, transmit, or make images of another client. A license holder must inform each client of this policy and the client's right to refuse being photographed or recorded.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 24. **[245G.16] BEHAVIORAL EMERGENCY PROCEDURES.**

(a) A license holder or applicant must have written behavioral emergency procedures that staff must follow when responding to a client who exhibits behavior that is threatening to the safety of the client or others. Programs must incorporate person-centered planning and trauma-informed care in the program's behavioral emergency procedure policies. The procedures must include:

- (1) a plan designed to prevent a client from hurting themselves or others;
- (2) contact information for emergency resources that staff must consult when a client's behavior cannot be controlled by the behavioral emergency procedures;
- (3) types of procedures that may be used;
- (4) circumstances under which behavioral emergency procedures may be used; and
- (5) staff members authorized to implement behavioral emergency procedures.

(b) Behavioral emergency procedures must not be used to enforce facility rules or for the convenience of staff. Behavioral emergency procedures must not be part of any client's treatment plan, or used at any time for any reason except in response to specific current behavior that threatens the safety of the client or others. Behavioral emergency procedures may not include the use of seclusion or restraint.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 25. **[245G.17] EVALUATION.**

A license holder must participate in the drug and alcohol abuse normative evaluation system by submitting information about each client to the commissioner in a manner prescribed by the commissioner. A license holder must submit additional information requested by the commissioner that is necessary to meet statutory or federal funding requirements.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 26. **[245G.18] LICENSE HOLDERS SERVING ADOLESCENTS.**

Subdivision 1. **License.** A residential treatment program that serves an adolescent younger than 16 years of age must be licensed as a residential program for a child in out-of-home placement by the department unless the license holder is exempt under section 245A.03, subdivision 2.

Subd. 2. **Alcohol and drug counselor qualifications.** In addition to the requirements specified in section 245G.11, subdivisions 1 and 5, an alcohol and drug counselor providing treatment service to an adolescent must have:

(1) an additional 30 hours of classroom instruction or one three-credit semester college course in adolescent development. This training need only be completed one time; and

(2) at least 150 hours of supervised experience as an adolescent counselor, either as a student or as a staff member.

Subd. 3. **Staff ratios.** At least 25 percent of a counselor's scheduled work hours must be allocated to indirect services, including documentation of client services, coordination of services with others, treatment team meetings, and other duties. A counseling group consisting entirely of adolescents must not exceed 16 adolescents. It is the responsibility of the license holder to determine an acceptable group size based on the needs of the clients.

Subd. 4. **Academic program requirements.** A client who is required to attend school must be enrolled and attending an educational program that was approved by the Department of Education.

Subd. 5. **Program requirements.** In addition to the requirements specified in the client's treatment plan under section 245G.06, programs serving an adolescent must include:

(1) coordination with the school system to address the client's academic needs;

(2) when appropriate, a plan that addresses the client's leisure activities without chemical use; and

(3) a plan that addresses family involvement in the adolescent's treatment.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 27. **[245G.19] LICENSE HOLDERS SERVING CLIENTS WITH CHILDREN.**

Subdivision 1. **Health license requirements.** In addition to the requirements of sections 245G.01 to 245G.17, a license holder that offers supervision of a child of a client is subject to the requirements of this section. A license holder providing room and board for a client and the client's child must have an appropriate facility license from the Department of Health.

Subd. 2. **Supervision of a child.** "Supervision of a child" means a caregiver is within sight or hearing of an infant, toddler, or preschooler at all times so that the caregiver can intervene to protect the child's health and safety. For a school-age child it means a caregiver is available to help and care for the child to protect the child's health and safety.

Subd. 3. **Policy and schedule required.** A license holder must meet the following requirements:

(1) have a policy and schedule delineating the times and circumstances when the license holder is responsible for supervision of a child in the program and when the child's parents are responsible for supervision of a child. The policy must explain how the program will communicate its policy about supervision of a child responsibility to the parent; and

(2) have written procedures addressing the actions a staff member must take if a child is neglected or abused, including while the child is under the supervision of the child's parent.

Subd. 4. **Additional licensing requirements.** During the times the license holder is responsible for the supervision of a child, the license holder must meet the following standards:

(1) child and adult ratios in Minnesota Rules, part 9502.0367;

(2) day care training in section 245A.50;

(3) behavior guidance in Minnesota Rules, part 9502.0395;

(4) activities and equipment in Minnesota Rules, part 9502.0415;

(5) physical environment in Minnesota Rules, part 9502.0425; and

(6) water, food, and nutrition in Minnesota Rules, part 9502.0445, unless the license holder has a license from the Department of Health.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 28. **[245G.20] LICENSE HOLDERS SERVING PERSONS WITH CO-OCCURRING DISORDERS.**

A license holder specializing in the treatment of a person with co-occurring disorders must:

(1) demonstrate that staff levels are appropriate for treating a client with a co-occurring disorder, and that there are adequate staff members with mental health training;

(2) have continuing access to a medical provider with appropriate expertise in prescribing psychotropic medication;

(3) have a mental health professional available for staff member supervision and consultation;

(4) determine group size, structure, and content considering the special needs of a client with a co-occurring disorder;

(5) have documentation of active interventions to stabilize mental health symptoms present in the individual treatment plans and progress notes;

(6) have continuing documentation of collaboration with continuing care mental health providers, and involvement of the providers in treatment planning meetings;

(7) have available program materials adapted to a client with a mental health problem;

(8) have policies that provide flexibility for a client who may lapse in treatment or may have difficulty adhering to established treatment rules as a result of a mental illness, with the goal of helping a client successfully complete treatment; and

(9) have individual psychotherapy and case management available during treatment service.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 29. [245G.21] REQUIREMENTS FOR LICENSED RESIDENTIAL TREATMENT.

Subdivision 1. **Applicability.** A license holder who provides supervised room and board at the licensed program site as a treatment component is defined as a residential program according to section 245A.02, subdivision 14, and is subject to this section.

Subd. 2. **Visitors.** A client must be allowed to receive visitors at times prescribed by the license holder. The license holder must set and post a notice of visiting rules and hours, including both day and evening times. A client's right to receive visitors other than a personal physician, religious adviser, county case manager, parole or probation officer, or attorney may be subject to visiting hours established by the license holder for all clients. The treatment director or designee may impose limitations as necessary for the welfare of a client provided the limitation and the reasons for the limitation are documented in the client's file. A client must be allowed to receive visits at all reasonable times from the client's personal physician, religious adviser, county case manager, parole or probation officer, and attorney.

Subd. 3. **Client property management.** A license holder who provides room and board and treatment services to a client in the same facility, and any license holder that accepts client property must meet the requirements for handling client funds and property in section 245A.04, subdivision 13. License holders:

(1) may establish policies regarding the use of personal property to ensure that treatment activities and the rights of other clients are not infringed upon;

(2) may take temporary custody of a client's property for violation of a facility policy;

(3) must retain the client's property for a minimum of seven days after the client's service termination if the client does not reclaim property upon service termination, or for a minimum of 30 days if the client does not reclaim property upon service termination and has received room and board services from the license holder; and

(4) must return all property held in trust to the client at service termination regardless of the client's service termination status, except that:

(i) a drug, drug paraphernalia, or drug container that is subject to forfeiture under section 609.5316, must be given to the custody of a local law enforcement agency. If giving the property to the custody of a local law enforcement agency violates Code of Federal Regulations, title 42, sections 2.1 to 2.67, or title 45, parts 160 to 164, a drug, drug paraphernalia, or drug container must be destroyed by a staff member designated by the program director; and

(ii) a weapon, explosive, and other property that can cause serious harm to the client or others must be given to the custody of a local law enforcement agency, and the client must be notified of the transfer and of the client's right to reclaim any lawful property transferred; and

(iii) a medication that was determined by a physician to be harmful after examining the client must be destroyed, except when the client's personal physician approves the medication for continued use.

Subd. 4. **Health facility license.** A license holder who provides room and board and treatment services in the same facility must have the appropriate license from the Department of Health.

Subd. 5. **Facility abuse prevention plan.** A license holder must establish and enforce an ongoing facility abuse prevention plan consistent with sections 245A.65 and 626.557, subdivision 14.

Subd. 6. **Individual abuse prevention plan.** A license holder must prepare an individual abuse prevention plan for each client as specified under sections 245A.65, subdivision 2, and 626.557, subdivision 14.

Subd. 7. **Health services.** A license holder must have written procedures for assessing and monitoring a client's health, including a standardized data collection tool for collecting health-related information about each client. The policies and procedures must be approved and signed by a registered nurse.

Subd. 8. **Administration of medication.** A license holder must meet the administration of medications requirements of section 245G.08, subdivision 5, if services include medication administration.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 30. **[245G.22] OPIOID TREATMENT PROGRAMS.**

Subdivision 1. **Additional requirements.** (a) An opioid treatment program licensed under this chapter must also comply with the requirements of this section and Code of Federal Regulations, title 42, part 8. When federal guidance or interpretations are issued on federal standards or requirements also required under this section, the federal guidance or interpretations shall apply.

(b) Where a standard in this section differs from a standard in an otherwise applicable administrative rule or statute, the standard of this section applies.

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given them.

(b) "Diversion" means the use of a medication for the treatment of opioid addiction being diverted from intended use of the medication.

(c) "Guest dose" means administration of a medication used for the treatment of opioid addiction to a person who is not a client of the program that is administering or dispensing the medication.

(d) "Medical director" means a physician licensed to practice medicine in the jurisdiction that the opioid treatment program is located who assumes responsibility for administering all medical services performed by the program, either by performing the services directly or by delegating specific responsibility to authorized program physicians and health care professionals functioning under the medical director's direct supervision.

(e) "Medication used for the treatment of opioid use disorder" means a medication approved by the Food and Drug Administration for the treatment of opioid use disorder.

(f) "Minnesota health care programs" has the meaning given in section 256B.0636.

(g) "Opioid treatment program" has the meaning given in Code of Federal Regulations, title 42, section 8.12, and includes programs licensed under this chapter.

(h) "Placing authority" has the meaning given in Minnesota Rules, part 9530.6605, subpart 21a.

(i) "Unsupervised use" means the use of a medication for the treatment of opioid use disorder dispensed for use by a client outside of the program setting.

Subd. 3. **Medication orders.** Before the program may administer or dispense a medication used for the treatment of opioid use disorder:

(1) a client-specific order must be received from an appropriately credentialed physician who is enrolled as a Minnesota health care programs provider and meets all applicable provider standards;

(2) the signed order must be documented in the client's record; and

(3) if the physician that issued the order is not able to sign the order when issued, the unsigned order must be entered in the client record at the time it was received, and the physician must review the documentation and sign the order in the client's record within 72 hours of the medication being ordered. The license holder must report to the commissioner any medication error that endangers a client's health, as determined by the medical director.

Subd. 4. **High dose requirements.** A client being administered or dispensed a dose beyond that set forth in subdivision 6, paragraph (a), clause (1), that exceeds 150 milligrams of methadone or 24 milligrams of buprenorphine daily, and for each subsequent increase, must meet face-to-face with a prescribing physician. The meeting must occur before the administration or dispensing of the increased medication dose.

Subd. 5. **Drug testing.** Each client enrolled in the program must receive a minimum of eight random drug abuse tests per 12 months of treatment. Drug abuse tests must be reasonably disbursed over the 12-month period. A license holder may elect to conduct more drug abuse tests.

Subd. 6. **Criteria for unsupervised use.** (a) To limit the potential for diversion of medication used for the treatment of opioid use disorder to the illicit market, medication dispensed to a client for unsupervised use shall be subject to the following requirements:

(1) any client in an opioid treatment program may receive a single unsupervised use dose for a day that the clinic is closed for business, including Sundays and state and federal holidays; and

(2) other treatment program decisions on dispensing medications used for the treatment of opioid use disorder to a client for unsupervised use shall be determined by the medical director.

(b) In determining whether a client may be permitted unsupervised use of medications, a physician with authority to prescribe must consider the criteria in this paragraph. The criteria in this paragraph must also be considered when determining whether dispensing medication for a client's unsupervised use is appropriate to increase or to extend the amount of time between visits to the program. The criteria are:

(1) absence of recent abuse of drugs including but not limited to opioids, non-narcotics, and alcohol;

(2) regularity of program attendance;

(3) absence of serious behavioral problems at the program;

(4) absence of known recent criminal activity such as drug dealing;

(5) stability of the client's home environment and social relationships;

(6) length of time in comprehensive maintenance treatment;

(7) reasonable assurance that unsupervised use medication will be safely stored within the client's home; and

(8) whether the rehabilitative benefit the client derived from decreasing the frequency of program attendance outweighs the potential risks of diversion or unsupervised use.

(c) The determination, including the basis of the determination must be documented in the client's medical record.

Subd. 7. Restrictions for unsupervised use of methadone hydrochloride. (a) If a physician with authority to prescribe determines that a client meets the criteria in subdivision 6 and may be dispensed a medication used for the treatment of opioid addiction, the restrictions in this subdivision must be followed when the medication to be dispensed is methadone hydrochloride.

(b) During the first 90 days of treatment, the unsupervised use medication supply must be limited to a maximum of a single dose each week and the client shall ingest all other doses under direct supervision.

(c) In the second 90 days of treatment, the unsupervised use medication supply must be limited to two doses per week.

(d) In the third 90 days of treatment, the unsupervised use medication supply must not exceed three doses per week.

(e) In the remaining months of the first year, a client may be given a maximum six-day unsupervised use medication supply.

(f) After one year of continuous treatment, a client may be given a maximum two-week unsupervised use medication supply.

(g) After two years of continuous treatment, a client may be given a maximum one-month unsupervised use medication supply, but must make monthly visits to the program.

Subd. 8. Restriction exceptions. When a license holder has reason to accelerate the number of unsupervised use doses of methadone hydrochloride, the license holder must comply with the requirements of Code of Federal Regulations, title 42, section 8.12, the criteria for unsupervised use and must use the exception process provided by the federal Center for Substance Abuse Treatment Division of Pharmacologic Therapies. For the purposes of enforcement of this subdivision, the commissioner has the authority to monitor a program for compliance with federal regulations and

may issue licensing actions according to sections 245A.05, 245A.06, and 245A.07 based on the commissioner's determination of noncompliance.

Subd. 9. **Guest dose.** To receive a guest dose, the client must be enrolled in an opioid treatment program elsewhere in the state or country and be receiving the medication on a temporary basis because the client is not able to receive the medication at the program in which the client is enrolled. Such arrangements shall not exceed 30 consecutive days in any one program and must not be for the convenience or benefit of either program. A guest dose may also occur when the client's primary clinic is not open and the client is not receiving unsupervised use doses.

Subd. 10. **Capacity management and waiting list system compliance.** An opioid treatment program must notify the department within seven days of the program reaching both 90 and 100 percent of the program's capacity to care for clients. Each week, the program must report its capacity, currently enrolled dosing clients, and any waiting list. A program reporting 90 percent of capacity must also notify the department when the program's census increases or decreases from the 90 percent level.

Subd. 11. **Waiting list.** An opioid treatment program must have a waiting list system. If the person seeking admission cannot be admitted within 14 days of the date of application, each person seeking admission must be placed on the waiting list, unless the person seeking admission is assessed by the program and found ineligible for admission according to this chapter and Code of Federal Regulations, title 42, part 1, subchapter A, section 8.12(e), and title 45, parts 160 to 164. The waiting list must assign a unique client identifier for each person seeking treatment while awaiting admission. A person seeking admission on a waiting list who receives no services under section 245G.07, subdivision 1, must not be considered a client as defined in section 245G.01, subdivision 9.

Subd. 12. **Client referral.** An opioid treatment program must consult the capacity management system to ensure that a person on a waiting list is admitted at the earliest time to a program providing appropriate treatment within a reasonable geographic area. If the client was referred through a public payment system and if the program is not able to serve the client within 14 days of the date of application for admission, the program must contact and inform the referring agency of any available treatment capacity listed in the state capacity management system.

Subd. 13. **Outreach.** An opioid treatment program must carry out activities to encourage an individual in need of treatment to undergo treatment. The program's outreach model must:

(1) select, train, and supervise outreach workers;

(2) contact, communicate, and follow up with individuals with high-risk substance misuse, individuals with high-risk substance misuse associates, and neighborhood residents within the constraints of federal and state confidentiality requirements;

(3) promote awareness among individuals who engage in substance misuse by injection about the relationship between injecting substances and communicable diseases such as HIV; and

(4) recommend steps to prevent HIV transmission.

Subd. 14. **Central registry.** (a) A license holder must comply with requirements to submit information and necessary consents to the state central registry for each client admitted, as specified

by the commissioner. The license holder must submit data concerning medication used for the treatment of opioid use disorder. The data must be submitted in a method determined by the commissioner and the original information must be kept in the client's record. The information must be submitted for each client at admission and discharge. The program must document the date the information was submitted. The client's failure to provide the information shall prohibit participation in an opioid treatment program. The information submitted must include the client's:

- (1) full name and all aliases;
- (2) date of admission;
- (3) date of birth;
- (4) Social Security number or Alien Registration Number, if any;
- (5) current or previous enrollment status in another opioid treatment program;
- (6) government-issued photo identification card number; and
- (7) driver's license number, if any.

(b) The requirements in paragraph (a) are effective upon the commissioner's implementation of changes to the drug and alcohol abuse normative evaluation system or development of an electronic system by which to submit the data.

Subd. 15. **Nonmedication treatment services; documentation.** (a) The program must offer at least 50 consecutive minutes of individual or group therapy treatment services as defined in section 245G.07, subdivision 1, paragraph (a), clause (1), per week, for the first ten weeks following admission, and at least 50 consecutive minutes per month thereafter. As clinically appropriate, the program may offer these services cumulatively and not consecutively in increments of no less than 15 minutes over the required time period, and for a total of 60 minutes of treatment services over the time period, and must document the reason for providing services cumulatively in the client's record. The program may offer additional levels of service when deemed clinically necessary.

(b) Notwithstanding the requirements of comprehensive assessments in section 245G.05, the assessment must be completed within 21 days of service initiation.

(c) Notwithstanding the requirements of individual treatment plans set forth in section 245G.06:

(1) treatment plan contents for a maintenance client are not required to include goals the client must reach to complete treatment and have services terminated;

(2) treatment plans for a client in a taper or detox status must include goals the client must reach to complete treatment and have services terminated;

(3) for the initial ten weeks after admission for all new admissions, readmissions, and transfers, progress notes must be entered in a client's file at least weekly and be recorded in each of the six dimensions upon the development of the treatment plan and thereafter. Subsequently, the counselor must document progress in the six dimensions at least once monthly or, when clinical need warrants, more frequently; and

(4) upon the development of the treatment plan and thereafter, treatment plan reviews must occur weekly, or after each treatment service, whichever is less frequent, for the first ten weeks after the treatment plan is developed. Following the first ten weeks of treatment plan reviews, reviews may occur monthly, unless the client's needs warrant more frequent revisions or documentation.

Subd. 16. **Prescription monitoring program.** (a) The program must develop and maintain a policy and procedure that requires the ongoing monitoring of the data from the prescription monitoring program (PMP) for each client. The policy and procedure must include how the program meets the requirements in paragraph (b).

(b) If a medication used for the treatment of substance use disorder is administered or dispensed to a client, the license holder shall be subject to the following requirements:

(1) upon admission to a methadone clinic outpatient treatment program, a client must be notified in writing that the commissioner of human services and the medical director must monitor the PMP to review the prescribed controlled drugs a client received;

(2) the medical director or the medical director's delegate must review the data from the PMP described in section 152.126 before the client is ordered any controlled substance, as defined under section 152.126, subdivision 1, paragraph (c), including medications used for the treatment of opioid addiction, and the medical director's or the medical director's delegate's subsequent reviews of the PMP data must occur at least every 90 days;

(3) a copy of the PMP data reviewed must be maintained in the client's file;

(4) when the PMP data contains a recent history of multiple prescribers or multiple prescriptions for controlled substances, the physician's review of the data and subsequent actions must be documented in the client's file within 72 hours and must contain the medical director's determination of whether or not the prescriptions place the client at risk of harm and the actions to be taken in response to the PMP findings. The provider must conduct subsequent reviews of the PMP on a monthly basis; and

(5) if at any time the medical director believes the use of the controlled substances places the client at risk of harm, the program must seek the client's consent to discuss the client's opioid treatment with other prescribers and must seek the client's consent for the other prescriber to disclose to the opioid treatment program's medical director the client's condition that formed the basis of the other prescriptions. If the information is not obtained within seven days, the medical director must document whether or not changes to the client's medication dose or number of unsupervised use doses are necessary until the information is obtained.

(c) The commissioner shall collaborate with the Minnesota Board of Pharmacy to develop and implement an electronic system for the commissioner to routinely access the PMP data to determine whether any client enrolled in an opioid addiction treatment program licensed according to this section was prescribed or dispensed a controlled substance in addition to that administered or dispensed by the opioid addiction treatment program. When the commissioner determines there have been multiple prescribers or multiple prescriptions of controlled substances for a client, the commissioner shall:

(1) inform the medical director of the opioid treatment program only that the commissioner determined the existence of multiple prescribers or multiple prescriptions of controlled substances; and

(2) direct the medical director of the opioid treatment program to access the data directly, review the effect of the multiple prescribers or multiple prescriptions, and document the review.

(d) If determined necessary, the commissioner shall seek a federal waiver of, or exception to, any applicable provision of Code of Federal Regulations, title 42, section 2.34(c), before implementing this subdivision.

Subd. 17. Policies and procedures. (a) A license holder must develop and maintain the policies and procedures required in this subdivision.

(b) For a program that is not open every day of the year, the license holder must maintain a policy and procedure that permits a client to receive a single unsupervised use of medication used for the treatment of opioid use disorder for days that the program is closed for business, including, but not limited to, Sundays and state and federal holidays as required under subdivision 6, paragraph (a), clause (1).

(c) The license holder must maintain a policy and procedure that includes specific measures to reduce the possibility of diversion. The policy and procedure must:

(1) specifically identify and define the responsibilities of the medical and administrative staff for performing diversion control measures; and

(2) include a process for contacting no less than five percent of clients who have unsupervised use of medication, excluding clients approved solely under subdivision 6, paragraph (a), clause (1), to require clients to physically return to the program each month. The system must require clients to return to the program within a stipulated time frame and turn in all unused medication containers related to opioid use disorder treatment. The license holder must document all related contacts on a central log and the outcome of the contact for each client in the client's record.

(d) Medication used for the treatment of opioid use disorder must be ordered, administered, and dispensed according to applicable state and federal regulations and the standards set by applicable accreditation entities. If a medication order requires assessment by the person administering or dispensing the medication to determine the amount to be administered or dispensed, the assessment must be completed by an individual whose professional scope of practice permits an assessment. For the purposes of enforcement of this paragraph, the commissioner has the authority to monitor the person administering or dispensing the medication for compliance with state and federal regulations and the relevant standards of the license holder's accreditation agency and may issue licensing actions according to sections 245A.05, 245A.06, and 245A.07, based on the commissioner's determination of noncompliance.

Subd. 18. Quality improvement plan. The license holder must develop and maintain a quality improvement plan that:

(1) includes evaluation of the services provided to clients to identify issues that may improve service delivery and client outcomes;

(2) includes goals for the program to accomplish based on the evaluation;

(3) is reviewed annually by the management of the program to determine whether the goals were met and, if not, whether additional action is required;

(4) is updated at least annually to include new or continued goals based on an updated evaluation of services; and

(5) identifies two specific goal areas, in addition to others identified by the program, including:

(i) a goal concerning oversight and monitoring of the premises around and near the exterior of the program to reduce the possibility of medication used for the treatment of opioid use disorder being inappropriately used by a client, including but not limited to the sale or transfer of the medication to others; and

(ii) a goal concerning community outreach, including but not limited to communications with local law enforcement and county human services agencies, to increase coordination of services and identification of areas of concern to be addressed in the plan.

Subd. 19. **Placing authorities.** A program must provide certain notification and client-specific updates to placing authorities for a client who is enrolled in Minnesota health care programs. At the request of the placing authority, the program must provide client-specific updates, including but not limited to informing the placing authority of positive drug screenings and changes in medications used for the treatment of opioid use disorder ordered for the client.

Subd. 20. **Duty to report suspected drug diversion.** (a) To the fullest extent permitted under Code of Federal Regulations, title 42, sections 2.1 to 2.67, a program shall report to law enforcement any credible evidence that the program or its personnel knows, or reasonably should know, that is directly related to a diversion crime on the premises of the program, or a threat to commit a diversion crime.

(b) "Diversion crime," for the purposes of this section, means diverting, attempting to divert, or conspiring to divert Schedule I, II, III, or IV drugs, as defined in section 152.02, on the program's premises.

(c) The program must document the program's compliance with the requirement in paragraph (a) in either a client's record or an incident report. A program's failure to comply with paragraph (a) may result in sanctions as provided in sections 245A.06 and 245A.07.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 31. Minnesota Statutes 2016, section 246.18, subdivision 4, is amended to read:

Subd. 4. **Collections deposited in the general fund.** Except as provided in subdivisions 5, 6, and 7, all receipts from collection efforts for the regional treatment centers, state nursing homes, and other state facilities as defined in section 246.50, subdivision 3, must be deposited in the general fund. From that amount, receipts from collection efforts for regional treatment centers and community behavioral health hospitals must be deposited in accordance with subdivision 4a. The commissioner shall ensure that the departmental financial reporting systems and internal accounting procedures

comply with federal standards for reimbursement for program and administrative expenditures and fulfill the purpose of this ~~paragraph~~ subdivision.

Sec. 32. Minnesota Statutes 2016, section 246.18, is amended by adding a subdivision to read:

Subd. 4a. **Mental health innovation account.** The mental health innovation account is established in the special revenue fund. In fiscal year 2018 and fiscal year 2019, \$2,000,000 of the revenue generated by collection efforts from the regional treatment centers and community behavioral health hospitals under section 246.54 must be deposited into the mental health innovation account. Beginning in fiscal year 2020, \$2,500,000 of the revenue generated by collection efforts from the regional treatment centers and community behavioral health hospitals under section 246.54 must annually be deposited into the mental health innovation account. Money deposited in the mental health innovation account is appropriated to the commissioner of human services for the mental health innovation grant program under section 245.4662.

Sec. 33. Minnesota Statutes 2016, section 254A.01, is amended to read:

254A.01 PUBLIC POLICY.

It is hereby declared to be the public policy of this state that scientific evidence shows that addiction to alcohol or other drugs is a chronic brain disorder with potential for recurrence, and as with many other chronic conditions, people with substance use disorders can be effectively treated and can enter recovery. The interests of society are best served by reducing the stigma of substance use disorder and providing persons who are dependent upon alcohol or other drugs with a comprehensive range of rehabilitative and social services that span intensity levels and are not restricted to a particular point in time. Further, it is declared that treatment under these services shall be voluntary when possible: treatment shall not be denied on the basis of prior treatment; treatment shall be based on an individual treatment plan for each person undergoing treatment; treatment shall include a continuum of services available for a person leaving a program of treatment; treatment shall include all family members at the earliest possible phase of the treatment process.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 34. Minnesota Statutes 2016, section 254A.02, subdivision 2, is amended to read:

Subd. 2. **Approved treatment program.** "Approved treatment program" means care and treatment services provided by any individual, organization or association to ~~drug-dependent~~ persons with a substance use disorder, which meets the standards established by the commissioner of human services.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 35. Minnesota Statutes 2016, section 254A.02, subdivision 3, is amended to read:

Subd. 3. **Comprehensive program.** "Comprehensive program" means the range of services which are to be made available for the purpose of prevention, care and treatment of ~~alcohol and drug abuse~~ substance misuse and substance use disorder.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 36. Minnesota Statutes 2016, section 254A.02, subdivision 5, is amended to read:

Subd. 5. **Drug dependent person.** "Drug dependent person" means any ~~inebriate person or any~~ person incapable of self-management or management of personal affairs or unable to function physically or mentally in an effective manner because of the abuse of a drug, including alcohol.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 37. Minnesota Statutes 2016, section 254A.02, subdivision 6, is amended to read:

Subd. 6. **Facility.** "Facility" means any treatment facility administered under an approved treatment program ~~established under Laws 1973, chapter 572.~~

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 38. Minnesota Statutes 2016, section 254A.02, is amended by adding a subdivision to read:

Subd. 6a. **Substance misuse.** "Substance misuse" means the use of any psychoactive or mood-altering substance, without compelling medical reason, in a manner that results in mental, emotional, or physical impairment and causes socially dysfunctional or socially disordering behavior and that results in psychological dependence or physiological addiction as a function of continued use. Substance misuse has the same meaning as drug abuse or abuse of drugs.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 39. Minnesota Statutes 2016, section 254A.02, subdivision 8, is amended to read:

Subd. 8. **Other drugs.** "Other drugs" means any psychoactive ~~chemical~~ substance other than alcohol.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 40. Minnesota Statutes 2016, section 254A.02, subdivision 10, is amended to read:

Subd. 10. **State authority.** "State authority" is a division established within the Department of Human Services for the purpose of relating the authority of state government in the area of ~~alcohol and drug abuse~~ substance misuse and substance use disorder to the alcohol and drug abuse substance misuse and substance use disorder-related activities within the state.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 41. Minnesota Statutes 2016, section 254A.02, is amended by adding a subdivision to read:

Subd. 10a. **Substance use disorder.** "Substance use disorder" has the meaning given in the current Diagnostic and Statistical Manual of Mental Disorders.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 42. Minnesota Statutes 2016, section 254A.03, is amended to read:

254A.03 STATE AUTHORITY ON ALCOHOL AND DRUG ABUSE.

Subdivision 1. **Alcohol and Other Drug Abuse Section.** There is hereby created an Alcohol and Other Drug Abuse Section in the Department of Human Services. This section shall be headed by a director. The commissioner may place the director's position in the unclassified service if the position meets the criteria established in section 43A.08, subdivision 1a. The section shall:

(1) conduct and foster basic research relating to the cause, prevention and methods of diagnosis, treatment and rehabilitation of ~~alcoholic and other drug dependent~~ persons with substance misuse and substance use disorder;

(2) coordinate and review all activities and programs of all the various state departments as they relate to ~~alcohol and other drug dependency and abuse~~ problems associated with substance misuse and substance use disorder;

(3) develop, demonstrate, and disseminate new methods and techniques for ~~the prevention, early intervention, treatment and rehabilitation of alcohol and other drug abuse and dependency problems~~ recovery support for substance misuse and substance use disorder;

(4) gather facts and information about ~~alcoholism and other drug dependency and abuse~~ substance misuse and substance use disorder, and about the efficiency and effectiveness of prevention, treatment, and ~~rehabilitation~~ recovery support services from all comprehensive programs, including programs approved or licensed by the commissioner of human services or the commissioner of health or accredited by the Joint Commission on Accreditation of Hospitals. The state authority is authorized to require information from comprehensive programs which is reasonable and necessary to fulfill these duties. When required information has been previously furnished to a state or local governmental agency, the state authority shall collect the information from the governmental agency. The state authority shall disseminate facts and summary information about ~~alcohol and other drug abuse dependency~~ problems associated with substance misuse and substance use disorder to public and private agencies, local governments, local and regional planning agencies, and the courts for guidance to and assistance in prevention, treatment and ~~rehabilitation~~ recovery support;

(5) inform and educate the general public on ~~alcohol and other drug dependency and abuse problems~~ substance misuse and substance use disorder;

(6) serve as the state authority concerning ~~alcohol and other drug dependency and abuse~~ substance misuse and substance use disorder by monitoring the conduct of diagnosis and referral services, research and comprehensive programs. The state authority shall submit a biennial report to the governor and the legislature containing a description of public services delivery and recommendations concerning increase of coordination and quality of services, and decrease of service duplication and cost;

(7) establish a state plan which shall set forth goals and priorities for a comprehensive ~~alcohol and other drug dependency and abuse program~~ continuum of care for substance misuse and substance use disorder for Minnesota. All state agencies operating ~~alcohol and other drug abuse or dependency, substance misuse or substance use disorder~~ programs or administering state or federal funds for such programs shall annually set their program goals and priorities in accordance with the state plan. Each state agency shall annually submit its plans and budgets to the state authority for review. The state authority shall certify whether proposed services comply with the comprehensive state plan and advise each state agency of review findings;

(8) make contracts with and grants to public and private agencies and organizations, both profit and nonprofit, and individuals, using federal funds, and state funds as authorized to pay for costs of state administration, including evaluation, statewide programs and services, research and demonstration projects, and American Indian programs;

(9) receive and administer ~~monies~~ money available for ~~alcohol and drug abuse~~ substance misuse and substance use disorder programs under the alcohol, drug abuse, and mental health services block grant, United States Code, title 42, sections 300X to 300X-9;

(10) solicit and accept any gift of money or property for purposes of Laws 1973, chapter 572, and any grant of money, services, or property from the federal government, the state, any political subdivision thereof, or any private source;

(11) with respect to ~~alcohol and other drug abuse~~ substance misuse and substance use disorder programs serving the American Indian community, establish guidelines for the employment of personnel with considerable practical experience in ~~alcohol and other drug abuse problems~~ substance misuse and substance use disorder, and understanding of social and cultural problems related to ~~alcohol and other drug abuse~~ substance misuse and substance use disorder, in the American Indian community.

Subd. 2. **American Indian programs.** There is hereby created a section of American Indian programs, within the Alcohol and Drug Abuse Section of the Department of Human Services, to be headed by a special assistant for American Indian programs on ~~alcoholism and drug abuse~~ substance misuse and substance use disorder and two assistants to that position. The section shall be staffed with all personnel necessary to fully administer programming for ~~alcohol and drug abuse~~ substance misuse and substance use disorder services for American Indians in the state. The special assistant position shall be filled by a person with considerable practical experience in and understanding of ~~alcohol and other drug abuse problems~~ substance misuse and substance use disorder in the American Indian community, who shall be responsible to the director of the Alcohol and Drug Abuse Section created in subdivision 1 and shall be in the unclassified service. The special assistant shall meet and consult with the American Indian Advisory Council as described in section 254A.035 and serve as a liaison to the Minnesota Indian Affairs Council and tribes to report on the status of ~~alcohol and other drug abuse~~ substance misuse and substance use disorder among American Indians in the state of Minnesota. The special assistant with the approval of the director shall:

(1) administer funds appropriated for American Indian groups, organizations and reservations within the state for American Indian ~~alcoholism and drug abuse~~ substance misuse and substance use disorder programs;

(2) establish policies and procedures for such American Indian programs with the assistance of the American Indian Advisory Board; and

(3) hire and supervise staff to assist in the administration of the American Indian program section within the Alcohol and Drug Abuse Section of the Department of Human Services.

Subd. 3. **Rules for ~~chemical dependency~~ substance use disorder care.** (a) The commissioner of human services shall establish by rule criteria to be used in determining the appropriate level of chemical dependency care for each recipient of public assistance seeking treatment for ~~alcohol or other drug dependency and abuse problems~~ substance misuse or substance use disorder. Upon

federal approval of a comprehensive assessment as a Medicaid benefit, or on July 1, 2018, whichever is later, and notwithstanding the criteria in Minnesota Rules, parts 9530.6600 to 9530.6655, an eligible vendor of comprehensive assessments under section 254B.05 may determine and approve the appropriate level of substance use disorder treatment for a recipient of public assistance. The process for determining an individual's financial eligibility for the consolidated chemical dependency treatment fund or determining an individual's enrollment in or eligibility for a publicly subsidized health plan is not affected by the individual's choice to access a comprehensive assessment for placement.

(b) The commissioner shall develop and implement a utilization review process for publicly funded treatment placements to monitor and review the clinical appropriateness and timeliness of all publicly funded placements in treatment.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 43. Minnesota Statutes 2016, section 254A.035, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** There is created an American Indian Advisory Council to assist the state authority on ~~alcohol and drug abuse~~ substance misuse and substance use disorder in proposal review and formulating policies and procedures relating to ~~chemical dependency and the abuse of alcohol and other drugs~~ substance misuse and substance use disorder by American Indians.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 44. Minnesota Statutes 2016, section 254A.04, is amended to read:

254A.04 CITIZENS ADVISORY COUNCIL.

There is hereby created an Alcohol and Other Drug Abuse Advisory Council to advise the Department of Human Services concerning the problems of ~~alcohol and other drug dependency and abuse~~ substance misuse and substance use disorder, composed of ten members. Five members shall be individuals whose interests or training are in the field of ~~alcohol dependency~~ alcohol-specific substance use disorder and abuse alcohol misuse; and five members whose interests or training are in the field of ~~dependency~~ substance use disorder and abuse of drugs misuse of substances other than alcohol. The terms, compensation and removal of members shall be as provided in section 15.059. The council expires June 30, 2018. The commissioner of human services shall appoint members whose terms end in even-numbered years. The commissioner of health shall appoint members whose terms end in odd-numbered years.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 45. Minnesota Statutes 2016, section 254A.08, is amended to read:

254A.08 DETOXIFICATION CENTERS.

Subdivision 1. **Detoxification services.** Every county board shall provide detoxification services for ~~drug dependent persons~~ any person incapable of self-management or management of personal affairs or unable to function physically or mentally in an effective manner because of the use of a

drug, including alcohol. The board may utilize existing treatment programs and other agencies to meet this responsibility.

Subd. 2. **Program requirements.** For the purpose of this section, a detoxification program means a social rehabilitation program licensed by the Department of Human Services under chapter 245A, and governed by the standards of Minnesota Rules, parts 9530.6510 to 9530.6590, and established for the purpose of facilitating access into care and treatment by detoxifying and evaluating the person and providing entrance into a comprehensive program. Evaluation of the person shall include verification by a professional, after preliminary examination, that the person is intoxicated or has symptoms of ~~chemical dependency~~ substance misuse or substance use disorder and appears to be in imminent danger of harming self or others. A detoxification program shall have available the services of a licensed physician for medical emergencies and routine medical surveillance. A detoxification program licensed by the Department of Human Services to serve both adults and minors at the same site must provide for separate sleeping areas for adults and minors.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 46. Minnesota Statutes 2016, section 254A.09, is amended to read:

254A.09 CONFIDENTIALITY OF RECORDS.

The Department of Human Services shall assure confidentiality to individuals who are the subject of research by the state authority or are recipients of ~~alcohol or drug abuse~~ substance misuse or substance use disorder information, assessment, or treatment from a licensed or approved program. The commissioner shall withhold from all persons not connected with the conduct of the research the names or other identifying characteristics of a subject of research unless the individual gives written permission that information relative to treatment and recovery may be released. Persons authorized to protect the privacy of subjects of research may not be compelled in any federal, state or local, civil, criminal, administrative or other proceeding to identify or disclose other confidential information about the individuals. Identifying information and other confidential information related to ~~alcohol or drug abuse~~ substance misuse or substance use disorder information, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings if, after review of the records considered for disclosure, the court determines that the information is relevant to the purpose for which disclosure is requested. The court shall order disclosure of only that information which is determined relevant. In determining whether to compel disclosure, the court shall weigh the public interest and the need for disclosure against the injury to the patient, to the treatment relationship in the program affected and in other programs similarly situated, and the actual or potential harm to the ability of programs to attract and retain patients if disclosure occurs. This section does not exempt any person from the reporting obligations under section 626.556, nor limit the use of information reported in any proceeding arising out of the abuse or neglect of a child. Identifying information and other confidential information related to ~~alcohol or drug abuse information~~ substance misuse or substance use disorder, assessment, treatment, or aftercare services may be ordered to be released by the court for the purpose of civil or criminal investigations or proceedings. No information may be released pursuant to this section that would not be released pursuant to section 595.02, subdivision 2.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 47. Minnesota Statutes 2016, section 254A.19, subdivision 3, is amended to read:

Subd. 3. **Financial conflicts of interest.** (a) Except as provided in paragraph (b) ~~or~~ (c), or (d), an assessor conducting a chemical use assessment under Minnesota Rules, parts 9530.6600 to 9530.6655, may not have any direct or shared financial interest or referral relationship resulting in shared financial gain with a treatment provider.

(b) A county may contract with an assessor having a conflict described in paragraph (a) if the county documents that:

(1) the assessor is employed by a culturally specific service provider or a service provider with a program designed to treat individuals of a specific age, sex, or sexual preference;

(2) the county does not employ a sufficient number of qualified assessors and the only qualified assessors available in the county have a direct or shared financial interest or a referral relationship resulting in shared financial gain with a treatment provider; or

(3) the county social service agency has an existing relationship with an assessor or service provider and elects to enter into a contract with that assessor to provide both assessment and treatment under circumstances specified in the county's contract, provided the county retains responsibility for making placement decisions.

(c) The county may contract with a hospital to conduct chemical assessments if the requirements in subdivision 1a are met.

An assessor under this paragraph may not place clients in treatment. The assessor shall gather required information and provide it to the county along with any required documentation. The county shall make all placement decisions for clients assessed by assessors under this paragraph.

(d) An eligible vendor under section 254B.05 conducting a comprehensive assessment for an individual seeking treatment shall approve the nature, intensity level, and duration of treatment service if a need for services is indicated, but the individual assessed can access any enrolled provider that is licensed to provide the level of service authorized, including the provider or program that completed the assessment. If an individual is enrolled in a prepaid health plan, the individual must comply with any provider network requirements or limitations.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 48. Minnesota Statutes 2016, section 254B.01, subdivision 3, is amended to read:

Subd. 3. ~~Chemical dependency~~ **Substance use disorder treatment services.** "Chemical ~~dependency~~ Substance use disorder treatment services" means a planned program of care for the treatment of ~~chemical dependency substance misuse or chemical abuse~~ substance use disorder to minimize or prevent further ~~chemical abuse~~ substance misuse by the person. Diagnostic, evaluation, prevention, referral, detoxification, and aftercare services that are not part of a program of care licensable as a residential or nonresidential ~~chemical dependency~~ substance use disorder treatment program are not ~~chemical dependency~~ substance use disorder services for purposes of this section. For pregnant and postpartum women, ~~chemical dependency~~ substance use disorder services include halfway house services, aftercare services, psychological services, and case management.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 49. Minnesota Statutes 2016, section 254B.01, is amended by adding a subdivision to read:

Subd. 8. Recovery community organization. "Recovery community organization" means an independent organization led and governed by representatives of local communities of recovery. A recovery community organization mobilizes resources within and outside of the recovery community to increase the prevalence and quality of long-term recovery from alcohol and other drug addiction. Recovery community organizations provide peer-based recovery support activities such as training of recovery peers. Recovery community organizations provide mentorship and ongoing support to individuals dealing with a substance use disorder and connect them with the resources that can support each person's recovery. A recovery community organization also promotes a recovery-focused orientation in community education and outreach programming, and organize recovery-focused policy advocacy activities to foster healthy communities and reduce the stigma of substance use disorder.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 50. Minnesota Statutes 2016, section 254B.03, subdivision 2, is amended to read:

Subd. 2. Chemical dependency fund payment. (a) Payment from the chemical dependency fund is limited to payments for services other than detoxification licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, that, if located outside of federally recognized tribal lands, would be required to be licensed by the commissioner as a chemical dependency treatment or rehabilitation program under sections 245A.01 to 245A.16, and services other than detoxification provided in another state that would be required to be licensed as a chemical dependency program if the program were in the state. Out of state vendors must also provide the commissioner with assurances that the program complies substantially with state licensing requirements and possesses all licenses and certifications required by the host state to provide chemical dependency treatment. ~~Except for chemical dependency transitional rehabilitation programs,~~ Vendors receiving payments from the chemical dependency fund must not require co-payment from a recipient of benefits for services provided under this subdivision. The vendor is prohibited from using the client's public benefits to offset the cost of services paid under this section. The vendor shall not require the client to use public benefits for room or board costs. This includes but is not limited to cash assistance benefits under chapters 119B, 256D, and 256J, or SNAP benefits. Retention of SNAP benefits is a right of a client receiving services through the consolidated chemical dependency treatment fund or through state contracted managed care entities. Payment from the chemical dependency fund shall be made for necessary room and board costs provided by vendors certified according to section 254B.05, or in a community hospital licensed by the commissioner of health according to sections 144.50 to 144.56 to a client who is:

(1) determined to meet the criteria for placement in a residential chemical dependency treatment program according to rules adopted under section 254A.03, subdivision 3; and

(2) concurrently receiving a chemical dependency treatment service in a program licensed by the commissioner and reimbursed by the chemical dependency fund.

(b) A county may, from its own resources, provide chemical dependency services for which state payments are not made. A county may elect to use the same invoice procedures and obtain the

same state payment services as are used for chemical dependency services for which state payments are made under this section if county payments are made to the state in advance of state payments to vendors. When a county uses the state system for payment, the commissioner shall make monthly billings to the county using the most recent available information to determine the anticipated services for which payments will be made in the coming month. Adjustment of any overestimate or underestimate based on actual expenditures shall be made by the state agency by adjusting the estimate for any succeeding month.

(c) The commissioner shall coordinate chemical dependency services and determine whether there is a need for any proposed expansion of chemical dependency treatment services. The commissioner shall deny vendor certification to any provider that has not received prior approval from the commissioner for the creation of new programs or the expansion of existing program capacity. The commissioner shall consider the provider's capacity to obtain clients from outside the state based on plans, agreements, and previous utilization history, when determining the need for new treatment services.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 51. Minnesota Statutes 2016, section 254B.04, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** ~~(a)~~ Persons eligible for benefits under Code of Federal Regulations, title 25, part 20, and persons eligible for medical assistance benefits under sections 256B.055, 256B.056, and 256B.057, subdivisions 1, 5, and 6, or who meet the income standards of section 256B.056, subdivision 4, are entitled to chemical dependency fund services. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

Persons with dependent children who are determined to be in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 260C.201, subdivision 6, or 260C.212, shall be assisted by the local agency to access needed treatment services. Treatment services must be appropriate for the individual or family, which may include long-term care treatment or treatment in a facility that allows the dependent children to stay in the treatment facility. The county shall pay for out-of-home placement costs, if applicable.

~~(b) A person not entitled to services under paragraph (a), but with family income that is less than 215 percent of the federal poverty guidelines for the applicable family size, shall be eligible to receive chemical dependency fund services within the limit of funds appropriated for this group for the fiscal year. If notified by the state agency of limited funds, a county must give preferential treatment to persons with dependent children who are in need of chemical dependency treatment pursuant to an assessment under section 626.556, subdivision 10, or a case plan under section 260C.201, subdivision 6, or 260C.212. A county may spend money from its own sources to serve persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.~~

~~(c) Persons whose income is between 215 percent and 412 percent of the federal poverty guidelines for the applicable family size shall be eligible for chemical dependency services on a sliding fee basis, within the limit of funds appropriated for this group for the fiscal year. Persons eligible under this paragraph must contribute to the cost of services according to the sliding fee scale established under subdivision 3. A county may spend money from its own sources to provide services~~

to persons under this paragraph. State money appropriated for this paragraph must be placed in a separate account established for this purpose.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 52. Minnesota Statutes 2016, section 254B.04, subdivision 2b, is amended to read:

Subd. 2b. **Eligibility for placement in opioid treatment programs.** ~~(a) Notwithstanding provisions of Minnesota Rules, part 9530.6622, subpart 5, related to a placement authority's requirement to authorize services or service coordination in a program that complies with Minnesota Rules, part 9530.6500, or Code of Federal Regulations, title 42, part 8, and after taking into account an individual's preference for placement in an opioid treatment program, a placement authority may, but is not required to, authorize services or service coordination or otherwise place an individual in an opioid treatment program. Prior to making a determination of placement for an individual, the placing authority must consult with the current treatment provider, if any.~~

~~(b) Prior to placement of an individual who is determined by the assessor to require treatment for opioid addiction, the assessor must provide educational information concerning treatment options for opioid addiction, including the use of a medication for the use of opioid addiction. The commissioner shall develop educational materials supported by research and updated periodically that must be used by assessors to comply with this requirement.~~

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 53. Minnesota Statutes 2016, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **Licensure required.** (a) 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 that provide chemical dependency primary substance use disorder treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors.

(b) On July 1, 2018, or upon federal approval, whichever is later, a licensed professional in private practice who meets the requirements of section 245G.11, subdivisions 1 and 4, is an eligible vendor of a comprehensive assessment and assessment summary provided according to section 245G.05, and treatment services provided according to sections 245G.06 and 245G.07, subdivision 1, paragraphs (a), clauses (1) to (5), and (b); and subdivision 2.

(c) On July 1, 2018, or upon federal approval, whichever is later, a county is an eligible vendor for a comprehensive assessment and assessment summary when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 4, and completed according to the requirements of section 245G.05. A county is an eligible vendor of care coordination services when provided by an individual who meets the staffing credentials of section 245G.11, subdivisions 1 and 7, and provided according to the requirements of section 245G.07, subdivision 1, clause (7).

(d) On July 1, 2018, or upon federal approval, whichever is later, a recovery community organization that meets certification requirements identified by the commissioner is an eligible vendor of peer support services.

(e) Detoxification programs licensed under Minnesota Rules, parts 9530.6510 to 9530.6590, are not eligible vendors. Programs that are not licensed as a ~~chemical dependency~~ residential or nonresidential substance use disorder treatment or withdrawal management program by the commissioner or by tribal government or do not meet the requirements of subdivisions 1a and 1b are not eligible vendors.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 54. Minnesota Statutes 2016, section 254B.05, subdivision 1a, is amended to read:

Subd. 1a. **Room and board provider requirements.** (a) Effective January 1, 2000, vendors of room and board are eligible for chemical dependency fund payment if the vendor:

(1) 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) is determined to meet applicable health and safety requirements;

(3) is not a jail or prison;

(4) is not concurrently receiving funds under chapter 256I for the recipient;

(5) admits individuals who are 18 years of age or older;

(6) is registered as a board and lodging or lodging establishment according to section 157.17;

(7) has awake staff on site 24 hours per day;

(8) has staff who are at least 18 years of age and meet the requirements of ~~Minnesota Rules, part 9530.6450, subpart 1, item A~~ section 245G.11, subdivision 1, paragraph (a);

(9) has emergency behavioral procedures that meet the requirements of ~~Minnesota Rules, part 9530.6475~~ section 245G.16;

(10) meets the requirements of ~~Minnesota Rules, part 9530.6435, subparts 3 and 4, items A and B~~ section 245G.08, subdivision 5, if administering medications to clients;

(11) meets the abuse prevention requirements of section 245A.65, including a policy on fraternization and the mandatory reporting requirements of section 626.557;

(12) documents coordination with the treatment provider to ensure compliance with section 254B.03, subdivision 2;

(13) protects client funds and ensures freedom from exploitation by meeting the provisions of section 245A.04, subdivision 13;

(14) has a grievance procedure that meets the requirements of ~~Minnesota Rules, part 9530.6470, subpart 2~~ section 245G.15, subdivision 2; and

(15) has sleeping and bathroom facilities for men and women separated by a door that is locked, has an alarm, or is supervised by awake staff.

(b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from paragraph (a), clauses (5) to (15).

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 55. Minnesota Statutes 2016, section 254B.05, subdivision 5, is amended to read:

Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for ~~chemical dependency~~ substance use disorder services and service enhancements funded under this chapter.

(b) Eligible ~~chemical dependency~~ substance use disorder treatment services include:

(1) outpatient treatment services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480 sections 245G.01 to 245G.17, or applicable tribal license;

(2) on July 1, 2018, or upon federal approval, whichever is later, comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05, and Minnesota Rules, part 9530.6422;

(3) on July 1, 2018, or upon federal approval, whichever is later, care coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (6);

(4) on July 1, 2018, or upon federal approval, whichever is later, peer recovery support services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(5) on July 1, 2018, or upon federal approval, whichever is later, withdrawal management services provided according to chapter 245F;

~~(2)~~ (6) medication-assisted therapy services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480 and 9530.6500 section 245G.07, subdivision 1, or applicable tribal license;

~~(3)~~ (7) medication-assisted therapy plus enhanced treatment services that meet the requirements of clause ~~(2)~~ (6) and provide nine hours of clinical services each week;

~~(4)~~ (8) high, medium, and low intensity residential treatment services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480 and 9530.6505, sections 245G.01 to 245G.17 and 245G.22 or applicable tribal license which provide, respectively, 30, 15, and five hours of clinical services each week;

~~(5)~~ (9) hospital-based treatment services that are licensed according to Minnesota Rules, parts 9530.6405 to 9530.6480, sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

~~(6)~~ (10) adolescent treatment programs that are licensed as outpatient treatment programs according to Minnesota Rules, parts 9530.6405 to 9530.6485, sections 245G.01 to 245G.18 or as residential treatment programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or applicable tribal license;

~~(7)~~ (11) high-intensity residential treatment services that are licensed according to ~~Minnesota Rules, parts 9530.6405 to 9530.6480 and 9530.6505, sections 245G.01 to 245G.17 and 245G.21~~ or applicable tribal license, which provide 30 hours of clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

~~(8)~~ (12) room and board facilities that meet the requirements of subdivision 1a.

(c) The commissioner shall establish higher rates for programs that meet the requirements of paragraph (b) and one of the following additional requirements:

(1) programs that serve parents with their children if the program:

(i) provides on-site child care during the hours of treatment activity that:

(A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter 9503; or

(B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph (a), clause (6), and meets the requirements under ~~Minnesota Rules, part 9530.6490, subpart 4~~ section 245G.19, subdivision 4; or

(ii) arranges for off-site child care during hours of treatment activity at a facility that is licensed under chapter 245A as:

(A) a child care center under Minnesota Rules, chapter 9503; or

(B) a family child care home under Minnesota Rules, chapter 9502;

(2) culturally specific programs as defined in section 254B.01, subdivision 4a, or programs or subprograms serving special populations, if the program or subprogram meets the following requirements:

(i) is designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background;

(ii) is governed with significant input from individuals of that specific background; and

(iii) employs individuals to provide individual or group therapy, at least 50 percent of whom are of that specific background, except when the common social background of the individuals served is a traumatic brain injury or cognitive disability and the program employs treatment staff who have the necessary professional training, as approved by the commissioner, to serve clients with the specific disabilities that the program is designed to serve;

(3) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; and

(4) programs that offer services to individuals with co-occurring mental health and chemical dependency problems if:

(i) the program meets the co-occurring requirements in ~~Minnesota Rules, part 9530.6495~~ section 245G.20;

(ii) 25 percent of the counseling staff are licensed mental health professionals, as defined in section 245.462, subdivision 18, clauses (1) to (6), or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and licensed mental health professional, except that no more than 50 percent of the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance abuse disorders and the interaction between the two; and

(vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder training annually.

(d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at the chemical dependency facility of the child care provider's current licensure to provide child care services. Programs that provide child care according to paragraph (c), clause (1), must be deemed in compliance with the licensing requirements in ~~Minnesota Rules, part 9530.6490~~ section 245G.19.

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) Subject to federal approval, chemical dependency services that are otherwise covered as direct face-to-face services may be provided via two-way interactive video. The use of two-way interactive video must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services. The interactive video equipment and connection must comply with Medicare standards in effect at the time the service is provided.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 56. Minnesota Statutes 2016, section 254B.051, is amended to read:

254B.051 SUBSTANCE ABUSE USE DISORDER TREATMENT EFFECTIVENESS.

In addition to the substance ~~abuse~~ use disorder treatment program performance outcome measures that the commissioner of human services collects annually from treatment providers, the commissioner shall request additional data from programs that receive appropriations from the consolidated

chemical dependency treatment fund. This data shall include number of client readmissions six months after release from inpatient treatment, and the cost of treatment per person for each program receiving consolidated chemical dependency treatment funds. The commissioner may post this data on the department Web site.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 57. Minnesota Statutes 2016, section 254B.07, is amended to read:

254B.07 THIRD-PARTY LIABILITY.

The state agency provision and payment of, or liability for, ~~chemical dependency~~ substance use disorder medical care is the same as in section 256B.042.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 58. Minnesota Statutes 2016, section 254B.08, is amended to read:

254B.08 FEDERAL WAIVERS.

The commissioner shall apply for any federal waivers necessary to secure, to the extent allowed by law, federal financial participation for the provision of services to persons who need ~~chemical dependency~~ substance use disorder services. The commissioner may seek amendments to the waivers or apply for additional waivers to contain costs. The commissioner shall ensure that payment for the cost of providing ~~chemical dependency~~ substance use disorder services under the federal waiver plan does not exceed the cost of ~~chemical dependency~~ substance use disorder services that would have been provided without the waived services.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 59. Minnesota Statutes 2016, section 254B.09, is amended to read:

254B.09 INDIAN RESERVATION ALLOCATION OF CHEMICAL DEPENDENCY FUND.

Subdivision 1. **Vendor payments.** The commissioner shall pay eligible vendors for ~~chemical dependency~~ substance use disorder services to American Indians on the same basis as other payments, except that no local match is required when an invoice is submitted by the governing authority of a federally recognized American Indian tribal body or a county if the tribal governing body has not entered into an agreement under subdivision 2 on behalf of a current resident of the reservation under this section.

Subd. 2. **American Indian agreements.** The commissioner may enter into agreements with federally recognized tribal units to pay for ~~chemical dependency~~ substance use disorder 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) the form and manner of invoicing; and

(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.

Subd. 6. **American Indian tribal placements.** After entering into an agreement under subdivision 2, the governing authority of each reservation may submit invoices to the state for the cost of providing ~~chemical dependency~~ substance use disorder services to residents of the reservation according to the placement rules governing county placements, except that local match requirements are waived. The governing body may designate an agency to act on its behalf to provide placement services and manage invoices by written notice to the commissioner and evidence of agreement by the agency designated.

Subd. 8. **Payments to improve services to American Indians.** The commissioner may set rates for ~~chemical dependency~~ substance use disorder services to American Indians according to the American Indian Health Improvement Act, Public Law 94-437, for eligible vendors. These rates shall supersede rates set in county purchase of service agreements when payments are made on behalf of clients eligible according to Public Law 94-437.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 60. Minnesota Statutes 2016, section 254B.12, subdivision 2, is amended to read:

Subd. 2. **Payment methodology for highly specialized vendors.** Notwithstanding subdivision 1, the commissioner shall seek federal authority to develop separate payment methodologies for ~~chemical dependency~~ substance use disorder treatment services provided under the consolidated chemical dependency treatment fund: (1) by a state-operated vendor; or (2) for persons who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community. A payment methodology under this subdivision is effective for services provided on or after October 1, 2015, or on or after the receipt of federal approval, whichever is later.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 61. Minnesota Statutes 2016, section 254B.12, is amended by adding a subdivision to read:

Subd. 3. **Chemical dependency provider rate increase.** For the chemical dependency services listed in section 254B.05, subdivision 5, and provided on or after July 1, 2017, payment rates shall be increased by three percent over the rates in effect on January 1, 2017, for vendors who meet the requirements of section 254B.05.

Sec. 62. Minnesota Statutes 2016, section 254B.13, subdivision 2a, is amended to read:

Subd. 2a. **Eligibility for navigator pilot program.** (a) To be considered for participation in a navigator pilot program, an individual must:

- (1) be a resident of a county with an approved navigator program;
- (2) be eligible for consolidated chemical dependency treatment fund services;
- (3) be a voluntary participant in the navigator program;

(4) satisfy one of the following items:

(i) have at least one severity rating of three or above in dimension four, five, or six in a comprehensive assessment under ~~Minnesota Rules, part 9530.6422~~ section 245G.05, paragraph (c), clauses (4) to (6); or

(ii) have at least one severity rating of two or above in dimension four, five, or six in a comprehensive assessment under ~~Minnesota Rules, part 9530.6422~~, section 245G.05, paragraph (c), clauses (4) to (6), and be currently participating in a Rule 31 treatment program under ~~Minnesota Rules, parts 9530.6405 to 9530.6505~~, chapter 245G or be within 60 days following discharge after participation in a Rule 31 treatment program; and

(5) have had at least two treatment episodes in the past two years, not limited to episodes reimbursed by the consolidated chemical dependency treatment funds. An admission to an emergency room, a detoxification program, or a hospital may be substituted for one treatment episode if it resulted from the individual's substance use disorder.

(b) New eligibility criteria may be added as mutually agreed upon by the commissioner and participating navigator programs.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 63. Minnesota Statutes 2016, section 256B.0625, subdivision 45a, is amended to read:

Subd. 45a. **Psychiatric residential treatment facility services for persons under 21 years of age.** (a) Medical assistance covers psychiatric residential treatment facility services, according to section 256B.0941, for persons ~~under~~ younger than 21 years of age. Individuals who reach age 21 at the time they are receiving services are eligible to continue receiving services until they no longer require services or until they reach age 22, whichever occurs first.

(b) For purposes of this subdivision, "psychiatric residential treatment facility" means a facility other than a hospital that provides psychiatric services, as described in Code of Federal Regulations, title 42, sections 441.151 to 441.182, to individuals under age 21 in an inpatient setting.

~~(c) The commissioner shall develop admissions and discharge procedures and establish rates consistent with guidelines from the federal Centers for Medicare and Medicaid Services.~~

~~(d)~~ The commissioner shall enroll up to 150 certified psychiatric residential treatment facility services beds at up to six sites. The commissioner shall select psychiatric residential treatment facility services providers through a request for proposals process. Providers of state-operated services may respond to the request for proposals.

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

Sec. 64. **[256B.0941] PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY FOR PERSONS UNDER 21 YEARS OF AGE.**

Subdivision 1. Eligibility. (a) An individual who is eligible for mental health treatment services in a psychiatric residential treatment facility must meet all of the following criteria:

(1) before admission, services are determined to be medically necessary by the state's medical review agent according to Code of Federal Regulations, title 42, section 441.152;

(2) is younger than 21 years of age at the time of admission. Services may continue until the individual meets criteria for discharge or reaches 22 years of age, whichever occurs first;

(3) has a mental health diagnosis as defined in the most recent edition of the Diagnostic and Statistical Manual for Mental Disorders, as well as clinical evidence of severe aggression, or a finding that the individual is a risk to self or others;

(4) has functional impairment and a history of difficulty in functioning safely and successfully in the community, school, home, or job; an inability to adequately care for one's physical needs; or caregivers, guardians, or family members are unable to safely fulfill the individual's needs;

(5) requires psychiatric residential treatment under the direction of a physician to improve the individual's condition or prevent further regression so that services will no longer be needed;

(6) utilized and exhausted other community-based mental health services, or clinical evidence indicates that such services cannot provide the level of care needed; and

(7) was referred for treatment in a psychiatric residential treatment facility by a qualified mental health professional licensed as defined in section 245.4871, subdivision 27, clauses (1) to (6).

(b) A mental health professional making a referral shall submit documentation to the state's medical review agent containing all information necessary to determine medical necessity, including a standard diagnostic assessment completed within 180 days of the individual's admission. Documentation shall include evidence of family participation in the individual's treatment planning and signed consent for services.

Subd. 2. **Services.** Psychiatric residential treatment facility service providers must offer and have the capacity to provide the following services:

(1) development of the individual plan of care, review of the individual plan of care every 30 days, and discharge planning by required members of the treatment team according to Code of Federal Regulations, title 42, sections 441.155 to 441.156;

(2) any services provided by a psychiatrist or physician for development of an individual plan of care, conducting a review of the individual plan of care every 30 days, and discharge planning by required members of the treatment team according to Code of Federal Regulations, title 42, sections 441.155 to 441.156;

(3) active treatment seven days per week that may include individual, family, or group therapy as determined by the individual care plan;

(4) individual therapy, provided a minimum of twice per week;

(5) family engagement activities, provided a minimum of once per week;

(6) consultation with other professionals, including case managers, primary care professionals, community-based mental health providers, school staff, or other support planners;

(7) coordination of educational services between local and resident school districts and the facility;

(8) 24-hour nursing; and

(9) direct care and supervision, supportive services for daily living and safety, and positive behavior management.

Subd. 3. **Per diem rate.** (a) The commissioner shall establish a statewide per diem rate for psychiatric residential treatment facility services for individuals 21 years of age or younger. The rate for a provider must not exceed the rate charged by that provider for the same service to other payers. Payment must not be made to more than one entity for each individual for services provided under this section on a given day. The commissioner shall set rates prospectively for the annual rate period. The commissioner shall require providers to submit annual cost reports on a uniform cost reporting form and shall use submitted cost reports to inform the rate-setting process. The cost reporting shall be done according to federal requirements for Medicare cost reports.

(b) The following are included in the rate:

(1) costs necessary for licensure and accreditation, meeting all staffing standards for participation, meeting all service standards for participation, meeting all requirements for active treatment, maintaining medical records, conducting utilization review, meeting inspection of care, and discharge planning. The direct services costs must be determined using the actual cost of salaries, benefits, payroll taxes, and training of direct services staff and service-related transportation; and

(2) payment for room and board provided by facilities meeting all accreditation and licensing requirements for participation.

(c) A facility may submit a claim for payment outside of the per diem for professional services arranged by and provided at the facility by an appropriately licensed professional who is enrolled as a provider with Minnesota health care programs. Arranged services must be billed by the facility on a separate claim, and the facility shall be responsible for payment to the provider. These services must be included in the individual plan of care and are subject to prior authorization by the state's medical review agent.

(d) Medicaid shall reimburse for concurrent services as approved by the commissioner to support continuity of care and successful discharge from the facility. "Concurrent services" means services provided by another entity or provider while the individual is admitted to a psychiatric residential treatment facility. Payment for concurrent services may be limited and these services are subject to prior authorization by the state's medical review agent. Concurrent services may include targeted case management, assertive community treatment, clinical care consultation, team consultation, and treatment planning.

(e) Payment rates under this subdivision shall not include the costs of providing the following services:

(1) educational services;

(2) acute medical care or specialty services for other medical conditions;

(3) dental services; and

(4) pharmacy drug costs.

(f) For purposes of this section, "actual cost" means costs that are allowable, allocable, reasonable, and consistent with federal reimbursement requirements in Code of Federal Regulations, title 48, chapter 1, part 31, relating to for-profit entities, and the Office of Management and Budget Circular Number A-122, relating to nonprofit entities.

Subd. 4. **Leave days.** (a) Medical assistance covers therapeutic and hospital leave days, provided the recipient was not discharged from the psychiatric residential treatment facility and is expected to return to the psychiatric residential treatment facility. A reserved bed must be held for a recipient on hospital leave or therapeutic leave.

(b) A therapeutic leave day to home shall be used to prepare for discharge and reintegration and shall be included in the individual plan of care. The state shall reimburse 75 percent of the per diem rate for a reserve bed day while the recipient is on therapeutic leave. A therapeutic leave visit may not exceed three days without prior authorization.

(c) A hospital leave day shall be a day for which a recipient has been admitted to a hospital for medical or acute psychiatric care and is temporarily absent from the psychiatric residential treatment facility. The state shall reimburse 50 percent of the per diem rate for a reserve bed day while the recipient is receiving medical or psychiatric care in a hospital.

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

Sec. 65. Minnesota Statutes 2016, section 256B.0943, subdivision 13, is amended to read:

Subd. 13. **Exception to excluded services.** Notwithstanding subdivision 12, up to 15 hours of children's therapeutic services and supports provided within a six-month period to a child with severe emotional disturbance who is residing in a hospital; ~~a group home as defined in Minnesota Rules, parts 2960.0130 to 2960.0220;~~ a residential treatment facility licensed under Minnesota Rules, parts 2960.0580 to 2960.0690; a psychiatric residential treatment facility under section 256B.0625, subdivision 45a; a regional treatment center; or other institutional group setting or who is participating in a program of partial hospitalization are eligible for medical assistance payment if part of the discharge plan.

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

Sec. 66. Minnesota Statutes 2016, section 256B.0945, subdivision 2, is amended to read:

Subd. 2. **Covered services.** All services must be included in a child's individualized treatment or multiagency plan of care as defined in chapter 245.

For facilities that are not institutions for mental diseases according to federal statute and regulation, medical assistance covers mental health-related services that are required to be provided by a residential facility under section 245.4882 and administrative rules promulgated thereunder, except for room and board. For residential facilities determined by the federal Centers for Medicare and Medicaid Services to be an institution for mental diseases, medical assistance covers medically

necessary mental health services provided by the facility according to section 256B.055, subdivision 13, except for room and board.

Sec. 67. Minnesota Statutes 2016, section 256B.0945, subdivision 4, is amended to read:

Subd. 4. **Payment rates.** (a) Notwithstanding sections 256B.19 and 256B.041, payments to counties for residential services provided under this section by a residential facility shall:

(1) for services provided by a residential facility that is not an institution for mental diseases, only be made of federal earnings for services provided ~~under this section~~, and the nonfederal share of costs for services provided under this section shall be paid by the county from sources other than federal funds or funds used to match other federal funds. Payment to counties for services provided according to this section shall be a proportion of the per day contract rate that relates to rehabilitative mental health services and shall not include payment for costs or services that are billed to the IV-E program as room and board-; and

(2) for services provided by a residential facility that is determined to be an institution for mental diseases, be equivalent to the federal share of the payment that would have been made if the residential facility were not an institution for mental diseases. The portion of the payment representing what would be the nonfederal shares shall be paid by the county. Payment to counties for services provided according to this section shall be a proportion of the per day contract rate that relates to rehabilitative mental health services and shall not include payment for costs or services that are billed to the IV-E program as room and board.

(b) Per diem rates paid to providers under this section by prepaid plans shall be the proportion of the per-day contract rate that relates to rehabilitative mental health services and shall not include payment for group foster care costs or services that are billed to the county of financial responsibility. Services provided in facilities located in bordering states are eligible for reimbursement on a fee-for-service basis only as described in paragraph (a) and are not covered under prepaid health plans.

(c) Payment for mental health rehabilitative services provided under this section by or under contract with an American Indian tribe or tribal organization or by agencies operated by or under contract with an American Indian tribe or tribal organization must be made according to section 256B.0625, subdivision 34, or other relevant federally approved rate-setting methodology.

(d) The commissioner shall set aside a portion not to exceed five percent of the federal funds earned for county expenditures under this section to cover the state costs of administering this section. Any unexpended funds from the set-aside shall be distributed to the counties in proportion to their earnings under this section.

Sec. 68. Minnesota Statutes 2016, section 256B.763, is amended to read:

256B.763 CRITICAL ACCESS MENTAL HEALTH RATE INCREASE.

(a) For services defined in paragraph (b) and rendered on or after July 1, 2007, payment rates shall be increased by 23.7 percent over the rates in effect on January 1, 2006, for:

(1) psychiatrists and advanced practice registered nurses with a psychiatric specialty;

(2) community mental health centers under section 256B.0625, subdivision 5; and

(3) mental health clinics and centers certified under Minnesota Rules, parts 9520.0750 to 9520.0870, or hospital outpatient psychiatric departments that are designated as essential community providers under section 62Q.19.

(b) This increase applies to group skills training when provided as a component of children's therapeutic services and support, psychotherapy, medication management, evaluation and management, diagnostic assessment, explanation of findings, psychological testing, neuropsychological services, direction of behavioral aides, and inpatient consultation.

(c) This increase does not apply to rates that are governed by section 256B.0625, subdivision 30, or 256B.761, paragraph (b), other cost-based rates, rates that are negotiated with the county, rates that are established by the federal government, or rates that increased between January 1, 2004, and January 1, 2005.

(d) The commissioner shall adjust rates paid to prepaid health plans under contract with the commissioner to reflect the rate increases provided in paragraphs (a), (e), and (f). The prepaid health plan must pass this rate increase to the providers identified in paragraphs (a), (e), (f), and (g).

(e) Payment rates shall be increased by 23.7 percent over the rates in effect on December 31, 2007, for:

(1) medication education services provided on or after January 1, 2008, by adult rehabilitative mental health services providers certified under section 256B.0623; and

(2) mental health behavioral aide services provided on or after January 1, 2008, by children's therapeutic services and support providers certified under section 256B.0943.

(f) For services defined in paragraph (b) and rendered on or after January 1, 2008, by children's therapeutic services and support providers certified under section 256B.0943 and not already included in paragraph (a), payment rates shall be increased by 23.7 percent over the rates in effect on December 31, 2007.

(g) Payment rates shall be increased by 2.3 percent over the rates in effect on December 31, 2007, for individual and family skills training provided on or after January 1, 2008, by children's therapeutic services and support providers certified under section 256B.0943.

(h) For services described in paragraphs (b), (e), and (g) and rendered on or after July 1, 2017, payment rates for mental health clinics and centers certified under Minnesota Rules, parts 9520.0750 to 9520.0870, that are not designated as essential community providers under section 62Q.19 shall be equal to payment rates for mental health clinics and centers certified under Minnesota Rules, parts 9520.0750 to 9520.0870, that are designated as essential community providers under section 62Q.19. In order to receive increased payment rates under this paragraph, a provider must demonstrate a commitment to serve low-income and underserved populations by:

(1) charging for services on a sliding-fee schedule based on current poverty income guidelines; and

(2) not restricting access or services because of a client's financial limitation.

Sec. 69. **CHILDREN'S MENTAL HEALTH REPORT AND RECOMMENDATIONS.**

The commissioner of human services shall conduct a comprehensive analysis of Minnesota's continuum of intensive mental health services and shall develop recommendations for a sustainable and community-driven continuum of care for children with serious mental health needs, including children currently being served in residential treatment. The commissioner's analysis shall include, but not be limited to:

(1) data related to access, utilization, efficacy, and outcomes for Minnesota's current system of residential mental health treatment for a child with a severe emotional disturbance;

(2) potential expansion of the state's psychiatric residential treatment facility (PRTF) capacity, including increasing the number of PRTF beds and conversion of existing children's mental health residential treatment programs into PRTFs;

(3) the capacity need for PRTF and other group settings within the state if adequate community-based alternatives are accessible, equitable, and effective statewide;

(4) recommendations for expanding alternative community-based service models to meet the needs of a child with a serious mental health disorder who would otherwise require residential treatment and potential service models that could be utilized, including data related to access, utilization, efficacy, and outcomes;

(5) models of care used in other states; and

(6) analysis and specific recommendations for the design and implementation of new service models, including analysis to inform rate setting as necessary.

The analysis shall be supported and informed by extensive stakeholder engagement. Stakeholders include individuals who receive services, family members of individuals who receive services, providers, counties, health plans, advocates, and others. Stakeholder engagement shall include interviews with key stakeholders, intentional outreach to individuals who receive services and the individual's family members, and regional listening sessions.

The commissioner shall provide a report with specific recommendations and timelines for implementation to the legislative committees with jurisdiction over children's mental health policy and finance by November 15, 2018.

Sec. 70. **RESIDENTIAL TREATMENT AND PAYMENT RATE REFORM.**

The commissioner shall contract with an outside expert to identify recommendations for the development of a substance use disorder residential treatment program model and payment structure that is not subject to the federal institutions for mental diseases exclusion and that is financially sustainable for providers, while incentivizing best practices and improved treatment outcomes. The analysis must include recommendations and a timeline for supporting providers to transition to the new models of care delivery. No later than December 15, 2018, the commissioner shall deliver a

report with recommendations to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance.

Sec. 71. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes and Minnesota Rules, the revisor of statutes, in consultation with the with the Department of Human Services, shall make necessary cross-reference changes that are needed as a result of the enactment of sections 7 to 28 and 70. The revisor shall make any necessary technical and grammatical changes to preserve the meaning of the text.

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

Sec. 72. **REPEALER.**

(a) Minnesota Statutes 2016, sections 245A.1915; 245A.192; and 254A.02, subdivision 4, are repealed.

(b) Minnesota Rules, parts 9530.6405, subparts 1, 1a, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 14a, 15, 15a, 16, 17, 17a, 17b, 17c, 18, 20, and 21; 9530.6410; 9530.6415; 9530.6420; 9530.6422; 9530.6425; 9530.6430; 9530.6435; 9530.6440; 9530.6445; 9530.6450; 9530.6455; 9530.6460; 9530.6465; 9530.6470; 9530.6475; 9530.6480; 9530.6485; 9530.6490; 9530.6495; 9530.6500; and 9530.6505, are repealed.

(c) Minnesota Statutes 2016, section 256B.7631, is repealed.

EFFECTIVE DATE. Paragraphs (a) and (b) are effective January 1, 2018. Paragraph (c) is effective the day following final enactment.

ARTICLE 9

OPERATIONS

Section 1. Minnesota Statutes 2016, section 245A.02, subdivision 2b, is amended to read:

Subd. 2b. **Annual or annually.** With the exception of subdivision 2c, "annual" or "annually" means prior to or within the same month of the subsequent calendar year.

Sec. 2. Minnesota Statutes 2016, section 245A.02, is amended by adding a subdivision to read:

Subd. 2c. **Annual or annually; family child care training requirements.** For the purposes of section 245A.50, subdivisions 1 to 9, "annual" or "annually" means the 12-month period beginning on the license effective date or the annual anniversary of the effective date and ending on the day prior to the annual anniversary of the license effective date.

Sec. 3. Minnesota Statutes 2016, section 245A.04, subdivision 4, is amended to read:

Subd. 4. **Inspections; waiver.** (a) Before issuing an initial license, the commissioner shall conduct an inspection of the program. The inspection must include but is not limited to:

(1) an inspection of the physical plant;

- (2) an inspection of records and documents;
- (3) an evaluation of the program by consumers of the program; and
- (4) observation of the program in operation.

For the purposes of this subdivision, "consumer" means a person who receives the services of a licensed program, the person's legal guardian, or the parent or individual having legal custody of a child who receives the services of a licensed program.

(b) The evaluation required in paragraph (a), clause (3)₂ or the observation in paragraph (a), clause (4)₂ is not required prior to issuing an initial license under subdivision 7. If the commissioner issues an initial license under subdivision 7, these requirements must be completed within one year after the issuance of an initial license.

(c) Before completing a licensing inspection in a family child care program or child care center, the licensing agency must offer the license holder an exit interview to discuss violations of law or rule observed during the inspection and offer technical assistance on how to comply with applicable laws and rules. Nothing in this paragraph limits the ability of the commissioner to issue a correction order or negative action for violations of law or rule not discussed in an exit interview or in the event that a license holder chooses not to participate in an exit interview.

EFFECTIVE DATE. This section is effective October 1, 2017.

Sec. 4. Minnesota Statutes 2016, section 245A.06, subdivision 2, is amended to read:

Subd. 2. **Reconsideration of correction orders.** (a) If the applicant or license holder believes that the contents of the commissioner's correction order are in error, the applicant or license holder may ask the Department of Human Services to reconsider the parts of the correction order that are alleged to be in error. The request for reconsideration must be made in writing and must be postmarked and sent to the commissioner within 20 calendar days after receipt of the correction order by the applicant or license holder, and:

- (1) specify the parts of the correction order that are alleged to be in error;
- (2) explain why they are in error; and
- (3) include documentation to support the allegation of error.

A request for reconsideration does not stay any provisions or requirements of the correction order. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14.

(b) This paragraph applies only to licensed family child care providers. A licensed family child care provider who requests reconsideration of a correction order under paragraph (a) may also request, on a form and in the manner prescribed by the commissioner, that the commissioner expedite the review if:

(1) the provider is challenging a violation and provides a description of how complying with the corrective action for that violation would require the substantial expenditure of funds or a significant change to their program; and

(2) describes what actions the provider will take in lieu of the corrective action ordered to ensure the health and safety of children in care pending the commissioner's review of the correction order.

Sec. 5. Minnesota Statutes 2016, section 245A.06, subdivision 8, is amended to read:

Subd. 8. Requirement to post correction order. (a) For licensed family child care providers and child care centers, upon receipt of any correction order or order of conditional license issued by the commissioner under this section, and notwithstanding a pending request for reconsideration of the correction order or order of conditional license by the license holder, the license holder shall post the correction order or order of conditional license in a place that is conspicuous to the people receiving services and all visitors to the facility for two years. When the correction order or order of conditional license is accompanied by a maltreatment investigation memorandum prepared under section 626.556 or 626.557, the investigation memoranda must be posted with the correction order or order of conditional license.

(b) If the commissioner reverses or rescinds a violation in a correction order upon reconsideration under subdivision 2, the commissioner shall issue an amended correction order and the license holder shall post the amended order according to paragraph (a).

(c) If the correction order is rescinded or reversed in full upon reconsideration under subdivision 2, the license holder shall remove the original correction order posted according to paragraph (a).

Sec. 6. Minnesota Statutes 2016, section 245A.06, is amended by adding a subdivision to read:

Subd. 9. Child care correction order quotas prohibited. The commissioner and county licensing agencies shall not order, mandate, require, or suggest to any person responsible for licensing or inspecting a licensed family child care provider or child care center a quota for the issuance of correction orders on a daily, weekly, monthly, quarterly, or yearly basis.

Sec. 7. **[245A.065] CHILD CARE FIX-IT TICKET.**

(a) In lieu of a correction order under section 245A.06, the commissioner shall issue a fix-it ticket to a family child care or child care center license holder if the commissioner finds that:

(1) the license holder has failed to comply with a requirement in this chapter or Minnesota Rules, chapter 9502 or 9503, that the commissioner determines to be eligible for a fix-it ticket;

(2) the violation does not imminently endanger the health, safety, or rights of the persons served by the program;

(3) the license holder did not receive a fix-it ticket or correction order for the violation at the license holder's last licensing inspection;

(4) the violation can be corrected at the time of inspection or within 48 hours, excluding Saturdays, Sundays, and holidays; and

(5) the license holder corrects the violation at the time of inspection or agrees to correct the violation within 48 hours, excluding Saturdays, Sundays, and holidays.

(b) The fix-it ticket must state:

(1) the conditions that constitute a violation of the law or rule;

(2) the specific law or rule violated; and

(3) that the violation was corrected at the time of inspection or must be corrected within 48 hours, excluding Saturdays, Sundays, and holidays.

(c) The commissioner shall not publicly publish a fix-it ticket on the department's Web site.

(d) Within 48 hours, excluding Saturdays, Sundays, and holidays, of receiving a fix-it ticket, the license holder must correct the violation and within one week submit evidence to the licensing agency that the violation was corrected.

(e) If the violation is not corrected at the time of inspection or within 48 hours, excluding Saturdays, Sundays, and holidays, or the evidence submitted is insufficient to establish that the license holder corrected the violation, the commissioner must issue a correction order for the violation of Minnesota law or rule identified in the fix-it ticket according to section 245A.06.

(f) The commissioner shall, following consultation with family child care license holders, child care center license holders, and county agencies, issue a report by October 1, 2017, that identifies the violations of this chapter and Minnesota Rules, chapters 9502 and 9503, that are eligible for a fix-it ticket. The commissioner shall provide the report to county agencies and the chairs and ranking minority members of the legislative committees with jurisdiction over child care, and shall post the report to the department's Web site.

EFFECTIVE DATE. This section is effective October 1, 2017.

Sec. 8. Minnesota Statutes 2016, section 245A.07, subdivision 3, is amended to read:

Subd. 3. **License suspension, revocation, or fine.** (a) The commissioner may suspend or revoke a license, or impose a fine if:

(1) a license holder fails to comply fully with applicable laws or rules;

(2) a license holder, a controlling individual, or an individual living in the household where the licensed services are provided or is otherwise subject to a background study has a disqualification which has not been set aside under section 245C.22;

(3) a license holder knowingly withholds relevant information from or gives false or misleading information to the commissioner in connection with an application for a license, in connection with the background study status of an individual, during an investigation, or regarding compliance with applicable laws or rules; or

(4) after July 1, 2012, and upon request by the commissioner, a license holder fails to submit the information required of an applicant under section 245A.04, subdivision 1, paragraph (f) or (g).

A license holder who has had a license suspended, revoked, or has been ordered to pay a fine must be given notice of the action by certified mail or personal service. If mailed, the notice must be mailed to the address shown on the application or the last known address of the license holder. The notice must state the reasons the license was suspended, revoked, or a fine was ordered.

(b) If the license was suspended or revoked, the notice must inform the license holder of the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The license holder may appeal an order suspending or revoking a license. The appeal of an order suspending or revoking a license must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the license has been suspended or revoked. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order. Except as provided in subdivision 2a, paragraph (c), if a license holder submits a timely appeal of an order suspending or revoking a license, the license holder may continue to operate the program as provided in section 245A.04, subdivision 7, paragraphs (g) and (h), until the commissioner issues a final order on the suspension or revocation.

(c)(1) If the license holder was ordered to pay a fine, the notice must inform the license holder of the responsibility for payment of fines and the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. The appeal of an order to pay a fine must be made in writing by certified mail or personal service. If mailed, the appeal must be postmarked and sent to the commissioner within ten calendar days after the license holder receives notice that the fine has been ordered. If a request is made by personal service, it must be received by the commissioner within ten calendar days after the license holder received the order.

(2) The license holder shall pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies. If the license holder receives state funds, the state, county, or municipal agencies or departments responsible for administering the funds shall withhold payments and recover any payments made while the license is suspended for failure to pay a fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(3) A license holder shall promptly notify the commissioner of human services, in writing, when a violation specified in the order to forfeit a fine is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order to forfeit a fine, the commissioner may issue a second fine. The commissioner shall notify the license holder by certified mail or personal service that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(4) Fines shall be assessed as follows:

(i) the license holder shall forfeit \$1,000 for each determination of maltreatment of a child under section 626.556 or the maltreatment of a vulnerable adult under section 626.557 for which the license holder is determined responsible for the maltreatment under section 626.556, subdivision 10e, paragraph (i), or 626.557, subdivision 9c, paragraph (c);

(ii) if the commissioner determines that a determination of maltreatment for which the license holder is responsible is the result of maltreatment that meets the definition of serious maltreatment as defined in section 245C.02, subdivision 18, the license holder shall forfeit \$5,000;

(iii) for a program that operates out of the license holder's home and a program licensed under Minnesota Rules, parts 9502.0300 to 9502.0495, the fine assessed against the license holder shall not exceed \$1,000 for each determination of maltreatment;

(iv) the license holder shall forfeit \$200 for each occurrence of a violation of law or rule governing matters of health, safety, or supervision, including but not limited to the provision of adequate staff-to-child or adult ratios, and failure to comply with background study requirements under chapter 245C; and

(v) the license holder shall forfeit \$100 for each occurrence of a violation of law or rule other than those subject to a \$5,000, \$1,000, or \$200 fine ~~above~~ in items (i) to (iv).

For purposes of this section, "occurrence" means each violation identified in the commissioner's fine order. Fines assessed against a license holder that holds a license to provide home and community-based services, as identified in section 245D.03, subdivision 1, and a community residential setting or day services facility license under chapter 245D where the services are provided, may be assessed against both licenses for the same occurrence, but the combined amount of the fines shall not exceed the amount specified in this clause for that occurrence.

(5) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder will be personally liable for payment. In the case of a corporation, each controlling individual is personally and jointly liable for payment.

(d) Except for background study violations involving the failure to comply with an order to immediately remove an individual or an order to provide continuous, direct supervision, the commissioner shall not issue a fine under paragraph (c) relating to a background study violation to a license holder who self-corrects a background study violation before the commissioner discovers the violation. A license holder who has previously exercised the provisions of this paragraph to avoid a fine for a background study violation may not avoid a fine for a subsequent background study violation unless at least 365 days have passed since the license holder self-corrected the earlier background study violation.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 9. [245A.1434] INFORMATION FOR CHILD CARE LICENSE HOLDERS.

The commissioner shall inform family child care and child care center license holders on a timely basis of changes to state and federal statute, rule, regulation, and policy relating to the provision of licensed child care, the child care assistance program under chapter 119B, the quality rating and improvement system under section 124D.142, and child care licensing functions delegated to counties. Communications under this section shall include information to promote license holder compliance with identified changes. Communications under this section may be accomplished by electronic means and shall be made available to the public online.

Sec. 10. [245A.153] REPORT TO LEGISLATURE ON THE STATUS OF CHILD CARE.

Subdivision 1. Reporting requirements. Beginning on February 1, 2018, and no later than February 1 of each year thereafter, the commissioner of human services shall provide a report on the status of child care in Minnesota to the chairs and ranking minority members of the legislative committees with jurisdiction over child care.

Subd. 2. Contents of report. (a) The report must include the following:

(1) summary data on trends in child care center and family child care capacity and availability throughout the state, including the number of centers and programs that have opened and closed and the geographic locations of those centers and programs;

(2) a description of any changes to statutes, administrative rules, or agency policies and procedures that were implemented in the year preceding the report;

(3) a description of the actions the department has taken to address or implement the recommendations from the Legislative Task Force on Access to Affordable Child Care Report dated January 15, 2017, including but not limited to actions taken in the areas of:

(i) encouraging uniformity in implementing and interpreting statutes, administrative rules, and agency policies and procedures relating to child care licensing and access;

(ii) improving communication with county licensors and child care providers regarding changes to statutes, administrative rules, and agency policies and procedures, ensuring that information is directly and regularly transmitted;

(iii) providing notice to child care providers before issuing correction orders or negative actions relating to recent changes to statutes, administrative rules, and agency policies and procedures;

(iv) implementing confidential, anonymous communication processes for child care providers to ask questions and receive prompt, clear answers from the department;

(v) streamlining processes to reduce duplication or overlap in paperwork and training requirements for child care providers; and

(vi) compiling and distributing information detailing trends in the violations for which correction orders and negative actions are issued;

(4) a description of the department's efforts to cooperate with counties while addressing and implementing the task force recommendations;

(5) summary data on child care assistance programs including but not limited to state funding and numbers of families served; and

(6) summary data on family child care correction orders, including:

(i) the number of licensed family child care provider appeals or requests for reconsideration of correction orders to the Department of Human Services;

(ii) the number of family child care correction order appeals or requests for reconsideration that the Department of Human Services grants; and

(iii) the number of family child care correction order appeals or requests for reconsideration that the Department of Human Services denies.

(b) The commissioner may offer recommendations for legislative action.

Subd. 3. **Sunset.** This section expires February 2, 2020.

Sec. 11. Minnesota Statutes 2016, 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, legally ~~unlicensed~~ nonlicensed child care, ~~juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county,~~ and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in juvenile correctional facilities listed under section 241.021 located in the local welfare agency's county and in facilities licensed or certified under chapters 245A and 245D, 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 144A.43 to 144A.482.

ARTICLE 10

HEALTH DEPARTMENT

Section 1. Minnesota Statutes 2016, section 103I.101, subdivision 2, is amended to read:

Subd. 2. **Duties.** The commissioner shall:

(1) regulate the drilling, construction, modification, repair, and sealing of wells and borings;

(2) examine and license:

(i) well contractors;

(ii) persons constructing, repairing, and sealing bored geothermal heat exchangers;

(iii) persons modifying or repairing well casings, well screens, or well diameters;

(iv) persons constructing, repairing, and sealing drive point wells or dug wells;

(v) persons installing well pumps or pumping equipment;

- (vi) persons constructing, repairing, and sealing dewatering wells;
- (vii) persons sealing wells; ~~persons installing well pumps or pumping equipment~~ or borings;
- and
- (viii) persons excavating or drilling holes for the installation of elevator borings ~~or hydraulic cylinders~~;
- (3) ~~register~~ license and examine monitoring well contractors;
- (4) license explorers engaged in exploratory boring and examine individuals who supervise or oversee exploratory boring;
- (5) after consultation with the commissioner of natural resources and the Pollution Control Agency, establish standards for the design, location, construction, repair, and sealing of wells and borings within the state; and
- (6) issue permits for wells, groundwater thermal devices, bored geothermal heat exchangers, and elevator borings.

Sec. 2. Minnesota Statutes 2016, section 103I.101, subdivision 5, is amended to read:

Subd. 5. **Commissioner to adopt rules.** The commissioner shall adopt rules including:

- (1) issuance of licenses for:
 - (i) qualified well contractors₂;
 - (ii) persons modifying or repairing well casings, well screens, or well diameters;
 - ~~(ii)~~ (iii) persons constructing, repairing, and sealing drive point wells or dug wells;
 - ~~(iii)~~ (iv) persons constructing, repairing, and sealing dewatering wells;
 - ~~(iv)~~ (v) persons sealing wells or borings;
 - ~~(v)~~ (vi) persons installing well pumps or pumping equipment;
 - ~~(vi)~~ (vii) persons constructing, repairing, and sealing bored geothermal heat exchangers; and
 - ~~(vii)~~ (viii) persons constructing, repairing, and sealing elevator borings;
- (2) issuance of ~~registration~~ licenses for monitoring well contractors;
- (3) establishment of conditions for examination and review of applications for license and ~~registration~~ certification;
- (4) establishment of conditions for revocation and suspension of license and ~~registration~~ certification;

(5) establishment of minimum standards for design, location, construction, repair, and sealing of wells and borings to implement the purpose and intent of this chapter;

(6) establishment of a system for reporting on wells and borings drilled and sealed;

(7) establishment of standards for the construction, maintenance, sealing, and water quality monitoring of wells in areas of known or suspected contamination;

(8) establishment of wellhead protection measures for wells serving public water supplies;

(9) establishment of procedures to coordinate collection of well and boring data with other state and local governmental agencies;

(10) establishment of criteria and procedures for submission of well and boring logs, formation samples or well or boring cuttings, water samples, or other special information required for and water resource mapping; and

(11) establishment of minimum standards for design, location, construction, maintenance, repair, sealing, safety, and resource conservation related to borings, including exploratory borings as defined in section 103I.005, subdivision 9.

Sec. 3. Minnesota Statutes 2016, section 103I.111, subdivision 6, is amended to read:

Subd. 6. **Unsealed wells and borings are public health nuisances.** A well or boring that is required to be sealed under section 103I.301 but is not sealed is a public health nuisance. A county may abate the unsealed well or boring with the same authority of a community health board to abate a public health nuisance under section 145A.04, subdivision 8.

Sec. 4. Minnesota Statutes 2016, section 103I.111, subdivision 7, is amended to read:

Subd. 7. **Local license ~~or registration~~ fees prohibited.** (a) A political subdivision may not require a licensed well contractor to pay a license ~~or registration~~ fee.

(b) The commissioner of health must provide a political subdivision with a list of licensed well contractors upon request.

Sec. 5. Minnesota Statutes 2016, section 103I.111, subdivision 8, is amended to read:

Subd. 8. **Municipal regulation of drilling.** A municipality may regulate all drilling, except well, elevator ~~shaft~~ boring, and exploratory drilling that is subject to the provisions of this chapter, above, in, through, and adjacent to subsurface areas designated for mined underground space development and existing mined underground space. The regulations may prohibit, restrict, control, and require permits for the drilling.

Sec. 6. Minnesota Statutes 2016, section 103I.205, is amended to read:

103I.205 WELL AND BORING CONSTRUCTION.

Subdivision 1. **Notification required.** (a) Except as provided in paragraphs (d) and (e), a person may not construct a well until a notification of the proposed well on a form prescribed by the

commissioner is filed with the commissioner with the filing fee in section 103I.208, and, when applicable, the person has met the requirements of paragraph (f). If after filing the well notification an attempt to construct a well is unsuccessful, a new notification is not required unless the information relating to the successful well has substantially changed.

(b) The property owner, the property owner's agent, or the well licensed contractor where a well is to be located must file the well notification with the commissioner.

(c) The well notification under this subdivision preempts local permits and notifications, and counties or home rule charter or statutory cities may not require a permit or notification for wells unless the commissioner has delegated the permitting or notification authority under section 103I.111.

(d) A person who is an individual that constructs a drive point water-supply well on property owned or leased by the individual for farming or agricultural purposes or as the individual's place of abode must notify the commissioner of the installation and location of the well. The person must complete the notification form prescribed by the commissioner and mail it to the commissioner by ten days after the well is completed. A fee may not be charged for the notification. A person who sells drive point wells at retail must provide buyers with notification forms and informational materials including requirements regarding wells, their location, construction, and disclosure. The commissioner must provide the notification forms and informational materials to the sellers.

(e) A person may not construct a monitoring well until a permit is issued by the commissioner for the construction. If after obtaining a permit an attempt to construct a well is unsuccessful, a new permit is not required as long as the initial permit is modified to indicate the location of the successful well.

(f) When the operation of a well will require an appropriation permit from the commissioner of natural resources, a person may not begin construction of the well until the person submits the following information to the commissioner of natural resources:

- (1) the location of the well;
- (2) the formation or aquifer that will serve as the water source;
- (3) the maximum daily, seasonal, and annual pumpage rates and volumes that will be requested in the appropriation permit; and
- (4) other information requested by the commissioner of natural resources that is necessary to conduct the preliminary assessment required under section 103G.287, subdivision 1, paragraph (c).

The person may begin construction after receiving preliminary approval from the commissioner of natural resources.

Subd. 2. **Emergency permit and notification exemptions.** The commissioner may adopt rules that modify the procedures for filing a well or boring notification or well or boring permit if conditions occur that:

- (1) endanger the public health and welfare or cause a need to protect the groundwater; or

(2) require the monitoring well contractor, limited well/boring contractor, or well contractor to begin constructing a well before obtaining a permit or notification.

Subd. 3. **Maintenance permit.** (a) Except as provided under paragraph (b), a well that is not in use must be sealed or have a maintenance permit.

(b) If a monitoring well or a dewatering well is not sealed by 14 months after completion of construction, the owner of the property on which the well is located must obtain and annually renew a maintenance permit from the commissioner.

Subd. 4. **License required.** (a) Except as provided in paragraph (b), (c), (d), or (e), section 103I.401, subdivision 2, or 103I.601, subdivision 2, a person may not drill, construct, repair, or seal a well or boring unless the person has a well contractor's license in possession.

(b) A person may construct, repair, and seal a monitoring well if the person:

(1) is a professional engineer licensed under sections 326.02 to 326.15 in the branches of civil or geological engineering;

(2) is a hydrologist or hydrogeologist certified by the American Institute of Hydrology;

(3) is a professional geoscientist licensed under sections 326.02 to 326.15;

(4) is a geologist certified by the American Institute of Professional Geologists; or

(5) meets the qualifications established by the commissioner in rule.

A person must ~~register with~~ be licensed by the commissioner as a monitoring well contractor on forms provided by the commissioner.

(c) A person may do the following work with a limited well/boring contractor's license in possession. A separate license is required for each of the six activities:

(1) installing or repairing well screens or pitless units or pitless adaptors and well casings from the pitless adaptor or pitless unit to the upper termination of the well casing;

(2) constructing, repairing, and sealing drive point wells or dug wells;

(3) installing well pumps or pumping equipment;

(4) sealing wells or borings;

(5) constructing, repairing, or sealing dewatering wells; or

(6) constructing, repairing, or sealing bored geothermal heat exchangers.

(d) A person may construct, repair, and seal an elevator boring with an elevator boring contractor's license.

(e) Notwithstanding other provisions of this chapter requiring a license ~~or registration~~, a license ~~or registration~~ is not required for a person who complies with the other provisions of this chapter if the person is:

(1) an individual who constructs a well on land that is owned or leased by the individual and is used by the individual for farming or agricultural purposes or as the individual's place of abode;

(2) an individual who performs labor or services for a contractor licensed ~~or registered~~ under the provisions of this chapter in connection with the construction, sealing, or repair of a well or boring at the direction and under the personal supervision of a contractor licensed ~~or registered~~ under the provisions of this chapter; or

(3) a licensed plumber who is repairing submersible pumps or water pipes associated with well water systems if: (i) the repair location is within an area where there is no licensed ~~or registered~~ well contractor within 50 miles, and (ii) the licensed plumber complies with all relevant sections of the plumbing code.

Subd. 5. At-grade monitoring wells. At-grade monitoring wells are authorized without variance and may be installed for the purpose of evaluating groundwater conditions or for use as a leak detection device. An at-grade monitoring well must be installed in accordance with the rules of the commissioner. The at-grade monitoring wells must be installed with an impermeable double locking cap approved by the commissioner and must be labeled monitoring wells.

Subd. 6. Distance requirements for sources of contamination, buildings, gas pipes, liquid propane tanks, and electric lines. (a) A person may not place, construct, or install an actual or potential source of contamination, building, gas pipe, liquid propane tank, or electric line any closer to a well or boring than the isolation distances prescribed by the commissioner by rule unless a variance has been prescribed by rule.

(b) The commissioner shall establish by rule reduced isolation distances for facilities which have safeguards in accordance with sections 18B.01, subdivision 26, and 18C.005, subdivision 29.

Subd. 7. Well identification label required. After a well has been constructed, the person constructing the well must attach a label to the well showing the unique well number.

Subd. 8. Wells on property of another. A person may not construct or have constructed a well for the person's own use on the property of another until the owner of the property on which the well is to be located and the intended well user sign a written agreement that identifies which party will be responsible for obtaining all permits or filing notification, paying applicable fees and for sealing the well. If the property owner refuses to sign the agreement, the intended well user may, in lieu of a written agreement, state in writing to the commissioner that the well user will be responsible for obtaining permits, filing notification, paying applicable fees, and sealing the well. Nothing in this subdivision eliminates the responsibilities of the property owner under this chapter, or allows a person to construct a well on the property of another without consent or other legal authority.

Subd. 9. Report of work. Within 30 days after completion or sealing of a well or boring, the person doing the work must submit a verified report to the commissioner containing the information specified by rules adopted under this chapter.

Within 30 days after receiving the report, the commissioner shall send or otherwise provide access to a copy of the report to the commissioner of natural resources, to the local soil and water conservation district where the well is located, and to the director of the Minnesota Geological Survey.

Sec. 7. Minnesota Statutes 2016, section 103I.301, is amended to read:

103I.301 WELL AND BORING SEALING REQUIREMENTS.

Subdivision 1. **Wells and borings.** (a) A property owner must have a well or boring sealed if:

(1) the well or boring is contaminated or may contribute to the spread of contamination;

(2) the well or boring was attempted to be sealed but was not sealed according to the provisions of this chapter; or

(3) the well or boring is located, constructed, or maintained in a manner that its continued use or existence endangers groundwater quality or is a safety or health hazard.

(b) A well or boring that is not in use must be sealed unless the property owner has a maintenance permit for the well.

(c) The property owner must have a well or boring sealed by a ~~registered~~ or licensed person authorized to seal the well or boring, consistent with provisions of this chapter.

Subd. 2. **Monitoring wells.** The owner of the property where a monitoring well is located must have the monitoring well sealed when the well is no longer in use. The owner must have a well contractor, limited well/boring sealing contractor, or a monitoring well contractor seal the monitoring well.

Subd. 3. **Dewatering wells.** (a) The owner of the property where a dewatering well is located must have the dewatering well sealed when the dewatering well is no longer in use.

(b) A well contractor, limited well/boring sealing contractor, or limited dewatering well contractor shall seal the dewatering well.

Subd. 4. **Sealing procedures.** Wells and borings must be sealed according to rules adopted by the commissioner.

Subd. 6. **Notification required.** A person may not seal a well until a notification of the proposed sealing is filed as prescribed by the commissioner.

Sec. 8. Minnesota Statutes 2016, section 103I.501, is amended to read:

103I.501 LICENSING AND REGULATION OF WELLS AND BORINGS.

(a) The commissioner shall regulate and license:

(1) drilling, constructing, and repair of wells;

(2) sealing of wells;

- (3) installing of well pumps and pumping equipment;
- (4) excavating, drilling, repairing, and sealing of elevator borings;
- (5) construction, repair, and sealing of environmental bore holes; and
- (6) construction, repair, and sealing of bored geothermal heat exchangers.

(b) The commissioner shall examine and license well contractors, limited well/boring contractors, ~~and~~ elevator boring contractors, and ~~examine and register~~ monitoring well contractors.

(c) The commissioner shall license explorers engaged in exploratory boring and shall examine persons who supervise or oversee exploratory boring.

Sec. 9. Minnesota Statutes 2016, section 103I.505, is amended to read:

103I.505 RECIPROCITY OF LICENSES AND ~~REGISTRATIONS~~ CERTIFICATIONS.

Subdivision 1. **Reciprocity authorized.** The commissioner may issue a license or ~~register~~ certify a person under this chapter, without giving an examination, if the person is licensed or ~~registered~~ certified in another state and:

- (1) the requirements for licensing or ~~registration~~ certification under which the well or boring contractor was licensed or ~~registered~~ person was certified do not conflict with this chapter;
- (2) the requirements are of a standard not lower than that specified by the rules adopted under this chapter; and
- (3) equal reciprocal privileges are granted to licensees or ~~registrants~~ certified persons of this state.

Subd. 2. **Fees required.** A well or boring contractor or certified person must apply for the license or ~~registration~~ certification and pay the fees under the provisions of this chapter to receive a license or ~~registration~~ certification under this section.

Sec. 10. Minnesota Statutes 2016, section 103I.515, is amended to read:

103I.515 LICENSES NOT TRANSFERABLE.

A license or ~~registration~~ certification issued under this chapter is not transferable.

Sec. 11. Minnesota Statutes 2016, section 103I.535, subdivision 3, is amended to read:

Subd. 3. **Certification examination.** After the commissioner has approved the application, the applicant must take an examination given by the commissioner.

Sec. 12. Minnesota Statutes 2016, section 103I.535, is amended by adding a subdivision to read:

Subd. 3b. **Certification renewal.** (a) A representative must file an application and a renewal application fee to renew the certification by the date stated in the certification.

(b) The renewal application must include information that the certified representative has met continuing education requirements established by the commissioner by rule.

Sec. 13. Minnesota Statutes 2016, section 103I.535, subdivision 6, is amended to read:

Subd. 6. **License fee.** The fee for an elevator ~~shaft~~ boring contractor's license is \$75.

Sec. 14. Minnesota Statutes 2016, section 103I.541, is amended to read:

103I.541 MONITORING WELL CONTRACTOR'S ~~REGISTRATION~~ LICENSE; REPRESENTATIVE'S CERTIFICATION.

Subdivision 1. **Registration Certification.** A person seeking ~~registration as~~ certification to represent a monitoring well contractor must meet examination and experience requirements adopted by the commissioner by rule.

Subd. 2. **Validity.** A monitoring well contractor's ~~registration~~ certification is valid until the date prescribed in the ~~registration~~ certification by the commissioner.

Subd. 2a. **Certification application.** (a) An individual must submit an application and application fee to the commissioner to apply for certification as a representative of a monitoring well contractor.

(b) The application must be on forms prescribed by the commissioner. The application must state the applicant's qualifications for the certification, and other information required by the commissioner.

~~Subd. 2b. **Issuance of registration.** If a person employs a certified representative, submits the bond under subdivision 3, and pays the registration fee of \$75 for a monitoring well contractor registration, the commissioner shall issue a monitoring well contractor registration to the applicant. The fee for an individual registration is \$75. The commissioner may not act on an application until the application fee is paid.~~

Subd. 2c. **Certification fee.** (a) The application fee for certification as a representative of a monitoring well contractor is \$75. The commissioner may not act on an application until the application fee is paid.

(b) The renewal fee for certification as a representative of a monitoring well contractor is \$75. The commissioner may not renew a certification until the renewal fee is paid.

Subd. 2d. **Examination.** After the commissioner has approved an application, the applicant must take an examination given by the commissioner.

Subd. 2e. **Issuance of certification.** If the applicant meets the experience requirements established by rule and passes the examination as determined by the commissioner, the commissioner shall issue the applicant a certification to represent a monitoring well contractor.

Subd. 2f. **Certification renewal.** (a) A representative must file an application and a renewal application fee to renew the certification by the date stated in the certification.

(b) The renewal application must include information that the certified representative has met continuing education requirements established by the commissioner by rule.

Subd. 2g. **Issuance of license.** (a) If a person employs a certified representative, submits the bond under subdivision 3, and pays the license fee of \$75 for a monitoring well contractor license, the commissioner shall issue a monitoring well contractor license to the applicant.

(b) The commissioner may not act on an application until the application fee is paid.

Subd. 3. **Bond.** (a) As a condition of being issued a monitoring well contractor's ~~registration~~ license, the applicant must submit a corporate surety bond for \$10,000 approved by the commissioner. The bond must be conditioned to pay the state on performance of work in this state that is not in compliance with this chapter or rules adopted under this chapter. The bond is in lieu of other license bonds required by a political subdivision of the state.

(b) From proceeds of the bond, the commissioner may compensate persons injured or suffering financial loss because of a failure of the applicant to perform work or duties in compliance with this chapter or rules adopted under this chapter.

Subd. 4. **License renewal.** (a) A person must file an application and a renewal application fee to renew the ~~registration~~ license by the date stated in the ~~registration~~ license.

(b) The renewal application fee for a monitoring well contractor's ~~registration~~ license is \$75.

(c) The renewal application must include information that the certified representative of the applicant has met continuing education requirements established by the commissioner by rule.

(d) At the time of the renewal, the commissioner must have on file all well and boring construction reports, well and boring sealing reports, well permits, and notifications for work conducted by the ~~registered~~ licensed person since the last ~~registration~~ license renewal.

Subd. 5. **Incomplete or late renewal.** If a ~~registered~~ licensed person submits a renewal application after the required renewal date:

(1) the ~~registered~~ licensed person must include a late fee of \$75; and

(2) the ~~registered~~ licensed person may not conduct activities authorized by the monitoring well contractor's ~~registration~~ license until the renewal application, renewal application fee, late fee, and all other information required in subdivision 4 are submitted.

Sec. 15. Minnesota Statutes 2016, section 103I.545, subdivision 1, is amended to read:

Subdivision 1. **Drilling machine.** (a) A person may not use a drilling machine such as a cable tool, rotary tool, hollow rod tool, or auger for a drilling activity requiring a license ~~or registration~~ under this chapter unless the drilling machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$75 registration fee.

(c) A registration is valid for one year.

Sec. 16. Minnesota Statutes 2016, section 103I.545, subdivision 2, is amended to read:

Subd. 2. **Hoist.** (a) A person may not use a machine such as a hoist for an activity requiring a license ~~or registration~~ under this chapter to repair wells or borings, seal wells or borings, or install pumps unless the machine is registered with the commissioner.

(b) A person must apply for the registration on forms prescribed by the commissioner and submit a \$75 registration fee.

(c) A registration is valid for one year.

Sec. 17. Minnesota Statutes 2016, section 103I.711, subdivision 1, is amended to read:

Subdivision 1. **Impoundment.** The commissioner may apply to district court for a warrant authorizing seizure and impoundment of all drilling machines or hoists owned or used by a person. The court shall issue an impoundment order upon the commissioner's showing that a person is constructing, repairing, or sealing wells or borings or installing pumps or pumping equipment or excavating holes for installing elevator ~~shafts~~ borings without a license ~~or registration~~ as required under this chapter. A sheriff on receipt of the warrant must seize and impound all drilling machines and hoists owned or used by the person. A person from whom equipment is seized under this subdivision may file an action in district court for the purpose of establishing that the equipment was wrongfully seized.

Sec. 18. Minnesota Statutes 2016, section 103I.715, subdivision 2, is amended to read:

Subd. 2. **Gross misdemeanors.** A person is guilty of a gross misdemeanor who:

(1) willfully violates a provision of this chapter or order of the commissioner;

(2) engages in the business of drilling or making wells, sealing wells, installing pumps or pumping equipment, or constructing elevator ~~shafts~~ borings without a license required by this chapter; or

(3) engages in the business of exploratory boring without an exploratory borer's license under this chapter.

Sec. 19. [144.059] PALLIATIVE CARE ADVISORY COUNCIL.

Subdivision 1. **Membership.** The Palliative Care Advisory Council shall consist of 18 public members.

Subd. 2. **Public members.** (a) The commissioner shall appoint, in the manner provided in section 15.0597, 18 public members, including the following:

(1) two physicians, of which one is certified by the American Board of Hospice and Palliative Medicine;

(2) two registered nurses or advanced practice registered nurses, of which one is certified by the National Board for Certification of Hospice and Palliative Nurses;

(3) one care coordinator experienced in working with people with serious or chronic illness and their families;

(4) one spiritual counselor experienced in working with people with serious or chronic illness and their families;

(5) three licensed health professionals, such as complementary and alternative health care practitioners, dietitians or nutritionists, pharmacists, or physical therapists, who are neither physicians nor nurses, but who have experience as members of a palliative care interdisciplinary team working with people with serious or chronic illness and their families;

(6) one licensed social worker experienced in working with people with serious or chronic illness and their families;

(7) four patients or personal caregivers experienced with serious or chronic illness;

(8) one representative of a health plan company;

(9) one physician assistant that is a member of the American Academy of Hospice and Palliative Medicine; and

(10) two members from any of the categories described in clauses (1) to (9).

(b) Council membership must include, where possible, representation that is racially, culturally, linguistically, geographically, and economically diverse.

(c) The council must include at least six members who reside outside Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Mille Lacs, Ramsey, Scott, Sherburne, Sibley, Stearns, Washington, or Wright Counties.

(d) To the extent possible, council membership must include persons who have experience in palliative care research, palliative care instruction in a medical or nursing school setting, palliative care services for veterans as a provider or recipient, or pediatric care.

(e) Council membership must include health professionals who have palliative care work experience or expertise in palliative care delivery models in a variety of inpatient, outpatient, and community settings, including acute care, long-term care, or hospice, with a variety of populations, including pediatric, youth, and adult patients.

Subd. 3. **Term.** Members of the council shall serve for a term of three years and may be reappointed. Members shall serve until their successors have been appointed.

Subd. 4. **Administration.** The commissioner or the commissioner's designee shall provide meeting space and administrative services for the council.

Subd. 5. **Chairs.** At the council's first meeting, and biannually thereafter, the members shall elect a chair and a vice-chair whose duties shall be established by the council.

Subd. 6. **Meeting.** The council shall meet at least twice yearly.

Subd. 7. **No compensation.** Public members of the council serve without compensation or reimbursement for expenses.

Subd. 8. **Duties.** (a) The council shall consult with and advise the commissioner on matters related to the establishment, maintenance, operation, and outcomes evaluation of palliative care initiatives in the state.

(b) By February 15 of each year, the council shall submit to the chairs and ranking minority members of the committees of the senate and the house of representatives with primary jurisdiction over health care a report containing:

(1) the advisory council's assessment of the availability of palliative care in the state;

(2) the advisory council's analysis of barriers to greater access to palliative care; and

(3) recommendations for legislative action, with draft legislation to implement the recommendations.

(c) The Department of Health shall publish the report each year on the department's Web site.

Subd. 9. **Open meetings.** The council is subject to the requirements of chapter 13D.

Subd. 10. **Sunset.** The council shall sunset January 1, 2025.

Sec. 20. **[144.1215] AUTHORIZATION TO USE HANDHELD DENTAL X-RAY EQUIPMENT.**

Subdivision 1. **Definition; handheld dental x-ray equipment.** For purposes of this section, "handheld dental x-ray equipment" means x-ray equipment that is used to take dental radiographs, is designed to be handheld during operation, and is operated by an individual authorized to take dental radiographs under chapter 150A.

Subd. 2. **Use authorized.** (a) Handheld dental x-ray equipment may be used if the equipment:

(1) has been approved for human use by the United States Food and Drug Administration and is being used in a manner consistent with that approval; and

(2) utilizes a backscatter shield that:

(i) is composed of a leaded polymer or a substance with a substantially equivalent protective capacity;

(ii) has at least 0.25 millimeters of lead or lead-shielding equivalent; and

(iii) is permanently affixed to the handheld dental x-ray equipment.

(b) The use of handheld dental x-ray equipment is prohibited if the equipment's backscatter shield is broken or not permanently affixed to the system.

(c) The use of handheld dental x-ray equipment shall not be limited to situations in which it is impractical to transfer the patient to a stationary x-ray system.

(d) Handheld dental x-ray equipment must be stored when not in use, by being secured in a restricted, locked area of the facility.

(e) Handheld dental x-ray equipment must be calibrated initially and at intervals that must not exceed 24 months. Calibration must include the test specified in Minnesota Rules, part 4732.1100, subpart 11.

(f) Notwithstanding Minnesota Rules, part 4732.0880, subpart 2, item C, the tube housing and the position-indicating device of handheld dental x-ray equipment may be handheld during an exposure.

Subd. 3. **Exemptions from certain shielding requirements.** Handheld dental x-ray equipment used according to this section and according to manufacturer instructions is exempt from the following requirements for the equipment:

(1) shielding requirements in Minnesota Rules, part 4732.0365, item B; and

(2) requirements for the location of the x-ray control console or utilization of a protective barrier in Minnesota Rules, part 4732.0800, subpart 2, item B, subitems (2) and (3), provided the equipment utilizes a backscatter shield that satisfies the requirements in subdivision 2, paragraph (a), clause (2).

Subd. 4. **Compliance with rules.** A registrant using handheld dental x-ray equipment shall otherwise comply with Minnesota Rules, chapter 4732.

Sec. 21. Minnesota Statutes 2016, 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 Management and Budget. 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	\$7,655 plus \$16 per bed
Non-JCAHO and non-AOA hospitals	\$5,280 plus \$250 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	\$3,712
Boarding care homes	\$183 plus \$91 per bed
Supervised living facilities	\$183 plus \$91 per bed.

Fees collected under this paragraph are nonrefundable. The fees are nonrefundable even if received before July 1, 2017, for licenses or registrations being issued effective July 1, 2017, or later.

(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. 22. Minnesota Statutes 2016, section 144.1501, subdivision 2, is amended to read:

Subd. 2. **Creation of account.** (a) A health professional education loan forgiveness program account is established. The commissioner of health shall use money from the account to establish a loan forgiveness program:

(1) for medical residents and mental health professionals agreeing to practice in designated rural areas or underserved urban communities or specializing in the area of pediatric psychiatry;

(2) for midlevel practitioners agreeing to practice in designated rural areas or to teach at least 12 credit hours, or 720 hours per year in the nursing field in a postsecondary program at the undergraduate level or the equivalent at the graduate level;

(3) for nurses who agree to practice in a Minnesota nursing home; an intermediate care facility for persons with developmental disability; ~~or~~ a hospital if the hospital owns and operates a Minnesota nursing home and a minimum of 50 percent of the hours worked by the nurse is in the nursing home; a housing with services establishment as defined in section 144D.01, subdivision 4; or for a home care provider as defined in section 144A.43, subdivision 4; or agree to teach at least 12 credit hours, or 720 hours per year in the nursing field in a postsecondary program at the undergraduate level or the equivalent at the graduate level;

(4) for other health care technicians agreeing to teach at least 12 credit hours, or 720 hours per year in their designated field in a postsecondary program at the undergraduate level or the equivalent at the graduate level. The commissioner, in consultation with the Healthcare Education-Industry Partnership, shall determine the health care fields where the need is the greatest, including, but not limited to, respiratory therapy, clinical laboratory technology, radiologic technology, and surgical technology;

(5) for pharmacists, advanced dental therapists, dental therapists, and public health nurses who agree to practice in designated rural areas; and

(6) for dentists agreeing to deliver at least 25 percent of the dentist's yearly patient encounters to state public program enrollees or patients receiving sliding fee schedule discounts through a formal sliding fee schedule meeting the standards established by the United States Department of Health and Human Services under Code of Federal Regulations, title 42, section 51, chapter 303.

(b) Appropriations made to the account do not cancel and are available until expended, except that at the end of each biennium, any remaining balance in the account that is not committed by contract and not needed to fulfill existing commitments shall cancel to the fund.

Sec. 23. [144.1504] SENIOR CARE WORKFORCE INNOVATION GRANT PROGRAM.

Subdivision 1. **Establishment.** The senior care workforce innovation grant program is established to assist eligible applicants to fund pilot programs or expand existing programs that increase the pool of caregivers working in the field of senior care services.

Subd. 2. **Competitive grants.** The commissioner shall make competitive grants available to eligible applicants to expand the workforce for senior care services.

Subd. 3. **Eligibility.** (a) Eligible applicants must recruit and train individuals to work with individuals who are primarily 65 years of age or older and receiving services through:

(1) a home and community-based setting, including housing with services establishments as defined in section 144D.01, subdivision 4;

(2) adult day care as defined in section 245A.02, subdivision 2a;

(3) home care services as defined in section 144A.43, subdivision 3; or

(4) a nursing home as defined in section 144A.01, subdivision 5.

(b) Applicants must apply for a senior care workforce innovation grant as specified in subdivision 4.

Subd. 4. **Application.** (a) Eligible applicants must apply for a grant on the forms and according to the timelines established by the commissioner.

(b) Each applicant must propose a project or initiative to expand the number of workers in the field of senior care services. At a minimum, a proposal must include:

(1) a description of the senior care workforce innovation project or initiative being proposed, including the process by which the applicant will expand the senior care workforce;

(2) whether the applicant is proposing to target the proposed project or initiative to any of the groups described in paragraph (c);

(3) information describing the applicant's current senior care workforce project or initiative, if applicable;

(4) the amount of funding the applicant is seeking through the grant program;

(5) any other sources of funding the applicant has for the project or initiative;

(6) a proposed budget detailing how the grant funds will be spent; and

(7) outcomes established by the applicant to measure the success of the project or initiative.

Subd. 5. **Commissioner's duties; requests for proposals; grantee selections.** (a) By September 1, 2017, and annually thereafter, the commissioner shall publish a request for proposals in the State Register specifying applicant eligibility requirements, qualifying senior care workforce innovation program criteria, applicant selection criteria, documentation required for program participation, maximum award amount, and methods of evaluation.

(b) Priority must be given to proposals that target employment of individuals who have multiple barriers to employment, individuals who have been unemployed long-term, and veterans.

(c) The commissioner shall determine the maximum award for grants and make grant selections based on the information provided in the grant application, including the targeted employment population, the applicant's proposed budget, the proposed measurable outcomes, and other criteria as determined by the commissioner.

Subd. 6. **Grant funding.** Notwithstanding any law or rule to the contrary, funds awarded to grantees in a grant agreement under this section do not lapse until the grant agreement expires.

Subd. 7. **Reporting requirements.** (a) Grant recipients shall report to the commissioner on the forms and according to the timelines established by the commissioner.

(b) The commissioner shall report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over health by January 15, 2019, and annually thereafter, on the grant program. The report must include:

(1) information on each grant recipient;

(2) a summary of all projects or initiatives undertaken with each grant;

(3) the measurable outcomes established by each grantee, an explanation of the evaluation process used to determine whether the outcomes were met, and the results of the evaluation; and

(4) an accounting of how the grant funds were spent.

(c) During the grant period, the commissioner may require and collect from grant recipients additional information necessary to evaluate the grant program.

Sec. 24. [144.1505] HEALTH PROFESSIONALS CLINICAL TRAINING EXPANSION GRANT PROGRAM.

Subdivision 1. **Definitions.** For purposes of this section, the following definitions apply:

(1) "eligible advanced practice registered nurse program" means a program that is located in Minnesota and is currently accredited as a master's, doctoral, or postgraduate level advanced practice registered nurse program by the Commission on Collegiate Nursing Education or by the Accreditation Commission for Education in Nursing, or is a candidate for accreditation;

(2) "eligible dental therapy program" means a dental therapy education program or advanced dental therapy education program that is located in Minnesota and is either:

(i) approved by the Board of Dentistry; or

(ii) currently accredited by the Commission on Dental Accreditation;

(3) "eligible mental health professional program" means a program that is located in Minnesota and is listed as a mental health professional program by the appropriate accrediting body for clinical

social work, psychology, marriage and family therapy, or licensed professional clinical counseling, or is a candidate for accreditation;

(4) "eligible pharmacy program" means a program that is located in Minnesota and is currently accredited as a doctor of pharmacy program by the Accreditation Council on Pharmacy Education;

(5) "eligible physician assistant program" means a program that is located in Minnesota and is currently accredited as a physician assistant program by the Accreditation Review Commission on Education for the Physician Assistant, or is a candidate for accreditation;

(6) "mental health professional" means an individual providing clinical services in the treatment of mental illness who meets one of the qualifications under section 245.462, subdivision 18; and

(7) "project" means a project to establish or expand clinical training for physician assistants, advanced practice registered nurses, pharmacists, dental therapists, advanced dental therapists, or mental health professionals in Minnesota.

Subd. 2. **Program.** (a) The commissioner of health shall award health professional training site grants to eligible physician assistant, advanced practice registered nurse, pharmacy, dental therapy, and mental health professional programs to plan and implement expanded clinical training. A planning grant shall not exceed \$75,000, and a training grant shall not exceed \$150,000 for the first year, \$100,000 for the second year, and \$50,000 for the third year per program.

(b) Funds may be used for:

(1) establishing or expanding clinical training for physician assistants, advanced practice registered nurses, pharmacists, dental therapists, advanced dental therapists, and mental health professionals in Minnesota;

(2) recruitment, training, and retention of students and faculty;

(3) connecting students with appropriate clinical training sites, internships, practicums, or externship activities;

(4) travel and lodging for students;

(5) faculty, student, and preceptor salaries, incentives, or other financial support;

(6) development and implementation of cultural competency training;

(7) evaluations;

(8) training site improvements, fees, equipment, and supplies required to establish, maintain, or expand a physician assistant, advanced practice registered nurse, pharmacy, dental therapy, or mental health professional training program; and

(9) supporting clinical education in which trainees are part of a primary care team model.

Subd. 3. **Applications.** Eligible physician assistant, advanced practice registered nurse, pharmacy, dental therapy, and mental health professional programs seeking a grant shall apply to the

commissioner. Applications must include a description of the number of additional students who will be trained using grant funds; attestation that funding will be used to support an increase in the number of clinical training slots; a description of the problem that the proposed project will address; a description of the project, including all costs associated with the project, sources of funds for the project, detailed uses of all funds for the project, and the results expected; and a plan to maintain or operate any component included in the project after the grant period. The applicant must describe achievable objectives, a timetable, and roles and capabilities of responsible individuals in the organization.

Subd. 4. **Consideration of applications.** The commissioner shall review each application to determine whether or not the application is complete and whether the program and the project are eligible for a grant. In evaluating applications, the commissioner shall score each application based on factors including, but not limited to, the applicant's clarity and thoroughness in describing the project and the problems to be addressed, the extent to which the applicant has demonstrated that the applicant has made adequate provisions to ensure proper and efficient operation of the training program once the grant project is completed, the extent to which the proposed project is consistent with the goal of increasing access to primary care and mental health services for rural and underserved urban communities, the extent to which the proposed project incorporates team-based primary care, and project costs and use of funds.

Subd. 5. **Program oversight.** The commissioner shall determine the amount of a grant to be given to an eligible program based on the relative score of each eligible program's application, other relevant factors discussed during the review, and the funds available to the commissioner. Appropriations made to the program do not cancel and are available until expended. During the grant period, the commissioner may require and collect from programs receiving grants any information necessary to evaluate the program.

Sec. 25. Minnesota Statutes 2016, section 144.1506, is amended to read:

144.1506 ~~PRIMARY CARE~~ PHYSICIAN RESIDENCY EXPANSION GRANT PROGRAM.

Subdivision 1. **Definitions.** For purposes of this section, the following definitions apply:

(1) "eligible ~~primary care~~ physician residency program" means a program that meets the following criteria:

(i) is located in Minnesota;

(ii) trains medical residents in the specialties of family medicine, general internal medicine, general pediatrics, psychiatry, geriatrics, ~~or~~ general surgery, obstetrics and gynecology, or other physician specialties with training programs that incorporate rural training components; and

(iii) is accredited by the Accreditation Council for Graduate Medical Education or presents a credible plan to obtain accreditation;

(2) "eligible project" means a project to establish a new eligible ~~primary care~~ physician residency program or create at least one new residency slot in an existing eligible ~~primary care~~ physician residency program; and

(3) "new residency slot" means the creation of a new residency position and the execution of a contract with a new resident in a residency program.

Subd. 2. **Expansion grant program.** (a) The commissioner of health shall award ~~primary care~~ physician residency expansion grants to eligible ~~primary care~~ physician residency programs to plan and implement new residency slots. A planning grant shall not exceed \$75,000, and a training grant shall not exceed \$150,000 per new residency slot for the first year, \$100,000 for the second year, and \$50,000 for the third year of the new residency slot.

(b) Funds may be spent to cover the costs of:

- (1) planning related to establishing an accredited ~~primary care~~ physician residency program;
- (2) obtaining accreditation by the Accreditation Council for Graduate Medical Education or another national body that accredits residency programs;
- (3) establishing new residency programs or new resident training slots;
- (4) recruitment, training, and retention of new residents and faculty;
- (5) travel and lodging for new residents;
- (6) faculty, new resident, and preceptor salaries related to new residency slots;
- (7) training site improvements, fees, equipment, and supplies required for new ~~primary care~~ physician resident training slots; and
- (8) supporting clinical education in which trainees are part of a primary care team model.

Subd. 3. **Applications for expansion grants.** Eligible ~~primary care~~ physician residency programs seeking a grant shall apply to the commissioner. Applications must include the number of new ~~primary care~~ physician residency slots planned or under contract; attestation that funding will be used to support an increase in the number of available residency slots; a description of the training to be received by the new residents, including the location of training; a description of the project, including all costs associated with the project; all sources of funds for the project; detailed uses of all funds for the project; the results expected; and a plan to maintain the new residency slot after the grant period. The applicant must describe achievable objectives, a timetable, and roles and capabilities of responsible individuals in the organization.

Subd. 4. **Consideration of expansion grant applications.** The commissioner shall review each application to determine whether or not the residency program application is complete and whether the proposed new residency program and any new residency slots are eligible for a grant. The commissioner shall award grants to support up to six family medicine, general internal medicine, or general pediatrics residents; four psychiatry residents; two geriatrics residents; ~~and two~~ four general surgery residents; two obstetrics and gynecology residents; and four specialty physician residents participating in training programs that incorporate rural training components. If insufficient applications are received from any eligible specialty, funds may be redistributed to applications from other eligible specialties.

Subd. 5. **Program oversight.** During the grant period, the commissioner may require and collect from grantees any information necessary to evaluate the program. Appropriations made to the program do not cancel and are available until expended.

Sec. 26. [144.397] STATEWIDE TOBACCO QUITLINE SERVICES.

(a) The commissioner of health shall administer, or contract for the administration of, a statewide tobacco quitline service to assist Minnesotans who are seeking advice or services to help them quit using tobacco products. The commissioner shall establish statewide public awareness activities to inform the public of the availability of the service and encourage the public to utilize the services because of the dangers and harm of tobacco use and dependence.

(b) Services to be provided include, but are not limited to:

(1) telephone-based coaching and counseling;

(2) referrals;

(3) written materials mailed upon request;

(4) Web-based texting or e-mail services; and

(5) free Food and Drug Administration-approved tobacco cessation medications.

(c) Services provided must be consistent with evidence-based best practices in tobacco cessation services. Services provided must be coordinated with employer, health plan company, and private sector tobacco prevention and cessation services that may be available to individuals depending on their employment or health coverage.

Sec. 27. Minnesota Statutes 2016, section 144.551, subdivision 1, is amended to read:

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or redistribution does not involve the construction of a new hospital building;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27 beds, of which 12 serve mental health needs, may be transferred from Hennepin County Medical Center to Regions Hospital under this clause;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds used for rehabilitation services in an existing hospital in Carver County serving the southwest suburban metropolitan area. Beds constructed under this clause shall not be eligible for reimbursement under medical assistance or MinnesotaCare;

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County;

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

(19) a critical access hospital established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33, to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law;

(20) notwithstanding section 144.552, a project for the construction of a new hospital in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

(i) the project, including each hospital or health system that will own or control the entity that will hold the new hospital license, is approved by a resolution of the Maple Grove City Council as of March 1, 2006;

(ii) the entity that will hold the new hospital license will be owned or controlled by one or more not-for-profit hospitals or health systems that have previously submitted a plan or plans for a project in Maple Grove as required under section 144.552, and the plan or plans have been found to be in the public interest by the commissioner of health as of April 1, 2005;

(iii) the new hospital's initial inpatient services must include, but are not limited to, medical and surgical services, obstetrical and gynecological services, intensive care services, orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health services, and emergency room services;

(iv) the new hospital:

(A) will have the ability to provide and staff sufficient new beds to meet the growing needs of the Maple Grove service area and the surrounding communities currently being served by the hospital or health system that will own or control the entity that will hold the new hospital license;

(B) will provide uncompensated care;

(C) will provide mental health services, including inpatient beds;

(D) will be a site for workforce development for a broad spectrum of health-care-related occupations and have a commitment to providing clinical training programs for physicians and other health care providers;

(E) will demonstrate a commitment to quality care and patient safety;

(F) will have an electronic medical records system, including physician order entry;

(G) will provide a broad range of senior services;

(H) will provide emergency medical services that will coordinate care with regional providers of trauma services and licensed emergency ambulance services in order to enhance the continuity of care for emergency medical patients; and

(I) will be completed by December 31, 2009, unless delayed by circumstances beyond the control of the entity holding the new hospital license; and

(v) as of 30 days following submission of a written plan, the commissioner of health has not determined that the hospitals or health systems that will own or control the entity that will hold the new hospital license are unable to meet the criteria of this clause;

(21) a project approved under section 144.553;

(22) a project for the construction of a hospital with up to 25 beds in Cass County within a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder is approved by the Cass County Board;

(23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing a separately licensed 13-bed skilled nursing facility;

(24) notwithstanding section 144.552, a project for the construction and expansion of a specialty psychiatric hospital in Hennepin County for up to 50 beds, exclusively for patients who are under 21 years of age on the date of admission. The commissioner conducted a public interest review of the mental health needs of Minnesota and the Twin Cities metropolitan area in 2008. No further public interest review shall be conducted for the construction or expansion project under this clause;

(25) a project for a 16-bed psychiatric hospital in the city of Thief River Falls, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete; ~~or~~

(26)(i) a project for a 20-bed psychiatric hospital, within an existing facility in the city of Maple Grove, exclusively for patients who are under 21 years of age on the date of admission, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(ii) this project shall serve patients in the continuing care benefit program under section 256.9693. The project may also serve patients not in the continuing care benefit program; and

(iii) if the project ceases to participate in the continuing care benefit program, the commissioner must complete a subsequent public interest review under section 144.552. If the project is found not to be in the public interest, the license must be terminated six months from the date of that finding. If the commissioner of human services terminates the contract without cause or reduces per diem payment rates for patients under the continuing care benefit program below the rates in effect for services provided on December 31, 2015, the project may cease to participate in the continuing care benefit program and continue to operate without a subsequent public interest review; or

(27) a project involving the addition of 21 new beds in an existing psychiatric hospital in Hennepin County that is exclusively for patients who are under 21 years of age on the date of admission.

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

Sec. 28. **[144.88] MINNESOTA BIOMEDICINE AND BIOETHICS INNOVATION GRANTS.**

Subdivision 1. Grants. (a) The commissioner of health, in consultation with interested parties with relevant knowledge and expertise as specified in subdivision 2, shall award grants to entities that apply for a grant under this subdivision to fund innovations and research in biomedicine and bioethics. Grant funds must be used to fund biomedical and bioethical research, and related clinical translation and commercialization activities in this state. Entities applying for a grant must do so in a form and manner specified by the commissioner. The commissioner and interested parties shall use the following criteria to award grants under this subdivision:

(1) the likelihood that the research will lead to a new discovery;

(2) the prospects for commercialization of the research;

(3) the likelihood that the research will strengthen Minnesota's economy through the creation of new businesses, increased public or private funding for research in Minnesota, or attracting additional clinicians and researchers to Minnesota; and

(4) whether the proposed research includes a bioethics research plan to ensure the research is conducted using ethical research practices.

(b) Projects that include the acquisition or use of human fetal tissue are not eligible for grants under this subdivision. For purposes of this paragraph, "human fetal tissue" has the meaning given in United States Code, title 42, section 289g-1(f).

Subd. 2. **Consultation.** In awarding grants under subdivision 1, the commissioner must consult with interested parties who are able to provide the commissioner with technical information, advice, and recommendations on grant projects and awards. Interested parties with whom the commissioner must consult include but are not limited to representatives of the University of Minnesota, Mayo Clinic, and private industries who have expertise in biomedical research, bioethical research, clinical translation, commercialization, and medical venture financing.

Sec. 29. Minnesota Statutes 2016, 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; 144.1215; 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.

Sec. 30. Minnesota Statutes 2016, section 144A.472, subdivision 7, is amended to read:

Subd. 7. **Fees; application, change of ownership, and renewal.** (a) An initial applicant seeking temporary home care licensure must submit the following application fee to the commissioner along with a completed application:

- (1) for a basic home care provider, \$2,100; or
- (2) for a comprehensive home care provider, \$4,200.

(b) A home care provider who is filing a change of ownership as required under subdivision 5 must submit the following application fee to the commissioner, along with the documentation required for the change of ownership:

- (1) for a basic home care provider, \$2,100; or
- (2) for a comprehensive home care provider, \$4,200.

(c) A home care provider who is seeking to renew the provider's license shall pay a fee to the commissioner based on revenues derived from the provision of home care services during the calendar year prior to the year in which the application is submitted, according to the following schedule:

License Renewal Fee	
Provider Annual Revenue	Fee
greater than \$1,500,000	\$6,625
greater than \$1,275,000 and no more than \$1,500,000	\$5,797
greater than \$1,100,000 and no more than \$1,275,000	\$4,969
greater than \$950,000 and no more than \$1,100,000	\$4,141
greater than \$850,000 and no more than \$950,000	\$3,727

greater than \$750,000 and no more than \$850,000	\$3,313
greater than \$650,000 and no more than \$750,000	\$2,898
greater than \$550,000 and no more than \$650,000	\$2,485
greater than \$450,000 and no more than \$550,000	\$2,070
greater than \$350,000 and no more than \$450,000	\$1,656
greater than \$250,000 and no more than \$350,000	\$1,242
greater than \$100,000 and no more than \$250,000	\$828
greater than \$50,000 and no more than \$100,000	\$500
greater than \$25,000 and no more than \$50,000	\$400
no more than \$25,000	\$200

(d) If requested, the home care provider shall provide the commissioner information to verify the provider's annual revenues or other information as needed, including copies of documents submitted to the Department of Revenue.

(e) At each annual renewal, a home care provider may elect to pay the highest renewal fee for its license category, and not provide annual revenue information to the commissioner.

(f) A temporary license or license applicant, or temporary licensee or licensee that knowingly provides the commissioner incorrect revenue amounts for the purpose of paying a lower license fee, shall be subject to a civil penalty in the amount of double the fee the provider should have paid.

(g) Fees and penalties collected under this section shall be deposited in the state treasury and credited to the state government special revenue fund. All fees are nonrefundable. Fees collected under paragraph (c) are nonrefundable even if received before July 1, 2017, for temporary licenses or licenses being issued effective July 1, 2017, or later.

(h) The license renewal fee schedule in this subdivision is effective July 1, 2016.

Sec. 31. Minnesota Statutes 2016, section 144A.474, subdivision 11, is amended to read:

Subd. 11. **Fines.** (a) Fines and enforcement actions under this subdivision may be assessed based on the level and scope of the violations described in paragraph (c) as follows:

(1) Level 1, no fines or enforcement;

(2) Level 2, fines ranging from \$0 to \$500, in addition to any of the enforcement mechanisms authorized in section 144A.475 for widespread violations;

(3) Level 3, fines ranging from \$500 to \$1,000, in addition to any of the enforcement mechanisms authorized in section 144A.475; and

(4) Level 4, fines ranging from \$1,000 to \$5,000, in addition to any of the enforcement mechanisms authorized in section 144A.475.

(b) Correction orders for violations are categorized by both level and scope and fines shall be assessed as follows:

(1) level of violation:

(i) Level 1 is a violation that has no potential to cause more than a minimal impact on the client and does not affect health or safety;

(ii) Level 2 is a violation that did not harm a client's health or safety but had the potential to have harmed a client's health or safety, but was not likely to cause serious injury, impairment, or death;

(iii) Level 3 is a violation that harmed a client's health or safety, not including serious injury, impairment, or death, or a violation that has the potential to lead to serious injury, impairment, or death; and

(iv) Level 4 is a violation that results in serious injury, impairment, or death.

(2) scope of violation:

(i) isolated, when one or a limited number of clients are affected or one or a limited number of staff are involved or the situation has occurred only occasionally;

(ii) pattern, when more than a limited number of clients are affected, more than a limited number of staff are involved, or the situation has occurred repeatedly but is not found to be pervasive; and

(iii) widespread, when problems are pervasive or represent a systemic failure that has affected or has the potential to affect a large portion or all of the clients.

(c) If the commissioner finds that the applicant or a home care provider required to be licensed under sections 144A.43 to 144A.482 has not corrected violations by the date specified in the correction order or conditional license resulting from a survey or complaint investigation, the commissioner may impose a fine. A notice of noncompliance with a correction order must be mailed to the applicant's or provider's last known address. The noncompliance notice must list the violations not corrected.

(d) The license holder must pay the fines assessed on or before the payment date specified. If the license holder fails to fully comply with the order, the commissioner may issue a second fine or suspend the license until the license holder complies by paying the fine. A timely appeal shall stay payment of the fine until the commissioner issues a final order.

(e) A license holder shall promptly notify the commissioner in writing when a violation specified in the order is corrected. If upon reinspection the commissioner determines that a violation has not been corrected as indicated by the order, the commissioner may issue a second fine. The commissioner shall notify the license holder by mail to the last known address in the licensing record that a second fine has been assessed. The license holder may appeal the second fine as provided under this subdivision.

(f) A home care provider that has been assessed a fine under this subdivision has a right to a reconsideration or a hearing under this section and chapter 14.

(g) When a fine has been assessed, the license holder may not avoid payment by closing, selling, or otherwise transferring the licensed program to a third party. In such an event, the license holder shall be liable for payment of the fine.

(h) In addition to any fine imposed under this section, the commissioner may assess costs related to an investigation that results in a final order assessing a fine or other enforcement action authorized by this chapter.

(i) Fines collected under this subdivision shall be deposited in the state government special revenue fund and credited to an account separate from the revenue collected under section 144A.472. Subject to an appropriation by the legislature, the revenue from the fines collected ~~may~~ must be used by the commissioner for special projects to improve home care in Minnesota as recommended by the advisory council established in section 144A.4799.

Sec. 32. Minnesota Statutes 2016, section 144A.4799, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide advice regarding regulations of Department of Health licensed home care providers in this chapter, including advice on the following:

- (1) community standards for home care practices;
- (2) enforcement of licensing standards and whether certain disciplinary actions are appropriate;
- (3) ways of distributing information to licensees and consumers of home care;
- (4) training standards;
- (5) identifying emerging issues and opportunities in the home care field, including the use of technology in home and telehealth capabilities;
- (6) allowable home care licensing modifications and exemptions, including a method for an integrated license with an existing license for rural licensed nursing homes to provide limited home care services in an adjacent independent living apartment building owned by the licensed nursing home; and
- (7) recommendations for studies using the data in section 62U.04, subdivision 4, including but not limited to studies concerning costs related to dementia and chronic disease among an elderly population over 60 and additional long-term care costs, as described in section 62U.10, subdivision 6.

(b) The advisory council shall perform other duties as directed by the commissioner.

(c) The advisory council shall annually review the balance of the account in the state government special revenue fund described in section 144A.474, subdivision 11, paragraph (i), and make annual recommendations by January 15 directly to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services regarding appropriations to the commissioner for the purposes in section 144A.474, subdivision 11, paragraph (i).

Sec. 33. Minnesota Statutes 2016, section 144A.70, is amended by adding a subdivision to read:

Subd. 4a. **Nurse.** "Nurse" means a licensed practical nurse as defined in section 148.171, subdivision 8, or a registered nurse as defined in section 148.171, subdivision 20.

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

Sec. 34. Minnesota Statutes 2016, section 144A.70, subdivision 6, is amended to read:

Subd. 6. **Supplemental nursing services agency.** "Supplemental nursing services agency" means a person, firm, corporation, partnership, or association engaged for hire in the business of providing or procuring temporary employment in health care facilities for nurses, nursing assistants, nurse aides, and orderlies, and other licensed health professionals. Supplemental nursing services agency does not include an individual who only engages in providing the individual's services on a temporary basis to health care facilities. Supplemental nursing services agency does not include a professional home care agency licensed under section 144A.471 that only provides staff to other home care providers.

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

Sec. 35. Minnesota Statutes 2016, section 144D.06, is amended to read:

144D.06 OTHER LAWS.

In addition to registration under this chapter, a housing with services establishment must comply with chapter 504B and the provisions of section 325F.72, and shall obtain and maintain all other licenses, permits, registrations, or other governmental approvals required of it ~~in addition to registration under this chapter.~~ A housing with services establishment is ~~subject to the provisions of section 325F.72 and chapter 504B~~ not required to obtain a lodging license under chapter 157 and related rules.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 36. **[144H.01] DEFINITIONS.**

Subdivision 1. **Application.** The terms defined in this section apply to this chapter.

Subd. 2. **Basic services.** "Basic services" includes but is not limited to:

(1) the development, implementation, and monitoring of a comprehensive protocol of care that is developed in conjunction with the parent or guardian of a medically complex or technologically dependent child and that specifies the medical, nursing, psychosocial, and developmental therapies required by the medically complex or technologically dependent child; and

(2) the caregiver training needs of the child's parent or guardian.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of health.

Subd. 4. **Licensee.** "Licensee" means an owner of a prescribed pediatric extended care (PPEC) center licensed under this chapter.

Subd. 5. **Medically complex or technologically dependent child.** "Medically complex or technologically dependent child" means a child under 21 years of age who, because of a medical condition, requires continuous therapeutic interventions or skilled nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse.

Subd. 6. **Owner.** "Owner" means an individual whose ownership interest provides sufficient authority or control to affect or change decisions regarding the operation of the PPEC center. An owner includes a sole proprietor, a general partner, or any other individual whose ownership interest has the ability to affect the management and direction of the PPEC center's policies.

Subd. 7. **Prescribed pediatric extended care center, PPEC center, or center.** "Prescribed pediatric extended care center," "PPEC center," or "center" means any facility that provides nonresidential basic services to three or more medically complex or technologically dependent children who require such services and who are not related to the owner by blood, marriage, or adoption.

Subd. 8. **Supportive services or contracted services.** "Supportive services or contracted services" include but are not limited to speech therapy, occupational therapy, physical therapy, social work services, developmental services, child life services, and psychology services.

Sec. 37. [144H.02] LICENSURE REQUIRED.

A person may not own or operate a prescribed pediatric extended care center in this state unless the person holds a temporary or current license issued under this chapter. A separate license must be obtained for each PPEC center maintained on separate premises, even if the same management operates the PPEC centers. Separate licenses are not required for separate buildings on the same grounds. A center shall not be operated on the same grounds as a child care center licensed under Minnesota Rules, chapter 9503.

Sec. 38. [144H.03] EXEMPTIONS.

This chapter does not apply to:

- (1) a facility operated by the United States government or a federal agency; or
- (2) a health care facility licensed under chapter 144 or 144A.

Sec. 39. [144H.04] LICENSE APPLICATION AND RENEWAL.

Subdivision 1. **Licenses.** A person seeking licensure for a PPEC center must submit a completed application for licensure to the commissioner, in a form and manner determined by the commissioner. The applicant must also submit the application fee, in the amount specified in section 144H.05, subdivision 1. Effective January 1, 2018, the commissioner shall issue a license for a PPEC center if the commissioner determines that the applicant and center meet the requirements of this chapter and rules that apply to PPEC centers. A license issued under this subdivision is valid for two years.

Subd. 2. **License renewal.** A license issued under subdivision 1 may be renewed for a period of two years if the licensee:

(1) submits an application for renewal in a form and manner determined by the commissioner, at least 30 days before the license expires. An application for renewal submitted after the renewal deadline date must be accompanied by a late fee in the amount specified in section 144H.05, subdivision 3;

(2) submits the renewal fee in the amount specified in section 144H.05, subdivision 2;

(3) demonstrates that the licensee has provided basic services at the PPEC center within the past two years;

(4) provides evidence that the applicant meets the requirements for licensure; and

(5) provides other information required by the commissioner.

Subd. 3. **License not transferable.** A PPEC center license issued under this section is not transferable to another party. Before acquiring ownership of a PPEC center, a prospective applicant must apply to the commissioner for a new license.

Sec. 40. **[144H.05] FEES.**

Subdivision 1. **Initial application fee.** The initial application fee for PPEC center licensure is \$3,820.

Subd. 2. **License renewal.** The fee for renewal of a PPEC center license is \$1,800.

Subd. 3. **Late fee.** The fee for late submission of an application to renew a PPEC center license is \$25.

Subd. 4. **Change of ownership.** The fee for change of ownership of a PPEC center is \$4,200.

Subd. 5. **Nonrefundable; state government special revenue fund.** All fees collected under this chapter are nonrefundable and must be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 41. **[144H.06] APPLICATION OF RULES FOR HOSPICE SERVICES AND RESIDENTIAL HOSPICE FACILITIES.**

Minnesota Rules, chapter 4664, shall apply to PPEC centers licensed under this chapter, except that the following parts, subparts, items, and subitems do not apply:

(1) Minnesota Rules, part 4664.0003, subparts 2, 6, 7, 11, 12, 13, 14, and 38;

(2) Minnesota Rules, part 4664.0008;

(3) Minnesota Rules, part 4664.0010, subparts 3; 4, items A, subitem (6), and B; and 8;

(4) Minnesota Rules, part 4664.0020, subpart 13;

(5) Minnesota Rules, part 4664.0370, subpart 1;

(6) Minnesota Rules, part 4664.0390, subpart 1, items A, C, and E;

(7) Minnesota Rules, part 4664.0420;

(8) Minnesota Rules, part 4664.0425, subparts 3, item A; 4; and 6;

(9) Minnesota Rules, part 4664.0430, subparts 3, 4, 5, 7, 8, 9, 10, 11, and 12;

(10) Minnesota Rules, part 4664.0490; and

(11) Minnesota Rules, part 4664.0520.

Sec. 42. [144H.07] SERVICES; LIMITATIONS.

Subdivision 1. **Services.** A PPEC center must provide basic services to medically complex or technologically dependent children, based on a protocol of care established for each child. A PPEC center may provide services up to 14 hours a day and up to six days a week.

Subd. 2. **Limitations.** A PPEC center must comply with the following standards related to services:

(1) a child is prohibited from attending a PPEC center for more than 14 hours within a 24-hour period;

(2) a PPEC center is prohibited from providing services other than those provided to medically complex or technologically dependent children; and

(3) the maximum capacity for medically complex or technologically dependent children at a center shall not exceed 45 children.

Sec. 43. [144H.08] ADMINISTRATION AND MANAGEMENT.

Subdivision 1. **Duties of owner.** (a) The owner of a PPEC center shall have full legal authority and responsibility for the operation of the center. A PPEC center must be organized according to a written table of organization, describing the lines of authority and communication to the child care level. The organizational structure must be designed to ensure an integrated continuum of services for the children served.

(b) The owner must designate one person as a center administrator, who is responsible and accountable for overall management of the center.

Subd. 2. **Duties of administrator.** The center administrator is responsible and accountable for overall management of the center. The administrator must:

(1) designate in writing a person to be responsible for the center when the administrator is absent from the center for more than 24 hours;

(2) maintain the following written records, in a place and form and using a system that allows for inspection of the records by the commissioner during normal business hours:

(i) a daily census record, which indicates the number of children currently receiving services at the center;

(ii) a record of all accidents or unusual incidents involving any child or staff member that caused, or had the potential to cause, injury or harm to a person at the center or to center property;

(iii) copies of all current agreements with providers of supportive services or contracted services;

(iv) copies of all current agreements with consultants employed by the center, documentation of each consultant's visits, and written, dated reports; and

(v) a personnel record for each employee, which must include an application for employment, references, employment history for the preceding five years, and copies of all performance evaluations;

(3) develop and maintain a current job description for each employee;

(4) provide necessary qualified personnel and ancillary services to ensure the health, safety, and proper care for each child; and

(5) develop and implement infection control policies that comply with rules adopted by the commissioner regarding infection control.

Sec. 44. [144H.09] ADMISSION, TRANSFER, AND DISCHARGE POLICIES; CONSENT FORM.

Subdivision 1. **Written policies.** A PPEC center must have written policies and procedures governing the admission, transfer, and discharge of children.

Subd. 2. **Notice of discharge.** At least ten days prior to a child's discharge from a PPEC center, the PPEC center shall provide notice of the discharge to the child's parent or guardian.

Subd. 3. **Consent form.** A parent or guardian must sign a consent form outlining the purpose of a PPEC center, specifying family responsibilities, authorizing treatment and services, providing appropriate liability releases, and specifying emergency disposition plans, before the child's admission to the center. The center must provide the child's parents or guardians with a copy of the consent form and must maintain the consent form in the child's medical record.

Sec. 45. [144H.10] MEDICAL DIRECTOR.

A PPEC center must have a medical director who is a physician licensed in Minnesota and certified by the American Board of Pediatrics.

Sec. 46. [144H.11] NURSING SERVICES.

Subdivision 1. **Nursing director.** A PPEC center must have a nursing director who is a registered nurse licensed in Minnesota, holds a current certification in cardiopulmonary resuscitation, and has at least four years of general pediatric nursing experience, at least one year of which must have been spent caring for medically fragile infants or children in a pediatric intensive care, neonatal intensive care, PPEC center, or home care setting during the previous five years. The nursing director is responsible for the daily operation of the PPEC center.

Subd. 2. **Registered nurses.** A registered nurse employed by a PPEC center must be a registered nurse licensed in Minnesota, hold a current certification in cardiopulmonary resuscitation, and have experience in the previous 24 months in being responsible for the care of acutely ill or chronically ill children.

Subd. 3. **Licensed practical nurses.** A licensed practical nurse employed by a PPEC center must be supervised by a registered nurse and must be a licensed practical nurse licensed in Minnesota, have at least two years of experience in pediatrics, and hold a current certification in cardiopulmonary resuscitation.

Subd. 4. **Other direct care personnel.** (a) Direct care personnel governed by this subdivision include nursing assistants and individuals with training and experience in the field of education, social services, or child care.

(b) All direct care personnel employed by a PPEC center must work under the supervision of a registered nurse and are responsible for providing direct care to children at the center. Direct care personnel must have extensive, documented education and skills training in providing care to infants and toddlers, provide employment references documenting skill in the care of infants and children, and hold a current certification in cardiopulmonary resuscitation.

Sec. 47. [144H.12] TOTAL STAFFING FOR NURSING SERVICES AND DIRECT CARE PERSONNEL.

A PPEC center must provide total staffing for nursing services and direct care personnel at a ratio of one staff person for every three children at the center. The staffing ratio required in this section is the minimum staffing permitted.

Sec. 48. [144H.13] MEDICAL RECORD; PROTOCOL OF CARE.

A medical record and an individualized nursing protocol of care must be developed for each child admitted to a PPEC center, must be maintained for each child, and must be signed by authorized personnel.

Sec. 49. [144H.14] QUALITY ASSURANCE PROGRAM.

A PPEC center must have a quality assurance program, in which quarterly reviews are conducted of the PPEC center's medical records and protocols of care for at least half of the children served by the PPEC center. The quarterly review sample must be randomly selected so each child at the center has an equal opportunity to be included in the review. The committee conducting quality assurance reviews must include the medical director, administrator, nursing director, and three other committee members determined by the PPEC center.

Sec. 50. [144H.15] INSPECTIONS.

(a) The commissioner may inspect a PPEC center, including records held at the center, at reasonable times as necessary to ensure compliance with this chapter and the rules that apply to PPEC centers. During an inspection, a center must provide the commissioner with access to all center records.

(b) The commissioner must inspect a PPEC center before issuing or renewing a license under this chapter.

Sec. 51. **[144H.16] COMPLIANCE WITH OTHER LAWS.**

Subdivision 1. **Reporting of maltreatment of minors.** A PPEC center must develop policies and procedures for reporting suspected child maltreatment that fulfill the requirements of section 626.556. The policies and procedures must include the telephone numbers of the local county child protection agency for reporting suspected maltreatment. The policies and procedures specified in this subdivision must be provided to the parents or guardians of all children at the time of admission to the PPEC center and must be available upon request.

Subd. 2. **Crib safety requirements.** A PPEC center must comply with the crib safety requirements in section 245A.146, to the extent they are applicable.

Sec. 52. **[144H.17] DENIAL, SUSPENSION, REVOCATION, REFUSAL TO RENEW A LICENSE.**

(a) The commissioner may deny, suspend, revoke, or refuse to renew a license issued under this chapter for:

(1) a violation of this chapter or rules adopted that apply to PPEC centers; or

(2) an intentional or negligent act by an employee or contractor at the center that detrimentally affects the health or safety of children at the PPEC center.

(b) Prior to any suspension, revocation, or refusal to renew a license, a licensee shall be entitled to a hearing and review as provided in sections 14.57 to 14.69.

Sec. 53. **[144H.18] FINES; CORRECTIVE ACTION PLANS.**

Subdivision 1. **Corrective action plans.** If the commissioner determines that a PPEC center is not in compliance with this chapter or rules that apply to PPEC centers, the commissioner may require the center to submit a corrective action plan that demonstrates a good-faith effort to remedy each violation by a specific date, subject to approval by the commissioner.

Subd. 2. **Fines.** The commissioner may issue a fine to a PPEC center, employee, or contractor if the commissioner determines the center, employee, or contractor violated this chapter or rules that apply to PPEC centers. The fine amount shall not exceed an amount for each violation and an aggregate amount established by the commissioner. The failure to correct a violation by the date set by the commissioner, or a failure to comply with an approved corrective action plan, constitutes a separate violation for each day the failure continues, unless the commissioner approves an extension to a specific date. In determining if a fine is to be imposed and establishing the amount of the fine, the commissioner shall consider:

(1) the gravity of the violation, including the probability that death or serious physical or emotional harm to a child will result or has resulted, the severity of the actual or potential harm, and the extent to which the applicable laws were violated;

(2) actions taken by the owner or administrator to correct violations;

(3) any previous violations; and

(4) the financial benefit to the PPEC center of committing or continuing the violation.

Subd. 3. **Fines for violations of other statutes.** The commissioner shall impose a fine of \$250 on a PPEC center, employee, or contractor for each violation by that PPEC center, employee, or contractor of section 144H.16, subdivision 2, or 626.556.

Sec. 54. [144H.19] CLOSING A PPEC CENTER.

When a PPEC center voluntarily closes, it must, at least 30 days before closure, inform each child's parents or guardians of the closure and when the closure will occur.

Sec. 55. [144H.20] PHYSICAL ENVIRONMENT.

Subdivision 1. **General requirements.** A PPEC center shall conform with or exceed the physical environment requirements in this section and the physical environment requirements for day care facilities in Minnesota Rules, part 9502.0425. If the physical environment requirements in this section differ from the physical environment requirements for day care facilities in Minnesota Rules, part 9502.0425, the requirements in this section shall prevail. A PPEC center must have sufficient indoor and outdoor space to accommodate at least six medically complex or technologically dependent children.

Subd. 2. **Specific requirements.** (a) The entrance to a PPEC center must be barrier-free, have a wheelchair ramp, provide for traffic flow with a driveway area for entering and exiting, and have storage space for supplies from home.

(b) A PPEC center must have a treatment room with a medication preparation area. The medication preparation area must contain a work counter, refrigerator, sink with hot and cold running water, and locked storage for biologicals and prescription drugs.

(c) A PPEC center must develop isolation procedures to prevent cross-infections and must have an isolation room with at least one glass area for observation of a child in the isolation room. The isolation room must be at least 100 square feet in size.

(d) A PPEC center must have:

(1) an outdoor play space adjacent to the center of at least 35 square feet per child in attendance at the center, for regular use; or

(2) a park, playground, or play space within 1,500 feet of the center.

(e) A PPEC center must have at least 50 square feet of usable indoor space per child in attendance at the center.

(f) Notwithstanding the Minnesota State Building Code and the Minnesota State Fire Code, a new construction PPEC center or an existing building converted into a PPEC center must meet the requirements of the International Building Code in Minnesota Rules, chapter 1305, for:

(1) Group R, Division 4 occupancy, if serving 12 or fewer children; or

(2) Group E, Division 4 occupancy or Group I, Division 4 occupancy, if serving 13 or more children.

Sec. 56. Minnesota Statutes 2016, section 145.4131, subdivision 1, is amended to read:

Subdivision 1. **Forms.** (a) Within 90 days of July 1, 1998, the commissioner shall prepare a reporting form for use by physicians or facilities performing abortions. A copy of this section shall be attached to the form. A physician or facility performing an abortion shall obtain a form from the commissioner.

(b) The form shall require the following information:

(1) the number of abortions performed by the physician in the previous calendar year, reported by month;

(2) the method used for each abortion;

(3) the approximate gestational age expressed in one of the following increments:

(i) less than nine weeks;

(ii) nine to ten weeks;

(iii) 11 to 12 weeks;

(iv) 13 to 15 weeks;

(v) 16 to 20 weeks;

(vi) 21 to 24 weeks;

(vii) 25 to 30 weeks;

(viii) 31 to 36 weeks; or

(ix) 37 weeks to term;

(4) the age of the woman at the time the abortion was performed;

(5) the specific reason for the abortion, including, but not limited to, the following:

(i) the pregnancy was a result of rape;

(ii) the pregnancy was a result of incest;

(iii) economic reasons;

(iv) the woman does not want children at this time;

(v) the woman's emotional health is at stake;

(vi) the woman's physical health is at stake;

(vii) the woman will suffer substantial and irreversible impairment of a major bodily function if the pregnancy continues;

(viii) the pregnancy resulted in fetal anomalies; or

(ix) unknown or the woman refused to answer;

(6) the number of prior induced abortions;

(7) the number of prior spontaneous abortions;

(8) whether the abortion was paid for by:

(i) private coverage;

(ii) public assistance health coverage; or

(iii) self-pay;

(9) whether coverage was under:

(i) a fee-for-service plan;

(ii) a capitated private plan; or

(iii) other;

(10) complications, if any, for each abortion and for the aftermath of each abortion. Space for a description of any complications shall be available on the form;

(11) the medical specialty of the physician performing the abortion; ~~and~~

(12) if the abortion was performed via telemedicine, the facility code for the patient and the facility code for the physician; and

~~(12)~~ (13) whether the abortion resulted in a born alive infant, as defined in section 145.423, subdivision 4, and:

(i) any medical actions taken to preserve the life of the born alive infant;

(ii) whether the born alive infant survived; and

(iii) the status of the born alive infant, should the infant survive, if known.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 57. Minnesota Statutes 2016, section 145.4716, subdivision 2, is amended to read:

Subd. 2. **Duties of director.** The director of child sex trafficking prevention is responsible for the following:

- (1) developing and providing comprehensive training on sexual exploitation of youth for social service professionals, medical professionals, public health workers, and criminal justice professionals;
- (2) collecting, organizing, maintaining, and disseminating information on sexual exploitation and services across the state, including maintaining a list of resources on the Department of Health Web site;
- (3) monitoring and applying for federal funding for antitrafficking efforts that may benefit victims in the state;
- (4) managing grant programs established under sections 145.4716 to 145.4718, ~~and~~ 609.3241, paragraph (c), clause (3); and 609.5315, subdivision 5c, clause (3);
- (5) managing the request for proposals for grants for comprehensive services, including trauma-informed, culturally specific services;
- (6) identifying best practices in serving sexually exploited youth, as defined in section 260C.007, subdivision 31;
- (7) providing oversight of and technical support to regional navigators pursuant to section 145.4717;
- (8) conducting a comprehensive evaluation of the statewide program for safe harbor of sexually exploited youth; and
- (9) developing a policy consistent with the requirements of chapter 13 for sharing data related to sexually exploited youth, as defined in section 260C.007, subdivision 31, among regional navigators and community-based advocates.

Sec. 58. **[145.9263] OPIOID PRESCRIBER EDUCATION AND PUBLIC AWARENESS GRANTS.**

The commissioner of health, in coordination with the commissioner of human services, shall award grants to nonprofit organizations for the purpose of expanding prescriber education, public awareness and outreach on the opioid epidemic and overdose prevention programs. The grantees must coordinate with health care systems, professional associations, and emergency medical services providers. Each grantee receiving funds under this section shall report to the commissioner on how the funds were spent and the outcomes achieved.

Sec. 59. Minnesota Statutes 2016, section 145.928, subdivision 13, is amended to read:

Subd. 13. **Reports.** (a) The commissioner shall submit a biennial report to the legislature on the local community projects, tribal government, and community health board prevention activities funded under this section. These reports must include information on grant recipients, activities that were conducted using grant funds, evaluation data, and outcome measures, if available. These reports are due by January 15 of every other year, beginning in the year 2003.

(b) The commissioner shall release an annual report to the public and submit an ~~an~~ the annual report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public health on grants made under subdivision 7 to decrease

racial and ethnic disparities in infant mortality rates. The report must provide specific information on the amount of each grant awarded to each agency or organization, an itemized list submitted to the commissioner by each agency or organization awarded a grant specifying all uses of grant funds and the amount expended for each use, the population served by each agency or organization, outcomes of the programs funded by each grant, and the amount of the appropriation retained by the commissioner for administrative and associated expenses. The commissioner shall issue a report each January 15 for the previous fiscal year beginning January 15, 2016.

Sec. 60. Minnesota Statutes 2016, section 145.986, subdivision 1a, is amended to read:

Subd. 1a. **Grants to local communities.** (a) Beginning July 1, 2009, the commissioner of health shall award competitive grants to community health boards and tribal governments to convene, coordinate, and implement evidence-based strategies targeted at reducing the percentage of Minnesotans who are obese or overweight and to reduce the use of tobacco. Grants shall be awarded to all community health boards and tribal governments whose proposals demonstrate the ability to implement programs designed to achieve the purposes in subdivision 1 and other requirements of this section.

(b) Grantee activities shall:

(1) be based on scientific evidence;

(2) be based on community input;

(3) address behavior change at the individual, community, and systems levels;

(4) occur in community, school, work site, and health care settings;

(5) be focused on policy, systems, and environmental changes that support healthy behaviors;
and

(6) address the health disparities and inequities that exist in the grantee's community.

(c) To receive a grant under this section, community health boards and tribal governments must submit proposals to the commissioner. A local match of ten percent of the total funding allocation is required. This local match may include funds donated by community partners.

(d) In order to receive a grant, community health boards and tribal governments must submit a health improvement plan to the commissioner of health for approval. The commissioner may require the plan to identify a community leadership team, community partners, and a community action plan that includes an assessment of area strengths and needs, proposed action strategies, technical assistance needs, and a staffing plan.

(e) The grant recipient must implement the health improvement plan, evaluate the effectiveness of the strategies, and modify or discontinue strategies found to be ineffective.

(f) Grant recipients shall report their activities and their progress toward the outcomes established under subdivision 2 to the commissioner in a format and at a time specified by the commissioner.

(g) All grant recipients shall be held accountable for making progress toward the measurable outcomes established in subdivision 2. The commissioner shall require a corrective action plan and may reduce the funding level of grant recipients that do not make adequate progress toward the measurable outcomes.

(h) Beginning November 1, 2015, the commissioner shall offer grant recipients the option of using a grant awarded under this subdivision to implement health improvement strategies that improve the health status, delay the expression of dementia, or slow the progression of dementia, for a targeted population at risk for dementia and shall award at least two of the grants awarded on November 1, 2015, for these purposes. The grants must meet all other requirements of this section. The commissioner shall coordinate grant planning activities with the commissioner of human services, the Minnesota Board on Aging, and community-based organizations with a focus on dementia. Each grant must include selected outcomes and evaluation measures related to the incidence or progression of dementia among the targeted population using the procedure described in subdivision 2.

(i) Beginning July 1, 2017, the commissioner shall offer grant recipients the option of using a grant awarded under this subdivision to confront the opioid addiction and overdose epidemic, and shall award at least two of the grants awarded on or after July 1, 2017, for these purposes. The grants awarded under this paragraph must meet all other requirements of this section. The commissioner shall coordinate grant planning activities with the commissioner of human services. Each grant shall include selected outcomes and evaluation measures related to addressing the opioid epidemic.

Sec. 61. Minnesota Statutes 2016, section 148.5194, subdivision 7, is amended to read:

Subd. 7. **Audiologist biennial licensure fee.** ~~(a) The licensure fee for initial applicants is \$435.~~ The biennial licensure fee for audiologists for clinical fellowship, doctoral externship, temporary, ~~initial applicants,~~ and renewal ~~licensees licenses~~ is \$435.

~~(b) The audiologist fee is for practical examination costs greater than audiologist exam fee receipts and for complaint investigation, enforcement action, and consumer information and assistance expenditures related to hearing instrument dispensing.~~

Sec. 62. Minnesota Statutes 2016, section 152.25, subdivision 1, is amended to read:

Subdivision 1. **Medical cannabis manufacturer registration.** (a) The commissioner shall register two in-state manufacturers for the production of all medical cannabis within the state by December 1, 2014, unless the commissioner obtains an adequate supply of federally sourced medical cannabis by August 1, 2014. The commissioner shall register new manufacturers or reregister the existing manufacturers by December 1 every two years, using the factors described in ~~paragraph~~ paragraphs (c) and (d). The commissioner shall continue to accept applications after December 1, 2014, if two manufacturers that meet the qualifications set forth in this subdivision do not apply before December 1, 2014. The commissioner's determination that no manufacturer exists to fulfill the duties under sections 152.22 to 152.37 is subject to judicial review in Ramsey County District Court. Data submitted during the application process are private data on individuals or nonpublic data as defined in section 13.02 until the manufacturer is registered under this section. Data on a manufacturer that is registered are public data, unless the data are trade secret or security information under section 13.37.

(b) As a condition for registration, a manufacturer must agree to:

- (1) begin supplying medical cannabis to patients by July 1, 2015; and
- (2) comply with all requirements under sections 152.22 to 152.37.

(c) The commissioner shall consider the following factors when determining which manufacturer to register:

(1) the technical expertise of the manufacturer in cultivating medical cannabis and converting the medical cannabis into an acceptable delivery method under section 152.22, subdivision 6;

(2) the qualifications of the manufacturer's employees;

(3) the long-term financial stability of the manufacturer;

(4) the ability to provide appropriate security measures on the premises of the manufacturer;

(5) whether the manufacturer has demonstrated an ability to meet the medical cannabis production needs required by sections 152.22 to 152.37; and

(6) the manufacturer's projection and ongoing assessment of fees on patients with a qualifying medical condition.

(d) The commissioner shall not renew the registration of an existing manufacturer if an officer, director, or controlling person of the manufacturer pleads or is found guilty of intentionally diverting medical cannabis to a person other than allowed by law under section 152.33, subdivision 1, provided the violation occurred while the person was an officer, director, or controlling person of the manufacturer.

~~(e)~~ (e) The commissioner shall require each medical cannabis manufacturer to contract with an independent laboratory to test medical cannabis produced by the manufacturer. The commissioner shall approve the laboratory chosen by each manufacturer and require that the laboratory report testing results to the manufacturer in a manner determined by the commissioner.

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

Sec. 63. Minnesota Statutes 2016, section 152.25, is amended by adding a subdivision to read:

Subd. 1a. Revocation, nonrenewal, or denial of consent to transfer a medical cannabis manufacturer registration. If the commissioner intends to revoke, not renew, or deny consent to transfer a registration issued under this section, the commissioner must first notify in writing the manufacturer against whom the action is to be taken and provide the manufacturer with an opportunity to request a hearing under the contested case provisions of chapter 14. If the manufacturer does not request a hearing by notifying the commissioner in writing within 20 days after receipt of the notice of proposed action, the commissioner may proceed with the action without a hearing. For revocations, the registration of a manufacturer is considered revoked on the date specified in the commissioner's written notice of revocation.

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

Sec. 64. Minnesota Statutes 2016, section 152.25, is amended by adding a subdivision to read:

Subd. 1b. **Temporary suspension proceedings.** The commissioner may institute proceedings to temporarily suspend the registration of a medical cannabis manufacturer for a period of up to 90 days by notifying the manufacturer in writing if any action by an officer, director, or controlling person of the manufacturer:

(1) violates any of the requirements of sections 152.21 to 152.37 or the rules adopted thereunder;

(2) permits, aids, or abets the commission of any violation of state law at the manufacturer's location for cultivation, harvesting, manufacturing, packaging, and processing or at any site for distribution of medical cannabis;

(3) performs any act contrary to the welfare of a patient or registered designated caregiver; or

(4) obtains, or attempts to obtain, a registration by fraudulent means or misrepresentation.

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

Sec. 65. Minnesota Statutes 2016, section 152.25, is amended by adding a subdivision to read:

Subd. 1c. **Notice to patients.** Upon the revocation or nonrenewal of a manufacturer's registration under subdivision 1a or temporary suspension under subdivision 1b, the commissioner shall notify in writing each patient and the patient's registered designated caregiver or registered parent or legal guardian about the outcome of the proceeding and information regarding alternative registered manufacturers. This notice must be provided two or more business days prior to the effective date of the revocation, nonrenewal, or suspension.

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

Sec. 66. Minnesota Statutes 2016, section 152.33, is amended by adding a subdivision to read:

Subd. 1a. **Intentional diversion outside the state; penalties.** In addition to any other applicable penalty in law, the commissioner shall levy a fine of \$500,000 against a manufacturer and immediately initiate proceedings to revoke the manufacturer's registration, using the procedure in section 152.25, subdivision 1a, if:

(1) an officer, director, or controlling person of the manufacturer pleads or is found guilty under subdivision 1 of intentionally transferring medical cannabis, while the person was an officer, director, or controlling person of the manufacturer, to a person other than allowed by law; and

(2) in intentionally transferring medical cannabis to a person other than allowed by law, the officer, director, or controlling person transported or directed the transport of medical cannabis outside of Minnesota.

EFFECTIVE DATE. This section is effective the day following final enactment, and applies to crimes committed on or after that date.

Sec. 67. Minnesota Statutes 2016, section 157.16, subdivision 1, is amended to read:

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. 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. All fees collected under this section shall be deposited in the state government special revenue fund.

Sec. 68. Minnesota Statutes 2016, section 256B.0625, is amended by adding a subdivision to read:

Subd. 65. **Prescribed pediatric extended care centers.** Medical assistance covers services provided at a prescribed pediatric extended care center licensed under chapter 144H, when the services are provided in accordance with this chapter.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 69. **[256B.7651] PRESCRIBED PEDIATRIC EXTENDED CARE CENTERS.**

The commissioner shall set payment rates for services provided at prescribed pediatric extended care centers licensed under chapter 144H in one-hour increments, at a rate equal to 85 percent of the payment rate for one hour of complex home care nursing services. The payment rate shall include services provided by nursing staff and direct care staff specified in section 144H.11.

EFFECTIVE DATE. This section is effective upon federal approval. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 70. Minnesota Statutes 2016, section 327.15, subdivision 3, is amended to read:

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. Fees collected under this section shall be deposited in the state government special revenue fund. Recreational camping areas and manufactured home parks shall pay the highest applicable base fee under paragraph (b). 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 to 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. Operators of a manufactured home park or a recreational camping area also licensed under section 157.16 for the same location shall pay only one base fee, whichever is the highest of the base fees found in this section or section 157.16.

(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 a subsurface 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 99 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 to 99 sites, \$300; and
- (3) for expansion of 100 or more sites, \$450.

Sec. 71. Minnesota Statutes 2016, section 609.5315, subdivision 5c, is amended to read:

Subd. 5c. **Disposition of money; prostitution.** Money forfeited under section 609.5312, subdivision 1, paragraph (b), must be distributed as follows:

(1) 40 percent must be forwarded to the appropriate agency for deposit as a supplement to the agency's operating fund or similar fund for use in law enforcement;

(2) 20 percent must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes; and

(3) the remaining 40 percent must be forwarded to the commissioner of ~~public safety~~ health to be deposited in the safe harbor for youth account in the special revenue fund and is appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

Sec. 72. Minnesota Statutes 2016, section 626.556, subdivision 2, is amended to read:

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

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

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

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

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

(c) "Facility" means:

(1) a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed under sections 144.50 to 144.58, 241.021, or 245A.01 to 245A.16, or chapter 144H or 245D;

(2) a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or

(3) a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a.

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

(e) "Investigation" means fact gathering related to the current safety of a child and the risk of subsequent maltreatment that determines whether child maltreatment occurred and whether child protective services are needed. An investigation must be used when reports involve sexual abuse or substantial child endangerment, and for reports of maltreatment in facilities required to be licensed under chapter 245A or 245D; under sections 144.50 to 144.58 and 241.021; in a school as defined

in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E; or in a nonlicensed personal care provider association as defined in section 256B.0625, subdivision 19a.

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

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

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

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

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

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

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

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

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

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

(9) emotional harm from a pattern of behavior which contributes to impaired emotional functioning of the child which may be demonstrated by a substantial and observable effect in the

child's behavior, emotional response, or cognition that is not within the normal range for the child's age and stage of development, with due regard to the child's culture.

(h) "Nonmaltreatment mistake" means:

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

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

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

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

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

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

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

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

(k) "Physical abuse" means any physical injury, mental injury, or threatened injury, inflicted by a person responsible for the child's care on a child other than by accidental means, or any physical or mental injury that cannot reasonably be explained by the child's history of injuries, or any aversive or deprivation procedures, or regulated interventions, that have not been authorized under section 125A.0942 or 245.825.

Abuse does not include reasonable and moderate physical discipline of a child administered by a parent or legal guardian which does not result in an injury. Abuse does not include the use of reasonable force by a teacher, principal, or school employee as allowed by section 121A.582. Actions which are not reasonable and moderate include, but are not limited to, any of the following:

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

(2) striking a child with a closed fist;

- (3) shaking a child under age three;
 - (4) striking or other actions which result in any nonaccidental injury to a child under 18 months of age;
 - (5) unreasonable interference with a child's breathing;
 - (6) threatening a child with a weapon, as defined in section 609.02, subdivision 6;
 - (7) striking a child under age one on the face or head;
 - (8) striking a child who is at least age one but under age four on the face or head, which results in an injury;
 - (9) purposely giving a child poison, alcohol, or dangerous, harmful, or controlled substances which were not prescribed for the child by a practitioner, in order to control or punish the child; or other substances that substantially affect the child's behavior, motor coordination, or judgment or that results in sickness or internal injury, or subjects the child to medical procedures that would be unnecessary if the child were not exposed to the substances;
 - (10) unreasonable physical confinement or restraint not permitted under section 609.379, including but not limited to tying, caging, or chaining; or
 - (11) in a school facility or school zone, an act by a person responsible for the child's care that is a violation under section 121A.58.
- (l) "Practice of social services," for the purposes of subdivision 3, includes but is not limited to employee assistance counseling and the provision of guardian ad litem and parenting time expeditor services.
- (m) "Report" means any communication received by the local welfare agency, police department, county sheriff, or agency responsible for child protection pursuant to this section that describes neglect or physical or sexual abuse of a child and contains sufficient content to identify the child and any person believed to be responsible for the neglect or abuse, if known.
- (n) "Sexual abuse" means the subjection of a child by a person responsible for the child's care, by a person who has a significant relationship to the child, as defined in section 609.341, or by a person in a position of authority, as defined in section 609.341, subdivision 10, to any act which constitutes a violation of section 609.342 (criminal sexual conduct in the first degree), 609.343 (criminal sexual conduct in the second degree), 609.344 (criminal sexual conduct in the third degree), 609.345 (criminal sexual conduct in the fourth degree), or 609.3451 (criminal sexual conduct in the fifth degree). Sexual abuse also includes any act which involves a minor which constitutes a violation of prostitution offenses under sections 609.321 to 609.324 or 617.246. Effective May 29, 2017, sexual abuse includes all reports of known or suspected child sex trafficking involving a child who is identified as a victim of sex trafficking. Sexual abuse includes child sex trafficking as defined in section 609.321, subdivisions 7a and 7b. Sexual abuse includes threatened sexual abuse which includes the status of a parent or household member who has committed a violation which requires registration as an offender under section 243.166, subdivision 1b, paragraph (a) or (b), or required registration under section 243.166, subdivision 1b, paragraph (a) or (b).

(o) "Substantial child endangerment" means a person responsible for a child's care, by act or omission, commits or attempts to commit an act against a child under their care that constitutes any of the following:

(1) egregious harm as defined in section 260C.007, subdivision 14;

(2) abandonment under section 260C.301, subdivision 2;

(3) neglect as defined in paragraph (g), clause (2), that substantially endangers the child's physical or mental health, including a growth delay, which may be referred to as failure to thrive, that has been diagnosed by a physician and is due to parental neglect;

(4) murder in the first, second, or third degree under section 609.185, 609.19, or 609.195;

(5) manslaughter in the first or second degree under section 609.20 or 609.205;

(6) assault in the first, second, or third degree under section 609.221, 609.222, or 609.223;

(7) solicitation, inducement, and promotion of prostitution under section 609.322;

(8) criminal sexual conduct under sections 609.342 to 609.3451;

(9) solicitation of children to engage in sexual conduct under section 609.352;

(10) malicious punishment or neglect or endangerment of a child under section 609.377 or 609.378;

(11) use of a minor in sexual performance under section 617.246; or

(12) parental behavior, status, or condition which mandates that the county attorney file a termination of parental rights petition under section 260C.503, subdivision 2.

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

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

(2) been found to be palpably unfit under section 260C.301, subdivision 1, paragraph (b), clause (4), or a similar law of another jurisdiction;

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

(4) committed an act that has resulted in the involuntary transfer of permanent legal and physical custody of a child to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction.

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

(q) Upon receiving data under section 144.225, subdivision 2b, contained in a birth record or recognition of parentage identifying a child who is subject to threatened injury under paragraph (p), the Department of Human Services shall send the data to the responsible social services agency. The data is known as "birth match" data. Unless the responsible social services agency has already begun an investigation or assessment of the report due to the birth of the child or execution of the recognition of parentage and the parent's previous history with child protection, the agency shall accept the birth match data as a report under this section. The agency may use either a family assessment or investigation to determine whether the child is safe. All of the provisions of this section apply. If the child is determined to be safe, the agency shall consult with the county attorney to determine the appropriateness of filing a petition alleging the child is in need of protection or services under section 260C.007, subdivision 6, clause (16), in order to deliver needed services. If the child is determined not to be safe, the agency and the county attorney shall take appropriate action as required under section 260C.503, subdivision 2.

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

Sec. 73. Minnesota Statutes 2016, section 626.556, subdivision 3, is amended to read:

Subd. 3. Persons mandated to report; persons voluntarily reporting. (a) A person who knows or has reason to believe a child is being neglected or physically or sexually abused, as defined in subdivision 2, or has been neglected or physically or sexually abused within the preceding three years, shall immediately report the information to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person is:

(1) a professional or professional's delegate who is engaged in the practice of the healing arts, social services, hospital administration, psychological or psychiatric treatment, child care, education, correctional supervision, probation and correctional services, or law enforcement; or

(2) employed as a member of the clergy and received the information while engaged in ministerial duties, provided that a member of the clergy is not required by this subdivision to report information that is otherwise privileged under section 595.02, subdivision 1, paragraph (c).

(b) Any person may voluntarily report to the local welfare agency, agency responsible for assessing or investigating the report, police department, county sheriff, tribal social services agency, or tribal police department if the person knows, has reason to believe, or suspects a child is being or has been neglected or subjected to physical or sexual abuse.

(c) A person mandated to report physical or sexual child abuse or neglect occurring within a licensed facility shall report the information to the agency responsible for licensing the facility under sections 144.50 to 144.58; 241.021; 245A.01 to 245A.16; or chapter 144H or 245D; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision ~~49~~ 19a. A health or corrections agency receiving a report may request the local welfare agency to provide assistance pursuant to subdivisions 10, 10a, and 10b. A board or other entity whose licensees perform work

within a school facility, upon receiving a complaint of alleged maltreatment, shall provide information about the circumstances of the alleged maltreatment to the commissioner of education. Section 13.03, subdivision 4, applies to data received by the commissioner of education from a licensing entity.

(d) Notification requirements under subdivision 10 apply to all reports received under this section.

(e) For purposes of this section, "immediately" means as soon as possible but in no event longer than 24 hours.

Sec. 74. Minnesota Statutes 2016, 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, legally unlicensed child care, juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, and reports involving children served by an unlicensed personal care provider organization under section 256B.0659. Copies of findings related to personal care provider organizations under section 256B.0659 must be forwarded to the Department of Human Services provider enrollment.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245D, 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 144A.43 to 144A.482 or chapter 144H.

Sec. 75. Minnesota Statutes 2016, section 626.556, subdivision 10d, is amended to read:

Subd. 10d. Notification of neglect or abuse in facility. (a) When a report is received that alleges neglect, physical abuse, sexual abuse, or maltreatment of a child while in the care of a licensed or unlicensed day care facility, residential facility, agency, hospital, sanitarium, or other facility or institution required to be licensed according to sections 144.50 to 144.58; 241.021; or 245A.01 to 245A.16; or chapter 144H or 245D, or a school as defined in section 120A.05, subdivisions 9, 11, and 13; and chapter 124E; or a nonlicensed personal care provider organization as defined in section 256B.0625, subdivision 19a, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency investigating the report shall provide the following information to the parent, guardian, or legal custodian of a child alleged to have been neglected, physically abused, sexually abused, or the victim of maltreatment of a child in the facility: the name of the facility; the fact that a report alleging neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has been received; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; that the agency is conducting an assessment or investigation; any protective or corrective measures being taken pending the outcome of the investigation; and that a written memorandum will be provided when the investigation is completed.

(b) The commissioner of the agency responsible for assessing or investigating the report or local welfare agency may also provide the information in paragraph (a) to the parent, guardian, or legal custodian of any other child in the facility if the investigative agency knows or has reason to believe the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility has occurred. In determining whether to exercise this authority, the commissioner of the agency responsible for assessing or investigating the report or local welfare agency shall consider the seriousness of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the number of children allegedly neglected, physically abused, sexually abused, or victims of maltreatment of a child in the facility; the number of alleged perpetrators; and the length of the investigation. The facility shall be notified whenever this discretion is exercised.

(c) When the commissioner of the agency responsible for assessing or investigating the report or local welfare agency has completed its investigation, every parent, guardian, or legal custodian previously notified of the investigation by the commissioner or local welfare agency shall be provided with the following information in a written memorandum: the name of the facility investigated; the nature of the alleged neglect, physical abuse, sexual abuse, or maltreatment of a child in the facility; the investigator's name; a summary of the investigation findings; a statement whether maltreatment was found; and the protective or corrective measures that are being or will be taken. The memorandum shall be written in a manner that protects the identity of the reporter and the child and shall not contain the name, or to the extent possible, reveal the identity of the alleged perpetrator or of those interviewed during the investigation. If maltreatment is determined to exist, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child in the facility who had contact with the individual responsible for the maltreatment. When the facility is the responsible party for maltreatment, the commissioner or local welfare agency shall also provide the written memorandum to the parent, guardian, or legal custodian of each child who received services in the population of the facility where the maltreatment occurred. This notification must be provided to the parent, guardian, or legal custodian of each child receiving services from the time the maltreatment occurred until either the individual responsible for maltreatment is no longer in contact with a child or children in the facility or the conclusion of the investigation. In the case of maltreatment within a school facility, as defined in section 120A.05, subdivisions 9, 11, and 13, and chapter 124E, the commissioner of education need not provide notification to parents, guardians, or legal custodians of each child in the facility, but shall, within ten days after the investigation is completed, provide written notification to the parent, guardian, or legal custodian of any student alleged to have been maltreated. The commissioner of education may notify the parent, guardian, or legal custodian of any student involved as a witness to alleged maltreatment.

Sec. 76. **BRAIN HEALTH PILOT PROGRAMS.**

Subdivision 1. Pilot programs selected. (a) The commissioner shall competitively award grants for up to five pilot programs to improve brain health in youth sports in Minnesota. The commissioner shall issue a competitive request for pilot program proposals by October 31, 2017, based on input from the youth sports concussion working group. The commissioner shall include members of the working group in the scoring of proposals received, but shall exclude any member of the working group with a financial interest in a pilot program proposal.

(b) Each pilot program selected for a funding award must offer promise for improving at least one of the following areas:

- (1) objective identification of brain injury;
- (2) assessment and treatment of brain injury;
- (3) coordination of school and medical support services; or
- (4) policy reform to improve brain health outcomes.

(c) The programs must be selected so that youth are served in each of the following regions of the state:

- (1) Central or West Central Minnesota;
- (2) Southern, Southwest, or Southeast Minnesota;
- (3) Northwest or Northland Minnesota; and
- (4) the Twin Cities Metropolitan Area.

Subd. 2. **Funding for pilot programs.** Pilot programs selected under this section shall receive funding for one year beginning January 1, 2018. No later than March 1, 2019, the commissioner must report on the progress and outcomes of the pilot programs to the legislative committees with jurisdiction over health policy and finance.

Sec. 77. RECOMMENDATIONS FOR SAFETY AND QUALITY IMPROVEMENT PRACTICES FOR LONG-TERM CARE SERVICES AND SUPPORTS.

The commissioner of health shall consult with interested stakeholders to explore and make recommendations on how to apply proven safety and quality improvement practices and infrastructure to long-term care services and supports. Interested stakeholders with whom the commissioner must consult shall include but are not limited to representatives of the Minnesota Alliance for Patient Safety partner organizations, the Office of Ombudsman for Long-Term Care, the Minnesota Elder Justice Center, providers of older adult services, the Department of Health, and the Department of Human Services, and experts in the field of long-term care safety and quality improvement. The recommendations shall include mechanisms to apply a patient safety model to the senior care sector, including a system for reporting adverse health events, education and prevention activities, and interim actions to improve systems for processing reports and complaints submitted to the Office of Health Facility Complaints. By January 15, 2018, the commissioner shall submit the recommendations developed under this section, along with draft legislation to implement the recommendations, to the chairs and ranking minority members of the legislative committees with jurisdiction over long-term care.

Sec. 78. STUDY AND REPORT ON HOME CARE NURSING WORKFORCE SHORTAGE.

(a) The chair and ranking minority member of the senate Human Services Reform Finance and Policy Committee and the chair and ranking minority member of the house of representatives Health and Human Services Finance Committee shall convene a working group to study and report on the shortage of registered nurses and licensed practical nurses available to provide low-complexity regular home care services to clients in need of such services, especially clients covered by medical

assistance, and to provide recommendations for ways to address the workforce shortage. The working group shall consist of 14 members appointed as follows:

(1) the chair of the senate Human Services Reform Finance and Policy Committee or a designee;

(2) the ranking minority member of the senate Human Services Reform Finance and Policy Committee or a designee;

(3) the chair of the house of representatives Health and Human Services Finance Committee or a designee;

(4) the ranking minority member of the house of representatives Health and Human Services Finance Committee or a designee;

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

(6) the commissioner of health or a designee;

(7) one representative appointed by the Professional Home Care Coalition;

(8) one representative appointed by the Minnesota Home Care Association;

(9) one representative appointed by the Minnesota Board of Nursing;

(10) one representative appointed by the Minnesota Nurses Association;

(11) one representative appointed by the Minnesota Licensed Practical Nurses Association;

(12) one representative appointed by the Minnesota Society of Medical Assistants;

(13) one client who receives regular home care nursing services and is covered by medical assistance appointed by the commissioner of human services after consulting with the appointing authorities identified in clauses (7) to (12); and

(14) one assessor appointed by the commissioner of human services. The assessor must be certified under Minnesota Statutes, section 256B.0911, and must be a registered nurse.

(b) The appointing authorities must appoint members by August 1, 2017.

(c) The convening authorities shall convene the first meeting of the working group no later than August 15, 2017, and caucus staff shall provide support and meeting space for the working group. The Department of Health and the Department of Human Services shall provide technical assistance to the working group by providing existing data and analysis documenting the current and projected workforce shortages in the area of regular home care nursing. The home care and assisted living program advisory council established under Minnesota Statutes, section 144A.4799, shall provide advice and recommendations to the working group. Working group members shall serve without compensation and shall not be reimbursed for expenses.

(d) The working group shall:

(1) quantify the number of low-complexity regular home care nursing hours that are authorized but not provided to clients covered by medical assistance, due to the shortage of registered nurses and licensed practical nurses available to provide these home care services;

(2) quantify the current and projected workforce shortages of registered nurses and licensed practical nurses available to provide low-complexity regular home care nursing services to clients, especially clients covered by medical assistance;

(3) develop recommendations for actions to take in the next two years to address the regular home care nursing workforce shortage, including identifying other health care professionals who may be able to provide low-complexity regular home care nursing services with additional training; what additional training may be necessary for these health care professionals; and how to address scope of practice and licensing issues;

(4) compile reimbursement rates for regular home care nursing from other states and determine Minnesota's national ranking with respect to reimbursement for regular home care nursing;

(5) determine whether reimbursement rates for regular home care nursing fully reimburse providers for the cost of providing the service and whether the discrepancy, if any, between rates and costs contributes to lack of access to regular home care nursing; and

(6) by January 15, 2018, report on the findings and recommendations of the working group to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance. The working group's report shall include draft legislation.

(e) The working group shall elect a chair from among its members at its first meeting.

(f) The meetings of the working group shall be open to the public.

(g) This section expires January 16, 2018, or the day after submitting the report required by this section, whichever is earlier.

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

Sec. 79. **OPIOID ABUSE PREVENTION PILOT PROJECTS.**

(a) The commissioner of health shall establish opioid abuse prevention pilot projects in geographic areas throughout the state, to reduce opioid abuse through the use of controlled substance care teams and community-wide coordination of abuse-prevention initiatives. The commissioner shall award grants to health care providers, health plan companies, local units of government, or other entities to establish pilot projects.

(b) Each pilot project must:

(1) be designed to reduce emergency room and other health care provider visits resulting from opioid use or abuse, and reduce rates of opioid addiction in the community;

(2) establish multidisciplinary controlled substance care teams, that may consist of physicians, pharmacists, social workers, nurse care coordinators, and mental health professionals;

(3) deliver health care services and care coordination, through controlled substance care teams, to reduce the inappropriate use of opioids by patients and rates of opioid addiction;

(4) address any unmet social service needs that create barriers to managing pain effectively and obtaining optimal health outcomes;

(5) provide prescriber and dispenser education and assistance to reduce the inappropriate prescribing and dispensing of opioids;

(6) promote the adoption of best practices related to opioid disposal and reducing opportunities for illegal access to opioids; and

(7) engage partners outside of the health care system, including schools, law enforcement, and social services, to address root causes of opioid abuse and addiction at the community level.

(c) The commissioner shall contract with an accountable community for health that operates an opioid abuse prevention project, and can document success in reducing opioid use through the use of controlled substance care teams, to assist the commissioner in administering this section, and to provide technical assistance to the commissioner and to entities selected to operate a pilot project.

(d) The contract under paragraph (c) shall require the accountable community for health to evaluate the extent to which the pilot projects were successful in reducing the inappropriate use of opioids. The evaluation must analyze changes in the number of opioid prescriptions, the number of emergency room visits related to opioid use, and other relevant measures. The accountable community for health shall report evaluation results to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance and public safety by December 15, 2019.

Sec. 80. SAFE HARBOR FOR ALL; STATEWIDE SEX TRAFFICKING VICTIMS STRATEGIC PLAN.

(a) By October 1, 2018, the commissioner of health, in consultation with the commissioners of public safety and human services, shall adopt a comprehensive strategic plan to address the needs of sex trafficking victims statewide.

(b) The commissioner of health shall issue a request for proposals to select an organization to develop the comprehensive strategic plan. The selected organization shall seek recommendations from professionals, community members, and stakeholders from across the state, with an emphasis on the communities most impacted by sex trafficking. At a minimum, the selected organization must seek input from the following groups: sex trafficking survivors and their family members, statewide crime victim services coalitions, victim services providers, nonprofit organizations, task forces, prosecutors, public defenders, tribal governments, public safety and corrections professionals, public health professionals, human services professionals, and impacted community members. The strategic plan shall include recommendations regarding the expansion of Minnesota's Safe Harbor Law to adult victims of sex trafficking.

(c) By January 15, 2019, the commissioner of health shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services

and criminal justice finance and policy on developing the statewide strategic plan, including recommendations for additional legislation and funding.

(d) As used in this section, "sex trafficking victim" has the meaning given in Minnesota Statutes, section 609.321, subdivision 7b.

Sec. 81. **DIRECTION TO THE COMMISSIONER OF HEALTH.**

The commissioner of health shall work with interested stakeholders to evaluate whether existing laws, including laws governing housing with services establishments, board and lodging establishments with special services, assisted living designations, and home care providers, as well as building code requirements and landlord tenancy laws, sufficiently protect the health and safety of persons diagnosed with Alzheimer's disease or a related dementia.

Sec. 82. **PALLIATIVE CARE ADVISORY COUNCIL.**

The appointing authorities shall appoint the first members of the Palliative Care Advisory Council under Minnesota Statutes, section 144.059, by October 1, 2017. The commissioner of health shall convene the first meeting by November 15, 2017, and the commissioner or the commissioner's designee shall act as chair until the council elects a chair at its first meeting.

Sec. 83. **YOUTH SPORTS CONCUSSION WORKING GROUP.**

Subdivision 1. **Working group established; duties and membership.** (a) The commissioner of health shall convene a youth sports concussion working group of up to 30 members to:

(1) develop the report described in subdivision 4 to assess the causes and incidence of brain injury in Minnesota youth sports; and

(2) evaluate the implementation of Minnesota Statutes, sections 121A.37 and 121A.38, regarding concussions in youth athletic activity, and best practices for preventing, identifying, evaluating, and treating brain injury in youth sports.

(b) In forming the working group, the commissioner shall solicit nominees from individuals with expertise and experience in the areas of traumatic brain injury in youth and sports, neuroscience, law and policy related to brain health, public health, neurotrauma, provision of care to brain injured youth, and related fields. In selecting members of the working group, the commissioner shall ensure geographic and professional diversity. The working group shall elect a chair from among its members. The commissioner shall be responsible for organizing meetings and preparing a draft report. Members of the working group shall not receive monetary compensation for their participation in the group.

Subd. 2. **Working group goals defined.** The working group shall, at a minimum:

(1) gather and analyze available data on:

(i) the prevalence and causes of youth sports-related concussions including, where possible, data on the number of officials and coaches receiving concussion training;

(ii) the number of coaches, officials, youth athletes, and parents or guardians receiving information about the nature and risks of concussions;

(iii) the number of youth athletes removed from play and the nature and duration of treatment before return to play; and

(iv) policies and procedures related to return to learn in the classroom;

(2) review the rules associated with relevant youth athletic activities and the concussion education policies currently employed;

(3) identify innovative pilot projects in areas such as:

(i) objectively defining and measuring concussions;

(ii) rule changes designed to promote brain health;

(iii) use of technology to identify and treat concussions;

(iv) recognition of cumulative subconcussive effects; and

(v) postconcussion treatment, and return to learn protocols; and

(4) identify regulatory and legal barriers and burdens to achieving better brain health outcomes.

Subd. 3. Voluntary participation; no new reporting requirements created. Participation in the working group study by schools, school districts, school governing bodies, parents, athletes, and related individuals and organizations shall be voluntary, and this study shall create no new reporting requirements by schools, school districts, school governing bodies, parents, athletes, and related individuals and organizations.

Subd. 4. Report. By December 31, 2018, the youth sports concussion working group shall provide an interim report, and by December 31, 2019, the working group shall provide a final report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and education with recommendations and proposals for a Minnesota model for reducing brain injury in youth sports. The report shall make recommendations regarding:

(1) best practices for reducing and preventing concussions in youth sports;

(2) best practices for schools to employ in order to identify and respond to occurrences of concussions, including return to play and return to learn;

(3) opportunities to highlight and strengthen best practices with external grant support;

(4) opportunities to leverage Minnesota's strengths in brain science research and clinical care for brain injury; and

(5) proposals to develop an innovative Minnesota model for identifying, evaluating, and treating youth sports concussions.

Subd. 5. Sunset. The working group expires the day after submitting the report required under subdivision 4, or January 15, 2020, whichever is earlier.

Sec. 84. **REPEALER.**

(a) Minnesota Statutes 2016, section 144.4961, is repealed the day following final enactment.

(b) Laws 2014, chapter 312, article 23, section 9, subdivision 5, is repealed.

ARTICLE 11

HEALTH LICENSING BOARDS

Section 1. Minnesota Statutes 2016, section 147.01, subdivision 7, is amended to read:

Subd. 7. **Physician application fee and license fees.** (a) The board may charge a the following nonrefundable application and license fees processed pursuant to sections 147.02, 147.03, 147.037, 147.0375, and 147.38:

(1) physician application fee of \$200;

(2) physician annual registration renewal fee, \$192;

(3) physician endorsement to other states, \$40;

(4) physician emeritus license, \$50;

(5) physician temporary licenses, \$60;

(6) physician late fee, \$60;

(7) duplicate license fee, \$20;

(8) certification letter fee, \$25;

(9) education or training program approval fee, \$100;

(10) report creation and generation fee, \$60;

(11) examination administration fee (half day), \$50;

(12) examination administration fee (full day), \$80; and

(13) fees developed by the Interstate Commission for determining physician qualification to register and participate in the interstate medical licensure compact, as established in rules authorized in and pursuant to section 147.38, not to exceed \$1,000.

(b) The board may prorate the initial annual license fee. All licensees are required to pay the full fee upon license renewal. The revenue generated from the fee must be deposited in an account in the state government special revenue fund.

Sec. 2. Minnesota Statutes 2016, section 147.02, subdivision 1, is amended to read:

Subdivision 1. **United States or Canadian medical school graduates.** The board shall issue a license to practice medicine to a person not currently licensed in another state or Canada and who meets the requirements in paragraphs (a) to (i).

(a) An applicant for a license shall file a written application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a medical or osteopathic medical school located in the United States, its territories or Canada, and approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant data, or is currently enrolled in the final year of study at the school.

(c) The applicant must have passed an examination as described in clause (1) or (2).

(1) The applicant must have passed a comprehensive examination for initial licensure prepared and graded by the National Board of Medical Examiners, the Federation of State Medical Boards, the Medical Council of Canada, the National Board of Osteopathic Examiners, or the appropriate state board that the board determines acceptable. The board shall by rule determine what constitutes a passing score in the examination.

(2) The applicant taking the United States Medical Licensing Examination (USMLE) or Comprehensive Osteopathic Medical Licensing Examination (COMLEX-USA) must have passed steps or levels one, two, and three. Step or level three must be passed within five years of passing step or level two, or before the end of residency training. The applicant must pass each of steps or levels one, two, and three with passing scores as recommended by the USMLE program or National Board of Osteopathic Medical Examiners within three attempts. The applicant taking combinations of Federation of State Medical Boards, National Board of Medical Examiners, and USMLE may be accepted only if the combination is approved by the board as comparable to existing comparable examination sequences and all examinations are completed prior to the year 2000.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization.

(e) The applicant may make arrangements with the executive director to appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a nonrefundable fee established by the board ~~by rule. The fee may not be refunded.~~ Upon application or notice of license renewal, the board must provide notice to the applicant and to the person whose license is scheduled to be issued or renewed of any additional fees, surcharges, or other costs which the person is obligated to pay as a condition of licensure. The notice must:

(1) state the dollar amount of the additional costs; and

(2) clearly identify to the applicant the payment schedule of additional costs.

(g) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(h) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (g). If the applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

(i) If the examination in paragraph (c) was passed more than ten years ago, the applicant must either:

(1) pass the special purpose examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(2) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association, the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada.

Sec. 3. Minnesota Statutes 2016, section 147.03, subdivision 1, is amended to read:

Subdivision 1. **Endorsement; reciprocity.** (a) The board may issue a license to practice medicine to any person who satisfies the requirements in paragraphs (b) to ~~(f)~~(e).

(b) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (b), (d), (e), and (f).

(c) The applicant shall:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, or the United States Medical Licensing Examination (USMLE) program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2); the National Board of Osteopathic Medical Examiners; or the Medical Council of Canada; and

(2) have a current license from the equivalent licensing agency in another state or Canada and, if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association, the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada; or

(3) if the applicant fails to meet the requirement established in section 147.02, subdivision 1, paragraph (c), clause (2), because the applicant failed to pass each of steps one, two, and three of the USMLE within the required three attempts, the applicant may be granted a license provided the applicant:

(i) has passed each of steps one, two, and three with passing scores as recommended by the USMLE program within no more than four attempts for any of the three steps;

(ii) is currently licensed in another state; and

(iii) has current certification by a specialty board of the American Board of Medical Specialties, the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada.

~~(d) The applicant shall pay a fee established by the board by rule. The fee may not be refunded.~~

~~(e)~~ (d) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

~~(f)~~ (e) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph ~~(e)~~ (d). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

~~(g)~~ (f) Upon the request of an applicant, the board may conduct the final interview of the applicant by teleconference.

Sec. 4. **[147A.28] PHYSICIAN ASSISTANT APPLICATION AND LICENSE FEES.**

(a) The board may charge the following nonrefundable fees:

(1) physician assistant application fee, \$120;

(2) physician assistant annual registration renewal fee (prescribing authority), \$135;

(3) physician assistant annual registration renewal fee (no prescribing authority), \$115;

(4) physician assistant temporary registration, \$115;

(5) physician assistant temporary permit, \$60;

(6) physician assistant locum tenens permit, \$25;

(7) physician assistant late fee, \$50;

(8) duplicate license fee, \$20;

(9) certification letter fee, \$25;

(10) education or training program approval fee, \$100; and

(11) report creation and generation fee, \$60.

(b) The board may prorate the initial annual license fee. All licensees are required to pay the full fee upon license renewal. The revenue generated from the fees must be deposited in an account in the state government special revenue fund.

Sec. 5. Minnesota Statutes 2016, section 147B.08, is amended by adding a subdivision to read:

Subd. 4. **Acupuncturist application and license fees.** (a) The board may charge the following nonrefundable fees:

- (1) acupuncturist application fee, \$150;
- (2) acupuncturist annual registration renewal fee, \$150;
- (3) acupuncturist temporary registration fee, \$60;
- (4) acupuncturist inactive status fee, \$50;
- (5) acupuncturist late fee, \$50;
- (6) duplicate license fee, \$20;
- (7) certification letter fee, \$25;
- (8) education or training program approval fee, \$100; and
- (9) report creation and generation fee, \$60.

(b) The board may prorate the initial annual license fee. All licensees are required to pay the full fee upon license renewal. The revenue generated from the fees must be deposited in an account in the state government special revenue fund.

Sec. 6. Minnesota Statutes 2016, section 147C.40, is amended by adding a subdivision to read:

Subd. 5. **Respiratory therapist application and license fees.** (a) The board may charge the following nonrefundable fees:

- (1) respiratory therapist application fee, \$100;
- (2) respiratory therapist annual registration renewal fee, \$90;
- (3) respiratory therapist inactive status fee, \$50;
- (4) respiratory therapist temporary registration fee, \$90;
- (5) respiratory therapist temporary permit, \$60;
- (6) respiratory therapist late fee, \$50;
- (7) duplicate license fee, \$20;
- (8) certification letter fee, \$25;

(9) education or training program approval fee, \$100; and

(10) report creation and generation fee, \$60.

(b) The board may prorate the initial annual license fee. All licensees are required to pay the full fee upon license renewal. The revenue generated from the fees must be deposited in an account in the state government special revenue fund.

Sec. 7. Minnesota Statutes 2016, section 148.6402, subdivision 4, is amended to read:

Subd. 4. ~~Commissioner Board.~~ "Commissioner Board" means the ~~commissioner of health or a designee~~ Board of Occupational Therapy Practice established in section 148.6449.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 8. Minnesota Statutes 2016, section 148.6405, is amended to read:

148.6405 LICENSURE APPLICATION REQUIREMENTS: PROCEDURES AND QUALIFICATIONS.

(a) An applicant for licensure must comply with the application requirements in section 148.6420. To qualify for licensure, an applicant must satisfy one of the requirements in paragraphs (b) to (f) and not be subject to denial of licensure under section 148.6448.

(b) A person who applies for licensure as an occupational therapist and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6408.

(c) A person who applies for licensure as an occupational therapy assistant and who has not been credentialed by the National Board for Certification in Occupational Therapy or another jurisdiction must meet the requirements in section 148.6410.

(d) A person who is certified by the National Board for Certification in Occupational Therapy may apply for licensure by equivalency and must meet the requirements in section 148.6412.

(e) A person who is credentialed in another jurisdiction may apply for licensure by reciprocity and must meet the requirements in section 148.6415.

(f) A person who applies for temporary licensure must meet the requirements in section 148.6418.

(g) A person who applies for licensure under paragraph (b), (c), or (f) more than two and less than four years after meeting the requirements in section 148.6408 or 148.6410 must submit the following:

(1) a completed and signed application for licensure on forms provided by the ~~commissioner~~ board;

(2) the license application fee required under section 148.6445;

(3) if applying for occupational therapist licensure, proof of having met a minimum of 24 contact hours of continuing education in the two years preceding licensure application, or if applying for occupational therapy assistant licensure, proof of having met a minimum of 18 contact hours of continuing education in the two years preceding licensure application;

(4) verified documentation of successful completion of 160 hours of supervised practice approved by the ~~commissioner~~ board under a limited license specified in section 148.6425, subdivision 3, paragraph (c); and

(5) additional information as requested by the ~~commissioner~~ board to clarify information in the application, including information to determine whether the individual has engaged in conduct warranting disciplinary action under section 148.6448. The information must be submitted within 30 days after the ~~commissioner's~~ board's request.

(h) A person who applied for licensure under paragraph (b), (c), or (f) four years or more after meeting the requirements in section 148.6408 or 148.6410 must meet all the requirements in paragraph (g) except clauses (3) and (4), submit documentation of having retaken and passed the credentialing examination for occupational therapist or occupational therapy assistant, or of having completed an occupational therapy refresher program that contains both a theoretical and clinical component approved by the ~~commissioner~~ board, and verified documentation of successful completion of 480 hours of supervised practice approved by the ~~commissioner~~ board under a limited license specified in section 148.6425, subdivision 3, paragraph (c). The 480 hours of supervised practice must be completed in six months and may be completed at the applicant's place of work. Only refresher courses completed within one year prior to the date of application qualify for approval.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 9. Minnesota Statutes 2016, section 148.6408, subdivision 2, is amended to read:

Subd. 2. **Qualifying examination score required.** (a) An applicant must achieve a qualifying score on the credentialing examination for occupational therapist.

(b) The ~~commissioner~~ board shall determine the qualifying score for the credentialing examination for occupational therapist. In determining the qualifying score, the ~~commissioner~~ board shall consider the cut score recommended by the National Board for Certification in Occupational Therapy, or other national credentialing organization approved by the ~~commissioner~~ board, using the modified Angoff method for determining cut score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

(c) The applicant is responsible for:

(1) making arrangements to take the credentialing examination for occupational therapist;

(2) bearing all expenses associated with taking the examination; and

(3) having the examination scores sent directly to the ~~commissioner~~ board from the testing service that administers the examination.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 10. Minnesota Statutes 2016, section 148.6410, subdivision 2, is amended to read:

Subd. 2. **Qualifying examination score required.** (a) An applicant for licensure must achieve a qualifying score on the credentialing examination for occupational therapy assistants.

(b) The ~~commissioner~~ board shall determine the qualifying score for the credentialing examination for occupational therapy assistants. In determining the qualifying score, the ~~commissioner~~ board shall consider the cut score recommended by the National Board for Certification in Occupational Therapy, or other national credentialing organization approved by the ~~commissioner~~ board, using the modified Angoff method for determining cut score or another method for determining cut score that is recognized as appropriate and acceptable by industry standards.

(c) The applicant is responsible for:

(1) making all arrangements to take the credentialing examination for occupational therapy assistants;

(2) bearing all expense associated with taking the examination; and

(3) having the examination scores sent directly to the ~~commissioner~~ board from the testing service that administers the examination.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 11. Minnesota Statutes 2016, section 148.6412, subdivision 2, is amended to read:

Subd. 2. **Persons certified by National Board for Certification in Occupational Therapy after June 17, 1996.** The ~~commissioner~~ board may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapist after June 17, 1996, if the ~~commissioner~~ board determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapist under section 148.6408. The ~~commissioner~~ board may license any person certified by the National Board for Certification in Occupational Therapy as an occupational therapy assistant after June 17, 1996, if the ~~commissioner~~ board determines the requirements for certification are equivalent to or exceed the requirements for licensure as an occupational therapy assistant under section 148.6410. Nothing in this section limits the ~~commissioner's~~ board's authority to deny licensure based upon the grounds for discipline in sections 148.6401 to ~~148.6450~~ 148.6449.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 12. Minnesota Statutes 2016, section 148.6415, is amended to read:

148.6415 LICENSURE BY RECIPROCITY.

A person who holds a current credential as an occupational therapist in the District of Columbia or a state or territory of the United States whose standards for credentialing are determined by the ~~commissioner~~ board to be equivalent to or exceed the requirements for licensure under section 148.6408 may be eligible for licensure by reciprocity as an occupational therapist. A person who holds a current credential as an occupational therapy assistant in the District of Columbia or a state or territory of the United States whose standards for credentialing are determined by the ~~commissioner~~ board

board to be equivalent to or exceed the requirements for licensure under section 148.6410 may be eligible for licensure by reciprocity as an occupational therapy assistant. Nothing in this section limits the ~~commissioner's~~ board's authority to deny licensure based upon the grounds for discipline in sections 148.6401 to ~~148.6450~~ 148.6449. An applicant must provide:

- (1) the application materials as required by section 148.6420, subdivisions 1, 3, and 4;
- (2) the fees required by section 148.6445;
- (3) a copy of a current and unrestricted credential for the practice of occupational therapy as either an occupational therapist or occupational therapy assistant;
- (4) a letter from the jurisdiction that issued the credential describing the applicant's qualifications that entitled the applicant to receive the credential; and
- (5) other information necessary to determine whether the credentialing standards of the jurisdiction that issued the credential are equivalent to or exceed the requirements for licensure under sections 148.6401 to ~~148.6450~~ 148.6449.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 13. Minnesota Statutes 2016, section 148.6418, subdivision 1, is amended to read:

Subdivision 1. **Application.** The ~~commissioner~~ board shall issue temporary licensure as an occupational therapist or occupational therapy assistant to applicants who are not the subject of a disciplinary action or past disciplinary action, nor disqualified on the basis of items listed in section 148.6448, subdivision 1.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 14. Minnesota Statutes 2016, section 148.6418, subdivision 2, is amended to read:

Subd. 2. **Procedures.** To be eligible for temporary licensure, an applicant must submit a completed application for temporary licensure on forms provided by the ~~commissioner~~ board, the fees required by section 148.6445, and one of the following:

- (1) evidence of successful completion of the requirements in section 148.6408, subdivision 1, or 148.6410, subdivision 1;
- (2) a copy of a current and unrestricted credential for the practice of occupational therapy as either an occupational therapist or occupational therapy assistant in another jurisdiction; or
- (3) a copy of a current and unrestricted certificate from the National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist or occupational therapy assistant.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 15. Minnesota Statutes 2016, section 148.6418, subdivision 4, is amended to read:

Subd. 4. **Supervision required.** An applicant who has graduated from an accredited occupational therapy program, as required by section 148.6408, subdivision 1, or 148.6410, subdivision 1, and who has not passed the examination required by section 148.6408, subdivision 2, or 148.6410, subdivision 2, must practice under the supervision of a licensed occupational therapist. The supervising therapist must, at a minimum, supervise the person working under temporary licensure in the performance of the initial evaluation, determination of the appropriate treatment plan, and periodic review and modification of the treatment plan. The supervising therapist must observe the person working under temporary licensure in order to assure service competency in carrying out evaluation, treatment planning, and treatment implementation. The frequency of face-to-face collaboration between the person working under temporary licensure and the supervising therapist must be based on the condition of each patient or client, the complexity of treatment and evaluation procedures, and the proficiencies of the person practicing under temporary licensure. The occupational therapist or occupational therapy assistant working under temporary licensure must provide verification of supervision on the application form provided by the ~~commissioner~~ board.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 16. Minnesota Statutes 2016, section 148.6418, subdivision 5, is amended to read:

Subd. 5. **Expiration of temporary licensure.** A temporary license issued to a person pursuant to subdivision 2, clause (1), expires six months from the date of issuance for occupational therapists and occupational therapy assistants or on the date the ~~commissioner~~ board grants or denies licensure, whichever occurs first. A temporary license issued to a person pursuant to subdivision 2, clause (2) or (3), expires 90 days after it is issued. Upon application for renewal, a temporary license shall be renewed once to persons who have not met the examination requirement under section 148.6408, subdivision 2, or 148.6410, subdivision 2, within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1. Upon application for renewal, a temporary license shall be renewed once to persons who are able to demonstrate good cause for failure to meet the requirements for licensure under section 148.6412 or 148.6415 within the initial temporary licensure period and who are not the subject of a disciplinary action nor disqualified on the basis of items in section 148.6448, subdivision 1.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 17. Minnesota Statutes 2016, section 148.6420, subdivision 1, is amended to read:

Subdivision 1. **Applications for licensure.** An applicant for licensure must:

(1) submit a completed application for licensure on forms provided by the ~~commissioner~~ board and must supply the information requested on the application, including:

(i) the applicant's name, business address and business telephone number, business setting, and daytime telephone number;

(ii) the name and location of the occupational therapy program the applicant completed;

(iii) a description of the applicant's education and training, including a list of degrees received from educational institutions;

(iv) the applicant's work history for the six years preceding the application, including the number of hours worked;

(v) a list of all credentials currently and previously held in Minnesota and other jurisdictions;

(vi) a description of any jurisdiction's refusal to credential the applicant;

(vii) a description of all professional disciplinary actions initiated against the applicant in any jurisdiction;

(viii) information on any physical or mental condition or chemical dependency that impairs the person's ability to engage in the practice of occupational therapy with reasonable judgment or safety;

(ix) a description of any misdemeanor or felony conviction that relates to honesty or to the practice of occupational therapy;

(x) a description of any state or federal court order, including a conciliation court judgment or a disciplinary order, related to the individual's occupational therapy practice; and

(xi) a statement indicating the physical agent modalities the applicant will use and whether the applicant will use the modalities as an occupational therapist or an occupational therapy assistant under direct supervision;

(2) submit with the application all fees required by section 148.6445;

(3) sign a statement that the information in the application is true and correct to the best of the applicant's knowledge and belief;

(4) sign a waiver authorizing the ~~commissioner~~ board to obtain access to the applicant's records in this or any other state in which the applicant holds or previously held a credential for the practice of an occupation, has completed an accredited occupational therapy education program, or engaged in the practice of occupational therapy;

(5) submit additional information as requested by the ~~commissioner~~ board; and

(6) submit the additional information required for licensure by equivalency, licensure by reciprocity, and temporary licensure as specified in sections 148.6408 to 148.6418.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 18. Minnesota Statutes 2016, section 148.6420, subdivision 3, is amended to read:

Subd. 3. **Applicants certified by National Board for Certification in Occupational Therapy.** An applicant who is certified by the National Board for Certification in Occupational Therapy must provide the materials required in subdivision 1 and the following:

(1) verified documentation from the National Board for Certification in Occupational Therapy stating that the applicant is certified as an occupational therapist, registered or certified occupational therapy assistant, the date certification was granted, and the applicant's certification number. The document must also include a statement regarding disciplinary actions. The applicant is responsible

for obtaining this documentation by sending a form provided by the ~~commissioner~~ board to the National Board for Certification in Occupational Therapy; and

(2) a waiver authorizing the ~~commissioner~~ board to obtain access to the applicant's records maintained by the National Board for Certification in Occupational Therapy.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 19. Minnesota Statutes 2016, section 148.6420, subdivision 5, is amended to read:

Subd. 5. **Action on applications for licensure.** (a) The ~~commissioner~~ board shall approve, approve with conditions, or deny licensure. The ~~commissioner~~ board shall act on an application for licensure according to paragraphs (b) to (d).

(b) The ~~commissioner~~ board shall determine if the applicant meets the requirements for licensure. The ~~commissioner~~ board, or the advisory council at the ~~commissioner's~~ board's request, may investigate information provided by an applicant to determine whether the information is accurate and complete.

(c) The ~~commissioner~~ board shall notify an applicant of action taken on the application and, if licensure is denied or approved with conditions, the grounds for the ~~commissioner's~~ board's determination.

(d) An applicant denied licensure or granted licensure with conditions may make a written request to the ~~commissioner~~ board, within 30 days of the date of the ~~commissioner's~~ board's determination, for reconsideration of the ~~commissioner's~~ board's determination. Individuals requesting reconsideration may submit information which the applicant wants considered in the reconsideration. After reconsideration of the ~~commissioner's~~ board's determination to deny licensure or grant licensure with conditions, the ~~commissioner~~ board shall determine whether the original determination should be affirmed or modified. An applicant is allowed no more than one request in any one biennial licensure period for reconsideration of the ~~commissioner's~~ board's determination to deny licensure or approve licensure with conditions.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 20. Minnesota Statutes 2016, section 148.6423, is amended to read:

148.6423 LICENSURE RENEWAL.

Subdivision 1. **Renewal requirements.** To be eligible for licensure renewal, a licensee must:

(1) submit a completed and signed application for licensure renewal on forms provided by the ~~commissioner~~ board;

(2) submit the renewal fee required under section 148.6445;

(3) submit proof of having met the continuing education requirement of section 148.6443 on forms provided by the ~~commissioner~~ board; and

(4) submit additional information as requested by the ~~commissioner~~ board to clarify information presented in the renewal application. The information must be submitted within 30 days after the ~~commissioner's~~ board's request.

Subd. 2. **Renewal deadline.** (a) Except as provided in paragraph (c), licenses must be renewed every two years. Licensees must comply with the following procedures in paragraphs (b) to (e):

(b) Each license must state an expiration date. An application for licensure renewal must be received by the ~~Department of Health~~ board or postmarked at least 30 calendar days before the expiration date. If the postmark is illegible, the application shall be considered timely if received at least 21 calendar days before the expiration date.

(c) If the ~~commissioner~~ board changes the renewal schedule and the expiration date is less than two years, the fee and the continuing education contact hours to be reported at the next renewal must be prorated.

(d) An application for licensure renewal not received within the time required under paragraph (b), but received on or before the expiration date, must be accompanied by a late fee in addition to the renewal fee specified by section 148.6445.

(e) Licensure renewals received after the expiration date shall not be accepted and persons seeking licensed status must comply with the requirements of section 148.6425.

Subd. 3. **Licensure renewal notice.** At least 60 calendar days before the expiration date in subdivision 2, the ~~commissioner~~ board shall mail a renewal notice to the licensee's last known address on file with the ~~commissioner~~ board. The notice must include an application for licensure renewal and notice of fees required for renewal. The licensee's failure to receive notice does not relieve the licensee of the obligation to meet the renewal deadline and other requirements for licensure renewal.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 21. Minnesota Statutes 2016, section 148.6425, subdivision 2, is amended to read:

Subd. 2. **Licensure renewal after licensure expiration date.** An individual whose application for licensure renewal is received after the licensure expiration date must submit the following:

(1) a completed and signed application for licensure following lapse in licensed status on forms provided by the ~~commissioner~~ board;

(2) the renewal fee and the late fee required under section 148.6445;

(3) proof of having met the continuing education requirements in section 148.6443, subdivision 1; and

(4) additional information as requested by the ~~commissioner~~ board to clarify information in the application, including information to determine whether the individual has engaged in conduct warranting disciplinary action as set forth in section 148.6448. The information must be submitted within 30 days after the ~~commissioner's~~ board's request.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 22. Minnesota Statutes 2016, section 148.6425, subdivision 3, is amended to read:

Subd. 3. **Licensure renewal four years or more after licensure expiration date.** (a) An individual who requests licensure renewal four years or more after the licensure expiration date must submit the following:

(1) a completed and signed application for licensure on forms provided by the ~~commissioner~~ board;

(2) the renewal fee and the late fee required under section 148.6445 if renewal application is based on paragraph (b), clause (1), (2), or (3), or the renewal fee required under section 148.6445 if renewal application is based on paragraph (b), clause (4);

(3) proof of having met the continuing education requirement in section 148.6443, subdivision 1, except the continuing education must be obtained in the two years immediately preceding application renewal; and

(4) at the time of the next licensure renewal, proof of having met the continuing education requirement, which shall be prorated based on the number of months licensed during the two-year licensure period.

(b) In addition to the requirements in paragraph (a), the applicant must submit proof of one of the following:

(1) verified documentation of successful completion of 160 hours of supervised practice approved by the ~~commissioner~~ board as described in paragraph (c);

(2) verified documentation of having achieved a qualifying score on the credentialing examination for occupational therapists or the credentialing examination for occupational therapy assistants administered within the past year;

(3) documentation of having completed a combination of occupational therapy courses or an occupational therapy refresher program that contains both a theoretical and clinical component approved by the ~~commissioner~~ board. Only courses completed within one year preceding the date of the application or one year after the date of the application qualify for approval; or

(4) evidence that the applicant holds a current and unrestricted credential for the practice of occupational therapy in another jurisdiction and that the applicant's credential from that jurisdiction has been held in good standing during the period of lapse.

(c) To participate in a supervised practice as described in paragraph (b), clause (1), the applicant shall obtain limited licensure. To apply for limited licensure, the applicant shall submit the completed limited licensure application, fees, and agreement for supervision of an occupational therapist or occupational therapy assistant practicing under limited licensure signed by the supervising therapist and the applicant. The supervising occupational therapist shall state the proposed level of supervision on the supervision agreement form provided by the ~~commissioner~~ board. The supervising therapist shall determine the frequency and manner of supervision based on the condition of the patient or

client, the complexity of the procedure, and the proficiencies of the supervised occupational therapist. At a minimum, a supervising occupational therapist shall be on the premises at all times that the person practicing under limited licensure is working; be in the room ten percent of the hours worked each week by the person practicing under limited licensure; and provide daily face-to-face collaboration for the purpose of observing service competency of the occupational therapist or occupational therapy assistant, discussing treatment procedures and each client's response to treatment, and reviewing and modifying, as necessary, each treatment plan. The supervising therapist shall document the supervision provided. The occupational therapist participating in a supervised practice is responsible for obtaining the supervision required under this paragraph and must comply with the ~~commissioner's~~ board's requirements for supervision during the entire 160 hours of supervised practice. The supervised practice must be completed in two months and may be completed at the applicant's place of work.

(d) In addition to the requirements in paragraphs (a) and (b), the applicant must submit additional information as requested by the ~~commissioner~~ board to clarify information in the application, including information to determine whether the applicant has engaged in conduct warranting disciplinary action as set forth in section 148.6448. The information must be submitted within 30 days after the ~~commissioner's~~ board's request.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 23. Minnesota Statutes 2016, section 148.6428, is amended to read:

148.6428 CHANGE OF NAME, ADDRESS, OR EMPLOYMENT.

A licensee who changes a name, address, or employment must inform the ~~commissioner~~ board, in writing, of the change of name, address, employment, business address, or business telephone number within 30 days. A change in name must be accompanied by a copy of a marriage certificate or court order. All notices or other correspondence mailed to or served on a licensee by the ~~commissioner~~ board at the licensee's address on file with the ~~commissioner~~ board shall be considered as having been received by the licensee.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 24. Minnesota Statutes 2016, section 148.6443, subdivision 5, is amended to read:

Subd. 5. **Reporting continuing education contact hours.** Within one month following licensure expiration, each licensee shall submit verification that the licensee has met the continuing education requirements of this section on the continuing education report form provided by the ~~commissioner~~ board. The continuing education report form may require the following information:

- (1) title of continuing education activity;
- (2) brief description of the continuing education activity;
- (3) sponsor, presenter, or author;
- (4) location and attendance dates;
- (5) number of contact hours; and

(6) licensee's notarized affirmation that the information is true and correct.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 25. Minnesota Statutes 2016, section 148.6443, subdivision 6, is amended to read:

Subd. 6. **Auditing continuing education reports.** (a) The ~~commissioner~~ board may audit a percentage of the continuing education reports based on random selection. A licensee shall maintain all documentation required by this section for two years after the last day of the biennial licensure period in which the contact hours were earned.

(b) All renewal applications that are received after the expiration date may be subject to a continuing education report audit.

(c) Any licensee against whom a complaint is filed may be subject to a continuing education report audit.

(d) The licensee shall make the following information available to the ~~commissioner~~ board for auditing purposes:

(1) a copy of the completed continuing education report form for the continuing education reporting period that is the subject of the audit including all supporting documentation required by subdivision 5;

(2) a description of the continuing education activity prepared by the presenter or sponsor that includes the course title or subject matter, date, place, number of program contact hours, presenters, and sponsors;

(3) documentation of self-study programs by materials prepared by the presenter or sponsor that includes the course title, course description, name of sponsor or author, and the number of hours required to complete the program;

(4) documentation of university, college, or vocational school courses by a course syllabus, listing in a course bulletin, or equivalent documentation that includes the course title, instructor's name, course dates, number of contact hours, and course content, objectives, or goals; and

(5) verification of attendance by:

(i) a signature of the presenter or a designee at the continuing education activity on the continuing education report form or a certificate of attendance with the course name, course date, and licensee's name;

(ii) a summary or outline of the educational content of an audio or video educational activity to verify the licensee's participation in the activity if a designee is not available to sign the continuing education report form;

(iii) verification of self-study programs by a certificate of completion or other documentation indicating that the individual has demonstrated knowledge and has successfully completed the program; or

(iv) verification of attendance at a university, college, or vocational course by an official transcript.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 26. Minnesota Statutes 2016, section 148.6443, subdivision 7, is amended to read:

Subd. 7. **Waiver of continuing education requirements.** The ~~commissioner~~ board may grant a waiver of the requirements of this section in cases where the requirements would impose an extreme hardship on the licensee. The request for a waiver must be in writing, state the circumstances that constitute extreme hardship, state the period of time the licensee wishes to have the continuing education requirement waived, and state the alternative measures that will be taken if a waiver is granted. The ~~commissioner~~ board shall set forth, in writing, the reasons for granting or denying the waiver. Waivers granted by the ~~commissioner~~ board shall specify, in writing, the time limitation and required alternative measures to be taken by the licensee. A request for waiver shall be denied if the ~~commissioner~~ board finds that the circumstances stated by the licensee do not support a claim of extreme hardship, the requested time period for waiver is unreasonable, the alternative measures proposed by the licensee are not equivalent to the continuing education activity being waived, or the request for waiver is not submitted to the ~~commissioner~~ board within 60 days after the expiration date.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 27. Minnesota Statutes 2016, section 148.6443, subdivision 8, is amended to read:

Subd. 8. **Penalties for noncompliance.** The ~~commissioner~~ board shall refuse to renew or grant, or shall suspend, condition, limit, or qualify the license of any person who the ~~commissioner~~ board determines has failed to comply with the continuing education requirements of this section. A licensee may request reconsideration of the ~~commissioner's~~ board's determination of noncompliance or the penalty imposed under this section by making a written request to the ~~commissioner~~ board within 30 days of the date of notification to the applicant. Individuals requesting reconsideration may submit information that the licensee wants considered in the reconsideration.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 28. Minnesota Statutes 2016, section 148.6445, subdivision 1, is amended to read:

Subdivision 1. **Initial licensure fee.** The initial licensure fee for occupational therapists is \$145. The initial licensure fee for occupational therapy assistants is \$80. The ~~commissioner~~ board shall prorate fees based on the number of quarters remaining in the biennial licensure period.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 29. Minnesota Statutes 2016, section 148.6445, subdivision 10, is amended to read:

Subd. 10. **Use of fees.** All fees are nonrefundable. The ~~commissioner~~ board shall only use fees collected under this section for the purposes of administering this chapter. The legislature must not transfer money generated by these fees from the state government special revenue fund to the general

fund. Surcharges collected by the commissioner of health under section 16E.22 are not subject to this subdivision.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 30. Minnesota Statutes 2016, section 148.6448, is amended to read:

**148.6448 GROUNDS FOR DENIAL OF LICENSURE OR DISCIPLINE;
INVESTIGATION PROCEDURES; DISCIPLINARY ACTIONS.**

Subdivision 1. **Grounds for denial of licensure or discipline.** The ~~commissioner~~ board may deny an application for licensure, may approve licensure with conditions, or may discipline a licensee using any disciplinary actions listed in subdivision 3 on proof that the individual has:

(1) intentionally submitted false or misleading information to the ~~commissioner~~ board or the advisory council;

(2) failed, within 30 days, to provide information in response to a written request by the ~~commissioner~~ board or advisory council;

(3) performed services of an occupational therapist or occupational therapy assistant in an incompetent manner or in a manner that falls below the community standard of care;

(4) failed to satisfactorily perform occupational therapy services during a period of temporary licensure;

(5) violated sections 148.6401 to ~~148.6450~~ 148.6449;

(6) failed to perform services with reasonable judgment, skill, or safety due to the use of alcohol or drugs, or other physical or mental impairment;

(7) been convicted of violating any state or federal law, rule, or regulation which directly relates to the practice of occupational therapy;

(8) aided or abetted another person in violating any provision of sections 148.6401 to ~~148.6450~~ 148.6449;

(9) been disciplined for conduct in the practice of an occupation by the state of Minnesota, another jurisdiction, or a national professional association, if any of the grounds for discipline are the same or substantially equivalent to those in sections 148.6401 to ~~148.6450~~ 148.6449;

(10) not cooperated with the ~~commissioner or advisory council~~ board in an investigation conducted according to subdivision 2;

(11) advertised in a manner that is false or misleading;

(12) engaged in dishonest, unethical, or unprofessional conduct in connection with the practice of occupational therapy that is likely to deceive, defraud, or harm the public;

(13) demonstrated a willful or careless disregard for the health, welfare, or safety of a client;

(14) performed medical diagnosis or provided treatment, other than occupational therapy, without being licensed to do so under the laws of this state;

(15) paid or promised to pay a commission or part of a fee to any person who contacts the occupational therapist for consultation or sends patients to the occupational therapist for treatment;

(16) engaged in an incentive payment arrangement, other than that prohibited by clause (15), that promotes occupational therapy overutilization, whereby the referring person or person who controls the availability of occupational therapy services to a client profits unreasonably as a result of client treatment;

(17) engaged in abusive or fraudulent billing practices, including violations of federal Medicare and Medicaid laws, Food and Drug Administration regulations, or state medical assistance laws;

(18) obtained money, property, or services from a consumer through the use of undue influence, high pressure sales tactics, harassment, duress, deception, or fraud;

(19) performed services for a client who had no possibility of benefiting from the services;

(20) failed to refer a client for medical evaluation when appropriate or when a client indicated symptoms associated with diseases that could be medically or surgically treated;

(21) engaged in conduct with a client that is sexual or may reasonably be interpreted by the client as sexual, or in any verbal behavior that is seductive or sexually demeaning to a patient;

(22) violated a federal or state court order, including a conciliation court judgment, or a disciplinary order issued by the ~~commissioner~~ board, related to the person's occupational therapy practice; or

(23) any other just cause related to the practice of occupational therapy.

Subd. 2. **Investigation of complaints.** The ~~commissioner, or the advisory council when authorized by the commissioner,~~ board may initiate an investigation upon receiving a complaint or other oral or written communication that alleges or implies that a person has violated sections 148.6401 to ~~148.6450~~ 148.6449. In the receipt, investigation, and hearing of a complaint that alleges or implies a person has violated sections 148.6401 to ~~148.6450~~ 148.6449, the ~~commissioner~~ board shall follow the procedures in section 214.10.

Subd. 3. **Disciplinary actions.** If the ~~commissioner~~ board finds that an occupational therapist or occupational therapy assistant should be disciplined according to subdivision 1, the ~~commissioner~~ board may take any one or more of the following actions:

- (1) refuse to grant or renew licensure;
- (2) approve licensure with conditions;
- (3) revoke licensure;
- (4) suspend licensure;

(5) any reasonable lesser action including, but not limited to, reprimand or restriction on licensure; or

(6) any action authorized by statute.

Subd. 4. **Effect of specific disciplinary action on use of title.** Upon notice from the ~~commissioner~~ board denying licensure renewal or upon notice that disciplinary actions have been imposed and the person is no longer entitled to practice occupational therapy and use the occupational therapy and licensed titles, the person shall cease to practice occupational therapy, to use titles protected by sections 148.6401 to ~~148.6450~~ 148.6449, and to represent to the public that the person is licensed by the ~~commissioner~~ board.

Subd. 5. **Reinstatement requirements after disciplinary action.** A person who has had licensure suspended may request and provide justification for reinstatement following the period of suspension specified by the ~~commissioner~~ board. The requirements of sections 148.6423 and 148.6425 for renewing licensure and any other conditions imposed with the suspension must be met before licensure may be reinstated.

Subd. 6. **Authority to contract.** The ~~commissioner~~ board shall contract with the health professionals services program as authorized by sections 214.31 to 214.37 to provide these services to practitioners under this chapter. The health professionals services program does not affect the ~~commissioner's~~ board's authority to discipline violations of sections 148.6401 to ~~148.6450~~ 148.6449.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 31. **[148.6449] BOARD OF OCCUPATIONAL THERAPY PRACTICE.**

Subdivision 1. Creation. The Board of Occupational Therapy Practice consists of 11 members appointed by the governor. The members are:

(1) five occupational therapists licensed under sections 148.6401 to 148.6449;

(2) three occupational therapy assistants licensed under sections 148.6401 to 148.6449; and

(3) three public members, including two members who have received occupational therapy services or have a family member who has received occupational therapy services, and one member who is a health care professional or health care provider licensed in Minnesota.

Subd. 2. Qualifications of board members. (a) The occupational therapy practitioners appointed to the board must represent a variety of practice areas and settings.

(b) At least two occupational therapy practitioners must be employed outside the seven-county metropolitan area.

(c) Board members shall serve for not more than two consecutive terms.

Subd. 3. Recommendations for appointment. Prior to the end of the term of a member of the board, or within 60 days after a position on the board becomes vacant, the Minnesota Occupational Therapy Association and other interested persons and organizations may recommend to the governor

members qualified to serve on the board. The governor may appoint members to the board from the list of persons recommended or from among other qualified candidates.

Subd. 4. **Officers.** The board shall biennially elect from its membership a chair, vice-chair, and secretary-treasurer. Each officer shall serve until a successor is elected.

Subd. 5. **Executive director.** The board shall appoint and employ an executive director who is not a member of the board. The employment of the executive director shall be subject to the terms described in section 214.04, subdivision 2a.

Subd. 6. **Terms; compensation; removal of members.** Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in chapter 214. The provision of staff, administrative services, and office space; the review and processing of complaints; the setting of board fees; and other activities relating to board operations shall be conducted according to chapter 214.

Subd. 7. **Duties of the Board of Occupational Therapy Practice.** (a) The board shall:

- (1) adopt and enforce rules and laws necessary for licensing occupational therapy practitioners;
- (2) adopt and enforce rules for regulating the professional conduct of the practice of occupational therapy;
- (3) issue licenses to qualified individuals in accordance with sections 148.6401 to 148.6449;
- (4) assess and collect fees for the issuance and renewal of licenses;
- (5) educate the public about the requirements for licensing occupational therapy practitioners, educate occupational therapy practitioners about the rules of conduct, and enable the public to file complaints against applicants and licensees who may have violated sections 148.6401 to 148.6449; and
- (6) investigate individuals engaging in practices that violate sections 148.6401 to 148.6449 and take necessary disciplinary, corrective, or other action according to section 148.6448.

(b) The board may adopt rules necessary to define standards or carry out the provisions of sections 148.6401 to 148.6449. Rules shall be adopted according to chapter 14.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 32. Minnesota Statutes 2016, section 148.881, is amended to read:

148.881 DECLARATION OF POLICY.

The practice of psychology in Minnesota affects the public health, safety, and welfare. The regulations in ~~sections 148.88 to 148.98~~ the Minnesota Psychology Practice Act as enforced by the Board of Psychology protect the public ~~from the practice of psychology by unqualified persons and from unethical or unprofessional conduct by persons licensed to practice psychology~~ through licensure and regulation to promote access to safe, ethical, and competent psychological services.

Sec. 33. Minnesota Statutes 2016, section 148.89, is amended to read:

148.89 DEFINITIONS.

Subdivision 1. **Applicability.** For the purposes of sections 148.88 to 148.98, the following terms have the meanings given them.

Subd. 2. **Board of Psychology or board.** "Board of Psychology" or "board" means the board established under section 148.90.

Subd. 2a. **Client.** "Client" means ~~each individual or legal, religious, academic, organizational, business, governmental, or other entity that receives, received, or should have received, or arranged for another individual or entity to receive services from an individual regulated under sections 148.88 to 148.98. Client also means an individual's legally authorized representative, such as a parent or guardian. For the purposes of sections 148.88 to 148.98, "client" may include patient, resident, counselee, evaluatee, and, as limited in the rules of conduct, student, supervisee, or research subject. In the case of dual clients, the licensee or applicant for licensure must be aware of the responsibilities to each client, and of the potential for divergent interests of each client~~ a direct recipient of psychological services within the context of a professional relationship that may include a child, adolescent, adult, couple, family, group, organization, community, or other entity. The client may be the person requesting the psychological services or the direct recipient of the services.

Subd. 2b. **Credentialed.** "Credentialed" means having a license, certificate, charter, registration, or similar authority to practice in an occupation regulated by a governmental board or agency.

Subd. 2c. **Designated supervisor.** "Designated supervisor" means a qualified individual who is ~~designated~~ identified and assigned by the primary supervisor to provide additional supervision and training ~~to a licensed psychological practitioner or to an individual who is obtaining required predegree supervised professional experience or postdegree supervised~~ psychological employment.

Subd. 2d. **Direct services.** "Direct services" means the delivery of preventive, diagnostic, assessment, or therapeutic intervention services where the primary purpose is to benefit a client who is the direct recipient of the service.

Subd. 2e. **Full-time employment.** "Full-time employment" means a minimum of 35 clock hours per week.

Subd. 3. **Independent practice.** "Independent practice" means the practice of psychology without supervision.

Subd. 3a. **Jurisdiction.** "Jurisdiction" means the United States, United States territories, or Canadian provinces or territories.

Subd. 4. **Licensee.** "Licensee" means a person who is licensed by the board ~~as a licensed psychologist or as a licensed psychological practitioner.~~

Subd. 4a. **Provider or provider of services.** "Provider" or "provider of services" means any individual who is regulated by the board, ~~and includes a licensed psychologist, a licensed psychological practitioner, a licensee, or an applicant.~~

Subd. 4b. **Primary supervisor.** "Primary supervisor" means a psychologist licensed in Minnesota or other qualified individual who provides the principal supervision ~~to a licensed psychological practitioner or~~ to an individual who is obtaining required predegree supervised professional experience or postdegree supervised psychological employment.

Subd. 5. **Practice of psychology.** "Practice of psychology" means the observation, description, evaluation, interpretation, ~~or prediction,~~ or modification of human behavior by the application of psychological principles, methods, or procedures for ~~any reason, including to prevent, eliminate, or manage~~ the purpose of preventing, eliminating, evaluating, assessing, or predicting symptomatic, maladaptive, or undesired behavior; applying psychological principles in legal settings; and ~~to enhance~~ enhancing 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 subject to the exemptions in section 148.9075;

(2) ~~assessment, including psychological testing and other means of evaluating personal characteristics such as intelligence, personality, abilities, interests, aptitudes, and neuropsychological functioning~~ psychological testing and the evaluation or assessment of personal characteristics, such as intelligence, personality, cognitive, physical and emotional abilities, skills, 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~~ counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, and behavior analysis and therapy;

(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~~

(4) diagnosis, treatment, and management of mental or emotional disorders or disabilities, substance use disorders, disorders of habit or conduct, and the psychological aspects of physical illness, accident, injury, or disability;

(5) ~~psychoeducational services and treatment~~ psychoeducational evaluation, therapy, and remediation; and

(6) ~~consultation and supervision~~ with physicians, other health care professionals, and clients regarding available treatment options, including medication, with respect to the provision of care for a specific client;

(7) provision of direct services to individuals or groups for the purpose of enhancing individual and organizational effectiveness, using psychological principles, methods, and procedures to assess and evaluate individuals on personal characteristics for individual development or behavior change or for making decisions about the individual; and

(8) supervision and consultation related to any of the services described in this subdivision.

Subd. 6. **Telesupervision.** "Telesupervision" means the clinical supervision of psychological services through a synchronous audio and video format where the supervisor is not physically in the same facility as the supervisee.

Sec. 34. Minnesota Statutes 2016, section 148.90, subdivision 1, is amended to read:

Subdivision 1. **Board of Psychology.** (a) The Board of Psychology is created with the powers and duties described in this section. The board has 11 members who consist of:

(1) ~~three~~ four individuals licensed as licensed psychologists who have doctoral degrees in psychology;

(2) two individuals licensed as licensed psychologists who have master's degrees in psychology;

(3) two psychologists, not necessarily licensed, ~~one with a~~ who have doctoral degree ~~degrees~~ in psychology ~~and one with either a doctoral or master's degree in psychology~~ representing different training programs in psychology;

(4) ~~one individual licensed or qualified to be licensed as: (i) through December 31, 2010, a licensed psychological practitioner; and (ii) after December 31, 2010, a licensed psychologist; and~~

~~(5)~~ (4) three public members.

(b) After the date on which fewer than 30 percent of the individuals licensed by the board as licensed psychologists qualify for licensure under section 148.907, subdivision 3, paragraph (b), vacancies filled under paragraph (a), clause (2), shall be filled by an individual with either a master's or doctoral degree in psychology licensed or qualified to be licensed as a licensed psychologist.

(c) After the date on which fewer than 15 percent of the individuals licensed by the board as licensed psychologists qualify for licensure under section 148.907, subdivision 3, paragraph (b), vacancies under paragraph (a), clause (2), shall be filled by an individual with either a master's or doctoral degree in psychology licensed or qualified to be licensed as a licensed psychologist.

Sec. 35. Minnesota Statutes 2016, section 148.90, subdivision 2, is amended to read:

Subd. 2. **Members.** (a) The members of the board shall:

- (1) be appointed by the governor;
 - (2) be residents of the state;
 - (3) serve for not more than two consecutive terms;
 - (4) designate the officers of the board; and
 - (5) administer oaths pertaining to the business of the board.
- (b) A public member of the board shall represent the public interest and shall not:
- (1) be a psychologist, ~~psychological practitioner~~, or have engaged in the practice of psychology;
 - (2) be an applicant or former applicant for licensure;
 - (3) be a member of another health profession and be licensed by a health-related licensing board as defined under section 214.01, subdivision 2; the commissioner of health; or licensed, certified, or registered by another jurisdiction;
 - (4) be a member of a household that includes a psychologist ~~or psychological practitioner~~; or
 - (5) have conflicts of interest or the appearance of conflicts with duties as a board member.

Sec. 36. Minnesota Statutes 2016, section 148.905, subdivision 1, is amended to read:

Subdivision 1. **General.** The board shall:

- (1) adopt and enforce rules for licensing psychologists ~~and psychological practitioners~~ and for regulating their professional conduct;
- (2) adopt and enforce rules of conduct governing the practice of psychology;
- (3) adopt and implement rules for examinations which shall be held at least once a year to assess applicants' knowledge and skills. The examinations may be written or oral or both, and may be administered by the board or by institutions or individuals designated by the board; Before the adoption and implementation of a new national examination, the board must consider whether the examination:
 - (i) demonstrates reasonable reliability and external validity;
 - (ii) is normed on a reasonable representative and diverse national sample; and
 - (iii) is intended to assess an applicant's education, training, and experience for the purpose of public protection;
- (4) issue licenses to individuals qualified under sections 148.907 ~~and 148.908~~, 148.909, 148.915, and 148.916, according to the procedures for licensing in Minnesota Rules;
- (5) issue copies of the rules for licensing to all applicants;

(6) establish and maintain annually a register of current licenses;

(7) establish and collect fees for the issuance and renewal of licenses and other services by the board. Fees shall be set to defray the cost of administering the provisions of sections 148.88 to 148.98 including costs for applications, examinations, enforcement, materials, and the operations of the board;

(8) educate the public ~~about~~ on the requirements for ~~licensing of psychologists and of psychological practitioners~~ licenses issued by the board and ~~about~~ on the rules of conduct; ~~to;~~

(9) enable the public to file complaints against applicants or licensees who may have violated the Psychology Practice Act; ~~and~~

~~(9)~~ (10) adopt and implement requirements for continuing education; and

(11) establish or approve programs that qualify for professional psychology continuing educational credit. The board may hire consultants, agencies, or professional psychological associations to establish and approve continuing education courses.

Sec. 37. Minnesota Statutes 2016, section 148.907, subdivision 1, is amended to read:

Subdivision 1. **Effective date.** ~~After August 1, 1991,~~ No person shall engage in the independent practice of psychology unless that person is licensed as a licensed psychologist or is exempt under section 148.9075.

Sec. 38. Minnesota Statutes 2016, section 148.907, subdivision 2, is amended to read:

Subd. 2. **Requirements for licensure as licensed psychologist.** To become licensed by the board as a licensed psychologist, an applicant shall comply with the following requirements:

(1) pass an examination in psychology;

(2) pass a professional responsibility examination on the practice of psychology;

(3) pass any other examinations as required by board rules;

(4) pay nonrefundable fees to the board for applications, processing, testing, renewals, and materials;

(5) ~~have~~ attained the age of majority, be of good moral character, and have no unresolved disciplinary action or complaints pending in the state of Minnesota or any other jurisdiction;

(6) ~~have~~ earned a doctoral degree with a major in psychology from a regionally accredited educational institution meeting the standards the board has established by rule; and

(7) ~~have~~ completed at least one full year or the equivalent in part time of postdoctoral supervised psychological employment in no less than 12 months and no more than 60 months. If the postdoctoral supervised psychological employment goes beyond 60 months, the board may grant a variance to this requirement.

Sec. 39. [148.9075] EXEMPTIONS TO LICENSE REQUIREMENT.

Subdivision 1. **General.** (a) Nothing in sections 148.88 to 148.98 shall prevent members of other professions or occupations from performing functions for which they are competent and properly authorized by law. The following individuals are exempt from the licensure requirements of the Minnesota Psychology Practice Act, provided they operate in compliance with the stated exemption:

(1) individuals licensed by a health-related licensing board as defined under section 214.01, subdivision 2, or by the commissioner of health;

(2) individuals authorized as mental health practitioners as defined under section 245.462, subdivision 17; and

(3) individuals authorized as mental health professionals under section 245.462, subdivision 18.

(b) Any of these individuals must not hold themselves out to the public by any title or description stating or implying they are licensed to engage in the practice of psychology unless they are licensed under sections 148.88 to 148.98 or are using a title in compliance with section 148.96.

Subd. 2. **Business or industrial organization.** Nothing in sections 148.88 to 148.98 shall prevent the use of psychological techniques by a business or industrial organization for its own personnel purposes or by an employment agency or state vocational rehabilitation agency for the evaluation of the agency's clients prior to a recommendation for employment. However, a representative of an industrial or business firm or corporation may not sell, offer, or provide psychological services as specified in section 148.89, unless the services are performed or supervised by an individual licensed under sections 148.88 to 148.98.

Subd. 3. **School psychologist.** (a) Nothing in sections 148.88 to 148.98 shall be construed to prevent a person who holds a license or certificate issued by the State Board of Teaching in accordance with chapters 122A and 129 from practicing school psychology within the scope of employment if authorized by a board of education or by a private school that meets the standards prescribed by the State Board of Teaching, or from practicing as a school psychologist within the scope of employment in a program for children with disabilities.

(b) Any person exempted under this subdivision shall not offer psychological services to any other individual, organization, or group for remuneration, monetary or otherwise, unless the person is licensed by the Board of Psychology under sections 148.88 to 148.98.

Subd. 4. **Clergy or religious officials.** Nothing in sections 148.88 to 148.98 shall be construed to prevent recognized religious officials, including ministers, priests, rabbis, imams, Christian Science practitioners, and other persons recognized by the board, from conducting counseling activities that are within the scope of the performance of their regular recognizable religious denomination or sect, as defined in current federal tax regulations, if the religious official does not refer to the official's self as a psychologist and the official remains accountable to the established authority of the religious denomination or sect.

Subd. 5. **Teaching and research.** Nothing in sections 148.88 to 148.98 shall be construed to prevent a person employed in a secondary, postsecondary, or graduate institution from teaching and conducting research in psychology within an educational institution that is recognized by a regional accrediting organization or by a federal, state, county, or local government institution, agency, or research facility, so long as:

(1) the institution, agency, or facility provides appropriate oversight mechanisms to ensure public protections; and

(2) the person is not providing direct clinical services to a client or clients as defined in sections 148.88 to 148.98.

Subd. 6. **Psychologist in disaster or emergency relief.** Nothing in sections 148.88 to 148.98 shall be construed to prevent a psychologist sent to this state for the sole purpose of responding to a disaster or emergency relief effort of the state government, the federal government, the American Red Cross, or other disaster or emergency relief organization as long as the psychologist is not practicing in Minnesota longer than 30 days and the sponsoring organization can certify the psychologist's assignment to this state. The board or its designee, at its discretion, may grant an extension to the 30-day time limitation of this subdivision.

Subd. 7. **Psychological consultant.** A license under sections 148.88 to 148.98 is not required by a nonresident of the state, serving as an expert witness, organizational consultant, presenter, or educator on a limited basis provided the person is appropriately trained, educated, or has been issued a license, certificate, or registration by another jurisdiction.

Subd. 8. **Students.** Nothing in sections 148.88 to 148.98 shall prohibit the practice of psychology under qualified supervision by a practicum psychology student, a predoctoral psychology intern, or an individual who has earned a doctoral degree in psychology and is in the process of completing their postdoctoral supervised psychological employment. A student trainee or intern shall use the titles as required under section 148.96, subdivision 3.

Subd. 9. **Other professions.** Nothing in sections 148.88 to 148.98 shall be construed to authorize a person licensed under sections 148.88 to 148.98 to engage in the practice of any profession regulated under Minnesota law, unless the individual is duly licensed or registered in that profession.

Sec. 40. **[148.9077] RELICENSURE.**

A former licensee may apply to the board for licensure after complying with all laws and rules required for applicants for licensure that were in effect on the date the initial Minnesota license was granted. The former licensee must verify to the board that the former licensee has not engaged in the practice of psychology in this state since the last date of active licensure, except as permitted under statutory licensure exemption, and must submit a fee for relicensure.

Sec. 41. Minnesota Statutes 2016, section 148.9105, subdivision 1, is amended to read:

Subdivision 1. **Application.** Retired providers who are licensed or were formerly licensed to practice psychology in the state according to the Minnesota Psychology Practice Act may apply to the board for psychologist emeritus registration ~~or psychological practitioner emeritus registration~~ if they declare that they are retired from the practice of psychology in Minnesota, have not been the

subject of disciplinary action in any jurisdiction, and have no unresolved complaints in any jurisdiction. Retired providers shall complete the necessary forms provided by the board and pay a onetime, nonrefundable fee of \$150 at the time of application.

Sec. 42. Minnesota Statutes 2016, section 148.9105, subdivision 4, is amended to read:

Subd. 4. **Documentation of status.** A provider granted emeritus registration shall receive a document certifying that emeritus status has been granted by the board and that the registrant has completed the registrant's active career as a psychologist ~~or psychological practitioner~~ licensed in good standing with the board.

Sec. 43. Minnesota Statutes 2016, section 148.9105, subdivision 5, is amended to read:

Subd. 5. **Representation to public.** In addition to the descriptions allowed in section 148.96, subdivision 3, paragraph (e), former licensees who have been granted emeritus registration may represent themselves as "psychologist emeritus" ~~or "psychological practitioner emeritus,"~~ but shall not represent themselves or allow themselves to be represented to the public as "licensed" or otherwise as current licensees of the board.

Sec. 44. Minnesota Statutes 2016, section 148.916, subdivision 1, is amended to read:

Subdivision 1. **Generally.** ~~¶ (a) A nonresident of the state of Minnesota, who is not seeking licensure in this state, and who has been issued a license, certificate, or registration by another jurisdiction to practice psychology at the doctoral level, wishes and who intends to practice in Minnesota for more than seven calendar 30 days, the person shall apply to the board for guest licensure, provided that. The psychologist's practice in Minnesota is limited to no more than nine consecutive months per calendar year. Application under this section shall be made no less than 30 days prior to the expected date of practice in Minnesota and shall be subject to approval by the board or its designee. The board shall charge a nonrefundable fee for guest licensure. The board shall adopt rules to implement this section.~~

(b) To be eligible for licensure under this section, the applicant must:

(1) have a license, certification, or registration to practice psychology from another jurisdiction;

(2) have a doctoral degree in psychology from a regionally accredited institution;

(3) be of good moral character;

(4) have no pending complaints or active disciplinary or corrective actions in any jurisdiction;

(5) pass a professional responsibility examination designated by the board; and

(6) pay a fee to the board.

Sec. 45. Minnesota Statutes 2016, section 148.916, subdivision 1a, is amended to read:

Subd. 1a. **Applicants for licensure.** (a) An applicant who is seeking licensure in this state, and who, at the time of application, is licensed, certified, or registered to practice psychology in another jurisdiction at the doctoral level may apply to the board for guest licensure in order to begin practicing

psychology in this state while their application is being processed if the applicant is of good moral character and has no complaints, corrective, or disciplinary action pending in any jurisdiction.

(b) Application under this ~~section~~ subdivision shall be made no less than 30 days prior to the expected date of practice in this state, and must be made concurrently or after submission of an application for licensure as a licensed psychologist if applicable. Applications under this ~~section~~ subdivision are subject to approval by the board or its designee. The board shall charge a fee for guest licensure under this subdivision.

~~(b) The board shall charge a nonrefundable fee for guest licensure under this subdivision.~~

(c) A guest license issued under this subdivision shall be valid for one year from the date of issuance, or until the board has either issued a license or has denied the applicant's application for licensure, whichever is earlier. Guest licenses issued under this ~~section~~ subdivision may be renewed annually until the board has denied the applicant's application for licensure.

Sec. 46. Minnesota Statutes 2016, section 148.925, is amended to read:

148.925 SUPERVISION.

Subdivision 1. **Supervision.** For the purpose of meeting the requirements of ~~this section~~ the Minnesota Psychology Practice Act, supervision means documented in-person consultation, ~~which may include interactive, visual electronic communication, between either: (1) a primary supervisor and a licensed psychological practitioner; or (2) a~~ that employs a collaborative relationship that has both facilitative and evaluative components with the goal of enhancing the professional competence and science, and practice-informed professional work of the supervisee. Supervision may include telesupervision between primary or designated supervisor supervisors and an applicant for licensure as a licensed psychologist the supervisee. The supervision shall be adequate to assure the quality and competence of the activities supervised. Supervisory consultation shall include discussions on the nature and content of the practice of the supervisee, including, but not limited to, a review of a representative sample of psychological services in the supervisee's practice.

Subd. 2. **Postdegree supervised psychological employment.** Postdegree supervised psychological employment means required paid or volunteer work experience and postdegree training of an individual seeking to be licensed as a licensed psychologist that involves the professional oversight by a primary supervisor and satisfies the supervision requirements in ~~subdivisions 3 and 5~~ the Minnesota Psychology Practice Act.

Subd. 3. **Individuals qualified to provide supervision.** ~~(a) Supervision of a master's level applicant for licensure as a licensed psychologist shall be provided by an individual:~~

~~(1) who is a psychologist licensed in Minnesota with competence both in supervision in the practice of psychology and in the activities being supervised;~~

~~(2) who has a doctoral degree with a major in psychology, who is employed by a regionally accredited educational institution or employed by a federal, state, county, or local government institution, agency, or research facility, and who has competence both in supervision in the practice of psychology and in the activities being supervised, provided the supervision is being provided and~~

~~the activities being supervised occur within that regionally accredited educational institution or federal, state, county, or local government institution, agency, or research facility;~~

~~(3) who is licensed or certified as a psychologist in another jurisdiction and who has competence both in supervision in the practice of psychology and in the activities being supervised; or~~

~~(4) who, in the case of a designated supervisor, is a master's or doctorally prepared mental health professional.~~

~~(b) Supervision of a doctoral level an applicant for licensure as a licensed psychologist shall be provided by an individual:~~

~~(1) who is a psychologist licensed in Minnesota with a doctoral degree and competence both in supervision in the practice of psychology and in the activities being supervised;~~

~~(2) who has a doctoral degree with a major in psychology, who is employed by a regionally accredited educational institution or is employed by a federal, state, county, or local government institution, agency, or research facility, and who has competence both in supervision in the practice of psychology and in the activities being supervised, provided the supervision is being provided and the activities being supervised occur within that regionally accredited educational institution or federal, state, county, or local government institution, agency, or research facility;~~

~~(3) who is licensed or certified as a psychologist in another jurisdiction and who has competence both in supervision in the practice of psychology and in the activities being supervised;~~

~~(4) who is a psychologist licensed in Minnesota who was licensed before August 1, 1991, with competence both in supervision in the practice of psychology and in the activities being supervised; or~~

~~(5) who, in the case of a designated supervisor, is a master's or doctorally prepared mental health professional.~~

~~Subd. 4. **Supervisory consultation for a licensed psychological practitioner.** Supervisory consultation between a supervising licensed psychologist and a supervised licensed psychological practitioner shall be at least one hour in duration and shall occur on an individual, in-person basis. A minimum of one hour of supervision per month is required for the initial 20 or fewer hours of psychological services delivered per month. For each additional 20 hours of psychological services delivered per month, an additional hour of supervision per month is required. When more than 20 hours of psychological services are provided in a week, no more than one hour of supervision is required per week.~~

Subd. 5. Supervisory consultation for an applicant for licensure as a licensed psychologist. Supervision of an applicant for licensure as a licensed psychologist shall include at least two hours of regularly scheduled in-person consultations per week for full-time employment, one hour of which shall be with the supervisor on an individual basis. The remaining hour may be with a designated supervisor. The board may approve an exception to the weekly supervision requirement for a week when the supervisor was ill or otherwise unable to provide supervision. The board may prorate the two hours per week of supervision for individuals preparing for licensure on a part-time

basis. Supervised psychological employment does not qualify for licensure when the supervisory consultation is not adequate as described in subdivision 1, or in the board rules.

Subd. 6. **Supervisee duties.** ~~Individuals~~ Applicants preparing for licensure as a licensed psychologist during their postdegree supervised psychological employment may perform as part of their training any ~~functions of the services~~ specified in section 148.89, subdivision 5, but only under qualified supervision.

~~Subd. 7. **Variance from supervision requirements.** (a) An applicant for licensure as a licensed psychologist who entered supervised employment before August 1, 1991, may request a variance from the board from the supervision requirements in this section in order to continue supervision under the board rules in effect before August 1, 1991.~~

~~(b) After a licensed psychological practitioner has completed two full years, or the equivalent, of supervised post-master's degree employment meeting the requirements of subdivision 5 as it relates to preparation for licensure as a licensed psychologist, the board shall grant a variance from the supervision requirements of subdivision 4 or 5 if the licensed psychological practitioner presents evidence of:~~

~~(1) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision;~~

~~(2) employment by a hospital or by a community mental health center or nonprofit mental health clinic or social service agency providing services as a part of the mental health service plan required by the Comprehensive Mental Health Act;~~

~~(3) the employer's acceptance of clinical responsibility for the care provided by the licensed psychological practitioner; and~~

~~(4) a plan for supervision that includes at least one hour of regularly scheduled individual in-person consultations per week for full-time employment. The board may approve an exception to the weekly supervision requirement for a week when the supervisor was ill or otherwise unable to provide supervision.~~

~~(e) Following the granting of a variance under paragraph (b), and completion of two additional full years or the equivalent of supervision and post-master's degree employment meeting the requirements of paragraph (b), the board shall grant a variance to a licensed psychological practitioner who presents evidence of:~~

~~(1) endorsement for specific areas of competency by the licensed psychologist who provided the two years of supervision under paragraph (b);~~

~~(2) employment by a hospital or by a community mental health center or nonprofit mental health clinic or social service agency providing services as a part of the mental health service plan required by the Comprehensive Mental Health Act;~~

~~(3) the employer's acceptance of clinical responsibility for the care provided by the licensed psychological practitioner; and~~

~~(4) a plan for supervision which includes at least one hour of regularly scheduled individual in-person supervision per month.~~

~~(d) The variance allowed under this section must be deemed to have been granted to an individual who previously received a variance under paragraph (b) or (c) and is seeking a new variance because of a change of employment to a different employer or employment setting. The deemed variance continues until the board either grants or denies the variance. An individual who has been denied a variance under this section is entitled to seek reconsideration by the board.~~

Sec. 47. Minnesota Statutes 2016, section 148.96, subdivision 3, is amended to read:

Subd. 3. **Requirements for representations to public.** (a) Unless licensed under sections 148.88 to 148.98, except as provided in paragraphs (b) through (e), persons shall not represent themselves or permit themselves to be represented to the public by:

(1) using any title or description of services incorporating the words "psychology," "psychological," "psychological practitioner," or "psychologist"; or

(2) representing that the person has expert qualifications in an area of psychology.

(b) Psychologically trained individuals who are employed by an educational institution recognized by a regional accrediting organization, by a federal, state, county, or local government institution, agency, or research facility, may represent themselves by the title designated by that organization provided that the title does not indicate that the individual is credentialed by the board.

(c) A psychologically trained individual from an institution described in paragraph (b) may offer lecture services and is exempt from the provisions of this section.

(d) A person who is preparing for the practice of psychology under supervision in accordance with board statutes and rules may be designated as a "psychological intern," "psychology fellow," "psychological trainee," or by other terms clearly describing the person's training status.

(e) Former licensees who are completely retired from the practice of psychology may represent themselves using the descriptions in paragraph (a), clauses (1) and (2), but shall not represent themselves or allow themselves to be represented as current licensees of the board.

~~(f) Nothing in this section shall be construed to prohibit the practice of school psychology by a person licensed in accordance with chapters 122A and 129.~~

Sec. 48. Minnesota Statutes 2016, section 148B.53, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** (a) To be licensed as a licensed professional counselor (LPC), an applicant must provide evidence satisfactory to the board that the applicant:

(1) is at least 18 years of age;

(2) is of good moral character;

(3) has completed a master's or doctoral degree program in counseling or a related field, as determined by the board based on the criteria in paragraph (b), that includes a minimum of 48

semester hours or 72 quarter hours and a supervised field experience of not fewer than 700 hours that is counseling in nature;

(4) has submitted to the board a plan for supervision during the first 2,000 hours of professional practice or has submitted proof of supervised professional practice that is acceptable to the board; and

(5) has demonstrated competence in professional counseling by passing the National Counseling Exam (NCE) administered by the National Board for Certified Counselors, Inc. (NBCC) or an equivalent national examination as determined by the board, and ethical, oral, and situational examinations if prescribed by the board.

(b) The degree described in paragraph (a), clause (3), must be from a counseling program recognized by the Council for Accreditation of Counseling and Related Education Programs (CACREP) or from an institution of higher education that is accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation (CHEA). Specific academic course content and training must include course work in each of the following subject areas:

(1) the helping relationship, including counseling theory and practice;

(2) human growth and development;

(3) lifestyle and career development;

(4) group dynamics, processes, counseling, and consulting;

(5) assessment and appraisal;

(6) social and cultural foundations, including multicultural issues;

(7) principles of etiology, treatment planning, and prevention of mental and emotional disorders and dysfunctional behavior;

(8) family counseling and therapy;

(9) research and evaluation; and

(10) professional counseling orientation and ethics.

~~(c) To be licensed as a professional counselor, a psychological practitioner licensed under section 148.908 need only show evidence of licensure under that section and is not required to comply with paragraph (a), clauses (1) to (3) and (5), or paragraph (b).~~

~~(c)~~ (c) To be licensed as a professional counselor, a Minnesota licensed psychologist need only show evidence of licensure from the Minnesota Board of Psychology and is not required to comply with paragraph (a) or (b).

Sec. 49. Minnesota Statutes 2016, section 150A.06, subdivision 3, is amended to read:

Subd. 3. **Waiver of examination.** (a) All or any part of the examination for dentists ~~or, dental therapists,~~ dental hygienists, ~~or dental assistants,~~ except that pertaining to the law of Minnesota relating to dentistry and the rules of the board, may, at the discretion of the board, be waived for an applicant who presents a certificate of having passed all components of the National Board Dental Examinations or evidence of having maintained an adequate scholastic standing as determined by the board, ~~in dental school as to dentists, or dental hygiene school as to dental hygienists.~~

(b) The board shall waive the clinical examination required for licensure for any dentist applicant who is a graduate of a dental school accredited by the Commission on Dental Accreditation, who has passed all components of the National Board Dental Examinations, and who has satisfactorily completed a Minnesota-based postdoctoral general dentistry residency program (GPR) or an advanced education in general dentistry (AEGD) program after January 1, 2004. The postdoctoral program must be accredited by the Commission on Dental Accreditation, be of at least one year's duration, and include an outcome assessment evaluation assessing the resident's competence to practice dentistry. The board may require the applicant to submit any information deemed necessary by the board to determine whether the waiver is applicable.

Sec. 50. Minnesota Statutes 2016, section 150A.06, subdivision 8, is amended to read:

Subd. 8. **Licensure by credentials.** (a) Any dental assistant may, upon application and payment of a fee established by the board, apply for 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 on Dental Accreditation, ~~or~~ and 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 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 licensure under subdivision 2a must be licensed to practice the applicant's profession.

(d) If the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 2a, the application must be denied. If 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 licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 2a.

(e) A candidate whose application has been denied may appeal the decision to the board according to subdivision 4a.

Sec. 51. Minnesota Statutes 2016, 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 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; and~~

~~(5)~~ (4) place, contour, and adjust class I, II, and class V supragingival composite restorations on primary teeth and permanent dentition.

(b) The restorative procedures described in paragraph (a) may be performed only if:

(1) the licensed dental hygienist or 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 licensed dental assistant to adjust the occlusion on the newly placed restoration;

(3) a licensed dentist or licensed advanced dental therapist has authorized the procedure to be performed; and

(4) a licensed dentist or licensed advanced dental therapist 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. 52. Minnesota Statutes 2016, section 214.01, subdivision 2, is amended to read:

Subd. 2. **Health-related licensing board.** "Health-related licensing board" means the Board of Examiners of Nursing Home Administrators established pursuant to section 144A.19, the Office of Unlicensed Complementary and Alternative Health Care Practice established pursuant to section 146A.02, the Board of Medical Practice created pursuant to section 147.01, the Board of Nursing created pursuant to section 148.181, the Board of Chiropractic Examiners established pursuant to section 148.02, the Board of Optometry established pursuant to section 148.52, the Board of

Occupational Therapy Practice established pursuant to section 148.6449, the Board of Physical Therapy established pursuant to section 148.67, the Board of Psychology established pursuant to section 148.90, the Board of Social Work pursuant to section 148E.025, the Board of Marriage and Family Therapy pursuant to section 148B.30, the Board of Behavioral Health and Therapy established by section 148B.51, the Board of Dietetics and Nutrition Practice established under section 148.622, the Board of Dentistry established pursuant to section 150A.02, the Board of Pharmacy established pursuant to section 151.02, the Board of Podiatric Medicine established pursuant to section 153.02, and the Board of Veterinary Medicine established pursuant to section 156.01.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 53. **BOARD OF OCCUPATIONAL THERAPY PRACTICE.**

The governor shall appoint all members to the Board of Occupational Therapy Practice under Minnesota Statutes, section 148.6449, by October 1, 2017. The governor shall designate one member of the board to convene the first meeting of the board by November 1, 2017. The board shall elect officers at its first meeting.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 54. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes and Minnesota Rules, the revisor of statutes shall replace references to Minnesota Statutes, section 148.6450, with Minnesota Statutes, section 148.6449.

EFFECTIVE DATE. This section is effective January 1, 2018.

Sec. 55. **REVISOR'S INSTRUCTION.**

The revisor of statutes shall change the headnote of Minnesota Statutes, section 147.0375, to read "LICENSURE OF EMINENT PHYSICIANS."

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

Sec. 56. **REPEALER.**

(a) Minnesota Statutes 2016, sections 147A.21; 147B.08, subdivisions 1, 2, and 3; 147C.40, subdivisions 1, 2, 3, and 4; 148.906; 148.907, subdivision 5; 148.908; 148.909, subdivision 7; and 148.96, subdivisions 4 and 5, are repealed.

(b) Minnesota Statutes 2016, sections 148.6402, subdivision 2; and 148.6450, are repealed.

(c) Minnesota Rules, part 5600.2500, is repealed.

(d) Minnesota Statutes 2016, section 147.0375, subdivision 7, is repealed.

EFFECTIVE DATE. Paragraphs (a) and (c) are effective July 1, 2017. Paragraph (b) is effective January 1, 2018. Paragraph (d) is effective the day following final enactment.

ARTICLE 12**OPIATE ABUSE PREVENTION**

Section 1. Minnesota Statutes 2016, section 151.212, subdivision 2, is amended to read:

Subd. 2. **Controlled substances.** (a) In addition to the requirements of subdivision 1, when the use of any drug containing a controlled substance, as defined in chapter 152, or any other drug determined by the board, either alone or in conjunction with alcoholic beverages, may impair the ability of the user to operate a motor vehicle, the board shall require by rule that notice be prominently set forth on the label or container. Rules promulgated by the board shall specify exemptions from this requirement when there is evidence that the user will not operate a motor vehicle while using the drug.

(b) In addition to the requirements of subdivision 1, whenever a prescription drug containing an opiate is dispensed to a patient for outpatient use, the pharmacy or practitioner dispensing the drug must prominently display on the label or container a notice that states "Caution: Opioid. Risk of overdose and addiction."

Sec. 2. Minnesota Statutes 2016, section 152.11, is amended by adding a subdivision to read:

Subd. 4. **Limit on quantity of opiates prescribed for acute dental and ophthalmic pain.** (a) When used for the treatment of acute dental pain or acute pain associated with refractive surgery, prescriptions for opiate or narcotic pain relievers listed in Schedules II through IV of section 152.02 shall not exceed a four-day supply. The quantity prescribed shall be consistent with the dosage listed in the professional labeling for the drug that has been approved by the United States Food and Drug Administration.

(b) For the purposes of this subdivision, "acute pain" means pain resulting from disease, accidental or intentional trauma, surgery, or another cause, that the practitioner reasonably expects to last only a short period of time. Acute pain does not include chronic pain or pain being treated as part of cancer care, palliative care, or hospice or other end-of-life care.

(c) Notwithstanding paragraph (a), if in the professional clinical judgment of a practitioner more than a four-day supply of a prescription listed in Schedules II through IV of section 152.02 is required to treat a patient's acute pain, the practitioner may issue a prescription for the quantity needed to treat such acute pain.

Sec. 3. Minnesota Statutes 2016, 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 or the maximum allowable cost 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 for legend prescription drugs, 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. The pharmacy dispensing fee for over-the-counter drugs shall be \$3.65, except that the fee shall be \$1.31 for retrospectively billing pharmacies when billing for quantities less than the number of units contained in the manufacturer's original package. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner at wholesale acquisition cost plus four percent for independently owned pharmacies located in a designated rural area within Minnesota, and at wholesale acquisition cost plus two percent for all other pharmacies. A pharmacy is "independently owned" if it is one of four or fewer pharmacies under the same ownership nationally. A "designated rural area" means an area defined as a small rural area or isolated rural area according to the four-category classification of the Rural Urban Commuting Area system developed for the United States Health Resources and Services Administration. Effective January 1, 2014, the actual acquisition cost of a drug acquired through the federal 340B Drug Pricing Program shall be estimated by the commissioner at wholesale acquisition cost minus 40 percent. Wholesale acquisition cost is defined as the manufacturer's list price for a drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which information is available, as reported in wholesale price guides or other publications of drug or biological pricing data. 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) Pharmacies dispensing prescriptions to residents of long-term care facilities using an automated drug distribution system meeting the requirements of section 151.58, or a packaging system meeting the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse, may employ retrospective billing for prescription drugs dispensed to long-term care facility residents. A retrospectively billing pharmacy must submit a claim only for the quantity of medication used by the enrolled recipient during the defined billing period. A retrospectively billing pharmacy must use a billing period not less than one calendar month or 30 days.

(c) 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. A pharmacy provider using packaging that meets the standards set forth in Minnesota Rules, part 6800.2700, is required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse, unless the pharmacy is using retrospective billing. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(d) Whenever a maximum allowable cost has been set for a multisource drug, payment shall be the lower of the usual and customary price charged to the public or the maximum allowable cost established by the commissioner unless prior authorization for the brand name product has been granted according to the criteria established by the Drug Formulary Committee as required by

subdivision 13f, paragraph (a), and the prescriber has indicated "dispense as written" on the prescription in a manner consistent with section 151.21, subdivision 2.

(e) 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, 106 percent of the average sales price as determined by the United States Department of Health and Human Services pursuant to title XVIII, section 1847a of the federal Social Security Act, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. If average sales price is unavailable, the amount of payment must be lower of the usual and customary cost submitted by the provider, the wholesale acquisition cost, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. Effective January 1, 2014, the commissioner shall discount the payment rate for drugs obtained through the federal 340B Drug Pricing Program by 20 percent. With the exception of paragraph (f), the payment for drugs administered in an outpatient setting shall be made to the administering facility or practitioner. A retail or specialty pharmacy dispensing a drug for administration in an outpatient setting is not eligible for direct reimbursement.

(f) Payment for nonscheduled injectable drugs used to treat substance abuse administered by a practitioner in an outpatient setting shall be made directly to the dispensing pharmacy. The dispensing pharmacy shall submit the claim if the pharmacy dispenses the drug pursuant to a prescription issued by the practitioner and delivers the filled prescription to the practitioner for subsequent administration. Payment shall be made according to this section. A pharmacy shall not dispense a practitioner-administered injectable drug described in this paragraph directly to an enrollee. The commissioner may conduct postpayment review to evaluate the effect of this paragraph on patient access, and shall report any findings to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human service policy and finance by January 1, 2019.

(g) 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, antihemophilic factor products, 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.

~~(g)~~ (h) Home infusion therapy services provided by home infusion therapy pharmacies must be paid at rates according to subdivision 8d.

Sec. 4. REPORT ON OPIOID CRISIS GRANT; USE OF GRANT FUNDS.

(a) The commissioner of human services, within two weeks of the annual project report being submitted to the federal funder, shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance on:

(1) funds received under the 21st Century Cures Act, Public Law 114-255, section 1003, Substance Abuse and Mental Health Services Administration (SAMHSA) State Targeted Response to the Opioid Crisis Grants; and

(2) uses of the funds received, including a listing of grants provided and the amount expended on personnel and administrative costs, travel, and public service announcements.

(b) The commissioner shall use remaining Opioid Crisis Grant funds, and any additional funds received from other sources, to provide grants to counties for opioid abuse prevention initiatives, increase public awareness of opioid abuse, and prevent opioid abuse through the use of data analytics.

Sec. 5. CHRONIC PAIN REHABILITATION THERAPY DEMONSTRATION PROJECT.

Subdivision 1. **Establishment.** The commissioner of human services shall award a two-year grant to a rehabilitation institute located in Minneapolis operated by a nonprofit foundation to participate in a bundled payment arrangement for chronic pain rehabilitation therapy for adults who are eligible for fee-for-service medical assistance under Minnesota Statutes, section 256B.055. The chronic pain rehabilitation therapy demonstration project must include: nonnarcotic medication management, including opioid tapering; interdisciplinary care coordination; and group and individual therapy in cognitive behavioral therapy and physical therapy. The project may include self-management education in nutrition, stress, mental health, substance use, or other modalities, if clinically appropriate. The commissioner shall award the grant on a sole-source basis and the program design must be mutually agreed upon by the commissioner and the grant recipient. Grant funds are available until expended.

Subd. 2. **Performance measures.** The commissioner shall develop performance measures to evaluate the demonstration project. These measures may include:

(1) reduction in medications, including opioids, taken for pain;

(2) reduction in emergency department and outpatient clinic utilization related to pain;

(3) improved ability to return to work, job search, or school;

(4) patient functional status and satisfaction; and

(5) rate of program completion.

Subd. 3. **Eligibility.** (a) To be eligible to participate in the demonstration project, an individual must:

(1) be 21 years of age or older;

(2) be eligible for fee-for-service medical assistance under Minnesota Statutes, section 256B.055, and not have other health coverage; and

(3) meet criteria appropriate for chronic pain rehabilitation.

(b) In determining the criteria under paragraph (a), clause (3), the commissioner shall consider, but is not required to include, the following:

(1) moderate to severe pain lasting longer than four months;

(2) an impairment in daily functioning, including work or activities of daily living;

(3) a referral from a physician or other qualified medical professional indicating that all reasonable medical and surgical options have been exhausted; and

(4) willingness of the patient to engage in chronic pain rehabilitation therapies, including opioid tapering.

Subd. 4. **Payment for services.** The bundled payment shall be billed on a per-person, per-day payment and only for days the patient receives services from the grant recipient. The grant recipient shall not receive a bundled payment for services provided to the patient if a nonbundled medical assistance payment for a service that is part of the bundle is received for the same day of service.

Subd. 5. **Report.** The rehabilitation institute, for the duration of the demonstration project, must annually report on cost savings and performance indicators described in subdivision 2 to the commissioner of human services. One year after the completion of the demonstration project, the commissioner of human services shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over health care. The report shall include an evaluation of the demonstration project, based on the performance measures developed under subdivision 2, and may also include recommendations to increase individual access to chronic pain rehabilitation therapy through Minnesota health care programs.

ARTICLE 13

MISCELLANEOUS

Section 1. Minnesota Statutes 2016, section 62K.15, is amended to read:

62K.15 ANNUAL OPEN ENROLLMENT PERIODS; SPECIAL ENROLLMENT PERIODS.

(a) Health carriers offering individual health plans must limit annual enrollment in the individual market to the annual open enrollment periods for MNsure. Nothing in this section limits the application of special or limited open enrollment periods as defined under the Affordable Care Act.

(b) Health carriers offering individual health plans must inform all applicants at the time of application and enrollees at least annually of the open and special enrollment periods as defined under the Affordable Care Act.

(c) Health carriers offering individual health plans must provide a special enrollment period for enrollment in the individual market by employees of a small employer that offers a qualified small employer health reimbursement arrangement in accordance with United States Code, title 26, section

9831(d). The special enrollment period shall be available only to employees newly hired by a small employer offering a qualified small employer health reimbursement arrangement, and to employees employed by the small employer at the time the small employer initially offers a qualified small employer health reimbursement arrangement. For employees newly hired by the small employer, the special enrollment period shall last for 30 days after the employee's first day of employment. For employees employed by the small employer at the time the small employer initially offers a qualified small employer health reimbursement arrangement, the special enrollment period shall last for 30 days after the date the arrangement is initially offered to employees.

~~(e)~~ (d) The commissioner of commerce shall enforce this section.

Sec. 2. Minnesota Statutes 2016, section 245A.02, subdivision 5a, is amended to read:

Subd. 5a. **Controlling individual.** (a) "Controlling individual" means ~~a public body, governmental agency, business entity, officer, owner, or managerial official whose responsibilities include the direction of the management or policies of a program. For purposes of this subdivision, owner means an individual who has direct or indirect ownership interest in a corporation, partnership, or other business association issued a license under this chapter. For purposes of this subdivision, managerial official means those individuals who have the decision-making authority related to the operation of the program, and the responsibility for the ongoing management of or direction of the policies, services, or employees of the program. A site director who has no ownership interest in the program is not considered to be a managerial official for purposes of this definition. Controlling individual does not include an owner of a program or service provider licensed under this chapter and the following individuals, if applicable:~~

(1) each officer of the organization, including the chief executive officer and chief financial officer;

(2) the individual designated as the authorized agent under section 245A.04, subdivision 1, paragraph (b);

(3) the individual designated as the compliance officer under section 256B.04, subdivision 21, paragraph (b); and

(4) each managerial official whose responsibilities include the direction of the management or policies of a program.

(b) Controlling individual does not include:

(1) a bank, savings bank, trust company, savings association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

(2) an individual who is a state or federal official, or state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more programs, unless the individual is also an officer, owner, or managerial official of the program, receives remuneration from the program, or owns any of the beneficial interests not excluded in this subdivision;

(3) an individual who owns less than five percent of the outstanding common shares of a corporation:

(i) whose securities are exempt under section 80A.45, clause (6); or

(ii) whose transactions are exempt under section 80A.46, clause (2); ~~or~~

(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer, owner, or managerial official of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation; or

(5) an employee stock ownership plan trust, or a participant or board member of an employee stock ownership plan, unless the participant or board member is a controlling individual according to paragraph (a).

(c) For purposes of this subdivision, "managerial official" means an individual who has the decision-making authority related to the operation of the program, and the responsibility for the ongoing management of or direction of the policies, services, or employees of the program. A site director who has no ownership interest in the program is not considered to be a managerial official for purposes of this definition.

Sec. 3. Minnesota Statutes 2016, section 245A.02, is amended by adding a subdivision to read:

Subd. 10b. **Owner.** "Owner" means an individual or organization that has a direct or indirect ownership interest of five percent or more in a program licensed under this chapter. For purposes of this subdivision, "direct ownership interest" means the possession of equity in capital, stock, or profits of an organization, and "indirect ownership interest" means a direct ownership interest in an entity that has a direct or indirect ownership interest in a licensed program. For purposes of this chapter, "owner of a nonprofit corporation" means the president and treasurer of the board of directors or, for an entity owned by an employee stock ownership plan, means the president and treasurer of the entity. A government entity that is issued a license under this chapter shall be designated the owner.

Sec. 4. **[256.999] LEGISLATIVE NOTICE AND APPROVAL REQUIRED FOR CERTAIN FEDERAL WAIVERS OR APPROVALS.**

(a) Before submitting an application for a federal waiver or approval (1) under section 1332 of the Affordable Care Act or section 1115 of the Social Security Act, or (2) to modify or add a benefit covered by medical assistance or otherwise amend the state's Medicaid plan, the commissioner, governing board, or director of a state agency seeking the federal waiver or approval must provide notice and a copy of the application for the federal waiver or approval to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance and commerce.

(b) If a federal waiver or approval (1) under section 1332 of the Affordable Care Act or section 1115 of the Social Security Act, or (2) to modify or add a benefit covered by medical assistance or otherwise amend the state's Medicaid plan, is received or granted during a legislative session, a commissioner, governing board, or director of a state agency is prohibited from implementing or

otherwise acting on the federal waiver or approval received or granted, unless the federal waiver or approval is specifically authorized by law on a date after receipt of the federal waiver or approval.

(c) If a federal waiver or approval (1) under section 1332 of the Affordable Care Act or section 1115 of the Social Security Act, or (2) to modify or add a benefit covered by medical assistance or otherwise amend the state's Medicaid plan, is received or granted while the legislature is not in session, a commissioner, governing board, or director of a state agency is prohibited from implementing or otherwise acting on the federal waiver or approval received or granted, unless the federal waiver or approval is submitted to the Legislative Advisory Commission and the commission makes a positive recommendation. If the commission makes no recommendation, a negative recommendation, or a recommendation for further review, the commissioner, governing board, or director shall not implement or otherwise act on the federal waiver or approval received or granted.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to initial requests for federal waivers or approvals sought on or after that date.

Sec. 5. ESTABLISHMENT OF FEDERALLY FACILITATED MARKETPLACE.

Subdivision 1. **Establishment.** (a) The commissioner of commerce, in cooperation with the secretary of the United States Department of Health and Human Services, shall establish a federally facilitated marketplace for Minnesota for coverage beginning January 1, 2019. The federally facilitated marketplace shall take the place of MNsure, established under Minnesota Statutes, chapter 62V. In working with the secretary of the United States Department of Health and Human Services to implement the federally facilitated marketplace in Minnesota, the commissioner of commerce shall:

(1) seek to incorporate, where appropriate and cost-effective, elements of the Minnesota eligibility system as defined in Minnesota Statutes, section 62V.055, subdivision 1;

(2) regularly consult with stakeholder groups, including but not limited to representatives of state agencies, health care providers, health plan companies, brokers, and consumers; and

(3) seek all available federal grants and funds for state planning and development costs.

(b) All health plans that are offered to Minnesota residents through the federally facilitated marketplace, when implemented, and that are offered by a health carrier that meets the applicability criteria in Minnesota Statutes, section 62K.10, subdivision 1, must satisfy requirements for:

(1) geographic accessibility to providers that at least satisfy the maximum distance or travel times specified in Minnesota Statutes, section 62K.10, subdivisions 2 and 3; and

(2) provider network adequacy that guarantees at least the level of network adequacy required by Minnesota Statutes, section 62K.10, subdivision 4.

For purposes of this paragraph, "health plan" has the meaning given in Minnesota Statutes, section 62A.011, subdivision 3, and "health carrier" has the meaning given in Minnesota Statutes, section 62A.011, subdivision 2.

Subd. 2. **Implementation plan; draft legislation.** The commissioner of commerce, in consultation with the commissioner of human services, the chief information officer of MN.IT, and

the MNsure board, shall develop and present to the 2018 legislature an implementation plan for conversion to a federally facilitated marketplace. The plan must:

(1) address and provide recommendations on the following issues:

(i) the state agency or other entity responsible for state oversight and administration related to the state's use of the federally facilitated marketplace;

(ii) plan management functions, including certification of qualified health plans;

(iii) the operation of navigator and in-person assister programs, and the operation of a call center and Web site;

(iv) funding for federally facilitated marketplace activities, including a user fee rate that shall not exceed the federal platform user fee rate of two percent of premiums charged for a coverage year; and

(v) administration of MinnesotaCare as a basic health plan by the commissioner of human services;

(2) address and provide recommendations on the funding and operation of the system to be used for public health care program eligibility determinations. These recommendations must be developed in consultation with the Minnesota eligibility system executive steering committee established under Minnesota Statutes, section 62V.055; and

(3) include draft legislation for any changes in state law necessary to implement a federally facilitated marketplace, including but not limited to necessary changes to Laws 2013, chapter 84, and technical and conforming changes related to the repeal of Minnesota Statutes, chapter 62V.

Subd. 3. **Vendor contract.** The commissioner of commerce, in consultation with the commissioner of human services, the chief information officer of MN.IT, and the MNsure board, shall contract with a vendor to provide technical assistance in developing and implementing the plan for conversion to a federally facilitated marketplace.

Sec. 6. **REPEALER.**

Minnesota Statutes 2016, sections 62V.01; 62V.02; 62V.03; 62V.04; 62V.05; 62V.051; 62V.055; 62V.06; 62V.07; 62V.08; 62V.09; 62V.10; and 62V.11, are repealed effective January 1, 2019.

ARTICLE 14

NURSING FACILITY TECHNICAL CORRECTIONS

Section 1. Minnesota Statutes 2016, section 144.0722, subdivision 1, is amended to read:

Subdivision 1. **Resident reimbursement classifications.** The commissioner of health shall establish resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes conducted under section 144.0721, or under rules established by the commissioner of human services under ~~sections 256B.41 to 256B.48~~ chapter 256R. The

reimbursement classifications established by the commissioner must conform to the rules established by the commissioner of human services.

Sec. 2. Minnesota Statutes 2016, section 144.0724, subdivision 1, is amended to read:

Subdivision 1. **Resident reimbursement case mix classifications.** The commissioner of health shall establish resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes conducted under this section and according to section ~~256B.438~~ 256R.17.

Sec. 3. Minnesota Statutes 2016, 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" or "ARD" means the specific end point for look-back periods in the MDS assessment process. This look-back period is also called the observation or assessment period.

(b) "Case mix index" means the weighting factors assigned to the RUG-IV 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" or "MDS" means a core set of screening, clinical assessment, and functional status elements, that include common definitions and coding categories 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 Office of Ombudsman for Long-Term Care 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~~ chapter 256R;
- (2) elderly waiver services under section 256B.0915;
- (3) CADI and BI waiver services under section 256B.49; and

(4) state payment of alternative care services under section 256B.0913.

Sec. 4. Minnesota Statutes 2016, section 144.0724, subdivision 9, is amended to read:

Subd. 9. **Audit authority.** (a) The commissioner shall audit the accuracy of resident assessments performed under section ~~256B.438~~ 256R.17 through any of the following: desk audits; on-site review of residents and their records; and interviews with staff, residents, or residents' families. The commissioner shall reclassify a resident if the commissioner determines that the resident was incorrectly classified.

(b) The commissioner is authorized to conduct on-site audits on an unannounced basis.

(c) A facility must grant the commissioner access to examine the medical records relating to the resident assessments selected for audit under this subdivision. The commissioner may also observe and speak to facility staff and residents.

(d) The commissioner shall consider documentation under the time frames for coding items on the minimum data set as set out in the Long-Term Care Facility Resident Assessment Instrument User's Manual published by the Centers for Medicare and Medicaid Services.

(e) The commissioner shall develop an audit selection procedure that includes the following factors:

(1) Each facility shall be audited annually. If a facility has two successive audits in which the percentage of change is five percent or less and the facility has not been the subject of a special audit in the past 36 months, the facility may be audited biannually. A stratified sample of 15 percent, with a minimum of ten assessments, of the most current assessments shall be selected for audit. If more than 20 percent of the RUG-IV classifications are changed as a result of the audit, the audit shall be expanded to a second 15 percent sample, with a minimum of ten assessments. If the total change between the first and second samples is 35 percent or greater, the commissioner may expand the audit to all of the remaining assessments.

(2) If a facility qualifies for an expanded audit, the commissioner may audit the facility again within six months. If a facility has two expanded audits within a 24-month period, that facility will be audited at least every six months for the next 18 months.

(3) The commissioner may conduct special audits if the commissioner determines that circumstances exist that could alter or affect the validity of case mix classifications of residents. These circumstances include, but are not limited to, the following:

- (i) frequent changes in the administration or management of the facility;
- (ii) an unusually high percentage of residents in a specific case mix classification;
- (iii) a high frequency in the number of reconsideration requests received from a facility;
- (iv) frequent adjustments of case mix classifications as the result of reconsiderations or audits;
- (v) a criminal indictment alleging provider fraud;

- (vi) other similar factors that relate to a facility's ability to conduct accurate assessments;
- (vii) an atypical pattern of scoring minimum data set items;
- (viii) nonsubmission of assessments;
- (ix) late submission of assessments; or
- (x) a previous history of audit changes of 35 percent or greater.

(f) Within 15 working days of completing the audit process, the commissioner shall make available electronically the results of the audit to the facility. If the results of the audit reflect a change in the resident's case mix classification, a case mix classification notice will be made available electronically to the facility, using the procedure in subdivision 7, paragraph (a). The notice must contain the resident's classification and a statement informing the resident, the resident's authorized representative, and the facility of their right to review the commissioner's documents supporting the classification and to request a reconsideration of the classification. This notice must also include the address and telephone number of the Office of Ombudsman for Long-Term Care.

Sec. 5. Minnesota Statutes 2016, section 144A.071, subdivision 3, is amended to read:

Subd. 3. **Exceptions authorizing increase in beds; hardship areas.** (a) The commissioner of health, in coordination with the commissioner of human services, may approve the addition of new licensed and Medicare and Medicaid certified nursing home beds, using the criteria and process set forth in this subdivision.

(b) The commissioner, in cooperation with the commissioner of human services, shall consider the following criteria when determining that an area of the state is a hardship area with regard to access to nursing facility services:

(1) a low number of beds per thousand in a specified area using as a standard the beds per thousand people age 65 and older, in five year age groups, using data from the most recent census and population projections, weighted by each group's most recent nursing home utilization, of the county at the 20th percentile, as determined by the commissioner of human services;

(2) a high level of out-migration for nursing facility services associated with a described area from the county or counties of residence to other Minnesota counties, as determined by the commissioner of human services, using as a standard an amount greater than the out-migration of the county ranked at the 50th percentile;

(3) an adequate level of availability of noninstitutional long-term care services measured as public spending for home and community-based long-term care services per individual age 65 and older, in five year age groups, using data from the most recent census and population projections, weighted by each group's most recent nursing home utilization, as determined by the commissioner of human services using as a standard an amount greater than the 50th percentile of counties;

(4) there must be a declaration of hardship resulting from insufficient access to nursing home beds by local county agencies and area agencies on aging; and

(5) other factors that may demonstrate the need to add new nursing facility beds.

(c) On August 15 of odd-numbered years, the commissioner, in cooperation with the commissioner of human services, may publish in the State Register a request for information in which interested parties, using the data provided under section 144A.351, along with any other relevant data, demonstrate that a specified area is a hardship area with regard to access to nursing facility services. For a response to be considered, the commissioner must receive it by November 15. The commissioner shall make responses to the request for information available to the public and shall allow 30 days for comment. The commissioner shall review responses and comments and determine if any areas of the state are to be declared hardship areas.

(d) For each designated hardship area determined in paragraph (c), the commissioner shall publish a request for proposals in accordance with section 144A.073 and Minnesota Rules, parts 4655.1070 to 4655.1098. The request for proposals must be published in the State Register by March 15 following receipt of responses to the request for information. The request for proposals must specify the number of new beds which may be added in the designated hardship area, which must not exceed the number which, if added to the existing number of beds in the area, including beds in layaway status, would have prevented it from being determined to be a hardship area under paragraph (b), clause (1). Beginning July 1, 2011, the number of new beds approved must not exceed 200 beds statewide per biennium. After June 30, 2019, the number of new beds that may be approved in a biennium must not exceed 300 statewide. For a proposal to be considered, the commissioner must receive it within six months of the publication of the request for proposals. The commissioner shall review responses to the request for proposals and shall approve or disapprove each proposal by the following July 15, in accordance with section 144A.073 and Minnesota Rules, parts 4655.1070 to 4655.1098. The commissioner shall base approvals or disapprovals on a comparison and ranking of proposals using only the criteria in subdivision 4a. Approval of a proposal expires after 18 months unless the facility has added the new beds using existing space, subject to approval by the commissioner, or has commenced construction as defined in section 144A.071, subdivision 1a, paragraph (d). If, after the approved beds have been added, fewer than 50 percent of the beds in a facility are newly licensed, the operating payment rates previously in effect shall remain. If, after the approved beds have been added, 50 percent or more of the beds in a facility are newly licensed, operating payment rates shall be determined according to Minnesota Rules, part 9549.0057, using the limits under ~~section 256B.441~~ sections 256R.23, subdivision 5, and 256R.24, subdivision 3. External fixed costs payment rates must be determined according to section ~~256B.441, subdivision 5~~ 256R.25. Property payment rates for facilities with beds added under this subdivision must be determined in the same manner as rate determinations resulting from projects approved and completed under section 144A.073.

(e) The commissioner may:

(1) certify or license new beds in a new facility that is to be operated by the commissioner of veterans affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans affairs or the United States Veterans Administration; and

(2) license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner by an organization that is not a related organization as defined in section ~~256B.441, subdivision 34~~ 256R.02, subdivision 43, to the prior licensee within 120 days after delicensure or decertification.

Sec. 6. Minnesota Statutes 2016, section 144A.071, subdivision 4a, is amended to read:

Subd. 4a. **Exceptions for replacement beds.** It is in the best interest of the state to ensure that nursing homes and boarding care homes continue to meet the physical plant licensing and certification requirements by permitting certain construction projects. Facilities should be maintained in condition to satisfy the physical and emotional needs of residents while allowing the state to maintain control over nursing home expenditure growth.

The commissioner of health in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(a) to license or certify beds in a new facility constructed to replace a facility or to make repairs in an existing facility that was destroyed or damaged after June 30, 1987, by fire, lightning, or other hazard provided:

(i) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(ii) at the time the facility was destroyed or damaged the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(iii) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility or repairs;

(iv) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility; and

(v) the commissioner determines that the replacement beds are needed to prevent an inadequate supply of beds.

Project construction costs incurred for repairs authorized under this clause shall not be considered in the dollar threshold amount defined in subdivision 2;

(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed \$1,000,000;

(c) to license or certify beds in a project recommended for approval under section 144A.073;

(d) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed \$1,000,000. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the

time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(f) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this paragraph;

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction, replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or \$200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(h) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of \$200,000 or more;

(i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;

(j) to license and certify new nursing home beds to replace beds in a facility acquired by the Minneapolis Community Development Agency as part of redevelopment activities in a city of the first class, provided the new facility is located within three miles of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under section 256B.431 or 256B.434 or chapter 256R;

(k) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds;

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed \$1,000,000;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1998;

(o) to allow a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass County and which is directly related to that portion of the facility that must be repaired, renovated, or replaced, to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993;

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a \$100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073;

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status.

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the

relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(q) to license and certify beds in a renovation and remodeling project to convert 12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey County; had a licensed capacity of 154 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(r) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned by the same or a related organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital. After relocation, the nursing facility's status shall be the same as it was prior to relocation. The nursing facility's property-related payment rate resulting from the project authorized in this paragraph shall become effective no earlier than April 1, 1996. For purposes of calculating the incremental change in the facility's rental per diem resulting from this project, the allowable appraised value of the nursing facility portion of the existing health care facility physical plant prior to the renovation and relocation may not exceed \$2,490,000;

(s) to license and certify two beds in a facility to replace beds that were voluntarily delicensed and decertified on June 28, 1991;

(t) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The 16 beds on layaway status may be relicensed as nursing home beds and recertified at any time within five years of the effective date of the layaway upon relocation of some or all of the beds to a licensed and certified facility located in Watertown, provided that the total project construction costs related to the relocation of beds from layaway status for the Watertown facility may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073.

The property-related payment rate of the facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for the facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any

beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(u) to license and certify beds that are moved within an existing area of a facility or to a newly constructed addition which is built for the purpose of eliminating three- and four-bed rooms and adding space for dining, lounge areas, bathing rooms, and ancillary service areas in a nursing home that, as of January 1, 1995, was located in Fridley and had a licensed capacity of 129 beds;

(v) to relocate 36 beds in Crow Wing County and four beds from Hennepin County to a 160-bed facility in Crow Wing County, provided all the affected beds are under common ownership;

(w) to license and certify a total replacement project of up to 49 beds located in Norman County that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of ~~section 256B.431~~ chapter 256R. Property-related reimbursement rates shall be determined under section ~~256B.431~~ 256R.26, taking into account any federal or state flood-related loans or grants provided to the facility;

(x) to license and certify to the licensee of a nursing home in Polk County that was destroyed by flood in 1997 replacement projects with a total of up to 129 beds, with at least 25 beds to be located in Polk County and up to 104 beds distributed among up to three other counties. These beds may only be distributed to counties with fewer than the median number of age intensity adjusted beds per thousand, as most recently published by the commissioner of human services. If the licensee chooses to distribute beds outside of Polk County under this paragraph, prior to distributing the beds, the commissioner of health must approve the location in which the licensee plans to distribute the beds. The commissioner of health shall consult with the commissioner of human services prior to approving the location of the proposed beds. The licensee may combine these beds with beds relocated from other nursing facilities as provided in section 144A.073, subdivision 3c. The operating payment rates for the new nursing facilities shall be determined based on the interim and settle-up payment provisions of ~~section 256B.431, 256B.434, or 256B.441~~ or Minnesota Rules, parts 9549.0010 to 9549.0080. Property-related reimbursement rates shall be determined under section ~~256B.431, 256B.434, or 256B.441~~ 256R.26. If the replacement beds permitted under this paragraph are combined with beds from other nursing facilities, the rates shall be calculated as the weighted average of rates determined as provided in this paragraph and section ~~256B.441, subdivision 60~~ 256R.50;

(y) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey County, was not owned by a hospital corporation, had a licensed capacity of 64 beds, and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(z) to license and certify up to 150 nursing home beds to replace an existing 285 bed nursing facility located in St. Paul. The replacement project shall include both the renovation of existing buildings and the construction of new facilities at the existing site. The reduction in the licensed capacity of the existing facility shall occur during the construction project as beds are taken out of

service due to the construction process. Prior to the start of the construction process, the facility shall provide written information to the commissioner of health describing the process for bed reduction, plans for the relocation of residents, and the estimated construction schedule. The relocation of residents shall be in accordance with the provisions of law and rule;

(aa) to allow the commissioner of human services to license an additional 36 beds to provide residential services for the physically disabled under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 198-bed nursing home located in Red Wing, provided that the total number of licensed and certified beds at the facility does not increase;

(bb) to license and certify a new facility in St. Louis County with 44 beds constructed to replace an existing facility in St. Louis County with 31 beds, which has resident rooms on two separate floors and an antiquated elevator that creates safety concerns for residents and prevents nonambulatory residents from residing on the second floor. The project shall include the elimination of three- and four-bed rooms;

(cc) to license and certify four beds in a 16-bed certified boarding care home in Minneapolis to replace beds that were voluntarily delicensed and decertified on or before March 31, 1992. The licensure and certification is conditional upon the facility periodically assessing and adjusting its resident mix and other factors which may contribute to a potential institution for mental disease declaration. The commissioner of human services shall retain the authority to audit the facility at any time and shall require the facility to comply with any requirements necessary to prevent an institution for mental disease declaration, including delicensure and decertification of beds, if necessary;

(dd) to license and certify 72 beds in an existing facility in Mille Lacs County with 80 beds as part of a renovation project. The renovation must include construction of an addition to accommodate ten residents with beginning and midstage dementia in a self-contained living unit; creation of three resident households where dining, activities, and support spaces are located near resident living quarters; designation of four beds for rehabilitation in a self-contained area; designation of 30 private rooms; and other improvements;

(ee) to license and certify beds in a facility that has undergone replacement or remodeling as part of a planned closure under section ~~256B.437~~ 256R.40;

(ff) to license and certify a total replacement project of up to 124 beds located in Wilkin County that are in need of relocation from a nursing home significantly damaged by flood. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of ~~section 256B.431~~ chapter 256R. Property-related reimbursement rates shall be determined under ~~section 256B.431~~ 256R.26, taking into account any federal or state flood-related loans or grants provided to the facility;

(gg) to allow the commissioner of human services to license an additional nine beds to provide residential services for the physically disabled under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 240-bed nursing home located in Duluth, provided that the total number of licensed and certified beds at the facility does not increase;

(hh) to license and certify up to 120 new nursing facility beds to replace beds in a facility in Anoka County, which was licensed for 98 beds as of July 1, 2000, provided the new facility is located within four miles of the existing facility and is in Anoka County. Operating and property rates shall be determined and allowed under ~~section 256B.431~~ chapter 256R and Minnesota Rules, parts 9549.0010 to 9549.0080, ~~or section 256B.434 or 256B.441~~; or

(ii) to transfer up to 98 beds of a 129-licensed bed facility located in Anoka County that, as of March 25, 2001, is in the active process of closing, to a 122-licensed bed nonprofit nursing facility located in the city of Columbia Heights or its affiliate. The transfer is effective when the receiving facility notifies the commissioner in writing of the number of beds accepted. The commissioner shall place all transferred beds on layaway status held in the name of the receiving facility. The layaway adjustment provisions of section 256B.431, subdivision 30, do not apply to this layaway. The receiving facility may only remove the beds from layaway for recertification and relicensure at the receiving facility's current site, or at a newly constructed facility located in Anoka County. The receiving facility must receive statutory authorization before removing these beds from layaway status, or may remove these beds from layaway status if removal from layaway status is part of a moratorium exception project approved by the commissioner under section 144A.073.

Sec. 7. Minnesota Statutes 2016, section 144A.071, subdivision 4c, is amended to read:

Subd. 4c. Exceptions for replacement beds after June 30, 2003. (a) The commissioner of health, in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(1) to license and certify an 80-bed city-owned facility in Nicollet County to be constructed on the site of a new city-owned hospital to replace an existing 85-bed facility attached to a hospital that is also being replaced. The threshold allowed for this project under section 144A.073 shall be the maximum amount available to pay the additional medical assistance costs of the new facility;

(2) to license and certify 29 beds to be added to an existing 69-bed facility in St. Louis County, provided that the 29 beds must be transferred from active or layaway status at an existing facility in St. Louis County that had 235 beds on April 1, 2003.

The licensed capacity at the 235-bed facility must be reduced to 206 beds, but the payment rate at that facility shall not be adjusted as a result of this transfer. The operating payment rate of the facility adding beds after completion of this project shall be the same as it was on the day prior to the day the beds are licensed and certified. This project shall not proceed unless it is approved and financed under the provisions of section 144A.073;

(3) to license and certify a new 60-bed facility in Austin, provided that: (i) 45 of the new beds are transferred from a 45-bed facility in Austin under common ownership that is closed and 15 of the new beds are transferred from a 182-bed facility in Albert Lea under common ownership; (ii) the commissioner of human services is authorized by the 2004 legislature to negotiate budget-neutral planned nursing facility closures; and (iii) money is available from planned closures of facilities under common ownership to make implementation of this clause budget-neutral to the state. The bed capacity of the Albert Lea facility shall be reduced to 167 beds following the transfer. Of the

60 beds at the new facility, 20 beds shall be used for a special care unit for persons with Alzheimer's disease or related dementias;

(4) to license and certify up to 80 beds transferred from an existing state-owned nursing facility in Cass County to a new facility located on the grounds of the Ah-Gwah-Ching campus. The operating cost payment rates for the new facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of ~~section 256B.431~~ chapter 256R. The property payment rate for the first three years of operation shall be \$35 per day. For subsequent years, the property payment rate of \$35 per day shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434;

(5) to initiate a pilot program to license and certify up to 80 beds transferred from an existing county-owned nursing facility in Steele County relocated to the site of a new acute care facility as part of the county's Communities for a Lifetime comprehensive plan to create innovative responses to the aging of its population. Upon relocation to the new site, the nursing facility shall delicense 28 beds. The payment rate for external fixed costs for the new facility shall be increased by an amount as calculated according to items (i) to (v):

(i) compute the estimated decrease in medical assistance residents served by the nursing facility by multiplying the decrease in licensed beds by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure of 28 beds by multiplying the anticipated decrease in medical assistance residents, determined in item (i), by the existing facility's weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the nursing facility, determined in item (i), by the average monthly elderly waiver service costs for individuals in Steele County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) divide the amount in item (iv) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days; and

(6) to consolidate and relocate nursing facility beds to a new site in Goodhue County and to integrate these services with other community-based programs and services under a communities for a lifetime pilot program and comprehensive plan to create innovative responses to the aging of its population. Two nursing facilities, one for 84 beds and one for 65 beds, in the city of Red Wing licensed on July 1, 2015, shall be consolidated into a newly renovated 64-bed nursing facility resulting in the delicensure of 85 beds. Notwithstanding the carryforward of the approval authority in section 144A.073, subdivision 11, the funding approved in April 2009 by the commissioner of health for a project in Goodhue County shall not carry forward. The closure of the 85 beds shall not be eligible for a planned closure rate adjustment under ~~section 256B.437~~ 256R.40. The construction project permitted in this clause shall not be eligible for a threshold project rate adjustment under

section 256B.434, subdivision 4f. The payment rate for external fixed costs for the new facility shall be increased by an amount as calculated according to items (i) to (vi):

(i) compute the estimated decrease in medical assistance residents served by both nursing facilities by multiplying the difference between the occupied beds of the two nursing facilities for the reporting year ending September 30, 2009, and the projected occupancy of the facility at 95 percent occupancy by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure by multiplying the anticipated decrease in the medical assistance residents, determined in item (i), by the hospital-owned nursing facility weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the facilities, determined in item (i), by the average monthly elderly waiver service costs for individuals in Goodhue County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) multiply the amount in item (iv) by 57.2 percent; and

(vi) divide the difference of the amount in item (iv) and the amount in item (v) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days.

(b) Projects approved under this subdivision shall be treated in a manner equivalent to projects approved under subdivision 4a.

Sec. 8. Minnesota Statutes 2016, section 144A.071, subdivision 4d, is amended to read:

Subd. 4d. Consolidation of nursing facilities. (a) The commissioner of health, in consultation with the commissioner of human services, may approve a request for consolidation of nursing facilities which includes the closure of one or more facilities and the upgrading of the physical plant of the remaining nursing facility or facilities, the costs of which exceed the threshold project limit under subdivision 2, clause (a). The commissioners shall consider the criteria in this section, section 144A.073, and section ~~256B.437~~ 256R.40, in approving or rejecting a consolidation proposal. In the event the commissioners approve the request, the commissioner of human services shall calculate an external fixed costs rate adjustment according to clauses (1) to (3):

(1) the closure of beds shall not be eligible for a planned closure rate adjustment under section ~~256B.437, subdivision 6~~ 256R.40, subdivision 5;

(2) the construction project permitted in this clause shall not be eligible for a threshold project rate adjustment under section 256B.434, subdivision 4f, or a moratorium exception adjustment under section 144A.073; and

(3) the payment rate for external fixed costs for a remaining facility or facilities shall be increased by an amount equal to 65 percent of the projected net cost savings to the state calculated in paragraph (b), divided by the state's medical assistance percentage of medical assistance dollars, and then

divided by estimated medical assistance resident days, as determined in paragraph (c), of the remaining nursing facility or facilities in the request in this paragraph. The rate adjustment is effective on the later of the first day of the month following completion of the construction upgrades in the consolidation plan or the first day of the month following the complete closure of a facility designated for closure in the consolidation plan. If more than one facility is receiving upgrades in the consolidation plan, each facility's date of construction completion must be evaluated separately.

(b) For purposes of calculating the net cost savings to the state, the commissioner shall consider clauses (1) to (7):

(1) the annual savings from estimated medical assistance payments from the net number of beds closed taking into consideration only beds that are in active service on the date of the request and that have been in active service for at least three years;

(2) the estimated annual cost of increased case load of individuals receiving services under the elderly waiver;

(3) the estimated annual cost of elderly waiver recipients receiving support under group residential housing;

(4) the estimated annual cost of increased case load of individuals receiving services under the alternative care program;

(5) the annual loss of license surcharge payments on closed beds;

(6) the savings from not paying planned closure rate adjustments that the facilities would otherwise be eligible for under section ~~256B.437~~ 256R.40; and

(7) the savings from not paying external fixed costs payment rate adjustments from submission of renovation costs that would otherwise be eligible as threshold projects under section 256B.434, subdivision 4f.

(c) For purposes of the calculation in paragraph (a), clause (3), the estimated medical assistance resident days of the remaining facility or facilities shall be computed assuming 95 percent occupancy multiplied by the historical percentage of medical assistance resident days of the remaining facility or facilities, as reported on the facility's or facilities' most recent nursing facility statistical and cost report filed before the plan of closure is submitted, multiplied by 365.

(d) For purposes of net cost of savings to the state in paragraph (b), the average occupancy percentages will be those reported on the facility's or facilities' most recent nursing facility statistical and cost report filed before the plan of closure is submitted, and the average payment rates shall be calculated based on the approved payment rates in effect at the time the consolidation request is submitted.

(e) To qualify for the external fixed costs payment rate adjustment under this subdivision, the closing facilities shall:

(1) submit an application for closure according to section ~~256B.437, subdivision 3~~ 256R.40, subdivision 2; and

(2) follow the resident relocation provisions of section 144A.161.

(f) The county or counties in which a facility or facilities are closed under this subdivision shall not be eligible for designation as a hardship area under subdivision 3 for five years from the date of the approval of the proposed consolidation. The applicant shall notify the county of this limitation and the county shall acknowledge this in a letter of support.

Sec. 9. Minnesota Statutes 2016, section 144A.073, subdivision 3c, is amended to read:

Subd. 3c. **Cost neutral relocation projects.** (a) Notwithstanding subdivision 3, the commissioner may at any time accept proposals, or amendments to proposals previously approved under this section, for relocations that are cost neutral with respect to state costs as defined in section 144A.071, subdivision 5a. The commissioner, in consultation with the commissioner of human services, shall evaluate proposals according to subdivision 4a, clauses (1), (4), (5), (6), and (8), and other criteria established in rule or law. The commissioner of human services shall determine the allowable payment rates of the facility receiving the beds in accordance with section ~~256B.441, subdivision 60~~ 256R.50. The commissioner shall approve or disapprove a project within 90 days.

(b) For the purposes of paragraph (a), cost neutrality shall be measured over the first three 12-month periods of operation after completion of the project.

Sec. 10. Minnesota Statutes 2016, section 144A.10, subdivision 4, is amended to read:

Subd. 4. **Correction orders.** Whenever a duly authorized representative of the commissioner of health finds upon inspection of a nursing home, that the facility or a controlling person or an employee of the facility is not in compliance with sections 144.411 to 144.417, 144.651, 144.6503, 144A.01 to 144A.155, or 626.557 or the rules promulgated thereunder, a correction order shall be issued to the facility. The correction order shall state the deficiency, cite the specific rule or statute violated, state the suggested method of correction, and specify the time allowed for correction. If the commissioner finds that the nursing home had uncorrected or repeated violations which create a risk to resident care, safety, or rights, the commissioner shall notify the commissioner of human services ~~who shall require the facility to use any efficiency incentive payments received under section 256B.431, subdivision 2b, paragraph (d), to correct the violations and shall require the facility to forfeit incentive payments for failure to correct the violations as provided in section 256B.431, subdivision 2n. The forfeiture shall not apply to correction orders issued for physical plant deficiencies.~~

Sec. 11. Minnesota Statutes 2016, section 144A.15, subdivision 2, is amended to read:

Subd. 2. **Appointment of receiver, rental.** If, after hearing, the court finds that receivership is necessary as a means of protecting the health, safety, or welfare of a resident of the facility, the court shall appoint the commissioner of health as a receiver to take charge of the facility. The commissioner may enter into an agreement for a managing agent to work on the commissioner's behalf in operating the facility during the receivership. The court shall determine a fair monthly rental for the facility, taking into account all relevant factors including the condition of the facility. This rental fee shall be paid by the receiver to the appropriate controlling person for each month that the receivership remains in effect but shall be reduced by the amount that the costs of the receivership provided under section ~~256B.495~~ 256R.52 are in excess of the facility rate. The controlling person may agree to waive the fair monthly rent by affidavit to the court. Notwithstanding

any other law to the contrary, no payment made to a controlling person by any state agency during a period of receivership shall include any allowance for profit or be based on any formula which includes an allowance for profit.

Notwithstanding state contracting requirements in chapter 16C, the commissioner shall establish and maintain a list of qualified licensed nursing home administrators, or other qualified persons or organizations with experience in delivering skilled health care services and the operation of long-term care facilities for those interested in being a managing agent on the commissioner's behalf during a state receivership of a facility. This list will be a resource for choosing a managing agent and the commissioner may update the list at any time. A managing agent cannot be someone who: (1) is the owner, licensee, or administrator of the facility; (2) has a financial interest in the facility at the time of the receivership or is a related party to the owner, licensee, or administrator; or (3) has owned or operated any nursing facility or boarding care home that has been ordered into receivership.

Sec. 12. Minnesota Statutes 2016, section 144A.154, is amended to read:

144A.154 RATE RECOMMENDATION.

The commissioner may recommend to the commissioner of human services a review of the rates for a nursing home or boarding care home that participates in the medical assistance program that is in voluntary or involuntary receivership, and that has needs or deficiencies documented by the Department of Health. If the commissioner of health determines that a review of the rate under section ~~256B.495~~ 256R.52 is needed, the commissioner shall provide the commissioner of human services with:

(1) a copy of the order or determination that cites the deficiency or need; and

(2) the commissioner's recommendation for additional staff and additional annual hours by type of employee and additional consultants, services, supplies, equipment, or repairs necessary to satisfy the need or deficiency.

Sec. 13. Minnesota Statutes 2016, section 144A.161, subdivision 10, is amended to read:

Subd. 10. **Facility closure rate adjustment.** Upon the request of a closing facility, the commissioner of human services must allow the facility a closure rate adjustment equal to a 50 percent payment rate increase to reimburse relocation costs or other costs related to facility closure. This rate increase is effective on the date the facility's occupancy decreases to 90 percent of capacity days after the written notice of closure is distributed under subdivision 5 and shall remain in effect for a period of up to 60 days. The commissioner shall delay the implementation of rate adjustments under section ~~256B.437~~, subdivisions 3, paragraph (b), and 6, paragraph (a) 256R.40, subdivisions 5 and 6, to offset the cost of this rate adjustment.

Sec. 14. Minnesota Statutes 2016, section 144A.1888, is amended to read:

144A.1888 REUSE OF FACILITIES.

Notwithstanding any local ordinance related to development, planning, or zoning to the contrary, the conversion or reuse of a nursing home that closes or that curtails, reduces, or changes operations shall be considered a conforming use permitted under local law, provided that the facility is converted

to another long-term care service approved by a regional planning group under section ~~256B.437~~ 256R.40 that serves a smaller number of persons than the number of persons served before the closure or curtailment, reduction, or change in operations.

Sec. 15. Minnesota Statutes 2016, section 144A.611, subdivision 1, is amended to read:

Subdivision 1. **Nursing homes and certified boarding care homes.** The actual costs of tuition and textbooks and reasonable expenses for the competency evaluation or the nursing assistant training program and competency evaluation approved under section 144A.61, which are paid to nursing assistants or adult training programs pursuant to subdivisions 2 and 4, are a reimbursable expense for nursing homes and certified boarding care homes under section ~~256B.431, subdivision 36~~ 256R.37.

Sec. 16. Minnesota Statutes 2016, section 144A.74, is amended to read:

144A.74 MAXIMUM CHARGES.

A supplemental nursing services agency must not bill or receive payments from a nursing home licensed under this chapter at a rate higher than 150 percent of the sum of the weighted average wage rate, plus a factor determined by the commissioner to incorporate payroll taxes as defined in ~~Minnesota Rules, part 9549.0020, subpart 33~~ section 256R.02, subdivision 37, for the applicable employee classification for the geographic group to which the nursing home is assigned under Minnesota Rules, part 9549.0052. The weighted average wage rates must be determined by the commissioner of human services and reported to the commissioner of health on an annual basis. Wages are defined as hourly rate of pay and shift differential, including weekend shift differential and overtime. Facilities shall provide information necessary to determine weighted average wage rates to the commissioner of human services in a format requested by the commissioner. The maximum rate must include all charges for administrative fees, contract fees, or other special charges in addition to the hourly rates for the temporary nursing pool personnel supplied to a nursing home.

Sec. 17. Minnesota Statutes 2016, section 256.9657, subdivision 1, is amended to read:

Subdivision 1. **Nursing home license surcharge.** (a) Effective July 1, 1993, each non-state-operated nursing home licensed under chapter 144A shall pay to the commissioner an annual surcharge according to the schedule in subdivision 4. The surcharge shall be calculated as \$620 per licensed bed. If the number of licensed beds is reduced, the surcharge shall be based on the number of remaining licensed beds the second month following the receipt of timely notice by the commissioner of human services that beds have been delicensed. The nursing home must notify the commissioner of health in writing when beds are delicensed. The commissioner of health must notify the commissioner of human services within ten working days after receiving written notification. If the notification is received by the commissioner of human services by the 15th of the month, the invoice for the second following month must be reduced to recognize the delicensing of beds. Beds on layaway status continue to be subject to the surcharge. The commissioner of human services must acknowledge a medical care surcharge appeal within 30 days of receipt of the written appeal from the provider.

(b) Effective July 1, 1994, the surcharge in paragraph (a) shall be increased to \$625.

(c) Effective August 15, 2002, the surcharge under paragraph (b) shall be increased to \$990.

(d) Effective July 15, 2003, the surcharge under paragraph (c) shall be increased to \$2,815.

(e) The commissioner may reduce, and may subsequently restore, the surcharge under paragraph (d) based on the commissioner's determination of a permissible surcharge.

~~(f) Between April 1, 2002, and August 15, 2004, a facility governed by this subdivision may elect to assume full participation in the medical assistance program by agreeing to comply with all of the requirements of the medical assistance program, including the rate equalization law in section 256B.48, subdivision 1, paragraph (a), and all other requirements established in law or rule, and to begin intake of new medical assistance recipients. Rates will be determined under Minnesota Rules, parts 9549.0010 to 9549.0080. Rate calculations will be subject to limits as prescribed in rule and law. Other than the adjustments in sections 256B.431, subdivisions 30 and 32; 256B.437, subdivision 3, paragraph (b), Minnesota Rules, part 9549.0057, and any other applicable legislation enacted prior to the finalization of rates, facilities assuming full participation in medical assistance under this paragraph are not eligible for any rate adjustments until the July 1 following their settle-up period.~~

Sec. 18. Minnesota Statutes 2016, section 256B.0915, subdivision 3e, is amended to read:

Subd. 3e. **Customized living service rate.** (a) Payment for customized living services shall be a monthly rate authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the amount of each component service included in the recipient's customized living service plan. The lead agency, with input from the provider of customized living services, shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized.

(b) The payment rate must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes shall use tools issued by the commissioner to develop and document customized living service plans and rates.

(c) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale. Customized living services must not include rent or raw food costs.

(d) With the exception of individuals described in subdivision 3a, paragraph (b), the individualized monthly authorized payment for the customized living service plan shall not exceed 50 percent of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0051 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a). Effective on July 1 of the state fiscal year in which the resident assessment system as described in section ~~256B.438~~ 256R.17 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly authorized payment for the services described in this clause shall not exceed the limit which was in effect on June 30 of the previous state fiscal year updated annually based on legislatively adopted changes to all service rate maximums for home and community-based service providers.

(e) Effective July 1, 2011, the individualized monthly payment for the customized living service plan for individuals described in subdivision 3a, paragraph (b), must be the monthly authorized

payment limit for customized living for individuals classified as case mix A, reduced by 25 percent. This rate limit must be applied to all new participants enrolled in the program on or after July 1, 2011, who meet the criteria described in subdivision 3a, paragraph (b). This monthly limit also applies to all other participants who meet the criteria described in subdivision 3a, paragraph (b), at reassessment.

(f) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D. Licensed home care providers are subject to section 256B.0651, subdivision 14.

(g) A provider may not bill or otherwise charge an elderly waiver participant or their family for additional units of any allowable component service beyond those available under the service rate limits described in paragraph (d), nor for additional units of any allowable component service beyond those approved in the service plan by the lead agency.

(h) Effective July 1, 2016, and each July 1 thereafter, individualized service rate limits for customized living services under this subdivision shall be increased by the difference between any legislatively adopted home and community-based provider rate increases effective on July 1 or since the previous July 1 and the average statewide percentage increase in nursing facility operating payment rates under ~~sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective the previous January 1. This paragraph shall only apply if the average statewide percentage increase in nursing facility operating payment rates is greater than any legislatively adopted home and community-based provider rate increases effective on July 1, or occurring since the previous July 1.

Sec. 19. Minnesota Statutes 2016, section 256B.35, subdivision 4, is amended to read:

Subd. 4. **Field audits required.** The commissioner of human services shall conduct field audits at the same time as cost report audits required under section ~~256B.27, subdivision 2a~~ 256R.13, subdivision 1, and at any other time but at least once every four years, without notice, to determine whether this section was complied with and that the funds provided residents for their personal needs were actually expended for that purpose.

Sec. 20. Minnesota Statutes 2016, section 256B.431, subdivision 30, is amended to read:

Subd. 30. **Bed layaway and delicensure.** (a) For rate years beginning on or after July 1, 2000, a nursing facility reimbursed under this section which has placed beds on layaway shall, for purposes of application of the downsizing incentive in subdivision 3a, paragraph (c), and calculation of the rental per diem, have those beds given the same effect as if the beds had been delicensed so long as the beds remain on layaway. At the time of a layaway, a facility may change its single bed election for use in calculating capacity days under Minnesota Rules, part 9549.0060, subpart 11. The property payment rate increase shall be effective the first day of the month following the month in which the layaway of the beds becomes effective under section 144A.071, subdivision 4b.

(b) For rate years beginning on or after July 1, 2000, notwithstanding any provision to the contrary under section 256B.434 or chapter 256R, a nursing facility reimbursed under that section or chapter which has placed beds on layaway shall, for so long as the beds remain on layaway, be allowed to:

(1) aggregate the applicable investment per bed limits based on the number of beds licensed immediately prior to entering the alternative payment system;

(2) retain or change the facility's single bed election for use in calculating capacity days under Minnesota Rules, part 9549.0060, subpart 11; and

(3) establish capacity days based on the number of beds immediately prior to the layaway and the number of beds after the layaway.

The commissioner shall increase the facility's property payment rate by the incremental increase in the rental per diem resulting from the recalculation of the facility's rental per diem applying only the changes resulting from the layaway of beds and clauses (1), (2), and (3). If a facility reimbursed under section 256B.434 or chapter 256R completes a moratorium exception project after its base year, the base year property rate shall be the moratorium project property rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4, paragraph (c). The property payment rate increase shall be effective the first day of the month following the month in which the layaway of the beds becomes effective.

(c) If a nursing facility removes a bed from layaway status in accordance with section 144A.071, subdivision 4b, the commissioner shall establish capacity days based on the number of licensed and certified beds in the facility not on layaway and shall reduce the nursing facility's property payment rate in accordance with paragraph (b).

(d) For the rate years beginning on or after July 1, 2000, notwithstanding any provision to the contrary under section 256B.434 or chapter 256R, a nursing facility reimbursed under that section or chapter, which has delicensed beds after July 1, 2000, by giving notice of the delicensure to the commissioner of health according to the notice requirements in section 144A.071, subdivision 4b, shall be allowed to:

(1) aggregate the applicable investment per bed limits based on the number of beds licensed immediately prior to entering the alternative payment system;

(2) retain or change the facility's single bed election for use in calculating capacity days under Minnesota Rules, part 9549.0060, subpart 11; and

(3) establish capacity days based on the number of beds immediately prior to the delicensure and the number of beds after the delicensure.

The commissioner shall increase the facility's property payment rate by the incremental increase in the rental per diem resulting from the recalculation of the facility's rental per diem applying only the changes resulting from the delicensure of beds and clauses (1), (2), and (3). If a facility reimbursed under section 256B.434 completes a moratorium exception project after its base year, the base year property rate shall be the moratorium project property rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4, paragraph (c). The property payment rate increase shall be effective the first day of the month following the month in which the delicensure of the beds becomes effective.

(e) For nursing facilities reimbursed under this section ~~or~~, section 256B.434, or chapter 256R, any beds placed on layaway shall not be included in calculating facility occupancy as it pertains to leave days defined in Minnesota Rules, part 9505.0415.

(f) For nursing facilities reimbursed under this section ~~or~~, section 256B.434, or chapter 256R, the rental rate calculated after placing beds on layaway may not be less than the rental rate prior to placing beds on layaway.

(g) A nursing facility receiving a rate adjustment as a result of this section shall comply with section ~~256B.47, subdivision 2~~ 256R.06, subdivision 5.

(h) A facility that does not utilize the space made available as a result of bed layaway or delicensure under this subdivision to reduce the number of beds per room or provide more common space for nursing facility uses or perform other activities related to the operation of the nursing facility shall have its property rate increase calculated under this subdivision reduced by the ratio of the square footage made available that is not used for these purposes to the total square footage made available as a result of bed layaway or delicensure.

Sec. 21. Minnesota Statutes 2016, section 256B.50, subdivision 1, is amended to read:

Subdivision 1. **Scope.** A provider may appeal from a determination of a payment rate established pursuant to this chapter or allowed costs under ~~section 256B.441~~ chapter 256R if the appeal, if successful, would result in a change to the provider's payment rate or to the calculation of maximum charges to therapy vendors as provided by section ~~256B.433, subdivision 3~~ 256R.54. Appeals must be filed in accordance with procedures in this section. This section does not apply to a request from a resident or long-term care facility for reconsideration of the classification of a resident under section 144.0722.

Sec. 22. **EFFECTIVE DATE.**

Sections 1 to 21 are effective the day following final enactment.

ARTICLE 15

HUMAN SERVICES FORECAST ADJUSTMENTS

Section 1. **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 2015, chapter 71, article 14, as amended by Laws 2016, chapter 189, articles 22 and 23, 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 years indicated for each purpose. The figure "2017" used in this article means that the appropriations listed are available for the fiscal year ending June 30, 2017.

APPROPRIATIONS
Available for the Year
Ending June 30

2017Sec. 2. COMMISSIONER OF HUMAN SERVICESSubdivision 1. Total Appropriation \$ (342,045,000)Appropriations by Fund2017General Fund (198,450,000)Health Care Access (146,590,000)TANF 2,995,000Subd. 2. Forecasted Programs(a) MFIP/DWP GrantsAppropriations by FundGeneral Fund (2,111,000)TANF 2,579,000(b) MFIP Child Care Assistance Grants (6,513,000)(c) General Assistance Grants (4,219,000)(d) Minnesota Supplemental Aid Grants (581,000)(e) Group Residential Housing Grants (533,000)(f) Northstar Care for Children 2,613,000(g) MinnesotaCare Grants (145,883,000)This appropriation is from the health care access fund.(h) Medical Assistance GrantsAppropriations by FundGeneral Fund (192,744,000)Health Care Access (707,000)(i) Alternative Care Grants -0-(j) CD Entitlement Grants 5,638,000Subd. 3. Technical Activities 416,000This appropriation is from the TANF fund.Sec. 3. EFFECTIVE DATE.Sections 1 and 2 are effective the day following final enactment.

Code of Federal Regulations, title 45, section 263.1. In order to meet these basic TANF/MOE requirements, the commissioner may report as TANF/MOE expenditures only nonfederal money expended for allowable activities listed in the following clauses:

(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 legal noncitizen MFIP recipients who qualify for the MinnesotaCare program under Minnesota Statutes, chapter 256L;

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671;

(7) qualifying Minnesota education credit expenditures under Minnesota Statutes, section 290.0674; and

(8) qualifying Head Start expenditures under Minnesota Statutes, section 119A.50.

(b) For the activities listed in paragraph (a), clauses (2) to (8), the commissioner may report only expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) The commissioner shall ensure that the MOE used by the commissioner of management and budget 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) 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).

(e) For the purposes of paragraph (d), the commissioner may supplement the MOE claim with working family credit expenditures or other qualified expenditures to the extent such expenditures are otherwise available after considering the expenditures allowed in this subdivision.

(f) The requirement in Minnesota Statutes, section 256.011, subdivision 3, that federal grants or aids secured or obtained under that subdivision be used to reduce any direct

appropriations provided by law, does not apply if the grants or aids are federal TANF funds.

(g) IT Appropriations Generally. This appropriation includes funds for information technology projects, services, and support. Notwithstanding Minnesota Statutes, section 16E.0466, funding for information technology project costs shall be incorporated into the service level agreement and paid to the Office of MN.IT Services by the Department of Human Services under the rates and mechanism specified in that agreement.

(h) Receipts for Systems Project. Appropriations and federal receipts for information systems projects for MAXIS, PRISM, MMIS, ISDS, METS, and SSIS must be deposited in the state systems account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the commissioner of the Office of MN.IT Services, funded by the legislature, and approved by the commissioner of management and budget 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 and is available for ongoing development and operations.

(i) Federal SNAP Education and Training Grants. Federal funds available during fiscal years 2017, 2018, and 2019 for Supplemental Nutrition Assistance Program Education and Training and SNAP Quality Control Performance Bonus grants are appropriated to the commissioner of human services for the purposes allowable under the terms of the federal award. This paragraph is effective the day following final enactment.

Subd. 3. Central Office; Operations

<u>Appropriations by Fund</u>		
<u>General</u>	<u>102,300,000</u>	<u>100,237,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>4,149,000</u>	<u>4,149,000</u>
<u>Health Care Access</u>	<u>20,025,000</u>	<u>20,025,000</u>
<u>Federal TANF</u>	<u>100,000</u>	<u>100,000</u>

(a) Administrative Recovery; Set-Aside.

The commissioner may invoice local entities through the SWIFT accounting system as an alternative means to recover the actual cost of administering the following provisions:

(1) Minnesota Statutes, section 125A.744, subdivision 3;

(2) Minnesota Statutes, section 245.495, paragraph (b);

(3) Minnesota Statutes, section 256B.0625, subdivision 20, paragraph (k);

(4) Minnesota Statutes, section 256B.0924, subdivision 6, paragraph (g);

(5) Minnesota Statutes, section 256B.0945, subdivision 4, paragraph (d); and

(6) Minnesota Statutes, section 256F.10, subdivision 6, paragraph (b).

(b) Transfer to Office of Legislative Auditor. \$600,000 in fiscal year 2018 and \$600,000 in fiscal year 2019 are for transfer to the Office of the Legislative Auditor for audit activities under Minnesota Statutes, section 3.972, subdivision 2b.

(c) Base Level Adjustment. The general fund base is \$98,094,000 in fiscal year 2020 and \$98,085,000 in fiscal year 2021.

Subd. 4. Central Office; Children and Families

<u>Appropriations by Fund</u>		
<u>General</u>	<u>9,043,000</u>	<u>8,931,000</u>
<u>Federal TANF</u>	<u>2,582,000</u>	<u>2,582,000</u>

(a) Financial Institution Data Match and Payment of Fees. The commissioner is authorized to allocate up to \$310,000 each year in fiscal year 2018 and fiscal year 2019 from the systems 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.

(b) Base Level Adjustment. The general fund base is \$8,871,000 in fiscal year 2020 and \$8,871,000 in fiscal year 2021.

Subd. 5. Central Office; Health Care

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>17,877,000</u>	<u>16,963,000</u>
<u>Health Care Access</u>	<u>21,641,000</u>	<u>21,748,000</u>

(a) Trust Guide. \$200,000 in fiscal year 2018 and \$150,000 in fiscal year 2019 are from the general fund for the development of a special needs trust guide that directs the state medical assistance program's trust recovery process and establishes guidelines for the public. This is a onetime appropriation.

(b) Rates Study. \$227,000 in fiscal year 2018 is from the general fund for the medical assistance payment rate study. This is a onetime appropriation.

(c) Integrated Health Partnership Health Information Exchange. \$125,000 in fiscal year 2018 and \$250,000 in fiscal year 2019 are from the general fund to contract with state-certified health information exchange vendors to support providers participating in an integrated health partnership under Minnesota Statutes, section 256B.0755, to connect enrollees with community supports and social services and improve collaboration

among participating and authorized providers.

(d) Implementation and Operation of an Electronic Service Delivery Documentation System. \$225,000 in fiscal year 2018 and \$183,000 in fiscal year 2019 are from the general fund for the development and implementation of an electronic service delivery documentation system. This is a onetime appropriation.

(e) Transfer to Legislative Auditor. \$153,000 in fiscal year 2018 and \$153,000 in fiscal year 2019 are from the general fund for transfer to the Office of the Legislative Auditor for the auditor to establish and maintain a team of auditors with the training and experience necessary to fulfill the requirements in Minnesota Statutes, section 3.972, subdivision 2a.

(f) Savings from Improved Eligibility Verification. The commissioner of human services shall implement periodic data matching under Minnesota Statutes, section 256B.0561, the recommendations of the legislative auditor provided under Minnesota Statutes, section 3.972, subdivision 2a, and other eligibility verification initiatives for enrollees or beneficiaries of all health care, income maintenance, and social service programs administered by the commissioner, in a manner sufficient to achieve savings of \$65,548,000 in fiscal year 2018 and \$74,689,000 in fiscal year 2019.

(g) Chronic Pain Rehabilitation Therapy Demonstration Project. \$1,000,000 in fiscal year 2018 is from the general fund for a chronic pain rehabilitation therapy demonstration project with a rehabilitation institute. This is a onetime appropriation.

(h) Base Level Adjustment. The general fund base is \$16,221,000 in fiscal year 2020 and \$16,219,000 in fiscal year 2021.

Subd. 6. Central Office; Continuing Care for Older Adults

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>14,565,000</u>	<u>14,061,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>125,000</u>	<u>125,000</u>

(a) Vulnerable Adults Complaints Case Management System. \$258,000 in fiscal year 2018 is from the general fund for the Office of Inspector General to implement a case management system for tracking and managing complaints and investigations involving vulnerable adults. In consultation with the Department of Health, Office of Health Facility Complaints, the Office of Inspector General shall ensure that the case management system is capable of:

(1) uniquely tracking each complaint received by the Office of Inspector General and the Office of Health Facility Complaints, whether the complaint is received through the Minnesota Adult Abuse Reporting Center, by telephone, by referral from another agency or division, or by any other means;

(2) linking each complaint to any and all investigations related to that complaint;

(3) tracking and coordinating referrals and communication between state agencies, including the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities; and

(4) securing data as required under the Vulnerable Adults Act and the Government Data Practices Act.

Products and services for the case management system design, implementation, and application hosting must be acquired using a request for proposals. This is a

onetime appropriation and is available until June 30, 2019.

(b) Alzheimer's Disease Working Group. \$127,000 in fiscal year 2018 and \$110,000 in fiscal year 2019 are from the general fund for the Alzheimer's disease working group. This is a onetime appropriation.

(c) Base Level Adjustment. The general fund base is \$13,909,000 in fiscal year 2020 and \$13,909,000 in fiscal year 2021.

Subd. 7. Central Office; Community Supports

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>26,358,000</u>	<u>26,021,000</u>
<u>Lottery Prize</u>	<u>163,000</u>	<u>163,000</u>

(a) Transportation Study. \$250,000 in fiscal year 2018 and \$250,000 in fiscal year 2019 are for a study to identify opportunities to increase access to transportation services for individuals who receive home and community-based services. This is a onetime appropriation.

(b) Deaf and Hard-of-Hearing Services. \$850,000 in fiscal year 2018 and \$700,000 in fiscal year 2019 are from the general fund for the Deaf and Hard-of-Hearing Services Division under Minnesota Statutes, section 256C.233. \$150,000 of this appropriation each year must be used for technology improvements, technology support, and training for staff on the use of technology for external facing services to implement Minnesota Statutes, section 256C.24, subdivision 2, clause (12).

(c) Individual Budgeting Model. \$435,000 in fiscal year 2018 and \$65,000 in fiscal year 2019 are from the general fund to study and develop an individual budgeting model for disability waiver recipients and those accessing services through consumer-directed community supports. The commissioner shall submit recommendations to the chairs and ranking minority members of the legislative

committees with jurisdiction over these programs by January 15, 2019. This is a onetime appropriation.

(d) Substance Use Disorder System Study. \$150,000 in fiscal year 2018 and \$150,000 in fiscal year 2019 are for a substance use disorder system study. This is a onetime appropriation.

(e) Children's Mental Health Report and Recommendations. \$125,000 in fiscal year 2018 and \$125,000 in fiscal year 2019 are for a comprehensive analysis of Minnesota's continuum of intensive mental health services for children with serious mental health needs. This is a onetime appropriation.

(f) Base Level Adjustment. The general fund base is \$24,650,000 in fiscal year 2020 and \$24,533,000 in fiscal year 2021.

Subd. 8. Forecasted Programs; MFIP/DWP

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>88,530,000</u>	<u>97,912,000</u>
<u>Federal TANF</u>	<u>94,617,000</u>	<u>88,230,000</u>

<u>Subd. 9. Forecasted Programs; MFIP Child Care Assistance</u>	<u>107,385,000</u>	<u>103,796,000</u>
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<u>Subd. 10. Forecasted Programs; General Assistance</u>	<u>55,536,000</u>	<u>57,221,000</u>
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(a) 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.

(b) Emergency General Assistance Limit. The amount appropriated for emergency general assistance is limited to no more than \$6,729,812 in fiscal year 2018 and \$6,729,812 in fiscal year 2019. Funds to counties shall be allocated by the

commissioner using the allocation method under Minnesota Statutes, section 256D.06.

Subd. 11. Forecasted Programs; Minnesota Supplemental Aid

40,484,000 41,634,000

Subd. 12. Forecasted Programs; Group Residential Housing

170,337,000 180,668,000

Subd. 13. Forecasted Programs; Northstar Care for Children

80,542,000 96,433,000

Subd. 14. Forecasted Programs; MinnesotaCare

12,224,000 12,834,000

This appropriation is from the health care access fund.

Subd. 15. Forecasted Programs; Medical Assistance

Appropriations by Fund

<u>General</u>	<u>5,211,349,000</u>	<u>5,192,343,000</u>
<u>Health Care Access</u>	<u>210,159,000</u>	<u>224,929,000</u>

(a) Behavioral Health Services. \$1,000,000 in fiscal year 2018 and \$1,000,000 in fiscal year 2019 are for behavioral health services provided by hospitals identified under Minnesota Statutes, section 256.969, subdivision 2b, paragraph (a), clause (4). The increase in payments shall be made by increasing the adjustment under Minnesota Statutes, section 256.969, subdivision 2b, paragraph (e), clause (2).

(b) Limits to Increases in Medical Assistance Program Payments. Beginning July 1, 2017, the commissioner shall limit increases in payments to managed care plans and county-based purchasing plans in the medical assistance program to achieve the following reductions on a statewide aggregate basis for each fiscal year:

(1) in fiscal year 2018, \$32,682,000;

(2) in fiscal year 2019, \$118,257,000;

(3) in fiscal year 2020, \$218,025,000; and

(4) in fiscal year 2021, \$327,396,000.

Notwithstanding any provision to the contrary in this article, this paragraph expires July 1, 2021.

(c) Reform of MnCHOICES Administration. The commissioner shall reduce expenditures for MnCHOICES by \$30,753,000 in fiscal year 2018 and \$30,753,000 in fiscal year 2019.

Subd. 16. Forecasted Programs; Alternative Care 44,587,000 45,477,000

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.

Subd. 17. Forecasted Programs; Chemical Dependency Treatment Fund 119,251,000 139,321,000

Subd. 18. Grant Programs; Support Services Grants

Appropriations by Fund

<u>General</u>	<u>8,715,000</u>	<u>8,715,000</u>
<u>Federal TANF</u>	<u>93,311,000</u>	<u>93,311,000</u>

Subd. 19. Grant Programs; Basic Sliding Fee Child Care Assistance Grants 51,945,000 48,660,000

Base Level Adjustment. The general fund base is \$48,737,000 in fiscal year 2020 and \$48,809,000 in fiscal year 2021.

Subd. 20. Grant Programs; Child Care Development Grants 1,737,000 1,737,000

Subd. 21. Grant Programs; Child Support Enforcement Grants 50,000 50,000

Subd. 22. Grant Programs; Children's Services Grants

Appropriations by Fund

<u>General</u>	<u>41,140,000</u>	<u>40,265,000</u>
<u>Federal TANF</u>	<u>140,000</u>	<u>140,000</u>

(a) Title IV-E Adoption Assistance. (1) The commissioner shall allocate funds from the Title IV-E reimbursement to the state from the Fostering Connections to Success and

Increasing Adoptions Act for adoptive, foster, and kinship families as required in Minnesota Statutes, section 256N.621.

(2) Additional federal reimbursement to the state as a result of the Fostering Connections to Success and Increasing Adoptions Act's expanded eligibility for title IV-E adoption assistance is for postadoption, foster care, adoption, and kinship services, including a parent-to-parent support network.

(b) Adoption Assistance Incentive Grants.

(1) The commissioner shall allocate federal funds available for adoption and guardianship assistance incentive grants for postadoption services to support adoptive, foster, and kinship families as required in Minnesota Statutes, section 256N.621.

(2) Federal funds available during fiscal years 2018 and 2019 for adoption incentive grants must be used for foster care, adoption, and kinship services, including a parent-to-parent support network.

(c) Adoption Support Services. The commissioner shall allocate 20 percent of federal funds from title IV-B, subpart 2, of the Social Security Act, Promoting Safe and Stable Families, for adoption support services under Minnesota Statutes, section 256N.261.

(d) American Indian Child Welfare Initiative. \$800,000 in fiscal year 2018 is for planning efforts to expand the American Indian Child Welfare Initiative under Minnesota Statutes, section 256.01, subdivision 14b. Of this amount, \$400,000 is for a grant to the Mille Lacs Band of Ojibwe and \$400,000 is for a grant to the Red Lake Nation. This is a onetime appropriation.

(e) Anoka County Family Foster Care. \$75,000 in fiscal year 2018 is from the general fund for a grant to Anoka County to establish and promote family foster care

recruitment models. The county shall use the grant funds for the purpose of increasing foster care providers through administrative simplification, nontraditional recruitment models, and family incentive options, and develop a strategic planning model to recruit family foster care providers. This is a onetime appropriation.

(f) White Earth Band of Ojibwe Child Welfare Services. \$1,600,000 in fiscal year 2018 and \$1,600,000 in fiscal year 2019 are from the general fund for a grant to the White Earth Band of Ojibwe to deliver child welfare services.

Subd. 23. Grant Programs; Children and Community Service Grants

58,201,000

58,201,000

Subd. 24. Grant Programs; Children and Economic Support Grants

35,851,000

32,891,000

(a) Minnesota Food Assistance Program. Unexpended funds for the Minnesota food assistance program for fiscal year 2018 do not cancel but are available for this purpose in fiscal year 2019.

(b) At-Home Infant Child Care. \$961,000 in fiscal year 2018 and \$961,000 in fiscal year 2019 are from the general fund for the at-home infant child care program under Minnesota Statutes, section 119B.035. The base for these grants is \$922,000 in fiscal year 2020 and \$922,000 in fiscal year 2021.

(c) Long-term Homeless Supportive Services. \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are for the long-term homeless supportive services fund under Minnesota Statutes, section 256K.26. This is a onetime appropriation.

(d) Community Action Grants. \$750,000 in fiscal year 2018 and \$750,000 in fiscal year 2019 are for community action grants under Minnesota Statutes, sections 256E.30 to 256E.32.

(e) **Transitional Housing.** \$250,000 in fiscal year 2018 and \$250,000 in fiscal year 2019 are for the transitional housing program under Minnesota Statutes, section 256E.33. This is a onetime appropriation.

(f) **Family Assets for Independence.** \$250,000 in fiscal year 2018 and \$250,000 in fiscal year 2019 are for the family assets for independence program under Minnesota Statutes, section 256E.35.

(g) **Safe Harbor for Sexually Exploited Youth.** (1) \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are for emergency shelter and transitional and long-term housing beds for sexually exploited youth and youth at risk of sexual exploitation.

(2) \$100,000 in fiscal year 2018 and \$100,000 in fiscal year 2019 are for statewide youth outreach workers connecting sexually exploited youth and youth at risk of sexual exploitation with shelter and services.

(3) Youth 24 years of age or younger are eligible for shelter, housing beds, and services under this paragraph. In funding shelter, housing beds, and outreach workers under this paragraph, the commissioner shall emphasize activities that promote capacity-building and development of resources in greater Minnesota.

(h) **Emergency Services Program.** \$125,000 in fiscal year 2018 and \$125,000 in fiscal year 2019 are for the emergency services program, which provides services and emergency shelter for homeless Minnesotans under Minnesota Statutes, section 256E.36. This is a onetime appropriation.

(i) **Dakota County Child Data Tracking.** \$200,000 in fiscal year 2018 is for the Minnesota Birth to Eight pilot project for the development of the information technology solution that will track the established

developmental milestone progress of each child participating in the pilot up to age eight.

(j) **Mobile Food Shelf Grants.** \$2,000,000 in fiscal year 2018 is for mobile food shelf grants. Of this amount, \$1,000,000 is for sustaining existing mobile programs and \$1,000,000 is for creating new mobile programs. This is a onetime appropriation.

(k) **Food Shelf Programs.** \$565,000 in fiscal year 2018 and \$565,000 in fiscal year 2019 are for food shelf programs under Minnesota Statutes, section 256E.34. This appropriation may be used to purchase proteins, fruits, vegetables, and diapers.

(l) **Housing Benefit Web Site.** \$130,000 in fiscal year 2018 and \$130,000 in fiscal year 2019 are to operate the housing benefit 101 Web site to help people who need affordable housing, and supports to maintain that housing, understand the range of housing options and support services available.

(m) **Coparenting Education.** \$200,000 in fiscal year 2018 and \$200,000 in fiscal year 2019 are for a grant to a health and wellness center located in North Minneapolis that is a federally qualified health center. This is a onetime appropriation. The center must use the grant money to offer coparent services to unmarried parents. The center must develop a process to inform and educate unmarried parents about the center's coparent services. The coparent services must include the following:

(1) coparenting workshops for the unmarried parents;

(2) assistance to the unmarried parents in developing a parenting plan that specifies a schedule of the time each parent spends with the child, child support obligations, and a designation of decision-making responsibilities regarding the child's

education, medical needs, and religious upbringing;

(3) an assessment of social services needs for each parent; and

(4) additional social services support, including support related to employment, education, and housing.

The parenting plan assistance must include the option of using private mediation.

The coparent workshops must focus at a minimum on (i) the benefits to the child of having both parents involved in a child's life, (ii) promoting both parents' participation in a child's life, (iii) building coparenting and communication skills, (iv) information on establishing paternity, (v) assisting parents in developing a parenting plan, and (vi) educating participants on how to foster a nonresident parent's continued involvement in a child's life.

(n) **Safe Harbor Shelter and Housing Project.** \$970,000 in fiscal year 2018 is for a grant to a girls' ranch in Benson that provides housing, supportive services, educational services, and equine therapy, for purposes of predesigning, designing, constructing, furnishing, and equipping a house with capacity for ten beds, and a second horse riding arena. This is a onetime appropriation.

(o) **Base Level Adjustments.** The general fund base is \$32,230,000 in fiscal year 2020 and \$32,230,000 in fiscal year 2021. The general fund base includes \$453,000 in fiscal year 2020 and \$453,000 in fiscal year 2021 for community living infrastructure grant allocations under Minnesota Statutes, section 256I.09.

Subd. 25. Grant Programs; Health Care Grants

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>4,994,000</u>	<u>4,461,000</u>

Health Care Access 1,908,000 1,908,000

(a) **Integrated Health Partnerships.** \$375,000 in fiscal year 2018 and \$250,000 in fiscal year 2019 are from the general fund to provide financial assistance to participating providers for costs required to establish an integrated health partnership, including but not limited to collecting and reporting information on health outcomes, quality of care, and health care costs; training practitioners and staff to use new care models and participate in care coordination; or participating in research and evaluation of the projects. This is a onetime appropriation.

(b) **Dental Services Grants.** \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are to award dental services grants. This is a onetime appropriation. The commissioner may award grants under this paragraph to:

(1) nonprofit community clinics;

(2) federally qualified health centers, rural health clinics, and public health clinics;

(3) hospital-based dental clinics owned and operated by a city, county, or former state hospital as defined in Minnesota Statutes, section 62Q.19, subdivision 1, paragraph (a), clause (4); and

(4) a dental clinic owned and operated by the University of Minnesota or the Minnesota State Colleges and Universities system.

Grants may be used to fund costs related to maintaining, coordinating, and improving access for medical assistance and MinnesotaCare enrollees to dental care in a region.

The commissioner shall consider the following in awarding the grants: experience in delivering dental services to medical assistance and MinnesotaCare enrollees in urban and rural communities; the potential

to successfully maintain or expand access to dental services for medical assistance and MinnesotaCare enrollees; and demonstrated capability to provide access to care for children, adults, and seniors with special needs, individuals with complex medical and dental needs, recent immigrants and non-English speakers, and students attending schools with a high percentage of low-income students.

(c) **Base Level Adjustment.** The general fund base is \$3,711,000 in fiscal year 2020 and \$3,711,000 in fiscal year 2021.

Subd. 26. **Grant Programs; Other Long-Term Care Grants**

3,053,000

3,478,000

(a) **Home and Community-Based Incentive Pool.** \$1,553,000 in fiscal year 2018 and \$1,553,000 in fiscal year 2019 are for incentive payments under Minnesota Statutes, section 256B.0921. The base for these grants is \$1,059,000 in fiscal year 2020 and \$1,059,000 in fiscal year 2021.

(b) **Base Level Adjustment.** The general fund base is \$2,984,000 in fiscal year 2020 and \$2,984,000 in fiscal year 2021.

Subd. 27. **Grant Programs; Aging and Adult Services Grants**

30,986,000

32,637,000

(a) **Caregiver Support Programs.** \$200,000 in fiscal year 2018 and \$200,000 in fiscal year 2019 are for caregiver support programs under Minnesota Statutes, section 256.9755.

(b) **Advanced In-Home Activity-Monitoring Systems.** \$40,000 in fiscal year 2018 is for a grant to a local research organization with expertise in identifying current and potential support systems and examining the capacity of those systems to meet the needs of the growing population of elderly persons to conduct a comprehensive assessment of current literature, past research, and an environmental scan of the field related to

advanced in-home activity-monitoring systems for elderly persons. The commissioner must report the results of the assessment by January 15, 2018, to the legislative committees and divisions with jurisdiction over health and human services policy and finance. This is a onetime appropriation.

(c) **Base Level Adjustments.** The general fund base is \$33,011,000 in fiscal year 2020 and \$33,195,000 in fiscal year 2021. The general fund base includes \$334,000 in fiscal year 2020 and \$477,000 in fiscal year 2021 for the Minnesota Board on Aging for self-directed caregiver grants under Minnesota Statutes, section 256.975, subdivision 12.

Subd. 28. Grant Programs; Deaf and Hard-of-Hearing Grants

2,625,000

2,775,000

Expanded Services Grants. \$750,000 in fiscal year 2018 and \$900,000 in fiscal year 2019 are for deaf and hard-of-hearing grants. The funds must be used to provide services to Minnesotans who are deafblind under Minnesota Statutes, section 256C.261, to provide culturally affirmative psychiatric services, and to provide linguistically and culturally appropriate mental health services to children who are deaf, children who are deafblind, and children who are hard-of-hearing. Of this amount, \$103,000 in each year is to increase the grant to provide mentors who have hearing loss to parents of infants and children with newly identified hearing loss. Each year the division must provide funds for training in ProTactile American Sign Language or other communication systems used by people who are deafblind. Training shall be provided to persons who are deafblind and to interpreters, support service providers, and intervenors who work with persons who are deafblind.

Subd. 29. Grant Programs; Disabilities Grants

21,300,000

21,301,000

(a) **Disability Waiver Rate System Transition Grants.** \$30,000 in fiscal year 2018 and \$31,000 in fiscal year 2019 are for grants to home and community-based disability waiver services providers that are projected to receive at least a ten percent decrease in revenues due to transition to rates calculated under Minnesota Statutes, section 256B.4914. The commissioner shall award grants to ensure ongoing access for individuals currently receiving these services and provide stability to providers as they transition to new service delivery models. The general fund base for the grants under this paragraph is \$287,000 in fiscal year 2020 and \$288,000 in fiscal year 2021.

(b) **Self-Advocacy Grants.** \$133,000 in fiscal year 2018 and \$133,000 in fiscal year 2019 are for grants under Minnesota Statutes, section 256.477, paragraph (a).

(c) **Services for Persons with Intellectual and Developmental Disabilities.** \$143,000 in fiscal year 2018 and \$143,000 in fiscal year 2019 are for a grant to an organization described under Minnesota Statutes, section 256.477. This is a onetime appropriation. Grant funds must be used for the following purposes:

(1) to maintain the infrastructure needed to train and support the activities of a statewide network of peer-to-peer mentors for persons with developmental disabilities, focused on building awareness of service options and advocacy skills necessary to move toward full inclusion in community life, including the development and delivery of the curriculum to support the peer-to-peer network;

(2) to provide outreach activities, including statewide conferences and disability networking opportunities focused on self-advocacy, informed choice, and community engagement skills;

(3) to provide an annual leadership program for persons with intellectual and developmental disabilities; and

(4) to provide for administrative and general operating costs associated with managing and maintaining facilities, program delivery, evaluation, staff, and technology.

(d) Outreach to Persons in Institutional Settings. \$105,000 in fiscal year 2018 and \$105,000 in fiscal year 2019 are for a grant to an organization described under Minnesota Statutes, section 256.477, to be used for subgrants to organizations in Minnesota to conduct outreach to persons working and living in institutional settings to provide education and information about community options. This is a onetime appropriation. Grant funds must be used to deliver peer-led skill training sessions in six regions of the state to help persons with intellectual and developmental disabilities understand community service options related to:

(1) housing;

(2) employment;

(3) education;

(4) transportation;

(5) emerging service reform initiatives contained in the state's Olmstead plan; the Workforce Innovation and Opportunity Act, Public Law 113-128; and federal home and community-based services regulations; and

(6) connecting with individuals who can help persons with intellectual and developmental disabilities make an informed choice and plan for a transition in services.

(e) Individual Community Living Grants. To the extent funding is available, the commissioner may transfer funds from the semi-independent living services grant to new individual community living grants to

pay for transitional costs and facilitate the transition of individuals from corporate foster care to community living.

(f) **Gap Analysis.** \$217,000 in fiscal year 2018 and \$218,000 in fiscal year 2019 are for analysis of gaps in long-term care services under Minnesota Statutes, section 144A.351.

(g) **Life Skills Training for Individuals with Autism Spectrum Disorder.** \$250,000 in fiscal year 2018 and \$250,000 in fiscal year 2019 are for a grant to an organization located in Richfield that provides life skills training to young adults with learning disabilities to meet the needs of individuals with autism spectrum disorder. This appropriation may be used to:

(1) create a best practices curriculum for serving individuals with autism spectrum disorder in residential placements with therapeutic programming; and

(2) expand facilities by adding safety features, living spaces, and academic areas.

(h) **Base Level Adjustment.** The general fund base is \$21,309,000 in fiscal year 2020 and \$21,310,000 in fiscal year 2021.

Subd. 30. Grant Programs; Adult Mental Health Grants

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>85,402,000</u>	<u>85,302,000</u>
<u>Health Care Access</u>	<u>750,000</u>	<u>750,000</u>

(a) **Peer-Run Respite Services in Wadena County.** \$100,000 in fiscal year 2018 is from the general fund for a grant to Wadena County for the planning and development of a peer-run respite center for individuals experiencing mental health conditions or co-occurring substance abuse disorder. This is a onetime appropriation and is available until June 30, 2021. The grant is contingent on Wadena County providing to the

commissioner of human services a plan to fund, operate, and sustain the program and services after the onetime state grant is expended. Wadena County must outline the proposed funding stream or mechanism, and any necessary local funding commitment, which will ensure the program will result in a sustainable program. The funding stream may include state funding for programs and services for which the individuals served under this paragraph may be eligible. The commissioner of human services, in collaboration with Wadena County, may explore a plan for continued funding using existing appropriations through eligibility for group residential housing under Minnesota Statutes, chapter 256I.

The peer-run respite center must:

(1) admit individuals who are in need of peer support and supportive services while addressing an increase in symptoms or stressors or exacerbation of their mental health or substance abuse;

(2) admit individuals to reside at the center on a short-term basis, no longer than five days;

(3) be operated by a nonprofit organization;

(4) employ individuals who have personal experience with mental health or co-occurring substance abuse conditions who meet the qualifications of a mental health certified peer specialist under Minnesota Statutes, section 256B.0615, or a recovery peer;

(5) provide at least three but no more than six beds in private rooms; and

(6) not provide clinical services.

By November 1, 2018, the commissioner of human services, in consultation with Wadena County, shall report to the committees in the senate and house of representatives with

jurisdiction over mental health issues, the status of planning and development of the peer-run respite center, and the plan to financially support the program and services after the state grant is expended.

(b) Housing Options for Persons with Serious Mental Illness. \$1,250,000 in fiscal year 2018 and \$1,250,000 in fiscal year 2019 are from the general fund for adult mental health grants under Minnesota Statutes, section 245.4661, subdivision 9, paragraph (a), clause (2), to support increased availability of housing options with supports for persons with serious mental illness. This is a onetime appropriation.

(c) Assertive Community Treatment. \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are from the general fund for adult mental health grants under Minnesota Statutes, section 256B.0622, subdivision 12, to expand assertive community treatment services. This is a onetime appropriation.

(d) Mental Health Crisis Services. \$1,000,000 in fiscal year 2018 and \$1,000,000 in fiscal year 2019 are from the general fund for adult mental health grants under Minnesota Statutes, section 245.4661, and children's mental health grants under Minnesota Statutes, section 245.4889, to expand mental health crisis services, including:

(1) mobile crisis services;

(2) residential crisis services;

(3) colocation of mobile crisis services in urgent care clinics and psychiatric emergency departments; and

(4) development of co-responder mental health crisis response models.

This is a onetime appropriation.

(e) **Housing with Supports.** \$750,000 in fiscal year 2018 and \$750,000 in fiscal year 2019 are for the housing with supports for adults with serious mental illness grant under Minnesota Statutes, section 245.4661, subdivision 9, paragraph (a), clause (2). This is a onetime appropriation.

(f) **Base Level Adjustment.** The general fund base is \$79,802,000 in fiscal year 2020 and \$79,802,000 in fiscal year 2021.

Subd. 31. Grant Programs; Child Mental Health Grants

23,050,000

22,458,000

(a) **Children's Mental Health Collaborative Grants.** \$600,000 in fiscal year 2018 and \$600,000 in fiscal year 2019 are for a grant for a rural multicounty demonstration project to assist transition-aged youth and young adults with emotional behavioral disturbance or mental illnesses in making a successful transition into adulthood. This is a onetime appropriation.

Children's mental health collaboratives under Minnesota Statutes, section 245.493, are eligible to apply for the grant under this paragraph. The commissioner shall solicit proposals and award the grant to one proposal that best meets the requirement that a demonstration project must:

(1) build on and streamline transition services by identifying rural youth 15 to 25 years of age currently in the mental health system or with emerging mental health conditions;

(2) support youth to achieve, within the youth's potential, personal goals in employment, education, housing, and community life functioning;

(3) provide individualized motivational coaching;

(4) build on needed social supports;

(5) demonstrate how services can be enhanced for youth to successfully navigate the complexities associated with their unique needs;

(6) use all available funding streams;

(7) demonstrate collaboration with the local children's mental health collaborative in designing and implementing the demonstration project;

(8) evaluate the effectiveness of the project by specifying and measuring outcomes showing the level of progress for involved youth; and

(9) compare differences in outcomes and costs to youth without previous access to this project.

By January 15, 2019, the commissioner shall report to the legislative committees with jurisdiction over mental health issues on the status and outcomes of the demonstration project. The children's mental health collaborative administering the demonstration project shall collect and report outcome data, as requested by the commissioner, to support the development of the report.

(b) First Psychotic Episode Funding.
\$750,000 in fiscal year 2018 and \$750,000 in fiscal year 2019 are for grants under Minnesota Statutes, section 245.4889, subdivision 1, paragraph (b), clause (15). Funding shall be used to:

(1) provide intensive treatment and supports to adolescents and adults experiencing or at risk of a first psychotic episode. Intensive treatment and support includes medication management, psychoeducation for the individual and family, case management, employment supports, education supports, cognitive behavioral approaches, social skills training, peer support, crisis planning, and

stress management. Projects must use all available funding streams;

(2) conduct outreach, training, and guidance to mental health and health care professionals, including postsecondary health clinics, on early psychosis symptoms, screening tools, and best practices; and

(3) ensure access to first psychotic episode psychosis services under this section, including ensuring access for individuals who live in rural areas. Funds may be used to pay for housing or travel or to address other barriers to individuals and their families participating in first psychotic episode services.

(c) Children's School-Linked Mental Health Grants. \$2,000,000 in fiscal year 2018 and \$2,000,000 in fiscal year 2019 are for children's school-linked mental health grants under Minnesota Statutes, section 245.4889, subdivision 1, paragraph (b), clause (8), to expand services to school districts or counties in which school-linked mental health services are not available and to fund transportation for children using school-linked mental health services when school is not in session. The commissioner shall require grantees to use all available third-party reimbursement sources as a condition of the receipt of grant funds. For purposes of this appropriation, a third-party reimbursement source does not include a public school under Minnesota Statutes, section 120A.20, subdivision 1.

(d) Respite Care Services. \$282,000 in fiscal year 2018 and \$282,000 in fiscal year 2019 are for children's mental health grants under Minnesota Statutes, section 245.4889, subdivision 1, paragraph (b), clause (3), to provide respite care services to families of children with serious mental illness. This is a onetime appropriation.

(e) Text Message Suicide Prevention and Mental Health Crisis Response Program.

\$657,000 in fiscal year 2018 is from the general fund for a grant to a nonprofit to make the text message suicide prevention and mental health crisis response program available statewide. This is a onetime appropriation. The nonprofit shall use grant funds to:

(1) operate the text message suicide prevention and mental health crisis response program statewide and provide a method of response that triages inquiries, provides immediate access to suicide prevention and crisis counseling over the telephone or via text messaging, and provides individual, family, or community education;

(2) connect individuals with trained crisis counselors and access to local resources, including referrals to community mental health options, emergency departments, and locally available mobile crisis teams, when appropriate;

(3) maximize availability of services and access across the state, in conjunction with other suicide prevention programs and services; and

(4) provide community education on the availability of the program and how to access the program.

(f) Base Level Adjustment. The general fund base is \$20,826,000 in fiscal year 2020 and \$20,826,000 in fiscal year 2021.

Subd. 32. Grant Programs; Chemical Dependency Treatment Support Grants

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>2,636,000</u>	<u>2,636,000</u>
<u>Lottery Prize</u>	<u>1,733,000</u>	<u>1,733,000</u>

(a) Problem Gambling. \$225,000 in fiscal year 2018 and \$225,000 in fiscal year 2019 are from the lottery prize fund for a grant to

the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education, and training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research related to problem gambling.

(b) Minnesota Organization on Fetal Alcohol Syndrome. \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are for a grant to the Minnesota Organization on Fetal Alcohol Syndrome (MOFAS). This is a onetime appropriation. Of this amount, MOFAS shall make grants to eligible regional collaboratives that fulfill the requirements in this paragraph. "Eligible regional collaboratives" means a partnership between at least one local government and at least one community-based organization and, where available, a family home visiting program. For purposes of this paragraph, a local government includes a county or multicounty organization, a tribal government, a county-based purchasing entity, or a community health board. Eligible regional collaboratives must use grant funds to reduce the incidence of fetal alcohol syndrome disorders and other prenatal drug-related effects in children in Minnesota by identifying and serving pregnant women suspected of or known to use or abuse alcohol or other drugs. The eligible regional collaboratives must provide intensive services to chemically dependent women to increase positive birth outcomes. MOFAS must make grants to eligible regional collaboratives from both rural and urban areas. A grant recipient must report to the commissioner of human services annually by January 15 on the services and programs funded by the appropriation. The report must include measurable outcomes for the previous year, including the number of pregnant women served and the number of toxic-free babies born.

(c) Base Level Adjustment. The general fund base is \$2,136,000 in fiscal year 2020 and \$2,136,000 in fiscal year 2021.

Subd. 33. Direct Care and Treatment - Generally

(a) Transfer Authority. Money appropriated to budget activities under subdivisions 34, 35, 36, 37, and 38 may be transferred between budget activities and between years of the biennium with the approval of the commissioner of management and budget.

(b) Dedicated Receipts Available. Of the revenue received under Minnesota Statutes, section 246.18, subdivision 8, paragraph (a), up to \$1,000,000 each year is available for the purposes of Minnesota Statutes, section 246.18, subdivision 8, paragraph (b), clause (1); and up to \$2,713,000 each year is available for the purposes of Minnesota Statutes, section 246.18, subdivision 8, paragraph (b), clause (2).

Subd. 34. Direct Care and Treatment - Mental Health and Substance Abuse

114,521,000

114,607,000

(a) Child and Adolescent Behavioral Health Services. \$405,000 in fiscal year 2018 and \$491,000 in fiscal year 2019 are to continue to operate the child and adolescent behavioral health services program under Minnesota Statutes, section 246.014. This is a onetime appropriation.

(b) Base Level Adjustment. The general fund base is \$114,116,000 in fiscal year 2020 and \$114,116,000 in fiscal year 2021.

Subd. 35. Direct Care and Treatment - Community-Based Services

15,298,000

15,298,000

Subd. 36. Direct Care and Treatment - Forensic Services

91,658,000

91,675,000

Subd. 37. Direct Care and Treatment - Sex Offender Program

86,731,000

86,731,000

Transfer Authority. Money appropriated for the Minnesota sex offender program may

be transferred between fiscal years of the biennium with the approval of the commissioner of management and budget.

Subd. 38. <u>Direct Care and Treatment - Operations</u>	<u>42,744,000</u>	<u>42,744,000</u>
Subd. 39. <u>Technical Activities</u>	<u>86,186,000</u>	<u>86,339,000</u>

(a) This appropriation is from the federal TANF fund.

(b) **Base Level Adjustment.** The TANF fund base is \$86,346,000 in fiscal year 2020 and \$86,355,000 in fiscal year 2021.

Sec. 3. COMMISSIONER OF HEALTH

Subdivision 1. <u>Total Appropriation</u>	<u>\$</u>	<u>206,445,000</u>	<u>\$</u>	<u>198,015,000</u>
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Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>105,966,000</u>	<u>98,389,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>52,356,000</u>	<u>52,090,000</u>
<u>Health Care Access</u>	<u>37,566,000</u>	<u>36,979,000</u>
<u>Federal TANF</u>	<u>10,557,000</u>	<u>10,557,000</u>

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

Subd. 2. Health Improvement

Appropriations by Fund

<u>General</u>	<u>83,839,000</u>	<u>76,336,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>6,215,000</u>	<u>6,182,000</u>
<u>Health Care Access</u>	<u>37,566,000</u>	<u>36,979,000</u>
<u>Federal TANF</u>	<u>10,557,000</u>	<u>10,557,000</u>

(a) **TANF Appropriations.** (1) \$3,579,000 of the TANF fund each year is 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.

(2) \$2,000,000 of the TANF fund each year is for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7.

(3) \$4,978,000 of the TANF fund each year is 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. \$978,000 of the funding must be distributed to tribal governments according to Minnesota Statutes, section 145A.14, subdivision 2a.

(4) The commissioner may use up to 6.23 percent of the funds appropriated each year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

(b) **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.

(c) **Evidence-Based Home Visiting.** \$1,500,000 in fiscal year 2018 and \$1,500,000 in fiscal year 2019 are from the general fund to provide start-up and expansion grants to community health boards, nonprofit organizations, and tribal nations to start up or expand evidence-based home visiting programs. Grant funds must be used to start up or expand evidence-based home visiting programs in the county, reservation, or region to serve families, such as parents with high risk or high needs, parents with a history of mental illness, domestic abuse, or substance abuse, or first-time mothers prenatally until the child is four years of age, who are eligible for medical assistance under Minnesota Statutes, chapter 256B, or the federal Special

Supplemental Nutrition Program for Women, Infants, and Children. The commissioner shall award grants to community health boards, nonprofits, or tribal nations in metropolitan and rural areas of the state. Priority for grants to rural areas shall be given to community health boards, nonprofits, and tribal nations that expand services within regional partnerships that provide the evidence-based home visiting programs. This funding shall only be used to supplement, not to replace, funds being used for evidence-based home visiting services as of June 30, 2017. The general fund base for these grants is \$750,000 in fiscal year 2020 and \$750,000 in fiscal year 2021.

(d) Safe Harbor for Sexually Exploited Youth Services. \$325,000 in fiscal year 2018 and \$325,000 in fiscal year 2019 are from the general fund for trauma-informed, culturally specific services for sexually exploited youth. Youth 24 years of age or younger are eligible for services under this paragraph.

(e) Safe Harbor Program Technical Assistance and Evaluation. \$225,000 in fiscal year 2018 and \$225,000 in fiscal year 2019 are from the general fund for training, technical assistance, protocol implementation, and evaluation activities related to the safe harbor program. Of these amounts:

(1) \$100,000 each fiscal year is for providing training and technical assistance to individuals and organizations that provide safe harbor services and receive funds for that purpose from the commissioner of human services or commissioner of health;

(2) \$100,000 each fiscal year is for protocol implementation, which includes providing technical assistance in establishing best practices-based systems for effectively identifying, interacting with, and referring

sexually exploited youth to appropriate resources; and

(3) \$25,000 each fiscal year is for program evaluation activities in compliance with Minnesota Statutes, section 145.4718.

(f) **Promoting Safe Harbor Capacity.** In funding services and activities under paragraphs (d) and (e), the commissioner shall emphasize activities that promote capacity-building and development of resources in greater Minnesota.

(g) **Administration of Safe Harbor Program.** \$60,000 in fiscal year 2018 and \$60,000 in fiscal year 2019 are for administration of the safe harbor for sexually exploited youth program.

(h) **Palliative Care Advisory Council.** \$44,000 in fiscal year 2018 and \$44,000 in fiscal year 2019 are from the general fund for the Palliative Care Advisory Council under Minnesota Statutes, section 144.059.

(i) **Grants for Drug Deactivation and Disposal.** \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are from the general fund to provide grants to pharmacists and other prescription drug dispensers, local public health and human services agencies, local law enforcement, health care providers, and other entities to purchase omni-degradable, at-home prescription drug deactivation and disposal products to assist the public in the disposal of prescription drugs in a safe, environmentally sound manner. A grant recipient must provide these deactivation and disposal products free of charge to members of the public. This is a onetime appropriation.

(j) **Early Dental Disease Prevention Pilot Program.** \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are from the general fund for early dental disease prevention and awareness activities under

Minnesota Statutes, section 144.061. This is a onetime appropriation. Funding shall be used to:

(1) award grants to five designated communities of color or communities of recent immigrants to participate in a pilot program to increase awareness and encourage early preventive dental disease intervention for infants and toddlers. At least two of the designated communities receiving grants under this clause must be located outside the seven-county metropolitan area;

(2) in consultation with members of the designated communities, distribute or cause to be distributed the educational materials developed under Minnesota Statutes, section 144.061, paragraph (b), to expectant and new parents within the designated communities. The materials shall be distributed as provided in Minnesota Statutes, section 144.061, paragraph (c), and through a variety of communicative means, including oral, visual, audio, and print. The commissioner shall assist designated communities with developing strategies, including outreach through ethnic radio, Webcasts, and local cable programs, and incentives to ensure the educational materials and information are distributed and to encourage and provide early preventive dental disease intervention and care for infants and toddlers that are geared toward the ethnic groups residing in the designated community;

(3) develop measurable outcomes, establish a baseline measurement, and evaluate performance within each designated community to measure whether the educational materials, information, strategies, and incentives increased the number of infants and toddlers receiving early preventative dental disease intervention and care; and

(4) by March 15, 2019, report to the chairs and ranking minority members of the

legislative committees with jurisdiction over health care on the details of the program funded under this paragraph, communities designated for the program, strategies and any incentives implemented, and the results of the evaluation for each designated community.

(k) Minnesota Biomedicine and Bioethics Innovation Grants. \$5,000,000 in fiscal year 2018 is from the general fund for Minnesota biomedicine and bioethics innovation grants under Minnesota Statutes, section 144.88. This is a onetime appropriation and is available until June 30, 2021.

(l) Statewide Strategic Plan for Victims of Sex Trafficking. \$73,000 in fiscal year 2018 is from the general fund for the development of a comprehensive statewide strategic plan and report to address the needs of sex trafficking victims statewide. This is a onetime appropriation.

(m) Statewide Tobacco Quitline Service. Of the health care access fund appropriation for the statewide health improvement program, \$461,000 in fiscal year 2018 and \$2,969,000 in fiscal year 2019 are for administering or contracting for the administration of the statewide tobacco quitline service established under Minnesota Statutes, section 144.397.

(n) Home and Community-Based Services Employee Scholarship Program. \$1,000,000 in fiscal year 2018 and \$1,000,000 in fiscal year 2019 are from the general fund for the home and community-based services employee scholarship program under Minnesota Statutes, section 144.1503.

(o) Comprehensive Advanced Life Support Educational Program. \$100,000 in fiscal year 2018 and \$100,000 in fiscal year 2019 are from the general fund for the comprehensive advanced life support

educational program under Minnesota Statutes, section 144.6062. This is a onetime appropriation.

(p) Senior Care Workforce Innovation Grant Program. \$1,000,000 in fiscal year 2018 and \$1,000,000 in fiscal year 2019 are from the general fund for the senior care workforce innovation grant program under Minnesota Statutes, section 144.1504.

(q) Physician Residency Expansion Grant Program. \$1,500,000 in fiscal year 2018 and \$1,500,000 in fiscal 2019 are from the health care access fund for the physician residency expansion grant program under Minnesota Statutes, section 144.1506.

(r) Opioid Abuse Prevention. \$2,028,000 in fiscal year 2018 is to establish accountable community for health opioid abuse prevention pilot projects. \$28,000 of this amount is for administration. This is a onetime appropriation.

(s) Opioid Prescriber Education. \$535,000 in fiscal year 2018 and \$535,000 in fiscal year 2019 are for opioid prescriber education and public awareness grants under Minnesota Statutes, section 145.9263. \$35,000 in fiscal year 2018 and \$35,000 in fiscal year 2019 are for administration.

(t) Advanced Care Planning. \$500,000 in fiscal year 2018 and \$500,000 in fiscal year 2019 are from the general fund for a grant to a statewide advanced care planning resource organization that has expertise in convening and coordinating community-based strategies to encourage individuals, families, caregivers, and health care providers to begin conversations regarding end-of-life care choices that express an individual's health care values and preferences and are based on informed health care decisions. Of this amount, \$9,000 each year is for administration.

(u) Health Professionals Clinical Training Expansion Grant Program. \$1,000,000 in fiscal year 2018 and \$1,000,000 in fiscal year 2019 are from the general fund for the primary care and mental health professions clinical training expansion grant program under Minnesota Statutes, section 144.1505.

(v) Youth Sports Concussion Working Group and Brain Health Pilot Programs. \$450,000 in fiscal year 2018 is from the general fund for the youth sports concussion working group and brain health pilot programs. This is a onetime appropriation. Of this appropriation:

(1) \$150,000 is for the youth sports concussion working group, including any required incidence research; and

(2) \$300,000 is for the brain health pilot programs.

(w) Base Level Adjustments. The general fund base is \$74,436,000 in fiscal year 2020 and \$74,486,000 in fiscal year 2021. The health care access fund base is \$37,579,000 in fiscal year 2020 and \$36,979,000 in fiscal year 2021.

Subd. 3. Health Protection

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>14,552,000</u>	<u>14,478,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>46,141,000</u>	<u>45,908,000</u>

(a) Prescribed Pediatric Extended Care Center Licensure Activities. \$64,000 in fiscal year 2018 and \$17,000 in fiscal year 2019 are from the state government special revenue fund for licensure of prescribed pediatric extended care centers under Minnesota Statutes, chapter 144H.

(b) Vulnerable Adults in Health Care Settings. \$633,000 in fiscal year 2018 and \$559,000 in fiscal year 2019 are from the

general fund for regulating health care and home care settings.

(c) Base Level Adjustment. The general fund base is \$14,867,000 in fiscal year 2020 and \$14,777,000 in fiscal year 2021. The state government special revenue fund base is \$45,881,000 in fiscal year 2020 and \$45,873,000 in fiscal year 2021.

Subd. 4. Health Operations	<u>7,575,000</u>	<u>7,575,000</u>
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Sec. 4. **HEALTH-RELATED BOARDS**

Subdivision 1. Total Appropriation	<u>\$ 24,986,000</u>	<u>\$ 23,279,000</u>
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This appropriation is from the state government special revenue fund. The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Board of Chiropractic Examiners	<u>565,000</u>	<u>571,000</u>
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Base Level Adjustment. The base is \$576,000 in fiscal year 2020 and \$576,000 in fiscal year 2021.

Subd. 3. Board of Dentistry	<u>1,396,000</u>	<u>1,408,000</u>
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Subd. 4. Board of Dietetics and Nutrition Practice	<u>130,000</u>	<u>132,000</u>
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Subd. 5. Board of Marriage and Family Therapy	<u>360,000</u>	<u>357,000</u>
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Base Level Adjustment. The base is \$360,000 in fiscal year 2020 and \$362,000 in fiscal year 2021.

Subd. 6. Board of Medical Practice	<u>5,194,000</u>	<u>5,330,000</u>
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This appropriation includes \$964,000 in fiscal year 2018 and \$964,000 in fiscal year 2019 for the health professional services program. The base for this program is \$924,000 in fiscal year 2020 and \$924,000 in fiscal year 2021.

Base Level Adjustment. The base is \$5,292,000 in fiscal year 2020 and \$5,292,000 in fiscal year 2021.

Subd. 7. Board of Nursing	<u>6,380,000</u>	<u>4,783,000</u>
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<u>Subd. 8. Board of Nursing Home Administrators</u>	<u>3,397,000</u>	<u>3,202,000</u>
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(a) Administrative Services Unit - Operating Costs. Of this appropriation, \$2,260,000 in fiscal year 2018 and \$2,287,000 in fiscal year 2019 are for operating costs of the administrative services unit. The administrative services unit may receive and expend reimbursements for services it performs for other agencies.

(b) Administrative Services Unit - Volunteer Health Care Provider Program. Of this appropriation, \$150,000 in fiscal year 2018 and \$150,000 in fiscal year 2019 are to pay for medical professional liability coverage required under Minnesota Statutes, section 214.40.

(c) Administrative Services Unit - Retirement Costs. Of this appropriation, \$378,000 in fiscal year 2019 is a onetime appropriation to the administrative services unit to pay for the retirement costs of health-related board employees. This funding may be transferred to the health board incurring retirement costs. Any board that has an unexpended balance for an amount transferred under this paragraph shall transfer the unexpended amount to the administrative services unit. These funds are available either year of the biennium.

(d) Administrative Services Unit - Health-Related Licensing Boards Operating Costs. Of this appropriation, \$194,000 in fiscal year 2018 and \$350,000 in fiscal year 2019 shall be transferred to the health-related boards funded under this section for operating costs. The administrative services unit shall determine transfer amounts in consultation with the health-related boards funded under this section.

(e) Administrative Services Unit - Contested Cases and Other Legal Proceedings. Of this appropriation, \$200,000

in fiscal year 2018 and \$200,000 in fiscal year 2019 are for costs of contested case hearings and other unanticipated costs of legal proceedings involving health-related boards funded under this section. Upon certification by a health-related board to the administrative services unit that 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 management and budget. The commissioner of management and budget must require any board that has an unexpended balance for an amount transferred under this paragraph to transfer the unexpended amount to the administrative services unit to be deposited in the state government special revenue fund.

<u>Subd. 9. Board of Optometry</u>	<u>156,000</u>	<u>157,000</u>
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<u>Subd. 10. Board of Pharmacy</u>	<u>3,124,000</u>	<u>3,164,000</u>
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Base Level Adjustment. The base is \$3,189,000 in fiscal year 2020 and \$3,226,000 in fiscal year 2021.

<u>Subd. 11. Board of Physical Therapy</u>	<u>521,000</u>	<u>522,000</u>
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Base Level Adjustment. The base is \$524,000 in fiscal year 2020 and \$526,000 in fiscal year 2021.

<u>Subd. 12. Board of Podiatric Medicine</u>	<u>204,000</u>	<u>204,000</u>
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<u>Subd. 13. Board of Psychology</u>	<u>1,220,000</u>	<u>1,240,000</u>
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Base Level Adjustment. The base is \$1,247,000 in fiscal year 2020 and \$1,247,000 in fiscal year 2021.

<u>Subd. 14. Board of Social Work</u>	<u>1,254,000</u>	<u>1,246,000</u>
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Base Level Adjustment. The base is \$1,248,000 in fiscal year 2020 and \$1,250,000 in fiscal year 2021.

<u>Subd. 15. Board of Veterinary Medicine</u>	<u>314,000</u>	<u>320,000</u>
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Base Level Adjustment. The base is \$327,000 in fiscal year 2020 and \$333,000 in fiscal year 2021.

Subd. 16. Board of Behavioral Health and Therapy	<u>771,000</u>	<u>643,000</u>
Subd. 17. Board of Occupational Therapy Practice	<u>374,000</u>	<u>328,000</u>

Sec. 5. EMERGENCY MEDICAL SERVICES REGULATORY BOARD	\$	<u>4,509,000</u>	\$	<u>4,438,000</u>
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(a) Cooper/Sams Volunteer Ambulance Program. \$1,300,000 in fiscal year 2018 and \$1,300,000 in fiscal year 2019 are for the Cooper/Sams volunteer ambulance program under Minnesota Statutes, section 144E.40. The base for this program is \$700,000 in fiscal year 2020 and \$700,000 in fiscal year 2021.

(1) Of this amount, \$1,211,000 in fiscal year 2018 and \$1,211,000 in fiscal year 2019 are for the ambulance service personnel longevity award and incentive program under Minnesota Statutes, section 144E.40. The base for this program is \$611,000 in fiscal year 2020 and \$611,000 in fiscal year 2021.

(2) Of this amount, \$89,000 in fiscal year 2018 and \$89,000 in fiscal year 2019 are for the operations of the ambulance service personnel longevity award and incentive program under Minnesota Statutes, section 144E.40.

(b) EMSRB Board Operations. \$1,360,000 in fiscal year 2018 and \$1,360,000 in fiscal year 2019 are for board operations.

(c) Regional Grants. \$585,000 in fiscal year 2018 and \$585,000 in fiscal year 2019 are for regional emergency medical services programs, to be distributed equally to the eight emergency medical service regions under Minnesota Statutes, section 144E.50.

(d) Ambulance Training Grant. \$361,000 in fiscal year 2018 and \$361,000 in fiscal

Special Revenue Fund	250,000	0
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(a) \$802,000 the first year and \$802,000 the second year are for the Minnesota Geospatial Information Office. Of the total appropriation, \$10,000 per year is intended for preparation of township acreage data in Laws 2008, chapter 366, article 17, section 7, subdivision 3.

(b) \$74,000 the first year and \$74,000 the second year are for the Council on Developmental Disabilities.

~~(c) \$127,000 the first year and \$127,000 the second year are for transfer to the commissioner of human services for a grant to the Council on Developmental Disabilities for the purpose of establishing a statewide self-advocacy network for persons with intellectual and developmental disabilities (ID/DD). The self-advocacy network shall: (1) ensure that persons with ID/DD are informed of their rights in employment, housing, transportation, voting, government policy, and other issues pertinent to the ID/DD community; (2) provide public education and awareness of the civil and human rights issues persons with ID/DD face; (3) provide funds, technical assistance, and other resources for self-advocacy groups across the state; and (4) organize systems of communications to facilitate an exchange of information between self-advocacy groups. This appropriation must be included in the base budget for the commissioner of human services for the biennium beginning July 1, 2011.~~

(d) \$250,000 the first year and \$170,000 the second year are to fund activities to prepare for and promote the 2010 census.

(e) \$206,000 the first year and \$206,000 the second year are for the Office of the State Archaeologist.

(f) \$8,388,000 the first year and \$8,388,000 the second year are for office space costs of the legislature and veterans organizations, for ceremonial space, and for statutorily free space.

(g) \$3,500,000 of the balance in the facilities repair and replacement account in the special revenue fund is canceled to the general fund on July 1, 2009. This is a onetime cancellation.

(h) The requirements imposed on the commissioner of finance and the commissioner of administration under Laws 2007, chapter 148, article 1, section 12, subdivision 2, paragraph (b), relating to the savings attributable to the real property portfolio management system are inoperative.

(i) \$250,000 is appropriated to the commissioner of administration from the information and telecommunications account in the special revenue fund to continue planning for data center consolidation, including beginning a predesign study and lifecycle cost analysis, and exploring technologies to reduce energy consumption and operating costs.

Subd. 3. Administrative Management Support

1,876,000

1,851,000

\$125,000 each year is for the Office of Grant Management. During the biennium ending June 30, 2011, the commissioner must recover this amount through deductions in state grants subject to the jurisdiction of the office. The commissioner may not deduct more than 2.5 percent from the amount of any grant. The amount deducted from appropriations for these grants must be deposited in the general fund.

\$25,000 the first year is for the Office of Grants Management to study and make recommendations on improving collaborative activities between the state, nonprofit entities, and the private sector, including: (1)

recommendations for expanding successful initiatives involving not-for-profit organizations that have demonstrated measurable, positive results in addressing high-priority community issues; and (2) recommendations on grant requirements and design to encourage programs receiving grants to become self-sufficient. The office may appoint an advisory group to assist in the study and recommendations. The office must report its recommendations to the legislature by January 15, 2010.

Sec. 11. Laws 2012, chapter 247, article 6, section 2, subdivision 2, is amended to read:

Subd. 2. Central Office Operations

(a) Operations	118,000	356,000
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Base Level Adjustment. The general fund base is increased by \$91,000 in fiscal year 2014 and \$44,000 in fiscal year 2015.

(b) Health Care	24,000	346,000
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This is a onetime appropriation.

Managed Care Audit Activities. In fiscal year 2014, ~~and in each even-numbered year thereafter,~~ the commissioner shall transfer from the health care access fund \$1,740,000 to the legislative auditor for managed care audit services under Minnesota Statutes, section 256B.69, subdivision 9d. This is a biennial appropriation. The health care access fund base is increased by \$1,842,000 in fiscal year 2014. ~~Notwithstanding any contrary provision in this article, this paragraph does not expire.~~

(c) Continuing Care	19,000	375,000
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Base Level Adjustment. The general fund base is decreased by \$159,000 in fiscal years 2014 and 2015.

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

Sec. 12. Laws 2013, chapter 108, article 15, section 2, subdivision 2, is amended to read:

Subd. 2. Central Office

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) Operations	2,909,000	8,957,000
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Base Adjustment. The general fund base is decreased by \$8,916,000 in fiscal year 2016 and \$8,916,000 in fiscal year 2017.

(b) Children and Families	109,000	206,000
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(c) Continuing Care	2,849,000	3,574,000
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Base Adjustment. The general fund base is decreased by \$2,000 in fiscal year 2016 and by \$27,000 in fiscal year 2017.

(d) Group Residential Housing	(1,166,000)	(8,602,000)
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(e) Medical Assistance	(3,950,000)	(6,420,000)
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(f) Alternative Care	(7,386,000)	(6,851,000)
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(g) Child and Community Service Grants	3,000,000	3,000,000
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(h) Aging and Adult Services Grants	5,365,000	5,936,000
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~~**Gaps Analysis.** In fiscal year 2014, and in each even-numbered year thereafter, \$435,000 is appropriated to conduct an analysis of gaps in long-term care services under Minnesota Statutes, section 144A.351. This is a biennial appropriation. The base is increased by \$435,000 in fiscal year 2016. Notwithstanding any contrary provisions in this article, this provision does not expire.~~

Base Adjustment. The general fund base is increased by \$498,000 in fiscal year 2016, and decreased by \$124,000 in fiscal year 2017.

(i) Disabilities Grants	414,000	414,000
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Sec. 13. Laws 2015, chapter 71, article 14, section 3, subdivision 2, as amended by Laws 2015, First Special Session chapter 6, section 2, is amended to read:

Subd. 2. **Health Improvement**

	Appropriations by Fund	
General	68,653,000	68,984,000

State Government		
Special Revenue	6,264,000	6,182,000
Health Care Access	33,987,000	33,421,000
Federal TANF	11,713,000	11,713,000

Violence Against Asian Women Working Group. \$200,000 in fiscal year 2016 from the general fund is for the working group on violence against Asian women and children.

MERC Program. \$1,000,000 in fiscal year 2016 and \$1,000,000 in fiscal year 2017 are from the general fund for the MERC program under Minnesota Statutes, section 62J.692, subdivision 4.

Poison Information Center Grants. \$750,000 in fiscal year 2016 and \$750,000 in fiscal year 2017 are from the general fund for regional poison information center grants under Minnesota Statutes, section 145.93.

Advanced Care Planning. \$250,000 in fiscal year 2016 is from the general fund to award a grant to a statewide advance care planning resource organization that has expertise in convening and coordinating community-based strategies to encourage individuals, families, caregivers, and health care providers to begin conversations regarding end-of-life care choices that express an individual's health care values and preferences and are based on informed health care decisions. This is a onetime appropriation.

Early Dental Prevention Initiatives. \$172,000 in fiscal year 2016 and \$140,000 in fiscal year 2017 are for the development and distribution of the early dental prevention initiative under Minnesota Statutes, section 144.3875.

International Medical Graduate Assistance Program. (a) \$500,000 in fiscal year 2016 and \$500,000 in fiscal year 2017 are from the health care access fund for the grant programs and necessary contracts under

Minnesota Statutes, section 144.1911, subdivisions 3, paragraph (a), clause (4), and 4 and 5. The commissioner may use up to \$133,000 per year of the appropriation for international medical graduate assistance program administration duties in Minnesota Statutes, section 144.1911, subdivisions 3, 9, and 10, and for administering the grant programs under Minnesota Statutes, section 144.1911, subdivisions 4, 5, and 6. The commissioner shall develop recommendations for any additional funding required for initiatives needed to achieve the objectives of Minnesota Statutes, section 144.1911. The commissioner shall report the funding recommendations to the legislature by January 15, 2016, in the report required under Minnesota Statutes, section 144.1911, subdivision 10. The base for this purpose is \$1,000,000 in fiscal years 2018 and 2019.

(b) \$500,000 in fiscal year 2016 and \$500,000 in fiscal year 2017 are from the health care access fund for transfer to the revolving international medical graduate residency account established in Minnesota Statutes, section 144.1911, subdivision 6. This is a onetime appropriation.

Federally Qualified Health Centers. \$1,000,000 in fiscal year 2016 and \$1,000,000 in fiscal year 2017 are from the general fund to provide subsidies to federally qualified health centers under Minnesota Statutes, section 145.9269. This is a onetime appropriation.

Organ Donation. \$200,000 in fiscal year 2016 is from the general fund to establish a grant program to develop and create culturally appropriate outreach programs that provide education about the importance of organ donation. Grants shall be awarded to a federally designated organ procurement organization and hospital system that performs transplants. This is a onetime appropriation.

Primary Care Residency. \$1,500,000 in fiscal year 2016 and \$1,500,000 in fiscal year 2017 are from the general fund for the purposes of the primary care residency expansion grant program under Minnesota Statutes, section 144.1506.

Somali Women's Health Pilot Autism Program. ~~(a) The commissioner of health shall establish a pilot program between one or more federally qualified health centers, as defined under Minnesota Statutes, section 145.9269, a nonprofit organization that helps Somali women, and the Minnesota Evaluation Studies Institute, to develop a promising strategy to address the preventative and primary health care needs of, and address health inequities experienced by, first generation Somali women. The pilot program must collaboratively develop a patient flow process for first generation Somali women by:~~

~~(1) addressing and identifying clinical and cultural barriers to Somali women accessing preventative and primary care, including, but not limited to, cervical and breast cancer screenings;~~

~~(2) developing a culturally appropriate health curriculum for Somali women based on the outcomes from the community-based participatory research report "Cultural Traditions and the Reproductive Health of Somali Refugees and Immigrants" to increase the health literacy of Somali women and develop culturally specific health care information; and~~

~~(3) training the federally qualified health center's providers and staff to enhance provider and staff cultural competence regarding the cultural barriers, including female genital cutting.~~

~~(b) The pilot program must develop a process that results in increased screening rates for cervical and breast cancer and can be~~

~~replicated by other providers serving ethnic minorities. The pilot program must conduct an evaluation of the new patient flow process used by Somali women to access federally qualified health centers services award a grant to Dakota County to partner with a community-based organization with expertise in serving Somali children with autism. The grant must address barriers to accessing health care and other resources by providing outreach to Somali families on available support and training to providers on Somali culture.~~

~~(c) The pilot program must report the outcomes to the commissioner by June 30, 2017. The grantee shall report to the commissioner and the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance on the grant funds used and any notable outcomes achieved by January 15, 2019.~~

~~(d) \$110,000 in fiscal year 2016 is for the Somali women's health pilot program grant to Dakota County. Of this appropriation, the commissioner may use up to \$10,000 to administer the program grant to Dakota County. This appropriation is available until June 30, 2017. This is a onetime appropriation.~~

Menthol Cigarette Usage in African-American Community Intervention Grants. Of the health care access fund appropriation for the statewide health improvement program, \$200,000 in fiscal year 2016 is for at least one grant that must be awarded by the commissioner to implement strategies and interventions to reduce the disproportionately high usage of cigarettes by African-Americans, especially the use of menthol-flavored cigarettes, as well as the disproportionate harm tobacco causes in that community. The grantee shall engage members of the African-American community and community-based

organizations. This grant shall be awarded as part of the statewide health improvement program grants awarded on November 1, 2015, and must meet the requirements of Minnesota Statutes, section 145.986.

Targeted Home Visiting System. (a) \$75,000 in fiscal year 2016 is for the commissioner of health, in consultation with the commissioners of human services and education, community health boards, tribal nations, and other home visiting stakeholders, to design baseline training for new home visitors to ensure statewide coordination across home visiting programs.

(b) \$575,000 in fiscal year 2016 and \$2,000,000 fiscal year 2017 are to provide grants to community health boards and tribal nations for start-up grants for new nurse-family partnership programs and for grants to expand existing programs to serve first-time mothers, prenatally by 28 weeks gestation until the child is two years of age, who are eligible for medical assistance under Minnesota Statutes, chapter 256B, or the federal Special Supplemental Nutrition Program for Women, Infants, and Children. The commissioner shall award grants to community health boards or tribal nations in metropolitan and rural areas of the state. Priority for all grants shall be given to nurse-family partnership programs that provide services through a Minnesota health care program-enrolled provider that accepts medical assistance. Additionally, priority for grants to rural areas shall be given to community health boards and tribal nations that expand services within regional partnerships that provide the nurse-family partnership program. Funding available under this paragraph may only be used to supplement, not to replace, funds being used for nurse-family partnership home visiting services as of June 30, 2015.

Opiate Antagonists. \$270,000 in fiscal year 2016 and \$20,000 in fiscal year 2017 are

from the general fund for grants to the eight regional emergency medical services programs to purchase opiate antagonists and educate and train emergency medical services persons, as defined in Minnesota Statutes, section 144.7401, subdivision 4, clauses (1) and (2), in the use of these antagonists in the event of an opioid or heroin overdose. For the purposes of this paragraph, "opiate antagonist" means naloxone hydrochloride or any similarly acting drug approved by the federal Food and Drug Administration for the treatment of drug overdose. Grants under this paragraph must be distributed to all eight regional emergency medical services programs. This is a onetime appropriation and is available until June 30, 2017. The commissioner may use up to \$20,000 of the amount for opiate antagonists for administration.

Local and Tribal Public Health Grants.

(a) \$894,000 in fiscal year 2016 and \$894,000 in fiscal year 2017 are for an increase in local public health grants for community health boards under Minnesota Statutes, section 145A.131, subdivision 1, paragraph (e).

(b) \$106,000 in fiscal year 2016 and \$106,000 in fiscal year 2017 are for an increase in special grants to tribal governments under Minnesota Statutes, section 145A.14, subdivision 2a.

HCBS Employee Scholarships. \$1,000,000 in fiscal year 2016 and \$1,000,000 in fiscal year 2017 are from the general fund for the home and community-based services employee scholarship program under Minnesota Statutes, section 144.1503. The commissioner may use up to \$50,000 of the amount for the HCBS employee scholarships for administration.

Family Planning Special Projects. \$1,000,000 in fiscal year 2016 and \$1,000,000 in fiscal year 2017 are from the

general fund for family planning special project grants under Minnesota Statutes, section 145.925.

Positive Alternatives. \$1,000,000 in fiscal year 2016 and \$1,000,000 in fiscal year 2017 are from the general fund for positive abortion alternatives under Minnesota Statutes, section 145.4235.

Safe Harbor for Sexually Exploited Youth. \$700,000 in fiscal year 2016 and \$700,000 in fiscal year 2017 are from the general fund for the safe harbor program under Minnesota Statutes, sections 145.4716 to 145.4718. Funds shall be used for grants to increase the number of regional navigators; training for professionals who engage with exploited or at-risk youth; implementing statewide protocols and best practices for effectively identifying, interacting with, and referring sexually exploited youth to appropriate resources; and program operating costs.

Health Care Grants for Uninsured Individuals. (a) \$62,500 in fiscal year 2016 and \$62,500 in fiscal year 2017 are from the health care access fund for dental provider grants in Minnesota Statutes, section 145.929, subdivision 1.

(b) \$218,750 in fiscal year 2016 and \$218,750 in fiscal year 2017 are from the health care access fund for community mental health program grants in Minnesota Statutes, section 145.929, subdivision 2.

(c) \$750,000 in fiscal year 2016 and \$750,000 in fiscal year 2017 are from the health care access fund for the emergency medical assistance outlier grant program in Minnesota Statutes, section 145.929, subdivision 3.

(d) \$218,750 of the health care access fund appropriation in fiscal year 2016 and \$218,750 in fiscal year 2017 are for community health center grants under

Minnesota Statutes, section 145.9269. A community health center that receives a grant from this appropriation is not eligible for a grant under paragraph (b).

(e) The commissioner may use up to \$25,000 of the appropriations for health care grants for uninsured individuals in fiscal years 2016 and 2017 for grant administration.

TANF Appropriations. (a) \$1,156,000 of the TANF funds is appropriated each year of the biennium to the commissioner for family planning grants under Minnesota Statutes, section 145.925.

(b) \$3,579,000 of the TANF funds is appropriated each year of the biennium 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.

(c) \$2,000,000 of the TANF funds is appropriated each year of the biennium to the commissioner for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7.

(d) \$4,978,000 of the TANF funds is appropriated each year of the biennium 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. \$978,000 of the funding must be distributed to tribal governments as provided in Minnesota Statutes, section 145A.14, subdivision 2a.

(e) The commissioner may use up to 6.23 percent of the funds appropriated each fiscal

year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

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.

Health Professional Loan Forgiveness. \$2,631,000 in fiscal year 2016 and \$2,631,000 in fiscal year 2017 are from the health care access fund for the purposes of Minnesota Statutes, section 144.1501. Of this appropriation, the commissioner may use up to \$131,000 each year to administer the program.

Minnesota Stroke System. \$350,000 in fiscal year 2016 and \$350,000 in fiscal year 2017 are from the general fund for the Minnesota stroke system.

Prevention of Violence in Health Care. \$50,000 in fiscal year 2016 is to continue the prevention of violence in health care program and creating violence prevention resources for hospitals and other health care providers to use in training their staff on violence prevention. This is a onetime appropriation and is available until June 30, 2017.

Health Care Savings Determinations. (a) The health care access fund base for the state health improvement program is decreased by \$261,000 in fiscal year 2016 and decreased by \$110,000 in fiscal year 2017.

(b) \$261,000 in fiscal year 2016 and \$110,000 in fiscal year 2017 are from the health care access fund for the forecasting, cost reporting, and analysis required by Minnesota Statutes, section 62U.10, subdivisions 6 and 7.

Base Level Adjustments. The general fund base is decreased by \$1,070,000 in fiscal year 2018 and by \$1,020,000 in fiscal year 2019. The state government special revenue fund base is increased by \$33,000 in fiscal year 2018. The health care access fund base is increased by \$610,000 in fiscal year 2018 and by \$23,000 in fiscal year 2019.

Sec. 14. **TRANSFERS.**

Subdivision 1. **Grants.** The commissioner of human services, with the approval of the commissioner of management and budget, may transfer unencumbered appropriation balances for the biennium ending June 30, 2019, within fiscal years among the MFIP, general assistance, medical assistance, MinnesotaCare, MFIP child care assistance under Minnesota Statutes, section 119B.05, Minnesota supplemental aid, and group residential housing programs, the entitlement portion of Northstar Care for Children under Minnesota Statutes, chapter 256N, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium. The commissioner shall inform the chairs and ranking minority members of the senate Health and Human Services Finance and Policy Committee, the senate Human Services Reform Finance and Policy Committee, and the house of representatives Health and Human Services Finance Committee quarterly about transfers made under this subdivision.

Subd. 2. **Administration.** Positions, salary money, and nonsalary administrative money may be transferred within the Departments of Health and Human Services as the commissioners consider necessary, with the advance approval of the commissioner of management and budget. The commissioner shall inform the chairs and ranking minority members of the senate Health and Human Services Finance and Policy Committee, the senate Human Services Reform Finance and Policy Committee, and the house of representatives Health and Human Services Finance Committee quarterly about transfers made under this subdivision.

Sec. 15. **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. 16. **EXPIRATION OF UNCODIFIED LANGUAGE.**

All uncodified language contained in this article expires on June 30, 2019, unless a different expiration date is explicit.

Sec. 17. **EFFECTIVE DATE.**

This article is effective July 1, 2017, unless a different effective date is specified."

Delete the title and insert:

"A bill for an act relating to state government; establishing the health and human services budget; modifying provisions governing community supports, housing, continuing care, health care, health

insurance, direct care and treatment, children and families, chemical and mental health services, Department of Human Services operations, Health Department, health licensing boards, and opiate abuse prevention; making technical changes; modifying terminology and definitions; establishing licensing fix-it tickets; establishing federally facilitated marketplace; requiring legislative approval for certain federal waivers and approval; repealing MNsure; requiring reports; modifying fees; making forecast adjustments; appropriating money; amending Minnesota Statutes 2016, sections 3.972, by adding subdivisions; 13.32, by adding a subdivision; 13.46, subdivisions 1, 2; 13.69, subdivision 1; 13.84, subdivision 5; 62A.04, subdivision 1; 62A.21, subdivision 2a; 62A.3075; 62D.105; 62E.04, subdivision 11; 62E.05, subdivision 1; 62E.06, by adding a subdivision; 62K.15; 103I.101, subdivisions 2, 5; 103I.111, subdivisions 6, 7, 8; 103I.205; 103I.301; 103I.501; 103I.505; 103I.515; 103I.535, subdivisions 3, 6, by adding a subdivision; 103I.541; 103I.545, subdivisions 1, 2; 103I.711, subdivision 1; 103I.715, subdivision 2; 119B.13, subdivision 1; 144.0722, subdivision 1; 144.0724, subdivisions 1, 2, 4, 6, 9; 144.122; 144.1501, subdivision 2; 144.1506; 144.551, subdivision 1; 144.562, subdivision 2; 144.99, subdivision 1; 144A.071, subdivisions 3, 4a, 4c, 4d; 144A.073, subdivision 3c; 144A.10, subdivision 4; 144A.15, subdivision 2; 144A.154; 144A.161, subdivision 10; 144A.1888; 144A.351, subdivision 1; 144A.472, subdivision 7; 144A.474, subdivision 11; 144A.4799, subdivision 3; 144A.611, subdivision 1; 144A.70, subdivision 6, by adding a subdivision; 144A.74; 144D.04, subdivision 2, by adding a subdivision; 144D.06; 145.4131, subdivision 1; 145.4716, subdivision 2; 145.928, subdivision 13; 145.986, subdivision 1a; 147.01, subdivision 7; 147.02, subdivision 1; 147.03, subdivision 1; 147B.08, by adding a subdivision; 147C.40, by adding a subdivision; 148.5194, subdivision 7; 148.6402, subdivision 4; 148.6405; 148.6408, subdivision 2; 148.6410, subdivision 2; 148.6412, subdivision 2; 148.6415; 148.6418, subdivisions 1, 2, 4, 5; 148.6420, subdivisions 1, 3, 5; 148.6423; 148.6425, subdivisions 2, 3; 148.6428; 148.6443, subdivisions 5, 6, 7, 8; 148.6445, subdivisions 1, 10; 148.6448; 148.881; 148.89; 148.90, subdivisions 1, 2; 148.905, subdivision 1; 148.907, subdivisions 1, 2; 148.9105, subdivisions 1, 4, 5; 148.916, subdivisions 1, 1a; 148.925; 148.96, subdivision 3; 148B.53, subdivision 1; 150A.06, subdivisions 3, 8; 150A.10, subdivision 4; 151.212, subdivision 2; 152.11, by adding a subdivision; 152.25, subdivision 1, by adding subdivisions; 152.33, by adding a subdivision; 157.16, subdivision 1; 214.01, subdivision 2; 245.4889, subdivision 1; 245.814, subdivisions 2, 3; 245.91, subdivisions 4, 6; 245.94, subdivision 1; 245.97, subdivision 6; 245A.02, subdivisions 2b, 5a, by adding subdivisions; 245A.03, subdivisions 2, 7; 245A.04, subdivisions 4, 14; 245A.06, subdivisions 2, 8, by adding a subdivision; 245A.07, subdivision 3; 245A.11, by adding subdivisions; 245A.191; 245A.50, subdivision 5; 245D.03, subdivision 1; 245D.04, subdivision 3; 245D.071, subdivision 3; 245D.11, subdivision 4; 245D.24, subdivision 3; 246.18, subdivision 4, by adding a subdivision; 252.27, subdivision 2a; 252.41, subdivision 3; 253B.10, subdivision 1; 253B.22, subdivision 1; 254A.01; 254A.02, subdivisions 2, 3, 5, 6, 8, 10, by adding subdivisions; 254A.03; 254A.035, subdivision 1; 254A.04; 254A.08; 254A.09; 254A.19, subdivision 3; 254B.01, subdivision 3, by adding a subdivision; 254B.03, subdivision 2; 254B.04, subdivisions 1, 2b; 254B.05, subdivisions 1, 1a, 5; 254B.051; 254B.07; 254B.08; 254B.09; 254B.12, subdivision 2, by adding a subdivision; 254B.13, subdivision 2a; 256.045, subdivision 3; 256.9657, subdivision 1; 256.9686, subdivision 8; 256.969, subdivisions 1, 2b, 3a, 8, 8c, 9, 12; 256.975, subdivision 7, by adding a subdivision; 256B.04, subdivision 12; 256B.056, subdivision 5c; 256B.0621, subdivision 10; 256B.0625, subdivisions 3b, 6a, 7, 13, 13e, 17, 17b, 18h, 20, 30, 31, 45a, 64, by adding subdivisions; 256B.0653, subdivisions 2, 3, 4, 5, 6, by adding a subdivision; 256B.0659, subdivisions 1, 2, 11, 21, by adding a subdivision; 256B.072; 256B.0755, subdivisions 1, 3, 4, by adding a subdivision; 256B.0911, subdivisions 1a, 2b, 3a, 4d, 5, by adding a subdivision; 256B.0915, subdivisions 1, 3a, 3e, 3h, 5, by adding subdivisions; 256B.092, subdivision 4; 256B.0921; 256B.0922, subdivision 1;

256B.0924, by adding a subdivision; 256B.0943, subdivision 13; 256B.0945, subdivisions 2, 4; 256B.196, subdivisions 2, 3, 4; 256B.35, subdivision 4; 256B.431, subdivisions 10, 16, 30; 256B.434, subdivisions 4, 4f; 256B.49, subdivisions 11, 15; 256B.4913, subdivision 4a, by adding a subdivision; 256B.4914, subdivisions 2, 3, 5, 6, 7, 8, 9, 10, 16; 256B.493, subdivisions 1, 2, by adding a subdivision; 256B.50, subdivisions 1, 1b; 256B.5012, by adding subdivisions; 256B.69, subdivisions 5a, 9e, by adding a subdivision; 256B.75; 256B.763; 256B.766; 256C.23, subdivision 2, by adding subdivisions; 256C.233, subdivisions 1, 2; 256C.24, subdivisions 1, 2; 256C.261; 256D.44, subdivisions 4, 5; 256E.30, subdivision 2; 256I.03, subdivision 8; 256I.04, subdivisions 1, 2d, 2g, 3; 256I.05, subdivisions 1a, 1c, 1e, 1j, 1m, by adding subdivisions; 256I.06, subdivisions 2, 8; 256J.24, subdivision 5; 256J.45, subdivision 2; 256P.06, subdivision 2; 256R.02, subdivisions 4, 17, 18, 19, 22, 42, 52, by adding subdivisions; 256R.06, subdivision 5; 256R.07, by adding a subdivision; 256R.10, by adding a subdivision; 256R.37; 256R.40, subdivisions 1, 5; 256R.41; 256R.47; 256R.49, subdivision 1; 256R.53, subdivision 2; 260C.451, subdivision 6; 317A.811, subdivision 1, by adding a subdivision; 327.15, subdivision 3; 609.5315, subdivision 5c; 626.556, subdivisions 2, 3, 3c, 10d; Laws 2009, chapter 101, article 1, section 12; Laws 2012, chapter 247, article 6, section 2, subdivision 2; Laws 2013, chapter 108, article 15, section 2, subdivision 2; Laws 2015, chapter 71, article 14, section 3, subdivision 2, as amended; Laws 2017, chapter 2, article 1, sections 5; 7; proposing coding for new law in Minnesota Statutes, chapters 62J; 119B; 144; 145; 147A; 148; 245; 245A; 256; 256B; 256I; 256N; 256R; 317A; proposing coding for new law as Minnesota Statutes, chapters 144H; 245G; repealing Minnesota Statutes 2016, sections 13.468; 62V.01; 62V.02; 62V.03; 62V.04; 62V.05; 62V.051; 62V.055; 62V.06; 62V.07; 62V.08; 62V.09; 62V.10; 62V.11; 144.4961; 144A.351, subdivision 2; 147.0375, subdivision 7; 147A.21; 147B.08, subdivisions 1, 2, 3; 147C.40, subdivisions 1, 2, 3, 4; 148.6402, subdivision 2; 148.6450; 148.906; 148.907, subdivision 5; 148.908; 148.909, subdivision 7; 148.96, subdivisions 4, 5; 179A.50; 179A.51; 179A.52; 179A.53; 245A.1915; 245A.192; 254A.02, subdivision 4; 256B.4914, subdivision 16; 256B.64; 256B.7631; 256C.23, subdivision 3; 256C.233, subdivision 4; 256C.25, subdivisions 1, 2; 256J.626, subdivision 5; Laws 2012, chapter 247, article 4, section 47, as amended; Laws 2014, chapter 312, article 23, section 9, subdivision 5; Laws 2015, chapter 71, article 7, section 54; Minnesota Rules, parts 5600.2500; 9530.6405, subparts 1, 1a, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 14a, 15, 15a, 16, 17, 17a, 17b, 17c, 18, 20, 21; 9530.6410; 9530.6415; 9530.6420; 9530.6422; 9530.6425; 9530.6430; 9530.6435; 9530.6440; 9530.6445; 9530.6450; 9530.6455; 9530.6460; 9530.6465; 9530.6470; 9530.6475; 9530.6480; 9530.6485; 9530.6490; 9530.6495; 9530.6500; 9530.6505."

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

Senate Conferees: Michelle R. Benson, Jim Abeler, Karin Housley, Paul Utke

House Conferees: Matt Dean, Joe Schomacker, Tony Albright, Debra Kiel

Senator Benson moved the foregoing recommendations and Conference Committee report on S.F. No. 800 be now adopted, and that the bill be repassed as amended by the Conference Committee.

CALL OF THE SENATE

Senator Lourey imposed a call of the Senate for the balance of the proceedings on S.F. No. 800. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Benson motion.

The roll was called, and there were yeas 34 and nays 33, as follows:

Those who voted in the affirmative were:

Abeler	Eichorn	Jasinski	Mathews	Rosen
Anderson, B.	Fischbach	Jensen	Miller	Ruud
Anderson, P.	Gazelka	Johnson	Nelson	Senjem
Benson	Goggin	Kiffmeyer	Newman	Utke
Chamberlain	Hall	Koran	Osmek	Weber
Dahms	Housley	Lang	Pratt	Westrom
Draheim	Ingebrigtsen	Limmer	Relph	

Those who voted in the negative were:

Bakk	Dziedzic	Hoffman	Lourey	Sparks
Carlson	Eaton	Isaacson	Marty	Tomassoni
Champion	Eken	Kent	Newton	Torres Ray
Clausen	Franzen	Klein	Pappas	Wiger
Cohen	Frentz	Laine	Rest	Wiklund
Cwodzinski	Hawj	Latz	Schoen	
Dibble	Hayden	Little	Simonson	

The motion prevailed. So the recommendations and Conference Committee report were adopted.

S.F. No. 800 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 34 and nays 33, as follows:

Those who voted in the affirmative were:

Abeler	Eichorn	Jasinski	Mathews	Rosen
Anderson, B.	Fischbach	Jensen	Miller	Ruud
Anderson, P.	Gazelka	Johnson	Nelson	Senjem
Benson	Goggin	Kiffmeyer	Newman	Utke
Chamberlain	Hall	Koran	Osmek	Weber
Dahms	Housley	Lang	Pratt	Westrom
Draheim	Ingebrigtsen	Limmer	Relph	

Those who voted in the negative were:

Bakk	Dziedzic	Hoffman	Lourey	Sparks
Carlson	Eaton	Isaacson	Marty	Tomassoni
Champion	Eken	Kent	Newton	Torres Ray
Clausen	Franzen	Klein	Pappas	Wiger
Cohen	Frentz	Laine	Rest	Wiklund
Cwodzinski	Hawj	Latz	Schoen	
Dibble	Hayden	Little	Simonson	

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 Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 780, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 780: A bill for an act relating to agriculture; establishing a budget for the Department of Agriculture, the Board of Animal Health, and the Agricultural Utilization Research Institute; making policy and technical changes to various agriculture-related provisions; establishing programs; modifying partition fence law; requiring reports; appropriating money; amending Minnesota Statutes 2016, sections 3.7371; 17.119, subdivisions 1, 2; 18.79, subdivision 18; 18B.33, subdivision 1; 18B.34, subdivision 1; 18B.36, subdivision 1; 41A.12, subdivision 3; 41A.20, subdivision 2; 344.03, subdivision 1; Laws 2015, First Special Session chapter 4, article 1, section 2, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapter 18B; repealing Minnesota Statutes 2016, sections 41A.20, subdivision 6; 383C.809.

Senate File No. 780 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 9, 2017

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 888, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 888 is herewith transmitted to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 9, 2017

CONFERENCE COMMITTEE REPORT ON H. F. No. 888

A bill for an act relating to state government; appropriating money for environment, natural resources, and tourism purposes; modifying fees; creating accounts; providing for disposition of certain receipts; modifying grant, contract, and lease provisions; modifying water safety provisions; modifying provisions to take, possess, and transport wildlife; modifying duties and authority; providing for no net gain of state lands; modifying buffer requirements; modifying wetland provisions; modifying invasive species provisions; modifying off-highway vehicle provisions; modifying permit and license requirements; modifying Petroleum Tank Release Cleanup Act; extending ban on open air swine basins; modifying environmental review; modifying Environmental Quality Board; requiring reports; requiring rulemaking; amending Minnesota Statutes 2016, sections 84.01, by adding a subdivision; 84.027, subdivisions 14a, 14b, by adding subdivisions; 84.788, subdivision 2; 84.793, subdivision 1; 84.82, subdivision 2; 84.925, subdivision 1; 84.9256, subdivisions 1, 2; 84.946,

subdivision 2, by adding a subdivision; 84.992, subdivisions 3, 4, 5, 6; 84D.03, subdivisions 3, 4; 84D.04, subdivision 1; 84D.05, subdivision 1; 84D.108, subdivision 2a, by adding a subdivision; 84D.11, by adding a subdivision; 85.052, subdivision 1; 85.054, by adding a subdivision; 85.055, subdivision 1; 85.22, subdivision 2a; 85.32, subdivision 1; 86B.313, subdivision 1; 86B.511; 86B.701, subdivision 3; 88.01, subdivision 28; 88.523; 89.39; 90.01, subdivisions 8, 12, by adding a subdivision; 90.041, subdivision 2; 90.051; 90.101, subdivision 2; 90.14; 90.145, subdivision 2; 90.151, subdivision 1; 90.162; 90.252; 93.47, subdivision 4; 93.481, subdivision 2; 93.50; 94.343, subdivision 9; 94.344, subdivision 9; 97A.015, subdivisions 39, 43, 45, 52, 53; 97A.045, subdivision 10; 97A.075, subdivision 1; 97A.137, subdivision 5; 97A.201, subdivision 2, by adding a subdivision; 97A.301, subdivision 1; 97A.338; 97A.420, subdivision 1; 97A.421, subdivision 2a; 97B.031, subdivision 6; 97B.516; 97B.655, subdivision 1; 97C.401, subdivision 2; 97C.501, subdivision 1; 97C.701, by adding a subdivision; 103B.101, subdivision 12a; 103F.411, subdivision 1; 103F.48, subdivisions 1, 3, 7; 103G.005, subdivisions 10b, 10h, by adding a subdivision; 103G.222, subdivisions 1, 3; 103G.2242, subdivision 2; 103G.2372, subdivision 1; 103G.271, subdivisions 1, 6, 6a, 7, by adding a subdivision; 103G.287, subdivisions 1, 4; 103G.411; 114D.25, by adding a subdivision; 115B.41, subdivision 1; 115B.421; 115C.021, subdivision 1, by adding a subdivision; 116.03, subdivision 2b, by adding subdivisions; 116.07, subdivision 4d, by adding subdivisions; 116.0714; 116C.03, subdivision 2; 116C.04, subdivision 2; 116D.04, subdivisions 2a, 10; 116D.045, subdivision 1; 160.06; 168.1295, subdivision 1; 296A.18, subdivision 6a; Laws 2013, chapter 114, article 4, section 105; Laws 2015, First Special Session chapter 4, article 4, section 136; Laws 2016, chapter 189, article 3, sections 6; 26; 46; proposing coding for new law in Minnesota Statutes, chapters 15; 85; 93; 97B; 115; 115B; repealing Minnesota Statutes 2016, sections 84.026, subdivision 3; 97B.031, subdivision 5; 97C.701, subdivisions 1a, 6; 97C.705; 97C.711; 116C.04, subdivisions 3, 4; Minnesota Rules, parts 6258.0100; 6258.0200; 6258.0300; 6258.0400; 6258.0500; 6258.0600; 6258.0700, subparts 1, 4, 5; 6258.0800; 6258.0900.

May 8, 2017

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 888 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. 888 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

ENVIRONMENT AND NATURAL RESOURCES APPROPRIATIONS

Section 1. ENVIRONMENT AND NATURAL RESOURCES 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 "2018" and "2019" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2018, or June 30, 2019, respectively. "The first year" is fiscal year 2018. "The second year" is fiscal year 2019. "The biennium" is fiscal years 2018 and 2019. Appropriations for the fiscal year ending June 30, 2017, are effective the day following final enactment.

APPROPRIATIONS
Available for the Year
Ending June 30
2018 **2019**

Sec. 2. **POLLUTION CONTROL AGENCY**

<u>Subdivision 1. Total Appropriation</u>	<u>\$</u>	<u>96,036,000</u>	<u>\$</u>	<u>91,666,000</u>
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Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>State Government</u>		
<u>Special Revenue</u>	75,000	75,000
<u>Environmental</u>	80,527,000	80,157,000
<u>Remediation</u>	11,434,000	11,434,000
<u>Closed Landfill</u>		
<u>Investment</u>	4,000,000	-0-

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

The commissioner must present the agency's biennial budget for fiscal years 2020 and 2021 to the legislature in a transparent way by agency division, including the proposed budget bill and presentations of the budget to committees and divisions with jurisdiction over the agency's budget.

<u>Subd. 2. Environmental Analysis and Outcomes</u>	<u>12,547,000</u>	<u>12,497,000</u>
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Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>Environmental</u>	12,366,000	12,316,000
<u>Remediation</u>	181,000	181,000

(a) \$88,000 the first year and \$88,000 the second year are from the environmental fund for:

(1) a municipal liaison to assist municipalities in implementing and participating in the water-quality standards rulemaking process and navigating the NPDES/SDS permitting process;

(2) enhanced economic analysis in the water-quality standards rulemaking process, including more-specific analysis and identification of cost-effective permitting;

(3) developing statewide economic analyses and templates to reduce the amount of information and time required for municipalities to apply for variances from water-quality standards; and

(4) coordinating with the Public Facilities Authority to identify and advocate for the resources needed for municipalities to achieve permit requirements.

(b) \$204,000 the first year and \$204,000 the second year are from the environmental fund for a monitoring program under Minnesota Statutes, section 116.454.

(c) \$346,000 the first year and \$346,000 the second year are from the environmental fund for monitoring ambient air for hazardous pollutants.

(d) \$90,000 the first year and \$90,000 the second year are from the environmental fund for duties related to harmful chemicals in children's products under Minnesota Statutes, sections 116.9401 to 116.9407. Of this amount, \$57,000 each year is transferred to the commissioner of health.

(e) \$109,000 the first year and \$109,000 the second year are from the environmental fund for registration of wastewater laboratories.

(f) \$913,000 the first year and \$913,000 the second year are from the environmental fund to continue perfluorochemical biomonitoring in eastern-metropolitan communities, as recommended by the Environmental Health Tracking and Biomonitoring Advisory Panel, and address other environmental health risks, including air quality. The communities must include Hmong and other immigrant farming communities. Of this amount, up to \$677,000 the first year and \$677,000 the second year are for transfer to the Department of Health.

(g) \$100,000 the first year and \$50,000 the second year are from the environmental fund for impaired waters listing procedures required under this act.

Subd. 3. Industrial 13,509,000 13,508,000

<u>Appropriations by Fund</u>		
	<u>2018</u>	<u>2019</u>
<u>Environmental</u>	<u>12,979,000</u>	<u>12,978,000</u>
<u>Remediation</u>	<u>530,000</u>	<u>530,000</u>

\$530,000 the first year and \$530,000 the second year are from the remediation fund for the leaking underground storage tank program to investigate, clean up, and prevent future releases from underground petroleum storage tanks and to the petroleum remediation program for vapor assessment and remediation. These same annual amounts are transferred from the petroleum tank fund to the remediation fund.

Subd. 4. Municipal 6,625,000 6,624,000

(a) \$162,000 the first year and \$162,000 the second year are from the environmental fund for:

(1) a municipal liaison to assist municipalities in implementing and participating in the water-quality standards rulemaking process and navigating the NPDES/SDS permitting process;

(2) enhanced economic analysis in the water-quality standards rulemaking process, including more specific analysis and identification of cost-effective permitting;

(3) development of statewide economic analyses and templates to reduce the amount of information and time required for municipalities to apply for variances from water quality standards; and

(4) coordinating with the Public Facilities Authority to identify and advocate for the resources needed for municipalities to achieve permit requirements.

(b) \$50,000 the first year and \$50,000 the second year are from the environmental fund for transfer to the Office of Administrative Hearings to establish sanitary districts.

(c) \$615,000 the first year and \$614,000 the second year are from the environmental fund for subsurface sewage treatment system (SSTS) program administration and community technical assistance and education, including grants and technical assistance to communities for water-quality protection. Of this amount, \$129,000 each year is for assistance to counties through grants for SSTS program administration. A county receiving a grant from this appropriation must submit the results achieved with the grant to the commissioner as part of its annual SSTS report. Any unexpended balance in the first year does not cancel but is available in the second year.

(d) \$639,000 the first year and \$640,000 the second year are from the environmental fund to address the need for continued increased activity in the areas of new technology review, technical assistance for local governments, and enforcement under Minnesota Statutes, sections 115.55 to 115.58, and to complete the requirements of Laws 2003, chapter 128, article 1, section 165.

(e) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2019, as grants or contracts for subsurface sewage treatment systems, surface water and groundwater assessments, storm water, and water-quality protection in this subdivision are available until June 30, 2022.

Subd. 5. Operations 5,339,000 5,040,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>Environmental</u>	<u>4,575,000</u>	<u>4,275,000</u>
<u>Remediation</u>	<u>764,000</u>	<u>765,000</u>

(a) \$174,000 the first year and \$174,000 the second year are from the remediation fund for purposes of the leaking underground storage tank program to investigate, clean up, and prevent future releases from underground petroleum storage tanks, and to the petroleum remediation program for vapor assessment and remediation. These same annual amounts are transferred from the petroleum tank fund to the remediation fund.

(b) \$400,000 the first year and \$400,000 the second year are from the environmental fund to develop and maintain systems to support permitting and regulatory business processes and agency data.

(c) \$300,000 the first year is from the environmental fund for a grant to the Metropolitan Council under Minnesota Statutes, section 116.195, for wastewater infrastructure to support waste to biofuel development. This is a onetime appropriation and is available until June 30, 2019.

Subd. 6. Remediation 14,645,000 10,644,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>Environmental</u>	<u>904,000</u>	<u>904,000</u>
<u>Remediation</u>	<u>9,741,000</u>	<u>9,740,000</u>

Closed Landfill

<u>Investment</u>	<u>4,000,000</u>	<u>-0-</u>
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(a) All money for environmental response, compensation, and compliance in the remediation fund not otherwise appropriated is appropriated to the commissioners of the Pollution Control Agency and agriculture for purposes of Minnesota Statutes, section 115B.20, subdivision 2, clauses (1), (2), (3), (6), and (7). At the beginning of each fiscal year, the two commissioners shall jointly submit an annual spending plan to the commissioner of management and budget that maximizes the use of resources and appropriately allocates the money between the two departments. This appropriation is available until June 30, 2019.

(b) \$432,000 the first year and \$432,000 the second year are from the environmental fund to manage contaminated sediment projects at multiple sites identified in the St. Louis River remedial action plan to restore water quality in the St. Louis River area of concern. The base budget for fiscal year 2020 is \$432,000 and for fiscal year 2021 is \$0.

(c) \$3,521,000 the first year and \$3,520,000 the second year are from the remediation fund for purposes of the leaking underground storage tank program to investigate, clean up, and prevent future releases from underground petroleum storage tanks, and to the petroleum remediation program for purposes of vapor assessment and remediation. These same annual amounts are transferred from the petroleum tank fund to the remediation fund.

(d) \$252,000 the first year and \$252,000 the second year are from the remediation fund for transfer to the commissioner of health for private water-supply monitoring and health assessment costs in areas contaminated by unpermitted mixed municipal solid waste disposal facilities and drinking water

advisories and public information activities for areas contaminated by hazardous releases.

(e) Notwithstanding Minnesota Statutes, section 115B.421, \$4,000,000 the first year is from the closed landfill investment fund for remedial investigations, feasibility studies, engineering, and cleanup-related activities for purposes of environmental response actions at a priority qualified facility under Minnesota Statutes, section 115B.406. By January 15, 2018, the commissioner must submit a status report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over the environment and natural resources. This is a onetime appropriation and is available until June 30, 2019.

Subd. 7. Resource Management and Assistance 33,137,000 33,119,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>75,000</u>	<u>75,000</u>
<u>Environmental</u>	<u>33,062,000</u>	<u>33,044,000</u>

(a) Up to \$150,000 the first year and \$150,000 the second year may be transferred from the environmental fund to the small business environmental improvement loan account established in Minnesota Statutes, section 116.993.

(b) \$500,000 the first year and \$500,000 the second year are from the environmental fund for competitive recycling grants under Minnesota Statutes, section 115A.565. This appropriation is available until June 30, 2021. Any unencumbered grant and loan balances in the first year do not cancel but are available for grants and loans in the second year.

(c) \$693,000 the first year and \$693,000 the second year are from the environmental fund for emission reduction activities and grants

to small businesses and other nonpoint emission reduction efforts. Any unencumbered grant and loan balances in the first year do not cancel but are available for grants and loans in the second year.

(d) \$19,750,000 the first year and \$19,750,000 the second year are from the environmental fund for SCORE block grants to counties.

(e) \$119,000 the first year and \$119,000 the second year are from the environmental fund for environmental assistance grants or loans under Minnesota Statutes, section 115A.0716. Any unencumbered grant and loan balances in the first year do not cancel but are available for grants and loans in the second year.

(f) \$68,000 the first year and \$69,000 the second year are from the environmental fund for subsurface sewage treatment system (SSTS) program administration and community technical assistance and education, including grants and technical assistance to communities for water-quality protection.

(g) \$125,000 the first year and \$126,000 the second year are from the environmental fund to address the need for continued increased activity in the areas of new technology review, technical assistance for local governments, and enforcement under Minnesota Statutes, sections 115.55 to 115.58, and to complete the requirements of Laws 2003, chapter 128, article 1, section 165.

(h) All money deposited in the environmental fund for the metropolitan solid waste landfill fee in accordance with Minnesota Statutes, section 473.843, and not otherwise appropriated, is appropriated for the purposes of Minnesota Statutes, section 473.844.

(i) Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered on or before June 30, 2019, as contracts or grants for environmental assistance awarded under Minnesota Statutes, section 115A.0716; technical and research assistance under Minnesota Statutes, section 115A.152; technical assistance under Minnesota Statutes, section 115A.52; and pollution prevention assistance under Minnesota Statutes, section 115D.04, are available until June 30, 2021.

(j) \$20,000 the first year is from the environmental fund for four grants to local units of government to assist with plastic bag recycling efforts. Two of the grants must be for local units of government in urban areas and two of the grants to local units of government in rural areas of the state. By January 15, 2018, grantees shall report to the commissioner on the activities and results of their efforts to increase plastic bag recycling. This is a onetime appropriation.

Subd. 8. Watershed

9,220,000

9,220,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>Environmental</u>	<u>9,002,000</u>	<u>9,002,000</u>
<u>Remediation</u>	<u>218,000</u>	<u>218,000</u>

(a) \$1,959,000 the first year and \$1,959,000 the second year are from the environmental fund for grants to delegated counties to administer the county feedlot program under Minnesota Statutes, section 116.0711, subdivisions 2 and 3. Money remaining after the first year is available for the second year.

(b) \$207,000 the first year and \$207,000 the second year are from the environmental fund for the costs of implementing general operating permits for feedlots over 1,000 animal units.

(c) \$118,000 the first year and \$118,000 the second year are from the remediation fund

for purposes of the leaking underground storage tank program to investigate, clean up, and prevent future releases from underground petroleum storage tanks, and to the petroleum remediation program for vapor assessment and remediation. These same annual amounts are transferred from the petroleum tank fund to the remediation fund.

Subd. 9. Environmental Quality Board

1,014,000

1,014,000

(a) \$511,000 the first year and \$511,000 the second year are from the environmental fund for Environmental Quality Board operations and support.

(b) \$503,000 the first year and \$503,000 the second year are from the environmental fund for the Environmental Quality Board to lead an interagency team to provide technical assistance regarding the mining, processing, and transporting of silica sand. Of this amount, up to \$75,000 each year may be transferred to the commissioner of natural resources to review the implementation of the rules adopted by the commissioner pursuant to Laws 2013, chapter 114, article 4, section 105, paragraph (b), pertaining to the reclamation of silica sand mines, to ensure that local government reclamation programs are implemented in a manner consistent with the rules.

Subd. 10. Transfers

(a) The commissioner shall transfer up to \$34,000,000 from the environmental fund to the remediation fund for the purposes of the remediation fund under Minnesota Statutes, section 116.155, subdivision 2.

(b) The commissioner shall transfer \$2,800,000 in fiscal year 2018 and \$2,500,000 in fiscal year 2019 and each year thereafter from the environmental fund in Minnesota Statutes, section 16A.531, to the commissioner of management and budget for deposit in the general fund.

fiduciary responsibilities and sound natural resources conservation and management principles.

(d) \$125,000 the first year and \$125,000 the second year are for conservation easement stewardship.

Subd. 3. Ecological and Water Resources

32,930,000

32,763,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>17,213,000</u>	<u>17,046,000</u>
<u>Natural Resources</u>	<u>10,826,000</u>	<u>10,826,000</u>
<u>Game and Fish</u>	<u>4,891,000</u>	<u>4,891,000</u>

(a) \$3,242,000 the first year and \$3,242,000 the second year are from the invasive species account in the natural resources fund and \$3,206,000 the first year and \$3,206,000 the second year are from the general fund for management, public awareness, assessment and monitoring research, and water access inspection to prevent the spread of invasive species; management of invasive plants in public waters; and management of terrestrial invasive species on state-administered lands.

(b) \$5,000,000 the first year and \$5,000,000 the second year are from the water management account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 103G.27, subdivision 2.

(c) \$124,000 the first year and \$124,000 the second year are for a grant to the Mississippi Headwaters Board for up to 50 percent of the cost of implementing the comprehensive plan for the upper Mississippi within areas under the board's jurisdiction.

(d) \$10,000 the first year and \$10,000 the second year are for payment to the Leech Lake Band of Chippewa Indians to implement the band's portion of the comprehensive plan for the upper Mississippi.

(e) \$264,000 the first year and \$264,000 the second year are for grants for up to 50 percent of the cost of implementation of the Red River mediation agreement.

(f) \$2,018,000 the first year and \$2,018,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

(g) \$950,000 the first year and \$950,000 the second year are from the nongame wildlife management account in the natural resources fund for the purpose of nongame wildlife management. Notwithstanding Minnesota Statutes, section 290.431, \$100,000 the first year and \$100,000 the second year may be used for nongame wildlife information, education, and promotion.

(h) Notwithstanding Minnesota Statutes, section 84.943, \$13,000 the first year and \$13,000 the second year from the critical habitat private sector matching account may be used to publicize the critical habitat license plate match program.

(i) \$6,000,000 the first year and \$6,000,000 the second year are from the general fund for the following activities:

(1) financial reimbursement and technical support to soil and water conservation districts or other local units of government for groundwater level monitoring;

(2) surface water monitoring and analysis, including installation of monitoring gauges;

(3) groundwater analysis to assist with water appropriation permitting decisions;

(4) permit application review incorporating surface water and groundwater technical analysis;

(5) precipitation data and analysis to improve the use of irrigation;

(6) information technology, including electronic permitting and integrated data systems; and

(7) compliance and monitoring.

(j) \$167,000 the first year is for a grant to the Koronis Lake Association for purposes of removing and preventing aquatic invasive species. This is a onetime appropriation and is available until June 30, 2022.

(k) \$250,000 the first year and \$250,000 the second year are from the water management account in the natural resources fund for economic impact analysis of groundwater management area and water appropriation permit plans required under Minnesota Statutes, sections 103G.271, subdivision 8, and 103G.287, subdivision 4.

(l) \$410,000 the first year and \$410,000 the second year are from the heritage enhancement account in the game and fish fund for grants to the Minnesota Aquatic Invasive Species Research Center at the University of Minnesota to prioritize, support, and develop research-based solutions that can reduce the effects of aquatic invasive species in Minnesota by preventing spread, controlling populations, and managing ecosystems and to advance knowledge to inspire action by others.

Subd. 4. Forest Management

45,781,000

45,281,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>28,350,000</u>	<u>28,350,000</u>
<u>Natural Resources</u>	<u>16,144,000</u>	<u>15,644,000</u>
<u>Game and Fish</u>	<u>1,287,000</u>	<u>1,287,000</u>

(a) \$7,145,000 the first year and \$7,145,000 the second year are for prevention, presuppression, and suppression costs of

emergency firefighting and other costs incurred under Minnesota Statutes, section 88.12. The amount necessary to pay for presuppression and suppression costs during the biennium is appropriated from the general fund. By January 15 of each year, the commissioner of natural resources shall submit a report to the chairs and ranking minority members of the house and senate committees and divisions having jurisdiction over environment and natural resources finance, identifying all firefighting costs incurred and reimbursements received in the prior fiscal year. These appropriations may not be transferred. Any reimbursement of firefighting expenditures made to the commissioner from any source other than federal mobilizations must be deposited into the general fund.

(b) \$11,644,000 the first year and \$11,644,000 the second year are from the forest management investment account in the natural resources fund for only the purposes specified in Minnesota Statutes, section 89.039, subdivision 2.

(c) \$1,287,000 the first year and \$1,287,000 the second year are from the heritage enhancement account in the game and fish fund to advance ecological classification systems (ECS) scientific management tools for forest and invasive species management.

(d) \$780,000 the first year and \$780,000 the second year are for the Forest Resources Council to implement the Sustainable Forest Resources Act.

(e) \$500,000 the first year is from the forest management investment account in the natural resources fund for a study of the ability to sustainably harvest at least 1,000,000 cords of wood annually on state-administered forest lands. No later than January 2, 2018, the commissioner must report the study's findings to the legislative committees with jurisdiction over

environment and natural resources policy and finance. This is a onetime appropriation.

(f) \$2,000,000 the first year and \$2,000,000 the second year are from the forest management investment account in the natural resources fund for state forest reforestation. The base from the forest management investment account in the natural resources fund for fiscal year 2020 and later is \$1,250,000.

(g) \$2,000,000 the first year and \$2,000,000 the second year are from the forest management investment account in the natural resources fund for the Next Generation Core Forestry data system. The appropriation is available until June 30, 2021. The base from the forest management investment account in the natural resources fund for fiscal year 2020 and later is \$500,000.

(h) The base for the natural resources fund in fiscal year 2020 and later is \$13,394,000.

Subd. 5. Parks and Trails Management

79,805,000

79,750,000

	<u>Appropriations by Fund</u>	
	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>25,182,000</u>	<u>24,927,000</u>
<u>Natural Resources</u>	<u>52,350,000</u>	<u>52,550,000</u>
<u>Game and Fish</u>	<u>2,273,000</u>	<u>2,273,000</u>

(a) \$1,075,000 the first year and \$1,075,000 the second year are from the water recreation account in the natural resources fund for enhancing public water-access facilities.

(b) \$5,740,000 the first year and \$5,740,000 the second year are from the natural resources fund for state trail, park, and recreation area operations. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (2).

(c) \$17,350,000 the first year and \$17,750,000 the second year are from the state parks account in the natural resources fund for state park and state recreation area operation and maintenance.

(d) \$1,005,000 the first year and \$1,005,000 the second year are from the natural resources fund for park and trail grants to local units of government on land to be maintained for at least 20 years for the purposes of the grants. This appropriation is from the revenue deposited in the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (4). Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(e) \$130,000 the first year is from the general fund, and \$8,424,000 the first year and \$8,424,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for the snowmobile grants-in-aid program. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(f) \$1,685,000 the first year and \$1,685,000 the second year are from the natural resources fund for the off-highway vehicle grants-in-aid program. Of this amount, \$1,210,000 the first year and \$1,210,000 the second year are from the all-terrain vehicle account; \$150,000 each year is from the off-highway motorcycle account; and \$325,000 each year is from the off-road vehicle account. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(g) \$75,000 the first year and \$75,000 the second year are from the cross-country ski account in the natural resources fund for grooming and maintaining cross-country ski trails in state parks, trails, and recreation areas.

(h) \$250,000 the first year and \$250,000 the second year are from the state land and water conservation account in the natural resources fund for priorities established by the commissioner for eligible state projects and administrative and planning activities consistent with Minnesota Statutes, section 84.0264, and the federal Land and Water Conservation Fund Act. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(i) \$150,000 the first year is from the all-terrain vehicle account in the natural resources fund for a grant to the city of Orr to predesign, design, and construct the Voyageur all-terrain vehicle trail system, including:

(1) design of the alignment for phase I of the Voyageur all-terrain vehicle trail system and development of a preliminary phase II alignment;

(2) completion of wetland delineation and wetland permitting;

(3) completion of the engineering design and cost estimates for a snowmobile and off-highway vehicle bridge over the Vermilion River to establish a trail connection; and

(4) completion of the master plan for the Voyageur all-terrain vehicle trail system.

This is a onetime appropriation and is available until June 30, 2020.

(j) \$125,000 the first year is from the general fund for all terrain vehicle grants-in-aid program. This is a onetime appropriation.

(k) \$250,000 the first year and \$250,000 the second year are from the general fund for matching grants for local parks and outdoor recreation areas under Minnesota Statutes, section 85.019, subdivision 2.

(l) \$250,000 the first year and \$250,000 the second year are from the general fund for matching grants for local trail connections under Minnesota Statutes, section 85.019, subdivision 4c.

(m) \$50,000 the first year is from the all-terrain vehicle account in the natural resources fund for a grant to the city of Virginia to assist the Virginia Area All-Terrain Vehicle Club to plan, design, engineer, and permit a comprehensive all-terrain vehicle system in the Virginia area and to connect with the Iron Range Off-Highway Vehicle Recreation Area. This is a onetime appropriation and is available until June 30, 2020.

Subd. 6. Fish and Wildlife Management

67,581,000

67,531,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>Natural Resources</u>	<u>1,912,000</u>	<u>1,912,000</u>
<u>Game and Fish</u>	<u>65,669,000</u>	<u>65,619,000</u>

(a) \$8,167,000 the first year and \$8,167,000 the second year are from the heritage enhancement account in the game and fish fund only for activities specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1). Notwithstanding Minnesota Statutes, section 297A.94, five percent of this appropriation may be used for expanding hunter and angler recruitment and retention.

(b) \$30,000 the first year is from the heritage enhancement account in the game and fish fund for the commissioner of natural resources to contract with a private entity to search for a site to construct a world-class shooting range and club house for use by the Minnesota State High School League and for other regional, statewide, national, and international shooting events. The commissioner must provide public notice of the search, including making the public aware of the process through the Department

of Natural Resources' media outlets, and solicit input on the location and building options for the facility. The siting search process must include a public process to determine if any business or individual is interested in donating land for the facility, anticipated to be at least 500 acres. The site search team must meet with interested third parties affected by or interested in the facility. The commissioner must submit a report with the results of the site search to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over environment and natural resources by March 1, 2018. This is a onetime appropriation.

(c) \$20,000 the first year is from the heritage enhancement account in the game and fish fund for a study on the effects of lead shot on wildlife on state lands. By January 15, 2018, the commissioner shall provide a report of the study to the chairs and ranking minority members of the legislative committees with jurisdiction over natural resources policy and finance. This is a onetime appropriation.

Subd. 7. Enforcement

39,377,000

39,377,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>General</u>	<u>5,140,000</u>	<u>5,140,000</u>
<u>Natural Resources</u>	<u>10,309,000</u>	<u>10,309,000</u>
<u>Game and Fish</u>	<u>23,828,000</u>	<u>23,828,000</u>
<u>Remediation</u>	<u>100,000</u>	<u>100,000</u>

(a) \$1,718,000 the first year and \$1,718,000 the second year are from the general fund for enforcement efforts to prevent the spread of aquatic invasive species.

(b) \$1,580,000 the first year and \$1,580,000 the second year are from the heritage enhancement account in the game and fish fund for only the purposes specified in Minnesota Statutes, section 297A.94, paragraph (e), clause (1).

(c) \$1,082,000 the first year and \$1,082,000 the second year are from the water recreation account in the natural resources fund for grants to counties for boat and water safety. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(d) \$315,000 the first year and \$315,000 the second year are from the snowmobile trails and enforcement account in the natural resources fund for grants to local law enforcement agencies for snowmobile enforcement activities. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(e) \$250,000 the first year and \$250,000 the second year are from the all-terrain vehicle account for grants to qualifying organizations to assist in safety and environmental education and monitoring trails on public lands under Minnesota Statutes, section 84.9011. Grants issued under this paragraph must be issued through a formal agreement with the organization. By December 15 each year, an organization receiving a grant under this paragraph shall report to the commissioner with details on expenditures and outcomes from the grant. Of this appropriation, \$25,000 each year is for administration of these grants. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(f) \$510,000 the first year and \$510,000 the second year are from the natural resources fund for grants to county law enforcement agencies for off-highway vehicle enforcement and public education activities based on off-highway vehicle use in the county. Of this amount, \$498,000 each year is from the all-terrain vehicle account; \$11,000 each year is from the off-highway motorcycle account; and \$1,000 each year is from the off-road vehicle account. The county enforcement agencies may use money

received under this appropriation to make grants to other local enforcement agencies within the county that have a high concentration of off-highway vehicle use. Of this appropriation, \$25,000 each year is for administration of these grants. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(g) \$1,000,000 each year is for recruiting, training, and maintaining additional conservation officers.

(h) The commissioner may hold a conservation officer academy if necessary.

Subd. 8. Operations Support

1,920,000

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\$1,920,000 the first year is available for legal costs. Of this amount, up to \$500,000 may be transferred to the Minnesota Pollution Control Agency. This is a onetime appropriation and is available until June 30, 2021.

Subd. 9. Pass Through Funds

320,000

320,000

Appropriations by Fund

	<u>2018</u>	<u>2019</u>
<u>Natural Resources</u>	<u>320,000</u>	<u>320,000</u>

\$320,000 the first year and \$320,000 the second year are from the natural resources fund for grants to be divided equally between the city of St. Paul for the Como Park Zoo and Conservatory and the city of Duluth for the Duluth Zoo. This appropriation is from the revenue deposited to the natural resources fund under Minnesota Statutes, section 297A.94, paragraph (e), clause (5).

Subd. 10. Cancellation

The remaining amount of the general fund appropriation in Laws 2016, chapter 189, article 3, section 3, subdivision 3, for a grant to the Koronis Lake Association, estimated to be \$167,000, is canceled on June 30, 2017.

This subdivision is effective the day following final enactment.

Sec. 4. BOARD OF WATER AND SOIL RESOURCES

\$ 13,829,000 \$ 13,529,000

(a) \$3,423,000 the first year and \$3,423,000 the second year are for natural resources block grants to local governments. Grants must be matched with a combination of local cash or in-kind contributions. The base grant portion related to water planning must be matched by an amount as specified by Minnesota Statutes, section 103B.3369. The board may reduce the amount of the natural resources block grant to a county by an amount equal to any reduction in the county's general services allocation to a soil and water conservation district from the county's previous year allocation when the board determines that the reduction was disproportionate.

(b) \$3,116,000 the first year and \$3,116,000 the second year are for grants to soil and water conservation districts for the purposes of Minnesota Statutes, sections 103C.321 and 103C.331, and for general purposes, nonpoint engineering, and implementation and stewardship of the reinvest in Minnesota reserve program. Expenditures may be made from these appropriations for supplies and services benefiting soil and water conservation districts. Any district receiving a payment under this paragraph shall maintain a Web page that publishes, at a minimum, its annual report, annual audit, annual budget, and meeting notices.

(c) \$260,000 the first year and \$260,000 the second year are for feedlot water quality cost share grants for feedlots under 300 animal units and nutrient and manure management projects in watersheds where there are impaired waters.

(d) \$1,200,000 the first year and \$1,200,000 the second year are for soil and water conservation district cost-sharing contracts for perennially vegetated riparian buffers, erosion control, water retention and treatment, and other high-priority conservation practices.

(e) \$100,000 the first year and \$100,000 the second year are for county cooperative weed management cost-share programs and to restore native plants in selected invasive species management sites.

(f) \$761,000 the first year and \$761,000 the second year are for implementation, enforcement, and oversight of the Wetland Conservation Act, including administration of the wetland banking program and in-lieu fee mechanism.

(g) \$300,000 the first year is for improving the efficiency and effectiveness of Minnesota's wetland regulatory programs through continued examination of United States Clean Water Act section 404 assumption including negotiation of draft agreements with the United States Environmental Protection Agency and the United States Army Corps of Engineers, planning for an online permitting system, upgrading the existing wetland banking database, and developing an in-lieu fee wetland banking program as authorized by statute. This is a onetime appropriation.

(h) \$166,000 the first year and \$166,000 the second year are to provide technical assistance to local drainage management officials and for the costs of the Drainage Work Group.

(i) \$100,000 the first year and \$100,000 the second year are for a grant to the Red River Basin Commission for water quality and floodplain management, including administration of programs. This appropriation must be matched by nonstate

funds. If the appropriation in either year is insufficient, the appropriation in the other year is available for it.

(j) \$140,000 the first year and \$140,000 the second year are for grants to Area II Minnesota River Basin Projects for floodplain management.

(k) \$125,000 the first year and \$125,000 the second year are for conservation easement stewardship.

(l) \$240,000 the first year and \$240,000 the second year are for a grant to the Lower Minnesota River Watershed District to defray the annual cost of operating and maintaining sites for dredge spoil to sustain the state, national, and international commercial and recreational navigation on the lower Minnesota River.

(m) \$3,898,000 the first year and \$3,898,000 the second year are for Board of Water and Soil Resources agency administration and operations.

(n) Notwithstanding Minnesota Statutes, section 103C.501, the board may shift cost-share funds in this section and may adjust the technical and administrative assistance portion of the grant funds to leverage federal or other nonstate funds or to address high-priority needs identified in local water management plans or comprehensive water management plans.

(o) The appropriations for grants in this section are available until June 30, 2021. If an appropriation for grants in either year is insufficient, the appropriation in the other year is available for it.

(p) Notwithstanding Minnesota Statutes, section 16B.97, the appropriations for grants in this section are exempt from Department of Administration, Office of Grants Management Policy 08-10 Grant Monitoring.

Sec. 8. <u>SCIENCE MUSEUM</u>	<u>\$</u>	<u>1,079,000</u>	<u>\$</u>	<u>1,079,000</u>
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Sec. 9. <u>ADMINISTRATION</u>	<u>\$</u>	<u>800,000</u>	<u>\$</u>	<u>300,000</u>
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(a) \$300,000 the first year and \$300,000 the second year are from the state forest suspense account in the permanent school fund for the school trust lands director. This appropriation is to be used for securing long-term economic return from the school trust lands consistent with fiduciary responsibilities and sound natural resources conservation and management principles.

(b) \$500,000 the first year is from the state forest suspense account in the permanent school fund for the school trust lands director to initiate the private sale of surplus school trust lands identified according to Minnesota Statutes, section 92.82, paragraph (d), including but not limited to valuation expenses, legal fees, and transactional staff costs. This is a onetime appropriation and is available until June 30, 2019.

Sec. 10. <u>EXPLORE MINNESOTA TOURISM</u>	<u>\$</u>	<u>15,148,000</u>	<u>\$</u>	<u>14,248,000</u>
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(a) To develop maximum private sector involvement in tourism, \$500,000 the first year and \$500,000 the second year must be matched by Explore Minnesota Tourism from nonstate sources. Each \$1 of state incentive must be matched with \$6 of private sector funding. Cash match is defined as revenue to the state or documented cash expenditures directly expended to support Explore Minnesota Tourism programs. Up to one-half of the private sector contribution may be in-kind or soft match. The incentive in fiscal year 2018 shall be based on fiscal year 2017 private sector contributions. The incentive in fiscal year 2019 shall be based on fiscal year 2018 private sector contributions. This incentive is ongoing.

(b) Funding for the marketing grants is available either year of the biennium.

Unexpended grant funds from the first year are available in the second year.

(c) \$100,000 each year is for a grant to the Northern Lights International Music Festival.

(d) \$900,000 the first year is for the major events grant program. This is a onetime appropriation and is available until June 30, 2021.

Sec. 11. REVENUE	<u>\$</u>	<u>0</u>	<u>\$</u>	<u>2,300,000</u>
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\$2,300,000 the second year is for riparian protection aid payments under Minnesota Statutes, section 477A.21.

Sec. 12. Laws 2016, chapter 189, article 3, section 6, is amended to read:

Sec. 6. ADMINISTRATION	<u>\$</u>	<u>250,000</u>	<u>\$</u>	<u>-0-</u>
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\$250,000 the first year is from the state forest suspense account in the permanent school fund for the school trust lands director to initiate real estate development projects on school trust lands as determined by the school trust lands director. This is a onetime appropriation and is available until June 30, 2019.

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

ARTICLE 2

ENVIRONMENT AND NATURAL RESOURCES STATUTORY CHANGES

Section 1. Minnesota Statutes 2016, section 84.01, is amended by adding a subdivision to read:

Subd. 6. **Legal counsel.** The commissioner of natural resources may appoint attorneys or outside counsel to render title opinions, represent the department in severed mineral interest forfeiture actions brought pursuant to section 93.55, and, notwithstanding any statute to the contrary, represent the state in quiet title or title registration actions affecting land or interests in land administered by the commissioner.

Sec. 2. Minnesota Statutes 2016, section 84.027, subdivision 14a, is amended to read:

Subd. 14a. **Permitting efficiency; public notice.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 90 days for Tier 1 permits or 150 days

for Tier 2 permits following submission of a permit application. The commissioner of natural resources shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare an annual permitting efficiency report that includes statistics on meeting the goal in paragraph (a) and the criteria for ~~Tier 1 and~~ Tier 2 by permit categories. The report is due August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the department's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over natural resources policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the department.

(d) ~~Beginning July 1, 2011,~~ Within 30 business days of application for a permit subject to paragraph (a), the commissioner of natural resources shall notify the ~~project proposer~~ permit applicant, in writing, whether the application is complete or incomplete. If the commissioner determines that an application is incomplete, the notice to the applicant must enumerate all deficiencies, citing specific provisions of the applicable rules and statutes, and advise the applicant on how the deficiencies can be remedied. If the commissioner determines that the application is complete, the notice must confirm the application's Tier 1 or Tier 2 permit status and, upon request of the permit applicant of an individual Tier 2 permit, provide the permit applicant with a schedule for reviewing the permit application. This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.

(e) When public notice of a draft individual Tier 2 permit is required, the commissioner must issue the notice with the draft permit within 150 days of receiving a completed permit application unless the permit applicant and the commissioner mutually agree to a different date. Upon request of the permit applicant, the commissioner must provide a copy of the draft permit to the permit applicant and consider comments on the draft permit from the permit applicant before issuing the public notice.

Sec. 3. Minnesota Statutes 2016, section 84.027, subdivision 14b, is amended to read:

Subd. 14b. **Expediting costs; reimbursement.** Permit applicants ~~who wish to construct, reconstruct, modify, or operate a facility~~ needing any permit from the commissioner of natural resources to construct, reconstruct, or modify a project or to operate a facility may offer to reimburse the department for the reasonable costs ~~of staff time or consultant services~~ needed to expedite the preapplication process and permit development process through the final decision on the permit, including the analysis of environmental review documents. The reimbursement shall be in addition to permit application fees imposed by law. When the commissioner determines that additional resources are needed to develop the permit application in an expedited manner, and that expediting the development is consistent with permitting program priorities, the commissioner may accept the

reimbursement. The commissioner must give the permit applicant an estimate of costs for the expedited service to be incurred by the commissioner. The estimate must include a brief description of the tasks to be performed, a schedule for completing the tasks, and the estimated cost for each task. The proposer and the commissioner shall enter into a written agreement detailing the estimated costs for the expedited service to be incurred by the department and any recourse available to the applicant if the department fails to comply with the schedule. The agreement must also identify staff anticipated to be assigned to the project and describe the commissioner's commitment to making assigned staff available for the project until the permit decision is made. The commissioner must not issue a permit until the applicant has paid all fees in full. The commissioner must refund any unobligated balance of fees paid. Reimbursements accepted by the commissioner are appropriated to the commissioner for the purpose of developing the permit or analyzing environmental review documents. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit; shall not affect the commissioner's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations; and shall not affect final decisions regarding environmental review.

Sec. 4. Minnesota Statutes 2016, section 84.027, is amended by adding a subdivision to read:

Subd. 14c. **Irrevocability, suspensions, or expiration of permits; environmental review.** (a) If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money to the commissioner of natural resources for environmental review and permitting activities of the Department of Natural Resources:

(1) a permit granted by the commissioner may not be terminated or suspended for the term of the permit nor shall it expire without the consent of the permittee, except for breach or nonperformance of any condition of the permit by the permittee that is an imminent threat to impair or destroy the environment or injure the health, safety, or welfare of the citizens of the state; and

(2) environmental review and permit application work on environmental review and permits filed before July 1 of that year must not be suspended or terminated.

(b) Paragraph (a), clause (1), applies until legislation appropriating money to the commissioner for the environmental review and permitting activities is enacted.

Sec. 5. Minnesota Statutes 2016, section 84.027, is amended by adding a subdivision to read:

Subd. 14d. **Unadopted rules.** (a) The commissioner of natural resources must not enforce or attempt to enforce an unadopted rule. For the purposes of this subdivision, "unadopted rule" means a guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement, if the guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement meets the definition of a rule as defined under section 14.02, subdivision 4, but has not been adopted according to the rulemaking process provided under chapter 14. If an unadopted rule is challenged under section 14.381, the commissioner must overcome a presumption against the unadopted rule.

(b) If the commissioner incorporates by reference an internal guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement into a statute, rule, or standard, the commissioner must follow the rulemaking process provided under chapter 14 to amend or revise any such guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement.

Sec. 6. Minnesota Statutes 2016, section 84.788, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** Registration is not required for off-highway motorcycles:

(1) owned and used by the United States, an Indian tribal government, the state, another state, or a political subdivision;

(2) registered in another state or country that have not been within this state for more than 30 consecutive days;

(3) registered under chapter 168, when operated on forest roads to gain access to a state forest campground;

(4) used exclusively in organized track racing events;

(5) operated on state or grant-in-aid trails by a nonresident possessing a nonresident off-highway motorcycle state trail pass; ~~or~~

(6) operated by a person participating in an event for which the commissioner has issued a special use permit; or

(7) operated on boundary trails and registered in another state or country providing equal reciprocal registration or licensing exemptions for registrants of this state.

Sec. 7. Minnesota Statutes 2016, section 84.793, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** (a) A person six years or older but less than 16 years of age operating an off-highway motorcycle on public lands or waters must possess a valid off-highway motorcycle safety certificate issued by the commissioner.

(b) Except for operation on public road rights-of-way that is permitted under section 84.795, subdivision 1, a driver's license issued by the state or another state is required to operate an off-highway motorcycle along or on a public road right-of-way.

(c) A person under 12 years of age may not:

(1) make a direct crossing of a public road right-of-way;

(2) operate an off-highway motorcycle on a public road right-of-way in the state; or

(3) operate an off-highway motorcycle on public lands or waters unless accompanied by a person 18 years of age or older or participating in an event for which the commissioner has issued a special use permit.

(d) Except for public road rights-of-way of interstate highways, a person less than 16 years of age may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway only if that person is accompanied by a person 18 years of age or older who holds a valid driver's license.

(e) A person less than 16 years of age may operate an off-highway motorcycle on public road rights-of-way in accordance with section 84.795, subdivision 1, paragraph (a), only if that person is accompanied by a person 18 years of age or older who holds a valid driver's license.

(f) Notwithstanding paragraph (a), a nonresident less than 16 years of age may operate an off-highway motorcycle on public lands or waters if the nonresident youth has in possession evidence of completing an off-road safety course offered by the Motorcycle Safety Foundation or another state as provided in section 84.791, subdivision 4.

Sec. 8. Minnesota Statutes 2016, section 84.8031, is amended to read:

84.8031 GRANT-IN-AID APPLICATIONS; REVIEW PERIOD.

The commissioner must review an off-road vehicle grant-in-aid application and, if approved, ~~commence~~ begin public review of the application within 60 days after the completed application has been locally approved and submitted to an area parks and trails office. If the commissioner fails to approve or deny the application within 60 days after submission, the application is deemed approved and the commissioner must provide for a 30-day public review period. If the commissioner denies an application, the commissioner must provide the applicant with a written explanation for denying the application at the time the applicant is notified of the denial.

Sec. 9. Minnesota Statutes 2016, section 84.82, subdivision 2, is amended to read:

Subd. 2. **Application, issuance, issuing fee.** (a) Application for registration or reregistration shall be made to the commissioner or an authorized deputy registrar of motor vehicles in a format prescribed by the commissioner and shall state the legal name and address of every owner of the snowmobile.

(b) A person who purchases a snowmobile from a retail dealer shall make application for registration to the dealer at the point of sale. The dealer shall issue a dealer temporary 21-day registration permit to each purchaser who applies to the dealer for registration. The temporary permit must contain the dealer's identification number and phone number. Each retail dealer shall submit completed registration and fees to the deputy registrar at least once a week. No fee may be charged by a dealer to a purchaser for providing the temporary permit.

(c) Upon receipt of the application and the appropriate fee, the commissioner or deputy registrar shall issue to the applicant, or provide to the dealer, an assigned registration number or a commissioner or deputy registrar temporary 21-day permit. Once issued, the registration number must be affixed to the snowmobile in a clearly visible and permanent manner for enforcement purposes as the commissioner of natural resources shall prescribe. A dealer subject to paragraph (b) shall provide the registration materials or temporary permit to the purchaser within the temporary 21-day permit period. The registration is not valid unless signed by at least one owner.

(d) Each deputy registrar of motor vehicles acting pursuant to section 168.33, shall also be a deputy registrar of snowmobiles. The commissioner of natural resources in agreement with the commissioner of public safety may prescribe the accounting and procedural requirements necessary to assure efficient handling of registrations and registration fees. Deputy registrars shall strictly comply with these accounting and procedural requirements.

(e) ~~A fee of \$2~~ In addition to ~~that otherwise~~ other fees prescribed by law ~~shall be charged for,~~ an issuing fee of \$4.50 is charged for each snowmobile registration renewal, duplicate or replacement registration card, and replacement decal and an issuing fee of \$7 is charged for each snowmobile registration and registration transfer issued by:

(1) ~~each snowmobile registered by the~~ a registrar or a deputy registrar and the additional fee shall be disposed of must be deposited in the manner provided in section 168.33, subdivision 2; or

(2) ~~each snowmobile registered by the commissioner and the additional fee shall~~ must be deposited in the state treasury and credited to the snowmobile trails and enforcement account in the natural resources fund.

Sec. 10. Minnesota Statutes 2016, section 84.925, subdivision 1, is amended to read:

Subdivision 1. **Program established.** (a) The commissioner shall establish a comprehensive all-terrain vehicle environmental and safety education and training program, including the preparation and dissemination of vehicle information and safety advice to the public, the training of all-terrain vehicle operators, and the issuance of all-terrain vehicle safety certificates to vehicle operators over the age of 12 years who successfully complete the all-terrain vehicle environmental and safety education and training course. A parent or guardian must be present at the hands-on training portion of the program for youth who are six through ten years of age.

(b) For the purpose of administering the program and to defray the expenses of training and certifying vehicle operators, the commissioner shall collect a fee from each person who receives the training. The commissioner shall collect a fee, to include a \$1 issuing fee for licensing agents, for issuing a duplicate all-terrain vehicle safety certificate. The commissioner shall establish both fees in a manner that neither significantly overrecovers nor underrecovers costs, including overhead costs, involved in providing the services. The fees are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply. The fees may be established by the commissioner notwithstanding section 16A.1283. Fee proceeds, except for the issuing fee for licensing agents under this subdivision, shall be deposited in the all-terrain vehicle account in the natural resources fund and the amount thereof, except for the electronic licensing system commission established by the commissioner under section 84.027, subdivision 15, and issuing fees collected by the commissioner, is appropriated annually to the Enforcement Division of the Department of Natural Resources for the administration of the programs. In addition to the fee established by the commissioner, instructors may charge each person up to the established fee amount for class materials and expenses.

(c) The commissioner shall cooperate with private organizations and associations, private and public corporations, and local governmental units in furtherance of the program established under this section. School districts may cooperate with the commissioner and volunteer instructors to provide space for the classroom portion of the training. The commissioner shall consult with the commissioner of public safety in regard to training program subject matter and performance testing that leads to the certification of vehicle operators. The commissioner shall incorporate a riding component in the safety education and training program.

Sec. 11. Minnesota Statutes 2016, section 84.9256, subdivision 1, is amended to read:

Subdivision 1. **Prohibitions on youthful operators.** (a) Except for operation on public road rights-of-way that is permitted under section 84.928 and as provided under paragraph (j), a driver's license issued by the state or another state is required to operate an all-terrain vehicle along or on a public road right-of-way.

(b) A person under 12 years of age shall not:

- (1) make a direct crossing of a public road right-of-way;
- (2) operate an all-terrain vehicle on a public road right-of-way in the state; or
- (3) operate an all-terrain vehicle on public lands or waters, except as provided in paragraph (f).

(c) Except for public road rights-of-way of interstate highways, a person 12 years of age but less than 16 years may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county highway or operate on public lands and waters or state or grant-in-aid trails, only if that person possesses a valid all-terrain vehicle safety certificate issued by the commissioner and is accompanied by a person 18 years of age or older who holds a valid driver's license.

(d) To be issued an all-terrain vehicle safety certificate, a person at least 12 years old, but less than 16 years old, must:

- (1) successfully complete the safety education and training program under section 84.925, subdivision 1, including a riding component; and
- (2) be able to properly reach and control the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle.

(e) A person at least ~~four~~ six years of age may take the safety education and training program and may receive an all-terrain vehicle safety certificate under paragraph (d), but the certificate is not valid until the person reaches age 12.

(f) A person at least ten years of age but under 12 years of age may operate an all-terrain vehicle with an engine capacity up to ~~90cc~~ 110cc if the vehicle is a class 1 all-terrain vehicle with straddle-style seating or up to 170cc if the vehicle is a class 1 all-terrain vehicle with side-by-side-style seating on public lands or waters if accompanied by a parent or legal guardian.

(g) A person under 15 years of age shall not operate a class 2 all-terrain vehicle.

(h) A person under the age of 16 may not operate an all-terrain vehicle on public lands or waters or on state or grant-in-aid trails if the person cannot properly reach and control:

- (1) the handle bars and reach the foot pegs while sitting upright on the seat of the all-terrain vehicle with straddle-style seating; or
- (2) the steering wheel and foot controls of a class 1 all-terrain vehicle with side-by-side-style seating while sitting upright in the seat with the seat belt fully engaged.

(i) Notwithstanding paragraph (c), a nonresident at least 12 years old, but less than 16 years old, may make a direct crossing of a public road right-of-way of a trunk, county state-aid, or county

highway or operate an all-terrain vehicle on public lands and waters or state or grant-in-aid trails if:

(1) the nonresident youth has in possession evidence of completing an all-terrain safety course offered by the ATV Safety Institute or another state as provided in section 84.925, subdivision 3; and

(2) the nonresident youth is accompanied by a person 18 years of age or older who holds a valid driver's license.

(j) A person 12 years of age but less than 16 years of age may operate an all-terrain vehicle on the roadway, bank, slope, or ditch of a public road right-of-way as permitted under section 84.928 if the person:

(1) possesses a valid all-terrain vehicle safety certificate issued by the commissioner; and

(2) is accompanied by a parent or legal guardian on a separate all-terrain vehicle.

Sec. 12. Minnesota Statutes 2016, section 84.9256, subdivision 2, is amended to read:

Subd. 2. **Helmet and seat belts required.** (a) A person less than 18 years of age shall not ride as a passenger or as an operator of an all-terrain vehicle on public land, public waters, or on a public road right-of-way unless wearing a safety helmet approved by the commissioner of public safety.

(b) A person less than 18 years of age shall not ride as a passenger or as an operator of ~~a class 2~~ an all-terrain vehicle without wearing a seat belt when provided by the manufacturer.

Sec. 13. Minnesota Statutes 2016, section 84.946, subdivision 2, is amended to read:

Subd. 2. **Standards.** (a) An appropriation for asset preservation may be used only for a capital expenditure on a capital asset previously owned by the state, within the meaning of generally accepted accounting principles as applied to public expenditures. The commissioner of natural resources will consult with the commissioner of management and budget to the extent necessary to ensure this and will furnish the commissioner of management and budget a list of projects to be financed from the account in order of their priority. The legislature assumes that many projects for preservation and replacement of portions of existing capital assets will constitute betterments and capital improvements within the meaning of the Constitution and capital expenditures under generally accepted accounting principles, and will be financed more efficiently and economically under this section than by direct appropriations for specific projects.

(b) An appropriation for asset preservation must not be used to acquire land or to acquire or construct buildings or other facilities.

(c) Capital budget expenditures for natural resource asset preservation and replacement projects must be for one or more of the following types of capital projects that support the existing programmatic mission of the department: code compliance including health and safety, Americans with Disabilities Act requirements, hazardous material abatement, access improvement, or air quality improvement; building energy efficiency improvements using current best practices; building or infrastructure repairs necessary to preserve the interior and exterior of existing buildings; projects

to remove life safety hazards such as building code violations or structural defects; or renovation of other existing improvements to land, including but not limited to trails and bridges.

(d) Up to ten percent of an appropriation awarded under this section may be used for design costs for projects eligible to be funded from this account in anticipation of future funding from the account.

Sec. 14. Minnesota Statutes 2016, section 84.946, is amended by adding a subdivision to read:

Subd. 4. **Priorities; report.** The commissioner of natural resources must establish priorities for natural resource asset preservation and replacement projects. By January 15 each year, the commissioner must submit to the commissioner of management and budget a list of the projects that have been paid for with money from a natural resource asset preservation and replacement appropriation during the preceding calendar year.

Sec. 15. Minnesota Statutes 2016, section 84.992, subdivision 3, is amended to read:

Subd. 3. **Training and mentoring.** The commissioner must develop and implement a training program that adequately prepares Minnesota Naturalist Corps members for the tasks assigned. Each corps member ~~shall be~~ is assigned a state park an interpretive naturalist as a mentor.

Sec. 16. Minnesota Statutes 2016, section 84.992, subdivision 4, is amended to read:

Subd. 4. **Uniform patch pin.** Uniforms worn by members of the Minnesota Naturalist Corps must have a patch pin that includes the name of the Minnesota Naturalist Corps and information that the program is funded by the clean water, land, and legacy amendment to the Minnesota Constitution adopted by the voters in November 2008.

Sec. 17. Minnesota Statutes 2016, section 84.992, subdivision 5, is amended to read:

Subd. 5. **Eligibility.** A person is eligible to enroll in the Minnesota Naturalist Corps if the person:

(1) is a permanent resident of the state;

(2) is a participant in an approved college internship program ~~or has a postsecondary degree in a field related to natural resource resources, cultural history, interpretation, or conservation related field;~~ and

(3) has completed at least one year of postsecondary education.

Sec. 18. Minnesota Statutes 2016, section 84.992, subdivision 6, is amended to read:

Subd. 6. **Corps member status.** Minnesota Naturalist Corps members are not eligible for unemployment benefits ~~if their services are excluded under section 268.035, subdivision 20,~~ and are not eligible for other benefits except workers' compensation. The corps members are not employees of the state within the meaning of section 43A.02, subdivision 21.

Sec. 19. Minnesota Statutes 2016, section 84D.03, subdivision 3, is amended to read:

Subd. 3. **Bait harvest from infested waters.** (a) Taking wild animals from infested waters for bait or aquatic farm purposes is prohibited, except as provided in paragraph (b), (c), or (d), and section 97C.341.

(b) In waters that are listed as infested waters, except those listed as infested with prohibited invasive species of fish or certifiable diseases of fish, as defined under section 17.4982, subdivision 6, taking wild animals may be permitted for:

(1) commercial taking of wild animals for bait and aquatic farm purposes as provided in a permit issued under section 84D.11, subject to rules adopted by the commissioner; and

(2) bait purposes for noncommercial personal use in waters that contain Eurasian watermilfoil, when the infested waters are listed solely because they contain Eurasian watermilfoil and if the equipment for taking is limited to cylindrical minnow traps not exceeding 16 inches in diameter and 32 inches in length.

(c) In streams or rivers that are listed as infested waters, except those listed as infested with certifiable diseases of fish, as defined under section 17.4982, subdivision 6, the harvest of bullheads, goldeyes, mooneyes, sheepshead (freshwater drum), and suckers for bait by hook and line for noncommercial personal use is allowed as follows:

(1) fish taken under this paragraph must be used on the same body of water where caught and while still on that water body. Where the river or stream is divided by barriers such as dams, the fish must be caught and used on the same section of the river or stream;

(2) fish taken under this paragraph may not be transported live from or off the water body;

(3) fish harvested under this paragraph may only be used in accordance with this section;

(4) any other use of wild animals used for bait from infested waters is prohibited;

(5) fish taken under this paragraph must meet all other size restrictions and requirements as established in rules; and

(6) all species listed under this paragraph shall be included in the person's daily limit as established in rules, if applicable.

(d) In the Mississippi River downstream of St. Anthony Falls and the St. Croix River downstream of the dam at Taylors Falls, including portions described as Minnesota-Wisconsin boundary waters in Minnesota Rules, part 6266.0500, subpart 1, items A and B, the harvest of gizzard shad by cast net for noncommercial personal use as bait for angling, as provided in a permit issued under section 84D.11, is allowed as follows:

(1) nontarget species must immediately be returned to the water;

(2) gizzard shad taken under this paragraph must be used on the same body of water where caught and while still on that water body. Where the river is divided by barriers such as dams, the gizzard shad must be caught and used on the same section of the river;

(3) gizzard shad taken under this paragraph may not be transported off the water body; and

(4) gizzard shad harvested under this paragraph may only be used in accordance with this section.

This paragraph expires December 1, 2017.

(e) Equipment authorized for minnow harvest in a listed infested water by permit issued under paragraph (b) may not be transported to, or used in, any waters other than waters specified in the permit.

(f) Bait intended for sale may not be held in infested water after taking and before sale, unless authorized under a license or permit according to Minnesota Rules, part 6216.0500.

Sec. 20. Minnesota Statutes 2016, section 84D.03, subdivision 4, is amended to read:

Subd. 4. Commercial fishing and turtle, frog, and crayfish harvesting restrictions in infested and noninfested waters. (a) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested water that is listed because it contains invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982, ~~may not be used in any other waters. If a commercial licensee operates in an infested water listed because it contains invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982, all nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in waters listed as infested with invasive fish, invertebrates, or certifiable diseases, as defined in section 17.4982,~~ must be tagged with tags provided by the commissioner, as specified in the commercial licensee's license or permit. Tagged gear must not be used in water bodies other than those specified in the license or permit. The permit may authorize department staff to remove tags after the gear is decontaminated. This tagging requirement does not apply to commercial fishing equipment used in Lake Superior.

(b) All nets, traps, buoys, anchors, stakes, and lines used for commercial fishing or turtle, frog, or crayfish harvesting in an infested water that is listed solely because it contains Eurasian watermilfoil must be dried for a minimum of ten days or frozen for a minimum of two days before they are used in any other waters, except as provided in this paragraph. Commercial licensees must notify the department's regional or area fisheries office or a conservation officer before removing nets or equipment from an infested water listed solely because it contains Eurasian watermilfoil and before resetting those nets or equipment in any other waters. Upon notification, the commissioner may authorize a commercial licensee to move nets or equipment to another water without freezing or drying, if that water is listed as infested solely because it contains Eurasian watermilfoil.

(c) A commercial licensee must remove all aquatic macrophytes from nets and other equipment before placing the equipment into waters of the state.

(d) The commissioner shall provide a commercial licensee with a current listing of listed infested waters at the time that a license or permit is issued.

Sec. 21. Minnesota Statutes 2016, section 84D.04, subdivision 1, is amended to read:

Subdivision 1. **Classes.** The commissioner shall, as provided in this chapter, classify nonnative species of aquatic plants and wild animals, including subspecies, genotypes, cultivars, hybrids, or genera of nonnative species, according to the following categories:

(1) prohibited invasive species, which may not be possessed, imported, purchased, sold, propagated, transported, or introduced except as provided in section 84D.05;

(2) regulated invasive species, which may not be introduced except as provided in section 84D.07;

(3) unlisted nonnative species, which are subject to the classification procedure in section 84D.06; and

(4) unregulated nonnative species, which are not subject to regulation under this chapter.

Sec. 22. Minnesota Statutes 2016, section 84D.05, subdivision 1, is amended to read:

Subdivision 1. **Prohibited activities.** A person may not possess, import, purchase, sell, propagate, transport, or introduce a prohibited invasive species, except:

(1) under a permit issued by the commissioner under section 84D.11;

(2) in the case of purple loosestrife, as provided by sections 18.75 to 18.88;

(3) under a restricted species permit issued under section 17.457;

(4) when being transported to the department, or another destination as the commissioner may direct, in a sealed container for purposes of identifying the species or reporting the presence of the species;

(5) when being transported for disposal as part of a harvest or control activity when specifically authorized under a permit issued by the commissioner according to section 103G.615, when being transported for disposal as specified under a commercial fishing license issued by the commissioner according to section 97A.418, 97C.801, 97C.811, 97C.825, 97C.831, or 97C.835, or when being transported as specified by the commissioner;

(6) when being removed from watercraft and equipment, or caught while angling, and immediately returned to the water from which they came; ~~or~~

(7) when being transported from riparian property to a legal disposal site that is at least 100 feet from any surface water, ditch, or seasonally flooded land, provided the prohibited invasive species are in a covered commercial vehicle specifically designed and used for hauling trash; or

~~(7)~~ (8) as the commissioner may otherwise prescribe by rule.

Sec. 23. Minnesota Statutes 2016, section 84D.108, subdivision 2a, is amended to read:

Subd. 2a. **Lake Minnetonka pilot study.** (a) The commissioner may issue an additional permit to service providers to return to Lake Minnetonka water-related equipment with zebra mussels attached after the equipment has been seasonally stored, serviced, or repaired. The permit must include verification and documentation requirements and any other conditions the commissioner deems necessary.

(b) Water-related equipment with zebra mussels attached may be returned only to Lake Minnetonka (DNR Division of Waters number 27-0133) by service providers permitted under subdivision 1.

(c) The service provider's place of business must be within the Lake Minnetonka Conservation District as established according to sections 103B.601 to 103B.645 or within a municipality immediately bordering the Lake Minnetonka Conservation District's boundaries.

(d) A service provider applying for a permit under this subdivision must, if approved for a permit and before the permit is valid, furnish a corporate surety bond in favor of the state for \$50,000 payable upon violation of this chapter while the service provider is acting under a permit issued according to this subdivision.

(e) This subdivision expires December 1, 2018 2019.

Sec. 24. Minnesota Statutes 2016, section 84D.108, is amended by adding a subdivision to read:

Subd. 2b. **Gull Lake pilot study.** (a) The commissioner may include an additional targeted pilot study to include water-related equipment with zebra mussels attached for the Gull Narrows State Water Access Site, Government Point State Water Access Site, and Gull East State Water Access Site on Gull Lake (DNR Division of Waters number 11-0305) in Cass and Crow Wing Counties using the same authorities, general procedures, and requirements provided for the Lake Minnetonka pilot project in subdivision 2a. Lake service providers participating in the Gull Lake targeted pilot study place of business must be located in Cass or Crow Wing County.

(b) If an additional targeted pilot project for Gull Lake is implemented under this section, the report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over natural resources required under Laws 2016, chapter 189, article 3, section 48, must also include the Gull Lake targeted pilot study recommendations and assessments.

(c) This subdivision expires December 1, 2019.

Sec. 25. Minnesota Statutes 2016, section 84D.108, is amended by adding a subdivision to read:

Subd. 2c. **Cross Lake pilot study.** (a) The commissioner may include an additional targeted pilot study to include water-related equipment with zebra mussels attached for the Cross Lake #1 State Water Access Site on Cross Lake (DNR Division of Waters number 18-0312) in Crow Wing County using the same authorities, general procedures, and requirements provided for the Lake Minnetonka pilot project in subdivision 2a. The place of business of lake service providers participating in the Cross Lake targeted pilot study must be located in Cass or Crow Wing County.

(b) If an additional targeted pilot project for Cross Lake is implemented under this section, the report to the chairs and ranking minority members of the senate and house of representatives committees having jurisdiction over natural resources required under Laws 2016, chapter 189, article 3, section 48, must also include the Cross Lake targeted pilot study recommendations and assessments.

(c) This subdivision expires December 1, 2019.

Sec. 26. Minnesota Statutes 2016, section 84D.11, is amended by adding a subdivision to read:

Subd. 1a. **Permit for invasive carp.** The commissioner may issue a permit to departmental divisions for tagging bighead, black, grass, or silver carp for research or control. Under the permit, the carp may be released into the water body from which the carp was captured. This subdivision expires December 31, 2021.

Sec. 27. **[85.0507] FORT RIDGELY GOLF COURSE; GOLF CARTS.**

The commissioner may by contract, concession agreement, or lease, authorize the use of golf carts on the golf course at Fort Ridgely State Park.

Sec. 28. Minnesota Statutes 2016, section 85.052, subdivision 1, is amended to read:

Subdivision 1. **Authority to establish.** (a) The commissioner may establish, by written order, provisions for the use of state parks for the following:

(1) special parking space for automobiles or other motor-driven vehicles in a state park or state recreation area;

(2) special parking spurs, campgrounds for automobiles, sites for tent camping, other types of lodging, camping, or day use facilities, and special auto trailer coach parking spaces, for the use of the individual charged for the space or facility;

(3) improvement and maintenance of golf courses already established in state parks, and charging reasonable use fees; and

(4) providing water, sewer, and electric service to trailer or tent campsites and charging a reasonable use fee.

(b) Provisions established under paragraph (a) are exempt from section 16A.1283 and the rulemaking provisions of chapter 14. Section 14.386 does not apply.

(c) For the purposes of this subdivision, "lodging" means an enclosed shelter, room, or building with furnishings for overnight use.

Sec. 29. Minnesota Statutes 2016, section 85.053, subdivision 8, is amended to read:

Subd. 8. **Free permit; military personnel; exemption.** (a) ~~A one-day permit, Annual permits under subdivision 4, shall 1 must~~ be issued without a fee ~~for a motor vehicle being used by a person who is serving in to active military service personnel in any branch or unit of the United States armed forces and who is stationed outside Minnesota, during the period of active service and for 90 days immediately thereafter, if the~~ or their dependents and to recipients of a Purple Heart medal. To qualify for a free permit under this subdivision, a person presents the person's current military orders must present qualifying military identification or an annual pass for the United States military issued through the National Parks and Federal Recreational Lands Pass program to the park attendant on duty or other designee of the commissioner.

(b) ~~For purposes of this section, "active service" has the meaning given under section 190.05, subdivision 5c, when performed outside Minnesota~~ subdivision, the commissioner shall establish what constitutes qualifying military identification in the State Register.

~~(c) A permit is not required for a motor vehicle being used by military personnel or their dependents who have in their possession the annual pass for United States military and their dependents issued by the federal government for access to federal recreation sites. For vehicles permitted under paragraph (a), the permit or decal issued under this subdivision is valid only when displayed on a vehicle owned and occupied by the person to whom the permit is issued.~~

(d) The commissioner may issue a daily vehicle permit free of charge to an individual who qualifies under paragraph (a) and does not own or operate a motor vehicle.

Sec. 30. Minnesota Statutes 2016, section 85.053, subdivision 10, is amended to read:

Subd. 10. **Free entrance permit; disabled veterans.** (a) The commissioner shall issue an annual park permit for no charge to any veteran with a total and permanent service-connected disability, and a daily park permit to any resident veteran with any level of service-connected disability, as determined by the United States Department of Veterans Affairs, who presents each year a copy of the veteran's determination letter or other official form of validation issued by the United States Department of Veterans Affairs or the United States Department of Defense to a park attendant or commissioner's designee. For the purposes of this section subdivision, "veteran" has the meaning given in section 197.447.

(b) For vehicles permitted under paragraph (a), the permit or decal issued under this subdivision is valid only when displayed on a vehicle owned and occupied by the person to whom the permit is issued.

(c) The commissioner may issue a daily vehicle permit free of charge to an individual who qualifies under paragraph (a) and does not own or operate a motor vehicle.

Sec. 31. Minnesota Statutes 2016, section 85.054, is amended by adding a subdivision to read:

Subd. 19. **Fort Ridgely golf course.** The commissioner may by contract, concession agreement, or lease waive a state park permit and associated fee for motor vehicle entry or parking for persons playing golf at the Fort Ridgely State Park golf course provided that the contract, concession agreement, or lease payment to the state is set, in part, to compensate the state park system for the loss of the state park fees.

Sec. 32. Minnesota Statutes 2016, section 85.055, subdivision 1, is amended to read:

Subdivision 1. **Fees.** The fee for state park permits for:

- (1) an annual use of state parks is ~~\$25~~ \$35;
- (2) a second or subsequent vehicle state park permit is ~~\$18~~ \$26;
- (3) a state park permit valid for one day is ~~\$5~~ \$7;
- (4) a daily vehicle state park permit for groups is ~~\$3~~ \$5;
- (5) an annual permit for motorcycles is ~~\$20~~ \$30;
- (6) an employee's state park permit is without charge; and

(7) a state park permit for persons with disabilities under section 85.053, subdivision 7, paragraph (a), clauses (1) to (3), is \$12.

The fees specified in this subdivision include any sales tax required by state law.

Sec. 33. Minnesota Statutes 2016, section 85.22, subdivision 2a, is amended to read:

Subd. 2a. **Receipts, appropriation.** All receipts derived from the rental or sale of state park items, tours at ~~Forestville Mystery Cave State Park~~, interpretation programs, educational programs, and operation of Douglas Lodge shall be deposited in the state treasury and be credited to the state parks working capital account. Receipts and expenses from Douglas Lodge shall be tracked separately within the account. Money in the account is annually appropriated for the purchase and payment of expenses attributable to items for resale or rental and operation of Douglas Lodge. Any excess receipts in this account are annually appropriated for state park management and interpretive programs.

Sec. 34. Minnesota Statutes 2016, section 85.32, subdivision 1, is amended to read:

Subdivision 1. ~~Areas marked~~ **Designation.** The commissioner of natural resources is authorized in cooperation with local units of government and private individuals and groups when feasible to ~~mark~~ manage state water trails on the Lake Superior water trail under section 85.0155 and on the following rivers, which have historic, recreational, and scenic values: Little Fork, Big Fork, Minnesota, St. Croix, Snake, Mississippi, Red Lake, Cannon, Straight, Des Moines, Crow Wing, St. Louis, Pine, Rum, Kettle, Cloquet, Root, Zumbro, Pomme de Terre within Swift County, Watonwan, Cottonwood, Whitewater, Chippewa from Benson in Swift County to Montevideo in Chippewa County, Long Prairie, Red River of the North, Sauk, Otter Tail, Redwood, Blue Earth, Cedar, Shell Rock, and Vermilion in St. Louis County, North Fork of the Crow, and South Fork of the Crow Rivers, which have historic and scenic values, and to mark appropriately. The commissioner may map and sign points of interest, public water access sites, portages, camp sites, and all dams, rapids, waterfalls, whirlpools, and other serious hazards that are dangerous to canoe, kayak, and watercraft travelers. The commissioner may maintain passageway for watercraft on state water trails.

Sec. 35. **[85.47] SPECIAL USE PERMITS; FEES.**

Fees collected for special use permits to use state trails not on state forest, state park, or state recreation area lands and for use of state water access sites must be deposited in the natural resources fund.

Sec. 36. Minnesota Statutes 2016, section 86B.301, subdivision 2, is amended to read:

Subd. 2. **Exemptions.** A watercraft license is not required for:

(1) a watercraft that is covered by a license or number in full force and effect under federal law or a federally approved licensing or numbering system of another state, or a watercraft that is owned by a person from another state and that state does not require licensing that type of watercraft, and the watercraft has not been within this state for more than 90 consecutive days, which does not include days that a watercraft is laid up at dock over winter or for repairs at a Lake Superior port or another port in the state;

(2) a watercraft from a country other than the United States that has not been within this state for more than 90 consecutive days, which does not include days that a watercraft is laid up at dock over winter or for repairs at a Lake Superior port or another port in the state;

(3) a watercraft owned by the United States, an Indian tribal government, a state, or a political subdivision of a state, except watercraft used for recreational purposes;

(4) a ship's lifeboat;

(5) a watercraft that has been issued a valid marine document by the United States government;

(6) a waterfowl boat during waterfowl-hunting season;

(7) a rice boat during the harvest season;

(8) a seaplane;

(9) a nonmotorized watercraft ten feet in length or less; and

(10) a watercraft that is covered by a valid license or number issued by a federally recognized Indian tribe in the state under a federally approved licensing or numbering system and that is owned by a member of that tribe.

Sec. 37. Minnesota Statutes 2016, section 86B.313, subdivision 1, is amended to read:

Subdivision 1. **General requirements.** (a) In addition to requirements of other laws relating to watercraft, a person may not operate or permit the operation of a personal watercraft:

(1) without each person on board the personal watercraft wearing a ~~United States Coast Guard (USCG) approved~~ wearable personal flotation device ~~with a~~ that is approved by the United States Coast Guard (USCG) and has a USCG label indicating ~~it~~ the flotation device either is approved for or does not prohibit use with personal watercraft ~~or water skiing~~;

(2) between one hour before sunset and 9:30 a.m.;

(3) at greater than slow-no wake speed within 150 feet of:

(i) a shoreline;

(ii) a dock;

(iii) a swimmer;

(iv) a raft used for swimming or diving; or

(v) a moored, anchored, or nonmotorized watercraft;

(4) while towing a person on water skis, a kneeboard, an inflatable craft, or any other device unless:

(i) an observer is on board; or

(ii) the personal watercraft is equipped with factory-installed or factory-specified accessory mirrors that give the operator a wide field of vision to the rear;

(5) without the lanyard-type engine cutoff switch being attached to the person, clothing, or personal flotation device of the operator, if the personal watercraft is equipped by the manufacturer with such a device;

(6) if any part of the spring-loaded throttle mechanism has been removed, altered, or tampered with so as to interfere with the return-to-idle system;

(7) to chase or harass wildlife;

(8) through emergent or floating vegetation at other than a slow-no wake speed;

(9) in a manner that unreasonably or unnecessarily endangers life, limb, or property, including weaving through congested watercraft traffic, jumping the wake of another watercraft within 150 feet of the other watercraft, or operating the watercraft while facing backwards;

(10) in any other manner that is not reasonable and prudent; or

(11) without a personal watercraft rules decal, issued by the commissioner, attached to the personal watercraft so as to be in full view of the operator.

(b) Paragraph (a), clause (3), does not apply to a person operating a personal watercraft to launch or land a person on water skis, a kneeboard, or similar device by the most direct route to open water.

Sec. 38. Minnesota Statutes 2016, section 86B.701, subdivision 3, is amended to read:

Subd. 3. Allocation of funding. (a) Notwithstanding section 16A.41, expenditures directly related to each appropriation's purpose made on or after January 1 of the fiscal year in which the grant is made or the date of work plan approval, whichever is later, are eligible for reimbursement unless otherwise provided.

(b) The amount of funds to be allocated under subdivisions 1 and 2 and shall be determined by the commissioner on the basis of the following criteria:

(1) the number of watercraft using the waters wholly or partially within the county;

(2) the number of watercraft using particular bodies of water, wholly or partially within the county, in relation to the size of the body of water and the type, speed, and size of the watercraft utilizing the water body;

(3) the amount of water acreage wholly or partially within the county;

(4) the overall performance of the county in the area of boat and water safety;

(5) special considerations, such as volume of transient or nonresident watercraft use, number of rental watercraft, extremely large bodies of water wholly or partially in the county; or

(6) any other factor as determined by the commissioner.

~~(b)~~ (c) The commissioner may require reports from the counties, make appropriate surveys or studies, or utilize local surveys or studies to determine the criteria required in allocation funds.

Sec. 39. Minnesota Statutes 2016, section 88.01, subdivision 28, is amended to read:

Subd. 28. **Prescribed burn.** "Prescribed burn" means a fire that is intentionally ignited, managed, and controlled for the purpose of managing forests, prairies, or wildlife habitats by an entity meeting certification requirements established by the commissioner for the purpose of managing vegetation. A prescribed burn that has exceeded its prescribed boundaries and requires immediate suppression action by a local fire department or other agency with wildfire suppression responsibilities is considered a wildfire.

Sec. 40. Minnesota Statutes 2016, section 88.523, is amended to read:

88.523 AUXILIARY FOREST CONTRACTS; SUPPLEMENTAL AGREEMENTS.

Upon application of the owner, any auxiliary forest contract may be made subject to any provisions of law enacted subsequent to the execution of the contract and in force at the time of application, so far as not already applicable, with the approval of the county board and the commissioner of natural resources. A supplemental agreement in a ~~form~~ format prescribed by the commissioner ~~and approved by the attorney general~~ must be executed by the commissioner in behalf of the state and by the owner. The supplemental agreement must be filed and recorded in like manner as the supplemental contract under section 88.49, subdivision 9, and takes effect upon filing and recording.

Sec. 41. Minnesota Statutes 2016, section 89.39, is amended to read:

89.39 PURCHASE AGREEMENTS AND PENALTIES.

Every individual, partnership, or private corporation to whom any planting stock is supplied for planting on private land ~~hereunder shall~~ under sections 89.35 to 89.39 must execute an agreement, upon a form in a format approved by the attorney general commissioner, to comply with all the requirements of sections 89.35 to 89.39 and all conditions prescribed by the commissioner hereunder thereunder. Any party to such an agreement who ~~shall violate any provision thereof shall, violates the agreement is,~~ in addition to any other penalties that may be applicable, ~~be~~ is liable to the state in a sum equal to three times the reasonable value of the trees affected by the violation at the time the ~~same trees~~ same trees were shipped for planting; provided, that if ~~such the~~ such the trees are sold or offered for sale for any purpose not ~~herein~~ authorized, such under sections 89.35 to 89.39, the penalty ~~shall be~~ is equal to three times the sale price. ~~Such~~ The penalties ~~shall be~~ are recoverable in a civil action brought in the name of the state by the attorney general.

Sec. 42. Minnesota Statutes 2016, section 90.01, is amended by adding a subdivision to read:

Subd. 1a. **Affiliate.** "Affiliate" means a person who:

(1) controls, is controlled by, or is under common control with any other person, including, without limitation, a partner, business entity with common ownership, or principal of any business entity or a subsidiary, parent company, or holding company of any person; or

(2) bids as a representative for another person.

Sec. 43. Minnesota Statutes 2016, section 90.01, subdivision 8, is amended to read:

Subd. 8. **Permit holder.** "Permit holder" means the person or affiliate of the person who is the signatory of a permit to cut timber on state lands.

Sec. 44. Minnesota Statutes 2016, section 90.01, subdivision 12, is amended to read:

Subd. 12. **Responsible bidder.** "Responsible bidder" means a person or affiliate of a person who is financially responsible; demonstrates the judgment, skill, ability, capacity, and integrity requisite and necessary to perform according to the terms of a permit issued under this chapter; and is not currently debarred by ~~another~~ a government entity for any cause.

Sec. 45. Minnesota Statutes 2016, section 90.041, subdivision 2, is amended to read:

Subd. 2. **Trespass on state lands.** The commissioner may compromise and settle, ~~with notification to the attorney general,~~ upon terms the commissioner deems just, any claim of the state for casual and involuntary trespass upon state lands or timber; provided that no claim shall be settled for less than the full value of all timber or other materials taken in casual trespass or the full amount of all actual damage or loss suffered by the state as a result. Upon request, the commissioner shall advise the Executive Council of any information acquired by the commissioner concerning any trespass on state lands, giving all details and names of witnesses and all compromises and settlements made under this subdivision.

Sec. 46. Minnesota Statutes 2016, section 90.051, is amended to read:

90.051 SUPERVISION OF SALES; BOND.

The department employee delegated to supervise state timber appraisals and sales shall be bonded in a form to be prescribed by the ~~attorney general~~ commissioner and in the sum of not less than \$25,000, conditioned upon the faithful and honest performance of duties.

Sec. 47. Minnesota Statutes 2016, section 90.101, subdivision 2, is amended to read:

Subd. 2. **Sale list and notice.** At least 30 days before the date of sale, the commissioner shall compile a list containing a description of each tract of land upon which any timber to be offered is situated and a statement of the estimated quantity of timber and of the appraised price of each kind of timber thereon as shown by the report of the state appraiser. No description shall be added after the list is posted and no timber shall be sold from land not described in the list. Copies of the list ~~shall~~ must be furnished to all interested applicants. At least 30 days before the date of sale, a copy of the list shall ~~must~~ be posted on the Internet or conspicuously posted in the forest office or other public facility most accessible to potential bidders at least 30 days prior to the date of sale. ~~The commissioner shall cause a notice to be published once not less than one week before the date of sale in a legal newspaper in the county or counties where the land is situated. The notice shall state the time and place of the sale and the location at which further information regarding the sale may be obtained.~~ The commissioner may give other published or posted notice as the commissioner deems proper to reach prospective bidders.

Sec. 48. Minnesota Statutes 2016, section 90.14, is amended to read:

90.14 AUCTION SALE PROCEDURE.

(a) All state timber shall be offered and sold by the same unit of measurement as it was appraised. No tract shall be sold to any person other than the ~~purchaser~~ responsible bidder in whose name the bid was made. The commissioner may refuse to approve any and all bids received and cancel a sale of state timber for good and sufficient reasons.

(b) The purchaser at any sale of timber shall, immediately upon the approval of the bid, or, if unsold at public auction, at the time of purchase at a subsequent sale under section 90.101, subdivision 1, pay to the commissioner a down payment of 15 percent of the appraised value. In case any purchaser fails to make such payment, the purchaser shall be liable therefor to the state in a civil action, and the commissioner may reoffer the timber for sale as though no bid or sale under section 90.101, subdivision 1, therefor had been made.

(c) In lieu of the scaling of state timber required by this chapter, a purchaser of state timber may, at the time of payment by the purchaser to the commissioner of 15 percent of the appraised value, elect in ~~writing on a form~~ format prescribed by the ~~attorney general~~ commissioner to purchase a permit based solely on the appraiser's estimate of the volume of timber described in the permit, provided that the commissioner has expressly designated the availability of such option for that tract on the list of tracts available for sale as required under section 90.101. A purchaser who elects in ~~writing on a form~~ format prescribed by the ~~attorney general~~ commissioner to purchase a permit based solely on the appraiser's estimate of the volume of timber described on the permit does not have recourse to the provisions of section 90.281.

(d) In the case of a public auction sale conducted by a sealed bid process, tracts shall be awarded to the high bidder, who shall pay to the commissioner a down payment of 15 percent of the appraised value that must be received or postmarked within 14 days of the date of the sealed bid opening. If a purchaser fails to make the down payment, the purchaser is liable for the down payment to the state and the commissioner may offer the timber for sale to the next highest bidder as though no higher bid had been made.

(e) Except as otherwise provided by law, at the time the purchaser signs a permit issued under section 90.151, the commissioner shall require the purchaser to make a bid guarantee payment to the commissioner in an amount equal to 15 percent of the total purchase price of the permit less the down payment amount required by paragraph (b) for any bid increase in excess of \$10,000 of the appraised value. If a required bid guarantee payment is not submitted with the signed permit, no harvesting may occur, the permit cancels, and the down payment for timber forfeits to the state. The bid guarantee payment forfeits to the state if the purchaser and successors in interest fail to execute an effective permit.

Sec. 49. Minnesota Statutes 2016, section 90.145, subdivision 2, is amended to read:

Subd. 2. **Purchaser registration.** To facilitate the sale of permits issued under section 90.151, the commissioner may establish a registration system to verify the qualifications of a person or affiliate as a responsible bidder to purchase a timber permit. Any system implemented by the commissioner shall be limited in scope to only that information that is required for the efficient administration of the purchaser qualification requirements of this chapter. The registration system

established under this subdivision is not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

Sec. 50. Minnesota Statutes 2016, section 90.151, subdivision 1, is amended to read:

Subdivision 1. **Issuance; expiration.** (a) Following receipt of the down payment for state timber required under section 90.14 or 90.191, the commissioner shall issue a numbered permit to the purchaser, in a ~~form~~ format approved by the ~~attorney general~~ commissioner, by the terms of which the purchaser ~~shall be~~ is authorized to enter upon the land; and to cut and remove the timber ~~therein~~ described in the permit as designated for cutting in the report of the state appraiser, according to the provisions of this chapter. The permit ~~shall~~ must be correctly dated and executed by the commissioner and signed by the purchaser. If a permit is not signed by the purchaser within 45 days from the date of purchase, the permit cancels and the down payment for timber required under section 90.14 forfeits to the state. The commissioner may grant an additional period for the purchaser to sign the permit, not to exceed ten business days, provided the purchaser pays a \$200 penalty fee.

(b) The permit ~~shall expire~~ expires no later than five years after the date of sale as the commissioner shall specify or as specified under section 90.191, and the timber ~~shall~~ must be cut and removed within the time specified ~~therein~~. If additional time is needed, the permit holder must request, ~~prior to~~ before the expiration date, and may be granted, for good and sufficient reasons, up to 90 additional days for the completion of skidding, hauling, and removing all equipment and buildings. All cut timber, equipment, and buildings not removed from the land after expiration of the permit becomes the property of the state.

(c) The commissioner may grant ~~an~~ additional ~~period of~~ time not to exceed 240 days for ~~the removal of~~ removing cut timber, equipment, and buildings upon receipt of a written request by the permit holder for good and sufficient reasons. The permit holder may combine in the written request under this paragraph the request for additional time under paragraph (b).

Sec. 51. Minnesota Statutes 2016, section 90.162, is amended to read:

90.162 SECURING TIMBER PERMITS WITH CUTTING BLOCKS.

In lieu of the security deposit equal to the value of all timber covered by the permit required by section 90.161, a purchaser of state timber may elect in ~~writing on a form~~ format prescribed by the ~~attorney general~~ commissioner to give good and valid surety to the state of Minnesota equal to the purchase price for any designated cutting block identified on the permit before the date the purchaser enters upon the land to begin harvesting the timber on the designated cutting block.

Sec. 52. Minnesota Statutes 2016, section 90.252, is amended to read:

90.252 SCALING AGREEMENT; WEIGHT MEASUREMENT SERVICES; FEES.

Subdivision 1. **Scaling agreement.** The commissioner may enter into an agreement with either a timber sale permittee, or the purchaser of the cut products, or both, so that the scaling of the cut timber and the collection of the payment for the same can be consummated by the state. ~~Such an~~ The agreement shall must be approved as to form and content by the ~~attorney general~~ commissioner and ~~shall~~ must provide for a bond or cash in lieu of a bond and ~~such~~ other safeguards as are necessary to protect the interests of the state. The scaling and payment collection procedure may be used for

any state timber sale, except that no permittee who is also the consumer shall both cut and scale the timber sold unless ~~such~~ the scaling is supervised by a state scaler.

Subd. 2. **Weight measurement services; fees.** The commissioner may enter into an agreement with the owner or operator of any weight scale inspected, tested, and approved under chapter 239 to provide weight measurements for ~~the~~ scaling of state timber according to section 90.251. The agreement ~~shall~~ must be ~~on a form~~ in a format prescribed by the ~~attorney general~~ commissioner, ~~shall become a~~ becomes part of the official record of any state timber permit so scaled, and ~~shall~~ must contain safeguards that are necessary to protect the interests of the state. Except as otherwise provided by the commissioner, the cost of any agreement to provide weight measurement of state timber ~~shall~~ must be paid by the permit holder of any state timber permit so measured and the cost ~~shall~~ must be included in the statement of the amount due for the permit under section 90.181, subdivision 1.

Sec. 53. Minnesota Statutes 2016, section 93.25, subdivision 2, is amended to read:

Subd. 2. **Lease requirements.** All leases for nonferrous metallic minerals or petroleum must be approved by the Executive Council, and any other mineral lease issued pursuant to this section that covers 160 or more acres must be approved by the Executive Council. The rents, royalties, terms, conditions, and covenants of all such leases shall be fixed by the commissioner according to rules adopted by the commissioner, but no lease shall be for a longer term than 50 years, and all rents, royalties, terms, conditions, and covenants shall be fully set forth in each lease issued. No lease shall be canceled by the state for failure to meet production requirements prior to the 36th year of the lease. The rents and royalties shall be credited to the funds as provided in section 93.22.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to leases in effect or issued on or after that date.

Sec. 54. Minnesota Statutes 2016, section 93.47, subdivision 4, is amended to read:

Subd. 4. **Administration and enforcement.** The commissioner shall administer and enforce sections 93.44 to 93.51 and the rules adopted pursuant hereto. In so doing the commissioner may (1) conduct such investigations and inspections as the commissioner deems necessary for the proper administration of sections 93.44 to 93.51; (2) enter upon any parts of the mining areas in connection with any such investigation and inspection without liability to the operator or landowner provided that reasonable prior notice of intention to do so shall have been given the operator or landowner; (3) conduct such research or enter into contracts related to mining areas and the reclamation thereof as may be necessary to carry out the provisions of sections 93.46 to 93.50; and (4) allocate surplus wetland credits that are approved by the commissioner under a permit to mine on or after July 1, 1991, and that are not otherwise deposited in a state wetland bank.

EFFECTIVE DATE. This section is effective retroactively from July 1, 1991.

Sec. 55. Minnesota Statutes 2016, section 93.481, subdivision 2, is amended to read:

Subd. 2. **Commissioner's review; hearing; ~~burden of proof.~~** Within 120 days after receiving ~~the an~~ application, ~~or after receiving additional information requested, or after holding a hearing as provided in this section~~ the commissioner has deemed complete and filed, the commissioner shall grant the permit applied for, with or without modifications or conditions, or deny the application

unless a contested case hearing is requested under section 93.483. If written objections to the proposed application are filed with the commissioner within 30 days after the last publication required pursuant to this section or within seven days after publication in the case of an application to conduct lean ore stockpile removal, by any person owning property which will be affected by the proposed operation or by any federal, state, or local governmental agency having responsibilities affected by the proposed operations, a public hearing shall be held by the commissioner in the locality of the proposed operations within 30 days of receipt of such written objections and after appropriate notice and publication of the date, time, and location of the hearing. The commissioner's decision to grant the permit, with or without modifications, or deny the application constitutes a final order for purposes of section 93.50. The commissioner in granting a permit with or without modifications shall determine that the reclamation or restoration planned for the operation complies with lawful requirements and can be accomplished under available technology and that a proposed reclamation or restoration technique is practical and workable under available technology. The commissioner may hold public meetings on the application.

Sec. 56. **[93.483] CONTESTED CASE.**

Subdivision 1. **Petition for contested case hearing.** Any person owning property that is adjacent to the proposed operation or any federal, state, or local government having responsibilities affected by the proposed operation identified in the application for a permit to mine under section 93.481 may file a petition with the commissioner to hold a contested case hearing on the completed application. To be considered by the commissioner, a petition must be submitted in writing, must contain the information specified in subdivision 2, and must be submitted to the commissioner within 30 days after the application is deemed complete and filed. In addition, the commissioner may, on the commissioner's own motion, order a contested case hearing on the completed application.

Subd. 2. **Petition contents.** (a) A petition for a contested case hearing must include the following information:

(1) a statement of reasons or proposed findings supporting the commissioner's decision to hold a contested case hearing pursuant to the criteria in subdivision 3; and

(2) a statement of the issues proposed to be addressed by a contested case hearing and the specific relief requested or resolution of the matter.

(b) To the extent known by the petitioner, a petition for a contested case hearing may also include:

(1) a proposed list of prospective witnesses to be called, including experts, with a brief description of the proposed testimony or a summary of evidence to be presented at a contested case hearing;

(2) a proposed list of publications, references, or studies to be introduced and relied upon at a contested case hearing; and

(3) an estimate of time required for the petitioner to present the matter at a contested case hearing.

(c) A petitioner is not bound or limited to the witnesses, materials, or estimated time identified in the petition if the requested contested case is granted by the commissioner.

(d) Any person may serve timely responses to a petition for a contested case hearing. The commissioner shall establish deadlines for responses to be submitted.

Subd. 3. **Commissioner's decision to hold hearing.** The commissioner may grant the petition to hold a contested case hearing or order upon the commissioner's own motion that a contested case hearing be held if the commissioner finds that:

(1) there is a material issue of fact in dispute concerning the completed application before the commissioner;

(2) the commissioner has jurisdiction to make a determination on the disputed material issue of fact; and

(3) there is a reasonable basis underlying a disputed material issue of fact so that a contested case hearing would allow the introduction of information that would aid the commissioner in resolving the disputed facts in order to make a final decision on the completed application.

Subd. 4. **Hearing upon demand of applicant.** If the commissioner denies an application, the applicant may, within 30 days after receipt of the commissioner's order denying the application, file a demand for a contested case.

Subd. 5. **Scope of hearing.** If the commissioner decides to hold a contested case hearing, the commissioner shall identify the issues to be resolved and limit the scope and conduct of the hearing in accordance with applicable law, due process, and fundamental fairness. The commissioner may, before granting or ordering a contested case hearing, develop a proposed permit or permit conditions to inform the contested case. The contested case hearing must be conducted in accordance with sections 14.57 to 14.62. The final decision by the commissioner to grant, with or without modifications or conditions, or deny the application after a contested case shall constitute a final order for purposes of section 93.50.

Subd. 6. **Consistency with administrative rules.** The commissioner shall construe the administrative procedures under Minnesota Rules, parts 6130.4800 and 6132.4000, in a manner that is consistent with this section. To the extent any provision of Minnesota Rules, parts 6130.4800 and 6132.4000, conflicts with this section, this section controls.

Sec. 57. Minnesota Statutes 2016, section 93.50, is amended to read:

93.50 APPEAL.

Any person aggrieved by any final order, ruling, or decision of the commissioner may ~~appeal~~ seek judicial review of such order, ruling, or decision ~~in the manner provided in chapter 14~~ under sections 14.63 to 14.69.

Sec. 58. Minnesota Statutes 2016, section 94.343, subdivision 9, is amended to read:

Subd. 9. **Approval by ~~attorney general~~ commissioner.** No exchange of class A land shall be consummated unless the ~~attorney general shall have given an opinion in writing~~ commissioner determines that the title to the land proposed to be conveyed to the state is good and marketable, free from all liens ~~and~~, with all encumbrances identified except reservations herein authorized. The

commissioner may use title insurance to aid in the title determination. If required by the ~~attorney general~~ commissioner, the landowner ~~shall~~ must submit an abstract of title and make and file with the commissioner an affidavit as to possession of the land, improvements, liens, and encumbrances thereon, and other matters affecting the title.

Sec. 59. Minnesota Statutes 2016, section 94.344, subdivision 9, is amended to read:

Subd. 9. **Approval of county attorney.** No exchange of class B land shall be consummated unless the title to the land proposed to be exchanged therefor ~~shall~~ is first ~~be~~ approved by the county attorney in like manner as provided for approval by the ~~attorney general~~ commissioner in case of class A land. The county attorney's opinion on the title ~~shall be~~ is subject to approval by the ~~attorney general~~ commissioner.

Sec. 60. Minnesota Statutes 2016, section 97A.015, is amended by adding a subdivision to read:

Subd. 35a. **Portable shelter.** "Portable shelter" means a fish house, dark house, or other shelter that is set on the ice of state waters to provide shelter and that collapses, folds, or is disassembled for transportation.

Sec. 61. Minnesota Statutes 2016, section 97A.015, subdivision 39, is amended to read:

Subd. 39. **Protected wild animals.** "Protected wild animals" ~~are the following wild animals:~~ means big game, small game, game fish, rough fish, minnows, leeches, alewives, ciscoes, chubs, ~~and lake whitefish;~~ and the subfamily Coregoninae, rainbow smelt, frogs, turtles, clams, mussels, wolf, mourning doves, ~~bats, snakes, salamanders, lizards, any animal species listed as endangered, threatened, or of special concern in Minnesota Rules, chapter 6134,~~ and wild animals that are protected by a restriction in the time or manner of taking, other than a restriction in the use of artificial lights, poison, or motor vehicles.

Sec. 62. Minnesota Statutes 2016, section 97A.015, subdivision 43, is amended to read:

Subd. 43. **Rough fish.** "Rough fish" means carp, buffalo, sucker, sheepshead, bowfin, burbot, cisco, gar, goldeye, and bullhead, except for any fish species listed as endangered, threatened, or of special concern in Minnesota Rules, chapter 6134.

Sec. 63. Minnesota Statutes 2016, section 97A.015, subdivision 45, is amended to read:

Subd. 45. **Small game.** "Small game" means game birds, gray squirrel, fox squirrel, cottontail rabbit, snowshoe hare, jack rabbit, raccoon, lynx, bobcat, short-tailed weasel, long-tailed weasel, wolf, red fox and gray fox, fisher, pine marten, opossum, badger, cougar, wolverine, muskrat, mink, otter, and beaver.

Sec. 64. Minnesota Statutes 2016, section 97A.015, subdivision 52, is amended to read:

Subd. 52. **Unprotected birds.** "Unprotected birds" means English sparrow, ~~blackbird,~~ starling, ~~maggie,~~ cormorant, common pigeon, Eurasian collared dove, chukar partridge, quail other than bobwhite quail, and mute swan.

Sec. 65. Minnesota Statutes 2016, section 97A.015, subdivision 53, is amended to read:

Subd. 53. **Unprotected wild animals.** "Unprotected wild animals" means wild animals that are not protected wild animals including ~~weasel~~, coyote, plains pocket gopher, porcupine, striped skunk, and unprotected birds, except any animal species listed as endangered, threatened, or of special concern in Minnesota Rules, chapter 6134.

Sec. 66. Minnesota Statutes 2016, section 97A.045, subdivision 10, is amended to read:

Subd. 10. **Reciprocal agreements on violations.** The commissioner, ~~with the approval of the attorney general~~, may enter into reciprocal agreements with game and fish authorities in other states and the United States government to provide for:

(1) revocation of the appropriate Minnesota game and fish licenses of Minnesota residents for violations of game and fish laws committed in signatory jurisdictions ~~which~~ that result in license revocation in that jurisdiction;

(2) reporting convictions and license revocations of residents of signatory states for violations of game and fish laws of Minnesota to game and fish authorities in the nonresident's state of residence; and

(3) release upon signature without posting of bail for residents of signatory states accused of game and fish law violations in this state, providing for recovery, in the resident jurisdiction, of fines levied if the citation is not answered in this state.

As used in this subdivision, "conviction" includes a plea of guilty or a forfeiture of bail.

Sec. 67. Minnesota Statutes 2016, section 97A.055, subdivision 2, is amended to read:

Subd. 2. **Receipts.** The commissioner of management and budget shall credit to the game and fish fund all money received under the game and fish laws and all income from state lands acquired by purchase or gift for game or fish purposes, including receipts from:

(1) licenses and permits issued;

(2) fines and forfeited bail;

(3) sales of contraband, wild animals, and other property under the control of the division, except as provided in section 97A.225, subdivision 8, clause (2);

(4) fees from advanced education courses for hunters and trappers;

(5) reimbursements of expenditures by the division;

(6) contributions to the division; and

(7) revenue credited to the game and fish fund under section 297A.94, paragraph (e), clause (1).

Sec. 68. Minnesota Statutes 2016, section 97A.075, subdivision 1, is amended to read:

Subdivision 1. **Deer, bear, and lifetime licenses.** (a) For purposes of this subdivision, "deer license" means a license issued under section 97A.475, subdivisions 2, clauses (5), (6), (7), (13),

(14), and (15); 3, paragraph (a), clauses (2), (3), (4), (10), (11), and (12); and 8, paragraph (b), and licenses issued under section 97B.301, subdivision 4.

(b) \$2 from each annual deer license and \$2 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer management account and is appropriated to the commissioner for deer habitat improvement or deer management programs.

(c) \$1 from each annual deer license and each bear license and \$1 annually from the lifetime fish and wildlife trust fund, established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the deer and bear management account and is appropriated to the commissioner for deer and bear management programs, including a computerized licensing system.

(d) Fifty cents from each deer license is credited to the emergency deer feeding and wild cervidae health management account and is appropriated for emergency deer feeding and wild cervidae health management. Money appropriated for emergency deer feeding and wild cervidae health management is available until expended.

When the unencumbered balance in the appropriation for emergency deer feeding and wild cervidae health management exceeds \$2,500,000 at the end of a fiscal year, the unencumbered balance in excess of \$2,500,000 is canceled and available for deer and bear management programs and computerized licensing.

~~(e) Fifty cents from each annual deer license and 50 cents annually from the lifetime fish and wildlife trust fund established in section 97A.4742, for each license issued under section 97A.473, subdivision 4, shall be credited to the wolf management and monitoring account under subdivision 7.~~

EFFECTIVE DATE. This section is effective July 1 of the year following the year the wolf is delisted under the federal Endangered Species Act.

Sec. 69. Minnesota Statutes 2016, section 97A.137, subdivision 5, is amended to read:

Subd. 5. **Portable stands.** ~~Prior to the Saturday on or nearest September 16,~~ A portable stand may be left overnight in a wildlife management area by a person with a valid bear license ~~who is hunting within 100 yards of a bear bait site that is legally tagged and registered as prescribed under section 97B.425 to take big game during the respective season.~~ Any person leaving a portable stand overnight under this subdivision must affix a tag with: (1) the person's name and address; (2) the licensee's driver's license number; or (3) the "MDNR#" license identification number issued to the licensee. The tag must be affixed to the stand in a manner that it can be read from the ground and be made of a material sufficient to withstand weather conditions. A person leaving a portable stand overnight in a wildlife management area may not leave more than two portable stands in any one wildlife management area.

Sec. 70. Minnesota Statutes 2016, section 97A.201, subdivision 2, is amended to read:

Subd. 2. **Duty of county attorneys and peace officers.** ~~County attorneys and~~ All peace officers must enforce the game and fish laws.

Sec. 71. Minnesota Statutes 2016, section 97A.201, is amended by adding a subdivision to read:

Subd. 3. **Prosecuting authority.** County attorneys are the primary prosecuting authority for violations under section 97A.205, clause (5). Prosecution includes associated civil forfeiture actions provided by law.

Sec. 72. Minnesota Statutes 2016, section 97A.225, subdivision 8, is amended to read:

Subd. 8. **Proceeds of sale.** After determining the expense The proceeds from the sale after payment of the costs of seizing, towing, keeping, and selling the property, the commissioner must pay the and satisfying valid liens from the proceeds according to the court order. The remaining proceeds against the property must be distributed as follows:

(1) 70 percent of the money or proceeds shall be deposited in the state treasury and credited to the game and fish fund; and

(2) 30 percent of the money or proceeds is considered a cost of forfeiting the property and must be forwarded to the prosecuting authority that handled the forfeiture for deposit as a supplement to its operating fund or similar fund for prosecutorial purposes.

Sec. 73. Minnesota Statutes 2016, section 97A.301, subdivision 1, is amended to read:

Subdivision 1. **Misdemeanor.** Unless a different penalty is prescribed, a person is guilty of a misdemeanor if that person:

(1) ~~takes, buys, sells, transports or possesses a wild animal in violation of~~ violates the game and fish laws;

(2) aids or assists in committing the violation;

(3) knowingly shares in the proceeds of the violation;

(4) fails to perform a duty or comply with a requirement of the game and fish laws;

(5) knowingly makes a false statement related to an affidavit regarding a violation or requirement of the game and fish laws; or

(6) violates or attempts to violate a rule under the game and fish laws.

Sec. 74. Minnesota Statutes 2016, section 97A.338, is amended to read:

97A.338 GROSS OVERLIMITS OF WILD ANIMALS; PENALTY.

(a) A person who takes, possesses, or transports wild animals over the legal limit, in closed season, or without a valid license, when the restitution value of the wild animals is over \$1,000 is guilty of a gross overlimit violation. Except as provided in paragraph (b), a violation under this section paragraph is a gross misdemeanor.

(b) If a wild animal involved in a gross overlimit violation is listed as a threatened or endangered wild animal, the penalty in paragraph (a) does not apply unless more than one animal is taken, possessed, or transported in violation of the game and fish laws.

Sec. 75. Minnesota Statutes 2016, section 97A.420, subdivision 1, is amended to read:

Subdivision 1. **Seizure.** (a) An enforcement officer shall immediately seize the license of a person who unlawfully takes, transports, or possesses wild animals when the restitution value of the wild animals exceeds \$500. Except as provided in subdivisions 2, 4, and 5, the person may not use or obtain any license to take the same type of wild animals involved, including a duplicate license, until an action is taken under subdivision 6. If the license seized under this paragraph was for a big game animal, the license seizure applies to all licenses to take big game issued to the individual. If the license seized under this paragraph was for small game animals, the license seizure applies to all licenses to take small game issued to the individual.

(b) In addition to the license seizure under paragraph (a), if the restitution value of the wild animals unlawfully taken, possessed, or transported is ~~\$5,000~~ \$1,000 or more, all other game and fish licenses held by the person shall be immediately seized. Except as provided in subdivision 2, 4, or 5, the person may not obtain any game or fish license or permit, including a duplicate license, until an action is taken under subdivision 6.

(c) A person may not take wild animals covered by a license seized under this subdivision until an action is taken under subdivision 6.

Sec. 76. Minnesota Statutes 2016, section 97A.421, subdivision 2a, is amended to read:

Subd. 2a. **Issuance after conviction; gross overlimits.** (a) A person may not obtain a license to take a wild animal and is prohibited from taking wild animals for ten years after the date of conviction of a violation when the restitution value of the wild animals is \$2,000 or more.

(b) A person may not obtain a license to take a wild animal and is prohibited from taking wild animals for ~~a period of~~ five years after the date of conviction of:

(1) a violation when the restitution value of the wild animals is ~~\$5,000~~ \$1,000 or more, but less than \$2,000; or

(2) a violation when the restitution value of the wild animals exceeds \$500 and the violation occurs within ten years of one or more previous license revocations under this subdivision.

~~(b)~~ (c) A person may not obtain a license to take the type of wild animals involved in a violation when the restitution value of the wild animals exceeds \$500 and is prohibited from taking the type of wild animals involved in the violation for ~~a period of~~ three years after the date of conviction of a violation.

~~(c)~~ (d) The time period of multiple revocations under paragraph (a) or (b), clause (2), ~~shall be~~ are consecutive and no wild animals of any kind may be taken during the entire revocation period.

(e) If a wild animal involved in the conviction is listed as a threatened or endangered wild animal, the revocations under this subdivision do not apply unless more than one animal is taken, possessed, or transported in violation of the game and fish laws.

~~(d)~~ (f) The court may not stay or reduce the imposition of license revocation provisions under this subdivision.

Sec. 77. Minnesota Statutes 2016, section 97A.441, subdivision 1, is amended to read:

Subdivision 1. **Angling and spearing; disabled residents.** (a) A person authorized to issue licenses must issue, without a fee, licenses to take fish by angling or spearing to a resident who is:

(1) blind;

(2) a recipient of Supplemental Security Income for the aged, blind, and disabled;

(3) a recipient of Social Security aid to the disabled under United States Code, title 42, section 416, paragraph (i)(1), or section 423(d);

(4) a recipient of workers' compensation based on a finding of total and permanent disability;

(5) 65 years of age or older and was qualified under clause (2) or (3) at the age of 64; ~~or~~

(6) permanently disabled and meets the disability requirements for Supplemental Security Income or Social Security aid to the disabled under United States Code, title 42, section 416, paragraph (i)(1), or section 423(d);

(7) receiving aid under the federal Railroad Retirement Act of 1974, United States Code, title 45, section 231a(a)(1)(v); or

(8) a former employee of the United States Postal Service receiving disability pay under United States Code, title 5, section 8337.

(b) A driver's license or Minnesota identification card bearing the applicable designation under section 171.07, subdivision 17, serves as satisfactory evidence to obtain a license under this subdivision at all agent locations.

Sec. 78. Minnesota Statutes 2016, section 97B.031, subdivision 6, is amended to read:

Subd. 6. ~~Scopes; age 60 or over.~~ A person ~~age 60 or over~~ may use a muzzleloader with a scope to take deer during the muzzleloader season. The scope may have magnification capabilities.

Sec. 79. **[97B.032] RULES LIMITING USE OF LEAD SHOT PROHIBITED.**

The commissioner of natural resources shall not adopt rules further restricting the use of lead shot.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to rules adopted on or after that date.

Sec. 80. Minnesota Statutes 2016, section 97B.071, is amended to read:

97B.071 ~~BLAZE ORANGE~~ CLOTHING REQUIREMENTS; BLAZE ORANGE OR BLAZE PINK.

(a) Except as provided in rules adopted under paragraph (c), a person may not hunt or trap during the open season where deer may be taken by firearms under applicable laws and ordinances, unless the visible portion of the person's cap and outer clothing above the waist, excluding sleeves and gloves, is blaze orange or blaze pink. Blaze orange or blaze pink includes a camouflage pattern of at least 50 percent blaze orange or blaze pink within each foot square. This section does not apply to migratory-waterfowl hunters on waters of this state or in a stationary shooting location or to trappers on waters of this state.

(b) Except as provided in rules adopted under paragraph (c), and in addition to the requirement in paragraph (a), a person may not take small game other than turkey, migratory birds, raccoons, and predators, except while trapping, unless a visible portion of at least one article of the person's clothing above the waist is blaze orange or blaze pink. This paragraph does not apply to a person when in a stationary location while hunting deer by archery or when hunting small game by falconry.

(c) The commissioner may, by rule, prescribe an alternative color in cases where paragraph (a) or (b) would violate the Religious Freedom Restoration Act of 1993, Public Law 103-141.

(d) A violation of paragraph (b) shall not result in a penalty, but is punishable only by a safety warning.

Sec. 81. Minnesota Statutes 2016, section 97B.405, is amended to read:

97B.405 COMMISSIONER MAY LIMIT NUMBER OF BEAR HUNTERS.

(a) The commissioner may limit the number of persons that may hunt bear in an area, if it is necessary to prevent an overharvest or improve the distribution of hunters. The commissioner may establish, by rule, a method, including a drawing, to impartially select the hunters for an area. The commissioner shall give preference to hunters that have previously applied and have not been selected.

(b) If the commissioner limits the number of persons that may hunt bear in an area under paragraph (a), the commissioner must reserve one permit and give first preference for that permit to a resident of a Minnesota veterans home.

~~(b)~~ (c) A person selected through a drawing must purchase a license by August 1. Any remaining available licenses not purchased shall be issued to any eligible person as prescribed by the commissioner on a first-come, first-served basis beginning three business days after August 1.

Sec. 82. Minnesota Statutes 2016, section 97B.431, is amended to read:

97B.431 BEAR-HUNTING OUTFITTERS.

(a) A person may not place bait for bear, or guide hunters to take bear, for compensation without a bear-hunting-outfitter license. A bear-hunting outfitter is not required to have a license to take bear unless the outfitter is attempting to shoot a bear. The commissioner shall adopt rules for qualifications for issuance and administration of the licenses.

(b) The commissioner shall establish a resident master bear-hunting-outfitter license under which one person serves as the bear-hunting outfitter and one other person is eligible to guide and bait bear. Additional persons may be added to the license and are eligible to guide and bait bear under the license, provided the additional fee under section 97A.475, subdivision 16, is paid for each person added. The commissioner shall adopt rules for qualifications for issuance and administration of the licenses. The commissioner must not require a person to have certification or training in first aid or CPR to be eligible for a license under this section.

Sec. 83. Minnesota Statutes 2016, section 97B.516, is amended to read:

97B.516 ELK MANAGEMENT PLAN.

(a) The commissioner of natural resources must adopt an elk management plan that:

- (1) recognizes the value and uniqueness of elk;
- (2) provides for integrated management of an elk population in harmony with the environment; and
- (3) affords optimum recreational opportunities.

(b) Notwithstanding paragraph (a), the commissioner must not manage an elk herd in Kittson, Roseau, Marshall, or Beltrami Counties in a manner that would increase the size of the herd, including adoption or implementation of an elk management plan designed to increase an elk herd, unless the commissioner of agriculture verifies that crop and fence damages paid under section 3.7371 and attributed to the herd have not increased for at least two years.

(c) At least 60 days prior to implementing a plan to increase an elk herd, the commissioners of natural resources and agriculture must hold a joint public meeting in the county where the elk herd to be increased is located. At the meeting, the commissioners must present evidence that crop and fence damages have not increased in the prior two years and must detail the practices that will be used to reduce elk conflicts with area landowners.

Sec. 84. Minnesota Statutes 2016, section 97B.655, subdivision 1, is amended to read:

Subdivision 1. **Owners and occupants may take certain animals.** A person or the person's agent may take bats, snakes, salamanders, lizards, weasel, mink, squirrel, rabbit, hare, raccoon, bobcat, fox, opossum, muskrat, or beaver on land owned or occupied by the person where the animal is causing damage. The person or the person's agent may take the animal without a license and in any manner except by ~~poison, or~~ artificial lights in the closed season or by poison. Raccoons may be taken under this subdivision with artificial lights during open season. A person ~~that~~ or the person's agent who kills mink, raccoon, bobcat, fox, opossum, muskrat, or beaver under this subdivision must notify a conservation officer or employee of the Fish and Wildlife Division within 24 hours after the animal is killed.

Sec. 85. Minnesota Statutes 2016, section 97C.315, subdivision 1, is amended to read:

Subdivision 1. **Lines.** An angler may not use more than one line except:

- (1) two lines may be used to take fish through the ice; ~~and~~

(2) the commissioner may, by rule, authorize the use of two lines in areas designated by the commissioner in Lake Superior; and

(3) two lines may be used to take fish during the open-water season, except on waters during a catch and release season for any species, by a resident or nonresident angler who purchases a second-line endorsement for \$5. Of the amount collected from purchases of second-line endorsements, 50 percent must be spent on walleye stocking.

EFFECTIVE DATE. This section is effective March 1, 2018.

Sec. 86. Minnesota Statutes 2016, section 97C.355, subdivision 2a, is amended to read:

Subd. 2a. **Portable shelters.** (a) A person using a portable shelter that is not identified under subdivision 1 may not leave the portable shelter unattended between midnight and sunrise and must remain within 200 feet of the shelter while the shelter is on the ice of state waters.

(b) If a person leaves the portable shelter unattended any time between midnight and one hour before sunrise or is not within 200 feet of the portable shelter, the portable shelter must be licensed as provided under subdivision 2.

Sec. 87. Minnesota Statutes 2016, section 97C.401, subdivision 2, is amended to read:

Subd. 2. **Walleye; northern pike.** ~~(a) Except as provided in paragraph (b), A person may have no more than one walleye larger than 20 inches and one northern pike larger than 30 inches in possession. This subdivision does not apply to boundary waters.~~

~~(b) The restrictions in paragraph (a) do not apply to boundary waters.~~

Sec. 88. Minnesota Statutes 2016, section 97C.501, subdivision 1, is amended to read:

Subdivision 1. **Minnow retailers.** (a) A person may not be a minnow retailer without a minnow retailer license except as provided in subdivisions 2, paragraph (d), and 3. A person must purchase a minnow retailer license for each minnow retail outlet operated, except as provided by subdivision 2, paragraph (d).

(b) A minnow retailer must obtain a minnow retailer's vehicle license for each motor vehicle used by the minnow retailer to transport more than 12 dozen minnows to the minnow retailer's place of business, ~~except as provided in subdivision 3.~~ A minnow retailer is not required to obtain a minnow retailer's vehicle license:

(1) as provided in subdivision 3;

(2) if the minnow retailer is licensed as a resort under section 157.16, is transporting minnows purchased from a minnow dealer's place of business directly to the resort, possesses a detailed receipt, including the date and time of purchase, and presents the receipt and minnows for inspection upon request; or

(3) if minnows are being transported by common carrier and information is provided that allows the commissioner to find out the location of the shipment in the state.

Sec. 89. Minnesota Statutes 2016, section 97C.515, subdivision 2, is amended to read:

Subd. 2. **Permit for transportation; importation.** (a) A person may transport live minnows through the state with a permit from the commissioner. The permit must state the name and address of the person, the number and species of minnows, the point of entry into the state, the destination, and the route through the state. The permit is not valid for more than 12 hours after it is issued. A person must not import minnows into the state except as provided in this section.

(b) Minnows transported under this subdivision must be in a tagged container. The tag number must correspond with tag numbers listed on the minnow transportation permit.

(c) The commissioner may require the person transporting minnow species found on the official list of viral hemorrhagic septicemia susceptible species published by the United States Department of Agriculture, Animal and Plant Health Inspection Services, to provide health certification for viral hemorrhagic septicemia. The certification must disclose any incidentally isolated replicating viruses, and must be dated within the 12 months preceding transport.

(d) Golden shiner minnows may be imported as provided in this subdivision. Golden shiner minnows that are imported must be certified as healthy according to Arkansas standards in accordance with the Arkansas baitfish certification program.

(e) Golden shiner minnows must be certified free of viral hemorrhagic septicemia, infectious hematopoietic necrosis, infectious pancreatic necrosis, spring viremia of carp virus, fathead minnow nidovirus, heterosporis, aeromonas salmonicida, and yersinia ruckeri.

(f) Golden shiner minnows must originate from a biosecure facility that has tested negative for invasive species.

(g) Only a person that holds a Minnesota wholesale minnow dealer's license issued under section 97C.501, subdivision 2, may obtain a permit to import golden shiner minnows.

Sec. 90. Minnesota Statutes 2016, section 97C.701, is amended by adding a subdivision to read:

Subd. 7. **Harvesting mussel shells.** Live mussels may not be harvested. A person possessing a valid resident or nonresident angling license or a person not required to have an angling license to take fish may take and possess at any time, for personal use only, not more than 24 whole shells or 48 shell halves of dead freshwater mussels. Mussel shells may be harvested in waters of the state where fish may be taken by angling. Mussel shells must be harvested by hand-picking only and may not be purchased or sold.

Sec. 91. Minnesota Statutes 2016, section 103B.101, subdivision 12a, is amended to read:

Subd. 12a. **Authority to issue penalty orders.** ~~(a) A county or watershed district with jurisdiction~~ ~~or~~ The Board of Water and Soil Resources may issue an order requiring violations of the water resources riparian protection requirements under sections 103F.415, 103F.421, and 103F.48 to be corrected and administratively assessing monetary penalties up to \$500 for noncompliance commencing on day one of the 11th month after the noncompliance notice was issued. The proceeds collected from an administrative penalty order issued under this section must be remitted to ~~the~~

~~county or watershed district with jurisdiction over the noncompliant site, or otherwise remitted to the Board of Water and Soil Resources.~~

(b) Before exercising this authority, the Board of Water and Soil Resources must adopt a plan containing procedures for the issuance of administrative penalty orders ~~by local governments and the board as authorized in this subdivision.~~ This plan, and any subsequent amendments, will become effective 30 days after being published in the State Register. The initial plan must be published in the State Register no later than July 1, 2017.

(c) Administrative penalties may be reissued and appealed under paragraph (a) according to section 103F.48, subdivision 9.

Sec. 92. Minnesota Statutes 2016, section 103F.411, subdivision 1, is amended to read:

Subdivision 1. **Authority.** The Board of Water and Soil Resources, in consultation with counties, soil and water conservation districts, and other appropriate agencies, shall adopt a model ordinance and rules that serve as a guide for local governments that have adopted a soil loss ordinance to implement sections 103F.401 to 103F.455 and provide administrative procedures for the board for sections 103F.401 to 103F.455.

Sec. 93. Minnesota Statutes 2016, section 103F.48, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Board" means the Board of Water and Soil Resources.

(c) "Buffer" means an area consisting of perennial vegetation, excluding invasive plants and noxious weeds, adjacent to all bodies of water within the state and that protects the water resources of the state from runoff pollution; stabilizes soils, shores, and banks; and protects or provides riparian corridors.

(d) "Buffer protection map" means buffer maps established and maintained by the commissioner of natural resources.

(e) "Commissioner" means the commissioner of natural resources.

(f) "Executive director" means the executive director of the Board of Water and Soil Resources.

(g) "Local water management authority" means a watershed district, metropolitan water management organization, or county operating separately or jointly in its role as local water management authority under chapter 103B or 103D.

(h) "Normal water level" means the level evidenced by the long-term presence of surface water as indicated directly by hydrophytic plants or hydric soils or indirectly determined via hydrological models or analysis.

(i) "Public waters" ~~has the meaning given in section 103G.005, subdivision 15. The term means public waters as used in this section applies to waters that are on the public waters inventory as provided in section 103G.201.~~

(j) "With jurisdiction" means a ~~board determination that the county or watershed district that~~ board determination that the county or watershed district that has adopted a rule, ordinance, or official controls providing procedures for ~~the issuance of administrative penalty orders, enforcement, and appeals for purposes of this section and section 103B.101, subdivision 12a~~ the issuance of administrative penalty orders, enforcement, and appeals for purposes of this section and section 103B.101, subdivision 12a that has notified the board.

Sec. 94. Minnesota Statutes 2016, section 103F.48, subdivision 3, is amended to read:

Subd. 3. Water resources riparian protection requirements on public waters and public drainage systems. (a) Except as provided in paragraph (b), landowners owning property adjacent to a water body identified and mapped on a buffer protection map must maintain a buffer to protect the state's water resources as follows:

(1) for all public waters that have a shoreland classification, the more restrictive of:

(i) a 50-foot average width, 30-foot minimum width, continuous buffer of perennially rooted vegetation; or

(ii) the state shoreland standards and criteria adopted by the commissioner under section 103F.211; and

(2) for public drainage systems established under chapter 103E and public waters that do not have a shoreland classification, a 16.5-foot minimum width continuous buffer as provided in section 103E.021, subdivision 1. The buffer vegetation shall not impede future maintenance of the ditch.

(b) A landowner owning property adjacent to a water body identified in a buffer protection map and whose property is used for cultivation farming may meet the requirements under paragraph (a) by adopting an alternative riparian water quality practice, or combination of structural, vegetative, and management practices, based on the Natural Resources Conservation Service Field Office Technical Guide or other practices approved by the local soil and water conservation district board, that provide water quality protection comparable to the buffer protection for the water body that the property abuts. Included in these practices are retention ponds and alternative measures that prevent overland flow to the water resource. A landowner, authorized agent, or operator may request the soil and water conservation district to make a determination whether a specific alternative water quality practice would meet the applicable requirements under this section. If a landowner, authorized agent, or operator has requested, at least 90 days before the applicable effective date under paragraph (e), that the soil and water conservation district make a determination, then the landowner must not be found noncompliant until the soil and water conservation district has notified the landowner, agent, or operator in writing whether the practice would meet the applicable requirements.

(c) The width of a buffer on public waters must be measured from the top or crown of the bank. Where there is no defined bank, measurement must be from the edge of the normal water level. The width of the buffer on public drainage systems must be measured as provided in section 103E.021, subdivision 1.

(d) Upon request by a landowner or authorized agent or operator of a landowner, a technical professional employee or contractor of the soil and water conservation district or its delegate may issue a validation of compliance with the requirements of this subdivision. The soil and water conservation district validation may be appealed to the board as described in subdivision 9.

(e) Buffers or alternative water quality practices required under paragraph (a) or (b) must be in place on or before:

- (1) November 1, ~~2017~~ 2019, for public waters; and
- (2) November 1, ~~2018~~ 2020, for public drainage systems.

(f) Nothing in this section limits the eligibility of a landowner or authorized agent or operator of a landowner to participate in federal or state conservation programs, including enrolling or reenrolling in federal conservation programs.

(g) After the effective date of this section, a person planting buffers or water quality protection practices to meet the requirements in paragraph (a) must use only seed mixes that are certified to be free of Palmer amaranth or other noxious weed seeds. The board, a county, or a watershed district must not take corrective action under subdivision 7 against a landowner who does not have seed available to comply with this paragraph.

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

Sec. 95. Minnesota Statutes 2016, section 103F.48, subdivision 7, is amended to read:

Subd. 7. **Corrective actions.** (a) If the soil and water conservation district determines a landowner is not in compliance with this section, and the landowner has declined state or federal assistance to pay 100 percent of the cost to establish buffers or other water resource protection measures approved by the board and annual payments or an easement for the land, the district must notify the county or watershed district with jurisdiction over the noncompliant site and the board. The county or watershed district with jurisdiction or the board must provide the landowner with a list of corrective actions needed to come into compliance and a practical timeline to meet the requirements in this section. The county or watershed district with jurisdiction must provide a copy of the corrective action notice to the board.

(b) A county or watershed district exercising jurisdiction under this subdivision ~~and the enforcement authority granted in section 103B.101, subdivision 12a,~~ shall affirm their jurisdiction and identify the ordinance, rule, or other official controls to carry out the compliance provisions of this section ~~and section 103B.101, subdivision 12a,~~ by notice to the board ~~prior to March 31, 2017.~~ A county or watershed district must provide notice to the board at least 60 days prior to the effective date of a subsequent decision on their jurisdiction.

(c) If the landowner does not comply with the list of actions and timeline provided, the county or watershed district may enforce this section ~~under the authority granted in section 103B.101, subdivision 12a,~~ or by rule of the watershed district or ordinance or other official control of the county. ~~Before exercising administrative penalty authority, a county or watershed district must adopt a plan consistent with the plan adopted by the board containing procedures for the issuance of administrative penalty orders and may issue orders beginning November 1, 2017.~~ If a county or watershed district with jurisdiction over the noncompliant site has not adopted a plan, rule, ordinance, or official control under this paragraph, the board must enforce this section under the authority granted in section 103B.101, subdivision 12a.

(d) If the county, watershed district, or board determines that sufficient steps have been taken to fully resolve noncompliance, all or part of the penalty may be forgiven.

(e) An order issued under paragraph (c) may be appealed to the board as provided under subdivision 9.

(f) A corrective action is not required for conditions resulting from a flood or other act of nature.

(g) A landowner agent or operator of a landowner may not remove or willfully degrade a riparian buffer or water quality practice, wholly or partially, unless the agent or operator has obtained a signed statement from the property owner stating that the permission for the work has been granted by the unit of government authorized to approve the work in this section or that a buffer or water quality practice is not required as validated by the soil and water conservation district. Removal or willful degradation of a riparian buffer or water quality practice, wholly or partially, by an agent or operator is a separate and independent offense and may be subject to the corrective actions and penalties in this subdivision.

(h) A county or watershed district or the board shall not enforce this section unless federal or state assistance is available to the landowner to pay 100 percent of the cost to establish buffers or other water resource protection measures approved by the board and annual payments or an easement for the land.

Sec. 96. Minnesota Statutes 2016, section 103G.005, is amended by adding a subdivision to read:

Subd. 8a. **Constructed management facilities for storm water.** "Constructed management facilities for storm water" means ponds, basins, holding tanks, cisterns, infiltration trenches and swales, or other best management practices that have been designed, constructed, and operated to store or treat storm water in accordance with local, state, or federal requirements.

Sec. 97. Minnesota Statutes 2016, section 103G.005, subdivision 10b, is amended to read:

Subd. 10b. **Greater than 80 percent area.** "Greater than 80 percent area" means a county or watershed, or, for purposes of wetland replacement, bank service area where 80 percent or more of the presettlement wetland acreage is intact and:

- (1) ten percent or more of the current total land area is wetland; or
- (2) 50 percent or more of the current total land area is state or federal land.

Sec. 98. Minnesota Statutes 2016, section 103G.005, subdivision 10h, is amended to read:

Subd. 10h. **Less than 50 percent area.** "Less than 50 percent area" means a county or watershed, or, for purposes of wetland replacement, bank service area with less than 50 percent of the presettlement wetland acreage intact or any county or watershed, or bank service area not defined as a "greater than 80 percent area" or "50 to 80 percent area."

Sec. 99. Minnesota Statutes 2016, section 103G.222, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** (a) Wetlands must not be drained or filled, wholly or partially, unless replaced by actions that provide at least equal public value under a replacement plan approved as provided in section 103G.2242, a replacement plan under a local governmental unit's comprehensive wetland protection and management plan approved by the board under section 103G.2243, or, if a permit to mine is required under section 93.481, under a mining reclamation plan approved by the commissioner under the permit to mine. Project-specific wetland replacement plans submitted as part of a project for which a permit to mine is required and approved by the commissioner on or after July 1, 1991, may include surplus wetland credits to be allocated by the commissioner to offset future mining-related wetland impacts under any permits to mine held by the permittee, the operator, the permittee's or operator's parent, an affiliated subsidiary, or an assignee pursuant to an assignment under section 93.481, subdivision 5. For project-specific wetland replacement completed prior to wetland impacts authorized or conducted under a permit to mine within the Great Lakes and Rainy River watershed basins, those basins shall be considered a single watershed for purposes of determining wetland replacement ratios. Mining reclamation plans shall apply the same principles and standards for replacing wetlands that are applicable to mitigation plans approved as provided in section 103G.2242. The commissioner must provide notice of an application for wetland replacement under a permit to mine to the county in which the impact is proposed and the county in which a mitigation site is proposed. Public value must be determined in accordance with section 103B.3355 or a comprehensive wetland protection and management plan established under section 103G.2243. Sections 103G.221 to 103G.2372 also apply to excavation in permanently and semipermanently flooded areas of types 3, 4, and 5 wetlands.

(b) Replacement must be guided by the following principles in descending order of priority:

- (1) avoiding the direct or indirect impact of the activity that may destroy or diminish the wetland;
- (2) minimizing the impact by limiting the degree or magnitude of the wetland activity and its implementation;
- (3) rectifying the impact by repairing, rehabilitating, or restoring the affected wetland environment;
- (4) reducing or eliminating the impact over time by preservation and maintenance operations during the life of the activity;
- (5) compensating for the impact by restoring a wetland; and
- (6) compensating for the impact by replacing or providing substitute wetland resources or environments.

For a project involving the draining or filling of wetlands in an amount not exceeding 10,000 square feet more than the applicable amount in section 103G.2241, subdivision 9, paragraph (a), the local government unit may make an on-site sequencing determination without a written alternatives analysis from the applicant.

(c) If a wetland is located in a cultivated field, then replacement must be accomplished through restoration only without regard to the priority order in paragraph (b), provided that the altered wetland is not converted to a nonagricultural use for at least ten years.

(d) If a wetland is replaced under paragraph (c), or drained under section 103G.2241, subdivision 2, paragraph (b) or (e), the local government unit may require a deed restriction that prohibits nonagricultural use for at least ten years. The local government unit may require the deed restriction if it determines the wetland area drained is at risk of conversion to a nonagricultural use within ten years based on the zoning classification, proximity to a municipality or full service road, or other criteria as determined by the local government unit.

(e) Restoration and replacement of wetlands must be accomplished in accordance with the ecology of the landscape area affected and ponds that are created primarily to fulfill storm water management, and water quality treatment requirements may not be used to satisfy replacement requirements under this chapter unless the design includes pretreatment of runoff and the pond is functioning as a wetland.

(f) Except as provided in paragraph (g), for a wetland or public waters wetland located on nonagricultural land, replacement must be in the ratio of two acres of replaced wetland for each acre of drained or filled wetland.

(g) For a wetland or public waters wetland located on agricultural land or in a greater than 80 percent area, replacement must be in the ratio of one acre of replaced wetland for each acre of drained or filled wetland.

(h) Wetlands that are restored or created as a result of an approved replacement plan are subject to the provisions of this section for any subsequent drainage or filling.

(i) Except in a greater than 80 percent area, only wetlands that have been restored from previously drained or filled wetlands, wetlands created by excavation in nonwetlands, wetlands created by dikes or dams along public or private drainage ditches, or wetlands created by dikes or dams associated with the restoration of previously drained or filled wetlands may be used for wetland replacement according to rules adopted under section 103G.2242, subdivision 1. Modification or conversion of nondegraded naturally occurring wetlands from one type to another are not eligible for wetland replacement.

(j) The Technical Evaluation Panel established under section 103G.2242, subdivision 2, shall ensure that sufficient time has occurred for the wetland to develop wetland characteristics of soils, vegetation, and hydrology before recommending that the wetland be deposited in the statewide wetland bank. If the Technical Evaluation Panel has reason to believe that the wetland characteristics may change substantially, the panel shall postpone its recommendation until the wetland has stabilized.

(k) This section and sections 103G.223 to 103G.2242, 103G.2364, and 103G.2365 apply to the state and its departments and agencies.

(l) For projects involving draining or filling of wetlands associated with a new public transportation project, and for projects expanded solely for additional traffic capacity, public transportation authorities may purchase credits from the board at the cost to the board to establish credits. Proceeds from the sale of credits provided under this paragraph are appropriated to the board for the purposes of this paragraph. For the purposes of this paragraph, "transportation project" does not include an airport project.

(m) A replacement plan for wetlands is not required for individual projects that result in the filling or draining of wetlands for the repair, rehabilitation, reconstruction, or replacement of a currently serviceable existing state, city, county, or town public road necessary, as determined by the public transportation authority, to meet state or federal design or safety standards or requirements, excluding new roads or roads expanded solely for additional traffic capacity lanes. This paragraph only applies to authorities for public transportation projects that:

(1) minimize the amount of wetland filling or draining associated with the project and consider mitigating important site-specific wetland functions on site;

(2) except as provided in clause (3), submit project-specific reports to the board, the Technical Evaluation Panel, the commissioner of natural resources, and members of the public requesting a copy at least 30 days prior to construction that indicate the location, amount, and type of wetlands to be filled or drained by the project or, alternatively, convene an annual meeting of the parties required to receive notice to review projects to be commenced during the upcoming year; and

(3) for minor and emergency maintenance work impacting less than 10,000 square feet, submit project-specific reports, within 30 days of commencing the activity, to the board that indicate the location, amount, and type of wetlands that have been filled or drained.

Those required to receive notice of public transportation projects may appeal minimization, delineation, and on-site mitigation decisions made by the public transportation authority to the board according to the provisions of section 103G.2242, subdivision 9. The Technical Evaluation Panel shall review minimization and delineation decisions made by the public transportation authority and provide recommendations regarding on-site mitigation if requested to do so by the local government unit, a contiguous landowner, or a member of the Technical Evaluation Panel.

Except for state public transportation projects, for which the state Department of Transportation is responsible, the board must replace the wetlands, and wetland areas of public waters if authorized by the commissioner or a delegated authority, drained or filled by public transportation projects on existing roads.

Public transportation authorities at their discretion may deviate from federal and state design standards on existing road projects when practical and reasonable to avoid wetland filling or draining, provided that public safety is not unreasonably compromised. The local road authority and its officers and employees are exempt from liability for any tort claim for injury to persons or property arising from travel on the highway and related to the deviation from the design standards for construction or reconstruction under this paragraph. This paragraph does not preclude an action for damages arising from negligence in construction or maintenance on a highway.

(n) If a landowner seeks approval of a replacement plan after the proposed project has already affected the wetland, the local government unit may require the landowner to replace the affected wetland at a ratio not to exceed twice the replacement ratio otherwise required.

(o) A local government unit may request the board to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. After receipt of satisfactory documentation from the local government, the board shall change the classification of a county or watershed. If requested by the local government unit, the board must assist in developing the

documentation. Within 30 days of its action to approve a change of wetland classifications, the board shall publish a notice of the change in the Environmental Quality Board Monitor.

(p) One hundred citizens who reside within the jurisdiction of the local government unit may request the local government unit to reclassify a county or watershed on the basis of its percentage of presettlement wetlands remaining. In support of their petition, the citizens shall provide satisfactory documentation to the local government unit. The local government unit shall consider the petition and forward the request to the board under paragraph (o) or provide a reason why the petition is denied.

EFFECTIVE DATE. This section is effective retroactively from July 1, 1991.

Sec. 100. Minnesota Statutes 2016, section 103G.222, subdivision 3, is amended to read:

Subd. 3. **Wetland replacement siting.** (a) ~~Impacted wetlands in a 50 to~~ Impacted wetlands outside of a greater than 80 percent area must not be replaced in a 50 to greater than 80 percent area or in a less than 50 percent area. Impacted wetlands in a less than 50 percent area must be replaced in a less than 50 percent area. All wetland replacement must follow this priority order:

- (1) ~~on site or~~ in the same minor watershed as the impacted wetland;
- (2) in the same watershed as the impacted wetland;
- (3) in the same ~~county or~~ wetland bank service area as the impacted wetland; and
- (4) in another wetland bank service area.

(b) Notwithstanding paragraph (a), wetland banking credits approved according to a complete wetland banking application submitted to a local government unit by April 1, 1996, may be used to replace wetland impacts resulting from public transportation projects statewide.

(c) Notwithstanding paragraph (a), clauses (1) and (2), the priority order for replacement by wetland banking begins at paragraph (a), clause (3), according to rules adopted under section 103G.2242, subdivision 1.

(d) When reasonable, practicable, and environmentally beneficial replacement opportunities are not available in siting priorities listed in paragraph (a), the applicant may seek opportunities at the next level.

(e) For the purposes of this section, "reasonable, practicable, and environmentally beneficial replacement opportunities" are defined as opportunities that:

- (1) take advantage of naturally occurring hydrogeomorphological conditions and require minimal landscape alteration;
- (2) have a high likelihood of becoming a functional wetland that will continue in perpetuity;
- (3) do not adversely affect other habitat types or ecological communities that are important in maintaining the overall biological diversity of the area; and

(4) are available and capable of being done after taking into consideration cost, existing technology, and logistics consistent with overall project purposes.

(f) Regulatory agencies, local government units, and other entities involved in wetland restoration shall collaborate to identify potential replacement opportunities within their jurisdictional areas.

(g) The board must establish wetland replacement ratios and wetland bank service area priorities to implement the siting and targeting of wetland replacement and encourage the use of high priority areas for wetland replacement.

(h) Wetland replacement sites identified in accordance with the priority order for replacement siting in paragraph (a) as part of the completion of an adequate environmental impact statement may be approved for a replacement plan under section 93.481, 103G.2242, or 103G.2243 without further modification related to the priority order, notwithstanding availability of new mitigation sites or availability of credits after completion of an adequate environmental impact statement. Wetland replacement plan applications must be submitted within one year of the adequacy determination of the environmental impact statement to be eligible for approval under this paragraph.

Sec. 101. Minnesota Statutes 2016, section 103G.223, is amended to read:

103G.223 CALCAREOUS FENS.

(a) Calcareous fens, as identified by the commissioner by written order published in the State Register, may not be filled, drained, or otherwise degraded, wholly or partially, by any activity, unless the commissioner, under an approved management plan, decides some alteration is necessary. Identifications made by the commissioner are not subject to the rulemaking provisions of chapter 14 and section 14.386 does not apply.

(b) Notwithstanding paragraph (a), the commissioner must allow temporary reductions in groundwater resources on a seasonal basis under an approved management plan for appropriating water.

Sec. 102. Minnesota Statutes 2016, section 103G.2242, subdivision 1, is amended to read:

Subdivision 1. **Rules.** (a) The board, in consultation with the commissioner, shall adopt rules governing the approval of wetland value replacement plans under this section and public-waters-work permits affecting public waters wetlands under section 103G.245. These rules must address the criteria, procedure, timing, and location of acceptable replacement of wetland values and may address the state establishment and administration of a wetland banking program for public and private projects, including provisions for an in-lieu fee program; the administrative, monitoring, and enforcement procedures to be used; and a procedure for the review and appeal of decisions under this section. In the case of peatlands, the replacement plan rules must consider the impact on carbon. Any in-lieu fee program established by the board must conform with Code of Federal Regulations, title 33, section 332.8, as amended.

(b) After the adoption of the rules, a replacement plan must be approved by a resolution of the governing body of the local government unit, consistent with the provisions of the rules or a comprehensive wetland protection and management plan approved under section 103G.2243.

(c) If the local government unit fails to apply the rules, or fails to implement a local comprehensive wetland protection and management plan established under section 103G.2243, the government unit is subject to penalty as determined by the board.

(d) When making a determination under rules adopted pursuant to this subdivision on whether a rare natural community will be permanently adversely affected, consideration of measures to mitigate any adverse effect on the community must be considered.

Sec. 103. Minnesota Statutes 2016, section 103G.2242, subdivision 2, is amended to read:

Subd. 2. **Evaluation.** (a) Questions concerning the public value, location, size, or type of a wetland shall be submitted to and determined by a Technical Evaluation Panel after an on-site inspection. The Technical Evaluation Panel shall be composed of a technical professional employee of the board, a technical professional employee of the local soil and water conservation district or districts, a technical professional with expertise in water resources management appointed by the local government unit, and a technical professional employee of the Department of Natural Resources for projects affecting public waters or wetlands adjacent to public waters. The panel shall use the "United States Army Corps of Engineers Wetland Delineation Manual" (January 1987), including updates, supplementary guidance, and replacements, if any, "Wetlands of the United States" (United States Fish and Wildlife Service Circular 39, 1971 edition), and "Classification of Wetlands and Deepwater Habitats of the United States" (1979 edition). The panel shall provide the wetland determination and recommendations on other technical matters to the local government unit that must approve a replacement plan, sequencing, exemption determination, no-loss determination, or wetland boundary or type determination and may recommend approval or denial of the plan. The authority must consider and include the decision of the Technical Evaluation Panel in their approval or denial of a plan or determination.

(b) A member of the Technical Evaluation Panel that has a financial interest in a wetland bank or management responsibility to sell or make recommendations in their official capacity to sell credits from a publicly owned wetland bank must disclose that interest, in writing, to the Technical Evaluation Panel and the local government unit.

~~(b)~~ (c) Persons conducting wetland or public waters boundary delineations or type determinations are exempt from the requirements of chapter 326. The board may develop a professional wetland delineator certification program.

~~(c)~~ (d) The board must establish an interagency team to assist in identifying and evaluating potential wetland replacement sites. The team must consist of members of the Technical Evaluation Panel and representatives from the Department of Natural Resources; the Pollution Control Agency; the United States Army Corps of Engineers, St. Paul district; and other organizations as determined by the board.

Sec. 104. Minnesota Statutes 2016, section 103G.2372, subdivision 1, is amended to read:

Subdivision 1. **Authority; orders.** (a) The commissioner of natural resources, conservation officers, and peace officers shall enforce laws preserving and protecting groundwater quantity, wetlands, and public waters. The commissioner of natural resources, a conservation officer, or a peace officer may issue a cease and desist order to stop any illegal activity adversely affecting groundwater quantity, a wetland, or public waters.

(b) In the order, or by separate order, the commissioner, conservation officer, or peace officer may require restoration or replacement of the wetland or public waters, as determined by the local soil and water conservation district for wetlands and the commissioner of natural resources for public waters. Restoration or replacement orders may be recorded or filed in the office of the county recorder or registrar of titles, as appropriate, in the county where the real property is located by the commissioner of natural resources, conservation officers, or peace officers as a deed restriction on the property that runs with the land and is binding on the owners, successors, and assigns until the conditions of the order are met or the order is rescinded. Notwithstanding section 386.77, the agency shall pay the applicable filing fee for any document filed under this section.

(c) If a court has ruled that there has not been a violation of the restoration or replacement order, an order may not be recorded or filed under this section.

(d) If an order was recorded before a court finding that there has not been a violation or an order was filed before the effective date of this section and the deed restriction would have been in violation of paragraph (c), the commissioner must remove the deed restriction if the owner of the property requests the commissioner to remove it. Within 30 days of receiving the request for removal from the owner, the commissioner must contact, in writing, the office of the county recorder or registrar of titles where the order is recorded or filed, along with all applicable fees, and have the order removed. Within 30 days of receiving notification from the office of the county recorder or registrar of titles that the order has been removed, the commissioner must inform the owner that the order has been removed and provide the owner with a copy of any documentation provided by the office of the county recorder or registrar of titles.

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

Sec. 105. Minnesota Statutes 2016, section 103G.271, subdivision 1, is amended to read:

Subdivision 1. **Permit required.** (a) Except as provided in paragraph (b), the state, a person, partnership, or association, private or public corporation, county, municipality, or other political subdivision of the state may not appropriate or use waters of the state without a water-use permit from the commissioner.

(b) This section does not apply to the following water uses:

(1) use for a water supply by less than 25 persons for domestic purposes, except as required by the commissioner under section 103G.287, subdivision 4, paragraph (b)-;

(2) nonconsumptive diversion of a surface water of the state from its natural channel for the production of hydroelectric or hydromechanical power at structures that were in existence on and before July 1, 1937, including repowering, upgrades, or additions to those facilities; or

(3) appropriation or use of storm water collected and used to reduce storm-water runoff volume, treat storm water, or sustain groundwater supplies when water is extracted from constructed management facilities for storm water.

(c) The commissioner may issue a state general permit for appropriation of water to a governmental subdivision or to the general public. The general permit may authorize more than one project and the appropriation or use of more than one source of water. Water-use permit processing

fees and reports required under subdivision 6 and section 103G.281, subdivision 3, are required for each project or water source that is included under a general permit, except that no fee is required for uses totaling less than 15,000,000 gallons annually.

Sec. 106. Minnesota Statutes 2016, section 103G.271, subdivision 6, is amended to read:

Subd. 6. **Water-use permit processing fee.** (a) Except as described in paragraphs (b) to (g), a water-use permit processing fee must be prescribed by the commissioner in accordance with the schedule of fees in this subdivision for each water-use permit in force at any time during the year. Fees collected under this paragraph are credited to the water management account in the natural resources fund. The schedule is as follows, with the stated fee in each clause applied to the total amount appropriated:

- (1) \$140 for amounts not exceeding 50,000,000 gallons per year;
- (2) \$3.50 per 1,000,000 gallons for amounts greater than 50,000,000 gallons but less than 100,000,000 gallons per year;
- (3) \$4 per 1,000,000 gallons for amounts greater than 100,000,000 gallons but less than 150,000,000 gallons per year;
- (4) \$4.50 per 1,000,000 gallons for amounts greater than 150,000,000 gallons but less than 200,000,000 gallons per year;
- (5) \$5 per 1,000,000 gallons for amounts greater than 200,000,000 gallons but less than 250,000,000 gallons per year;
- (6) \$5.50 per 1,000,000 gallons for amounts greater than 250,000,000 gallons but less than 300,000,000 gallons per year;
- (7) \$6 per 1,000,000 gallons for amounts greater than 300,000,000 gallons but less than 350,000,000 gallons per year;
- (8) \$6.50 per 1,000,000 gallons for amounts greater than 350,000,000 gallons but less than 400,000,000 gallons per year;
- (9) \$7 per 1,000,000 gallons for amounts greater than 400,000,000 gallons but less than 450,000,000 gallons per year;
- (10) \$7.50 per 1,000,000 gallons for amounts greater than 450,000,000 gallons but less than 500,000,000 gallons per year; and
- (11) \$8 per 1,000,000 gallons for amounts greater than 500,000,000 gallons per year.

(b) For once-through cooling systems, a water-use processing fee must be prescribed by the commissioner in accordance with the following schedule of fees for each water-use permit in force at any time during the year:

- (1) for nonprofit corporations and school districts, \$200 per 1,000,000 gallons; and

(2) for all other users, \$420 per 1,000,000 gallons.

(c) The fee is payable based on the amount of water appropriated during the year and, except as provided in paragraph (f), the minimum fee is \$100.

(d) For water-use processing fees other than once-through cooling systems:

(1) the fee for a city of the first class may not exceed \$250,000 per year;

(2) the fee for other entities for any permitted use may not exceed:

(i) \$60,000 per year for an entity holding three or fewer permits;

(ii) \$90,000 per year for an entity holding four or five permits; or

(iii) \$300,000 per year for an entity holding more than five permits;

(3) the fee for agricultural irrigation may not exceed \$750 per year;

(4) the fee for a municipality that furnishes electric service and cogenerates steam for home heating may not exceed \$10,000 for its permit for water use related to the cogeneration of electricity and steam; ~~and~~

(5) the fee for a facility that temporarily diverts a water of the state from its natural channel to produce hydroelectric or hydromechanical power may not exceed \$5,000 per year. A permit for such a facility does not count toward the number of permits held by an entity as described in paragraph (d); and

~~(5) (6) no fee is required for a project involving the appropriation of surface water to prevent flood damage or to remove flood waters during a period of flooding, as determined by the commissioner.~~

(e) Failure to pay the fee is sufficient cause for revoking a permit. A penalty of ten percent per month calculated from the original due date must be imposed on the unpaid balance of fees remaining 30 days after the sending of a second notice of fees due. A fee may not be imposed on an agency, as defined in section 16B.01, subdivision 2, or federal governmental agency holding a water appropriation permit.

(f) The minimum water-use processing fee for a permit issued for irrigation of agricultural land is \$20 for years in which:

(1) there is no appropriation of water under the permit; or

(2) the permit is suspended for more than seven consecutive days between May 1 and October 1.

(g) The commissioner shall waive the water-use permit fee for installations and projects that use storm water runoff or where public entities are diverting water to treat a water quality issue and returning the water to its source without using the water for any other purpose, unless the commissioner determines that the proposed use adversely affects surface water or groundwater.

(h) A surcharge of \$30 per million gallons in addition to the fee prescribed in paragraph (a) shall be applied to the volume of water used in each of the months of June, July, and August that exceeds the volume of water used in January for municipal water use, irrigation of golf courses, and landscape irrigation. The surcharge for municipalities with more than one permit shall be determined based on the total appropriations from all permits that supply a common distribution system.

Sec. 107. Minnesota Statutes 2016, section 103G.271, subdivision 6a, is amended to read:

Subd. 6a. **Fees for past unpermitted appropriations.** An entity that appropriates water without a required permit under subdivision 1 must pay the applicable water-use permit processing fee specified in subdivision 6 for the period during which the unpermitted appropriation occurred. The fees for unpermitted appropriations are required for the previous seven calendar years after being notified of the need for a permit. This fee is in addition to any other fee or penalty assessed. The commissioner may waive payment of fees for past unpermitted appropriations for a residential system permitted under subdivision 5, paragraph (b), or for a hydroelectric or hydromechanical facility that temporarily diverts a water of the state from its natural channel.

Sec. 108. Minnesota Statutes 2016, section 103G.271, subdivision 7, is amended to read:

Subd. 7. **Transfer of permit.** A water-use permit may be transferred to a successive owner of real property if the permittee conveys the real property where the source of water is located. The new owner must notify the commissioner immediately after the conveyance and request transfer of the permit. If notified, the commissioner must transfer the permit to the successive owner.

Sec. 109. Minnesota Statutes 2016, section 103G.271, is amended by adding a subdivision to read:

Subd. 8. **Management plans; economic impacts.** Before requiring a change to a management plan for appropriating water, the commissioner must provide estimates of the economic impact of any new restriction or policy on existing and future groundwater users in the affected area.

Sec. 110. Minnesota Statutes 2016, section 103G.287, subdivision 1, is amended to read:

Subdivision 1. **Applications for groundwater appropriations; preliminary well construction approval.** (a) Groundwater use permit applications are not complete until the applicant has supplied:

(1) a water well record as required by section 103I.205, subdivision 9, information on the subsurface geologic formations penetrated by the well and the formation or aquifer that will serve as the water source, and geologic information from test holes drilled to locate the site of the production well;

(2) the maximum daily, seasonal, and annual pumpage rates and volumes being requested;

(3) information on groundwater quality in terms of the measures of quality commonly specified for the proposed water use and details on water treatment necessary for the proposed use;

(4) the results of an aquifer test completed according to specifications approved by the commissioner. The test must be conducted at the maximum pumping rate requested in the application and for a length of time adequate to assess or predict impacts to other wells and surface water and

groundwater resources. The permit applicant is responsible for all costs related to the aquifer test, including the construction of groundwater and surface water monitoring installations, and water level readings before, during, and after the aquifer test; and

(5) the results of any assessments conducted by the commissioner under paragraph (c).

(b) The commissioner may waive an application requirement in this subdivision if the information provided with the application is adequate to determine whether the proposed appropriation and use of water is sustainable and will protect ecosystems, water quality, and the ability of future generations to meet their own needs.

(c) The commissioner shall provide an assessment of a proposed well needing a groundwater appropriation permit. The commissioner shall evaluate the information submitted as required under section 103I.205, subdivision 1, paragraph (f), and determine whether the anticipated appropriation request is likely to meet the applicable requirements of this chapter. If the appropriation request is likely to meet applicable requirements, the commissioner shall provide the person submitting the information with a letter providing preliminary approval to construct the well and the requirements, including test-well information, that will be needed to obtain the permit.

(d) The commissioner must provide an applicant denied a groundwater use permit or issued a groundwater use permit that is reduced or restricted from the original request with all information the commissioner used in making the determination, including hydrographs, flow tests, aquifer tests, topographic maps, field reports, photographs, and proof of equipment calibration.

Sec. 111. Minnesota Statutes 2016, section 103G.287, subdivision 4, is amended to read:

Subd. 4. Groundwater management areas. (a) The commissioner may designate groundwater management areas and limit total annual water appropriations and uses within a designated area to ensure sustainable use of groundwater that protects ecosystems, water quality, and the ability of future generations to meet their own needs. Water appropriations and uses within a designated management area must be consistent with a groundwater management area plan approved by the commissioner that addresses water conservation requirements and water allocation priorities established in section 103G.261. At least 30 days prior to implementing or modifying a groundwater management area plan under this subdivision, the commissioner shall consult with the advisory team established in paragraph (c).

(b) Notwithstanding section 103G.271, subdivision 1, paragraph (b), and Minnesota Rules, within designated groundwater management areas, the commissioner may require general permits as specified in section 103G.271, subdivision 1, paragraph (c), for water users using less than 10,000 gallons per day or 1,000,000 gallons per year and water suppliers serving less than 25 persons for domestic purposes. The commissioner may waive the requirements under section 103G.281 for general permits issued under this paragraph, and the fee specified in section 103G.301, subdivision 2, paragraph (c), does not apply to general permits issued under this paragraph.

(c) When designating a groundwater management area, the commissioner shall assemble an advisory team to assist in developing a groundwater management area plan for the area. The advisory team members shall be selected from public and private entities that have an interest in the water resources affected by the groundwater management area. A majority of the advisory team members shall be public and private entities that currently hold water-use permits for water appropriations

from the affected water resources. The commissioner shall consult with the League of Minnesota Cities, the Association of Minnesota Counties, the Minnesota Association of Watershed Districts, and the Minnesota Association of Townships in appointing the local government representatives to the advisory team. The advisory team may also include representatives from the University of Minnesota, the Minnesota State Colleges and Universities, other institutions of higher learning in Minnesota, political subdivisions with jurisdiction over water issues, nonprofits with expertise in water, and federal agencies.

(d) Before making a change under a groundwater management area plan, the commissioner must provide estimates of the economic effect of any new restriction or policy on existing and future groundwater users in the affected area.

Sec. 112. Minnesota Statutes 2016, section 103G.411, is amended to read:

103G.411 STIPULATION OF LOW-WATER MARK.

If the state is a party in a civil action relating to the navigability or ownership of the bed of a body of water, river, or stream, the commissioner, in behalf of the state, ~~with the approval of the attorney general,~~ may agree by written stipulation with a riparian owner who is a party to the action on the location of the ordinary low-water mark on the riparian land of the party. After the stipulation is executed by all parties, it must be presented to the judge of the district court where the action is pending for approval. If the stipulation is approved, the judge shall make and enter an order providing that the final judgment when entered shall conform to the location of the ordinary, low-water mark as provided for in the stipulation as it relates to the parties to the stipulation.

Sec. 113. Minnesota Statutes 2016, section 114D.25, is amended by adding a subdivision to read:

Subd. 6. **Impaired waters list; public notice and process.** The commissioner of the Pollution Control Agency must allow at least 60 days for public comment after publishing the draft impaired waters list required under the federal Clean Water Act. A person may petition the agency to hold a contested case hearing on the draft impaired waters list. A valid basis for challenging an impairment determination includes, but is not limited to, agency reliance on data that do not reflect recent significant infrastructure investments and documented pollutant reductions.

Sec. 114. [115.051] REVIEW OF PROPOSED ACTIONS OF THE POLLUTION CONTROL AGENCY.

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

(b) "Local government unit" means a statutory or home rule charter city, county, local public utilities commission, sanitary district, or an organization formed for the joint exercise of powers under section 471.59.

(c) "Proposed action" means an action that is all of the following:

(1) being considered by the commissioner of the Pollution Control Agency or has been undertaken by the commissioner but is not yet final;

(2) would, once final, constitute one of the following:

(i) the issuance, amendment, modification, or denial of a water quality standard under section 115.44, a water-related permit, a total maximum daily load (TMDL) study, or a watershed restoration and protection strategy (WRAPS); or

(ii) another action or decision undertaken pursuant to the commissioner's authority under this chapter or chapter 114D that is or would be eligible for a contested case hearing under chapter 14 or that would constitute rulemaking under that chapter.

(d) "Requisite number" means five or more if the proposed action is rulemaking under chapter 14. The term means one or more if the proposed action is one that is or would be eligible for a contested case hearing under chapter 14.

(e) "Review petition" means a written petition of a local government unit adopted by resolution of the applicable governing body that describes the need for review by an expert review panel of the scientific basis of a proposed action that potentially affects the petitioner.

(f) "Review proceeding" means a proceeding under chapter 14 of the Office of Administrative Hearings to review a proposed action.

Subd. 2. Office of Administrative Hearings review of scientific basis for proposed action.
In any review proceeding, the administrative law judge must examine the administrative record and, without deference to the commissioner, independently determine from the record whether:

(1) the proposed action is based on reliable scientific data and analyses, as confirmed by publicly available peer-reviewed literature;

(2) every test, measurement, or model the commissioner relied on in support of the proposed action was used by the commissioner for the purpose for which the test, measurement, or model was designed, consistent with generally accepted and peer-reviewed scientific practice;

(3) the proposed action is consistent with the findings of any applicable external peer review panel the commissioner convened under section 115.035; and

(4) the proposed action is based on a demonstrated, significant causal relationship between the parameters of concern and the water-quality objective at issue, not the correlation alone. When a causal relationship may be confounded by other factors, the reviewing authority must determine whether the relevance and effect of those factors were assessed to ensure the predicted causal relationship is valid.

Subd. 3. Effect of Office of Administrative Hearings finding of inadequate basis for proposed action.
If an administrative law judge determines that any of the conditions set forth in subdivision 2, clauses (1) to (4), are not satisfied, then:

(1) if the proposed action was a proposed rule, the administrative law judge must find that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2; and

(2) if the proposed action was before the Office of Administrative Hearings as part of a contested case hearing, the administrative law judge must include this finding in the report required by sections 14.48 to 14.56, which shall constitute the final decision in the case.

Subd. 4. **When independent expert review panel required; composition.** The Office of Administrative Hearings must convene an expert review panel to review the scientific basis of a proposed action when it receives the requisite number of review petitions and finds, based on its independent review of the petitions, that the petitions demonstrate the existence of a material scientific dispute regarding the scientific validity of the commissioner's proposed action. The Office of Administrative Hearings shall issue an order granting or denying a petition within 30 days of its receipt of the petition. A review panel must consist of three independent experts with qualifications in the subject matter of the scientific dispute who are employed neither by the Pollution Control Agency nor by a petitioner to the proceeding and who are not directly or indirectly involved with the work conducted or contracted by the agency. The composition of the panel must be determined as follows:

(1) the commissioner of the Pollution Control Agency must select one expert satisfying the requirements of this subdivision;

(2) the petitioners must jointly select one expert satisfying the requirements of this subdivision;
and

(3) the two experts selected under clauses (1) and (2) must mutually agree to a third expert satisfying the requirements of this subdivision. If the two experts are unable to agree on a third expert, the Office of Administrative Hearings must make the appointment.

Subd. 5. **Conduct of independent expert review panel.** Upon granting a petition for independent expert review, the Office of Administrative Hearings must, as soon as practicable thereafter, issue an order establishing the independent expert review panel, identifying the independent experts selected pursuant to subdivision 4. This order must include a statement of the specific scientific issues or questions in dispute to be submitted for review by the panel. The commissioner and all petitioners must agree on the issues or questions in dispute to be submitted for review. If they cannot agree on one or more issues or questions, the Office of Administrative Hearings must determine the issue or questions to be submitted giving substantial consideration to the questions raised in any petitions it has received. The panel must review the scientific evidence relevant to those issues or questions as found in the petitions, the administrative record for the proposed action, and the results of any external peer review conducted according to section 115.035, in accordance with the guidance in the United States Environmental Protection Agency's Peer Review Handbook. The panel must submit a written opinion on the scientific validity of the commissioner's approach that is in controversy. If the panel finds deficiencies, the panel must recommend how the deficiencies can be corrected. The written opinion shall become part of the administrative record and must be submitted to the Office of Administrative Hearings, which shall send a written copy of the opinion to the commissioner of the Pollution Control Agency, all petitioners, and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over environment and natural resources policy and finance.

Subd. 6. **Status of action pending independent expert panel review.** Once the Office of Administrative Hearings has received the requisite number of review petitions, it must notify the Pollution Control Agency of this fact and:

(1) the Pollution Control Agency shall not grant or deny a contested case petition filed by the local government unit on the proposed action that is the subject of a petition or otherwise proceed towards finalizing the proposed action until the Office of Administrative Hearings denies the petition for independent expert review, or if the petition is granted, it has received and considered the written opinion required by subdivision 5; and

(2) the Office of Administrative Hearings shall not conduct the review required by subdivision 2 until it has received the written opinion required by subdivision 5.

Subd. 7. **Chapter 14 requirements must be followed.** Nothing in this section shall be construed to abrogate or otherwise repeal any of the procedural requirements of chapter 14. Upon receipt of a written opinion pursuant to subdivision 5, the Pollution Control Agency and the Office of Administrative Hearings shall make the opinion available to the public for review and continue to follow all applicable provisions of chapter 14, including public comment and hearing requirements.

Subd. 8. **Timing of review petition submission.** A review petition submitted to the Office of Administrative Hearings must be submitted within the time period for filing a contested case petition or prior to the expiration of the public comment period as noticed in the statement of intent to adopt the rule, as applicable.

Subd. 9. **This section is supplementary.** The duties and procedures set forth in this section are supplementary and applicable to those set forth in section 14.091.

Sec. 115. **[115.542] NOTICE REQUIREMENTS FOR PUBLICLY OWNED WASTEWATER TREATMENT FACILITIES.**

Subdivision 1. **Definitions.** For the purpose of this section, the following terms have the meanings given:

(1) "permit" means a national pollutant discharge elimination system (NPDES) permit or state disposal system (SDS) permit; and

(2) "permit applicant" means a person or entity submitting an application for a new permit or renewal, modification, or revocation of an existing permit for a publicly owned wastewater treatment facility.

Subd. 2. **Applicability.** This section applies to all draft permits and permits for publicly owned wastewater treatment facilities for which the commissioner of the Pollution Control Agency makes a preliminary determination whether to issue or deny.

Subd. 3. **Notice requirements.** The commissioner of the Pollution Control Agency must provide a permit applicant with a copy of the draft permit and any fact sheets required by agency rules at least 30 days before the distribution and public notice of the permit application and preliminary determination.

Subd. 4. **Public comment period.** The commissioner must prepare and issue a public notice of a completed application and the commissioner's preliminary determination as to whether the permit should be issued or denied. The public comment period must be at least 60 days for permit applications under this section.

Sec. 116. Minnesota Statutes 2016, section 115B.39, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) In addition to the definitions in this subdivision, the definitions in sections 115A.03 and 115B.02 apply to sections 115B.39 to 115B.445, except as specifically modified in this subdivision.

(b) "Cleanup order" means a consent order between responsible persons and the agency or an order issued by the United States Environmental Protection Agency under section 106 of the federal Superfund Act.

(c) "Closure" means actions to prevent or minimize the threat to public health and the environment posed by a mixed municipal solid waste disposal facility that has stopped accepting waste by controlling the sources of releases or threatened releases at the facility. "Closure" includes removing contaminated equipment and liners; applying final cover; grading and seeding final cover; installing wells, borings, and other monitoring devices; constructing groundwater and surface water diversion structures; and installing gas control systems and site security systems, as necessary. The commissioner may authorize use of final cover that includes processed materials that meet the requirements in Code of Federal Regulations, title 40, section 503.32, paragraph (a).

(d) "Closure upgrade" means construction activity that will, at a minimum, modify an existing cover so that it satisfies current rule requirements for mixed municipal solid waste land disposal facilities.

(e) "Contingency action" means organized, planned, or coordinated courses of action to be followed in case of fire, explosion, or release of solid waste, waste by-products, or leachate that could threaten human health or the environment.

(f) "Corrective action" means steps taken to repair facility structures including liners, monitoring wells, separation equipment, covers, and aeration devices and to bring the facility into compliance with design, construction, groundwater, surface water, and air emission standards.

(g) "Custodial" or "custodial care" means actions taken for the care, maintenance, and monitoring of closure actions at a mixed municipal solid waste disposal facility after completion of the postclosure period.

(h) "Decomposition gases" means gases produced by chemical or microbial activity during the decomposition of solid waste.

~~(h)~~ (i) "Dump materials" means nonhazardous mixed municipal solid wastes disposed at a Minnesota waste disposal site other than a qualified facility prior to 1973.

~~(h)~~ (j) "Environmental response action" means response action at a qualified facility, including corrective action, closure, postclosure care; contingency action; environmental studies, including

remedial investigations and feasibility studies; engineering, including remedial design; removal; remedial action; site construction; and other similar cleanup-related activities.

~~(j)~~ (k) "Environmental response costs" means:

(1) costs of environmental response action, not including legal or administrative expenses; and

(2) costs required to be paid to the federal government under section 107(a) of the federal Superfund Act, as amended.

(l) "Priority qualified facility" means a qualified facility that is on the list of priorities for the federal Comprehensive Environmental Response, Compensation, and Liability Act and the Minnesota Environmental Response and Liability Act; has received notice under section 115B.40, subdivision 3; has failed to comply with section 115B.40, subdivision 4; and has not entered into a binding agreement with the commissioner.

~~(k)~~ (m) "Postclosure" or "postclosure care" means actions taken for the care, maintenance, and monitoring of closure actions at a mixed municipal solid waste disposal facility.

~~(l)~~ (n) "Qualified facility" means a mixed municipal solid waste disposal facility as described in the most recent agency permit, including adjacent property used for solid waste disposal that did not occur under a permit from the agency, that:

(1)(i) is or was permitted by the agency;

(ii) stopped accepting solid waste, except demolition debris, for disposal by April 9, 1994; and

(iii) stopped accepting demolition debris for disposal by June 1, 1994, except that demolition debris may be accepted until May 1, 1995, at a permitted area where disposal of demolition debris is allowed, if the area where the demolition debris is deposited is at least 50 feet from the fill boundary of the area where mixed municipal solid waste was deposited; ~~or~~

(2) is or was permitted by the agency; and

(i) stopped accepting waste by January 1, 2000, except that demolition debris, industrial waste, and municipal solid waste combustor ash may be accepted until January 1, 2001, at a permitted area where disposal of such waste is allowed, if the area where the waste is deposited is at least 50 feet from the fill boundary of the area where mixed municipal solid waste was deposited; or

(ii) stopped accepting waste by January 1, 2019, and is located in a county that meets all applicable recycling goals in section 115A.551 and that has arranged for all mixed municipal solid waste generated in the county to be delivered to and processed by a resource recovery facility located in the county for at least 20 years; or

(3) is or was permitted by the agency and stopped accepting mixed municipal solid waste and industrial waste for disposal by January 1, 2009, and for which the postclosure care period ended on July 26, 2013.

Sec. 117. Minnesota Statutes 2016, section 115B.40, subdivision 4, is amended to read:

Subd. 4. **Qualified facility not under cleanup order; duties.** (a) The owner or operator of a qualified facility that is not subject to a cleanup order shall:

(1) complete closure activities at the facility, or enter into a binding agreement with the commissioner to do so, as provided in paragraph (e), within one year from the date the owner or operator is notified by the commissioner under subdivision 3 of the closure activities that are necessary to properly close the facility in compliance with facility's permit, closure orders, or enforcement agreement with the agency, and with the solid waste rules in effect at the time the facility stopped accepting waste;

(2) undertake or continue postclosure or custodial care at the facility until the date of notice of compliance under subdivision 7;

(3) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph ~~(h)~~ (n), clause (1), transfer to the commissioner of revenue for deposit in the remediation fund established in section 116.155 any funds required for proof of financial responsibility under section 116.07, subdivision 4h, that remain after facility closure and any postclosure care and response action undertaken by the owner or operator at the facility including, if proof of financial responsibility is provided through a letter of credit or other financial instrument or mechanism that does not accumulate money in an account, the amount that would have accumulated had the owner or operator utilized a trust fund, less any amount used for closure, postclosure care, and response action at the facility; ~~and~~

(4) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph ~~(h)~~ (n), clause (2), transfer to the commissioner of revenue for deposit in the remediation fund established in section 116.155 an amount of cash that is equal to the sum of their approved current contingency action cost estimate and the present value of their approved estimated remaining postclosure care costs required for proof of financial responsibility under section 116.07, subdivision 4h; and

(5) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph (n), clause (3), transfer to the commissioner of revenue for deposit in the remediation fund established in section 116.155 an amount of cash that is equal to any funds required for proof of financial responsibility under section 116.07, subdivision 4h, that remain after facility closure and any postclosure and custodial care and response action undertaken by the owner or operator at the facility have been reimbursed.

(b) The owner or operator of a qualified facility that is not subject to a cleanup order shall:

(1) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph ~~(h)~~ (n), clause (1), provide the commissioner with a copy of all applicable comprehensive general liability insurance policies and other liability policies relating to property damage, certificates, or other evidence of insurance coverage held during the life of the facility; and

(2) enter into a binding agreement with the commissioner to:

(i) in the case of qualified facilities defined in section 115B.39, subdivision 2, paragraph ~~(h)~~ (n), clause (1), take any actions necessary to preserve the owner or operator's rights to payment or defense under insurance policies included in clause (1); cooperate with the commissioner in asserting claims

under the policies; and, within 60 days of a request by the commissioner, but no earlier than July 1, 1996, assign only those rights under the policies related to environmental response costs;

(ii) cooperate with the commissioner or other persons acting at the direction of the commissioner in taking additional environmental response actions necessary to address releases or threatened releases and to avoid any action that interferes with environmental response actions, including allowing entry to the property and to the facility's records and allowing entry and installation of equipment; and

(iii) refrain from developing or altering the use of property described in any permit for the facility except after consultation with the commissioner and in conformance with any conditions established by the commissioner for that property, including use restrictions, to protect public health and welfare and the environment.

(c) The owner or operator of a qualified facility defined in section 115B.39, subdivision 2, paragraph ~~(h)~~ (n), clause (1), that is a political subdivision may use a portion of any funds established for response at the facility, which are available directly or through a financial instrument or other financial arrangement, for closure or postclosure care at the facility if funds available for closure or postclosure care are inadequate and shall assign the rights to any remainder to the commissioner.

(d) The agreement required in paragraph (b), clause (2), must be in writing and must apply to and be binding upon the successors and assigns of the owner. The owner shall record the agreement, or a memorandum approved by the commissioner that summarizes the agreement, with the county recorder or registrar of titles of the county where the property is located.

(e) A binding agreement entered into under paragraph (a), clause (1), may include a provision that the owner or operator will reimburse the commissioner for the costs of closing the facility to the standard required in that clause.

Sec. 118. **[115B.406] STATE RESPONSE AT PRIORITY QUALIFIED FACILITIES.**

Subdivision 1. **Environmental response action.** The agency may take any environmental response action at a priority qualified facility that the agency deems necessary to protect the public health or welfare or the environment. Before taking any action, the agency shall take actions as provided in this section.

Subd. 2. **Request for action to owner or operator of priority qualified facility.** The agency shall request the owner or operator of a priority qualified facility to take actions that the agency deems reasonable and necessary to protect the public health or welfare or the environment, stating the reasons for the actions; a reasonable time for beginning and completing the actions, taking into account the urgency of the actions for protecting the public health or welfare or the environment; and the intention of the agency to take action if the requested actions are not taken as requested.

Subd. 3. **Action to compel performance.** When the owner or operator of the priority qualified facility fails to take response actions or make reasonable progress in completing response actions requested as provided in subdivision 2, the attorney general may bring an action in the name of the state to compel performance of the requested response actions. If a person having any right, title, or interest in and to the real property where the facility is located or where response actions are proposed to be taken is not a person responsible for the environment, the person may be joined as

an indispensable party in an action to compel performance to ensure that the requested response actions can be taken on that property by the owner or operator.

Subd. 4. **Determination of failure to act.** If the agency determines that the actions requested under this section will not be taken by the owner or operator of the priority qualified facility in the manner and within the time requested, the agency may undertake any environmental response action it deems necessary for the protection of the public health or welfare or the environment under this section.

Subd. 5. **Civil penalties.** Any owner or operator of a priority qualified facility that fails to take the actions under this section shall forfeit and pay to the state a civil penalty in an amount to be determined by the court of not more than \$20,000 per day for each day that the owner or operator fails to take reasonable and necessary response actions or to make reasonable progress in completing response actions requested by the agency. The penalty provided under this subdivision may be recovered by an action brought by the attorney general in the name of the state in a separate action in the District Court of Ramsey County. All penalties recovered under this subdivision must be deposited in the remediation fund.

Subd. 6. **Investigation and testing.** The agency may undertake investigations, monitoring, surveys, testing, and other similar activities necessary or appropriate to identify the existence and extent of the contamination at the priority qualified facility and the extent of danger. In addition, the agency may undertake planning, legal, fiscal, economic, engineering, architectural, and other studies or investigations necessary or appropriate to plan and direct a response action, to recover the costs of the response action, and to enforce this section.

Subd. 7. **Duty to compel information.** Any person who the agency has determined to have information regarding the priority qualified facility or the owner or operator of the priority qualified facility must furnish to the agency any information that person may have or may reasonably obtain that is relevant to the priority qualified facility or the owner or operator. The agency upon presentation of credentials may examine and copy any books, papers, records, memoranda, or data of any person who has a duty to provide information to the agency and may enter upon any property, public or private, to take any action authorized by this section, including obtaining information from any person who has a duty to provide the information.

Subd. 8. **Program operations.** Upon the owner or operator's failure to act, the agency shall conduct the program operations under section 115B.412, subdivisions 1 and 2, and any other environmental response action the agency deems necessary to protect public health, welfare, and the environment.

Subd. 9. **Recovering expenses.** Any reasonable and necessary expenses incurred by the agency or commissioner under this section, including all response costs and administrative and legal expenses, may be recovered in a civil action brought by the attorney general against the owner or operator of the priority qualified facility. The agency's certification of expenses is prima facie evidence that the expenses are reasonable and necessary. Any expenses incurred under this section that are recovered by the attorney general under sections 115.071 and 116.072 or any other law, including any award of attorney's fees, must be deposited in the remediation fund.

Subd. 10. **Environmental response costs; liens.** All environmental response costs, including administrative and legal expenses, incurred by the commissioner at a priority qualified facility before the date of notice of compliance under section 115B.40, subdivision 7, constitute a lien in favor of the state upon any real property located in the state, other than homestead property, owned by the owner or operator who is subject to the requirements of section 115B.40, subdivision 4 or 5. A lien under this subdivision attaches when the environmental response costs are first incurred and continues until the lien is satisfied or becomes unenforceable as for an environmental lien under section 514.672. Notice, filing, and release of the lien are governed by sections 514.671 to 514.676, except where those requirements specifically are related to only cleanup action expenses as defined in section 514.671. Relative priority of a lien under this subdivision is governed by section 514.672, except that a lien attached to property that was included in any permit for the solid waste disposal facility takes precedence over all other liens regardless of when the other liens were or are perfected. Amounts received to satisfy all or a part of a lien must be deposited in the remediation fund.

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

Sec. 119. **[115B.407] SETTLEMENT AT PRIORITY QUALIFIED FACILITY.**

Subdivision 1. **Settlements; general authority.** In addition to the general authority vested in the agency to settle any claims under sections 115B.01 to 115B.18, and 115B.40 to 115B.445, the agency may exercise the settlement authorities provided in subdivisions 2 to 5.

Subd. 2. **Settlement agreement.** The commissioner must enter into a settlement agreement with an eligible person under subdivision 3 who requests a settlement, under which the commissioner settles with the eligible person and indemnifies and holds the eligible person harmless for:

(1) all legal responsibility, liability, or potential liability for environmental response costs and natural resources damages related to the qualified facility, including any and all liability and potential liability for legal and administrative costs and expenses incurred or to be incurred by the state or federal government or reimbursed by the state or federal government;

(2) all legal liability or potential liability under the federal Comprehensive Environmental Response, Compensation, and Liability Act related to the priority qualified facility, including any and all liability and potential liability for costs incurred by the federal government in cleaning up the site and legal and administrative costs and expenses incurred or to be incurred by the state or federal government or reimbursed by the state or federal government; and

(3) all legal liability or potential liability that has been asserted, could have been asserted, or may be asserted in the future against the eligible person under state or federal law, common law, or other legal theory related to the qualified facility, including any claim by any person or entity for contribution regarding any matters to which the indemnity applies.

Subd. 3. **Eligible persons.** (a) A person who is not an owner or operator of a priority qualified facility is eligible to enter into a settlement agreement with the commissioner provided the person agrees to:

(1) waive all claims for environmental response costs related to the facility against all persons other than the owner or operator;

(2) provide the commissioner with a copy of all applicable comprehensive general liability insurance policies and other liability insurance policies relating to property damage, certificates, or other evidence of insurance coverage held during the life of the facility; and

(3) enter into a binding agreement with the commissioner to take any actions necessary to preserve the person's rights to payment or defense under insurance policies, cooperate with the commissioner in asserting the claims under the policies, and assign those rights under the policies related to environmental response costs.

(b) For purposes of this subdivision, "insurance" has the meaning given in section 60A.02, subdivision 3.

Subd. 4. **Recovery for illegal actions.** The settlement of eligible persons under this section does not prevent the commissioner from recovering costs for illegal actions at priority qualified facilities as provided in section 115B.402.

Subd. 5. **Commissioner's duties.** (a) In consideration of the settlor's agreement to enter into an agreement under this section, the commissioner must not sue or take administrative action against the settlor, must agree to release the settlor from the liabilities under subdivision 1, and must indemnify and hold the settlor harmless and defend against all claims or liability for state or federal environmental response actions at the priority qualified facility that is the subject of the agreement and claims made by the owner or operator of the priority qualified facility under state or federal law for payment of response costs and related costs at the priority qualified facility.

(b) To the extent allowed under applicable law, a person who enters into a settlement agreement under this section is not liable for claims for contribution regarding matters addressed in the agreement. As a condition of the agreement, the person must waive the person's rights to seek contribution for any amounts paid on the person's behalf under the agreement. This section does not limit the state's ability to seek contribution on the person's behalf.

(c) The commissioner, on behalf of the state, shall enter into an agreement with the United States Environmental Protection Agency to settle all federal claims at a priority qualified facility to release all nonowner potentially responsible parties, including to not seek recovery from nonowner potentially responsible parties for costs incurred related to the priority qualified facility.

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

Sec. 120. **[115B.408] ACQUISITION OF PRIORITY QUALIFIED FACILITY.**

Subdivision 1. **Legislative findings.** The legislature recognizes the need to protect the public health and welfare and the environment at priority qualified facilities and that are not being managed to protect the public health or welfare or the environment. It is in the public interest to direct the commissioner of the Pollution Control Agency to acquire the necessary interests in land at the priority qualified facility and to conduct environmental response action.

Subd. 2. **Acquisition.** The agency may acquire interests in land by donation or eminent domain without undue delay, under section 115B.17, subdivision 15, at the priority qualified facility. Acquisition by condemnation under this section may include fee title acquisition. After acquiring interests in land, the commissioner must begin the process of protecting the public health and welfare

and the environment through environmental response action according to sections 115B.39 to 115B.414.

Subd. 3. **Disposition of property acquired for response action.** (a) If the commissioner determines that real or personal property acquired by the agency for response action is no longer needed for response action purposes, the commissioner may:

(1) transfer the property to the commissioner of administration to be disposed of in the manner required for other surplus property subject to conditions the commissioner determines necessary to protect the public health and welfare or the environment or to comply with federal law;

(2) transfer the property to another state agency, a political subdivision, or special purpose district; or

(3) if required by federal law, take actions and dispose of the property as required by federal law.

(b) If the commissioner determines that real or personal property acquired by the agency for response action must be operated, maintained, or monitored after completion of other phases of the response action, the commissioner may transfer ownership of the property to another state agency, a political subdivision, or special purpose district that agrees to accept the property. A state agency, political subdivision, or special purpose district is authorized to accept and implement the terms and conditions of a transfer under this paragraph. The commissioner may set terms and conditions for the transfer that the commissioner considers reasonable and necessary to ensure proper operation, maintenance, and monitoring of response actions, protect the public health and welfare and the environment, and comply with applicable federal and state laws and regulations. The state agency, political subdivision, or special purpose district to which the property is transferred is not liable under this chapter solely as a result of acquiring the property or acting in accordance with the terms and conditions of the transfer.

(c) If the agency acquires property under this section, the commissioner may lease or grant an easement in the property to a person during the implementation of response actions if the lease or easement is compatible with or necessary for response action implementation.

(d) The proceeds of a sale, lease, or other transfer of property under this subdivision by the commissioner or by the commissioner of administration must be deposited in the remediation fund. Any share of the proceeds that the agency is required by federal law or regulation to reimburse to the federal government is appropriated from the account to the agency for that purpose. Except for section 94.16, subdivision 2, section 94.16 does not apply to real property sold by the commissioner of administration that was acquired under this section.

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

Sec. 121. **[115B.409] OTHER REMEDIES PRESERVED.**

The owner of real property is barred from bringing legal action or using any remedy available under any other provision of state or federal law, including common law, to recover for personal injury, disease, economic loss, or response costs arising out of a release of any hazardous substance or for removal or the costs of removal of that hazardous substance. Sections 115B.40 to 115B.408

shall not be considered, interpreted, or construed in any way as reflecting a determination, in whole or in part, of policy regarding the inapplicability of strict liability or strict liability doctrines under any other state or federal law, including common law, to activities past, present, or future, by the owner of real property relating to hazardous substances or pollutants or contaminants, or other similar activities.

Sec. 122. **[115B.4091] DEPOSIT OF PROCEEDS.**

All amounts paid to the state under sections 115B.406 to 115B.409 must be deposited in the state treasury and credited equally to the remediation fund and the closed landfill investment fund.

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

Sec. 123. Minnesota Statutes 2016, section 115C.021, subdivision 1, is amended to read:

Subdivision 1. **General rule.** Except as provided in subdivisions 2 to 45, a person is responsible for a release from a tank if the person is an owner or operator of the tank at any time during or after the release.

Sec. 124. Minnesota Statutes 2016, section 115C.021, is amended by adding a subdivision to read:

Subd. 5. **Heating fuel oil vendor.** A heating fuel oil vendor is not a responsible person for a heating fuel oil release at a residential location if the release was caused solely by the failure of a tank owned by the homeowner.

Sec. 125. Minnesota Statutes 2016, section 116.03, subdivision 2b, is amended to read:

Subd. 2b. **Permitting efficiency.** (a) It is the goal of the state that environmental and resource management permits be issued or denied within 90 days for Tier 1 permits or 150 days for Tier 2 permits following submission of a permit application. The commissioner of the Pollution Control Agency shall establish management systems designed to achieve the goal. For the purposes of this section, "Tier 1 permits" are permits that do not require individualized actions or public comment periods, and "Tier 2 permits" are permits that require individualized actions or public comment periods.

(b) The commissioner shall prepare an annual permitting efficiency report that includes statistics on meeting the goal in paragraph (a) and the criteria for ~~Tier 1~~ and Tier 2 by permit categories. The report is due August 1 each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the agency's Web site and submitted to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over environment policy and finance.

(c) The commissioner shall allow electronic submission of environmental review and permit documents to the agency.

(d) ~~Beginning July 1, 2011,~~ Within 30 business days of application for a permit subject to paragraph (a), the commissioner of the Pollution Control Agency shall notify the ~~project proposer~~ permit applicant, in writing, whether the application is complete or incomplete. If the commissioner determines that an application is incomplete, the notice to the applicant must enumerate all deficiencies, citing specific provisions of the applicable rules and statutes, and advise the applicant on how the deficiencies can be remedied. If the commissioner determines that the application is complete, the notice must confirm the application's Tier 1 or Tier 2 permit status and, upon request of the permit applicant of an individual Tier 2 permit, provide the permit applicant with a schedule for reviewing the permit application. This paragraph does not apply to an application for a permit that is subject to a grant or loan agreement under chapter 446A.

(e) For purposes of this subdivision, "permit professional" means an individual not employed by the Pollution Control Agency who:

(1) has a professional license issued by the state of Minnesota in the subject area of the permit;

(2) has at least ten years of experience in the subject area of the permit; and

(3) abides by the duty of candor applicable to employees of the Pollution Control Agency under agency rules and complies with all applicable requirements under chapter 326.

(f) Upon the agency's request, an applicant relying on a permit professional must participate in a meeting with the agency before submitting an application:

(1) at least two weeks prior to the preapplication meeting, the applicant must submit at least the following:

(i) project description, including, but not limited to, scope of work, primary emissions points, discharge outfalls, and water intake points;

(ii) location of the project, including county, municipality, and location on the site;

(iii) business schedule for project completion; and

(iv) other information requested by the agency at least four weeks prior to the scheduled meeting; and

(2) during the preapplication meeting, the agency shall provide for the applicant at least the following:

(i) an overview of the permit review program;

(ii) a determination of which specific application or applications will be necessary to complete the project;

(iii) a statement notifying the applicant if the specific permit being sought requires a mandatory public hearing or comment period;

(iv) a review of the timetable established in the permit review program for the specific permit being sought; and

(v) a determination of what information must be included in the application, including a description of any required modeling or testing.

(g) The applicant may select a permit professional to undertake the preparation of the permit application and draft permit.

(h) If a preapplication meeting was held, the agency shall, within seven business days of receipt of an application, notify the applicant and submitting permit professional that the application is complete or is denied, specifying the deficiencies of the application.

(i) Upon receipt of notice that the application is complete, the permit professional shall submit to the agency a timetable for submitting a draft permit. The permit professional shall submit a draft permit on or before the date provided in the timetable. Within 60 days after the close of the public comment period, the commissioner shall notify the applicant whether the permit can be issued.

(j) Nothing in this section shall be construed to modify:

(1) any requirement of law that is necessary to retain federal delegation to or assumption by the state; or

(2) the authority to implement a federal law or program.

(k) The permit application and draft permit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the permit application and draft permit. The commissioner shall request additional studies, if needed, and the ~~project proposer~~ permit applicant shall submit all additional studies and information necessary for the commissioner to perform the commissioner's responsibility to review, modify, and determine the completeness of the application and approve the draft permit.

Sec. 126. Minnesota Statutes 2016, section 116.03, is amended by adding a subdivision to read:

Subd. 7. **Draft permits; public notice.** When public notice of a draft individual Tier 2 permit is required, the commissioner must issue the notice with the draft permit within 150 days of receiving a completed permit application unless the permit applicant and the commissioner mutually agree to a different date. Upon request of the permit applicant, the commissioner must provide a copy of the draft permit to the permit applicant and consider comments on the draft permit from the permit applicant before issuing the public notice.

Sec. 127. Minnesota Statutes 2016, section 116.03, is amended by adding a subdivision to read:

Subd. 8. **Clean Air Act settlement money.** "Clean Air Act settlement money" means money required to be paid to the state as a result of litigation or settlements of alleged violations of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or rules adopted thereunder, by an automobile manufacturer. The commissioner of management and budget must establish the Clean Air Act settlement account in the environmental fund. Notwithstanding sections 16A.013 to 16A.016, the commissioner of management and budget must deposit Clean Air Act settlement

money into the Clean Air Act settlement account. Clean Air Act settlement money must not be spent until it is specifically appropriated by law. The commissioner of management and budget must eliminate the Clean Air Act settlement account in the environmental fund after all Clean Air Act settlement money has been expended.

Sec. 128. Minnesota Statutes 2016, section 116.07, subdivision 4d, is amended to read:

Subd. 4d. **Permit fees.** (a) The agency may collect permit fees in amounts not greater than those necessary to cover the reasonable costs of developing, reviewing, and acting upon applications for agency permits and implementing and enforcing the conditions of the permits pursuant to agency rules. Permit fees shall not include the costs of litigation. The fee schedule must reflect reasonable and routine direct and indirect costs associated with permitting, implementation, and enforcement. The agency may impose an additional enforcement fee to be collected for a period of up to two years to cover the reasonable costs of implementing and enforcing the conditions of a permit under the rules of the agency. Any money collected under this paragraph shall be deposited in the environmental fund.

(b) Notwithstanding paragraph (a), the agency shall collect an annual fee from the owner or operator of all stationary sources, emission facilities, emissions units, air contaminant treatment facilities, treatment facilities, potential air contaminant storage facilities, or storage facilities subject to a notification, permit, or license requirement under this chapter, subchapters I and V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or rules adopted thereunder. The annual fee shall be used to pay for all direct and indirect reasonable costs, including legal costs, required to develop and administer the notification, permit, or license program requirements of this chapter, subchapters I and V of the federal Clean Air Act, United States Code, title 42, section 7401 et seq., or rules adopted thereunder. Those costs include the reasonable costs of reviewing and acting upon an application for a permit; implementing and enforcing statutes, rules, and the terms and conditions of a permit; emissions, ambient, and deposition monitoring; preparing generally applicable regulations; responding to federal guidance; modeling, analyses, and demonstrations; preparing inventories and tracking emissions; and providing information to the public about these activities.

(c) The agency shall set fees that:

(1) will result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than \$25 per ton of each volatile organic compound; pollutant regulated under United States Code, title 42, section 7411 or 7412 (section 111 or 112 of the federal Clean Air Act); and each pollutant, except carbon monoxide, for which a national primary ambient air quality standard has been promulgated;

(2) may result in the collection, in the aggregate, from the sources listed in paragraph (b), of an amount not less than \$25 per ton of each pollutant not listed in clause (1) that is regulated under this chapter or air quality rules adopted under this chapter; and

(3) shall collect, in the aggregate, from the sources listed in paragraph (b), the amount needed to match grant funds received by the state under United States Code, title 42, section 7405 (section 105 of the federal Clean Air Act).

The agency must not include in the calculation of the aggregate amount to be collected under clauses (1) and (2) any amount in excess of 4,000 tons per year of each air pollutant from a source. The

increase in air permit fees to match federal grant funds shall be a surcharge on existing fees. The commissioner may not collect the surcharge after the grant funds become unavailable. In addition, the commissioner shall use nonfee funds to the extent practical to match the grant funds so that the fee surcharge is minimized.

(d) To cover the reasonable costs described in paragraph (b), the agency shall provide in the rules promulgated under paragraph (c) for an increase in the fee collected in each year by the percentage, if any, by which the Consumer Price Index for the most recent calendar year ending before the beginning of the year the fee is collected exceeds the Consumer Price Index for the calendar year 1989. For purposes of this paragraph the Consumer Price Index for any calendar year is the average of the Consumer Price Index for all-urban consumers published by the United States Department of Labor, as of the close of the 12-month period ending on August 31 of each calendar year. The revision of the Consumer Price Index that is most consistent with the Consumer Price Index for calendar year 1989 shall be used.

(e) Any money collected under paragraphs (b) to (d) must be deposited in the environmental fund and must be used solely for the activities listed in paragraph (b).

(f) Permit applicants who wish to construct, reconstruct, or modify a facility project may offer to reimburse the agency for the reasonable costs of staff time or consultant services needed to expedite the preapplication process and permit development process through the final decision on the permit, including the analysis of environmental review documents. The reimbursement shall be in addition to permit application fees imposed by law. When the agency determines that it needs additional resources to develop the permit application in an expedited manner, and that expediting the development is consistent with permitting program priorities, the agency may accept the reimbursement. The commissioner must give the applicant an estimate of costs to be incurred by the commissioner. The estimate must include a brief description of the tasks to be performed, a schedule for completing the tasks, and the estimated cost for each task. The applicant and the commissioner must enter into a written agreement detailing the estimated costs for the expedited permit decision-making process to be incurred by the agency and any recourse available to the applicant if the agency fails to meet the schedule. The agreement must also identify staff anticipated to be assigned to the project and describe the commissioner's commitment to make assigned staff available for the project until the permit decision is made. The commissioner must not issue a permit until the applicant has paid all fees in full. The commissioner must refund any unobligated balance of fees paid. Reimbursements accepted by the agency are appropriated to the agency for the purpose of developing the permit or analyzing environmental review documents. Reimbursement by a permit applicant shall precede and not be contingent upon issuance of a permit; shall not affect the agency's decision on whether to issue or deny a permit, what conditions are included in a permit, or the application of state and federal statutes and rules governing permit determinations; and shall not affect final decisions regarding environmental review.

(g) The fees under this subdivision are exempt from section 16A.1285.

Sec. 129. Minnesota Statutes 2016, section 116.07, is amended by adding a subdivision to read:

Subd. 13. Irrevocability, suspensions, or expiration of permits; environmental review. (a) If, by July 1 of an odd-numbered year, legislation has not been enacted to appropriate money to the

commissioner of the Pollution Control Agency for environmental review and permitting activities of the agency:

(1) a permit granted by the commissioner may not be terminated or suspended for the term of the permit nor shall it expire without the consent of the permittee, except for breach or nonperformance of any condition of the permit by the permittee that is an imminent threat to impair or destroy the environment or injure the health, safety, or welfare of the citizens of the state; and

(2) environmental review and permit application work on environmental review and permits filed before July 1 of that year must not be suspended or terminated.

(b) Paragraph (a), clause (1), applies until legislation appropriating money to the commissioner for the environmental review and permitting activities is enacted.

Sec. 130. Minnesota Statutes 2016, section 116.07, is amended by adding a subdivision to read:

Subd. 14. **Unadopted rules.** The commissioner of the Pollution Control Agency must not seek to implement in a permit or enforce a penalty based upon an agency policy, guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement if the policy, guideline, bulletin, criterion, manual standard, interpretive standard, or pronouncement has not been adopted under the rulemaking process under chapter 14. In any proceeding under section 14.381, the commissioner has the burden of proving the action is not prohibited.

Sec. 131. Minnesota Statutes 2016, section 116.07, is amended by adding a subdivision to read:

Subd. 15. **Limitation regarding certain policies, guidelines, and other interpretive statements.** (a) The commissioner of the Pollution Control Agency must not seek to implement or enforce against any person a policy, guideline, or other interpretive statement that meets the definition of a rule under section 14.02, subdivision 4, if the policy, guideline, or other interpretive statement has not been adopted as a rule according to chapter 14. In any proceeding under chapter 14 challenging agency action prohibited by this subdivision, the reviewing authority must independently and without deference to the agency determine whether the agency violated this subdivision. The agency must overcome the presumption that the agency action may not be enforced as a rule.

(b) If the commissioner incorporates by reference an internal guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement into a statute, rule, or standard, the commissioner must follow the rulemaking process provided under chapter 14 to amend or revise the guideline, bulletin, criterion, manual standard, interpretive statement, or similar pronouncement.

Sec. 132. Minnesota Statutes 2016, section 116.0714, is amended to read:

116.0714 NEW OPEN AIR SWINE BASINS.

The commissioner of the Pollution Control Agency or a county board shall not approve any permits for the construction of new open air swine basins, except that existing facilities may use one basin of less than 1,000,000 gallons as part of a permitted waste treatment program for resolving pollution problems or to allow conversion of an existing basin of less than 1,000,000 gallons to a different animal type, provided all standards are met. This section expires June 30, ~~2017~~ 2022.

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

Sec. 133. **[116.083] PROPANE SCHOOL BUS REBATE PROGRAM.**

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given:

(1) "propane school bus" means a school bus fueled by propane and used by a school or under contract with the school to transport pupils to or from a school or to or from school-related activities;

(2) "school" means a Minnesota school district or Minnesota charter school; and

(3) "school bus" means a type A, B, C, or D school bus under section 169.011, subdivision 71.

Subd. 2. **Rebate eligibility.** (a) Schools that purchase a propane school bus are eligible for a rebate under this section. A school that contracts for pupil transportation may apply for a rebate on behalf of the school bus contractor.

(b) Propane school buses must be registered and licensed in Minnesota.

(c) The cost of an original equipment manufacturer propane school bus purchased is eligible for a rebate under this section.

Subd. 3. **Rebate amounts.** Rebates under this section may be issued for no more than 25 percent of the cost of a propane school bus, not to exceed \$25,000.

Subd. 4. **Maximum rebate allowed.** A school may receive no more than five propane school bus rebates per year.

Subd. 5. **Funding.** \$1,500,000 is annually appropriated from the Clean Air Act settlement account in the environmental fund to the agency for grants under this section. The grants must be awarded through a request for proposal process established by the commissioner and must comply with the litigation or settlement order providing receipts to the account.

Sec. 134. Minnesota Statutes 2016, section 116C.03, subdivision 2, is amended to read:

Subd. 2. **Membership.** The members of the board are the commissioner of administration, the commissioner of commerce, the commissioner of the Pollution Control Agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of employment and economic development, the commissioner of transportation, and the chair of the Board of Water and Soil Resources, ~~and a representative of the governor's office designated by the governor.~~ The governor shall appoint ~~five~~ eight members from the general public to the board, one from each congressional district, subject to the advice and consent of the senate. ~~At least two of The five public members must have knowledge of and be conversant in water management issues in the state~~ environmental review or permitting. Notwithstanding the provisions of section 15.06, subdivision 6, members of the board may not delegate their powers and responsibilities as board members to any other person.

Sec. 135. Minnesota Statutes 2016, section 116C.04, subdivision 2, is amended to read:

Subd. 2. **Jurisdiction.** ~~(a) The board shall determine which environmental problems of interdepartmental concern to state government shall be considered by the board. The board shall initiate interdepartmental investigations into those matters that it determines are in need of study. Topics for investigation may include but need not be limited to future population and settlement patterns, air and water resources and quality, solid waste management, transportation and utility corridors, economically productive open space, energy policy and need, growth and development, and land use planning.~~

~~(b) The board shall review programs of state agencies that significantly affect the environment and coordinate those it determines are interdepartmental in nature, and insure agency compliance with state environmental policy.~~

~~(c) The board may review environmental rules and criteria for granting and denying permits by state agencies and may resolve conflicts involving state agencies with regard to programs, rules, permits and procedures significantly affecting the environment, provided that such resolution of conflicts is consistent with state environmental policy.~~

~~(d) State agencies shall submit to the board all proposed legislation of major significance relating to the environment and the board shall submit a report to the governor and the legislature with comments on such major environmental proposals of state agencies.~~

Sec. 136. Minnesota Statutes 2016, section 116D.04, subdivision 2a, is amended to read:

Subd. 2a. **When prepared.** (a) Where there is potential for significant environmental effects resulting from any major governmental action, the action shall be preceded by a detailed environmental impact statement prepared by the responsible governmental unit. The environmental impact statement shall be an analytical rather than an encyclopedic document which describes the proposed action in detail, analyzes its significant environmental impacts, discusses appropriate alternatives to the proposed action and their impacts, and explores methods by which adverse environmental impacts of an action could be mitigated. The environmental impact statement shall also analyze those economic, employment, and sociological effects that cannot be avoided should the action be implemented. To ensure its use in the decision-making process, the environmental impact statement shall be prepared as early as practical in the formulation of an action.

~~(a)~~ (b) The board shall by rule establish categories of actions for which environmental impact statements and for which environmental assessment worksheets shall be prepared as well as categories of actions for which no environmental review is required under this section. A mandatory environmental assessment worksheet ~~shall~~ is not be required for the expansion of an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b), or the conversion of an ethanol plant to a biobutanol facility or the expansion of a biobutanol facility as defined in section 41A.15, subdivision 2d, based on the capacity of the expanded or converted facility to produce alcohol fuel, but must be required if the ethanol plant or biobutanol facility meets or exceeds thresholds of other categories of actions for which environmental assessment worksheets must be prepared. The responsible governmental unit for an ethanol plant or biobutanol facility project for which an environmental assessment worksheet is prepared ~~shall be~~ is the state agency with the greatest responsibility for supervising or approving the project as a whole.

~~(c)~~ (c) A mandatory environmental impact statement ~~shall is not be~~ required for a facility or plant located outside the seven-county metropolitan area that produces less than 125,000,000 gallons of ethanol, biobutanol, or cellulosic biofuel annually, or produces less than 400,000 tons of chemicals annually, if the facility or plant is: an ethanol plant, as defined in section 41A.09, subdivision 2a, paragraph (b); a biobutanol facility, as defined in section 41A.15, subdivision 2d; or a cellulosic biofuel facility. A facility or plant that only uses a cellulosic feedstock to produce chemical products for use by another facility as a feedstock ~~shall is not be~~ considered a fuel conversion facility as used in rules adopted under this chapter.

~~(b)~~ (d) The responsible governmental unit shall promptly publish notice of the completion of an environmental assessment worksheet by publishing the notice in at least one newspaper of general circulation in the geographic area where the project is proposed, by posting the notice on a Web site that has been designated as the official publication site for publication of proceedings, public notices, and summaries of a political subdivision in which the project is proposed, or in any other manner determined by the board and shall provide copies of the environmental assessment worksheet to the board and its member agencies. Comments on the need for an environmental impact statement may be submitted to the responsible governmental unit during a 30-day period following publication of the notice that an environmental assessment worksheet has been completed. The responsible governmental unit's decision on the need for an environmental impact statement shall be based on the environmental assessment worksheet and the comments received during the comment period, and shall be made within 15 days after the close of the comment period. The board's chair may extend the 15-day period by not more than 15 additional days upon the request of the responsible governmental unit.

~~(e)~~ (e) An environmental assessment worksheet shall also be prepared for a proposed action whenever material evidence accompanying a petition by not less than 100 individuals who reside or own property in the state, submitted before the proposed project has received final approval by the appropriate governmental units, demonstrates that, because of the nature or location of a proposed action, there may be potential for significant environmental effects. Petitions requesting the preparation of an environmental assessment worksheet shall be submitted to the board. The chair of the board shall determine the appropriate responsible governmental unit and forward the petition to it. A decision on the need for an environmental assessment worksheet shall be made by the responsible governmental unit within 15 days after the petition is received by the responsible governmental unit. The board's chair may extend the 15-day period by not more than 15 additional days upon request of the responsible governmental unit.

~~(d)~~ (f) Except in an environmentally sensitive location where Minnesota Rules, part 4410.4300, subpart 29, item B, applies, the proposed action is exempt from environmental review under this chapter and rules of the board, if:

(1) the proposed action is:

(i) an animal feedlot facility with a capacity of less than 1,000 animal units; or

(ii) an expansion of an existing animal feedlot facility with a total cumulative capacity of less than 1,000 animal units;

(2) the application for the animal feedlot facility includes a written commitment by the proposer to design, construct, and operate the facility in full compliance with Pollution Control Agency feedlot rules; and

(3) the county board holds a public meeting for citizen input at least ten business days ~~prior to~~ before the Pollution Control Agency or county issuing a feedlot permit for the animal feedlot facility unless another public meeting for citizen input has been held with regard to the feedlot facility to be permitted. The exemption in this paragraph is in addition to other exemptions provided under other law and rules of the board.

(~~e~~) (g) The board may, ~~prior to~~ before final approval of a proposed project, require preparation of an environmental assessment worksheet by a responsible governmental unit selected by the board for any action where environmental review under this section has not been specifically provided for by rule or otherwise initiated.

(~~f~~) (h) An early and open process shall be utilized to limit the scope of the environmental impact statement to a discussion of those impacts, ~~which that~~, because of the nature or location of the project, have the potential for significant environmental effects. The same process shall be utilized to determine the form, content, and level of detail of the statement as well as the alternatives ~~which that~~ are appropriate for consideration in the statement. In addition, the permits ~~which that~~ will be required for the proposed action shall be identified during the scoping process. Further, the process shall identify those permits for which information will be developed concurrently with the environmental impact statement. The board shall provide in its rules for the expeditious completion of the scoping process. The determinations reached in the process shall be incorporated into the order requiring the preparation of an environmental impact statement.

(~~g~~) (i) The responsible governmental unit shall, to the extent practicable, avoid duplication and ensure coordination between state and federal environmental review and between environmental review and environmental permitting. Whenever practical, information needed by a governmental unit for making final decisions on permits or other actions required for a proposed project shall be developed in conjunction with the preparation of an environmental impact statement. When an environmental impact statement is prepared for a project requiring multiple permits for which two or more agencies' decision processes include either mandatory or discretionary hearings before a hearing officer ~~prior to~~ before the agencies' decision on the permit, the agencies may, notwithstanding any law or rule to the contrary, conduct the hearings in a single consolidated hearing process if requested by the proposer. All agencies having jurisdiction over a permit that is included in the consolidated hearing shall participate. The responsible governmental unit shall establish appropriate procedures for the consolidated hearing process, including procedures to ensure that the consolidated hearing process is consistent with the applicable requirements for each permit regarding the rights and duties of parties to the hearing, and shall utilize the earliest applicable hearing procedure to initiate the hearing. All agencies having jurisdiction over a permit identified in the draft environmental impact statement must accept and begin reviewing any permit application upon publication of the notice of preparation of the environmental impact statement.

(~~h~~) (j) An environmental impact statement shall be prepared and its adequacy determined within 280 days after notice of its preparation unless the time is extended by consent of the parties or by the governor for good cause. The responsible governmental unit shall determine the adequacy of an environmental impact statement, unless within 60 days after notice is published that an

environmental impact statement will be prepared, the board chooses to determine the adequacy of an environmental impact statement. If an environmental impact statement is found to be inadequate, the responsible governmental unit shall have 60 days to prepare an adequate environmental impact statement.

(k) The proposer of a specific action may include in the information submitted to the responsible governmental unit a preliminary draft environmental impact statement under this section on that action for review, modification, and determination of completeness and adequacy by the responsible governmental unit. A preliminary draft environmental impact statement prepared by the project proposer and submitted to the responsible governmental unit shall identify or include as an appendix all studies and other sources of information used to substantiate the analysis contained in the preliminary draft environmental impact statement. The responsible governmental unit shall require additional studies, if needed, and obtain from the project proposer all additional studies and information necessary for the responsible governmental unit to perform its responsibility to review, modify, and determine the completeness and adequacy of the environmental impact statement.

Sec. 137. Minnesota Statutes 2016, section 116D.04, subdivision 10, is amended to read:

Subd. 10. **Review.** A person aggrieved by a final decision on the need for an environmental assessment worksheet, the need for an environmental impact statement, or the adequacy of an environmental impact statement is entitled to judicial review of the decision under sections 14.63 to 14.68. A petition for a writ of certiorari by an aggrieved person for judicial review under sections 14.63 to 14.68 must be filed with the Court of Appeals and served on the responsible governmental unit not more than ~~30~~ 45 days after the ~~party receives the final decision and order of the~~ responsible governmental unit provides notice of the decision as required by law. Proceedings for review under this section must be instituted by serving a petition for a writ of certiorari personally or by certified mail upon the responsible governmental unit and by promptly filing the proof of service in the Office of the Clerk of the Appellate Courts and the matter will proceed in the manner provided by the Rules of Civil Appellate Procedure. A copy of the petition must be provided to the attorney general at the time of service. Copies of the writ must be served, personally or by certified mail, upon the responsible governmental unit and the project proposer. The filing of the writ of certiorari does not stay the enforcement of any other governmental action, provided that the responsible governmental unit may stay enforcement or the Court of Appeals may order a stay upon terms it deems proper. A bond may be required under section 562.02 unless at the time of hearing on the application for the bond the petitioner-relator has shown that the claim is likely to succeed on the merits. The board may initiate judicial review of decisions referred to herein and the board or a project proposer may intervene as of right in any proceeding brought under this subdivision.

Sec. 138. Minnesota Statutes 2016, section 116D.045, subdivision 1, is amended to read:

Subdivision 1. **Assessment.** The board ~~shall~~ must by rule adopt procedures to:

(1) assess the proposer of a specific action for the responsible governmental unit's reasonable costs of preparing, reviewing, and distributing the environmental impact statement. The costs ~~shall~~ must be determined by the responsible governmental unit ~~pursuant~~ according to the rules ~~promulgated~~ adopted by the board; and

(2) authorize a proposer of a specific action to prepare a draft environmental impact statement for that action for submission to and review, modification, and determination of completeness and adequacy by the responsible governmental unit.

Sec. 139. Minnesota Statutes 2016, section 160.06, is amended to read:

160.06 TRAIL OR PORTAGE DEDICATION.

Any trail or portage between public or navigable bodies of water or from public or navigable water to a public highway in this state ~~which that~~ has been in continued and uninterrupted use by the general public for 15 years or more as a trail or portage for the purposes of travel, ~~shall be is~~ deemed to have been dedicated to the public as a trail or portage. This section ~~shall apply~~ applies only to forest trails on established ~~state water trails~~ canoe routes and the public ~~shall have~~ has the right to use the same for ~~the purposes of~~ travel to the same extent as public highways. The width of all trails and portages dedicated by user ~~shall be is~~ is eight feet on each side of the centerline of the trail or portage.

Sec. 140. Minnesota Statutes 2016, section 168.1295, subdivision 1, is amended to read:

Subdivision 1. **General requirements and procedures.** (a) The commissioner shall issue state parks and trails plates to an applicant who:

(1) is a registered owner of a passenger automobile, recreational vehicle, one ton pickup truck, or motorcycle;

(2) pays a fee of \$10 to cover the costs of handling and manufacturing the plates;

(3) pays the registration tax required under section 168.013;

(4) pays the fees required under this chapter;

(5) contributes a minimum of ~~\$50~~ \$60 annually to the state parks and trails donation account established in section 85.056; and

(6) complies with this chapter and rules governing registration of motor vehicles and licensing of drivers.

(b) The state parks and trails plate application must indicate that the contribution specified under paragraph (a), clause (5), is a minimum contribution to receive the plate and that the applicant may make an additional contribution to the account.

(c) State parks and trails plates may be personalized according to section 168.12, subdivision 2a.

Sec. 141. Minnesota Statutes 2016, section 282.018, subdivision 1, is amended to read:

Subdivision 1. **Land on or adjacent to public waters.** (a) All land which is the property of the state as a result of forfeiture to the state for nonpayment of taxes, regardless of whether the land is held in trust for taxing districts, and which borders on or is adjacent to meandered lakes and other public waters and watercourses, and the live timber growing or being thereon, is hereby withdrawn

from sale except as hereinafter provided. The authority having jurisdiction over the timber on any ~~such~~ of these lands may sell the timber as otherwise provided by law for cutting and removal under ~~such~~ the conditions as the authority may prescribe in accordance with approved, sustained yield forestry practices. The authority having jurisdiction over the timber shall reserve ~~such~~ the timber and impose ~~such~~ the conditions as the authority deems necessary for the protection of watersheds, wildlife habitat, shorelines, and scenic features. Within the area in Cook, Lake, and St. Louis counties described in the Act of Congress approved July 10, 1930 (46 Stat. 1020), the timber on tax-forfeited lands shall be subject to like restrictions as are now imposed by that act on federal lands.

(b) Of all tax-forfeited land bordering on or adjacent to meandered lakes and other public waters and watercourses and so withdrawn from sale, a strip two rods in width, the ordinary high-water mark being the waterside boundary thereof, and the land side boundary thereof being a line drawn parallel to the ordinary high-water mark and two rods distant landward therefrom, hereby is reserved for public travel thereon, and whatever the conformation of the shore line or conditions require, the authority having jurisdiction over ~~such~~ these lands shall reserve a wider strip for ~~such~~ these purposes.

(c) Any tract or parcel of land which has 150 feet or less of waterfront may be sold by the authority having jurisdiction over the land, in the manner otherwise provided by law for the sale of ~~such~~ the lands, if the authority determines that it is in the public interest to do so. Any tract or parcel of land within a plat of record bordering on or adjacent to meandered lakes and other public waters and watercourses may be sold by the authority having jurisdiction over the land, in the manner otherwise provided by law for the sale of the lands, if the authority determines that it is in the public interest to do so. If the authority having jurisdiction over the land is not the commissioner of natural resources, the land may not be offered for sale without the prior approval of the commissioner of natural resources.

(d) Where the authority having jurisdiction over lands withdrawn from sale under this section is not the commissioner of natural resources, the authority may submit proposals for disposition of the lands to the commissioner. The commissioner of natural resources shall evaluate the lands and their public benefits and make recommendations on the proposed dispositions to the committees of the legislature with jurisdiction over natural resources. The commissioner shall include any recommendations of the commissioner for disposition of lands withdrawn from sale under this section over which the commissioner has jurisdiction. The commissioner's recommendations may include a public sale, sale to a private party, acquisition by the Department of Natural Resources for public purposes, or a cooperative management agreement with, or transfer to, another unit of government.

Sec. 142. Minnesota Statutes 2016, section 282.04, subdivision 1, is amended to read:

Subdivision 1. **Timber sales; land leases and uses.** (a) The county auditor, with terms and conditions set by the county board, may sell timber upon any tract that may be approved by the natural resources commissioner. The sale of timber shall be made for cash at not less than the appraised value determined by the county board to the highest bidder after not less than one week's published notice in an official paper within the county. Any timber offered at the public sale and not sold may thereafter be sold at private sale by the county auditor at not less than the appraised value thereof, until the time as the county board may withdraw the timber from sale. The appraised value of the timber and the forestry practices to be followed in the cutting of said timber shall be approved by the commissioner of natural resources.

(b) Payment of the full sale price of all timber sold on tax-forfeited lands shall be made in cash at the time of the timber sale, except in the case of oral or sealed bid auction sales, the down payment shall be no less than 15 percent of the appraised value, and the balance shall be paid prior to entry. In the case of auction sales that are partitioned and sold as a single sale with predetermined cutting blocks, the down payment shall be no less than 15 percent of the appraised price of the entire timber sale which may be held until the satisfactory completion of the sale or applied in whole or in part to the final cutting block. The value of each separate block must be paid in full before any cutting may begin in that block. With the permission of the county contract administrator the purchaser may enter unpaid blocks and cut necessary timber incidental to developing logging roads as may be needed to log other blocks provided that no timber may be removed from an unpaid block until separately scaled and paid for. If payment is provided as specified in this paragraph as security under paragraph (a) and no cutting has taken place on the contract, the county auditor may credit the security provided, less any down payment required for an auction sale under this paragraph, to any other contract issued to the contract holder by the county under this chapter to which the contract holder requests in writing that it be credited, provided the request and transfer is made within the same calendar year as the security was received.

(c) The county board may sell any timber, including biomass, as appraised or scaled. Any parcels of land from which timber is to be sold by scale of cut products shall be so designated in the published notice of sale under paragraph (a), in which case the notice shall contain a description of the parcels, a statement of the estimated quantity of each species of timber, and the appraised price of each species of timber for 1,000 feet, per cord or per piece, as the case may be. In those cases any bids offered over and above the appraised prices shall be by percentage, the percent bid to be added to the appraised price of each of the different species of timber advertised on the land. The purchaser of timber from the parcels shall pay in cash at the time of sale at the rate bid for all of the timber shown in the notice of sale as estimated to be standing on the land, and in addition shall pay at the same rate for any additional amounts which the final scale shows to have been cut or was available for cutting on the land at the time of sale under the terms of the sale. Where the final scale of cut products shows that less timber was cut or was available for cutting under terms of the sale than was originally paid for, the excess payment shall be refunded from the forfeited tax sale fund upon the claim of the purchaser, to be audited and allowed by the county board as in case of other claims against the county. No timber, except hardwood pulpwood, may be removed from the parcels of land or other designated landings until scaled by a person or persons designated by the county board and approved by the commissioner of natural resources. Landings other than the parcel of land from which timber is cut may be designated for scaling by the county board by written agreement with the purchaser of the timber. The county board may, by written agreement with the purchaser and with a consumer designated by the purchaser when the timber is sold by the county auditor, and with the approval of the commissioner of natural resources, accept the consumer's scale of cut products delivered at the consumer's landing. No timber shall be removed until fully paid for in cash. Small amounts of timber not exceeding ~~\$3,000~~ 500 cords in appraised ~~valuation~~ volume may be sold for not less than the full appraised value at private sale to individual persons without first publishing notice of sale or calling for bids, provided that in case of a sale involving a total appraised value of more than \$200 the sale shall be made subject to final settlement on the basis of a scale of cut products in the manner above provided and not more than two of the sales, directly or indirectly to any individual shall be in effect at one time.

(d) As directed by the county board, the county auditor may lease tax-forfeited land to individuals, corporations or organized subdivisions of the state at public or private sale, and at the prices and under the terms as the county board may prescribe, for use as cottage and camp sites and for agricultural purposes and for the purpose of taking and removing of hay, stumpage, sand, gravel, clay, rock, marl, and black dirt from the land, and for garden sites and other temporary uses provided that no leases shall be for a period to exceed ten years; provided, further that any leases involving a consideration of more than \$12,000 per year, except to an organized subdivision of the state shall first be offered at public sale in the manner provided herein for sale of timber. Upon the sale of any leased land, it shall remain subject to the lease for not to exceed one year from the beginning of the term of the lease. Any rent paid by the lessee for the portion of the term cut off by the cancellation shall be refunded from the forfeited tax sale fund upon the claim of the lessee, to be audited and allowed by the county board as in case of other claims against the county.

(e) As directed by the county board, the county auditor may lease tax-forfeited land to individuals, corporations, or organized subdivisions of the state at public or private sale, at the prices and under the terms as the county board may prescribe, for the purpose of taking and removing for use for road construction and other purposes tax-forfeited stockpiled iron-bearing material. The county auditor must determine that the material is needed and suitable for use in the construction or maintenance of a road, tailings basin, settling basin, dike, dam, bank fill, or other works on public or private property, and that the use would be in the best interests of the public. No lease shall exceed ten years. The use of a stockpile for these purposes must first be approved by the commissioner of natural resources. The request shall be deemed approved unless the requesting county is notified to the contrary by the commissioner of natural resources within six months after receipt of a request for approval for use of a stockpile. Once use of a stockpile has been approved, the county may continue to lease it for these purposes until approval is withdrawn by the commissioner of natural resources.

(f) The county auditor, with the approval of the county board is authorized to grant permits, licenses, and leases to tax-forfeited lands for the depositing of stripping, lean ores, tailings, or waste products from mines or ore milling plants, or to use for facilities needed to recover iron-bearing oxides from tailings basins or stockpiles, or for a buffer area needed for a mining operation, upon the conditions and for the consideration and for the period of time, not exceeding 25 years, as the county board may determine. The permits, licenses, or leases are subject to approval by the commissioner of natural resources.

(g) Any person who removes any timber from tax-forfeited land before said timber has been scaled and fully paid for as provided in this subdivision is guilty of a misdemeanor.

(h) The county auditor may, with the approval of the county board, and without first offering at public sale, grant leases, for a term not exceeding 25 years, for the removal of peat and for the production or removal of farm-grown closed-loop biomass as defined in section 216B.2424, subdivision 1, or short-rotation woody crops from tax-forfeited lands upon the terms and conditions as the county board may prescribe. Any lease for the removal of peat, farm-grown closed-loop biomass, or short-rotation woody crops from tax-forfeited lands must first be reviewed and approved by the commissioner of natural resources if the lease covers 320 or more acres. No lease for the removal of peat, farm-grown closed-loop biomass, or short-rotation woody crops shall be made by the county auditor pursuant to this section without first holding a public hearing on the auditor's intention to lease. One printed notice in a legal newspaper in the county at least ten days before the

hearing, and posted notice in the courthouse at least 20 days before the hearing shall be given of the hearing.

(i) Notwithstanding any provision of paragraph (c) to the contrary, the St. Louis County auditor may, at the discretion of the county board, sell timber to the party who bids the highest price for all the several kinds of timber, as provided for sales by the commissioner of natural resources under section 90.14. Bids offered over and above the appraised price need not be applied proportionately to the appraised price of each of the different species of timber.

(j) In lieu of any payment or deposit required in paragraph (b), as directed by the county board and under terms set by the county board, the county auditor may accept an irrevocable bank letter of credit in the amount equal to the amount otherwise determined in paragraph (b). If an irrevocable bank letter of credit is provided under this paragraph, at the written request of the purchaser, the county may periodically allow the bank letter of credit to be reduced by an amount proportionate to the value of timber that has been harvested and for which the county has received payment. The remaining amount of the bank letter of credit after a reduction under this paragraph must not be less than 20 percent of the value of the timber purchased. If an irrevocable bank letter of credit or cash deposit is provided for the down payment required in paragraph (b), and no cutting of timber has taken place on the contract for which a letter of credit has been provided, the county may allow the transfer of the letter of credit to any other contract issued to the contract holder by the county under this chapter to which the contract holder requests in writing that it be credited.

Sec. 143. Minnesota Statutes 2016, section 296A.18, subdivision 6a, is amended to read:

Subd. 6a. **Computation of nonhighway use amounts.** The nonhighway use amounts determined in subdivisions 2 to 6 must be transferred from the highway user tax distribution fund to the accounts as provided for in sections 84.794, 84.803, 84.83, 84.927, and 86B.706. These amounts, together with interest and penalties for delinquency in payment, paid or collected pursuant to the provisions of this chapter, must be computed for each six-month period ending June 30 and December 31 and must be transferred on November 1 and ~~June~~ April 1 following each six-month period.

Sec. 144. **[471.9998] MERCHANT BAGS.**

Subdivision 1. Citation. This section may be cited as the Consumer Choice Act.

Subd. 2. Merchant option. All merchants, itinerant vendors, and peddlers doing business in this state shall have the option to provide customers a paper, plastic, or reusable bag for the packaging of any item or good purchased, provided the purchase is of a size and manner commensurate with the use of paper, plastic, or reusable bags.

Subd. 3. Prohibition; bag ban or tax. Notwithstanding any other provision of law, no political subdivision shall impose any ban, fee, or tax upon the use of paper, plastic, or reusable bags for packaging of any item or good purchased from a merchant, itinerant vendor, or peddler.

EFFECTIVE DATE. This section is effective May 31, 2017. Ordinances existing on the effective date of this section that would be prohibited under this section are invalid as of the effective date of this section.

Sec. 145. **[477A.21] RIPARIAN PROTECTION AID.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given:

(1) "buffer protection map" has the meaning given under section 103F.48, subdivision 1; and

(2) "public watercourses" means public waters and public drainage systems subject to riparian protection requirements under section 103F.48.

Subd. 2. **Certifications to commissioner.** (a) The Board of Water and Soil Resources must certify to the commissioner of revenue, on or before July 1 each year, which counties and watershed districts have affirmed their jurisdiction under section 103F.48 and the proportion of centerline miles of public watercourses, and miles of public drainage system ditches on the buffer protection map, within each county and each watershed district within the county with affirmed jurisdiction.

(b) On or before July 1 each year, the commissioner of natural resources shall certify to the commissioner of revenue the statewide and countywide number of centerline miles of public watercourses and miles of public drainage system ditches on the buffer protection map.

Subd. 3. **Distribution.** (a) A county that is certified under subdivision 2, or that portion of a county containing a watershed district certified under subdivision 2, is eligible to receive aid under this section to enforce and implement the riparian protection and water quality practices under section 103F.48. Each county's preliminary aid amount is equal to the proportion calculated under paragraph (b) multiplied by the appropriation received each year by the commissioner for purposes of payments under this section.

(b) The commissioner must compute each county's proportion. A county's proportion is equal to the ratio of the sum in clause (1) to the sum in clause (2):

(1) the sum of the total number of acres in the county classified as class 2a under section 273.13, subdivision 23, the countywide number of centerline miles of public watercourses on the buffer protection map, and the countywide number of miles of public drainage system ditches on the buffer protection map; and

(2) the sum of the statewide total number of acres classified as class 2a under section 273.13, subdivision 23, the statewide total number of centerline miles of public watercourses on the buffer protection map, and the statewide total number of public drainage system miles on the buffer protection map.

(c) Aid to a county must not be greater than \$200,000 or less than \$50,000. If the sum of the preliminary aids payable to counties under paragraph (a) is greater or less than the appropriation received by the commissioner, the commissioner of revenue must calculate the percentage of adjustment necessary so that the total of the aid under paragraph (a) equals the total amount received by the commissioner, subject to the minimum and maximum amounts specified in this paragraph. The minimum and maximum amounts under this paragraph must be adjusted by the ratio of the actual amount appropriated to \$10,000,000.

(d) If only a portion of a county is certified as eligible to receive aid under subdivision 2, the aid otherwise payable to that county under this section must be multiplied by a fraction, the numerator

of which is the buffer protection map miles of the certified watershed districts contained within the county and the denominator of which is the total buffer protection map miles of the county.

(e) Any aid that would otherwise be paid to a county or portion of a county that is not certified under subdivision 2 shall be paid to the Board of Water and Soil Resources for enforcing and implementing the riparian protection and water quality practices under section 103F.48.

Subd. 4. **Payments.** The commissioner of revenue must compute the amount of riparian protection aid payable to each eligible county and to the Board of Water and Soil Resources under this section. On or before August 1 each year, the commissioner must certify the amount to be paid to each county and the Board of Water and Soil Resources in the following year, except that the payments for 2017 must be certified by July 15, 2017. The commissioner must pay riparian protection aid to counties and to the Board of Water and Soil Resources in the same manner and at the same time as aid payments under section 477A.015.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to aids payable in 2017 and thereafter.

Sec. 146. Laws 2000, chapter 486, section 4, as amended by Laws 2001, chapter 182, section 2, is amended to read:

Sec. 4. [BOATHOUSE LEASES; SOUDAN UNDERGROUND MINE STATE PARK.]

(a) In 1965, United States Steel Corporation conveyed land to the state of Minnesota that was included in the Soudan underground mine state park, with certain lands at Stuntz Bay subject to leases outstanding for employee boathouse sites.

(b) Notwithstanding Minnesota Statutes, sections 85.011, 85.012, subdivision 1, and 86A.05, subdivision 2, upon the expiration of a boathouse lease described under paragraph (a), the commissioner of natural resources shall offer a new lease to the party in possession at the time of lease expiration, or, if there has been a miscellaneous lease issued by the Department of Natural Resources due to expiration of a lease described under paragraph (a), upon its expiration to the lessee. The new lease shall be issued under the terms and conditions of Minnesota Statutes, section 92.50, with the following limitations except as follows:

(1) the term of the lease shall be for the lifetime of the party being issued a renewed lease and, if transferred, for the lifetime of the party to whom the lease is transferred;

(2) the new lease shall provide that the lease may be transferred only once and the transfer must be to a person within the third degree of kindred or first cousin according to civil law; ~~and~~

(3) the commissioner shall limit the number of lessees per lease to no more than two persons who have attained legal age; and

(4) the lease amount must not exceed 50 percent of the average market rate, based on comparable private lease rates, as determined once every five years per lease.

At the time of the new lease, the commissioner may offer, and after agreement with the leaseholder, lease equivalent alternative sites to the leaseholder.

(c) The commissioner shall not cancel a boathouse lease described under paragraphs (a) and (b) except for noncompliance with the lease agreement.

(d) The commissioner must issue a written receipt to the lessee for each lease payment.

~~(d) By January 15, 2001, the commissioner of natural resources shall report to the senate and house environment and natural resources policy and finance committees on boathouse leases in state parks. The report shall include information on:~~

~~(1) the number of boathouse leases;~~

~~(2) the number of leases that have forfeited;~~

~~(3) the expiration dates of the leases;~~

~~(4) the historical significance of the boathouses;~~

~~(5) recommendations on the inclusion of the land described in paragraph (d) within the park boundary; and~~

~~(6) any other relevant information on the leases.~~

(e) The commissioner of natural resources shall contact U.S.X. Corporation and local units of government regarding the inclusion of the following lands within Soudan underground mine state park:

(1) all lands located South of Vermillion Lake shoreline in Section 13, Township 62 North, Range 15 West;

(2) all lands located South of Vermillion Lake shoreline in the S1/2-SE1/4 of Section 14, Township 62 North, Range 15 West;

(3) NE1/4-SE1/4 and E1/2-NE1/4 of Section 22, Township 62 North, Range 15 West;

(4) all lands located South of Vermillion Lake shoreline in Section 23, Township 62 North, Range 15 West;

(5) all of Section 24, Township 62 North, Range 15 West;

(6) all lands North of trunk highway No. 169 located in Section 25, Township 62 North, Range 15 West;

(7) all lands North of trunk highway No. 169 located in Section 26, Township 62 North, Range 15 West;

(8) NE1/4-SE1/4 and SE1/4-NE1/4 of Section 27, Township 62 North, Range 15 West; and

(9) NW1/4 of Section 19, Township 62 North, Range 14 West.

EFFECTIVE DATE. This section is effective the day following final enactment and applies to monthly lease payments made on or after that date.

Sec. 147. Laws 2013, chapter 114, article 4, section 105, is amended to read:

Sec. 105. **RULES; SILICA SAND.**

(a) The commissioner of the Pollution Control Agency ~~shall~~ may adopt rules pertaining to the control of particulate emissions from silica sand projects. The rulemaking is exempt from Minnesota Statutes, section 14.125.

(b) The commissioner of natural resources shall adopt rules pertaining to the reclamation of silica sand mines. The rulemaking is exempt from Minnesota Statutes, section 14.125.

(c) By January 1, 2014, the Department of Health shall adopt an air quality health-based value for silica sand.

(d) The Environmental Quality Board ~~shall~~ may amend its rules for environmental review, adopted under Minnesota Statutes, chapter 116D, for silica sand mining and processing to take into account the increased activity in the state and concerns over the size of specific operations. The Environmental Quality Board shall consider whether the requirements of Minnesota Statutes, section 116C.991, should remain part of the environmental review requirements for silica sand and whether the requirements should be different for different geographic areas of the state. The rulemaking is exempt from Minnesota Statutes, section 14.125.

Sec. 148. Laws 2015, First Special Session chapter 4, article 4, section 136, is amended to read:

Sec. 136. **WILD RICE WATER QUALITY STANDARDS.**

(a) Until the commissioner of the Pollution Control Agency amends rules refining the wild rice water quality standard in Minnesota Rules, part 7050.0224, subpart 2, to consider all independent research and publicly funded research and to include criteria for identifying waters and a list of waters subject to the standard, implementation of the wild rice water quality standard in Minnesota Rules, part 7050.0224, subpart 2, shall be limited to the following, unless the permittee requests additional conditions:

(1) when issuing, modifying, or renewing national pollutant discharge elimination system (NPDES) or state disposal system (SDS) permits, the agency shall endeavor to protect wild rice, and in doing so shall be limited by the following conditions:

(i) the agency shall not require permittees to expend money for design or implementation of sulfate treatment technologies or other forms of sulfate mitigation; and

(ii) the agency may require sulfate minimization plans in permits; and

(2) the agency shall not list waters containing natural beds of wild rice as impaired for sulfate under section 303(d) of the federal Clean Water Act, United States Code, title 33, section 1313, until the rulemaking described in this paragraph takes effect.

(b) Upon the rule described in paragraph (a) taking effect, the agency may reopen permits issued or reissued after the effective date of this section as needed to include numeric permit limits based on the wild rice water quality standard.

(c) The commissioner shall complete the rulemaking described in paragraph (a) by January 15, ~~2018~~ 2019.

Sec. 149. Laws 2016, chapter 189, article 3, section 26, the effective date, is amended to read:

EFFECTIVE DATE. This section is effective May 1, ~~2017~~ 2018.

EFFECTIVE DATE. This section is effective retroactively from April 30, 2017.

Sec. 150. Laws 2016, chapter 189, article 3, section 46, is amended to read:

Sec. 46. **PRESCRIBED BURN REQUIREMENTS; REPORT.**

The commissioner of natural resources, in cooperation with prescribed burning professionals, nongovernmental organizations, and local and federal governments, must develop criteria for certifying an entity to conduct a prescribed burn under ~~a general~~ an open burning permit. The certification requirements must include training, equipment, and experience requirements and include an apprentice program to allow entities without experience to become certified. The commissioner must establish provisions for decertifying entities. The commissioner must not require additional certification or requirements for burns conducted as part of normal agricultural practices not currently subject to prescribed burn specifications. The commissioner must submit a report with recommendations and any legislative changes needed to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources by January 15, 2017.

Sec. 151. **DEMOLITION DEBRIS LANDFILL PERMITTING.**

A solid waste permit issued by the Pollution Control Agency to an existing class I demolition debris landfill facility that is operating under the Pollution Control Agency Demolition Landfill Guidance, issued August 2005, is extended pursuant to Minnesota Rules, part 7001.0160, for a period of five years, unless a new permit is issued for the facility by the Pollution Control Agency after the effective date of this section.

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

Sec. 152. **ENVIRONMENTAL QUALITY BOARD MEMBERSHIP TRANSITION.**

(a) Until the governor has appointed members of the Environmental Quality Board from each congressional district as required under this act, this section governs membership of the board.

(b) The citizen members of the board as of July 1, 2017, shall continue to serve until the expiration of their terms.

(c) No later than October 1, 2017, the governor shall appoint board members from the first, second, seventh, and eighth congressional districts for terms to begin January 2, 2018.

(d) No later than October 1, 2018, the governor shall appoint a board member from the third congressional district for a term to begin January 8, 2019.

(e) No later than October 1, 2019, the governor shall appoint a board member from the fourth congressional district for a term to begin January 7, 2020.

(f) No later than October 1, 2020, the governor shall appoint a board member from the fifth congressional district for a term to begin January 5, 2021.

(g) No later than October 1, 2021, the governor shall appoint a commissioner from the sixth congressional district for a term to begin January 4, 2022.

Sec. 153. **SAND DUNES STATE FOREST MANAGEMENT; PLAN REQUIRED.**

Subdivision 1. **Forest management.** When managing the Sand Dunes State Forest, the commissioner of natural resources must:

(1) not convert additional land to oak savanna or convert oak savanna to nonforest land unless it is done as a result of a contract entered into before the effective date of this section;

(2) require all prairie seeds planted to be from native species of a local ecotype to Sherburne or Benton County; and

(3) comply with the Minnesota Forest Resources Council's guidelines for aesthetics in residential areas.

Subd. 2. **Prescribed burns; notification.** At least 40 days before conducting a prescribed burn, the commissioner must:

(1) publish a notice in a newspaper of general circulation in the area;

(2) notify the county and township in writing; and

(3) notify residents within a quarter mile of the prescribed burn in writing.

Subd. 3. **School trust lands.** Nothing in this section restricts the ability of the commissioner or the school trust lands director from managing school trust lands within the Sand Dunes State Forest for long-term economic return.

Subd. 4. **Township road.** If the commissioner of natural resources finds that any portion of 233rd Avenue within the Sand Dunes State Forest is not owned by the township, the commissioner must convey an easement over and across state-owned lands administered by the commissioner to the township under Minnesota Statutes, section 84.63, for the width of 233rd Avenue.

Subd. 5. **Sunset.** This section expires two years from the day following final enactment.

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

Sec. 154. **WATER USE PERMIT AND DATA COLLECTION; APPROPRIATION.**

(a) Notwithstanding Minnesota Statutes, sections 84.0895 and 103G.223, or other law to the contrary, the commissioner of natural resources must issue, upon application, a water use permit

for calcareous fens located in Pipestone County. The permittee must agree to the following permit conditions:

(1) the permit is for a term of 15 years, but may be revoked after five years if paragraph (b) applies;

(2) water use under the permit is limited to irrigation of agricultural crops at a rate of no more than 800 gallons per minute in accordance with an irrigation plan submitted with the water use permit application;

(3) the permittee must pay for the irrigation system installed during the term of the permit; and

(4) installation of the irrigation system must minimize disturbance to the existing plant community in the calcareous fens. The commissioner must provide technical advice for installation of the irrigation system.

(b) If, at any time after five years of water use, the commissioner determines the drawdown of water from the fens endangers the continued sustainability of the calcareous fens, the commissioner may revoke the permit. If the commissioner revokes the permit before the permit's expiration date, the permittee must be reimbursed for the cost of the irrigation system, prorated over the full 15-year term of the original permit.

(c) The commissioner must monitor the calcareous fens to collect data on the effects of water use from the fens for the duration of the permit. If the commissioner concludes that, based on collected data, the calcareous fens remain viable after 15 years of water use, the commissioner must renew the water use permit for an additional 15 years, free of the condition imposed under paragraph (a), clause (1).

Sec. 155. **HILL-ANNEX MINE STATE PARK MANAGEMENT AND OPERATION PLAN.**

(a) The commissioner of natural resources must work with the commissioner of the Iron Range Resources and Rehabilitation Board and representatives from the city of Calumet, Itasca County, and the Western Mesabi Mine Planning Board to create an alternate operating model for local management and operation of Hill-Annex Mine State Park until mining resumes on the property. The commissioner of natural resources must submit a management and operation plan to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources by January 15, 2018.

(b) In fiscal year 2018 and fiscal year 2019, the level of service and hours of operation at Hill-Annex Mine State Park must be maintained at fiscal year 2016 levels.

Sec. 156. **BASE BUDGET REPORT.**

(a) The commissioners of natural resources and the Pollution Control Agency must each submit a report that contains the details of their base budgets, by fiscal year, including:

(1) appropriation riders for the previous biennium and the year the rider was first used;

(2) anticipated appropriation riders for the fiscal years 2020-2021 biennium;

(3) statutory appropriations; and

(4) an explanation on the use of funds for each appropriation not covered by a rider.

(b) The reports must be submitted to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources by October 15, 2018.

Sec. 157. RULEMAKING; MINNOW LICENSES.

The commissioner of natural resources shall amend Minnesota Rules, part 6254.0100, subpart 2, to conform with Minnesota Statutes, section 97C.501, subdivision 1. The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply, except as provided under Minnesota Statutes, section 14.388.

Sec. 158. CANCELLATION OF PERMITS.

Water-use permits issued before July 1, 2017, for water use exempted under Minnesota Statutes, section 103G.271, subdivision 1, paragraph (b), clause (3), are canceled effective July 1, 2017.

Sec. 159. RULEMAKING; EFFLUENT LIMITATION COMPLIANCE.

(a) The commissioner of the Pollution Control Agency shall amend Minnesota Rules, part 7001.0150, subpart 2, item A, by inserting the following:

"For a municipality that constructs a publicly owned treatment works facility to comply with a new or modified effluent limitation, compliance with any new or modified effluent limitation adopted after construction begins that would require additional capital investment is required no sooner than 16 years after the date of initiation of operation of the facility."

(b) The commissioner may use the good cause exemption under Minnesota Statutes, section 14.388, subdivision 1, clause (3), to adopt rules under this section, and Minnesota Statutes, section 14.386, does not apply, except as provided under Minnesota Statutes, section 14.388.

Sec. 160. DISPOSITION OF PROCEEDS; ST. LOUIS COUNTY ENVIRONMENTAL TRUST FUND.

Notwithstanding Minnesota Statutes, chapter 282, and any other law relating to the disposition of proceeds from the sale of tax-forfeited land, the St. Louis County Board must deposit any money received from the sale of tax-forfeited land purchased by the Fond du Lac Band of Lake Superior Chippewa with money appropriated under Laws 2014, chapter 256, article 1, section 2, subdivision 3, paragraph (a), into an environmental trust fund established by the county. The principal from the sale of the land may not be expended. The county may spend interest earned on the principal only for purposes related to improving natural resources.

EFFECTIVE DATE; LOCAL APPROVAL. This section is effective the day after the St. Louis County Board and its chief clerical officer timely complete their compliance with Minnesota Statutes, section 645.021, subdivisions 2 and 3.

Sec. 161. **ACTION TO OBTAIN ACCESS PROHIBITED; CLEARWATER COUNTY.**

Before July 1, 2018, the commissioner of natural resources must not initiate a civil action or otherwise seek to obtain access to land administered by the commissioner via a private road connected to County Road 27, located in Clearwater County, Township 147, Range 32 or Range 33.

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

Sec. 162. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes and Minnesota Rules, the revisor of statutes shall replace all references to Minnesota Statutes, section 115B.39, subdivision 2, paragraph (l), with Minnesota Statutes, section 115B.39, subdivision 2, paragraph (n), and shall make all other necessary changes to preserve the meaning of the text and to conform with the paragraph relettering in this act.

Sec. 163. **REPEALER.**

(a) Minnesota Statutes 2016, sections 84.026, subdivision 3; 97B.031, subdivision 5; 97C.701, subdivisions 1a and 6; 97C.705; 97C.711; and 116C.04, subdivisions 3 and 4, are repealed.

(b) Minnesota Rules, parts 6258.0100; 6258.0200; 6258.0300; 6258.0400; 6258.0500; 6258.0600; 6258.0700, subparts 1, 4, and 5; 6258.0800; and 6258.0900, are repealed."

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for environment, natural resources, and tourism purposes; modifying fees; providing for disposition of certain receipts; modifying grant, contract, and lease provisions; modifying state park permit requirements; modifying water safety provisions; modifying provisions to take, possess, and transport wildlife; modifying duties and authority; modifying Minnesota Naturalist Corps provisions; modifying prescribed burn provisions; modifying timber sales provisions; providing for certain contested case hearings, appeals, and reviews; modifying landfill cleanup program; modifying tax-forfeited land provisions; providing for consumer choice in merchant bags; modifying buffer requirements; providing for riparian protection aid; modifying the Water Law; modifying invasive species provisions; modifying off-highway vehicle provisions; modifying permit and license requirements; modifying Petroleum Tank Release Cleanup Act; extending ban on open air swine basins; modifying environmental review; modifying Environmental Quality Board; requiring reports; requiring rulemaking; amending Minnesota Statutes 2016, sections 84.01, by adding a subdivision; 84.027, subdivisions 14a, 14b, by adding subdivisions; 84.788, subdivision 2; 84.793, subdivision 1; 84.8031; 84.82, subdivision 2; 84.925, subdivision 1; 84.9256, subdivisions 1, 2; 84.946, subdivision 2, by adding a subdivision; 84.992, subdivisions 3, 4, 5, 6; 84D.03, subdivisions 3, 4; 84D.04, subdivision 1; 84D.05, subdivision 1; 84D.108, subdivision 2a, by adding subdivisions; 84D.11, by adding a subdivision; 85.052, subdivision 1; 85.053, subdivisions 8, 10; 85.054, by adding a subdivision; 85.055, subdivision 1; 85.22, subdivision 2a; 85.32, subdivision 1; 86B.301, subdivision 2; 86B.313, subdivision 1; 86B.701, subdivision 3; 88.01, subdivision 28; 88.523; 89.39; 90.01, subdivisions 8, 12, by adding a subdivision; 90.041, subdivision 2; 90.051; 90.101, subdivision 2; 90.14; 90.145, subdivision 2; 90.151, subdivision 1; 90.162; 90.252; 93.25, subdivision 2; 93.47, subdivision 4; 93.481, subdivision 2; 93.50; 94.343, subdivision 9; 94.344, subdivision 9; 97A.015, subdivisions 39, 43, 45, 52, 53, by adding a subdivision; 97A.045, subdivision 10; 97A.055, subdivision 2; 97A.075, subdivision

1; 97A.137, subdivision 5; 97A.201, subdivision 2, by adding a subdivision; 97A.225, subdivision 8; 97A.301, subdivision 1; 97A.338; 97A.420, subdivision 1; 97A.421, subdivision 2a; 97A.441, subdivision 1; 97B.031, subdivision 6; 97B.071; 97B.405; 97B.431; 97B.516; 97B.655, subdivision 1; 97C.315, subdivision 1; 97C.355, subdivision 2a; 97C.401, subdivision 2; 97C.501, subdivision 1; 97C.515, subdivision 2; 97C.701, by adding a subdivision; 103B.101, subdivision 12a; 103F.411, subdivision 1; 103F.48, subdivisions 1, 3, 7; 103G.005, subdivisions 10b, 10h, by adding a subdivision; 103G.222, subdivisions 1, 3; 103G.223; 103G.2242, subdivisions 1, 2; 103G.2372, subdivision 1; 103G.271, subdivisions 1, 6, 6a, 7, by adding a subdivision; 103G.287, subdivisions 1, 4; 103G.411; 114D.25, by adding a subdivision; 115B.39, subdivision 2; 115B.40, subdivision 4; 115C.021, subdivision 1, by adding a subdivision; 116.03, subdivision 2b, by adding subdivisions; 116.07, subdivision 4d, by adding subdivisions; 116.0714; 116C.03, subdivision 2; 116C.04, subdivision 2; 116D.04, subdivisions 2a, 10; 116D.045, subdivision 1; 160.06; 168.1295, subdivision 1; 282.018, subdivision 1; 282.04, subdivision 1; 296A.18, subdivision 6a; Laws 2000, chapter 486, section 4, as amended; Laws 2013, chapter 114, article 4, section 105; Laws 2015, First Special Session chapter 4, article 4, section 136; Laws 2016, chapter 189, article 3, sections 6; 26; 46; proposing coding for new law in Minnesota Statutes, chapters 85; 93; 97B; 115; 115B; 116; 471; 477A; repealing Minnesota Statutes 2016, sections 84.026, subdivision 3; 97B.031, subdivision 5; 97C.701, subdivisions 1a, 6; 97C.705; 97C.711; 116C.04, subdivisions 3, 4; Minnesota Rules, parts 6258.0100; 6258.0200; 6258.0300; 6258.0400; 6258.0500; 6258.0600; 6258.0700, subparts 1, 4, 5; 6258.0800; 6258.0900."

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

House Conferees: Dan Fabian, Josh Heintzeman, Chris Swedzinski, Mark Uglem

Senate Conferees: Bill Ingebrigtsen, Carrie Ruud, Torrey N. Westrom, Andrew Mathews

Senator Ingebrigtsen moved that the foregoing recommendations and Conference Committee Report on H.F. No. 888 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 888 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 34 and nays 33, as follows:

Those who voted in the affirmative were:

Abeler	Eichorn	Jasinski	Mathews	Rosen
Anderson, B.	Fischbach	Jensen	Miller	Ruud
Anderson, P.	Gazelka	Johnson	Nelson	Senjem
Benson	Goggin	Kiffmeyer	Newman	Utke
Chamberlain	Hall	Koran	Osmek	Weber
Dahms	Housley	Lang	Pratt	Westrom
Draheim	Ingebrigtsen	Limmer	Relph	

Those who voted in the negative were:

Bakk	Carlson	Champion	Clausen	Cohen
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Cwodzinski	Frentz	Klein	Newton	Tomassoni
Dibble	Hawj	Laine	Pappas	Torres Ray
Dziedzic	Hayden	Latz	Rest	Wiger
Eaton	Hoffman	Little	Schoen	Wiklund
Eken	Isaacson	Lourey	Simonson	
Franzen	Kent	Marty	Sparks	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 605, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 605: A bill for an act relating to the operation of state government; appropriating money for the legislature, governor's office, state auditor, attorney general, secretary of state, certain agencies, boards, councils, and retirement funds; changing provisions in state government operations; making technical changes to state budgeting terms; changing administrative rules provisions; changing provisions in veterans affairs, campaign finance, and elections; amending Minnesota Statutes 2016, sections 3.305, subdivision 1; 3.842, subdivision 4a; 3.855, subdivision 2; 3.8843, subdivision 7; 3.971, subdivisions 2, 6; 3.972, by adding a subdivision; 3.98, subdivisions 1, 4; 3.987, subdivision 1; 6.481, subdivisions 3, 6; 6.56, subdivision 2; 6.581, subdivision 4; 10A.01, subdivisions 12, 16, 26; 10A.02, subdivision 13; 10A.025, subdivision 1a; 10A.04, by adding a subdivision; 10A.071, subdivision 1; 10A.09, subdivisions 5, 6; 10A.105, subdivision 1; 10A.15, subdivision 1, by adding a subdivision; 10A.20, subdivisions 3, 15; 10A.245, subdivision 2; 10A.25, subdivisions 1, 2, 10; 10A.257, subdivision 1; 10A.27, subdivision 10, by adding subdivisions; 10A.28, subdivision 3; 10A.31, by adding a subdivision; 10A.322, subdivision 1; 10A.38; 14.002; 14.02, by adding a subdivision; 14.05, subdivisions 1, 2, 6, 7, by adding subdivisions; 14.101, subdivision 1; 14.116; 14.125; 14.127; 14.131; 14.14, subdivisions 1a, 2a; 14.18, subdivision 1; 14.19; 14.22, subdivision 1; 14.23; 14.25, subdivision 1; 14.26; 14.27; 14.365; 14.381, subdivision 3; 14.388, subdivisions 1, 2; 14.389, subdivision 3; 14.44; 14.45; 14.51; 14.57; 15.0596; 15.191, subdivisions 1, 3; 16A.065; 16A.13, subdivision 2a; 16A.134; 16A.15, subdivision 3; 16A.17, subdivision 5; 16A.272, subdivision 3; 16A.40; 16A.42, subdivisions 2, 4, by adding a subdivision; 16A.56; 16A.671, subdivision 1; 16A.90; 16B.04, subdivision 2; 16B.055, subdivision 1; 16B.335, subdivision 1; 16B.37, subdivision 4; 16B.371; 16B.4805, subdivisions 2, 4; 16B.97, by adding a subdivision; 16D.03, subdivision 2; 16D.09, subdivision 1; 16E.016; 16E.0466; 21.116; 43A.17, subdivision 11; 43A.24, by adding a subdivision; 43A.30, subdivision 2; 43A.49; 49.24, subdivisions 13, 16; 69.031, subdivision 1; 80A.65, subdivision 9; 84A.23, subdivision 4; 84A.33, subdivision 4; 84A.40; 84A.52; 88.12, subdivision 1; 94.522; 94.53; 116J.64, subdivision 7; 126C.55, subdivisions 2, 9; 126C.68, subdivision 3; 126C.69, subdivision 14; 127A.34, subdivision 1; 127A.40; 136F.46, subdivision 1; 136F.70, subdivision 3; 138.69; 155A.30, subdivision 5; 162.08, subdivisions 10, 11; 162.14, subdivisions 4, 5; 162.18, subdivision 4; 162.181, subdivision 4; 163.051, subdivision 3; 176.181, subdivision 2; 176.581; 176.591, subdivision 3; 179A.20, by adding a subdivision; 190.19, subdivisions 2, 2a; 192.55; 196.05, subdivision 1; 196.052; 197.236, subdivision 9; 197.791, subdivisions 2, 3, 4, 5, 5a; 198.16; 237.30; 241.13, subdivision 1; 244.19, subdivision 7; 256B.20; 260B.331, subdivision 2; 260C.331, subdivision 2; 270C.13, subdivision 1; 273.121, subdivision 1; 287.08; 297I.10,

subdivision 1; 299C.21; 348.05; 352.04, subdivision 9; 352.05; 352.115, subdivision 12; 352.12, subdivision 13; 353.05; 353.27, subdivisions 3c, 7; 353.505; 354.42, subdivision 7; 354.52, subdivisions 4, 4b; 401.15, subdivision 1; 446A.086, subdivision 4; 446A.16, subdivision 1; 462A.18, subdivision 1; 471.6161, subdivision 8; 471.617, subdivision 2; 475A.04, subdivision 1; 508.12, subdivision 1; 518A.79, by adding a subdivision; 525.841; Laws 2016, chapter 127, section 8; proposing coding for new law in Minnesota Statutes, chapters 2; 3; 6; 10A; 14; 15; 16A; 16B; 43A; 118A; 197; repealing Minnesota Statutes 2016, sections 4.46; 6.581, subdivision 1; 10A.28, subdivision 1; 10A.30; 10A.31, subdivisions 1, 3, 3a, 4, 5, 5a, 6, 6a, 7, 7a, 10, 10a, 10b, 11; 10A.315; 10A.321; 10A.322, subdivisions 2, 4; 10A.323; 10A.324, subdivisions 1, 3; 14.05, subdivision 5; Minnesota Rules, parts 4501.0300, subpart 3; 4501.0500, subpart 2; 4503.0200, subpart 6; 4503.0300, subpart 4; 4503.0400, subpart 1; 4503.0500, subparts 5, 8; 4503.0700, subparts 2, 3; 4503.1300, subpart 5; 4503.1400, subparts 2, 3, 4, 5, 6, 7, 8, 9; 4503.1450; 4503.1600; 4503.1700; 4503.1800; 4505.0100, subpart 3; 4505.0900, subparts 2, 3, 4, 5, 6, 7; 4511.0500, subpart 2; 4512.0100, subparts 2, 4, 5; 4525.0210, subpart 1.

Senate File No. 605 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 9, 2017

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 890, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 890 is herewith transmitted to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 9, 2017

CONFERENCE COMMITTEE REPORT ON H. F. No. 890

A bill for an act relating to education finance; providing funding in early childhood, kindergarten through grade 12, and adult education, including general education, education excellence, teachers, special education, facilities and technology, nutrition, libraries, early childhood and family support, community education and prevention, self-sufficiency and lifelong learning, and state agencies; making forecast adjustments; requiring a report; appropriating money; amending Minnesota Statutes 2016, sections 13.321, by adding a subdivision; 13.461, by adding a subdivision; 43A.08, subdivisions 1, 1a; 120A.22, subdivision 9; 120A.41; 120B.021, subdivisions 1, 3; 120B.022, subdivision 1b; 120B.12, subdivision 2; 120B.22, subdivision 2; 120B.23, subdivision 3; 120B.232, subdivision 1; 120B.30, subdivision 1; 120B.31, subdivision 4, by adding a subdivision; 120B.35, subdivision 3; 120B.36, subdivision 1; 121A.22, subdivision 2; 121A.221; 122A.09, subdivision 4a; 122A.14, subdivision 9; 122A.18, subdivisions 7c, 8; 122A.21, subdivisions 1, 2, by adding a subdivision; 122A.245, subdivisions 1, 2, 3, 10; 122A.40, subdivision 10; 122A.41, by adding a subdivision; 122A.415, subdivision 4; 122A.416; 123A.30, subdivision 6; 123A.73, subdivision 2; 123B.41, subdivisions 2, 5a; 123B.52, subdivision 1, by adding a subdivision; 123B.595, subdivisions 1, 4;

123B.92, subdivision 1; 124D.03, subdivision 5a; 124D.05, subdivision 3; 124D.09, subdivisions 3, 5, 9, 12, 13, by adding subdivisions; 124D.095, subdivision 3; 124D.1158, subdivisions 3, 4; 124D.135, subdivision 1; 124D.15, subdivision 1; 124D.16, subdivision 2; 124D.165, subdivisions 1, 2, 3, 4; 124D.531, subdivision 1; 124D.549; 124D.55; 124D.59, subdivision 2; 124D.68, subdivision 2; 124E.03, subdivision 2; 124E.11; 125A.08; 125A.0941; 125A.11, subdivision 1; 125A.21, subdivision 2; 125A.515; 125A.56, subdivision 1; 125A.74, subdivision 1; 126C.05, subdivisions 1, 8; 126C.10, subdivisions 2, 2a, 3, 13a; 127A.41, subdivision 3; 127A.45, subdivision 10; 134.31, subdivision 2; 136A.1791, subdivisions 1, 2, 9; 256B.0625, subdivision 26; 256J.08, subdivisions 38, 39; 297A.70, subdivision 2; Laws 2015, First Special Session chapter 3, article 1, section 27, subdivisions 2, as amended, 3, 4, as amended, 6, as amended, 7, as amended, 9, as amended; article 2, section 70, subdivisions 2, as amended, 3, as amended, 4, as amended, 5, as amended, 7, as amended, 11, as amended; article 4, section 9, subdivision 2, as amended; article 5, section 30, subdivisions 2, as amended, 3, as amended, 5, as amended, 6; article 6, section 13, subdivisions 2, as amended, 3, as amended; article 7, section 7, subdivisions 2, as amended, 3, as amended, 4, as amended; article 9, section 8, subdivisions 5, as amended, 6, as amended; article 10, section 3, subdivision 2, as amended; article 11, section 3, subdivision 2, as amended; Laws 2016, chapter 189, article 25, sections 58; 62, subdivisions 7, 11, 17; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 124D; 125A; 126C; 127A; 136A; proposing coding for new law as Minnesota Statutes, chapter 119C; repealing Minnesota Statutes 2016, sections 122A.40, subdivision 11; 122A.41, subdivision 14; 123A.73, subdivision 3; 124D.151; 124D.73, subdivision 2; 129C.10; 129C.105; 129C.15; 129C.20; 129C.25; 129C.26; 129C.30; Minnesota Rules, parts 3500.3100, subpart 4; 3600.0010, subparts 1, 2, 2a, 2b, 3, 6; 3600.0020; 3600.0030, subparts 1, 2, 4, 6; 3600.0045; 3600.0055; 3600.0065; 3600.0075; 3600.0085.

May 8, 2017

The Honorable Kurt L. Daudt
Speaker of the House of Representatives

The Honorable Michelle L. Fischbach
President of the Senate

We, the undersigned conferees for H. F. No. 890 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 890 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

GENERAL EDUCATION

Section 1. Minnesota Statutes 2016, section 120A.41, is amended to read:

120A.41 LENGTH OF SCHOOL YEAR; HOURS OF INSTRUCTION.

(a) A school board's annual school calendar must include at least 425 hours of instruction for a kindergarten student without a disability, 935 hours of instruction for a student in grades 1 through 6, and 1,020 hours of instruction for a student in grades 7 through 12, not including summer school. The school calendar for all-day kindergarten must include at least 850 hours of instruction for the school year. ~~The school calendar for a prekindergarten student under section 124D.151, if offered by the district, must include at least 350 hours of instruction for the school year.~~ A school board's annual calendar must include at least 165 days of instruction for a student in grades 1 through 11 unless a four-day week schedule has been approved by the commissioner under section 124D.126.

(b) A school board's annual school calendar may include plans for up to five days of instruction provided through online instruction due to inclement weather. The inclement weather plans must be developed according to section 120A.414.

Sec. 2. [120A.414] E-LEARNING DAYS.

Subdivision 1. **Days.** "E-learning day" means a school day where a school offers full access to online instruction provided by students' individual teachers due to inclement weather. A school district or charter school that chooses to have e-learning days may have up to five e-learning days in one school year. An e-learning day is counted as a day of instruction and included in the hours of instruction under section 120A.41.

Subd. 2. **Plan.** A school board may adopt an e-learning day plan after consulting with the exclusive representative of the teachers. A charter school may adopt an e-learning day plan after consulting with its teachers. The plan must include accommodations for students without Internet access at home and for digital device access for families without the technology or an insufficient amount of technology for the number of children in the household. A school's e-learning day plan must provide accessible options for students with disabilities under chapter 125A.

Subd. 3. **Annual notice.** A school district or charter school must notify parents and students of the e-learning day plan at the beginning of the school year.

Subd. 4. **Daily notice.** On an e-learning day declared by the school, a school district or charter school must notify parents and students at least two hours prior to the normal school start time that students need to follow the e-learning day plan for that day.

Subd. 5. **Teacher access.** Each student's teacher must be accessible both online and by telephone during normal school hours on an e-learning day to assist students and parents.

EFFECTIVE DATE. This section is effective for the 2017-2018 school year and later.

Sec. 3. Minnesota Statutes 2016, section 121A.22, subdivision 2, is amended to read:

Subd. 2. **Exclusions.** In addition, this section does not apply to drugs or medicine that are:

(1) purchased without a prescription;

(2) used by a pupil who is 18 years old or older;

(3) used in connection with services for which a minor may give effective consent, including section 144.343, subdivision 1, and any other law;

(4) used in situations in which, in the judgment of the school personnel who are present or available, the risk to the pupil's life or health is of such a nature that drugs or medicine should be given without delay;

(5) used off the school grounds;

(6) used in connection with athletics or extra curricular activities;

(7) used in connection with activities that occur before or after the regular school day;

(8) provided or administered by a public health agency to prevent or control an illness or a disease outbreak as provided for in sections 144.05 and 144.12;

(9) prescription asthma or reactive airway disease medications self-administered by a pupil with an asthma inhaler, consistent with section 121A.221, if the district has received a written authorization from the pupil's parent permitting the pupil to self-administer the medication, the inhaler is properly labeled for that student, and the parent has not requested school personnel to administer the medication to the pupil. The parent must submit written authorization for the pupil to self-administer the medication each school year; or

(10) epinephrine auto-injectors, consistent with section 121A.2205, if the parent and prescribing medical professional annually inform the pupil's school in writing that (i) the pupil may possess the epinephrine or (ii) the pupil is unable to possess the epinephrine and requires immediate access to epinephrine auto-injectors that the parent provides properly labeled to the school for the pupil as needed.

Sec. 4. Minnesota Statutes 2016, section 121A.221, is amended to read:

121A.221 POSSESSION AND USE OF ASTHMA INHALERS BY ASTHMATIC STUDENTS.

(a) Consistent with section 121A.22, subdivision 2, clause (9), in a school district that employs a school nurse or provides school nursing services under another arrangement, the school nurse or other appropriate party must assess the student's knowledge and skills to safely possess and use an asthma inhaler in a school setting and enter into the student's school health record a plan to implement safe possession and use of asthma inhalers.

(b) Consistent with section 121A.22, subdivision 2, clause (9), in a school that does not have a school nurse or school nursing services, the student's parent or guardian must submit written verification from the prescribing professional that documents an assessment of the student's knowledge and skills to safely possess and use an asthma inhaler in a school setting has been completed.

Sec. 5. Minnesota Statutes 2016, section 123B.41, subdivision 2, is amended to read:

Subd. 2. **Textbook.** (a) "Textbook" means any book or book substitute, including electronic books as well as other printed materials delivered electronically, which a pupil uses as a text or text substitute in a particular class or program in the school regularly attended and a copy of which is

expected to be available for the individual use of each pupil in this class or program. Textbook includes an online book with an annual subscription cost.

(b) For purposes of calculating the annual nonpublic pupil aid entitlement for textbooks, the term shall be limited to books, workbooks, or manuals, whether bound or in loose-leaf form, as well as electronic books and other printed materials delivered electronically, intended for use as a principal source of study material for a given class or a group of students.

(c) For purposes of sections 123B.40 to 123B.48, the terms "textbook" and "software or other educational technology" include only such secular, neutral, and nonideological materials as are available, used by, or of benefit to Minnesota public school pupils.

EFFECTIVE DATE. This section is effective for revenue in fiscal year 2018 and later.

Sec. 6. Minnesota Statutes 2016, section 123B.41, subdivision 5a, is amended to read:

Subd. 5a. **Software or other educational technology.** For purposes of sections 123B.42 and 123B.43, "software or other educational technology" includes software, programs, applications, hardware, and any other electronic educational technology. Software or other educational technology includes course registration fees for advanced placement courses delivered online.

EFFECTIVE DATE. This section is effective for revenue in fiscal year 2018 and later.

Sec. 7. Minnesota Statutes 2016, section 123B.92, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For purposes of this section and section 125A.76, the terms defined in this subdivision have the meanings given to them.

(a) "Actual expenditure per pupil transported in the regular and excess transportation categories" means the quotient obtained by dividing:

(1) the sum of:

(i) all expenditures for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2), plus

(ii) an amount equal to one year's depreciation on the district's school bus fleet and mobile units computed on a straight line basis at the rate of 15 percent per year for districts operating a program under section 124D.128 for grades 1 to 12 for all students in the district and 12-1/2 percent per year for other districts of the cost of the fleet, plus

(iii) an amount equal to one year's depreciation on the district's type III vehicles, as defined in section 169.011, subdivision 71, which must be used a majority of the time for pupil transportation purposes, computed on a straight line basis at the rate of 20 percent per year of the cost of the type three school buses by:

(2) the number of pupils eligible for transportation in the regular category, as defined in paragraph (b), clause (1), and the excess category, as defined in paragraph (b), clause (2).

(b) "Transportation category" means a category of transportation service provided to pupils as follows:

(1) Regular transportation is:

(i) transportation to and from school during the regular school year for resident elementary pupils residing one mile or more from the public or nonpublic school they attend, and resident secondary pupils residing two miles or more from the public or nonpublic school they attend, excluding desegregation transportation and noon kindergarten transportation; but with respect to transportation of pupils to and from nonpublic schools, only to the extent permitted by sections 123B.84 to 123B.87;

(ii) transportation of resident pupils to and from language immersion programs;

(iii) transportation of a pupil who is a custodial parent and that pupil's child between the pupil's home and the child care provider and between the provider and the school, if the home and provider are within the attendance area of the school;

(iv) transportation to and from or board and lodging in another district, of resident pupils of a district without a secondary school; and

(v) transportation to and from school during the regular school year required under subdivision 3 for nonresident elementary pupils when the distance from the attendance area border to the public school is one mile or more, and for nonresident secondary pupils when the distance from the attendance area border to the public school is two miles or more, excluding desegregation transportation and noon kindergarten transportation.

For the purposes of this paragraph, a district may designate a licensed day care facility, school day care facility, respite care facility, the residence of a relative, or the residence of a person or other location chosen by the pupil's parent or guardian, or an after-school program for children operated by a political subdivision of the state, as the home of a pupil for part or all of the day, if requested by the pupil's parent or guardian, and if that facility, residence, or program is within the attendance area of the school the pupil attends.

(2) Excess transportation is:

(i) transportation to and from school during the regular school year for resident secondary pupils residing at least one mile but less than two miles from the public or nonpublic school they attend, and transportation to and from school for resident pupils residing less than one mile from school who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards; and

(ii) transportation to and from school during the regular school year required under subdivision 3 for nonresident secondary pupils when the distance from the attendance area border to the school is at least one mile but less than two miles from the public school they attend, and for nonresident pupils when the distance from the attendance area border to the school is less than one mile from the school and who are transported because of full-service school zones, extraordinary traffic, drug, or crime hazards.

(3) Desegregation transportation is transportation within and outside of the district during the regular school year of pupils to and from schools located outside their normal attendance areas under a plan for desegregation mandated by the commissioner or under court order.

(4) "Transportation services for pupils with disabilities" is:

(i) transportation of pupils with disabilities who cannot be transported on a regular school bus between home or a respite care facility and school;

(ii) necessary transportation of pupils with disabilities from home or from school to other buildings, including centers such as developmental achievement centers, hospitals, and treatment centers where special instruction or services required by sections 125A.03 to 125A.24, 125A.26 to 125A.48, and 125A.65 are provided, within or outside the district where services are provided;

(iii) necessary transportation for resident pupils with disabilities required by sections 125A.12, and 125A.26 to 125A.48;

(iv) board and lodging for pupils with disabilities in a district maintaining special classes;

(v) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, and necessary transportation required by sections 125A.18, and 125A.26 to 125A.48, for resident pupils with disabilities who are provided special instruction and services on a shared-time basis or if resident pupils are not transported, the costs of necessary travel between public and private schools or neutral instructional sites by essential personnel employed by the district's program for children with a disability;

(vi) transportation for resident pupils with disabilities to and from board and lodging facilities when the pupil is boarded and lodged for educational purposes;

(vii) transportation of pupils for a curricular field trip activity on a school bus equipped with a power lift when the power lift is required by a student's disability or section 504 plan; and

(viii) services described in clauses (i) to (vii), when provided for pupils with disabilities in conjunction with a summer instructional program that relates to the pupil's individualized education program or in conjunction with a learning year program established under section 124D.128.

For purposes of computing special education initial aid under section 125A.76, the cost of providing transportation for children with disabilities includes (A) the additional cost of transporting a student in a shelter care facility as defined in section 260C.007, subdivision 30, a homeless student ~~from a temporary nonshelter home~~ in another district to the school of origin, or a formerly homeless student from a permanent home in another district to the school of origin but only through the end of the academic year; and (B) depreciation on district-owned school buses purchased after July 1, 2005, and used primarily for transportation of pupils with disabilities, calculated according to paragraph (a), clauses (ii) and (iii). Depreciation costs included in the disabled transportation category must be excluded in calculating the actual expenditure per pupil transported in the regular and excess transportation categories according to paragraph (a). For purposes of subitem (A), a school district may transport a child who does not have a school of origin to the same school attended by that child's sibling, if the siblings are homeless or in a shelter care facility.

(5) "Nonpublic nonregular transportation" is:

(i) transportation from one educational facility to another within the district for resident pupils enrolled on a shared-time basis in educational programs, excluding transportation for nonpublic pupils with disabilities under clause (4);

(ii) transportation within district boundaries between a nonpublic school and a public school or a neutral site for nonpublic school pupils who are provided pupil support services pursuant to section 123B.44; and

(iii) late transportation home from school or between schools within a district for nonpublic school pupils involved in after-school activities.

(c) "Mobile unit" means a vehicle or trailer designed to provide facilities for educational programs and services, including diagnostic testing, guidance and counseling services, and health services. A mobile unit located off nonpublic school premises is a neutral site as defined in section 123B.41, subdivision 13.

EFFECTIVE DATE. This section is effective retroactively from December 10, 2016.

Sec. 8. Minnesota Statutes 2016, section 126C.05, subdivision 8, is amended to read:

Subd. 8. **Average daily membership.** (a) Membership for pupils in grades kindergarten through 12 and for prekindergarten pupils with disabilities shall mean the number of pupils on the current roll of the school, counted from the date of entry until withdrawal. The date of withdrawal shall mean the day the pupil permanently leaves the school or the date it is officially known that the pupil has left or has been legally excused. However, a pupil, regardless of age, who has been absent from school for 15 consecutive school days during the regular school year or for five consecutive school days during summer school or intersession classes of flexible school year programs without receiving instruction in the home or hospital shall be dropped from the roll and classified as withdrawn. Nothing in this section shall be construed as waiving the compulsory attendance provisions cited in section 120A.22. Average daily membership equals the sum for all pupils of the number of days of the school year each pupil is enrolled in the district's schools divided by the number of days the schools are in session or are providing e-learning days due to inclement weather. Days of summer school or intersession classes of flexible school year programs are only included in the computation of membership for pupils with a disability not appropriately served primarily in the regular classroom. A student must not be counted as more than 1.2 pupils in average daily membership under this section and section 126C.10, subdivision 2a, paragraph (b). When the initial total average daily membership exceeds 1.2 for a pupil enrolled in more than one school district during the fiscal year, each district's average daily membership must be reduced proportionately.

(b) A student must not be counted as more than one pupil in average daily membership except for purposes of section 126C.10, subdivision 2a.

Sec. 9. Minnesota Statutes 2016, section 126C.10, subdivision 2, is amended to read:

Subd. 2. **Basic revenue.** The basic revenue for each district equals the formula allowance times the adjusted pupil units for the school year. ~~The formula allowance for fiscal year 2015 is \$5,831. The formula allowance for fiscal year 2016 is \$5,948.~~ The formula allowance for fiscal year 2017

~~and later~~ is \$6,067. The formula allowance for fiscal year 2018 is \$6,158. The formula allowance for fiscal year 2019 and later is \$6,249.

EFFECTIVE DATE. This section is effective for revenue in fiscal year 2018 and later.

Sec. 10. Minnesota Statutes 2016, section 126C.10, subdivision 2a, is amended to read:

Subd. 2a. **Extended time revenue.** (a) A school district's extended time revenue is equal to the product of \$5,117 and the sum of the adjusted pupil units of the district for each pupil in average daily membership in excess of 1.0 and less than 1.2 according to section 126C.05, subdivision 8.

(b) Extended time revenue for pupils placed in an on-site education program at the Prairie Lakes Education Center or the Lake Park School, located within the borders of Independent School District No. 347, Willmar, for instruction provided after the end of the preceding regular school year and before the beginning of the following regular school year equals membership hours divided by the minimum annual instructional hours in section 126C.05, subdivision 15, not to exceed 0.20, times the pupil unit weighting in section 126C.05, subdivision 1, times \$5,117.

(c) A school district's extended time revenue may be used for extended day programs, extended week programs, summer school, vacation break academies such as spring break academies and summer term academies, and other programming authorized under the learning year program.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2018 and later.

Sec. 11. Minnesota Statutes 2016, section 126C.10, subdivision 3, is amended to read:

Subd. 3. **Compensatory education revenue.** (a) ~~For fiscal year 2014, the compensatory education revenue for each building in the district equals the formula allowance minus \$415 times the compensation revenue pupil units computed according to section 126C.05, subdivision 3. For fiscal year 2015 and later,~~ The compensatory education revenue for each building in the district equals the formula allowance minus \$839 times the compensation revenue pupil units computed according to section 126C.05, subdivision 3. A district's compensatory revenue equals the sum of its compensatory revenue for each building in the district and the amounts designated under Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 8, for fiscal year 2017. Revenue shall be paid to the district and must be allocated according to section 126C.15, subdivision 2.

(b) When the district contracting with an alternative program under section 124D.69 changes prior to the start of a school year, the compensatory revenue generated by pupils attending the program shall be paid to the district contracting with the alternative program for the current school year, and shall not be paid to the district contracting with the alternative program for the prior school year.

(c) When the fiscal agent district for an area learning center changes prior to the start of a school year, the compensatory revenue shall be paid to the fiscal agent district for the current school year, and shall not be paid to the fiscal agent district for the prior school year.

(d) Of the amount of revenue under this subdivision, 1.7 percent for fiscal year 2018, 3.5 percent for fiscal year 2019, and for fiscal year 2020 and later, 3.5 percent plus the percentage change in

the formula allowance from fiscal year 2019, must be used for extended time activities under subdivision 2a, paragraph (c).

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2018 and later.

Sec. 12. Minnesota Statutes 2016, section 126C.10, subdivision 13a, is amended to read:

Subd. 13a. **Operating capital levy.** To obtain operating capital revenue, a district may levy an amount not more than the product of its operating capital revenue for the fiscal year times the lesser of one or the ratio of its adjusted net tax capacity per adjusted pupil unit to the operating capital equalizing factor. The operating capital equalizing factor equals \$15,740 for fiscal year 2017, ~~\$19,972~~ \$19,245 for fiscal year 2018, and ~~\$22,942~~ \$22,185 for fiscal year 2019 and later.

Sec. 13. Minnesota Statutes 2016, section 126C.10, is amended by adding a subdivision to read:

Subd. 18a. **Pupil transportation adjustment.** (a) An independent, common, or special school district's transportation sparsity revenue under Minnesota Statutes, section 126C.10, subdivision 18, is increased by the greater of zero or 18.2 percent of the difference between:

(1) the lesser of the district's total cost for regular and excess pupil transportation under section 123B.92, subdivision 1, paragraph (b), including depreciation, for the previous fiscal year or 105 percent of the district's total cost for the second previous fiscal year; and

(2) the sum of:

(i) 4.66 percent of the district's basic revenue for the previous fiscal year;

(ii) transportation sparsity revenue under Minnesota Statutes, section 126C.10, subdivision 18, for the previous fiscal year; and

(iii) the district's charter school transportation adjustment for the previous fiscal year.

(b) A charter school's pupil transportation adjustment equals the school district per pupil adjustment under paragraph (a).

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2018 and later.

Sec. 14. Minnesota Statutes 2016, section 126C.17, subdivision 9, is amended to read:

Subd. 9. **Referendum revenue.** (a) The revenue authorized by section 126C.10, subdivision 1, may be increased in the amount approved by the voters of the district at a referendum called for the purpose. The referendum may be called by the board. The referendum must be conducted one or two calendar years before the increased levy authority, if approved, first becomes payable. Only one election to approve an increase may be held in a calendar year. Unless the referendum is conducted by mail under subdivision 11, paragraph (a), the referendum must be held on the first Tuesday after the first Monday in November. The ballot must state the maximum amount of the increased revenue per adjusted pupil unit. The ballot may state a schedule, determined by the board, of increased revenue per adjusted pupil unit that differs from year to year over the number of years for which the increased revenue is authorized or may state that the amount shall increase annually by the rate of inflation. For this purpose, the rate of inflation shall be the annual inflationary increase

calculated under subdivision 2, paragraph (b). The ballot may state that existing referendum levy authority is expiring. In this case, the ballot may also compare the proposed levy authority to the existing expiring levy authority, and express the proposed increase as the amount, if any, over the expiring referendum levy authority. The ballot must designate the specific number of years, not to exceed ten, for which the referendum authorization applies. The ballot, including a ballot on the question to revoke or reduce the increased revenue amount under paragraph (c), must abbreviate the term "per adjusted pupil unit" as "per pupil." The notice required under section 275.60 may be modified to read, in cases of renewing existing levies at the same amount per pupil as in the previous year:

"BY VOTING "YES" ON THIS BALLOT QUESTION, YOU ARE VOTING TO EXTEND AN EXISTING PROPERTY TAX REFERENDUM THAT IS SCHEDULED TO EXPIRE."

The ballot may contain a textual portion with the information required in this subdivision and a question stating substantially the following:

"Shall the increase in the revenue proposed by (petition to) the board of, School District No. ..., be approved?"

If approved, an amount equal to the approved revenue per adjusted pupil unit times the adjusted pupil units for the school year beginning in the year after the levy is certified shall be authorized for certification for the number of years approved, if applicable, or until revoked or reduced by the voters of the district at a subsequent referendum.

(b) The board must ~~prepare and~~ deliver by ~~first class~~ mail at least 15 days but no more than 30 days before the day of the referendum to each taxpayer a notice of the referendum and the proposed revenue increase. The board need not mail more than one notice to any taxpayer. For the purpose of giving mailed notice under this subdivision, owners must be those shown to be owners on the records of the county auditor or, in any county where tax statements are mailed by the county treasurer, on the records of the county treasurer. Every property owner whose name does not appear on the records of the county auditor or the county treasurer is deemed to have waived this mailed notice unless the owner has requested in writing that the county auditor or county treasurer, as the case may be, include the name on the records for this purpose. The notice must project the anticipated amount of tax increase in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the school district.

The notice for a referendum may state that an existing referendum levy is expiring and project the anticipated amount of increase over the existing referendum levy in the first year, if any, in annual dollars for typical residential homesteads, agricultural homesteads, apartments, and commercial-industrial property within the district.

The notice must include the following statement: "Passage of this referendum will result in an increase in your property taxes." However, in cases of renewing existing levies, the notice may include the following statement: "Passage of this referendum extends an existing operating referendum at the same amount per pupil as in the previous year."

(c) A referendum on the question of revoking or reducing the increased revenue amount authorized pursuant to paragraph (a) may be called by the board. A referendum to revoke or reduce the revenue amount must state the amount per adjusted pupil unit by which the authority is to be

reduced. Revenue authority approved by the voters of the district pursuant to paragraph (a) must be available to the school district at least once before it is subject to a referendum on its revocation or reduction for subsequent years. Only one revocation or reduction referendum may be held to revoke or reduce referendum revenue for any specific year and for years thereafter.

(d) The approval of 50 percent plus one of those voting on the question is required to pass a referendum authorized by this subdivision.

(e) At least 15 days before the day of the referendum, the district must submit a copy of the notice required under paragraph (b) to the commissioner and to the county auditor of each county in which the district is located. Within 15 days after the results of the referendum have been certified by the board, or in the case of a recount, the certification of the results of the recount by the canvassing board, the district must notify the commissioner of the results of the referendum.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 15. Minnesota Statutes 2016, section 127A.45, subdivision 10, is amended to read:

Subd. 10. **Payments to school nonoperating funds.** Each fiscal year state general fund payments for a district nonoperating fund must be made at the current year aid payment percentage of the estimated entitlement during the fiscal year of the entitlement. This amount shall be paid in ~~12~~ six equal monthly installments from July through December. The amount of the actual entitlement, after adjustment for actual data, minus the payments made during the fiscal year of the entitlement must be paid prior to October 31 of the following school year. The commissioner may make advance payments of debt service equalization aid and state-paid tax credits for a district's debt service fund earlier than would occur under the preceding schedule if the district submits evidence showing a serious cash flow problem in the fund. The commissioner may make earlier payments during the year and, if necessary, increase the percent of the entitlement paid to reduce the cash flow problem.

Sec. 16. **NEVIS SCHOOL DISTRICT; LEVY ADJUSTMENT.**

Notwithstanding Minnesota Statutes, section 126C.48, Independent School District No. 308, Nevis, at the discretion of its school board, may spread any levy adjustment remaining from the conversion of its operating referendum revenue over three or fewer years beginning with school property taxes for taxes payable in 2018.

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

Sec. 17. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **General education aid.** For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

\$	<u>6,981,058,000</u>	.....	<u>2018</u>
\$	<u>7,139,147,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$686,828,000 for 2017 and \$6,294,230,000 for 2018.

The 2019 appropriation includes \$699,358,000 for 2018 and \$6,439,789,000 for 2019.

Subd. 3. **Enrollment options transportation.** For transportation of pupils attending postsecondary institutions under Minnesota Statutes, section 124D.09, or for transportation of pupils attending nonresident districts under Minnesota Statutes, section 124D.03:

\$	<u>29,000</u>	.....	<u>2018</u>
\$	<u>31,000</u>	.....	<u>2019</u>

Subd. 4. **Abatement aid.** For abatement aid under Minnesota Statutes, section 127A.49:

\$	<u>2,374,000</u>	.....	<u>2018</u>
\$	<u>2,163,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$262,000 for 2017 and \$2,112,000 for 2018.

The 2019 appropriation includes \$234,000 for 2018 and \$1,929,000 for 2019.

Subd. 5. **Consolidation transition aid.** For districts consolidating under Minnesota Statutes, section 123A.485:

\$	<u>185,000</u>	.....	<u>2018</u>
\$	<u>382,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$0 for 2017 and \$185,000 for 2018.

The 2019 appropriation includes \$20,000 for 2018 and \$362,000 for 2019.

Subd. 6. **Nonpublic pupil education aid.** For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43 and 123B.87:

\$	<u>18,182,000</u>	.....	<u>2018</u>
\$	<u>19,164,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$1,687,000 for 2017 and \$16,495,000 for 2018.

The 2019 appropriation includes \$1,832,000 for 2018 and \$17,332,000 for 2019.

Subd. 7. **Nonpublic pupil transportation.** For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

\$	<u>18,292,000</u>	.....	<u>2018</u>
\$	<u>18,366,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$1,835,000 for 2017 and \$16,457,000 for 2018.

The 2019 appropriation includes \$1,828,000 for 2018 and \$16,538,000 for 2019.

Subd. 8. **One-room schoolhouse.** For a grant to Independent School District No. 690, Warroad, to operate the Angle Inlet School:

\$	<u>65,000</u>	<u>2018</u>
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\$ 65,000 2019

Subd. 9. **Career and technical aid.** For career and technical aid under Minnesota Statutes, section 124D.4531, subdivision 1b:

\$ 4,561,000 2018

\$ 4,125,000 2019

The 2018 appropriation includes \$476,000 for 2017 and \$4,085,000 for 2018.

The 2019 appropriation includes \$453,000 for 2018 and \$3,672,000 for 2019.

Sec. 18. **REPEALER.**

Minnesota Statutes 2016, section 124D.73, subdivision 2, is repealed.

ARTICLE 2

EDUCATION EXCELLENCE

Section 1. Minnesota Statutes 2016, section 120A.22, subdivision 9, is amended to read:

Subd. 9. **Curriculum Knowledge and skills.** Instruction must be provided in at least the following subject areas:

- (1) basic communication skills including reading and writing, literature, and fine arts;
- (2) mathematics and science;
- (3) social studies including history, geography, ~~and~~ economics, government, and citizenship;
and
- (4) health and physical education.

Instruction, textbooks, and materials must be in the English language. Another language may be used pursuant to sections 124D.59 to 124D.61.

Sec. 2. Minnesota Statutes 2016, section 120B.021, subdivision 1, is amended to read:

Subdivision 1. **Required academic standards.** (a) The following subject areas are required for statewide accountability:

- (1) language arts;
- (2) mathematics;
- (3) science;
- (4) social studies, including history, geography, economics, and government and citizenship that includes civics consistent with section 120B.02, subdivision 3;

(5) physical education;

(6) health, for which locally developed academic standards apply; and

(7) the arts, for which statewide or locally developed academic standards apply, as determined by the school district. Public elementary and middle schools must offer at least three and require at least two of the following four arts areas: dance; music; theater; and visual arts. Public high schools must offer at least three and require at least one of the following five arts areas: media arts; dance; music; theater; and visual arts.

(b) For purposes of applicable federal law, the academic standards for language arts, mathematics, and science apply to all public school students, except the very few students with extreme cognitive or physical impairments for whom an individualized education program team has determined that the required academic standards are inappropriate. An individualized education program team that makes this determination must establish alternative standards.

(c) ~~Beginning in the 2016-2017 school year,~~ The department must adopt the most recent ~~National Association of Sport and Physical Education~~ SHAPE America (Society of Health and Physical Educators) kindergarten through grade 12 standards and benchmarks for physical education as the required physical education academic standards. The department may modify and adapt the national standards to accommodate state interest. The modification and adaptations must maintain the purpose and integrity of the national standards. The department must make available sample assessments, which school districts may use as an alternative to local assessments, to assess students' mastery of the physical education standards beginning in the 2018-2019 school year.

(d) A school district may include child sexual abuse prevention instruction in a health curriculum, consistent with paragraph (a), clause (6). Child sexual abuse prevention instruction may include age-appropriate instruction on recognizing sexual abuse and assault, boundary violations, and ways offenders groom or desensitize victims, as well as strategies to promote disclosure, reduce self-blame, and mobilize bystanders. A school district may provide instruction under this paragraph in a variety of ways, including at an annual assembly or classroom presentation. A school district may also provide parents information on the warning signs of child sexual abuse and available resources.

~~(d)~~ (e) District efforts to develop, implement, or improve instruction or curriculum as a result of the provisions of this section must be consistent with sections 120B.10, 120B.11, and 120B.20.

Sec. 3. Minnesota Statutes 2016, section 120B.021, subdivision 3, is amended to read:

Subd. 3. **Rulemaking.** The commissioner, consistent with the requirements of this section and section 120B.022, must adopt statewide rules under section 14.389 for implementing statewide rigorous core academic standards in language arts, mathematics, science, social studies, physical education, and the arts. After the rules authorized under this subdivision are initially adopted, the commissioner may not amend or repeal these rules nor adopt new rules on the same topic without specific legislative authorization. ~~The academic standards for language arts, mathematics, and the arts must be implemented for all students beginning in the 2003-2004 school year. The academic standards for science and social studies must be implemented for all students beginning in the 2005-2006 school year.~~

Sec. 4. Minnesota Statutes 2016, section 120B.022, subdivision 1b, is amended to read:

Subd. 1b. **State bilingual and multilingual seals.** (a) Consistent with efforts to strive for the world's best workforce under sections 120B.11 and 124E.03, subdivision 2, paragraph (i), and close the academic achievement and opportunity gap under sections 124D.861 and 124D.862, voluntary state bilingual and multilingual seals are established to recognize high school students in any school district, charter school, or nonpublic school who demonstrate an advanced-low level or an intermediate high level of functional proficiency in listening, speaking, reading, and writing on either assessments aligned with American Council on the Teaching of Foreign Languages' (ACTFL) proficiency guidelines or on equivalent valid and reliable assessments in one or more languages in addition to English. American Sign Language is a language other than English for purposes of this subdivision and a world language for purposes of subdivision 1a.

(b) In addition to paragraph (a), to be eligible to receive a seal:

- (1) students must satisfactorily complete all required English language arts credits; and
- (2) students must demonstrate mastery of Minnesota's English language proficiency standards.

(c) Consistent with this subdivision, a high school student who demonstrates an intermediate high ACTFL level of functional proficiency in one language in addition to English is eligible to receive the state bilingual gold seal. A high school student who demonstrates an intermediate high ACTFL level of functional native proficiency in more than one language in addition to English is eligible to receive the state multilingual gold seal. A high school student who demonstrates an advanced-low ACTFL level of functional proficiency in one language in addition to English is eligible to receive the state bilingual platinum seal. A high school student who demonstrates an advanced-low ACTFL level of functional proficiency in more than one language in addition to English is eligible to receive the state multilingual platinum seal.

(d) School districts and charter schools may give students periodic opportunities to demonstrate their level of proficiency in listening, speaking, reading, and writing in a language in addition to English. Where valid and reliable assessments are unavailable, a school district or charter school may rely on evaluators trained in assessing under ACTFL proficiency guidelines to assess a student's level of foreign, heritage, or indigenous language proficiency under this section. School districts and charter schools must maintain appropriate records to identify high school students eligible to receive the state bilingual or multilingual gold and platinum seals. The school district or charter school must affix the appropriate seal to the transcript of each high school student who meets the requirements of this subdivision and may affix the seal to the student's diploma. A school district or charter school must not charge the high school student a fee for this seal.

(e) A school district or charter school may award elective course credits in world languages to a student who demonstrates the requisite proficiency in a language other than English under this section.

(f) A school district or charter school may award community service credit to a student who demonstrates an intermediate high or advanced-low ACTFL level of functional proficiency in listening, speaking, reading, and writing in a language other than English and who participates in community service activities that are integrated into the curriculum, involve the participation of teachers, and support biliteracy in the school or local community.

(g) The commissioner must list on the Web page those assessments that are aligned to ACTFL proficiency guidelines.

(h) By August 1, 2015, the colleges and universities of the Minnesota State Colleges and Universities system must establish criteria to translate the seals into college credits based on the world language course equivalencies identified by the Minnesota State Colleges and Universities faculty and staff and, upon request from an enrolled student, the Minnesota State Colleges and Universities may award foreign language credits to a student who receives a Minnesota World Language Proficiency Certificate under subdivision 1a. A student who demonstrated the requisite level of language proficiency in grade 10, 11, or 12 to receive a seal or certificate and is enrolled in a Minnesota State Colleges and Universities institution must request college credits for the student's seal or proficiency certificate within three academic years after graduating from high school. The University of Minnesota is encouraged to award students foreign language academic credits consistent with this paragraph.

Sec. 5. Minnesota Statutes 2016, section 120B.12, subdivision 2, is amended to read:

Subd. 2. **Identification; report.** (a) Each school district shall identify before the end of kindergarten, grade 1, and grade 2 students who are not reading at grade level before the end of the current school year and shall identify students in grade 3 or higher who demonstrate a reading difficulty to a classroom teacher. Reading assessments in English, and in the predominant languages of district students where practicable, must identify and evaluate students' areas of academic need related to literacy. The district also must monitor the progress and provide reading instruction appropriate to the specific needs of English learners. The district must use a locally adopted, developmentally appropriate, and culturally responsive assessment and annually report summary assessment results to the commissioner by July 1. The district also must annually report to the commissioner by July 1 a summary of the district's efforts to screen and identify students with:

(1) dyslexia, using screening tools such as those recommended by the department's dyslexia and literacy specialist; or

(2) convergence insufficiency disorder to the commissioner by July 1.

(b) A student identified under this subdivision must be provided with alternate instruction under section 125A.56, subdivision 1.

Sec. 6. Minnesota Statutes 2016, section 120B.12, subdivision 2a, is amended to read:

Subd. 2a. **Parent notification and involvement.** Schools, at least annually, must give the parent of each student who is not reading at or above grade level timely information about:

(1) the student's reading proficiency as measured by a locally adopted assessment;

(2) reading-related services currently being provided to the student and the student's progress;
and

(3) strategies for parents to use at home in helping their student succeed in becoming grade-level proficient in reading in English and in their native language.

A district may not use this section to deny a student's right to a special education evaluation.

Sec. 7. Minnesota Statutes 2016, section 120B.12, subdivision 3, is amended to read:

Subd. 3. **Intervention.** (a) For each student identified under subdivision 2, the district shall provide reading intervention to accelerate student growth and reach the goal of reading at or above grade level by the end of the current grade and school year. If a student does not read at or above grade level by the end of grade 3, the district must continue to provide reading intervention until the student reads at grade level. District intervention methods shall encourage family engagement and, where possible, collaboration with appropriate school and community programs. Intervention methods may include, but are not limited to, requiring attendance in summer school, intensified reading instruction that may require that the student be removed from the regular classroom for part of the school day, extended-day programs, or programs that strengthen students' cultural connections.

(b) A school district or charter school is strongly encouraged to provide a personal learning plan for a student who is unable to demonstrate grade-level proficiency, as measured by the statewide reading assessment in grade 3. The district or charter school must determine the format of the personal learning plan in collaboration with the student's educators and other appropriate professionals. The school must develop the learning plan in consultation with the student's parent or guardian. The personal learning plan must address knowledge gaps and skill deficiencies through strategies such as specific exercises and practices during and outside of the regular school day, periodic assessments, and reasonable timelines. The personal learning plan may include grade retention, if it is in the student's best interest. A school must maintain and regularly update and modify the personal learning plan until the student reads at grade level. This paragraph does not apply to a student under an individualized education program.

Sec. 8. **[120B.122] DYSLEXIA SPECIALIST.**

Subdivision 1. **Purpose.** The department must employ a dyslexia specialist to provide technical assistance for dyslexia and related disorders and to serve as the primary source of information and support for schools in addressing the needs of students with dyslexia and related disorders. The dyslexia specialist shall also act to increase professional awareness and instructional competencies to meet the educational needs of students with dyslexia or identified with risk characteristics associated with dyslexia and shall develop implementation guidance and make recommendations to the commissioner consistent with section 122A.06, subdivision 4, to be used to assist general education teachers and special education teachers to recognize educational needs and to improve literacy outcomes for students with dyslexia or identified with risk characteristics associated with dyslexia, including recommendations related to increasing the availability of online and asynchronous professional development programs and materials.

Subd. 2. **Definition.** For purposes of this section, a "dyslexia specialist" means a dyslexia therapist, licensed psychologist, licensed speech-language pathologist, or certified dyslexia training specialist who has a minimum of three years of field experience in screening, identifying, and treating dyslexia and related disorders.

Subd. 3. **Requirements.** A dyslexia specialist shall be highly trained in dyslexia and related disorders and in using interventions and treatments that are evidence-based, multisensory, direct,

explicit, structured, and sequential in the areas of phonics, phonemic awareness, vocabulary, fluency, and comprehension.

Sec. 9. Minnesota Statutes 2016, section 120B.125, is amended to read:

120B.125 PLANNING FOR STUDENTS' SUCCESSFUL TRANSITION TO POSTSECONDARY EDUCATION AND EMPLOYMENT; PERSONAL LEARNING PLANS.

(a) Consistent with sections 120B.13, 120B.131, 120B.132, 120B.14, 120B.15, 120B.30, subdivision 1, paragraph (c), 125A.08, and other related sections, school districts, beginning in the 2013-2014 school year, must assist all students by no later than grade 9 to explore their educational, college, and career interests, aptitudes, and aspirations and develop a plan for a smooth and successful transition to postsecondary education or employment. All students' plans must:

(1) provide a comprehensive plan to prepare for and complete a career and college ready curriculum by meeting state and local academic standards and developing career and employment-related skills such as team work, collaboration, creativity, communication, critical thinking, and good work habits;

(2) emphasize academic rigor and high expectations and inform the student, and the student's parent or guardian if the student is a minor, of the student's achievement level score on the Minnesota Comprehensive Assessments that are administered during high school;

(3) help students identify interests, aptitudes, aspirations, and personal learning styles that may affect their career and college ready goals and postsecondary education and employment choices;

(4) set appropriate career and college ready goals with timelines that identify effective means for achieving those goals;

(5) help students access education and career options;

(6) integrate strong academic content into career-focused courses and applied and experiential learning opportunities and integrate relevant career-focused courses and applied and experiential learning opportunities into strong academic content;

(7) help identify and access appropriate counseling and other supports and assistance that enable students to complete required coursework, prepare for postsecondary education and careers, and obtain information about postsecondary education costs and eligibility for financial aid and scholarship;

(8) help identify collaborative partnerships among prekindergarten through grade 12 schools, postsecondary institutions, economic development agencies, and local and regional employers that support students' transition to postsecondary education and employment and provide students with applied and experiential learning opportunities; and

(9) be reviewed and revised at least annually by the student, the student's parent or guardian, and the school or district to ensure that the student's course-taking schedule keeps the student making adequate progress to meet state and local academic standards and high school graduation requirements

and with a reasonable chance to succeed with employment or postsecondary education without the need to first complete remedial course work.

(b) A school district may develop grade-level curricula or provide instruction that introduces students to various careers, but must not require any curriculum, instruction, or employment-related activity that obligates an elementary or secondary student to involuntarily select or pursue a career, career interest, employment goals, or related job training.

(c) Educators must possess the knowledge and skills to effectively teach all English learners in their classrooms. School districts must provide appropriate curriculum, targeted materials, professional development opportunities for educators, and sufficient resources to enable English learners to become career and college ready.

(d) When assisting students in developing a plan for a smooth and successful transition to postsecondary education and employment, districts must recognize the unique possibilities of each student and ensure that the contents of each student's plan reflect the student's unique talents, skills, and abilities as the student grows, develops, and learns.

(e) If a student with a disability has an individualized education program (IEP) or standardized written plan that meets the plan components of this section, the IEP satisfies the requirement and no additional transition plan is needed.

(f) Students who do not meet or exceed Minnesota academic standards, as measured by the Minnesota Comprehensive Assessments that are administered during high school, shall be informed that admission to a public school is free and available to any resident under 21 years of age or who meets the requirements of section 120A.20, subdivision 1, paragraph (c). A student's plan under this section shall continue while the student is enrolled.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 10. Minnesota Statutes 2016, section 120B.132, is amended to read:

120B.132 RAISED ACADEMIC ACHIEVEMENT; ADVANCED PLACEMENT AND INTERNATIONAL BACCALAUREATE PROGRAMS.

Subdivision 1. **Establishment; eligibility.** A program is established to raise kindergarten through grade 12 academic achievement through increased student participation in preadvanced placement, advanced placement, and international baccalaureate programs, consistent with section 120B.13. Schools and charter schools eligible to participate under this section:

(1) must have a three-year plan approved by the local school board to establish a new international baccalaureate program leading to international baccalaureate authorization, expand an existing program that leads to international baccalaureate authorization, or expand an existing authorized international baccalaureate program; or

(2) must have a three-year plan approved by the local school board to create a new or expand an existing program to implement the college board advanced placement courses and exams or preadvanced placement initiative; and

(3) must propose to further raise students' academic achievement by:

(i) increasing the availability of and all students' access to advanced placement or international baccalaureate courses or programs;

(ii) expanding the breadth of advanced placement or international baccalaureate courses or programs that are available to students;

(iii) increasing the number and the diversity of the students who participate in advanced placement or international baccalaureate courses or programs and succeed;

(iv) providing low-income and other disadvantaged students with increased access to advanced placement or international baccalaureate courses and programs; or

(v) increasing the number of high school students, including low-income and other disadvantaged students, who receive college credit by successfully completing advanced placement or international baccalaureate courses or programs and achieving satisfactory scores on related exams.

Subd. 2. Application and review process; funding priority. (a) Charter schools and school districts in which eligible schools under subdivision 1 are located may apply to the commissioner, in the form and manner the commissioner determines, for competitive funding to further raise students' academic achievement. The application must detail the specific efforts the applicant intends to undertake in further raising students' academic achievement, consistent with subdivision 1, and a proposed budget detailing the district or charter school's current and proposed expenditures for advanced placement, preadvanced placement, and international baccalaureate courses and programs. The proposed budget must demonstrate that the applicant's efforts will support implementation of advanced placement, preadvanced placement, and international baccalaureate courses and programs. Expenditures for administration must not exceed five percent of the proposed budget. The commissioner may require an applicant to provide additional information.

(b) When reviewing applications, the commissioner must determine whether the applicant satisfied all the requirements in this subdivision and subdivision 1. The commissioner may give funding priority to an otherwise qualified applicant that demonstrates:

(1) a focus on developing or expanding preadvanced placement, advanced placement, or international baccalaureate courses or programs or increasing students' participation in, access to, or success with the courses or programs, including the participation, access, or success of low-income and other disadvantaged students;

(2) a compelling need for access to preadvanced placement, advanced placement, or international baccalaureate courses or programs;

(3) an effective ability to actively involve local business and community organizations in student activities that are integral to preadvanced placement, advanced placement, or international baccalaureate courses or programs;

(4) access to additional public or nonpublic funds or in-kind contributions that are available for preadvanced placement, advanced placement, or international baccalaureate courses or programs;

of

(5) an intent to implement activities that target low-income and other disadvantaged students;
or

(6) an intent to increase the advanced placement and international baccalaureate course offerings in science, technology, engineering, and math to low-income and other disadvantaged students.

Subd. 3. **Funding; permissible funding uses.** (a) The commissioner shall award grants to applicant school districts and charter schools that meet the requirements of subdivisions 1 and 2. The commissioner must award grants on an equitable geographical basis to the extent feasible and consistent with this section. Grant awards must not exceed the lesser of:

(1) \$85 times the number of pupils enrolled at the participating sites on October 1 of the previous fiscal year; ~~or~~

(2) the approved supplemental expenditures based on the budget submitted under subdivision 2. For charter schools in their first year of operation, the maximum funding award must be calculated using the number of pupils enrolled on October 1 of the current fiscal year. The commissioner may adjust the maximum funding award computed using prior year data for changes in enrollment attributable to school closings, school openings, grade level reconfigurations, or school district reorganizations between the prior fiscal year and the current fiscal year; or

(3) \$150,000 per district or charter school.

(b) School districts and charter schools that submit an application and receive funding under this section must use the funding, consistent with the application, to:

(1) provide teacher training and instruction to more effectively serve students, including low-income and other disadvantaged students, who participate in preadvanced placement, advanced placement, or international baccalaureate courses or programs;

(2) further develop preadvanced placement, advanced placement, or international baccalaureate courses or programs;

(3) improve the transition between grade levels to better prepare students, including low-income and other disadvantaged students, for succeeding in preadvanced placement, advanced placement, or international baccalaureate courses or programs;

(4) purchase books and supplies;

(5) pay course or program fees;

(6) increase students' participation in and success with preadvanced placement, advanced placement, or international baccalaureate courses or programs;

(7) expand students' access to preadvanced placement, advanced placement, or international baccalaureate courses or programs through online learning;

(8) hire appropriately licensed personnel to teach additional advanced placement or international baccalaureate courses or programs; or

(9) engage in other ~~activity directly related~~ activities to expanding expand low-income or disadvantaged students' access to, participation in, and success with preadvanced placement, advanced placement, or international baccalaureate courses or programs, ~~including~~. Other activities may include but are not limited to preparing and disseminating promotional materials to low-income and other disadvantaged students and their families.

Subd. 4. **Grants; annual reports.** (a) Each school district and charter school that receives a grant under this section annually must collect demographic and other student data to demonstrate and measure the extent to which the district or charter school raised students' academic achievement under this program and must report the data to the commissioner in the form and manner the commissioner determines. The commissioner annually by February 15 must make summary data about this program available to the education policy and finance committees of the legislature.

(b) Each school district and charter school that receives a grant under this section annually must report to the commissioner, consistent with the Uniform Financial Accounting and Reporting Standards, its actual expenditures for advanced placement, preadvanced placement, and international baccalaureate courses and programs. The report must demonstrate that the school district or charter school has maintained its effort from other sources for advanced placement, preadvanced placement, and international baccalaureate courses and programs compared with the previous fiscal year, and the district or charter school has expended all grant funds, consistent with its approved budget.

(c) Notwithstanding any law to the contrary, a grant under this section is available for three years from the date of the grant if the district or charter school meets the annual benchmarks in its plan under subdivision 1.

Sec. 11. Minnesota Statutes 2016, section 120B.22, subdivision 2, is amended to read:

Subd. 2. **In-service training.** Each district is encouraged to provide training for district staff and school board members ~~to help~~ on the following:

(1) helping students identify violence in the family and the community so that students may learn to resolve conflicts in effective, nonviolent ways;

(2) responding to a disclosure of child sexual abuse in a supportive, appropriate manner; and

(3) complying with mandatory reporting requirements under section 626.556.

The in-service training must be ongoing and involve experts familiar with sexual abuse, domestic violence, and personal safety issues.

Sec. 12. Minnesota Statutes 2016, section 120B.23, subdivision 3, is amended to read:

Subd. 3. **Grant awards.** (a) The commissioner may award grants for a violence prevention education program to eligible applicants as defined in subdivision 2. Grant amounts may not exceed \$3 per resident pupil unit in the district or group of districts in the prior school year. Grant recipients should be geographically distributed throughout the state.

(b) School districts and charter schools may accept funds from private and other public sources for child sexual abuse prevention programs developed and implemented under sections 120B.021,

subdivision 1, paragraph (d), and 120B.234, including federal funding under the Every Student Succeeds Act.

Sec. 13. Minnesota Statutes 2016, section 120B.232, subdivision 1, is amended to read:

Subdivision 1. **Character development education.** (a) Character education is the shared responsibility of parents, teachers, and members of the community. The legislature encourages districts to integrate or offer instruction on character education including, but not limited to, character qualities such as attentiveness, truthfulness, respect for authority, diligence, gratefulness, self-discipline, patience, forgiveness, respect for others, peacemaking, and resourcefulness. Instruction should be integrated into a district's existing programs, curriculum, or the general school environment. To the extent practicable, instruction should be integrated into positive behavioral intervention strategies, under section 122A.627. The commissioner shall provide assistance at the request of a district to develop character education curriculum and programs.

(b) Character development education under paragraph (a) may include a voluntary elementary, middle, and high school program that incorporates the history and values of Congressional Medal of Honor recipients and may be offered as part of the social studies, English language arts, or other curriculum, as a schoolwide character building and veteran awareness initiative, or as an after-school program, among other possibilities.

Sec. 14. **[120B.234] CHILD SEXUAL ABUSE PREVENTION EDUCATION.**

Subdivision 1. Purpose. The purpose of this section, which may be cited as "Erin's Law," is to encourage districts to integrate or offer instruction on child sexual abuse prevention to students and training to all school personnel on recognizing and preventing sexual abuse and sexual violence.

Subd. 2. Curriculum. School districts may consult with other federal, state, or local agencies and community-based organizations, including the Child Information Gateway Web site maintained by the United States Department of Health and Human Services, to identify research-based tools, curricula, and programs to prevent child sexual abuse for use under section 120B.021, subdivision 1, paragraph (d).

Subd. 3. Other state programs. The child sexual abuse prevention instruction provided under this section is part of preventing sexual violence against children, which includes, but is not limited to, the following activities:

(1) training on mandated reporting requirements provided on the Department of Education's Web site;

(2) the Code of Ethics for Minnesota Teachers; and

(3) consultation by the commissioner of education with the commissioners of health, human services, and public safety, and other state agencies to prevent violence against children.

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

Sec. 15. Minnesota Statutes 2016, section 120B.30, subdivision 1, is amended to read:

Subdivision 1. **Statewide testing.** (a) The commissioner, with advice from experts with appropriate technical qualifications and experience and stakeholders, consistent with subdivision 1a, shall include in the comprehensive assessment system, for each grade level to be tested, state-constructed tests developed as computer-adaptive reading and mathematics assessments for students that are aligned with the state's required academic standards under section 120B.021, include multiple choice questions, and are administered annually to all students in grades 3 through 8. State-developed high school tests aligned with the state's required academic standards under section 120B.021 and administered to all high school students in a subject other than writing must include multiple choice questions. The commissioner shall establish one or more months during which schools shall administer the tests to students each school year.

(1) Students enrolled in grade 8 through the 2009-2010 school year are eligible to be assessed under (i) the graduation-required assessment for diploma in reading, mathematics, or writing under Minnesota Statutes 2012, section 120B.30, subdivision 1, paragraphs (c), clauses (1) and (2), and (d), (ii) the WorkKeys job skills assessment, (iii) the Compass college placement test, (iv) the ACT assessment for college admission, (v) a nationally recognized armed services vocational aptitude test.

(2) Students enrolled in grade 8 in the 2010-2011 or 2011-2012 school year are eligible to be assessed under (i) the graduation-required assessment for diploma in reading, mathematics, or writing under Minnesota Statutes 2012, section 120B.30, subdivision 1, paragraph (c), clauses (1) and (2), (ii) the WorkKeys job skills assessment, (iii) the Compass college placement test, (iv) the ACT assessment for college admission, (v) a nationally recognized armed services vocational aptitude test.

(3) For students under clause (1) or (2), a school district may substitute a score from an alternative, equivalent assessment to satisfy the requirements of this paragraph.

(b) The state assessment system must be aligned to the most recent revision of academic standards as described in section 120B.023 in the following manner:

(1) mathematics;

(i) grades 3 through 8 beginning in the 2010-2011 school year; and

(ii) high school level beginning in the 2013-2014 school year;

(2) science; grades 5 and 8 and at the high school level beginning in the 2011-2012 school year; and

(3) language arts and reading; grades 3 through 8 and high school level beginning in the 2012-2013 school year.

(c) For students enrolled in grade 8 in the 2012-2013 school year and later, students' state graduation requirements, based on a longitudinal, systematic approach to student education and career planning, assessment, instructional support, and evaluation, include the following:

(1) ~~an opportunity to participate on a nationally normed college entrance exam, in grade 11 or grade 12;~~

(2) achievement and career and college readiness in mathematics, reading, and writing, consistent with paragraph (k) and to the extent available, to monitor students' continuous development of and growth in requisite knowledge and skills; analyze students' progress and performance levels, identifying students' academic strengths and diagnosing areas where students require curriculum or instructional adjustments, targeted interventions, or remediation; and, based on analysis of students' progress and performance data, determine students' learning and instructional needs and the instructional tools and best practices that support academic rigor for the student; and

(3) (2) consistent with this paragraph and section 120B.125, age-appropriate exploration and planning activities and career assessments to encourage students to identify personally relevant career interests and aptitudes and help students and their families develop a regularly reexamined transition plan for postsecondary education or employment without need for postsecondary remediation.

Based on appropriate state guidelines, students with an individualized education program may satisfy state graduation requirements by achieving an individual score on the state-identified alternative assessments.

(d) Expectations of schools, districts, and the state for career or college readiness under this subdivision must be comparable in rigor, clarity of purpose, and rates of student completion.

A student under paragraph (c), clause (2) (1), must receive targeted, relevant, academically rigorous, and resourced instruction, which may include a targeted instruction and intervention plan focused on improving the student's knowledge and skills in core subjects so that the student has a reasonable chance to succeed in a career or college without need for postsecondary remediation. Consistent with sections 120B.13, 124D.09, 124D.091, 124D.49, and related sections, an enrolling school or district must actively encourage a student in grade 11 or 12 who is identified as academically ready for a career or college to participate in courses and programs awarding college credit to high school students. Students are not required to achieve a specified score or level of proficiency on an assessment under this subdivision to graduate from high school.

(e) Though not a high school graduation requirement, students are encouraged to participate in a nationally recognized college entrance exam. To the extent state funding for college entrance exam fees is available, a district must ~~pay the cost~~ reimburse a student in grade 11 or 12 who is eligible for a free or reduced-price meal, one time, for an interested student in grade 11 or 12 to take for the registration fees associated with a nationally recognized college entrance exam before graduating. A student must be able to take the exam under this paragraph at the student's high school during the school day and at any one of the multiple exam administrations available to students in the district. In order to comply with this subdivision, a district may administer the ACT or SAT or both the ACT and SAT to comply with this paragraph at the student's high school or arrange for the student to take the exam at another location. If the district administers only one of these two tests and a student opts not to take that test and chooses instead to take the other of the two tests, the A free or reduced-price meal eligible student may take the other test exam at a different time or location and remains eligible for the examination fee reimbursement.

(f) The commissioner and the chancellor of the Minnesota State Colleges and Universities must collaborate in aligning instruction and assessments for adult basic education students and English learners to provide the students with diagnostic information about any targeted interventions,

accommodations, modifications, and supports they need so that assessments and other performance measures are accessible to them and they may seek postsecondary education or employment without need for postsecondary remediation. When administering formative or summative assessments used to measure the academic progress, including the oral academic development, of English learners and inform their instruction, schools must ensure that the assessments are accessible to the students and students have the modifications and supports they need to sufficiently understand the assessments.

(g) Districts and schools, on an annual basis, must use career exploration elements to help students, beginning no later than grade 9, and their families explore and plan for postsecondary education or careers based on the students' interests, aptitudes, and aspirations. Districts and schools must use timely regional labor market information and partnerships, among other resources, to help students and their families successfully develop, pursue, review, and revise an individualized plan for postsecondary education or a career. This process must help increase students' engagement in and connection to school, improve students' knowledge and skills, and deepen students' understanding of career pathways as a sequence of academic and career courses that lead to an industry-recognized credential, an associate's degree, or a bachelor's degree and are available to all students, whatever their interests and career goals.

(h) A student who demonstrates attainment of required state academic standards, which include career and college readiness benchmarks, on high school assessments under subdivision 1a is academically ready for a career or college and is encouraged to participate in courses awarding college credit to high school students. Such courses and programs may include sequential courses of study within broad career areas and technical skill assessments that extend beyond course grades.

(i) As appropriate, students through grade 12 must continue to participate in targeted instruction, intervention, or remediation and be encouraged to participate in courses awarding college credit to high school students.

(j) In developing, supporting, and improving students' academic readiness for a career or college, schools, districts, and the state must have a continuum of empirically derived, clearly defined benchmarks focused on students' attainment of knowledge and skills so that students, their parents, and teachers know how well students must perform to have a reasonable chance to succeed in a career or college without need for postsecondary remediation. The commissioner, in consultation with local school officials and educators, and Minnesota's public postsecondary institutions must ensure that the foundational knowledge and skills for students' successful performance in postsecondary employment or education and an articulated series of possible targeted interventions are clearly identified and satisfy Minnesota's postsecondary admissions requirements.

(k) For students in grade 8 in the 2012-2013 school year and later, a school, district, or charter school must record on the high school transcript a student's progress toward career and college readiness, and for other students as soon as practicable.

(l) The school board granting students their diplomas may formally decide to include a notation of high achievement on the high school diplomas of those graduating seniors who, according to established school board criteria, demonstrate exemplary academic achievement during high school.

(m) The 3rd through 8th grade computer-adaptive assessment results and high school test results shall be available to districts for diagnostic purposes affecting student learning and district instruction

and curriculum, and for establishing educational accountability. The commissioner must establish empirically derived benchmarks on adaptive assessments in grades 3 through 8. The commissioner, in consultation with the chancellor of the Minnesota State Colleges and Universities, must establish empirically derived benchmarks on the high school tests that reveal a trajectory toward career and college readiness consistent with section 136F.302, subdivision 1a. The commissioner must disseminate to the public the computer-adaptive assessments and high school test results upon receiving those results.

(n) The grades 3 through 8 computer-adaptive assessments and high school tests must be aligned with state academic standards. The commissioner shall determine the testing process and the order of administration. The statewide results shall be aggregated at the site and district level, consistent with subdivision 1a.

(o) The commissioner shall include the following components in the statewide public reporting system:

(1) uniform statewide computer-adaptive assessments of all students in grades 3 through 8 and testing at the high school levels that provides appropriate, technically sound accommodations or alternate assessments;

(2) educational indicators that can be aggregated and compared across school districts and across time on a statewide basis, including average daily attendance, high school graduation rates, and high school drop-out rates by age and grade level;

(3) state results on the American College Test; and

(4) state results from participation in the National Assessment of Educational Progress so that the state can benchmark its performance against the nation and other states, and, where possible, against other countries, and contribute to the national effort to monitor achievement.

(p) For purposes of statewide accountability, "career and college ready" means a high school graduate has the knowledge, skills, and competencies to successfully pursue a career pathway, including postsecondary credit leading to a degree, diploma, certificate, or industry-recognized credential and employment. Students who are career and college ready are able to successfully complete credit-bearing coursework at a two- or four-year college or university or other credit-bearing postsecondary program without need for remediation.

(q) For purposes of statewide accountability, "cultural competence," "cultural competency," or "culturally competent" means the ability ~~and will~~ of families and educators to interact effectively with people of different cultures, native languages, and socioeconomic backgrounds.

Sec. 16. Minnesota Statutes 2016, section 120B.31, is amended by adding a subdivision to read:

Subd. 3a. **Rollout sites; report.** The commissioner of education shall designate up to six school districts or charter schools as rollout sites.

(a) The rollout sites should represent urban school districts, suburban school districts, nonurban school districts, and charter schools. The commissioner shall designate rollout sites and notify the

schools by August 1, 2017, and the designated school districts or charter schools shall have the right to opt in or out as rollout sites by September 1, 2017.

(b) The commissioner must consult stakeholders and review the American Community Survey to develop recommendations for best practices for disaggregated data. Stakeholders consulted under this paragraph include at least:

- (1) the rollout sites;
- (2) parent groups; and
- (3) community representatives.

(c) The commissioner shall report to the legislative committees having jurisdiction over kindergarten through grade 12 education policy and finance by February 1, 2018. The commissioner may research best practices from other states that have disaggregated data beyond the requirements of the most recent reauthorization of the Elementary and Secondary Education Act. The commissioner must consult with the stakeholders on how to measure a student's background as an immigrant or a refugee and provide a recommendation in the report on how to include the data in the statewide rollout. The recommendations may address:

(1) the most meaningful use of disaggregated data, including but not limited to which reports should include further disaggregated data;

(2) collection of additional student characteristics, including but not limited to ensuring enhanced enrollment forms:

(i) provide context and the objective of additional data;

(ii) are designed to convey respect and acknowledgment of the sensitive nature of the additional data; and

(iii) are designed to collect data consistent with user feedback;

(3) efficient data-reporting approaches when reporting additional information to the department;

(4) the frequency by which districts and schools must update enrollment forms to meet the needs of the state's changing racial and ethnic demographics; and

(5) the criteria for determining additional data. This recommendation should include a recommendation for frequency of reviews and updates of the additional data and should also identify the approach of updating any additional census data and data on new enrollees. This recommendation must consider additional student groups that may face education disparities and must take into account maintaining student privacy and providing nonidentifiable student level data.

EFFECTIVE DATE. This section is effective for the 2018-2019 school year and later.

Sec. 17. Minnesota Statutes 2016, section 120B.31, subdivision 4, is amended to read:

Subd. 4. **Student performance data.** In developing policies and assessment processes to hold schools and districts accountable for high levels of academic standards under section 120B.021, the commissioner shall aggregate and disaggregate student data over time to report summary student performance and growth levels and, under section 120B.11, subdivision 2, clause (2), student learning and outcome data measured at the school, school district, and statewide level. The commissioner shall use the student categories identified under the federal Elementary and Secondary Education Act, as most recently reauthorized, and student categories of:

- (1) homelessness;
- (2) ethnicity; under section 120B.35, subdivision 3, paragraph (a), clause (2);
- (3) race; under section 120B.35, subdivision 3, paragraph (a), clause (2);
- (4) home language; ~~immigrant, refugee status;~~
- (5) English learners under section 124D.59;
- (6) free or reduced-price lunch; and

(7) other categories designated by federal law to organize and report the data so that state and local policy makers can understand the educational implications of changes in districts' demographic profiles over time as data are available.

Any report the commissioner disseminates containing summary data on student performance must integrate student performance and the demographic factors that strongly correlate with that performance.

EFFECTIVE DATE. This section is effective for the 2019-2020 school year and later.

Sec. 18. Minnesota Statutes 2016, section 120B.35, subdivision 3, is amended to read:

Subd. 3. **State growth target; other state measures.** (a)(1) The state's educational assessment system measuring individual students' educational growth is based on indicators of achievement growth that show an individual student's prior achievement. Indicators of achievement and prior achievement must be based on highly reliable statewide or districtwide assessments.

(2) For purposes of paragraphs (b), (c), and (d), the commissioner must analyze and report separate categories of information using the student categories identified under the federal Elementary and Secondary Education Act, as most recently reauthorized, and, in addition to "other" for each race and ethnicity, and the Karen community, ~~other student categories as determined by the total Minnesota population at or above the 1,000-person threshold based on the most recent decennial census, including ethnicity, race, refugee status~~ seven of the most populous Asian and Pacific Islander groups, three of the most populous Native groups, seven of the most populous Hispanic/Latino groups, and five of the most populous Black and African Heritage groups as determined by the total Minnesota population based on the most recent American Community Survey; English learners under section 124D.59; home language; free or reduced-price lunch; ~~immigrant;~~ and all students enrolled in a Minnesota public school who are currently or were previously in foster care, except that such disaggregation and cross tabulation is not required if the number of students in a category

is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student.

(b) The commissioner, in consultation with a stakeholder group that includes assessment and evaluation directors, district staff, experts in culturally responsive teaching, and researchers, must implement a model that uses a value-added growth indicator and includes criteria for identifying schools and school districts that demonstrate medium and high growth under section 120B.299, subdivisions 8 and 9, and may recommend other value-added measures under section 120B.299, subdivision 3. The model may be used to advance educators' professional development and replicate programs that succeed in meeting students' diverse learning needs. Data on individual teachers generated under the model are personnel data under section 13.43. The model must allow users to:

(1) report student growth consistent with this paragraph; and

(2) for all student categories, report and compare aggregated and disaggregated state student growth and, under section 120B.11, subdivision 2, clause (2), student learning and outcome data using the student categories identified under the federal Elementary and Secondary Education Act, as most recently reauthorized, and other student categories under paragraph (a), clause (2).

The commissioner must report measures of student growth and, under section 120B.11, subdivision 2, clause (2), student learning and outcome data, consistent with this paragraph, including the English language development, academic progress, and oral academic development of English learners and their native language development if the native language is used as a language of instruction, and include data on all pupils enrolled in a Minnesota public school course or program who are currently or were previously counted as an English learner under section 124D.59.

(c) When reporting student performance under section 120B.36, subdivision 1, the commissioner annually, beginning July 1, 2011, must report two core measures indicating the extent to which current high school graduates are being prepared for postsecondary academic and career opportunities:

(1) a preparation measure indicating the number and percentage of high school graduates in the most recent school year who completed course work important to preparing them for postsecondary academic and career opportunities, consistent with the core academic subjects required for admission to Minnesota's public colleges and universities as determined by the Office of Higher Education under chapter 136A; and

(2) a rigorous coursework measure indicating the number and percentage of high school graduates in the most recent school year who successfully completed one or more college-level advanced placement, international baccalaureate, postsecondary enrollment options including concurrent enrollment, other rigorous courses of study under section 120B.021, subdivision 1a, or industry certification courses or programs.

When reporting the core measures under clauses (1) and (2), the commissioner must also analyze and report separate categories of information using the student categories identified under the federal Elementary and Secondary Education Act, as most recently reauthorized, and other student categories under paragraph (a), clause (2).

(d) When reporting student performance under section 120B.36, subdivision 1, the commissioner annually, beginning July 1, 2014, must report summary data on school safety and students'

engagement and connection at school, consistent with the student categories identified under paragraph (a), clause (2). The summary data under this paragraph are separate from and must not be used for any purpose related to measuring or evaluating the performance of classroom teachers. The commissioner, in consultation with qualified experts on student engagement and connection and classroom teachers, must identify highly reliable variables that generate summary data under this paragraph. The summary data may be used at school, district, and state levels only. Any data on individuals received, collected, or created that are used to generate the summary data under this paragraph are nonpublic data under section 13.02, subdivision 9.

(e) For purposes of statewide educational accountability, the commissioner must identify and report measures that demonstrate the success of learning year program providers under sections 123A.05 and 124D.68, among other such providers, in improving students' graduation outcomes. The commissioner, beginning July 1, 2015, must annually report summary data on:

- (1) the four- and six-year graduation rates of students under this paragraph;
- (2) the percent of students under this paragraph whose progress and performance levels are meeting career and college readiness benchmarks under section 120B.30, subdivision 1; and
- (3) the success that learning year program providers experience in:
 - (i) identifying at-risk and off-track student populations by grade;
 - (ii) providing successful prevention and intervention strategies for at-risk students;
 - (iii) providing successful recuperative and recovery or reenrollment strategies for off-track students; and
 - (iv) improving the graduation outcomes of at-risk and off-track students.

The commissioner may include in the annual report summary data on other education providers serving a majority of students eligible to participate in a learning year program.

(f) The commissioner, in consultation with recognized experts with knowledge and experience in assessing the language proficiency and academic performance of all English learners enrolled in a Minnesota public school course or program who are currently or were previously counted as an English learner under section 124D.59, must identify and report appropriate and effective measures to improve current categories of language difficulty and assessments, and monitor and report data on students' English proficiency levels, program placement, and academic language development, including oral academic language.

(g) When reporting four- and six-year graduation rates, the commissioner or school district must disaggregate the data by student categories according to paragraph (a), clause (2).

(h) A school district must inform parents and guardians that volunteering information on student categories not required by the most recent reauthorization of the Elementary and Secondary Education Act is optional and will not violate the privacy of students or their families, parents, or guardians. The notice must state the purpose for collecting the student data.

EFFECTIVE DATE. This section is effective for the 2018-2019 school year and later for rollout sites under Minnesota Statutes, section 120B.31, subdivision 3a. This section is effective for the 2019-2020 school year and later for all other schools.

Sec. 19. Minnesota Statutes 2016, section 120B.36, subdivision 1, is amended to read:

Subdivision 1. **School performance reports and public reporting.** (a) The commissioner shall report student academic performance data under section 120B.35, subdivisions 2 and 3; the percentages of students showing low, medium, and high growth under section 120B.35, subdivision 3, paragraph (b); school safety and student engagement and connection under section 120B.35, subdivision 3, paragraph (d); rigorous coursework under section 120B.35, subdivision 3, paragraph (c); the percentage of students under section 120B.35, subdivision 3, paragraph (b), clause (2), whose progress and performance levels are meeting career and college readiness benchmarks under sections 120B.30, subdivision 1, and 120B.35, subdivision 3, paragraph (e); longitudinal data on the progress of eligible districts in reducing disparities in students' academic achievement and realizing racial and economic integration under section 124D.861; the acquisition of English, and where practicable, native language academic literacy, including oral academic language, and the academic progress of all English learners enrolled in a Minnesota public school course or program who are currently or were previously counted as English learners under section 124D.59; two separate student-to-teacher ratios that clearly indicate the definition of teacher consistent with sections 122A.06 and 122A.15 for purposes of determining these ratios; staff characteristics excluding salaries; student enrollment demographics; foster care status, including all students enrolled in a Minnesota public school course or program who are currently or were previously in foster care, student homelessness, and district mobility; and extracurricular activities. ~~The report also must indicate a school's status under applicable federal law.~~

(b) The school performance report for a school site and a school district must include school performance reporting information and calculate proficiency rates as required by the most recently reauthorized Elementary and Secondary Education Act.

(c) The commissioner shall develop, annually update, and post on the department Web site school performance reports consistent with paragraph (a) and section 120B.11.

~~(e)~~ (d) The commissioner must make available performance reports by the beginning of each school year.

~~(e)~~ (e) A school or district may appeal its results in a form and manner determined by the commissioner and consistent with federal law. The commissioner's decision to uphold or deny an appeal is final.

~~(e)~~ (f) School performance data are nonpublic data under section 13.02, subdivision 9, until the commissioner publicly releases the data. The commissioner shall annually post school performance reports to the department's public Web site no later than September 1, except that in years when the reports reflect new performance standards, the commissioner shall post the school performance reports no later than October 1.

EFFECTIVE DATE. This section is effective for the 2017-2018 school year and later.

Sec. 20. Minnesota Statutes 2016, section 122A.40, subdivision 10, is amended to read:

Subd. 10. **Negotiated unrequested leave of absence.** The school board and the exclusive bargaining representative of the teachers ~~may~~ **must** negotiate a plan providing for unrequested leave of absence without pay or fringe benefits for as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. ~~Failing to successfully negotiate such a plan, the provisions of subdivision 11 shall apply. The negotiated plan must not include provisions which would result in the exercise of seniority by a teacher holding a provisional license, other than a vocational education license, contrary to the provisions of subdivision 11, paragraph (e), or the reinstatement of a teacher holding a provisional license, other than a vocational education license, contrary to the provisions of subdivision 11, paragraph (e). The provisions of section 179A.16 do not apply for the purposes of this subdivision.~~

EFFECTIVE DATE. This section is effective July 1, 2018.

Sec. 21. Minnesota Statutes 2016, section 122A.41, is amended by adding a subdivision to read:

Subd. 14a. **Negotiated unrequested leave of absence.** The school board and the exclusive bargaining representative of the teachers must negotiate a plan providing for unrequested leave of absence without pay or fringe benefits for as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts.

EFFECTIVE DATE. This section is effective July 1, 2018.

Sec. 22. Minnesota Statutes 2016, section 122A.414, subdivision 2, is amended to read:

Subd. 2. **Alternative teacher professional pay system.** (a) To participate in this program, a school district, an intermediate school district consistent with paragraph (d), a school site, or a charter school must have a world's best workforce plan under section 120B.11 and an alternative teacher professional pay system agreement under paragraph (b). A charter school participant also must comply with subdivision 2a.

(b) The alternative teacher professional pay system agreement must:

(1) describe how teachers can achieve career advancement and additional compensation;

(2) describe how the school district, intermediate school district, school site, or charter school will provide teachers with career advancement options that allow teachers to retain primary roles in student instruction and facilitate site-focused professional development that helps other teachers improve their skills;

(3) reform the "steps and lanes" salary schedule, prevent any teacher's compensation paid before implementing the pay system from being reduced as a result of participating in this system, base at least 60 percent of any compensation increase on teacher performance using:

(i) schoolwide student achievement gains under section 120B.35 or locally selected standardized assessment outcomes, or both;

(ii) measures of student growth and literacy that may include value-added models or student learning goals, consistent with section 122A.40, subdivision 8, paragraph (b), clause (9), or 122A.41, subdivision 5, paragraph (b), clause (9), and other measures that include the academic literacy, oral academic language, and achievement of English learners under section 122A.40, subdivision 8, paragraph (b), clause (10), or 122A.41, subdivision 5, paragraph (b), clause (10); and

(iii) an objective evaluation program under section 122A.40, subdivision 8, paragraph (b), clause (2), or 122A.41, subdivision 5, paragraph (b), clause (2);

(4) provide for participation in job-embedded learning opportunities such as professional learning communities to improve instructional skills and learning that are aligned with student needs under section 120B.11, consistent with the staff development plan under section 122A.60 and led during the school day by trained teacher leaders such as master or mentor teachers;

(5) allow any teacher in a participating school district, intermediate school district, school site, or charter school that implements an alternative pay system to participate in that system without any quota or other limit; and

(6) encourage collaboration rather than competition among teachers.

(c) The alternative teacher professional pay system may:

(1) include a hiring bonus or other added compensation ~~for~~ to provide students with equitable access to teachers who, consistent with section 120B.11, subdivision 2, clause (3):

(i) are identified as effective or highly effective under the local teacher professional review cycle and or, when being considered for hire as first-year teachers, have demonstrated skills during student teaching for being highly effective at closing achievement gaps;

(ii) work in a high-need or hard-to-fill position; or

(iii) are hired to work in a hard-to-staff school such as a school with a majority of students whose families meet federal poverty guidelines, a geographically isolated school, or a school identified by the state as eligible for targeted programs or services for its students; and

(2) include incentives for teachers to obtain a master's degree or other advanced certification with at least 18 credits in their content field of licensure required for teaching concurrent enrollment or college in the schools courses, or to pursue the training or education necessary to obtain an additional licensure in shortage areas identified by the district or charter school; or

(3) help fund a ~~"grow your own"~~ Grow Your Own new teacher initiative involving nonlicensed educational professionals, including paraprofessionals and cultural liaisons.

(d) An intermediate school district under this subdivision must demonstrate in a form and manner determined by the commissioner that it uses the aid it receives under this section for activities identified in the alternative teacher professional pay system agreement.

Sec. 23. Minnesota Statutes 2016, section 122A.415, subdivision 4, is amended to read:

Subd. 4. **Basic alternative teacher compensation aid.** (a) The basic alternative teacher compensation aid for a school with a plan approved under section 122A.414, subdivision 2b, equals 65 percent of the alternative teacher compensation revenue under subdivision 1. The basic alternative teacher compensation aid for a charter school with a plan approved under section 122A.414, subdivisions 2a and 2b, equals \$260 times the number of pupils enrolled in the school on October 1 of the previous year, or on October 1 of the current year for a charter school in the first year of operation, times the ratio of the sum of the alternative teacher compensation aid and alternative teacher compensation levy for all participating school districts to the maximum alternative teacher compensation revenue for those districts under subdivision 1.

(b) Notwithstanding paragraph (a) and subdivision 1, the state total basic alternative teacher compensation aid entitlement must not exceed \$75,840,000 for fiscal year 2016 and \$88,118,000 for fiscal year 2017 and later. The commissioner must limit the amount of alternative teacher compensation aid approved under this section so as not to exceed these limits by not approving new participants or by prorating the aid among participating districts, intermediate school districts, school sites, and charter schools. The commissioner may also reallocate a portion of the allowable aid for the biennium from the second year to the first year to meet the needs of approved participants.

(c) Basic alternative teacher compensation aid for an intermediate district or other cooperative unit equals \$3,000 times the number of licensed teachers employed by the intermediate district or cooperative unit on October 1 of the previous school year.

Sec. 24. [122A.417] ALTERNATIVE TEACHER COMPENSATION REVENUE FOR ST. CROIX RIVER EDUCATION DISTRICT.

Notwithstanding section 122A.415, subdivision 4, paragraph (c), the St. Croix River Education District, No. 6009-61, is eligible to receive alternative teacher compensation revenue based on its staffing as of October 1 of the previous fiscal year as reported to the department in a manner determined by the commissioner. To qualify for alternative teacher compensation revenue, the St. Croix River Education District must meet all the requirements of sections 122A.414 and 122A.415 that apply to cooperative units, must report its staffing as of October 1 of each year to the department in a manner determined by the commissioner, and must annually report to the department by November 30 its expenditures for the alternative teacher professional pay system consistent with the uniform financial accounting and reporting standards.

Sec. 25. Minnesota Statutes 2016, section 124D.03, subdivision 5a, is amended to read:

Subd. 5a. **Lotteries.** If a school district has more applications than available seats at a specific grade level, it must hold an impartial lottery following the January 15 deadline to determine which students will receive seats. The district must give priority to enrolling siblings of currently enrolled students, students whose applications are related to an approved integration and achievement plan, and children of the school district's staff must receive priority in the lottery, and students residing in that part of a municipality, defined under section 469.1812, subdivision 3, where:

(1) the student's resident district does not operate a school building;

(2) the municipality is located partially or fully within the boundaries of at least five school districts;

(3) the nonresident district in which the student seeks to enroll operates one or more school buildings within the municipality; and

(4) no other nonresident, independent, special, or common school district operates a school building within the municipality.

The process for the school district lottery must be established in school district policy, approved by the school board, and posted on the school district's Web site.

EFFECTIVE DATE. This section is effective for lotteries conducted beginning July 1, 2017.

Sec. 26. Minnesota Statutes 2016, section 124D.09, subdivision 3, is amended to read:

Subd. 3. **Definitions.** For purposes of this section, the following terms have the meanings given to them.

(a) "Eligible institution" means a Minnesota public postsecondary institution, a private, nonprofit two-year trade and technical school granting associate degrees, an opportunities industrialization center accredited by the North Central Association of Colleges and Schools, or a private, residential, two-year or four-year, liberal arts, degree-granting college or university located in Minnesota.

(b) "Course" means a course or program.

(c) "Concurrent enrollment" means nonsectarian courses in which an eligible pupil under subdivision 5 or 5b enrolls to earn both secondary and postsecondary credits, are taught by a secondary teacher or a postsecondary faculty member, and are offered at a high school for which the district is eligible to receive concurrent enrollment program aid under section 124D.091.

Sec. 27. Minnesota Statutes 2016, section 124D.09, subdivision 5, is amended to read:

Subd. 5. **Authorization; notification.** Notwithstanding any other law to the contrary, an 11th or 12th grade pupil enrolled in a school or an American Indian-controlled tribal contract or grant school eligible for aid under section 124D.83, except a foreign exchange pupil enrolled in a district under a cultural exchange program, may apply to an eligible institution, as defined in subdivision 3, to enroll in nonsectarian courses offered by that postsecondary institution. ~~Notwithstanding any other law to the contrary, a 9th or 10th grade pupil enrolled in a district or an American Indian-controlled tribal contract or grant school eligible for aid under section 124D.83, except a foreign exchange pupil enrolled in a district under a cultural exchange program, may apply to enroll in nonsectarian courses offered under subdivision 10, if (1) the school district and the eligible postsecondary institution providing the course agree to the student's enrollment or (2) the course is a world language course currently available to 11th and 12th grade students, and consistent with section 120B.022 governing world language standards, certificates, and seals.~~ If an institution accepts a secondary pupil for enrollment under this section, the institution shall send written notice to the pupil, the pupil's school or school district, and the commissioner ~~within ten days of acceptance.~~ The notice must indicate the course and hours of enrollment of that pupil. If the pupil enrolls in a course for postsecondary credit, the institution must notify the pupil about payment in the customary manner used by the institution.

Sec. 28. Minnesota Statutes 2016, section 124D.09, is amended by adding a subdivision to read:

Subd. 5b. **Authorization; 9th or 10th grade pupil.** Notwithstanding any other law to the contrary, a 9th or 10th grade pupil enrolled in a district or an American Indian-controlled tribal contract or grant school eligible for aid under section 124D.83, except a foreign exchange pupil enrolled in a district under a cultural exchange program, may apply to enroll in nonsectarian courses offered under subdivision 10, if:

(1) the school district and the eligible postsecondary institution providing the course agree to the student's enrollment; or

(2) the course is a world language course currently available to 11th and 12th grade students, and consistent with section 120B.022 governing world language standards, certificates, and seals.

Sec. 29. Minnesota Statutes 2016, section 124D.09, subdivision 10, is amended to read:

Subd. 10. Courses according to agreements. (a) An eligible pupil, according to subdivision 5, may enroll in a nonsectarian course taught by a secondary teacher or a postsecondary faculty member and offered at a secondary school, or another location, according to an agreement between a public school board and the governing body of an eligible public postsecondary system or an eligible private postsecondary institution, as defined in subdivision 3. All provisions of this section shall apply to a pupil, public school board, district, and the governing body of a postsecondary institution, except as otherwise provided.

(b) To encourage students, especially American Indian students and students of color, to consider teaching as a profession, participating schools, school districts, and postsecondary institutions are encouraged to develop and offer an "Introduction to Teaching" or "Introduction to Education" course under this subdivision. An institution that receives a grant to develop a course under this paragraph must annually report to the commissioner in a form and manner determined by the commissioner on the participation rates of students in courses under this paragraph, including the number of students who apply for admission to colleges or universities with teacher preparation programs.

Sec. 30. Minnesota Statutes 2016, section 124D.09, is amended by adding a subdivision to read:

Subd. 11a. Access to building and technology. (a) A school district must allow a student enrolled in a course under this section to remain at the school site during regular school hours.

(b) A school district must adopt a policy that provides a student enrolled in a course under this section with reasonable access during regular school hours to a computer and other technology resources that the student needs to complete coursework for a postsecondary enrollment course.

Sec. 31. Minnesota Statutes 2016, section 124D.09, subdivision 12, is amended to read:

Subd. 12. Credits; grade point average weighting policy. (a) A pupil must not audit a course under this section.

(b) A district shall grant academic credit to a pupil enrolled in a course for secondary credit if the pupil successfully completes the course. Seven quarter or four semester college credits equal at least one full year of high school credit. Fewer college credits may be prorated. A district must also grant academic credit to a pupil enrolled in a course for postsecondary credit if secondary credit is requested by a pupil. If no comparable course is offered by the district, the district must, as soon as

possible, notify the commissioner, who shall determine the number of credits that shall be granted to a pupil who successfully completes a course. If a comparable course is offered by the district, the school board shall grant a comparable number of credits to the pupil. If there is a dispute between the district and the pupil regarding the number of credits granted for a particular course, the pupil may appeal the board's decision to the commissioner. The commissioner's decision regarding the number of credits shall be final.

(c) A school board must adopt a policy regarding weighted grade point averages for any high school or dual enrollment course. The policy must state whether the district offers weighted grades. A school board must annually publish on its Web site a list of courses for which a student may earn a weighted grade.

(d) The secondary credits granted to a pupil must be counted toward the graduation requirements and subject area requirements of the district. Evidence of successful completion of each course and secondary credits granted must be included in the pupil's secondary school record. A pupil shall provide the school with a copy of the pupil's grade in each course taken for secondary credit under this section. Upon the request of a pupil, the pupil's secondary school record must also include evidence of successful completion and credits granted for a course taken for postsecondary credit. In either case, the record must indicate that the credits were earned at a postsecondary institution.

(e) If a pupil enrolls in a postsecondary institution after leaving secondary school, the postsecondary institution must award postsecondary credit for any course successfully completed for secondary credit at that institution. Other postsecondary institutions may award, after a pupil leaves secondary school, postsecondary credit for any courses successfully completed under this section. An institution may not charge a pupil for the award of credit.

(f) The Board of Trustees of the Minnesota State Colleges and Universities and the Board of Regents of the University of Minnesota must, and private nonprofit and proprietary postsecondary institutions should, award postsecondary credit for any successfully completed courses in a program certified by the National Alliance of Concurrent Enrollment Partnerships offered according to an agreement under subdivision 10. Consistent with section 135A.101, subdivision 3, all MnSCU institutions must give full credit to a secondary pupil who completes for postsecondary credit a postsecondary course or program that is part or all of a goal area or a transfer curriculum at a MnSCU institution when the pupil enrolls in a MnSCU institution after leaving secondary school. Once one MnSCU institution certifies as completed a secondary student's postsecondary course or program that is part or all of a goal area or a transfer curriculum, every MnSCU institution must consider the student's course or program for that goal area or the transfer curriculum as completed.

Sec. 32. Minnesota Statutes 2016, section 124D.09, subdivision 13, is amended to read:

Subd. 13. **Financial arrangements.** For a pupil enrolled in a course under this section, the department must make payments according to this subdivision for courses that were taken for secondary credit.

The department must not make payments to a school district or postsecondary institution for a course taken for postsecondary credit only. The department must not make payments to a postsecondary institution for a course from which a student officially withdraws during the first 14 days of the quarter or semester or who has been absent from the postsecondary institution for the

first 15 consecutive school days of the quarter or semester and is not receiving instruction in the home or hospital.

A postsecondary institution shall receive the following:

(1) for an institution granting quarter credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the formula allowance minus \$425, multiplied by 1.2, and divided by 45; or

(2) for an institution granting semester credit, the reimbursement per credit hour shall be an amount equal to 88 percent of the product of the general revenue formula allowance minus \$425, multiplied by 1.2, and divided by 30.

The department must pay to each postsecondary institution 100 percent of the amount in clause (1) or (2) within ~~30~~ 45 days of receiving initial enrollment information each quarter or semester. If changes in enrollment occur during a quarter or semester, the change shall be reported by the postsecondary institution at the time the enrollment information for the succeeding quarter or semester is submitted. At any time the department notifies a postsecondary institution that an overpayment has been made, the institution shall promptly remit the amount due.

Sec. 33. [124D.4535] INNOVATIVE DELIVERY OF CAREER AND TECHNICAL EDUCATION PROGRAMS; SHARING OF DISTRICT RESOURCES.

Subdivision 1. Establishment; requirements for participation. (a) A program is established to improve student, career and college readiness, and school outcomes by allowing groups of school districts to work together in partnership with local and regional postsecondary institutions and programs, community institutions, and other private, public, for-profit, and nonprofit workplace partners, to:

(1) provide innovative education programs and activities that integrate core academic and career and technical subjects in students' programs of study through coordinated secondary and postsecondary career and technical programs leading to an industry certification or other credential;

(2) provide embedded professional development for program participants;

(3) use performance assessments in authentic settings to measure students' technical skills and progress toward attaining an industry certification or other credential; and

(4) efficiently share district, institution, and workplace resources.

(b) To participate in this program to improve student, career and college readiness, and school outcomes, a group of two or more school districts must collaborate with school staff and project partners and receive formal school board approval to form a partnership. The partnership must develop a plan to provide challenging programmatic options for students under paragraph (a); create professional development opportunities for educators and other program participants; increase student engagement and connection and challenging learning opportunities for diverse populations of students that are focused on employability skills and technical, job-specific skills related to a specific career pathway; or demonstrate efficiencies in delivering financial and other services needed to realize plan goals and objectives. The plan must include:

(1) collaborative education goals and objectives;

(2) strategies and processes to implement those goals and objectives, including a budget process with periodic expenditure reviews;

(3) valid and reliable measures including performance assessments in authentic settings and progress toward attaining an industry certification or other credential, among other measures, to evaluate progress in realizing plan goals and objectives;

(4) an implementation timeline; and

(5) other applicable conditions, regulations, responsibilities, duties, provisions, fee schedules, and legal considerations needed to fully implement the plan.

A partnership may invite additional districts or other participants under paragraph (a) to join the partnership after notifying the commissioner.

(c) A partnership of interested districts must submit an application to the commissioner of education in the form and manner the commissioner determines, consistent with the requirements of this section. The application must contain the formal approval adopted by the school board in each district to participate in the plan.

(d) Notwithstanding any other law to the contrary, a participating school district under this section continues to: receive revenue and maintain its taxation authority; be organized and governed by an elected school board with general powers under section 123B.02; and be subject to employment agreements under chapter 122A and section 179A.20; and district employees continue to remain employees of the employing school district.

(e) Participating districts must submit a biennial report by February 1 in each odd-numbered year to the education committees of the legislature and the commissioner of education that includes performance assessment, high school graduation, and career and technical certification data to show the success of the partnership in preparing diverse populations of students for careers and jobs.

Subd. 2. **Commissioner's role.** The commissioner of education must convene an advisory panel to advise the commissioner on applicants' qualifications to participate in this program. The commissioner must ensure an equitable geographical distribution of program participants to the extent practicable. The commissioner must select only those applicants that fully comply with subdivision 1. The commissioner may terminate a program participant that fails to effectively implement the goals and objectives contained in its application and according to its stated timeline.

EFFECTIVE DATE. (a) This section is effective the day following final enactment and applies to those applications submitted after that date.

(b) Districts already approved for an innovation zone pilot project under Laws 2012, chapter 263, section 1, as amended by Laws 2014, chapter 312, article 15, section 24, may continue to operate.

Sec. 34. Minnesota Statutes 2016, section 124D.68, subdivision 2, is amended to read:

Subd. 2. **Eligible pupils.** (a) A pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), is eligible to participate in the graduation incentives program, if the pupil:

(1) performs substantially below the performance level for pupils of the same age in a locally determined achievement test;

(2) is behind in satisfactorily completing coursework or obtaining credits for graduation;

(3) is pregnant or is a parent;

(4) has been assessed as chemically dependent;

(5) has been excluded or expelled according to sections 121A.40 to 121A.56;

(6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 124D.69;

(7) is a victim of physical or sexual abuse;

(8) has experienced mental health problems;

(9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;

(10) speaks English as a second language or is an English learner; or

(11) has withdrawn from school or has been chronically truant; or

(12) is being treated in a hospital in the seven-county metropolitan area for cancer or other life threatening illness or is the sibling of an eligible pupil who is being currently treated, and resides with the pupil's family at least 60 miles beyond the outside boundary of the seven-county metropolitan area.

(b) For ~~the 2016-2017 school year~~ fiscal years 2017 and 2018 only, a pupil otherwise qualifying under paragraph (a) who is at least 21 years of age and not yet 22 years of age, is an English learner with an interrupted formal education according to section 124D.59, subdivision 2a, and was in an early middle college program during the previous school year is eligible to participate in the graduation incentives program under section 124D.68 and in concurrent enrollment courses offered under section 124D.09, subdivision 10, and is funded in the same manner as other pupils under this section.

Sec. 35. Minnesota Statutes 2016, section 124D.695, is amended to read:

124D.695 APPROVED RECOVERY PROGRAM FUNDING.

Subdivision 1. **Approved recovery program.** "Approved recovery program" means a course of instruction offered by a recovery school that provides academic services, assistance with recovery, and continuing care to students recovering from substance abuse or dependency. A recovery program may be offered in a transitional academic setting designed to meet graduation requirements. A

recovery program must be approved by the commissioner of education. The commissioner may specify the manner and form of the application for the approval of a recovery school or recovery program. The commissioner must also approve any unreimbursed pupil transportation costs incurred by students participating in an approved recovery program.

Subd. 2. **Eligibility.** (a) An approved recovery program is eligible for an annual recovery program grant of up to \$125,000 to pay for a portion of the costs ~~of~~ under this section for recovery program support staff ~~under this section~~ and approved pupil transportation expenses.

(b) "Recovery program support staff" means licensed alcohol and chemical dependency counselors, licensed school counselors, licensed school psychologists, licensed school nurses, and licensed school social workers.

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

Sec. 36. Minnesota Statutes 2016, section 124E.03, subdivision 2, is amended to read:

Subd. 2. **Certain federal, state, and local requirements.** (a) A charter school shall meet all federal, state, and local health and safety requirements applicable to school districts.

(b) A school must comply with statewide accountability requirements governing standards and assessments in chapter 120B.

(c) A charter school must comply with the Minnesota Public School Fee Law, sections 123B.34 to 123B.39.

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

(e) A charter school must comply with the Pledge of Allegiance requirement under section 121A.11, subdivision 3.

(f) A charter school and charter school board of directors must comply with chapter 181 governing requirements for employment.

(g) A charter school must comply with continuing truant notification under section 260A.03.

(h) A charter school must develop and implement a teacher evaluation and peer review process under section 122A.40, subdivision 8, paragraph (b), clauses (2) to (13), and place students in classrooms in accordance with section 122A.40, subdivision 8, paragraph (d). The teacher evaluation process in this paragraph does not create any additional employment rights for teachers.

(i) A charter school must adopt a policy, plan, budget, and process, consistent with section 120B.11, to review curriculum, instruction, and student achievement and strive for the world's best workforce.

(j) A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56.

Sec. 37. Minnesota Statutes 2016, section 124E.05, subdivision 7, is amended to read:

Subd. 7. **Withdrawal.** If the governing board of an approved authorizer votes to withdraw as an approved authorizer for a reason unrelated to any cause under section 124E.10, subdivision 4, the authorizer must notify all its chartered schools and the commissioner in writing by March 1 of its intent to withdraw as an authorizer on June 30 in the next calendar year, regardless of when the authorizer's five-year term of approval ends. Upon notification of the schools and commissioner, the authorizer must provide a letter to the school for distribution to families of students enrolled in the school that explains the decision to withdraw as an authorizer. The commissioner may approve the transfer of a charter school to a new authorizer under section 124E.10, subdivision 5.

Sec. 38. Minnesota Statutes 2016, section 124E.11, is amended to read:

124E.11 ADMISSION REQUIREMENTS AND ENROLLMENT.

(a) A charter school, including its free preschool or prekindergarten program established under section 124E.06, subdivision 3, paragraph (b), may limit admission to:

(1) pupils within an age group or grade level;

(2) pupils who are eligible to participate in the graduation incentives program under section 124D.68; or

(3) residents of a specific geographic area in which the school is located when the majority of students served by the school are members of underserved populations.

(b) A charter school, including its free preschool or prekindergarten program established under section 124E.06, subdivision 3, paragraph (b), shall enroll an eligible pupil who submits a timely application, unless the number of applications exceeds the capacity of a program, class, grade level, or building. In this case, pupils must be accepted by lot. The charter school must develop and publish, including on its Web site, a lottery policy and process that it must use when accepting pupils by lot.

(c) A charter school shall give enrollment preference to a sibling of an enrolled pupil and to a foster child of that pupil's parents and may give preference for enrolling children of the school's staff before accepting other pupils by lot. A charter school that is located in Duluth township in St. Louis County and admits students in kindergarten through grade 6 must give enrollment preference to students residing within a five-mile radius of the school and to the siblings of enrolled children. A charter school may give enrollment preference to children currently enrolled in the school's free preschool or prekindergarten program under section 124E.06, subdivision 3, paragraph (a), who are eligible to enroll in kindergarten in the next school year.

(d) A person shall not be admitted to a charter school (1) as a kindergarten pupil, unless the pupil is at least five years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences; or (2) as a first grade student, unless the pupil is at least six years of age on September 1 of the calendar year in which the school year for which the pupil seeks admission commences or has completed kindergarten; except that a charter school may establish and publish on its Web site a policy for admission of selected pupils at an earlier age, consistent with the enrollment process in paragraphs (b) and (c).

(e) Except as permitted in paragraph (d), a charter school, including its free preschool or prekindergarten program established under section 124E.06, subdivision 3, paragraph (b), may not

limit admission to pupils on the basis of intellectual ability, measures of achievement or aptitude, or athletic ability and may not establish any criteria or requirements for admission that are inconsistent with this section.

(f) The charter school shall not distribute any services or goods of value to students, parents, or guardians as an inducement, term, or condition of enrolling a student in a charter school.

(g) Once a student is enrolled in the school, the student is considered enrolled in the school until the student formally withdraws or is expelled under the Pupil Fair Dismissal Act in sections 121A.40 to 121A.56. ~~A charter school is subject to and must comply with the Pupil Fair Dismissal Act, sections 121A.40 to 121A.56.~~

(h) A charter school with at least 90 percent of enrolled students who are eligible for special education services and have a primary disability of deaf or hard-of-hearing may enroll prekindergarten pupils with a disability under section 126C.05, subdivision 1, paragraph (a), and must comply with the federal Individuals with Disabilities Education Act under Code of Federal Regulations, title 34, section 300.324, subsection (2), clause (iv).

Sec. 39. Minnesota Statutes 2016, section 124E.22, is amended to read:

124E.22 BUILDING LEASE AID.

(a) When a charter school finds it economically advantageous to rent or lease a building or land for any instructional purpose and it determines that the total operating capital revenue under section 126C.10, subdivision 13, is insufficient for this purpose, it may apply to the commissioner for building lease aid. The commissioner must review and either approve or deny a lease aid application using the following criteria:

(1) the reasonableness of the price based on current market values;

(2) the extent to which the lease conforms to applicable state laws and rules; and

(3) the appropriateness of the proposed lease in the context of the space needs and financial circumstances of the charter school. The commissioner must approve aid only for a facility lease that has (i) a sum certain annual cost and (ii) a closure clause to relieve the charter school of its lease obligations at the time the charter contract is terminated or not renewed. The closure clause under item (ii) must not be constructed or construed to relieve the charter school of its lease obligations in effect before the charter contract is terminated or not renewed.

(b) A charter school must not use the building lease aid it receives for custodial, maintenance service, utility, or other operating costs.

(c) The amount of annual building lease aid for a charter school shall not exceed the lesser of (1) 90 percent of the approved cost or (2) the product of the charter school building lease aid pupil units served for the current school year times \$1,314.

(d) A charter school's building lease aid pupil units equals the sum of the charter school pupil units under section 126C.05 and the pupil units for the portion of the day that the charter school's

enrolled students are participating in the Postsecondary Enrollment Options Act under section 124D.09 and not otherwise included in the pupil count under section 126C.05.

EFFECTIVE DATE. This section is effective for fiscal year 2018 and later.

Sec. 40. Minnesota Statutes 2016, section 125A.56, subdivision 1, is amended to read:

Subdivision 1. **Requirement.** (a) Before a pupil is referred for a special education evaluation, the district must conduct and document at least two instructional strategies, alternatives, or interventions using a system of scientific, research-based instruction and intervention in academics or behavior, based on the pupil's needs, while the pupil is in the regular classroom. The pupil's teacher must document the results. A special education evaluation team may waive this requirement when it determines the pupil's need for the evaluation is urgent. This section may not be used to deny a pupil's right to a special education evaluation.

(b) A school district shall use alternative intervention services, including the assurance of mastery program under section 124D.66, or an early intervening services program under subdivision 2 to serve at-risk pupils who demonstrate a need for alternative instructional strategies or interventions.

(c) A student identified as being unable to read at grade level under section 120B.12, subdivision 2, paragraph (a), must be provided with alternate instruction under this subdivision that is multisensory, systematic, sequential, cumulative, and explicit.

Sec. 41. **[136A.1276] ALTERNATIVE TEACHER PREPARATION GRANT PROGRAM.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Alternative teacher preparation program" means an alternative teacher preparation program under section 122A.245, subdivision 2, or an experimental teacher preparation program under section 122A.09, subdivision 10.

(c) "Commissioner" means the commissioner of the Office of Higher Education.

(d) "Program" means a teacher preparation curriculum leading to specific licensure areas.

(e) "Shortage area" means:

(1) licensure fields and economic development regions reported by the commissioner of education as experiencing a teacher shortage; and

(2) economic development regions where there is a shortage of licensed teachers who reflect the racial or ethnic diversity of students in the region.

(f) "Unit" means an institution or defined subdivision of the institution that has primary responsibility for overseeing and delivering teacher preparation programs.

Subd. 2. **Establishment; eligibility.** (a) The commissioner, in consultation with the Board of Teaching, must establish and administer a program annually awarding grants to eligible alternative teacher preparation programs consistent with this section.

(b) To be eligible to receive a grant, an alternative teacher preparation program must certify that it:

(1) is working to fill Minnesota's teacher shortage areas; and

(2) is a school district, charter school, or nonprofit corporation organized under chapter 317A or under section 501(c)(3) of the Internal Revenue Code of 1986 for an education-related purpose that has been operating continuously for at least three years in Minnesota or any other state.

(c) The commissioner must give priority to applicants based in Minnesota when awarding grants under this section.

Subd. 3. **Use of grants.** (a) An alternative teacher preparation program receiving a grant under this section must use the grant to:

(1) establish initial unit approval to become an alternative teacher preparation program;

(2) expand alternative teacher preparation programs by expanding program approval to other licensure areas identified as shortage areas by the commissioner of education;

(3) recruit, select, and train teachers who reflect the racial or ethnic diversity of students in Minnesota; or

(4) establish professional development programs for teachers who have obtained teaching licenses through alternative teacher preparation programs.

An alternative teacher preparation program may expend grant funds on regional management and operations, development, and central support services, including financial support and support for technology and human services.

(b) An alternative teacher preparation program may use grant funds awarded under this section as a match for nonstate funds, subject to paragraph (a).

(c) Appropriations made to this program do not cancel and are available until expended.

Subd. 4. **Report.** An alternative teacher preparation program receiving a grant under this section must submit a report to the commissioner and the Board of Teaching on the grantee's ability to fill teacher shortage areas and positively impact student achievement where data are available and do not identify individual teachers. A grant recipient must submit the report required under this subdivision by January 31, 2018, and each even-numbered year thereafter. The report must include disaggregated data regarding:

(1) the racial and ethnic diversity of teachers and teacher candidates licensed through the program; and

(2) program participant placement.

EFFECTIVE DATE. This section is effective for revenue in fiscal year 2018 and later.

Sec. 42. Minnesota Statutes 2016, section 136A.1791, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The terms used in this section have the meanings given them in this subdivision.

(b) "Qualified educational loan" means a government, commercial, or foundation loan for actual costs paid for tuition and reasonable educational and living expenses related to a teacher's preparation or further education.

(c) "School district" means an independent school district, special school district, intermediate district, education district, special education cooperative, service cooperative, a cooperative center for vocational education, or a charter school located in Minnesota.

(d) "Teacher" means an individual holding a teaching license issued by the licensing division in the Department of Education on behalf of the Board of Teaching who is employed by a school district to provide classroom instruction ~~in a teacher shortage area~~.

(e) "Teacher shortage area" means:

(1) the licensure fields and economic development regions reported by the commissioner of education as experiencing a teacher shortage; and

(2) economic development regions where there is a shortage of licensed teachers who reflect the racial or ethnic diversity of students in the region as reported by the commissioner of education.

(f) "Commissioner" means the commissioner of the Office of Higher Education unless indicated otherwise.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 43. Minnesota Statutes 2016, section 136A.1791, subdivision 2, is amended to read:

Subd. 2. **Program established; administration.** The commissioner shall establish and administer a teacher shortage loan forgiveness program. A teacher is eligible for the program if the teacher is teaching in ~~a licensure field and in an economic development region with~~ an identified teacher shortage area under subdivision 3 and complies with the requirements of this section.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 44. Minnesota Statutes 2016, section 136A.1791, subdivision 9, is amended to read:

Subd. 9. **Annual reporting.** By February 1 of each year, the commissioner must report to the chairs of the ~~K-12 kindergarten through grade 12~~ and higher education committees of the legislature on the number of individuals who received loan forgiveness under this section, the race or ethnicity of the teachers participating in the program, the licensure areas and economic development regions in which the teachers taught, the average amount paid to a teacher participating in the program, and other summary data identified by the commissioner as outcome indicators.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 45. Laws 2016, chapter 189, article 25, section 58, is amended to read:

Sec. 58. ~~NORTHWEST REGIONAL PARTNERSHIP~~ STATEWIDE CONCURRENT ENROLLMENT TEACHER TRAINING PROGRAM.

Subdivision 1. **Definition.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "Northwest Regional Partnership" means a voluntary association of the Lakes Country Service Cooperative, the Northwest Service Cooperative, and Minnesota State University-Moorhead that works together to provide coordinated higher learning opportunities for teachers.

(c) "State Partnership" means a voluntary association of the Northwest Regional Partnership and the Metropolitan Educational Cooperative Service Unit.

(d) "Eligible postsecondary institution" means a public or private postsecondary institution that awards graduate credits.

(e) "Eligible teacher" means a licensed teacher of secondary school courses for postsecondary credit.

Subd. 2. **Establishment.** (a) Lakes Country Service Cooperative, in consultation with the Northwest Service Cooperative, may develop a continuing education program to allow eligible teachers to attain the requisite graduate credits necessary to be qualified to teach secondary school courses for postsecondary credit.

(b) If established, the State Partnership must contract with one or more eligible postsecondary institutions to establish a continuing education credit program to allow eligible teachers to attain sufficient graduate credits to qualify to teach secondary school courses for postsecondary credit. Members of the State Partnership must work to eliminate duplication of service and develop the continuing education credit program efficiently and cost-effectively.

Subd. 3. **Curriculum development.** ~~Minnesota State University-Moorhead may develop~~ The continuing education program must use flexible delivery models, such as an online education curriculum to, that allow eligible secondary school teachers to attain graduate credit at a reduced credit rate. Information about the curriculum, including course length and course requirements, must be posted on the Web site of the eligible institution offering the course at least two weeks before eligible teachers are required to register for courses in the continuing education program.

Subd. 4. **Funding for course development; scholarships; stipends.** (a) Lakes Country Service Cooperative, in consultation with the other members of the Northwest Regional Partnership, shall:

(1) provide funding for course development for up to 18 credits in applicable postsecondary subject areas;

(2) provide scholarships for eligible teachers to enroll in the continuing education program; and

(3) develop criteria for awarding educator stipends on a per-credit basis to incentivize participation in the continuing education program.

(b) If established, the State Partnership must:

(1) provide funding for course development for up to 18 credits in applicable postsecondary subject areas;

(2) provide scholarships for eligible teachers to enroll in the continuing education program; and

(3) develop criteria for awarding educator stipends on a per-credit basis to incentivize participation in the continuing education program.

~~Subd. 5. **Participant eligibility.** Participation in the continuing education program is reserved for teachers of secondary school courses for postsecondary credit. Priority must be given to teachers employed by a school district that is a member of the Lakes Country Service Cooperative or Northwest Service Cooperative. Teachers employed by a school district that is not a member of the Lakes Country Service Cooperative or Northwest Service Cooperative may participate in the continuing education program as space allows. A teacher participating in this program is ineligible to participate in other concurrent enrollment teacher training grant programs.~~

Subd. 6. **Private funding.** The ~~partnership~~ partnerships may receive private resources to supplement the available public money. All money received in fiscal year 2017 shall be administered by the Lakes Country Service Cooperative. All money received in fiscal year 2018 and later shall be administered by the State Partnership.

Subd. 7. **Report required.** (a) ~~The~~ Northwest Regional Partnership must submit ~~an annual~~ a report by January 15 ~~of each year, 2018,~~ on the progress of its activities to the legislature, commissioner of education, and Board of Trustees of the Minnesota State Colleges and Universities. The ~~annual~~ report shall contain a financial report for the preceding year. ~~The first report is due no later than January 15, 2018.~~

(b) If established, the State Partnership must submit an annual joint report to the legislature and the Office of Higher Education by January 15 of each year on the progress of its activities. The report must include the number of teachers participating in the program, the geographic location of the teachers, the number of credits earned, and the subject areas of the courses in which participants earned credit. The report must include a financial report for the preceding year.

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

Sec. 46. Laws 2016, chapter 189, article 25, section 62, subdivision 7, is amended to read:

Subd. 7. **Education Innovation Partners Cooperative Center.** (a) For a matching grant to Education Innovation Partners Cooperative Center, No. 6091-50, to provide research-based professional development services, on-site training, and leadership coaching to teachers and other school staff:

	500,000		
\$	<u>90,000</u>	.....	2017
\$	<u>410,000</u>	.....	<u>2018</u>

(b) \$410,000 of the \$500,000 appropriation in Laws 2016, chapter 189, article 25, section 62, subdivision 7, is canceled to the state general fund on June 30, 2017.

(c) A grant under this subdivision must be matched with money or in-kind contributions from nonstate sources. This is a onetime appropriation. This appropriation is available until June 30, 2019.

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

Sec. 47. Laws 2016, chapter 189, article 25, section 62, subdivision 11, is amended to read:

Subd. 11. **Student teachers in shortage areas.** For transfer to the commissioner of the Office of Higher Education for the purpose of providing grants to student teachers in shortage areas under Minnesota Statutes, section 136A.1275:

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Of this amount, up to two percent is for administration of the student teacher grant program in expectation that the Office of Higher Education will begin to disburse grants no later than September 1, 2017. This is a onetime appropriation. This appropriation is available until June 30, 2019.

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

Sec. 48. **AGRICULTURAL EDUCATOR GRANTS.**

Subdivision 1. **Grant program established.** A grant program is established to support school districts in paying agricultural education teachers for work over the summer with high school students in extended programs.

Subd. 2. **Application.** The commissioner of education shall develop the form and method for applying for the grants. The commissioner shall develop criteria for determining the allocation of the grants, including appropriate goals for the use of the grants.

Subd. 3. **Grant awards.** Grant funding under this section must be matched by funding from the school district for the agricultural education teacher's summer employment. Grant funding for each teacher is limited to the one-half share of 40 working days.

Subd. 4. **Reports.** School districts that receive grant funds shall report to the commissioner of education no later than December 31 of each year regarding the number of teachers funded by the grant program and the outcomes compared to the goals established in the grant application. The Department of Education shall develop the criteria necessary for the reports.

Sec. 49. **INNOVATION RESEARCH ZONES PILOT PROGRAM.**

Subdivision 1. **Establishment; requirements for participation; research zone plans.** (a) The innovation research zone pilot program is established to improve student and school outcomes consistent with the world's best workforce requirements under Minnesota Statutes, section 120B.11. Innovation zone partnerships allow school districts and charter schools to research and implement innovative education programming models designed to better prepare students for the world of the 21st century.

(b) One or more school districts or charter schools may join together to form an innovation zone partnership. The partnership may include other nonschool partners, including postsecondary

institutions, other units of local government, nonprofit organizations, and for-profit organizations. An innovation zone plan must be collaboratively developed in concert with the school's instructional staff.

(c) An innovation research zone partnership must research and implement innovative education programs and models that are based on proposed hypotheses. An innovation zone plan may include an emerging practice not yet supported by peer-reviewed research. Examples of innovation zone research may include, but are not limited to:

(1) personalized learning, allowing students to excel at their own pace and according to their interests, aspirations, and unique needs;

(2) the use of competency outcomes rather than seat time and course completion to fulfill standards, credits, and other graduation requirements;

(3) multidisciplinary, real-world, inquiry-based, and student-directed models designed to make learning more engaging and relevant, including documenting and validating learning that takes place beyond the school day and school walls;

(4) models of instruction designed to close the achievement gap, including new models for age three to grade 3 models, English as a second language models, early identification and prevention of mental health issues, and others;

(5) new partnerships between secondary schools and postsecondary institutions, employers, or career training institutions enabling students to complete industry certifications, postsecondary education credits, and other credentials;

(6) new methods of collaborative leadership including the expansion of schools where teachers have larger professional roles;

(7) new ways to enhance parental and community involvement in learning;

(8) new models of professional development for educators, including embedded professional development; or

(9) new models in other areas such as whole child instruction, social-emotional skill development, technology-based or blended learning, parent and community involvement, professional development and mentoring, and models that increase the return on investment.

(d) An innovation zone plan submitted to the commissioner must describe:

(1) how the plan will improve student and school outcomes consistent with the world's best workforce requirements under Minnesota Statutes, section 120B.11;

(2) the role of each partner in the zone;

(3) the research methodology used for each proposed action in the plan;

(4) the exemptions from statutes and rules in subdivision 2 that the research zone partnership will use;

(5) a description of how teachers and other educational staff from the affected school sites will be included in the planning and implementation process;

(6) a detailed description of expected outcomes and graduation standards;

(7) a timeline for implementing the plan and assessing the outcomes; and

(8) how results of the plan will be disseminated.

The governing board for each partner must approve the innovation zone plan.

(e) Upon unanimous approval of the initial innovation zone partners and approval of the commissioner of education, the innovation zone partnership may extend membership to other partners. A new partner's membership is effective 30 days after the innovation zone partnership notifies the commissioner of the proposed change in membership unless the commissioner disapproves the new partner's membership.

(f) Notwithstanding any other law to the contrary, a school district or charter school participating in an innovation zone partnership under this section continues to receive all revenue and maintains its taxation authority in the same manner as before its participation in the innovation zone partnership. The innovation zone school district and charter school partners remain organized and governed by their respective school boards with general powers under Minnesota Statutes, chapter 123B or 124E, and remain subject to any employment agreements under Minnesota Statutes, chapters 122A and 179A. School district and charter school employees participating in an innovation zone partnership remain employees of their respective school district or charter school.

(g) An innovation zone partnership may submit its plan at any time to the commissioner in the form and manner specified by the commissioner. The commissioner must approve or reject the plan after reviewing the recommendation of the Innovation Research Zone Advisory Panel. An initial innovation zone plan that has been rejected by the commissioner may be resubmitted to the commissioner after the innovation zone partnership has modified the plan to meet each individually identified objection.

Subd. 2. Exemptions from laws and rules. (a) Notwithstanding any other law to the contrary, an innovation zone partner with an approved plan is exempt from each of the following state education laws and rules specifically identified in its plan:

(1) any law or rule from which a district-created, site-governed school under Minnesota Statutes, section 123B.045, is exempt;

(2) any statute or rule from which the commissioner has exempted another district or charter school, as identified in the list published on the Department of Education's Web site under subdivision 4, paragraph (b);

(3) online learning program approval under Minnesota Statutes, section 124D.095, subdivision 7, if the school district or charter school offers a course or program online combined with direct access to a teacher for a portion of that course or program;

(4) restrictions on extended time revenue under Minnesota Statutes, section 126C.10, subdivision 2a, for a student who meets the criteria of Minnesota Statutes, section 124D.68, subdivision 2; and

(5) any required hours of instruction in any class or subject area for a student who is meeting all competencies consistent with the graduation standards described in the innovation zone plan.

(b) The exemptions under this subdivision must not be construed as exempting an innovation zone partner from the Minnesota Comprehensive Assessments.

Subd. 3. **Innovation Research Zone Advisory Panel.** (a) The commissioner must establish and convene an Innovation Research Zone Advisory Panel to review all innovation zone plans submitted for approval.

(b) The panel must be composed of nine members. One member must be appointed by each of the following organizations: Educators for Excellence, Education Minnesota, Minnesota Association of Secondary School Principals, Minnesota Elementary School Principals' Association, Minnesota Association of School Administrators, Minnesota School Boards Association, Minnesota Association of Charter Schools, and the Office of Higher Education. The commissioner must appoint one member with expertise in evaluation and research.

Subd. 4. **Commissioner approval.** (a) Upon recommendation of the Innovation Research Zone Advisory Panel, the commissioner may approve up to three innovation zone plans in the seven-county metropolitan area and up to three in greater Minnesota. If an innovation zone partnership fails to implement its innovation zone plan as described in its application and according to the stated timeline, upon recommendation of the Innovation Research Zone Advisory Panel, the commissioner must alert the partnership members and provide the opportunity to remediate. If implementation continues to fail, the commissioner must suspend or terminate the innovation zone plan.

(b) The commissioner must publish a list of the exemptions the commissioner has granted to a district or charter school on the Department of Education's Web site by July 1, 2017. The list must be updated annually.

Subd. 5. **Project evaluation, dissemination, and report to legislature.** Each research zone partnership must submit project data to the commissioner in the form and manner provided for in the approved application. At least once every two years, the commissioner must analyze each innovation zone's progress in realizing the objectives of the innovation zone partnership's plan. The commissioner must summarize and categorize innovation zone plans and submit a report to the legislative committees having jurisdiction over education by February 1 of each odd-numbered year in accordance with Minnesota Statutes, section 3.195.

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

Sec. 50. **COMMISSIONER OF EDUCATION MUST SUBMIT ESSA PLAN TO LEGISLATURE.**

Subdivision 1. **ESSA plan.** The commissioner of education must submit the state plan developed pursuant to the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, United States Code, title 20, section 6311, to the education policy and finance

committees of the legislature at least 30 days before submitting the plan to the United States Department of Education.

Subd. 2. **Alignment with World's Best Workforce measures.** The state plan must be consistent and aligned, to the extent practicable, with the performance accountability measures required under Minnesota Statutes, section 120B.11, subdivision 1a, to create a single accountability system for all public schools.

Subd. 3. **Indicators.** (a) The school quality or student success accountability indicator required by ESSA must be an academic indicator.

(b) The state plan may use one of the following indicators for elementary and secondary schools:

(1) reading and math growth for students performing in the bottom quartile, as measured on the state accountability assessments, and using growth to proficiency standards;

(2) third grade reading proficiency as measured on the state accountability assessments;

(3) eighth grade mathematics proficiency as measured on the state accountability assessments;

or

(4) science proficiency as measured on the state accountability assessments.

(c) The state plan should use the tenth grade reading Minnesota Comprehensive Assessment and eleventh grade mathematics Minnesota Comprehensive Assessment to measure career and college readiness. To the extent practicable, the state plan should also use the following information to measure college and career readiness:

(1) student success or attainment on advanced placement or international baccalaureate examinations;

(2) credits under Minnesota Statutes, section 124D.09; or

(3) industry-recognized certifications.

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

Sec. 51. **EDUCATIONAL STABILITY FOR STUDENTS IN FOSTER CARE.**

Subdivision 1. **Establishment.** A pilot project is established to provide incentives for school districts and county governments to develop partnership agreements and implement transportation plans to help keep foster care students enrolled in their school of origin when a student is placed in a foster care setting outside the school of origin's boundaries.

Subd. 2. **Qualifying plans.** A school district must submit an application in the form and manner prescribed by the commissioner of education to participate in the program. To qualify for participation, one or more school districts and the local child welfare agency must have a written interagency agreement that describes the local plan for ensuring educational stability for foster care students. The parties to the agreement must seek title IV-E reimbursement for eligible students and eligible transportation costs. The plan must describe:

(1) how transportation services will be arranged and provided; and

(2) how local transportation costs will be paid for if pilot project funds are insufficient to cover all costs.

Subd. 3. **Pilot project; funding.** The commissioner must reimburse partnerships with qualifying plans under subdivision 2 at the end of the school year based on allowable expenditures and reimbursements and compliance with other reporting requirements. If the available appropriation is insufficient to fully fund all qualifying plans, the commissioner may prorate the available funds statewide among all school districts with qualifying plans.

Subd. 4. **Report.** By February 1, 2018, the commissioner of education shall report on the pilot project to the legislative committees with jurisdiction over early childhood through grade 12 education. The report must include, at a minimum, the number of local agreements entered into for this project along with the number of school districts and counties participating in the agreements, baseline data showing the number of foster care students who were able to remain in their school of origin and the changes in the ratio over the time of the pilot project, data on expenditures for school stability transportation and federal reimbursements received for the pilot project with a midyear projection of end-of-year costs and revenues, and projected costs for statewide implementation of the program.

Sec. 52. FEDERAL EVERY STUDENT SUCCEEDS ACT FUNDING FOR SCIENCE, TECHNOLOGY, ENGINEERING, AND MATH (STEM) ACTIVITIES.

School districts are encouraged to use the funding provided for activities to support the effective use of technology under Title IV, Part A, of the federal Every Student Succeeds Act for:

(1) mentor-led, hands-on STEM education and engagement with materials that support inquiry-based and active learning;

(2) student participation in STEM competitions, including robotics competitions; and

(3) mentor-led, classroom-based, after-school activities with informal STEM instruction and education.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 53. RURAL CAREER AND TECHNICAL EDUCATION CONSORTIUM GRANTS.

Subdivision 1. **Definition.** "Rural career and technical education (CTE) consortium" means a voluntary collaboration of a service cooperative and other regional public and private partners, including school districts and higher education institutions, that work together to provide career and technical education opportunities within the service cooperative's multicounty service area.

Subd. 2. **Establishment.** (a) A rural CTE consortium shall:

(1) focus on the development of courses and programs that encourage collaboration between two or more school districts;

(2) develop new career and technical programs that focus on the industry sectors that fuel the rural regional economy;

(3) facilitate the development of highly trained and knowledgeable students who are equipped with technical and workplace skills needed by regional employers;

(4) improve access to career and technical education programs for students who attend sparsely populated rural school districts by developing public and private partnerships with business and industry leaders and by increasing coordination of high school and postsecondary program options;

(5) increase family and student awareness of the availability and benefit of career and technical education courses and training opportunities; and

(6) provide capital start-up costs for items including but not limited to a mobile welding lab, medical equipment and lab, and industrial kitchen equipment.

(b) In addition to the requirements in paragraph (a), a rural CTE consortium may:

(1) address the teacher shortage crisis in career and technical education through incentive funding and training programs; and

(2) provide transportation reimbursement grants to provide equitable opportunities throughout the region for students to participate in career and technical education.

Subd. 3. **Rural career and technical education advisory committee.** In order to be eligible for a grant under this section, a service cooperative must establish a rural career and technical education advisory committee to advise the cooperative on the administration of the rural CTE consortium.

Subd. 4. **Private funding.** A rural CTE consortium may receive other sources of funds to supplement state funding. All funds received shall be administered by the service cooperative that is a member of the consortium.

Subd. 5. **Reporting requirements.** A rural CTE consortium must submit an annual report on the progress of its activities to the commissioner of education and the legislative committees with jurisdiction over secondary and postsecondary education. The annual report must contain a financial report for the preceding fiscal year. The first report is due no later than January 15, 2019.

Subd. 6. **Grant recipients.** For fiscal years 2018 and 2019, the commissioner shall award a two-year grant to the consortium that is a collaboration of the Southwest/West Central Service Cooperative (SWWC), Southwest Minnesota State University, Minnesota West Community and Technical College, Ridgewater College, and other regional public and private partners. For fiscal years 2020 and 2021, the commissioner shall award a two-year grant to an applicant consortium that includes the South Central Service Cooperative or Southeast Service Cooperative and a two-year grant to an applicant consortium that includes the Northwest Service Cooperative or Northeast Service Cooperative.

Sec. 54. **INTERMEDIATE SCHOOL DISTRICT MENTAL HEALTH INNOVATION GRANT PROGRAM; APPROPRIATION.**

(a) \$2,450,000 in fiscal year 2018 and \$2,450,000 in fiscal year 2019 are appropriated from the general fund to the commissioner of human services for a grant program to fund innovative projects to improve mental health outcomes for youth attending a qualifying school unit.

(b) A "qualifying school unit" means an intermediate district organized under Minnesota Statutes, section 136D.01, or a service cooperative organized under Minnesota Statutes, section 123A.21, subdivision 1, paragraph (a), clause (2), that provides instruction to students in a setting of federal instructional level four or higher. Grants under paragraph (a) must be awarded to eligible applicants such that the services are proportionately provided among qualifying school units. The commissioner shall calculate the share of the appropriation to be used in each qualifying school unit by dividing the qualifying school unit's average daily membership in a setting of federal instructional level 4 or higher for fiscal year 2016 by the total average daily membership in a setting of federal instructional level 4 or higher for the same year for all qualifying school units.

(c) An eligible applicant is an entity that has demonstrated capacity to serve the youth identified in paragraph (a) and that is:

(1) certified under Minnesota Rules, parts 9520.0750 to 9520.0870;

(2) a community mental health center under Minnesota Statutes, section 256B.0625, subdivision 5;

(3) an Indian health service facility or facility owned and operated by a tribe or tribal organization operating under United States Code, title 25, section 5321; or

(4) a provider of children's therapeutic services and supports as defined in Minnesota Statutes, section 256B.0943.

(d) An eligible applicant must employ or contract with at least two licensed mental health professionals as defined in Minnesota Statutes, section 245.4871, subdivision 27, clauses (1) to (6), who have formal training in evidence-based practices.

(e) A qualifying school unit must submit an application to the commissioner in the form and manner specified by the commissioner. The commissioner may approve an application that describes models for innovative projects to serve the needs of the schools and students. The commissioner may provide technical assistance to the qualifying school unit. The commissioner shall then solicit grant project proposals and award grant funding to the eligible applicants whose project proposals best meet the requirements of this section and most closely adhere to the models created by the intermediate districts and service cooperatives.

(f) To receive grant funding, an eligible applicant must obtain a letter of support for the applicant's grant project proposal from each qualifying school unit the eligible applicant is proposing to serve. An eligible applicant must also demonstrate the following:

(1) the ability to seek third-party reimbursement for services;

(2) the ability to report data and outcomes as required by the commissioner; and

(3) the existence of partnerships with counties, tribes, substance use disorder providers, and mental health service providers, including providers of mobile crisis services.

(g) Grantees shall obtain all available third-party reimbursement sources as a condition of receiving grant funds. For purposes of this grant program, a third-party reimbursement source does not include a public school as defined in Minnesota Statutes, section 120A.20, subdivision 1.

(h) The base budget for this program is \$0. This appropriation is available until June 30, 2020.

Sec. 55. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Achievement and integration aid.** For achievement and integration aid under Minnesota Statutes, section 124D.862:

\$	<u>71,114,000</u>	.....	<u>2018</u>
\$	<u>73,117,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$6,725,000 for 2017 and \$64,389,000 for 2018.

The 2019 appropriation includes \$7,154,000 for 2018 and \$65,963,000 for 2019.

Subd. 3. **Literacy incentive aid.** For literacy incentive aid under Minnesota Statutes, section 124D.98:

\$	<u>47,264,000</u>	.....	<u>2018</u>
\$	<u>47,763,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$4,597,000 for 2017 and \$42,667,000 for 2018.

The 2019 appropriation includes \$4,740,000 for 2018 and \$43,023,000 for 2019.

Subd. 4. **Interdistrict desegregation or integration transportation grants.** For interdistrict desegregation or integration transportation grants under Minnesota Statutes, section 124D.87:

\$	<u>13,337,000</u>	.....	<u>2018</u>
\$	<u>14,075,000</u>	.....	<u>2019</u>

Subd. 5. **Tribal contract schools.** For tribal contract school aid under Minnesota Statutes, section 124D.83:

\$	<u>1,983,000</u>	.....	<u>2018</u>
\$	<u>1,930,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$323,000 for 2017 and \$1,660,000 for 2018.

The 2019 appropriation includes \$184,000 for 2018 and \$1,746,000 for 2019.

Subd. 6. **American Indian education aid.** For American Indian education aid under Minnesota Statutes, section 124D.81, subdivision 2a:

\$	<u>9,244,000</u>	.....	<u>2018</u>
\$	<u>9,464,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$886,000 for 2017 and \$8,358,000 for 2018.

The 2019 appropriation includes \$928,000 for 2018 and \$8,536,000 for 2019.

Subd. 7. **Early childhood literacy programs.** (a) For early childhood literacy programs under Minnesota Statutes, section 119A.50, subdivision 3:

\$	<u>6,125,000</u>	.....	<u>2018</u>
\$	<u>6,125,000</u>	.....	<u>2019</u>

(b) Up to \$6,125,000 each year is for leveraging federal and private funding to support AmeriCorps members serving in the Minnesota reading corps program established by ServeMinnesota, including costs associated with training and teaching early literacy skills to children ages three to grade 3 and evaluating the impact of the program under Minnesota Statutes, sections 124D.38, subdivision 2, and 124D.42, subdivision 6.

(c) Any balance in the first year does not cancel but is available in the second year.

(d) The base for fiscal year 2020 is \$7,125,000.

Subd. 8. **Concurrent enrollment program.** For concurrent enrollment programs under Minnesota Statutes, section 124D.091:

\$	<u>4,000,000</u>	.....	<u>2018</u>
\$	<u>4,000,000</u>	.....	<u>2019</u>

If the appropriation is insufficient, the commissioner must proportionately reduce the aid payment to each district.

Any balance in the first year does not cancel but is available in the second year.

Subd. 9. **Expanded concurrent enrollment grants.** For grants to institutions offering "Introduction to Teaching" or "Introduction to Education" college in the schools courses under Minnesota Statutes, section 124D.09, subdivision 10, paragraph (b):

\$	<u>375,000</u>	.....	<u>2018</u>
\$	<u>375,000</u>	.....	<u>2019</u>

The department may retain up to five percent of the appropriation amount to monitor and administer the grant program.

Subd. 10. **ServeMinnesota program.** For funding ServeMinnesota programs under Minnesota Statutes, sections 124D.37 to 124D.45:

\$	<u>900,000</u>	<u>2018</u>
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\$ 900,000 2019

A grantee organization may provide health and child care coverage to the dependents of each participant enrolled in a full-time ServeMinnesota program to the extent such coverage is not otherwise available.

Subd. 11. **Student organizations.** For student organizations:

\$ 725,000 2018

\$ 725,000 2019

(a) \$46,000 each year is for student organizations serving health occupations (HOSA).

(b) \$100,000 each year is for student organizations serving trade and industry occupations (Skills USA, secondary and postsecondary).

(c) \$95,000 each year is for student organizations serving business occupations (BPA, secondary and postsecondary).

(d) \$193,000 each year is for student organizations serving agriculture occupations (FFA, PAS).

(e) \$142,000 in fiscal years 2018 and 2019 is for student organizations serving family and consumer science occupations (FCCLA). Notwithstanding Minnesota Rules, part 3505.1000, subparts 28 and 31, the student organizations serving FCCLA shall continue to serve students younger than grade 9. Beginning in fiscal year 2020, the amount is \$185,000.

(f) \$109,000 each year is for student organizations serving marketing occupations (DECA and DECA collegiate).

(g) \$40,000 each year is for the Minnesota Foundation for Student Organizations.

(h) Any balance in the first year does not cancel but is available in the second year.

(i) The base for fiscal year 2020 and later is \$768,000.

Subd. 12. **Museums and education centers.** For grants to museums and education centers:

\$ 460,000 2018

\$ 460,000 2019

(a) \$319,000 each year is for the Minnesota Children's Museum. Of the amount in this paragraph, \$50,000 in each year is for the Minnesota Children's Museum, Rochester.

(b) \$50,000 each year is for the Duluth Children's Museum.

(c) \$41,000 each year is for the Minnesota Academy of Science.

(d) \$50,000 each year is for the Headwaters Science Center.

Any balance in the first year does not cancel but is available in the second year.

Subd. 13. **Minnesota Center for the Book programming.** For grants to the entity designated by the Library of Congress as the Minnesota Center for the Book to provide statewide programming related to the Minnesota Book Awards and for additional programming throughout the state related to the Center for the Book designation:

<u>\$</u>	<u>50,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>50,000</u>	<u>.....</u>	<u>2019</u>

The base for fiscal year 2020 is \$0.

Subd. 14. **Singing-based pilot program to improve student reading.** (a) For a grant to pilot a research-supported, computer-based educational program that uses singing to improve the reading ability of students in grades 2 through 5:

<u>\$</u>	<u>500,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>0</u>	<u>.....</u>	<u>2019</u>

(b) The commissioner of education shall award a grant to the Rock 'n' Read Project to implement a research-supported, computer-based educational program that uses singing to improve the reading ability of students in grades 2 through 5. The grantee shall be responsible for selecting participating school sites; providing any required hardware and software, including software licenses, for the duration of the grant period; providing technical support, training, and staff to install required project hardware and software; providing on-site professional development and instructional monitoring and support for school staff and students; administering preintervention and postintervention reading assessments; evaluating the impact of the intervention; and other project management services as required. To the extent practicable, the grantee must select participating schools in urban, suburban, and greater Minnesota, and give priority to schools in which a high proportion of students do not read proficiently at grade level and are eligible for free or reduced-price lunch.

(c) By February 15, 2019, the grantee must submit a report detailing expenditures and outcomes of the grant to the commissioner of education and the chairs and ranking minority members of the legislative committees with primary jurisdiction over kindergarten through grade 12 education policy and finance.

(d) This is a onetime appropriation.

Subd. 15. **Starbase MN.** (a) For a grant to Starbase MN for a rigorous science, technology, engineering, and math (STEM) program providing students in grades 4 through 6 with a multisensory learning experience and a hands-on curriculum in an aerospace environment using state-of-the-art technology:

<u>\$</u>	<u>1,398,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>0</u>	<u>.....</u>	<u>2019</u>

(b) Any balance in the first year does not cancel but is available in the second year. The base for fiscal year 2020 is \$500,000.

(c) All unspent funds, estimated at \$898,000 from the Starbase MN appropriation under Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 17, are canceled the day following final enactment.

Subd. 16. **Recovery program grants.** For recovery program grants under Minnesota Statutes, section 124D.695:

\$	<u>750,000</u>	.....	<u>2018</u>
\$	<u>750,000</u>	.....	<u>2019</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 17. **Minnesota math corps program.** For the Minnesota math corps program under Minnesota Statutes, section 124D.42, subdivision 9:

\$	<u>500,000</u>	.....	<u>2018</u>
\$	<u>500,000</u>	.....	<u>2019</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 18. **Civic education grants.** For grants to the Minnesota Civic Education Coalition, Minnesota Civic Youth, Learning Law and Democracy Foundation, and YMCA Youth in Government to provide civic education programs for Minnesota youth age 18 and younger. Civic education is the study of constitutional principles and the democratic foundation of our national, state, and local institutions, and the study of political processes and structures of government, grounded in the understanding of constitutional government under the rule of law.

\$	<u>125,000</u>	.....	<u>2018</u>
\$	<u>125,000</u>	.....	<u>2019</u>

Any balance in the first year does not cancel but is available in the second year. The budget base for this program is \$0.

Subd. 19. **Minnesota Principals Academy.** (a) For grants to the University of Minnesota College of Education and Human Development for the operation of the Minnesota Principals Academy:

\$	<u>200,000</u>	.....	<u>2018</u>
\$	<u>200,000</u>	.....	<u>2019</u>

(b) Of these amounts, \$50,000 must be used to pay the costs of attendance for principals from schools designated as priority schools by the commissioner of education. To the extent funds are available, the Department of Education must use up to \$200,000 of federal Title II funds to support additional participation in the Principals Academy by principals from priority schools.

(c) Any balance in the first year does not cancel but is available in the second year.

Subd. 20. **Educational stability for students living in foster care.** For a pilot project to promote educational stability for students living in foster care:

\$	<u>1,000,000</u>	<u>2018</u>
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Up to five percent of the appropriation may be used for state and local administrative costs such as reporting, technical support, and establishing a Title IV-E reimbursement claiming process. This is a onetime appropriation. This appropriation is available until June 30, 2019.

Subd. 21. Charter school building lease aid. For building lease aid under Minnesota Statutes, section 124E.22:

\$	<u>73,204,000</u>	.....	<u>2018</u>
\$	<u>78,648,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$6,850,000 for 2017 and \$66,354,000 for 2018.

The 2019 appropriation includes \$7,372,000 for 2018 and \$74,276,000 for 2019.

Subd. 22. Race 2 Reduce. (a) For grants to support expanded Race 2 Reduce water conservation programming in Minnesota schools:

\$	<u>307,000</u>	.....	<u>2018</u>
\$	<u>0</u>	.....	<u>2019</u>

(b) \$143,000 is for H2O for Life; \$98,000 is for Independent School District No. 624, White Bear Lake; and \$66,000 is for Independent School District No. 832, Mahtomedi.

(c) The appropriation is available until June 30, 2019. The base for fiscal year 2020 is \$0.

Subd. 23. Paraprofessional pathway to teacher licensure. (a) For grants to school districts for Grow Your Own new teacher programs:

\$	<u>1,500,000</u>	.....	<u>2018</u>
\$	<u>1,500,000</u>	.....	<u>2019</u>

(b) The grants are for school districts with more than 30 percent minority students for a Board of Teaching-approved nonconventional teacher residency pilot program. The program must provide tuition scholarships or stipends to enable school district employees or community members affiliated with a school district who seek an education license to participate in a nonconventional teacher preparation program. School districts that receive funds under this subdivision are strongly encouraged to recruit candidates of color and American Indian candidates to participate in the Grow Your Own new teacher programs. Districts or schools providing financial support may require a commitment as determined by the district to teach in the district or school for a reasonable amount of time that does not exceed five years.

(c) Programs must annually report to the commissioner by the date determined by the commissioner on their activities under this section, including the number of participants, the percentage of participants who are of color or who are American Indian, and an assessment of program effectiveness, including participant feedback, areas for improvement, the percentage of participants continuing to pursue teacher licensure, and the number of participants hired in the school or district as teachers after completing preparation programs.

(d) The department may retain up to three percent of the appropriation amount to monitor and administer the grant program.

(e) Any balance in the first year does not cancel but is available in the second year.

Subd. 24. **Statewide testing and reporting system.** For the statewide testing and reporting system under Minnesota Statutes, section 120B.30:

\$	<u>10,892,000</u>	.....	<u>2018</u>
\$	<u>10,892,000</u>	.....	<u>2019</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 25. **College entrance examination reimbursement.** To reimburse districts for students who qualify under Minnesota Statutes, section 120B.30, subdivision 1, paragraph (e), for payment of their college entrance examination fee:

\$	<u>1,511,000</u>	.....	<u>2018</u>
\$	<u>1,511,000</u>	.....	<u>2019</u>

The commissioner must reimburse school districts for their costs of one-time payments to free or reduced-price meal eligible students who take the ACT or SAT test under Minnesota Statutes, section 120B.30, subdivision 1.

Any balance in the first year does not cancel but is available in the second year.

Subd. 26. **Alternative teacher compensation aid.** For alternative teacher compensation aid under Minnesota Statutes, section 122A.415, subdivision 4:

\$	<u>89,863,000</u>	.....	<u>2018</u>
\$	<u>89,623,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$8,917,000 for 2017 and \$80,946,000 for 2018.

The 2019 appropriation includes \$8,993,000 for 2018 and \$80,630,000 for 2019.

Subd. 27. **Collaborative urban and greater Minnesota educators of color program grants.** (a) For collaborative urban and greater Minnesota educators of color program grants:

\$	<u>1,000,000</u>	.....	<u>2018</u>
\$	<u>1,000,000</u>	.....	<u>2019</u>

(b) Grants shall be awarded in equal amounts: \$195,000 each year is for the Southeast Asian Teacher program at Concordia University, St. Paul; \$195,000 each year is for the Collaborative Urban Educator program at the University of St. Thomas; \$195,000 each year is for the Center for Excellence in Urban Teaching at Hamline University; and \$195,000 each year is for the East Africa Student to Teacher program at Augsburg College.

(c) By January 15 of each year, each institution shall prepare for the legislature a detailed report regarding the funds used to recruit, retain, and induct teacher candidates who are of color or who are American Indian. The report must include the total number of teacher candidates of color, disaggregated by race or ethnic group, who are recruited to the institution, are newly admitted to the licensure program, are enrolled in the licensure program, have completed student teaching, have graduated, and are licensed and newly employed as Minnesota teachers in their licensure field. The total number of teacher candidates who are of color or who are American Indian at each stage from

recruitment to licensed teaching must be reported as a percentage of total candidates seeking the same licensure at the institution. The report must include the graduation rate for each cohort of teacher candidates, the placement rate for each graduating cohort of teacher candidates, and the retention rate for each graduating cohort of teacher candidates, among other program outcomes.

(d) The commissioner must establish a competitive grant process to award \$220,000 each year to Board of Teaching-approved teacher preparation programs, including alternative teacher preparation programs. The competitive process must award grants based on program benchmarks, including licensure rates, participation rates, and on-time graduation rates.

(e) For fiscal year 2020 and later, the commissioner must award all collaborative urban educator grants through the competitive grant program.

(f) Any balance in the first year does not cancel but is available in the second year.

Subd. 28. Examination fees; teacher training and support programs. (a) For students' advanced placement and international baccalaureate examination fees under Minnesota Statutes, section 120B.13, subdivision 3, and the training and related costs for teachers and other interested educators under Minnesota Statutes, section 120B.13, subdivision 1:

\$	<u>4,500,000</u>	.....	<u>2018</u>
\$	<u>4,500,000</u>	.....	<u>2019</u>

(b) The advanced placement program shall receive 75 percent of the appropriation each year and the international baccalaureate program shall receive 25 percent of the appropriation each year. The department, in consultation with representatives of the advanced placement and international baccalaureate programs selected by the Advanced Placement Advisory Council and International Baccalaureate Minnesota, respectively, shall determine the amounts of the expenditures each year for examination fees and training and support programs for each program.

(c) Notwithstanding Minnesota Statutes, section 120B.13, subdivision 1, at least \$500,000 each year is for teachers to attend subject matter summer training programs and follow-up support workshops approved by the advanced placement or international baccalaureate programs. The amount of the subsidy for each teacher attending an advanced placement or international baccalaureate summer training program or workshop shall be the same. The commissioner shall determine the payment process and the amount of the subsidy.

(d) The commissioner shall pay all examination fees for all students of low-income families under Minnesota Statutes, section 120B.13, subdivision 3, and to the extent of available appropriations, shall also pay examination fees for students sitting for an advanced placement examination, international baccalaureate examination, or both.

Any balance in the first year does not cancel but is available in the second year.

Subd. 29. Grants to increase science, technology, engineering, and math course offerings. For grants to schools to encourage low-income and other underserved students to participate in advanced placement and international baccalaureate programs according to Minnesota Statutes, section 120B.132:

<u>\$</u>	<u>250,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>250,000</u>	<u>.....</u>	<u>2019</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 30. **Agricultural educator grants.** For agricultural educator grants under section 48:

<u>\$</u>	<u>250,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>250,000</u>	<u>.....</u>	<u>2019</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 31. **American Indian teacher preparation grants.** For joint grants to assist American Indian people to become teachers under Minnesota Statutes, section 122A.63:

<u>\$</u>	<u>460,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>460,000</u>	<u>.....</u>	<u>2019</u>

Subd. 32. **African American Registry.** (a) For grants to the African American Registry for the Teacher's Forum:

<u>\$</u>	<u>100,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>100,000</u>	<u>.....</u>	<u>2019</u>

(b) The African American Registry must use the grant funds to establish partnerships with Metropolitan State University and the University of St. Thomas to improve the cultural competency of candidates seeking a first teaching license. By January 15 of each year, the African American Registry shall submit to the legislature a detailed report regarding the funds used. The report must include the number of teachers prepared. The base in fiscal year 2020 is \$0.

Subd. 33. **Rural career and technical education consortium.** (a) For rural career and technical education consortium grants:

<u>\$</u>	<u>1,500,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>1,500,000</u>	<u>.....</u>	<u>2019</u>

This appropriation is available until June 30, 2022. If the appropriation in the first year is insufficient, the 2019 appropriation is available.

(b) The base in fiscal year 2020 is \$3,000,000.

Subd. 34. **Sanneh Foundation.** (a) For a grant to the Sanneh Foundation to provide all-day, in-school, and before- and after-school academic and behavioral interventions for low-performing and chronically absent students with a focus on low-income students and students of color throughout the school year and during the summer to decrease absenteeism, encourage school engagement, and improve grades and graduation rates.

\$ 1,000,000 2018

(b) Funds appropriated in this section must be used to establish and provide services in schools where the Sanneh Foundation does not currently operate, and must not be used for programs operating in schools as of June 30, 2017.

(c) This is a onetime appropriation. Any balance in the first year does not cancel but is available in the second year.

Subd. 35. **Alternative teacher preparation grant program.** (a) For transfer to the commissioner of the Office of Higher Education for alternative teacher preparation program grants under Minnesota Statutes, section 136A.1276:

\$ 750,000 2018
\$ 0 2019

(b) Any balance in the first year does not cancel but is available in the second year.

Subd. 36. **Teacher shortage loan forgiveness.** (a) For transfer to the commissioner of the Office of Higher Education for the loan forgiveness program under Minnesota Statutes, section 136A.1791:

\$ 500,000 2018
\$ 0 2019

(b) The commissioner may use no more than three percent of this appropriation to administer the program under this subdivision.

(c) Any balance in the first year does not cancel but is available in the second year.

Subd. 37. **Statewide concurrent enrollment teacher training program.** For the statewide concurrent enrollment teacher training program under Laws 2016, chapter 189, article 25, section 58, as amended:

\$ 375,000 2018
\$ 375,000 2019

Any balance in the first year does not cancel but is available in the second year.

Sec. 56. **REPEALER.**

Minnesota Statutes 2016, sections 122A.40, subdivision 11; and 122A.41, subdivision 14, are repealed effective July 1, 2018.

ARTICLE 3

TEACHERS

Sec. 1. **[122A.627] POSITIVE BEHAVIORAL INTERVENTIONS AND SUPPORTS.**

"Positive behavioral interventions and supports" or "PBIS" means an evidence-based framework for preventing problem behavior, providing instruction and support for positive and prosocial

behaviors, and supporting social, emotional, and behavioral needs for all students. Schoolwide implementation of PBIS requires training, coaching, and evaluation for school staff to consistently implement the key components that make PBIS effective for all students, including:

(1) establishing, defining, teaching, and practicing three to five positively stated schoolwide behavioral expectations that are representative of the local community and cultures;

(2) developing and implementing a consistent system used by all staff to provide positive feedback and acknowledgment for students who display schoolwide behavioral expectations;

(3) developing and implementing a consistent and specialized support system for students who do not display behaviors representative of schoolwide positive expectations;

(4) developing a system to support decisions based on data related to student progress, effective implementation of behavioral practices, and screening for students requiring additional behavior supports;

(5) using a continuum of evidence-based interventions that is integrated and aligned to support academic and behavioral success for all students; and

(6) using a team-based approach to support effective implementation, monitor progress, and evaluate outcomes.

Consistent with section 120B.232, subdivision 1, character education curriculum and programs may be used to support implementation of the key components of PBIS.

ARTICLE 4

SPECIAL EDUCATION

Section 1. Minnesota Statutes 2016, section 125A.0941, is amended to read:

125A.0941 DEFINITIONS.

(a) The following terms have the meanings given them.

(b) "Emergency" means a situation where immediate intervention is needed to protect a child or other individual from physical injury. Emergency does not mean circumstances such as: a child who does not respond to a task or request and instead places his or her head on a desk or hides under a desk or table; a child who does not respond to a staff person's request unless failing to respond would result in physical injury to the child or other individual; or an emergency incident has already occurred and no threat of physical injury currently exists.

(c) "Physical holding" means physical intervention intended to hold a child immobile or limit a child's movement, where body contact is the only source of physical restraint, and where immobilization is used to effectively gain control of a child in order to protect a child or other individual from physical injury. The term physical holding does not mean physical contact that:

(1) helps a child respond or complete a task;

(2) assists a child without restricting the child's movement;

(3) is needed to administer an authorized health-related service or procedure; or

(4) is needed to physically escort a child when the child does not resist or the child's resistance is minimal.

(d) "Positive behavioral interventions and supports" means interventions and strategies to improve the school environment and teach children the skills to behave appropriately, including the key components under section 122A.627.

(e) "Prone restraint" means placing a child in a face down position.

(f) "Restrictive procedures" means the use of physical holding or seclusion in an emergency. Restrictive procedures must not be used to punish or otherwise discipline a child.

(g) "Seclusion" means confining a child alone in a room from which egress is barred. Egress may be barred by an adult locking or closing the door in the room or preventing the child from leaving the room. Removing a child from an activity to a location where the child cannot participate in or observe the activity is not seclusion.

Sec. 2. Minnesota Statutes 2016, section 125A.11, subdivision 1, is amended to read:

Subdivision 1. **Nonresident tuition rate; other costs.** (a) For fiscal year 2015 and later, when a school district provides special instruction and services for a pupil with a disability as defined in section 125A.02 outside the district of residence, excluding a pupil for whom an adjustment to special education aid is calculated according to section 127A.47, subdivision 7, paragraphs (b) to (d), special education aid paid to the resident district must be reduced by an amount equal to (1) the actual cost of providing special instruction and services to the pupil, including a proportionate amount for special transportation, plus (2) the amount of general education revenue, excluding local optional revenue, plus local optional aid and referendum equalization aid attributable to that pupil, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue, minus (3) the amount of special education aid for children with a disability under section 125A.76 received on behalf of that child, minus (4) if the pupil receives special instruction and services outside the regular classroom for more than 60 percent of the school day, the amount of general education revenue and referendum equalization aid, excluding portions attributable to district and school administration, district support services, operations and maintenance, capital expenditures, and pupil transportation, attributable to that pupil for the portion of time the pupil receives special instruction and services outside of the regular classroom, calculated using the resident district's average general education revenue and referendum equalization aid per adjusted pupil unit excluding basic skills revenue, elementary sparsity revenue and secondary sparsity revenue and the serving district's basic skills revenue, elementary sparsity revenue and secondary sparsity revenue per adjusted pupil unit. Notwithstanding clauses (1) and (4), for pupils served by a cooperative unit without a fiscal agent school district, the general education revenue and referendum equalization aid attributable to a pupil must be calculated using the resident district's average general education revenue and referendum equalization aid excluding compensatory revenue, elementary sparsity revenue, and secondary sparsity revenue. Special education aid paid to the district or cooperative providing special instruction and services for the pupil must be increased by the amount

of the reduction in the aid paid to the resident district. If the resident district's special education aid is insufficient to make the full adjustment, the remaining adjustment shall be made to other state aid due to the district.

(b) Notwithstanding paragraph (a), when a charter school receiving special education aid under section 124E.21, subdivision 3, provides special instruction and services for a pupil with a disability as defined in section 125A.02, excluding a pupil for whom an adjustment to special education aid is calculated according to section 127A.47, subdivision 7, paragraphs (b) to (e), special education aid paid to the resident district must be reduced by an amount equal to that calculated under paragraph (a) as if the charter school received aid under section 124E.21, subdivision 1. Notwithstanding paragraph (a), special education aid paid to the charter school providing special instruction and services for the pupil must not be increased by the amount of the reduction in the aid paid to the resident district.

(c) Notwithstanding paragraph (a) and section 127A.47, subdivision 7, paragraphs (b) to (d):

(1) an intermediate district or a special education cooperative may recover unreimbursed costs of serving pupils with a disability, including building lease, debt service, and indirect costs necessary for the general operation of the organization, by billing membership fees and nonmember access fees to the resident district;

(2) a charter school where more than 30 percent of enrolled students receive special education and related services, a site approved under section 125A.515, an intermediate district, a site constructed according to Laws 1992, chapter 558, section 7, subdivision 7, to meet the educational needs of court-placed adolescents, or a special education cooperative may apply to the commissioner for authority to charge the resident district an additional amount to recover any remaining unreimbursed costs of serving pupils with a disability;

(3) the billing under clause (1) or application under clause (2) must include a description of the costs and the calculations used to determine the unreimbursed portion to be charged to the resident district. Amounts approved by the commissioner under clause (2) must be included in the aid adjustments under paragraph (a), or section 127A.47, subdivision 7, paragraphs (b) to (d), as applicable.

(d) For purposes of this subdivision and section 127A.47, subdivision 7, paragraph (b), "general education revenue and referendum equalization aid" means the sum of the general education revenue according to section 126C.10, subdivision 1, excluding the local optional levy according to section 126C.10, subdivision 2e, paragraph (c), plus the referendum equalization aid according to section 126C.17, subdivision 7.

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

Sec. 3. Minnesota Statutes 2016, section 125A.21, subdivision 2, is amended to read:

Subd. 2. **Third-party reimbursement.** (a) Beginning July 1, 2000, districts shall seek reimbursement from insurers and similar third parties for the cost of services provided by the district whenever the services provided by the district are otherwise covered by the child's health coverage. Districts shall request, but may not require, the child's family to provide information about the child's health coverage when a child with a disability begins to receive services from the district of a type

that may be reimbursable, and shall request, but may not require, updated information after that as needed.

(b) For children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health coverage, a district shall provide an initial and annual written notice to the enrolled child's parent or legal representative of its intent to seek reimbursement from medical assistance or MinnesotaCare for:

(1) the evaluations required as part of the individualized education program process or individualized family service plan process; and

(2) health-related services provided by the district according to the individualized education program or individualized family service plan.

The initial notice must give the child's parent or legal representative the right to request a copy of the child's education records on the health-related services that the district provided to the child and disclosed to a third-party payer.

(c) The district shall give the parent or legal representative annual written notice of:

(1) the district's intent to seek reimbursement from medical assistance or MinnesotaCare for evaluations required as part of the individualized education program process or individualized family service plan process, and for health-related services provided by the district according to the individualized education program or individualized family service plan;

(2) the right of the parent or legal representative to request a copy of all records concerning individualized education program or individualized family service plan health-related services disclosed by the district to any third party; and

(3) the right of the parent or legal representative to withdraw consent for disclosure of a child's records at any time without consequence.

The written notice shall be provided as part of the written notice required by Code of Federal Regulations, title 34, section 300.504 or 303.520. The district must ensure that the parent of a child with a disability is given notice, in understandable language, of federal and state procedural safeguards available to the parent under this paragraph and paragraph (b).

(d) In order to access the private health care coverage of a child who is covered by private health care coverage in whole or in part, a district must:

(1) obtain annual written informed consent from the parent or legal representative, in compliance with subdivision 5; and

(2) inform the parent or legal representative that a refusal to permit the district or state Medicaid agency to access their private health care coverage does not relieve the district of its responsibility to provide all services necessary to provide free and appropriate public education at no cost to the parent or legal representative.

(e) If the commissioner of human services obtains federal approval to exempt covered individualized education program or individualized family service plan health-related services from

the requirement that private health care coverage refuse payment before medical assistance may be billed, paragraphs (b), (c), and (d) shall also apply to students with a combination of private health care coverage and health care coverage through medical assistance or MinnesotaCare.

(f) In the event that Congress or any federal agency or the Minnesota legislature or any state agency establishes lifetime limits, limits for any health care services, cost-sharing provisions, or otherwise provides that individualized education program or individualized family service plan health-related services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the amendments to this subdivision adopted in 2002 are repealed on the effective date of any federal or state law or regulation that imposes the limits. In that event, districts must obtain informed consent consistent with this subdivision as it existed prior to the 2002 amendments and subdivision 5, before seeking reimbursement for children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health care coverage.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 4. Minnesota Statutes 2016, section 125A.515, is amended to read:

125A.515 PLACEMENT OF STUDENTS; APPROVAL OF EDUCATION PROGRAM.

Subdivision 1. **Approval of on-site education programs.** The commissioner shall approve on-site education programs for placement of children and youth in residential facilities including detention centers, before being licensed by the Department of Human Services or the Department of Corrections. Education programs in these facilities shall conform to state and federal education laws including the Individuals with Disabilities Education Act (IDEA). This section applies only to placements in children's residential facilities licensed by the Department of Human Services or the Department of Corrections. For purposes of this section, "on-site education program" means the educational services provided directly on the grounds of the ~~care and treatment~~ children's residential facility to children and youth placed for care and treatment.

Subd. 3. **Responsibilities for providing education.** (a) The district in which the children's residential facility is located must provide education services, including special education if eligible, to all students placed in a facility.

(b) For education programs operated by the Department of Corrections, the providing district shall be the Department of Corrections. For students remanded to the commissioner of corrections, the providing and resident district shall be the Department of Corrections.

Subd. 3a. **Students without a disability from other states.** A school district is not required to provide education services under this section to a student who:

(1) is not a resident of Minnesota;

(2) does not have an individualized education program; and

(3) does not have a tuition arrangement or agreement to pay the cost of education from the placing authority.

Subd. 4. **Education services required.** (a) Education services must be provided to a student beginning within three business days after the student enters the ~~care and treatment~~ children's residential facility. The first four days of the student's placement may be used to screen the student for educational and safety issues.

(b) If the student does not meet the eligibility criteria for special education, regular education services must be provided to that student.

Subd. 5. **Education programs for students placed in children's residential facilities.** (a) When a student is placed in a children's residential facility ~~approved~~ under this section that has an on-site education program, the providing district, upon notice from the ~~care and treatment~~ children's residential facility, must contact the resident district within one business day to determine if a student has been identified as having a disability, and to request at least the student's transcript, and for students with disabilities, the most recent individualized education program (IEP) and evaluation report, ~~and to determine if the student has been identified as a student with a disability~~. The resident district must send a facsimile copy to the providing district within two business days of receiving the request.

(b) If a student placed under this section has been identified as having a disability and has an individualized education program in the resident district:

(1) the providing agency must conduct an individualized education program meeting to reach an agreement about continuing or modifying special education services in accordance with the current individualized education program goals and objectives and to determine if additional evaluations are necessary; and

(2) at least the following people shall receive written notice or documented phone call to be followed with written notice to attend the individualized education program meeting:

- (i) the person or agency placing the student;
- (ii) the resident district;
- (iii) the appropriate teachers and related services staff from the providing district;
- (iv) appropriate staff from the children's residential facility;
- (v) the parents or legal guardians of the student; and
- (vi) when appropriate, the student.

(c) For a student who has not been identified as a student with a disability, a screening must be conducted by the providing districts as soon as possible to determine the student's educational and behavioral needs and must include a review of the student's educational records.

Subd. 6. **Exit report summarizing educational progress.** If a student has been placed in a facility under this section for 15 or more business days, the providing district must prepare an exit report summarizing the regular education, special education, evaluation, educational progress, and service information and must send the report to the resident district and the next providing district

if different, the parent or legal guardian, and any appropriate social service agency. For students with disabilities, this report must include the student's IEP.

Subd. 7. **Minimum educational services required.** When a student is placed in a children's residential facility ~~approved~~ under this section, at a minimum, the providing district is responsible for:

(1) the education necessary, including summer school services, for a student who is not performing at grade level as indicated in the education record or IEP; and

(2) a school day, of the same length as the school day of the providing district, unless the unique needs of the student, as documented through the IEP or education record in consultation with treatment providers, requires an alteration in the length of the school day.

Subd. 8. **Placement, services, and due process.** When a student's treatment and educational needs allow, education shall be provided in a regular educational setting. The determination of the amount and site of integrated services must be a joint decision between the student's parents or legal guardians and the treatment and education staff. When applicable, educational placement decisions must be made by the IEP team of the providing district. Educational services shall be provided in conformance with the least restrictive environment principle of the Individuals with Disabilities Education Act. The providing district and ~~care and treatment~~ children's residential facility shall cooperatively develop discipline and behavior management procedures to be used in emergency situations that comply with the Minnesota Pupil Fair Dismissal Act and other relevant state and federal laws and regulations.

Subd. 9. **Reimbursement for education services.** (a) Education services provided to students who have been placed under this section are reimbursable in accordance with special education and general education statutes.

(b) Indirect or consultative services provided in conjunction with regular education prereferral interventions and assessment provided to regular education students suspected of being disabled and who have demonstrated learning or behavioral problems in a screening are reimbursable with special education categorical aids.

(c) Regular education, including screening, provided to students with or without disabilities is not reimbursable with special education categorical aids.

Subd. 10. **Students unable to attend school but not covered under this section.** Students who are absent from, or predicted to be absent from, school for 15 consecutive or intermittent days, and placed at home or in facilities not licensed by the Departments of Corrections or Human Services are entitled to regular and special education services consistent with this section or Minnesota Rules, part 3525.2325. These students include students with and without disabilities who are home due to accident or illness, in a hospital or other medical facility, or in a day treatment center.

Sec. 5. Minnesota Statutes 2016, section 125A.74, subdivision 1, is amended to read:

Subdivision 1. **Eligibility.** A district may enroll as a provider in the medical assistance program and receive medical assistance payments for covered evaluations and special education services provided to persons eligible for medical assistance under chapter 256B. To receive medical assistance

payments, the district must pay the nonfederal share of medical assistance services provided according to section 256B.0625, subdivision 26, and comply with relevant provisions of state and federal statutes and regulations governing the medical assistance program.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 6. Minnesota Statutes 2016, section 125A.76, subdivision 2c, is amended to read:

Subd. 2c. **Special education aid.** (a) For fiscal year 2016 and later, a district's special education aid equals the sum of the district's special education initial aid under subdivision 2a and the district's excess cost aid under section 125A.79, subdivision 5.

(b) Notwithstanding paragraph (a), for fiscal year 2016, the special education aid for a school district must not exceed the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, and the product of the district's average daily membership served and the special education aid increase limit.

(c) Notwithstanding paragraph (a), for fiscal year 2017 and later, the special education aid for a school district must not exceed the sum of: (i) the product of the district's average daily membership served and the special education aid increase limit and (ii) the product of the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's average daily membership served for the current fiscal year to the district's average daily membership served for fiscal year 2016, and the program growth factor.

(d) Notwithstanding paragraph (a), for fiscal year 2016 and later the special education aid for a school district, not including a charter school or cooperative unit as defined in section 123A.24, must not be less than the lesser of (1) the district's nonfederal special education expenditures for that fiscal year or (2) the product of the sum of the special education aid the district would have received for fiscal year 2016 under Minnesota Statutes 2012, sections 125A.76 and 125A.79, as adjusted according to Minnesota Statutes 2012, sections 125A.11 and 127A.47, subdivision 7, the ratio of the district's adjusted daily membership for the current fiscal year to the district's average daily membership for fiscal year 2016, and the program growth factor.

(e) Notwithstanding subdivision 2a and section 125A.79, a charter school in its first year of operation shall generate special education aid based on current year data. A newly formed cooperative unit as defined in section 123A.24 may apply to the commissioner for approval to generate special education aid for its first year of operation based on current year data, with an offsetting adjustment to the prior year data used to calculate aid for programs at participating school districts or previous cooperatives that were replaced by the new cooperative. The department shall establish procedures to adjust the prior year data and fiscal year 2016 old formula aid used in calculating special education aid to exclude costs that have been eliminated for districts where programs have closed or where a substantial portion of the program has been transferred to a cooperative unit.

(f) The department shall establish procedures through the uniform financial accounting and reporting system to identify and track all revenues generated from third-party billings as special education revenue at the school district level; include revenue generated from third-party billings

as special education revenue in the annual cross-subsidy report; and exclude third-party revenue from calculation of excess cost aid to the districts.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2018 and later.

Sec. 7. Minnesota Statutes 2016, section 256B.0625, subdivision 26, is amended to read:

Subd. 26. **Special education services.** (a) Medical assistance covers evaluations necessary in making a determination for eligibility for individualized education program and individualized family service plan services and for medical services identified in a recipient's individualized education program and individualized family service 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 individualized education program 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 individualized education program 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 individualized education program 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 individualized education program 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. Only costs reported through the designated Minnesota Department of Education data systems in distinct service categories qualify for inclusion in the cost-based payment structure. 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 individualized education program 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 individualized education program 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 program. 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 program.

EFFECTIVE DATE. This section is effective August 1, 2017.

Sec. 8. Laws 2016, chapter 189, article 25, section 62, subdivision 17, is amended to read:

Subd. 17. **Southwest Minnesota State University special education teacher education program.** (a) For the Southwest Minnesota State University special education teacher education program to support Minnesota ~~resident~~ residents working toward licensure in an online program, including persons currently employed as:

(1) special education paraprofessionals ~~working toward licensure in an online program;~~

(2) teachers without a special education license working on a variance; or

(3) individuals teaching with a community expert license:

	385,000		
\$	<u>132,000</u>	.....	2017
\$	<u>253,000</u>	.....	<u>2018</u>

(b) \$253,000 of the \$385,000 appropriation in Laws 2016, chapter 189, article 25, section 62, subdivision 17, is canceled to the state general fund on June 30, 2017.

The base for this program in fiscal year 2018 is \$0. (c) The 2018 appropriation is available until June 30, 2019.

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

Sec. 9. **SPECIAL EDUCATION ASSISTIVE TECHNOLOGY STUDY.**

Subdivision 1. **Study.** The commissioner of education must examine the use of assistive technology in Minnesota school districts. The commissioner may examine financial data, survey school officials, and use other methods to collect data on the use of assistive technology by Minnesota's students. The commissioner must consult with the Minnesota Assistive Technology Advisory Council and other interested organizations to determine the scope and focus of the study.

Subd. 2. **Data reporting.** The commissioner must examine the federally required uniform financial accounting and reporting standards object codes and, if necessary, recommend changes to better capture school district spending on assistive technology. The commissioner must examine approaches to collecting additional student-level assistive technology data through the electronic data reporting system.

Subd. 3. **Assistive technology manual.** The commissioner must examine the department's assistive technology manual, and determine whether to prepare a revised manual.

Subd. 4. **Report.** The commissioner of education must report to the chairs and ranking minority members of the legislative committees with jurisdiction over kindergarten through grade 12 education by February 15, 2018, on the use of assistive technology by Minnesota's students and recommend statutory changes to encourage individualized education programs and individualized family service plans to incorporate a child-centered assistive technology plan.

Sec. 10. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Special education; regular.** For special education aid under Minnesota Statutes, section 125A.75:

\$	<u>1,338,867,000</u>	<u>.....</u>	<u>2018</u>
\$	<u>1,425,924,000</u>	<u>.....</u>	<u>2019</u>

The 2018 appropriation includes \$156,403,000 for 2017 and \$1,182,464,000 for 2018.

The 2019 appropriation includes \$131,384,000 for 2018 and \$1,294,540,000 for 2019.

Subd. 3. **Aid for children with disabilities.** For aid under Minnesota Statutes, section 125A.75, subdivision 3, for children with disabilities placed in residential facilities within the district boundaries for whom no district of residence can be determined:

\$	<u>1,597,000</u>	.....	<u>2018</u>
\$	<u>1,830,000</u>	.....	<u>2019</u>

If the appropriation for either year is insufficient, the appropriation for the other year is available.

Subd. 4. **Travel for home-based services.** For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

\$	<u>508,000</u>	.....	<u>2018</u>
\$	<u>532,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$48,000 for 2017 and \$460,000 for 2018.

The 2019 appropriation includes \$51,000 for 2018 and \$481,000 for 2019.

Subd. 5. **Court-placed special education revenue.** For reimbursing serving school districts for unreimbursed eligible expenditures attributable to children placed in the serving school district by court action under Minnesota Statutes, section 125A.79, subdivision 4:

\$	<u>46,000</u>	.....	<u>2018</u>
\$	<u>47,000</u>	.....	<u>2019</u>

Subd. 6. **Special education out-of-state tuition.** For special education out-of-state tuition under Minnesota Statutes, section 125A.79, subdivision 8:

\$	<u>250,000</u>	.....	<u>2018</u>
\$	<u>250,000</u>	.....	<u>2019</u>

Sec. 11. **REPEALER.**

Minnesota Statutes 2016, sections 125A.75, subdivision 7; and 125A.76, subdivision 2b, are repealed effective for fiscal year 2018 and later.

ARTICLE 5

FACILITIES AND TECHNOLOGY

Section 1. Minnesota Statutes 2016, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. **Unclassified positions.** Unclassified positions are held by employees who are:

(1) chosen by election or appointed to fill an elective office;

(2) heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions, and institutions specifically established by law in the unclassified service;

(3) deputy and assistant agency heads and one confidential secretary in the agencies listed in subdivision 1a and in the Office of Strategic and Long-Range Planning;

(4) the confidential secretary to each of the elective officers of this state and, for the secretary of state and state auditor, an additional deputy, clerk, or employee;

(5) intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(6) employees in the offices of the governor and of the lieutenant governor and one confidential employee for the governor in the Office of the Adjutant General;

(7) employees of the Washington, D.C., office of the state of Minnesota;

(8) employees of the legislature and of legislative committees or commissions; provided that employees of the Legislative Audit Commission, except for the legislative auditor, the deputy legislative auditors, and their confidential secretaries, shall be employees in the classified service;

(9) presidents, vice-presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants, and student employees eligible under terms of the federal Economic Opportunity Act work study program in the ~~Perpich Center for Arts Education~~ and the Minnesota State Colleges and Universities, but not the custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

(10) officers and enlisted persons in the National Guard;

(11) attorneys, legal assistants, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

(12) judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the Department of Labor and Industry;

(13) members of the State Patrol; provided that selection and appointment of State Patrol troopers must be made in accordance with applicable laws governing the classified service;

(14) examination monitors and intermittent training instructors employed by the Departments of Management and Budget and Commerce and by professional examining boards and intermittent staff employed by the technical colleges for the administration of practical skills tests and for the staging of instructional demonstrations;

(15) student workers;

(16) executive directors or executive secretaries appointed by and reporting to any policy-making board or commission established by statute;

(17) employees unclassified pursuant to other statutory authority;

(18) intermittent help employed by the commissioner of agriculture to perform duties relating to pesticides, fertilizer, and seed regulation;

(19) the administrators and the deputy administrators at the State Academies for the Deaf and the Blind; and

(20) chief executive officers in the Department of Human Services.

EFFECTIVE DATE. This section is effective June 30, 2018.

Sec. 2. Minnesota Statutes 2016, section 43A.08, subdivision 1a, is amended to read:

Subd. 1a. **Additional unclassified positions.** Appointing authorities for the following agencies may designate additional unclassified positions according to this subdivision: the Departments of Administration; Agriculture; Commerce; Corrections; Education; Employment and Economic Development; Explore Minnesota Tourism; Management and Budget; Health; Human Rights; Labor and Industry; Natural Resources; Public Safety; Human Services; Revenue; Transportation; and Veterans Affairs; the Housing Finance and Pollution Control Agencies; the State Lottery; the State Board of Investment; the Office of Administrative Hearings; the Office of MN.IT Services; the Offices of the Attorney General, Secretary of State, and State Auditor; the Minnesota State Colleges and Universities; the Minnesota Office of Higher Education; ~~the Perpich Center for Arts Education;~~ and the Minnesota Zoological Board.

A position designated by an appointing authority according to this subdivision must meet the following standards and criteria:

(1) the designation of the position would not be contrary to other law relating specifically to that agency;

(2) the person occupying the position would report directly to the agency head or deputy agency head and would be designated as part of the agency head's management team;

(3) the duties of the position would involve significant discretion and substantial involvement in the development, interpretation, and implementation of agency policy;

(4) the duties of the position would not require primarily personnel, accounting, or other technical expertise where continuity in the position would be important;

(5) there would be a need for the person occupying the position to be accountable to, loyal to, and compatible with, the governor and the agency head, the employing statutory board or commission, or the employing constitutional officer;

(6) the position would be at the level of division or bureau director or assistant to the agency head; and

(7) the commissioner has approved the designation as being consistent with the standards and criteria in this subdivision.

EFFECTIVE DATE. This section is effective June 30, 2018.

Sec. 3. **[121A.335] LEAD IN SCHOOL DRINKING WATER.**

Subdivision 1. **Model plan.** The commissioners of health and education shall jointly develop a model plan to require school districts to accurately and efficiently test for the presence of lead in water in public school buildings serving students in kindergarten through grade 12. To the extent possible, the commissioners shall base the plan on the standards established by the United States

Environmental Protection Agency. The plan may be based on the technical guidance in the Department of Health's document, "Reducing Lead in Drinking Water: A Technical Guidance for Minnesota's School and Child Care Facilities."

Subd. 2. **School plans.** By July 1, 2018, the board of each school district or charter school must adopt the commissioners' model plan or develop and adopt an alternative plan to accurately and efficiently test for the presence of lead in water in school buildings serving prekindergarten students and students in kindergarten through grade 12.

Subd. 3. **Frequency of testing.** The plan under subdivision 2 must include a testing schedule for every building serving prekindergarten through grade 12 students. The schedule must require that each building be tested at least once every five years. A school district must begin testing school buildings by July 1, 2018, and complete testing of all buildings that serve students within five years.

Subd. 4. **Ten-year facilities plan.** A school district may include lead testing and remediation as a part of its ten-year facilities plan under section 123B.595.

Subd. 5. **Reporting.** A school district that has tested its buildings for the presence of lead shall make the results of the testing available to the public for review and must notify parents of the availability of the information.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 4. Minnesota Statutes 2016, section 122A.416, is amended to read:

122A.416 ALTERNATIVE TEACHER COMPENSATION REVENUE FOR ~~PERPICH CENTER FOR ARTS EDUCATION AND~~ MULTIDISTRICT INTEGRATION COLLABORATIVES.

Notwithstanding sections 122A.414, 122A.415, and 126C.10, multidistrict integration collaboratives ~~and the Perpich Center for Arts Education~~ are eligible to receive alternative teacher compensation revenue as if they were intermediate school districts. To qualify for alternative teacher compensation revenue, a multidistrict integration collaborative ~~or the Perpich Center for Arts Education~~ must meet all of the requirements of sections 122A.414 and 122A.415 that apply to intermediate school districts, must report its enrollment as of October 1 of each year to the department, and must annually report its expenditures for the alternative teacher professional pay system consistent with the uniform financial accounting and reporting standards to the department by November 30 of each year.

EFFECTIVE DATE. This section is effective June 30, 2018.

Sec. 5. Minnesota Statutes 2016, section 123A.30, subdivision 6, is amended to read:

Subd. 6. **Severance pay.** A district must pay severance pay to a teacher who is placed on unrequested leave of absence by the district as a result of the agreement. A teacher is eligible under this subdivision if the teacher:

- (1) is a teacher, but not a superintendent;
- (2) has a continuing contract with the district according to section 122A.40, subdivision 7.

The amount of severance pay must be equal to the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities requiring a valid Minnesota teaching license include, but are not limited to, the district that placed the teacher on unrequested leave of absence, another district in Minnesota, an education district, an intermediate school district, a service cooperative, a board formed under section 471.59, a state residential academy, ~~the Perpich Center for Arts Education~~, a vocational center, or a special education cooperative. These entities do not include a district in another state, a Minnesota public postsecondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district must pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district must pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 122A.40, subdivision 10 or 11. If the teacher receives severance pay, the teacher shall not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay is subject to section 465.72. The district may levy annually according to section 126C.43, for the severance pay.

EFFECTIVE DATE. This section is effective June 30, 2018.

Sec. 6. Minnesota Statutes 2016, section 123A.73, subdivision 2, is amended to read:

Subd. 2. ~~Involuntary Dissolution; referendum revenue.~~ As of the effective date of the voluntary or involuntary dissolution of a district and its attachment to one or more existing districts pursuant to sections 123A.60 or 123A.64 to 123A.72, the authorization for any referendum revenue previously approved by the voters of the dissolved district in that district pursuant to section 126C.17, subdivision 9, or its predecessor or successor provision, is canceled. The authorization for any referendum revenue previously approved by the voters of a district to which all or part of the dissolved district is attached shall not be affected by the attachment and shall apply to the entire area of the district as enlarged by the attachment.

EFFECTIVE DATE. This section is effective retroactively from January 1, 2017.

Sec. 7. Minnesota Statutes 2016, section 123B.595, subdivision 1, is amended to read:

Subdivision 1. **Long-term facilities maintenance revenue.** (a) For fiscal year 2017 only, long-term facilities maintenance revenue equals the greater of (1) the sum of (i) \$193 times the district's adjusted pupil units times the lesser of one or the ratio of the district's average building age to 35 years, plus the cost approved by the commissioner for indoor air quality, fire alarm and suppression, and asbestos abatement projects under section 123B.57, subdivision 6, with an estimated cost of \$100,000 or more per site, plus (ii) for a school district with an approved voluntary prekindergarten program under section 124D.151, the cost approved by the commissioner for remodeling existing instructional space to accommodate prekindergarten instruction, or (2) the sum of (i) the amount the district would have qualified for under Minnesota Statutes 2014, section 123B.57, Minnesota Statutes 2014, section 123B.59, and Minnesota Statutes 2014, section 123B.591, and (ii) for a school district with an approved voluntary prekindergarten program under section 124D.151, the cost approved by the commissioner for remodeling existing instructional space to accommodate prekindergarten instruction.

(b) For fiscal year 2018 only, long-term facilities maintenance revenue equals the greater of (1) the sum of (i) \$292 times the district's adjusted pupil units times the lesser of one or the ratio of the district's average building age to 35 years, plus (ii) the cost approved by the commissioner for indoor air quality, fire alarm and suppression, and asbestos abatement projects under section 123B.57, subdivision 6, with an estimated cost of \$100,000 or more per site, ~~plus (iii) for a school district with an approved voluntary prekindergarten program under section 124D.151, the cost approved by the commissioner for remodeling existing instructional space to accommodate prekindergarten instruction,~~ or (2) the sum of (i) the amount the district would have qualified for under Minnesota Statutes 2014, section 123B.57, Minnesota Statutes 2014, section 123B.59, and Minnesota Statutes 2014, section 123B.591, ~~and (ii) for a school district with an approved voluntary prekindergarten program under section 124D.151, the cost approved by the commissioner for remodeling existing instructional space to accommodate prekindergarten instruction.~~

(c) For fiscal year 2019 and later, long-term facilities maintenance revenue equals the greater of (1) the sum of (i) \$380 times the district's adjusted pupil units times the lesser of one or the ratio of the district's average building age to 35 years, plus (ii) the cost approved by the commissioner for indoor air quality, fire alarm and suppression, and asbestos abatement projects under section 123B.57, subdivision 6, with an estimated cost of \$100,000 or more per site, ~~plus (iii) for a school district with an approved voluntary prekindergarten program under section 124D.151, the cost approved by the commissioner for remodeling existing instructional space to accommodate prekindergarten instruction,~~ or (2) the sum of (i) the amount the district would have qualified for under Minnesota Statutes 2014, section 123B.57, Minnesota Statutes 2014, section 123B.59, and Minnesota Statutes 2014, section 123B.591, ~~and (ii) for a school district with an approved voluntary prekindergarten program under section 124D.151, the cost approved by the commissioner for remodeling existing instructional space to accommodate prekindergarten instruction.~~

(d) Notwithstanding paragraphs (a), (b), and (c), a school district that qualified for eligibility under Minnesota Statutes 2014, section 123B.59, subdivision 1, paragraph (a), for fiscal year 2010 remains eligible for funding under this section as a district that would have qualified for eligibility under Minnesota Statutes 2014, section 123B.59, subdivision 1, paragraph (a), for fiscal year 2017 and later.

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

Sec. 8. Minnesota Statutes 2016, section 123B.595, subdivision 4, is amended to read:

Subd. 4. **Facilities plans.** (a) To qualify for revenue under this section, a school district or intermediate district, not including a charter school, must have a ten-year facility plan adopted by the school board and approved by the commissioner. The plan must include provisions for implementing a health and safety program that complies with health, safety, and environmental regulations and best practices, including indoor air quality management and remediation of lead hazards.

(b) The district must annually update the plan, submit the plan to the commissioner for approval by July 31, and indicate whether the district will issue bonds to finance the plan or levy for the costs.

(c) For school districts issuing bonds to finance the plan, the plan must include a debt service schedule demonstrating that the debt service revenue required to pay the principal and interest on the bonds each year will not exceed the projected long-term facilities revenue for that year.

EFFECTIVE DATE. This section is effective for revenue for fiscal year 2018 and later.

Sec. 9. Minnesota Statutes 2016, section 123B.71, subdivision 11, is amended to read:

Subd. 11. **Review of proposals.** In reviewing each proposal, the commissioner shall submit to the school board, within 60 days of receiving the proposal, the review and comment about the educational and economic advisability of the project. The commissioner must include comments from residents of the school district in the review and comment. The review and comment shall be based on information submitted with the proposal and other information the commissioner determines is necessary. If the commissioner submits a negative review and comment for a portion of a proposal, the review and comment shall clearly specify which portion of the proposal received a negative review and comment and which portion of the proposal received a positive review and comment.

Sec. 10. Minnesota Statutes 2016, section 123B.71, subdivision 12, is amended to read:

Subd. 12. **Publication.** (a) At least 20 days but not more than 60 days before a referendum for bonds or solicitation of bids for a project that has received a positive or unfavorable review and comment under section 123B.70, the school board shall publish a summary of the commissioner's review and comment of that project in the legal newspaper of the district. The school board must hold a public meeting to discuss the commissioner's review and comment before the referendum for bonds. Supplementary information shall be available to the public.

(b) The publication requirement in paragraph (a) does not apply to alternative facilities projects approved under section ~~123B.59~~ 123B.595.

Sec. 11. Minnesota Statutes 2016, section 124D.05, subdivision 3, is amended to read:

Subd. 3. **Severance pay.** A district must pay severance pay to a teacher who is placed on unrequested leave of absence by the district as a result of an agreement under this section. A teacher is eligible under this subdivision if the teacher:

- (1) is a teacher, as defined in section 122A.40, subdivision 1, but not a superintendent;
- (2) has a continuing contract with the district according to section 122A.40, subdivision 7.

The amount of severance pay must be equal to the teacher's salary for the school year during which the teacher was placed on unrequested leave of absence minus the gross amount the teacher was paid during the 12 months following the teacher's termination of salary, by an entity whose teachers by statute or rule must possess a valid Minnesota teaching license, and minus the amount a teacher receives as severance or other similar pay according to a contract with the district or district policy. These entities include, but are not limited to, the district that placed the teacher on unrequested leave of absence, another district in Minnesota, an education district, an intermediate school district, a service cooperative, a board formed under section 471.59, a state residential academy, ~~the Perpich Center for Arts Education~~, a vocational center, or a special education cooperative. These entities do not include a district in another state, a Minnesota public postsecondary institution, or a state agency. Only amounts earned by the teacher as a substitute teacher or in a position requiring a valid Minnesota teaching license shall be subtracted. A teacher may decline any offer of employment as a teacher without loss of rights to severance pay.

To determine the amount of severance pay that is due for the first six months following termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district must pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose. To determine the amount of severance pay that is due for the second six months of the 12 months following the termination of the teacher's salary, the district may require the teacher to provide documented evidence of the teacher's employers and gross earnings during that period. The district must pay the teacher the amount of severance pay it determines to be due from the proceeds of the levy for this purpose.

A teacher who receives severance pay under this subdivision waives all further reinstatement rights under section 122A.40, subdivision 10 or 11. If the teacher receives severance pay, the teacher must not receive credit for any years of service in the district paying severance pay prior to the year in which the teacher becomes eligible to receive severance pay.

The severance pay is subject to section 465.72. The district may levy annually according to section 126C.43 for the severance pay.

EFFECTIVE DATE. This section is effective June 30, 2018.

Sec. 12. **[127A.155] LOLA AND RUDY PERPICH ARTS EDUCATION DIVISION.**

Subdivision 1. Establishment of arts education division. The department must provide arts support services to school districts throughout Minnesota through the establishment of the Lola and Rudy Perpich arts education and outreach division.

Subd. 2. Division responsibilities. (a) The Perpich division must offer resources and outreach services statewide to enhance arts education opportunities for pupils in elementary and secondary school. The Perpich division must work with school districts across Minnesota to:

- (1) gather and conduct research in arts education;
- (2) develop exemplary curriculum, instructional practices, and assessments;
- (3) disseminate information regarding arts education opportunities; and

(4) provide materials, training, and assistance to the arts education committees in school districts.

(b) The Perpich division must collaborate with the commissioner of education to develop arts standards and strengthen state policies related to arts education.

(c) The Perpich division must serve as liaison for the Department of Education to national organizations for arts education.

(d) The commissioner may, on behalf of the Perpich division, apply for funds from public and private sources.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 13. Minnesota Statutes 2016, section 297A.70, subdivision 2, is amended to read:

Subd. 2. **Sales to government.** (a) All sales, except those listed in paragraph (b), to the following governments and political subdivisions, or to the listed agencies or instrumentalities of governments and political subdivisions, are exempt:

(1) the United States and its agencies and instrumentalities;

(2) school districts, local governments, the University of Minnesota, state universities, community colleges, technical colleges, state academies, ~~the Perpich Minnesota Center for Arts Education~~, and an instrumentality of a political subdivision that is accredited as an optional/special function school by the North Central Association of Colleges and Schools;

(3) hospitals and nursing homes owned and operated by political subdivisions of the state of tangible personal property and taxable services used at or by hospitals and nursing homes;

(4) notwithstanding paragraph (d), the sales and purchases by the Metropolitan Council of vehicles and repair parts to equip operations provided for in section 473.4051 are exempt through December 31, 2016;

(5) other states or political subdivisions of other states, if the sale would be exempt from taxation if it occurred in that state; and

(6) public libraries, public library systems, multicounty, multitype library systems as defined in section 134.001, county law libraries under chapter 134A, state agency libraries, the state library under section 480.09, and the Legislative Reference Library.

(b) This exemption does not apply to the sales of the following products and services:

(1) building, construction, or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract or similar type of contract with a guaranteed maximum price covering both labor and materials for use in the construction, alteration, or repair of a building or facility;

(2) construction materials purchased by tax exempt entities or their contractors to be used in constructing buildings or facilities which will not be used principally by the tax exempt entities;

(3) the leasing of a motor vehicle as defined in section 297B.01, subdivision 11, except for leases entered into by the United States or its agencies or instrumentalities;

(4) lodging as defined under section 297A.61, subdivision 3, paragraph (g), clause (2), and prepared food, candy, soft drinks, and alcoholic beverages as defined in section 297A.67, subdivision 2, except for lodging, prepared food, candy, soft drinks, and alcoholic beverages purchased directly by the United States or its agencies or instrumentalities; or

(5) goods or services purchased by a local government as inputs to a liquor store, gas or electric utility, solid waste hauling service, solid waste recycling service, landfill, golf course, marina, campground, cafe, or laundromat.

(c) As used in this subdivision, "school districts" means public school entities and districts of every kind and nature organized under the laws of the state of Minnesota, and any instrumentality of a school district, as defined in section 471.59.

(d) For purposes of the exemption granted under this subdivision, "local governments" has the following meaning:

(1) for the period prior to January 1, 2017, local governments means statutory or home rule charter cities, counties, and townships; and

(2) beginning January 1, 2017, local governments means statutory or home rule charter cities, counties, and townships; special districts as defined under section 6.465; any instrumentality of a statutory or home rule charter city, county, or township as defined in section 471.59; and any joint powers board or organization created under section 471.59.

EFFECTIVE DATE. This section is effective June 30, 2018.

Sec. 14. Laws 2016, chapter 189, article 30, section 25, subdivision 5, is amended to read:

Subd. 5. **Early repayment aid incentive.** (a) For incentive grants for a district that repays the full outstanding original principal on its capital loan by November 30, 2016, under Laws 2011, First Special Session chapter 11, article 4, section 8, as amended by this act:

	2,200,000	
\$	<u>2,350,000</u>	..... 2017

(b) Of this amount, \$150,000 is for a grant to Independent School District No. 36, Kelliher; \$180,000 is for a grant to Independent School District No. 95, Cromwell; \$495,000 is for a grant to Independent School District No. 299, Caledonia; \$220,000 is for a grant to Independent School District No. 306, Laporte; \$150,000 is for a grant to Independent School District No. 362, Littlefork; \$650,000 is for a grant to Independent School District No. 682, Roseau; and \$505,000 is for a grant to Independent School District No. 2580, East Central.

(c) The grant may be used for any school-related purpose.

(d) The base appropriation for 2022 is zero.

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

Sec. 15. **DISPOSITION OF CROSSWINDS SCHOOL; PROCEEDS OF SALE.**

(a) Notwithstanding the appropriation of state general obligation bond proceeds in Laws 1998, chapter 404, section 5, subdivision 5; Laws 1999, chapter 240, article 1, section 3; Laws 2000, chapter 492, article 1, section 5, subdivision 2; Laws 2001, First Special Session chapter 12, section 2, subdivision 2; and Laws 2005, chapter 20, article 1, section 5, subdivision 3, to acquire and better the Crosswinds school facilities by the Joint Powers District No. 6067, East Metro Integration District, in Woodbury, the Crosswinds school may be conveyed or sold by the commissioner of administration in accordance with Minnesota Statutes, sections 16B.281 to 16B.287.

(b) As soon as practicable following July 1, 2017, and consistent with Minnesota Statutes, sections 16A.695 and 16B.281 to 16B.287, and constraints on the disposition of bond-financed property, the commissioner of administration shall offer the Crosswinds school property for sale. Before offering the Crosswinds school property for sale, the commissioner of administration must determine that the property is no longer needed to carry out the governmental program for which it was acquired or constructed.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 16. **TRANSITION REQUIREMENTS; CROSSWINDS SCHOOL.**

For the 2017-2018 school year only, for a school district or charter school enrolling pupils at the Crosswinds school, the Department of Education must calculate compensatory revenue, literacy aid, and alternative compensation revenue for the Crosswinds school based on the October 1, 2016, enrollment counts at that site.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 17. **PERPICH CENTER FOR ARTS EDUCATION CLOSURE.**

Subdivision 1. **Perpich Center for Arts Education abolished.** (a) The Perpich Center for Arts Education (Perpich Center) is abolished effective June 30, 2018. Abolishment under this section does not reduce or otherwise limit the powers and authority of the Perpich Center during the concluding duration of its existence.

(b) Notwithstanding any other law, any unexpended and unencumbered appropriations to the Perpich Center lapse to the fund or account from which they were appropriated on June 30, 2018. All money in a dedicated fund or account of the Perpich Center on June 30, 2018, must be transferred to the general fund.

Subd. 2. **Library.** All property in the Perpich Arts Library is transferred to the State Library Services Division of the Department of Education, in accordance with Minnesota Statutes, section 15.039, subdivisions 5 and 8, effective June 1, 2018.

Subd. 3. **Student enrollment.** Students enrolled in the Perpich Arts High School during the 2016-2017 school year may continue to enroll in that school for the 2017-2018 school year. No student may enroll in the Perpich Arts High School after the 2017-2018 school year.

Subd. 4. **Education records.** The Perpich Center must transfer the education records of each student of the Perpich Arts High School and Crosswinds school according to Minnesota Statutes, section 120A.22, subdivision 7.

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

Sec. 18. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Debt service equalization aid.** For debt service equalization aid under Minnesota Statutes, section 123B.53, subdivision 6:

\$	<u>24,908,000</u>	.....	<u>2018</u>
\$	<u>22,360,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$2,324,000 for 2017 and \$22,584,000 for 2018.

The 2019 appropriation includes \$2,509,000 for 2018 and \$19,851,000 for 2019.

Subd. 3. **Long-term facilities maintenance equalized aid.** For long-term facilities maintenance equalized aid under Minnesota Statutes, section 123B.595, subdivision 9:

\$	<u>80,121,000</u>	.....	<u>2018</u>
\$	<u>103,397,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$5,815,000 for 2017 and \$74,306,000 for 2018.

The 2019 appropriation includes \$8,256,000 for 2018 and \$95,141,000 for 2019.

Subd. 4. **Equity in telecommunications access.** For equity in telecommunications access:

\$	<u>3,750,000</u>	.....	<u>2018</u>
\$	<u>3,750,000</u>	.....	<u>2019</u>

If the appropriation amount is insufficient, the commissioner shall reduce the reimbursement rate in Minnesota Statutes, section 125B.26, subdivisions 4 and 5, and the revenue for fiscal years 2018 and 2019 shall be prorated.

Any balance in the first year does not cancel but is available in the second year.

Subd. 5. **Early repayment aid incentive.** (a) For incentive grants for a district that repays the full outstanding original principal on its capital loan by November 30, 2016, under Laws 2011, First Special Session chapter 11, article 4, section 8, as amended by Laws 2016, chapter 189, article 30, section 22:

\$	<u>2,350,000</u>	.....	<u>2018</u>
\$	<u>2,350,000</u>	.....	<u>2019</u>

(b) Of this amount, \$150,000 is for a grant to Independent School District No. 36, Kelliher; \$180,000 is for a grant to Independent School District No. 95, Cromwell; \$495,000 is for a grant to Independent School District No. 299, Caledonia; \$220,000 is for a grant to Independent School District No. 306, Laporte; \$150,000 is for a grant to Independent School District No. 362, Littlefork; \$650,000 is for a grant to Independent School District No. 682, Roseau; and \$505,000 is for a grant to Independent School District No. 2580, East Central.

(c) The grant may be used for any school-related purpose.

(d) The base for 2022 is \$0.

Sec. 19. **REPEALER.**

(a) Minnesota Statutes 2016, section 123A.73, subdivision 3, is repealed retroactively from January 1, 2017.

(b) Minnesota Statutes 2016, sections 129C.10, subdivision 5a; and 129C.30, are repealed effective July 1, 2017.

(c) Minnesota Statutes 2016, sections 129C.10, subdivisions 1, 2, 3, 3a, 3b, 4, 4a, 6, 7, and 8; 129C.105; 129C.15; 129C.20; 129C.25; and 129C.26, and Minnesota Rules, parts 3600.0010, subparts 1, 2, 2a, 2b, 3, and 6; 3600.0020; 3600.0030, subparts 1, 2, 4, and 6; 3600.0045; 3600.0055; 3600.0065; 3600.0075; and 3600.0085, are repealed effective June 30, 2018.

ARTICLE 6

NUTRITION

Section 1. Minnesota Statutes 2016, section 123B.52, subdivision 1, is amended to read:

Subdivision 1. **Contracts.** A contract for work or labor, or for the purchase of furniture, fixtures, or other property, except books registered under the copyright laws and information systems software, or for the construction or repair of school houses, the estimated cost or value of which shall exceed that specified in section 471.345, subdivision 3, must not be made by the school board without first advertising for bids or proposals by two weeks' published notice in the official newspaper. This notice must state the time and place of receiving bids and contain a brief description of the subject matter.

Additional publication in the official newspaper or elsewhere may be made as the board shall deem necessary.

After taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids, every such contract for which a call for bids has been issued must be awarded to the lowest responsible bidder, be duly executed in writing, and be otherwise conditioned as required by law. The person to whom the contract is awarded shall give a sufficient bond to the board for its faithful performance. Notwithstanding section 574.26 or any other law to the contrary, on a contract limited to the purchase of a finished tangible product, a board may require, at its discretion, a performance bond of a contractor in the amount the board considers necessary. A record must be kept of all bids, with names of bidders and amount of bids, and with the successful

bid indicated thereon. A bid containing an alteration or erasure of any price contained in the bid which is used in determining the lowest responsible bid must be rejected unless the alteration or erasure is corrected as provided in this section. An alteration or erasure may be crossed out and the correction thereof printed in ink or typewritten adjacent thereto and initialed in ink by the person signing the bid. In the case of identical low bids from two or more bidders, the board may, at its discretion, utilize negotiated procurement methods with the tied low bidders for that particular transaction, so long as the price paid does not exceed the low tied bid price. In the case where only a single bid is received, the board may, at its discretion, negotiate a mutually agreeable contract with the bidder so long as the price paid does not exceed the original bid. If no satisfactory bid is received, the board may readvertise. Standard requirement price contracts established for supplies or services to be purchased by the district must be established by competitive bids. Such standard requirement price contracts may contain escalation clauses and may provide for a negotiated price increase or decrease based upon a demonstrable industrywide or regional increase or decrease in the vendor's costs. Either party to the contract may request that the other party demonstrate such increase or decrease. The term of such contracts must not exceed two years with an option on the part of the district to renew for an additional two years, except as provided in subdivision 7. Contracts for the purchase of perishable food items, except milk for school lunches and vocational training programs, in any amount may be made by direct negotiation by obtaining two or more written quotations for the purchase or sale, when possible, without advertising for bids or otherwise complying with the requirements of this section or section 471.345, subdivision 3. All quotations obtained shall be kept on file for a period of at least one year after receipt.

Every contract made without compliance with the provisions of this section shall be void. Except in the case of the destruction of buildings or injury thereto, where the public interest would suffer by delay, contracts for repairs may be made without advertising for bids.

EFFECTIVE DATE. This section is effective for contracts entered into on or after July 1, 2017.

Sec. 2. Minnesota Statutes 2016, section 123B.52, is amended by adding a subdivision to read:

Subd. 7. **Food service contracts.** A contract between a school board and a food service management company that complies with Code of Federal Regulations, title 7, section 210.16, may be renewed annually after its initial term for not more than four additional years.

EFFECTIVE DATE. This section is effective for contracts entered into on or after July 1, 2017.

Sec. 3. Minnesota Statutes 2016, section 124D.1158, subdivision 3, is amended to read:

Subd. 3. **Program reimbursement.** Each school year, the state must reimburse each participating school 30 cents for each reduced-price breakfast, 55 cents for each fully paid breakfast served to students in grades 1 to 12, and \$1.30 for each fully paid breakfast served to a ~~prekindergarten student enrolled in an approved voluntary prekindergarten program under section 124D.151 or a kindergarten student.~~

Sec. 4. Minnesota Statutes 2016, section 124D.1158, subdivision 4, is amended to read:

Subd. 4. **No fees.** A school that receives school breakfast aid under this section must make breakfast available without charge to all participating students in grades 1 to 12 who qualify for free or reduced-price meals and to all ~~prekindergarten students enrolled in an approved voluntary prekindergarten program under section 124D.151~~ and all kindergarten students.

Sec. 5. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **School lunch.** For school lunch aid under Minnesota Statutes, section 124D.111, and Code of Federal Regulations, title 7, section 210.17:

\$	<u>16,670,000</u>	.....	<u>2018</u>
\$	<u>17,172,000</u>	.....	<u>2019</u>

Subd. 3. **School breakfast.** For traditional school breakfast aid under Minnesota Statutes, section 124D.1158:

\$	<u>10,511,000</u>	.....	<u>2018</u>
\$	<u>11,269,000</u>	.....	<u>2019</u>

Subd. 4. **Kindergarten milk.** For kindergarten milk aid under Minnesota Statutes, section 124D.118:

\$	<u>758,000</u>	.....	<u>2018</u>
\$	<u>758,000</u>	.....	<u>2019</u>

Subd. 5. **Summer school food service replacement aid.** For summer school food service replacement aid under Minnesota Statutes, section 124D.119:

\$	<u>150,000</u>	.....	<u>2018</u>
\$	<u>150,000</u>	.....	<u>2019</u>

ARTICLE 7

LIBRARIES

Section 1. Minnesota Statutes 2016, section 134.31, subdivision 2, is amended to read:

Subd. 2. **Advice and instruction.** The Department of Education shall give advice and instruction to the managers of any public library or to any governing body maintaining a library or empowered to do so by law upon any matter pertaining to the organization, maintenance, or administration of libraries. The department may also give advice and instruction, as requested, to postsecondary educational institutions, ~~school districts or charter schools~~, state agencies, governmental units, nonprofit organizations, or private entities. It shall assist, to the extent possible, in the establishment and organization of library service in those areas where adequate services do not exist, and may aid in improving previously established library services. The department shall also provide assistance to school districts, regional library systems, and member libraries interested in offering joint library services at a single location.

Sec. 2. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Basic system support.** For basic system support aid under Minnesota Statutes, section 134.355:

\$	<u>13,570,000</u>	.....	<u>2018</u>
\$	<u>13,570,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$1,357,000 for 2017 and \$12,213,000 for 2018.

The 2019 appropriation includes \$1,357,000 for 2018 and \$12,213,000 for 2019.

Subd. 3. **Multicounty, multitype library systems.** For aid under Minnesota Statutes, sections 134.353 and 134.354, to multicounty, multitype library systems:

\$	<u>1,300,000</u>	.....	<u>2018</u>
\$	<u>1,300,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$130,000 for 2017 and \$1,170,000 for 2018.

The 2019 appropriation includes \$130,000 for 2018 and \$1,170,000 for 2019.

Subd. 4. **Electronic library for Minnesota.** For statewide licenses to online databases selected in cooperation with the Minnesota Office of Higher Education for school media centers, public libraries, state government agency libraries, and public or private college or university libraries:

\$	<u>900,000</u>	.....	<u>2018</u>
\$	<u>900,000</u>	.....	<u>2019</u>

Any balance in the first year does not cancel but is available in the second year.

Subd. 5. **Regional library telecommunications aid.** For regional library telecommunications aid under Minnesota Statutes, section 134.355:

\$	<u>2,300,000</u>	.....	<u>2018</u>
\$	<u>2,300,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$230,000 for 2017 and \$2,070,000 for 2018.

The 2019 appropriation includes \$230,000 for 2018 and \$2,070,000 for 2019.

ARTICLE 8

EARLY CHILDHOOD AND FAMILY SUPPORT

Section 1. Minnesota Statutes 2016, section 124D.1158, subdivision 3, is amended to read:

Subd. 3. **Program reimbursement.** Each school year, the state must reimburse each participating school 30 cents for each reduced-price breakfast, 55 cents for each fully paid breakfast served to students in grades 1 to 12, and \$1.30 for each fully paid breakfast served to a ~~prekindergarten student enrolled in an approved voluntary prekindergarten program under section 124D.151~~ or a kindergarten student.

Sec. 2. Minnesota Statutes 2016, section 124D.1158, subdivision 4, is amended to read:

Subd. 4. **No fees.** A school that receives school breakfast aid under this section must make breakfast available without charge to all participating students in grades 1 to 12 who qualify for free or reduced-price meals and to all ~~prekindergarten students enrolled in an approved voluntary prekindergarten program under section 124D.151~~ and all kindergarten students.

Sec. 3. Minnesota Statutes 2016, section 124D.165, subdivision 1, is amended to read:

Subdivision 1. **Establishment; purpose.** There is established an early learning scholarships program in order to ~~increase~~ close the opportunity gap by increasing access to high-quality early childhood programs ~~for children ages three to five.~~

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 4. Minnesota Statutes 2016, section 124D.165, subdivision 2, is amended to read:

Subd. 2. **Family eligibility.** (a) For a family to receive an early learning scholarship, parents or guardians must meet the following eligibility requirements:

(1) have ~~a~~ an eligible child ~~three or four years of age on September 1 of the current school year, who has not yet started kindergarten,~~ and

(2) have income equal to or less than 185 percent of federal poverty level income in the current calendar year, or be able to document their child's current participation in the free and reduced-price lunch program or child and adult care food program, National School Lunch Act, United States Code, title 42, sections 1751 and 1766; the Food Distribution Program on Indian Reservations, Food and Nutrition Act, United States Code, title 7, sections 2011-2036; Head Start under the federal Improving Head Start for School Readiness Act of 2007; Minnesota family investment program under chapter 256J; child care assistance programs under chapter 119B; the supplemental nutrition assistance program; or placement in foster care under section 260C.212.

~~(b) Notwithstanding the other provisions of this section, a parent under age 21 who is pursuing a high school or general education equivalency diploma is eligible for an early learning scholarship if the parent has a child age zero to five years old and meets the income eligibility guidelines in this subdivision.~~

~~(c) Any siblings between the ages zero to~~ (b) An "eligible child" means a child who has not yet enrolled in kindergarten and is:

(1) at least three but not yet five years of age on September 1 of the current school year;

(2) a sibling from birth to age five years old of a child who has been awarded a scholarship under this section must be awarded a scholarship upon request, provided the sibling attends the same program as long as funds are available;

(3) the child of a parent under age 21 who is pursuing a high school degree or a course of study for a high school equivalency test; or

(4) homeless, in foster care, or in need of child protective services.

~~(c)~~ (c) A child who has received a scholarship under this section must continue to receive a scholarship each year until that child is eligible for kindergarten under section 120A.20 and as long as funds are available.

~~(d)~~ (d) Early learning scholarships may not be counted as earned income for the purposes of medical assistance under chapter 256B, MinnesotaCare under chapter 256L, Minnesota family investment program under chapter 256J, child care assistance programs under chapter 119B, or Head Start under the federal Improving Head Start for School Readiness Act of 2007.

~~(e)~~ (e) A child from an adjoining state whose family resides at a Minnesota address as assigned by the United States Postal Service, who has received developmental screening under sections 121A.16 to 121A.19, who intends to enroll in a Minnesota school district, and whose family meets the criteria of paragraph (a) is eligible for an early learning scholarship under this section.

EFFECTIVE DATE. This section is effective July 1, 2017.

Sec. 5. Minnesota Statutes 2016, section 124D.165, subdivision 3, is amended to read:

Subd. 3. **Administration.** (a) The commissioner shall establish application timelines and determine the schedule for awarding scholarships that meets operational needs of eligible families and programs. The commissioner must give highest priority to applications from children who:

(1) have a parent under age 21 who is pursuing a high school diploma or a course of study for a high school equivalency test;

(2) are in foster care or otherwise in need of protection or services; or

(3) have experienced homelessness in the last 24 months, as defined under the federal McKinney-Vento Homeless Assistance Act, United States Code, title 42, section 11434a.

The commissioner may prioritize applications on additional factors including family income, geographic location, and whether the child's family is on a waiting list for a publicly funded program providing early education or child care services.

~~(b) For fiscal years 2014 and 2015 only, scholarships may not exceed \$5,000 per year for each eligible child. For fiscal year 2016 and later,~~ The commissioner shall establish a target for the average scholarship amount per child based on the results of the rate survey conducted under section 119B.02.

(c) A four-star rated program that has children eligible for a scholarship enrolled in or on a waiting list for a program beginning in July, August, or September may notify the commissioner, in the form and manner prescribed by the commissioner, each year of the program's desire to enhance

program services or to serve more children than current funding provides. The commissioner may designate a predetermined number of scholarship slots for that program and notify the program of that number. For fiscal year 2018 and later, the statewide total number of scholarship slots directly designated by the commissioner must not exceed the number of scholarships awarded for fiscal year 2017. Beginning July 1, 2016, a school district or Head Start program qualifying under this paragraph may use its established registration process to enroll scholarship recipients and may verify a scholarship recipient's family income in the same manner as for other program participants.

(d) A scholarship is awarded for a 12-month period. If the scholarship recipient has not been accepted and subsequently enrolled in a rated program within ten months of the awarding of the scholarship, the scholarship cancels and the recipient must reapply in order to be eligible for another scholarship. A child may not be awarded more than one scholarship in a 12-month period.

(e) A child who receives a scholarship who has not completed development screening under sections 121A.16 to 121A.19 must complete that screening within 90 days of first attending an eligible program.

(f) For fiscal year 2017 and later, a school district or Head Start program enrolling scholarship recipients under paragraph (c) may apply to the commissioner, in the form and manner prescribed by the commissioner, for direct payment of state aid. Upon receipt of the application, the commissioner must pay each program directly for each approved scholarship recipient enrolled under paragraph (c) according to the metered payment system or another schedule established by the commissioner.

Sec. 6. Minnesota Statutes 2016, section 124D.165, subdivision 4, is amended to read:

Subd. 4. **Early childhood program eligibility.** (a) In order to be eligible to accept an early learning scholarship, a program must:

(1) participate in the quality rating and improvement system under section 124D.142; and

(2) beginning July 1, ~~2016~~ 2022, have a three- or four-star rating in the quality rating and improvement system.

(b) Any program accepting scholarships must use the revenue to supplement and not supplant federal funding.

(c) Notwithstanding paragraph (a), all Minnesota early learning foundation scholarship program pilot sites are eligible to accept an early learning scholarship under this section.

Sec. 7. Minnesota Statutes 2016, section 124D.59, subdivision 2, is amended to read:

Subd. 2. **English learner.** (a) "English learner" means a pupil in kindergarten through grade 12 ~~or a prekindergarten student enrolled in an approved voluntary prekindergarten program under section 124D.151~~ who meets the requirements under subdivision 2a or the following requirements:

(1) the pupil, as declared by a parent or guardian first learned a language other than English, comes from a home where the language usually spoken is other than English, or usually speaks a language other than English; and

(2) the pupil is determined by a valid assessment measuring the pupil's English language proficiency and by developmentally appropriate measures, which might include observations, teacher judgment, parent recommendations, or developmentally appropriate assessment instruments, to lack the necessary English skills to participate fully in academic classes taught in English.

(b) A pupil enrolled in a Minnesota public school in any grade 4 through 12 who in the previous school year took a commissioner-provided assessment measuring the pupil's emerging academic English, shall be counted as an English learner in calculating English learner pupil units under section 126C.05, subdivision 17, and shall generate state English learner aid under section 124D.65, subdivision 5, if the pupil scored below the state cutoff score or is otherwise counted as a nonproficient participant on the assessment measuring the pupil's emerging academic English, or, in the judgment of the pupil's classroom teachers, consistent with section 124D.61, clause (1), the pupil is unable to demonstrate academic language proficiency in English, including oral academic language, sufficient to successfully and fully participate in the general core curriculum in the regular classroom.

(c) Notwithstanding paragraphs (a) and (b), a pupil in ~~prekindergarten under section 124D.151,~~ kindergarten through grade 12 shall not be counted as an English learner in calculating English learner pupil units under section 126C.05, subdivision 17, and shall not generate state English learner aid under section 124D.65, subdivision 5, if:

(1) the pupil is not enrolled during the current fiscal year in an educational program for English learners under sections 124D.58 to 124D.64; or

(2) the pupil has generated seven or more years of average daily membership in Minnesota public schools since July 1, 1996.

Sec. 8. Minnesota Statutes 2016, section 126C.05, subdivision 1, is amended to read:

Subdivision 1. **Pupil unit.** Pupil units for each Minnesota resident pupil under the age of 21 or who meets the requirements of section 120A.20, subdivision 1, paragraph (c), in average daily membership enrolled in the district of residence, in another district under sections 123A.05 to 123A.08, 124D.03, 124D.08, or 124D.68; in a charter school under chapter 124E; or for whom the resident district pays tuition under section 123A.18, 123A.22, 123A.30, 123A.32, 123A.44, 123A.488, 123B.88, subdivision 4, 124D.04, 124D.05, 125A.03 to 125A.24, 125A.51, or 125A.65, shall be counted according to this subdivision.

(a) A prekindergarten pupil with a disability who is enrolled in a program approved by the commissioner and has an individualized education program is counted as the ratio of the number of hours of assessment and education service to 825 times 1.0 with a minimum average daily membership of 0.28, but not more than 1.0 pupil unit.

(b) A prekindergarten pupil who is assessed but determined not to be disabled is counted as the ratio of the number of hours of assessment service to 825 times 1.0.

(c) A kindergarten pupil with a disability who is enrolled in a program approved by the commissioner is counted as the ratio of the number of hours of assessment and education services required in the fiscal year by the pupil's individualized education program to 875, but not more than one.

~~(d)~~ A prekindergarten pupil who is not included in paragraph (a) or (b) and is enrolled in an approved voluntary prekindergarten program under section 124D.151 is counted as the ratio of the number of hours of instruction to 850 times 1.0, but not more than 0.6 pupil units.

~~(e)~~ (d) A kindergarten pupil who is not included in paragraph (c) is counted as 1.0 pupil unit if the pupil is enrolled in a free all-day, every day kindergarten program available to all kindergarten pupils at the pupil's school that meets the minimum hours requirement in section 120A.41, or is counted as .55 pupil unit, if the pupil is not enrolled in a free all-day, every day kindergarten program available to all kindergarten pupils at the pupil's school.

~~(f)~~ (e) A pupil who is in any of grades 1 to 6 is counted as 1.0 pupil unit.

~~(g)~~ (f) A pupil who is in any of grades 7 to 12 is counted as 1.2 pupil units.

~~(h)~~ (g) A pupil who is in the postsecondary enrollment options program is counted as 1.2 pupil units.

Sec. 9. SCHOOL READINESS ADJUSTMENT.

For fiscal year 2018 and later, a charter school's or a district's school readiness aid under Minnesota Statutes, section 124D.16, must be increased by an amount equal to the charter school's or district's total voluntary prekindergarten revenue for fiscal year 2017. Notwithstanding any other law, a charter school qualifying for revenue under this section is eligible for school readiness aid.

Sec. 10. APPROPRIATIONS.

Subdivision 1. Department of Education. The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. School readiness. For revenue for school readiness programs under Minnesota Statutes, sections 124D.15 and 124D.16:

\$	<u>55,260,000</u>	.....	<u>2018</u>
\$	<u>57,657,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$3,368,000 for 2017 and \$51,892,000 for 2018.

The 2019 appropriation includes \$5,765,000 for 2018 and \$51,892,000 for 2019.

Subd. 3. Early learning scholarships. (a) For the early learning scholarship program under Minnesota Statutes, section 124D.165:

\$	<u>69,384,000</u>	.....	<u>2018</u>
\$	<u>69,384,000</u>	.....	<u>2019</u>

(b) Of the amounts appropriated in paragraph (a), no more than the amount necessary to fund the same number of scholarship slots as were provided through the predetermined selection process for fiscal year 2017 may be awarded through that method.

(c) Up to \$950,000 each year is for administration of this program.

(d) Any balance in the first year does not cancel but is available in the second year.

(e) The base for fiscal year 2020 is \$69,884,000.

Subd. 4. **Head Start program.** For Head Start programs under Minnesota Statutes, section 119A.52:

\$	<u>25,100,000</u>	.....	<u>2018</u>
\$	<u>25,100,000</u>	.....	<u>2019</u>

Subd. 5. **Early childhood family education aid.** For early childhood family education aid under Minnesota Statutes, section 124D.135:

\$	<u>30,175,000</u>	.....	<u>2018</u>
\$	<u>31,474,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$2,904,000 for 2017 and \$27,271,000 for 2018.

The 2019 appropriation includes \$3,030,000 for 2018 and \$28,444,000 for 2019.

Subd. 6. **Developmental screening aid.** For developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

\$	<u>3,606,000</u>	.....	<u>2018</u>
\$	<u>3,629,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$358,000 for 2017 and \$3,248,000 for 2018.

The 2019 appropriation includes \$360,000 for 2018 and \$3,269,000 for 2019.

Subd. 7. **Parent-child home program.** For a grant to the parent-child home program:

\$	<u>900,000</u>	.....	<u>2018</u>
\$	<u>900,000</u>	.....	<u>2019</u>

The grant must be used for an evidence-based and research-validated early childhood literacy and school readiness program for children ages 16 months to four years at its existing suburban program location. The program must include urban and rural program locations for fiscal years 2018 and 2019.

The base for this program for fiscal year 2020 and later is \$900,000.

Subd. 8. **Kindergarten entrance assessment initiative and intervention program.** For the kindergarten entrance assessment initiative and intervention program under Minnesota Statutes, section 124D.162:

\$	<u>281,000</u>	.....	<u>2018</u>
\$	<u>281,000</u>	.....	<u>2019</u>

Subd. 9. **Quality rating and improvement system.** (a) For transfer to the commissioner of human services for the purposes of expanding the quality rating and improvement system under

Minnesota Statutes, section 124D.142, in greater Minnesota and increasing supports for providers participating in the quality rating and improvement system:

\$	<u>1,750,000</u>	.....	<u>2018</u>
\$	<u>1,750,000</u>	.....	<u>2019</u>

(b) The amounts in paragraph (a) must be in addition to any federal funding under the child care and development block grant authorized under Public Law 101-508 in that year for the system under Minnesota Statutes, section 124D.142.

(c) Any balance in the first year does not cancel but is available in the second year.

(d) The base for this program in fiscal year 2020 and later is \$1,750,000.

Subd. 10. **Early childhood programs at tribal schools.** For early childhood family education programs at tribal contract schools under Minnesota Statutes, section 124D.83, subdivision 4:

\$	<u>68,000</u>	.....	<u>2018</u>
\$	<u>68,000</u>	.....	<u>2019</u>

Subd. 11. **Educate parents partnership.** For the educate parents partnership under Minnesota Statutes, section 124D.129:

\$	<u>49,000</u>	.....	<u>2018</u>
\$	<u>49,000</u>	.....	<u>2019</u>

Subd. 12. **Home visiting aid.** For home visiting aid under Minnesota Statutes, section 124D.135:

\$	<u>527,000</u>	.....	<u>2018</u>
\$	<u>571,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$0 for 2017 and \$527,000 for 2018.

The 2019 appropriation includes \$58,000 for 2018 and \$513,000 for 2019.

Sec. 11. **REPEALER.**

Minnesota Statutes 2016, section 124D.151, is repealed.

ARTICLE 9

COMMUNITY EDUCATION AND PREVENTION

Section 1. **[124D.99] EDUCATION PARTNERSHIPS COALITION FUND.**

Subdivision 1. **Program establishment.** The commissioner of education shall establish a program supporting a coalition of coordinated, aligned education partnerships as specified in this section, for a comprehensive network of evidence-based support services designed to close opportunity gaps by improving educational and developmental outcomes of children and their families within communities experiencing poverty and impediments to economic viability.

Subd. 2. **Definitions.** (a) For purposes of this section the terms defined in this subdivision have the meanings given them.

(b) "Tier 1 grant" means a sustaining grant for the ongoing operation, stability, and expansion of existing education partnership program locations.

(c) "Tier 2 grant" means an implementation grant for expanding activity in education partnership program locations.

Subd. 3. **Administration; design.** (a) The commissioner shall establish program requirements, an application process and timeline for each tier of grants specified in subdivision 4, criteria for evaluation of applications, and a grant awards process. The commissioner's process must minimize administrative costs, minimize burdens for applicants and grant recipients, and provide a framework that permits flexibility in program design and implementation among grant recipients.

(b) To the extent practicable, the commissioner shall design the program to align with programs implemented or proposed by organizations in Minnesota that:

(1) identify and increase the capacity of organizations that are focused on achieving data-driven, locally controlled positive outcomes for children and youth throughout an entire neighborhood or geographic area through programs such as Strive Together, Promise Neighborhood, and the Education Partnerships Coalition members;

(2) build a continuum of educational family and community supports with academically rigorous schools at the center;

(3) maximize program efficiencies by integrating programmatic activities and eliminating administrative barriers;

(4) develop local infrastructure needed to sustain and scale up proven and effective solutions beyond the initial neighborhood or geographic area; and

(5) utilize appropriate outcome measures based on unique community needs and interests and apply rigorous evaluation on a periodic basis to be used to both monitor outcomes and allow for continuous improvements to systems.

(c) A grant recipient's supportive services programming must address:

(1) kindergarten readiness and youth development;

(2) grade 3 reading proficiency;

(3) high school graduation;

(4) postsecondary educational attainment;

(5) physical and mental health;

(6) development of career skills and readiness;

(7) parental engagement and development;

(8) community engagement and programmatic alignment; and

(9) reduction of remedial education.

(d) The commissioner, in consultation with grant recipients, must:

(1) develop and revise core indicators of progress toward outcomes specifying impacts for each tier identified under subdivision 4;

(2) establish a reporting system for grant recipients to measure program outcomes using data sources and program goals; and

(3) evaluate effectiveness based on the core indicators established by each partnership for each tier.

Subd. 4. **Requirements.** A grant recipient's program in the planning, development, or implementation phase must include:

(1) integrated supportive services programming, as specified in paragraph (b), within a specific community or geographic area for all ages of children and youth and their families within that area, provided that services may be phased in to all ages over time; and

(2) a system for evaluating goals and outcomes as provided under subdivision 3, paragraph (c).

Subd. 5. **Grants.** The commissioner shall award Tier 1 and Tier 2 grants to qualifying recipients that can demonstrate a nonstate source of funds, including in-kind contributions.

Subd. 6. **Legislative report.** By December 15 of each odd-numbered year, the commissioner shall submit a report on the education partnership program to the chairs and ranking minority members of the legislative committees having jurisdiction over kindergarten through grade 12 education, early childhood education, economic development, and human services. At a minimum, the report must summarize grantee activities, identify grant recipients and awards, analyze program performance measures and outcomes, and make any recommendations for legislative changes.

EFFECTIVE DATE. This section is effective July 1, 2017, and subdivision 6 applies to reports due starting in calendar year 2019.

Sec. 2. **APPROPRIATIONS.**

Subdivision 1. **Department of Education.** The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Community education aid.** For community education aid under Minnesota Statutes, section 124D.20:

<u>\$</u>	<u>483,000</u>	<u>.....</u>	<u>2018</u>
<u>\$</u>	<u>393,000</u>	<u>.....</u>	<u>2019</u>

The 2018 appropriation includes \$53,000 for 2017 and \$430,000 for 2018.

The 2019 appropriation includes \$47,000 for 2018 and \$346,000 for 2019.

Subd. 3. **Adults with disabilities program aid.** For adults with disabilities programs under Minnesota Statutes, section 124D.56:

\$	<u>710,000</u>	.....	<u>2018</u>
\$	<u>710,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$71,000 for 2017 and \$639,000 for 2018.

The 2019 appropriation includes \$71,000 for 2018 and \$639,000 for 2019.

Subd. 4. **Hearing-impaired adults.** For programs for hearing-impaired adults under Minnesota Statutes, section 124D.57:

\$	<u>70,000</u>	.....	<u>2018</u>
\$	<u>70,000</u>	.....	<u>2019</u>

Subd. 5. **School-age care aid.** For school-age care aid under Minnesota Statutes, section 124D.22:

\$	<u>1,000</u>	.....	<u>2018</u>
\$	<u>1,000</u>	.....	<u>2019</u>

The 2018 appropriation includes \$0 for 2017 and \$1,000 for 2018.

The 2019 appropriation includes \$0 for 2018 and \$1,000 for 2019.

Subd. 6. **Tier 1 grants.** (a) For education partnership program Tier 1 sustaining grants under Minnesota Statutes, section 124D.99:

\$	<u>2,600,000</u>	.....	<u>2018</u>
\$	<u>2,600,000</u>	.....	<u>2019</u>

(b) Of the amounts in paragraph (a), \$1,300,000 each year is for the Northside Achievement Zone and \$1,300,000 each year is for the St. Paul Promise Neighborhood.

(c) The base funding for Tier 1 sustaining grants is \$2,600,000.

(d) Any balance in the first year does not cancel but is available in the second year.

Subd. 7. **Tier 2 implementing grants.** (a) For Tier 2 implementing grants under Minnesota Statutes, section 124D.99:

\$	<u>480,000</u>	.....	<u>2018</u>
\$	<u>480,000</u>	.....	<u>2019</u>

(b) For fiscal years 2018 and 2019 only, \$160,000 each year is for the Northfield Healthy Community Initiative in Northfield; \$160,000 is for the Jones Family Foundation for the Every Hand Joined program in Red Wing; and \$160,000 is for the United Way of Central Minnesota for the Partners for Student Success program.

(c) The base funding for Tier 2 implementing grants is \$480,000. The commissioner must competitively award all grants under this subdivision for fiscal year 2020 and later.

(d) Any balance in the first year does not cancel but is available in the second year.

ARTICLE 10

SELF-SUFFICIENCY AND LIFELONG LEARNING

Section 1. Minnesota Statutes 2016, section 124D.52, subdivision 7, is amended to read:

Subd. 7. **Performance tracking system.** (a) By July 1, 2000, each approved adult basic education program must develop and implement a performance tracking system to provide information necessary to comply with federal law and serve as one means of assessing the effectiveness of adult basic education programs. For required reporting, longitudinal studies, and program improvement, the tracking system must be designed to collect data on the following core outcomes for learners, including English learners, who have completed participating in the adult basic education program:

(1) demonstrated improvements in literacy skill levels in reading, writing, speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills;

(2) placement in, retention in, or completion of postsecondary education, training, unsubsidized employment, or career advancement;

(3) receipt of a secondary school diploma or its recognized equivalent; and

(4) reduction in participation in the diversionary work program, Minnesota family investment program; and food support education and training program.

(b) A district, group of districts, state agency, or private nonprofit organization providing an adult basic education program may meet this requirement by developing a tracking system based on either or both of the following methodologies:

(1) conducting a reliable follow-up survey; or

(2) submitting student information, including collected Social Security numbers for data matching.

~~Data related to obtaining employment must be collected in the first quarter following program completion or can be collected while the student is enrolled, if known. Data related to employment retention must be collected in the third quarter following program exit. Data related to any other of the specified outcome outcomes may be collected at any time during a program year.~~

(c) When a student in a program is requested to provide the student's Social Security number, the student must be notified in a written form easily understandable to the student that:

(1) providing the Social Security number is optional and no adverse action may be taken against the student if the student chooses not to provide the Social Security number;

(2) the request is made under section 124D.52, subdivision 7;

(3) if the student provides the Social Security number, it will be used to assess the effectiveness of the program by tracking the student's subsequent career; and

(4) the Social Security number will be shared with the Department of Education; Minnesota State Colleges and Universities; Office of Higher Education; Department of Human Services; and Department of Employment and Economic Development in order to accomplish the purposes described in paragraph (a) and will not be used for any other purpose or reported to any other governmental entities.

(d) Annually a district, group of districts, state agency, or private nonprofit organization providing programs under this section must forward the tracking data collected to the Department of Education. For the purposes of longitudinal studies on the employment status of former students under this section, the Department of Education must forward the Social Security numbers to the Department of Employment and Economic Development to electronically match the Social Security numbers of former students with wage detail reports filed under section 268.044. The results of data matches must, for purposes of this section and consistent with the requirements of the United States Code, title 29, section 2871, of the Workforce Investment Act of 1998 Workforce Innovation and Opportunity Act, be compiled in a longitudinal form by the Department of Employment and Economic Development and released to the Department of Education in the form of summary data that does not identify the individual students. The Department of Education may release this summary data. State funding for adult basic education programs must not be based on the number or percentage of students who decline to provide their Social Security numbers or on whether the program is evaluated by means of a follow-up survey instead of data matching.

Sec. 2. Minnesota Statutes 2016, section 124D.549, is amended to read:

**124D.549 GENERAL EDUCATION DEVELOPMENT (GED) TESTS RULES;
COMMISSIONER-COMMISSIONER-SELECTED HIGH SCHOOL EQUIVALENCY TEST.**

The commissioner may amend rules to reflect changes in the national minimum standard score for passing the general education development (GED) tests, in consultation with adult basic education stakeholders, must select a high school equivalency test. The commissioner may issue a high school equivalency diploma to a Minnesota resident 19 years of age or older who has not earned a high school diploma, who has not previously been issued a general education development (GED) certification, and who has exceeded or achieved a minimum passing score on the equivalency test established by the publisher. The commissioner of education may waive the minimum age requirement if supportive evidence is provided by an employer or a recognized education or rehabilitation provider.

Sec. 3. Minnesota Statutes 2016, section 124D.55, is amended to read:

**124D.55 GENERAL EDUCATION DEVELOPMENT (GED)
COMMISSIONER-SELECTED HIGH SCHOOL EQUIVALENCY TEST FEES.**

The commissioner shall pay 60 percent of the fee that is charged to an eligible individual for the full battery of general education development (GED) the commissioner-selected high school equivalency tests, but not more than \$40 for an eligible individual.

For fiscal year 2017 only, the commissioner shall pay 100 percent of the fee charged to an eligible individual for the full battery of general education development (GED) tests, but not more than the cost of one full battery of tests per year for any individual.

Sec. 4. Minnesota Statutes 2016, section 256J.08, subdivision 38, is amended to read:

Subd. 38. **Full-time student.** "Full-time student" means a person who is enrolled in a graded or ungraded primary, intermediate, secondary, ~~GED~~ commissioner of education-selected high school equivalency preparatory, trade, technical, vocational, or postsecondary school, and who meets the school's standard for full-time attendance.

Sec. 5. Minnesota Statutes 2016, section 256J.08, subdivision 39, is amended to read:

Subd. 39. ~~General educational development or GED~~ **Commissioner of education-selected high school equivalency.** "~~General educational development" or "GED"~~ "Commissioner of education-selected high school equivalency" means the ~~general educational development high school equivalency~~ certification issued by the commissioner of education as an equivalent to a secondary school diploma under Minnesota Rules, part 3500.3100, subpart 4 section 124D.549.

Sec. 6. **APPROPRIATIONS.**

Subdivision 1. Department of Education. The sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. Adult basic education aid. For adult basic education aid under Minnesota Statutes, section 124D.531:

\$	<u>50,010,000</u>	<u>.....</u>	<u>2018</u>
\$	<u>51,497,000</u>	<u>.....</u>	<u>2019</u>

The 2018 appropriation includes \$4,881,000 for 2017 and \$45,129,000 for 2018.

The 2019 appropriation includes \$5,014,000 for 2018 and \$46,483,000 for 2019.

Subd. 3. High school equivalency tests. For payment of 60 percent of the costs of the commissioner-selected high school equivalency tests under Minnesota Statutes, section 124D.55:

\$	<u>125,000</u>	<u>.....</u>	<u>2018</u>
\$	<u>125,000</u>	<u>.....</u>	<u>2019</u>

Sec. 7. **REVISOR'S INSTRUCTION.**

In Minnesota Statutes and Minnesota Rules, the revisor of statutes shall substitute the term "commissioner-selected high school equivalency" or similar term for "general education development," "GED," or similar terms for wherever the term refers to the tests or programs leading to a certification issued by the commissioner of education as an equivalency to a secondary diploma.

Sec. 8. **REPEALER.**

Minnesota Rules, part 3500.3100, subpart 4, is repealed.

ARTICLE 11**STATE AGENCIES**

Section 1. Minnesota Statutes 2016, section 122A.14, subdivision 9, is amended to read:

Subd. 9. **Fee.** Each person licensed by the Board of School Administrators shall pay the board a fee of \$75, collected each fiscal year. When transmitting notice of the license fee, the board also must notify the licensee of the penalty for failing to pay the fee within the time specified by the board. The board may provide a lower fee for persons on retired or inactive status. After receiving notice from the board, any licensed school administrator who does not pay the fee in the given fiscal year shall have all administrative licenses held by the person automatically suspended, without the right to a hearing, until the fee has been paid to the board. If the board suspends a licensed school administrator for failing to pay the fee, it must immediately notify the district currently employing the school administrator of the school administrator's suspension. The executive secretary shall deposit the fees in the educator licensure account in the special revenue fund in the state treasury.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 2. **[122A.175] SPECIAL REVENUE FUND ACCOUNTS; EDUCATOR LICENSURE AND BACKGROUND CHECKS.**

Subdivision 1. **Educator licensure account.** An educator licensure account is created in the special revenue fund. Applicant licensure fees received by the Department of Education, the Board of Teaching, or the Board of School Administrators must be deposited in the educator licensure account. Any funds appropriated from this account that remain unexpended at the end of the biennium cancel to the educator licensure account in the special revenue fund.

Subd. 2. **Background check account.** An educator licensure background check account is created in the special revenue fund. The Department of Education, the Board of Teaching, and the Board of School Administrators must deposit all payments submitted by license applicants for criminal background checks conducted by the Bureau of Criminal Apprehension in the educator licensure background check account. Amounts in the account are annually appropriated to the commissioner of education for payment to the superintendent of the Bureau of Criminal Apprehension for the costs of background checks on applicants for licensure.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 3. Minnesota Statutes 2016, section 122A.18, subdivision 7c, is amended to read:

Subd. 7c. **Temporary military license.** The Board of Teaching shall establish a temporary license in accordance with section 197.4552 for teaching. The fee for a temporary license under this subdivision shall be \$87.90 for an online application or \$86.40 for a paper application. The board must deposit the fees received from applicants in the educator licensure account in the special revenue fund.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 4. Minnesota Statutes 2016, section 122A.18, subdivision 8, is amended to read:

Subd. 8. **Background checks.** (a) The Board of Teaching and the commissioner of education must request a criminal history background check from the superintendent of the Bureau of Criminal Apprehension on all first-time teaching applicants for licenses under their jurisdiction. Applicants must include with their licensure applications:

(1) an executed criminal history consent form, including fingerprints; and

(2) ~~a money order or cashier's check payable to the Bureau of Criminal Apprehension for the fee for conducting~~ payment to conduct the criminal history background check. The Board of Teaching and the commissioner of education must deposit payments received under this subdivision in the educator licensure background check account in the special revenue fund.

(b) The superintendent of the Bureau of Criminal Apprehension shall perform the background check required under paragraph (a) by retrieving criminal history data as defined in section 13.87 and shall also conduct a search of the national criminal records repository. The superintendent is authorized to exchange fingerprints with the Federal Bureau of Investigation for purposes of the criminal history check. The superintendent shall recover the cost to the bureau of a background check through the fee charged to the applicant under paragraph (a).

(c) The Board of Teaching or the commissioner of education may issue a license pending completion of a background check under this subdivision, but must notify the individual that the individual's license may be revoked based on the result of the background check.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 5. Minnesota Statutes 2016, section 122A.21, subdivision 1, is amended to read:

Subdivision 1. **Licensure applications.** Each applicant submitting an application for the issuance, renewal, or extension of to the Board of Teaching to issue, renew, or extend a teaching license to teach, including applications for licensure via portfolio under subdivision 2, ~~must be accompanied by~~ include a processing fee of \$57. The processing fee for a teacher's license and for the licenses of supervisory personnel must be paid to the executive secretary of the appropriate board and deposited in the educator licensure account in the special revenue fund. ~~The executive secretary of the board shall deposit the fees with the commissioner of management and budget.~~ The fees as set by the board are nonrefundable for applicants not qualifying for a license. However, a fee must be refunded by the commissioner of management and budget must refund a fee in any case in which the applicant already holds a valid unexpired license. The board may waive or reduce fees for applicants who apply at the same time for more than one license.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 6. Minnesota Statutes 2016, section 122A.21, subdivision 2, is amended to read:

Subd. 2. **Licensure via portfolio.** (a) An eligible candidate may use licensure via portfolio to obtain a professional five-year teaching license or to add a licensure field, consistent with applicable Board of Teaching licensure rules.

(b) A candidate for a professional five-year teaching license must submit to the Educator Licensing Division at the department one portfolio demonstrating pedagogical competence and one portfolio demonstrating content competence.

(c) A candidate seeking to add a licensure field must submit to the Educator Licensing Division at the department one portfolio demonstrating content competence.

(d) The Board of Teaching must notify a candidate who submits a portfolio under paragraph (b) or (c) within 90 calendar days after the portfolio is received whether or not the portfolio was approved. If the portfolio was not approved, the board must immediately inform the candidate how to revise the portfolio to successfully demonstrate the requisite competence. The candidate may resubmit a revised portfolio at any time and the Educator Licensing Division at the department must approve or disapprove the portfolio within 60 calendar days of receiving it.

(e) A candidate must pay to the executive secretary of the Board of Teaching a \$300 fee for the first portfolio submitted for review and a \$200 fee for any portfolio submitted subsequently. ~~The revenue generated from Board of Teaching executive secretary must deposit the fee must be deposited in an education the educator licensure portfolio account in the special revenue fund.~~ The fees set by the Board of Teaching are nonrefundable for applicants not qualifying for a license. The Board of Teaching may waive or reduce fees for candidates based on financial need.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 7. Minnesota Statutes 2016, section 122A.21, is amended by adding a subdivision to read:

Subd. 3. Annual appropriations. (a) The amounts collected under subdivision 2 and deposited in the educator licensure account in the special revenue fund are annually appropriated to the Board of Teaching.

(b) The appropriations in paragraph (a) must be reduced by the amount of any money specifically appropriated for the same purposes in any year from any state fund.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 8. **TRANSFERS.**

Subdivision 1. Portfolio account. On July 1, 2019, the commissioner of management and budget shall transfer any balances in the educator licensure portfolio account in the special revenue fund to the educator licensure account in the special revenue fund.

Subd. 2. Background check. Any balance in an account that holds fees collected under Minnesota Statutes, section 122A.18, subdivision 8, is transferred to the educator licensure background check account in the special revenue fund under Minnesota Statutes, section 122A.175, subdivision 2. On July 2, 2019, \$80,000 is transferred from the educator licensure background check account in the special revenue fund to the educator licensure account in the special revenue fund.

Sec. 9. **APPROPRIATIONS; DEPARTMENT OF EDUCATION.**

Subdivision 1. **Department of Education.** Unless otherwise indicated, the sums indicated in this section are appropriated from the general fund to the Department of Education for the fiscal years designated.

Subd. 2. **Department.** (a) For the Department of Education:

\$	<u>19,854,000</u>	.....	<u>2018</u>
\$	<u>19,829,000</u>	.....	<u>2019</u>

Of these amounts:

(1) \$231,000 each year is for the Board of School Administrators. Beginning in fiscal year 2020, the amount indicated is appropriated from the educator licensure account in the special revenue fund;

(2) \$123,000 each year is for a dyslexia specialist;

(3) \$200,000 each year is for the Lola and Rudy Perpich arts education and outreach division; and

(4) \$370,000 each year is for grants for arts integration and Turnaround Arts programs. The base for fiscal year 2020 is \$0.

(b) Any balance in the first year does not cancel but is available in the second year.

(c) None of the amounts appropriated under this subdivision may be used for Minnesota's Washington, D.C. office.

(d) The expenditures of federal grants and aids as shown in the biennial budget document and its supplements are approved and appropriated and shall be spent as indicated.

(e) If H.F. 140 or a similarly styled bill transferring the Educator Licensing Division to the Board of Teaching is enacted, the fiscal year 2018 appropriation in paragraph (a) is reduced by \$836,000 and the fiscal year 2019 appropriation in paragraph (a) is reduced by \$845,000.

(f) The agency's base in fiscal year 2020 is \$19,228,000 and \$19,228,000 in 2021.

(g) Notwithstanding paragraph (f), if H.F. 140 or a similarly styled bill transferring the Educator Licensing Division to the Board of Teaching or its successor organization is enacted, the base in fiscal year 2020 is \$18,294,000 and \$18,205,000 in 2021.

Sec. 10. **APPROPRIATIONS; BOARD OF TEACHING.**

Subdivision 1. **Board of Teaching.** (a) The sums indicated in this section are appropriated from the general fund to the Board of Teaching or any successor organization for the fiscal years designated:

\$	<u>3,481,000</u>	.....	<u>2018</u>
\$	<u>3,493,000</u>	.....	<u>2019</u>

(b) This appropriation includes funds for information technology project services and support subject to Minnesota Statutes, section 16E.0466. Any ongoing information technology costs will be incorporated into an interagency agreement and will be paid to the Office of MN.IT Services by the Board of Teaching under the mechanism specified in that agreement.

(c) Of the amounts in paragraph (a), \$2,513,000 in fiscal year 2018 and \$2,525,000 in fiscal year 2019 are available only if H.F. 140 or a similarly styled bill is enacted.

(d) Any balance in the first year does not cancel but is available in the second year.

(e) The base for fiscal year 2020 is \$968,000. This amount is increased by \$1,766,000 if H.F. 140 or a similarly styled bill is enacted. The base for fiscal year 2021 is \$968,000. This amount is increased by \$1,741,000 if H.F. 140 or a similarly styled bill is enacted. Beginning in fiscal year 2020, the amounts indicated are appropriated from the educator licensure account in the special revenue fund or, if the amount in the educator licensure account is insufficient, from the general fund to the Board of Teaching or any successor organization. If a successor organization is established, the Department of Administration must provide administrative support to the successor organization under Minnesota Statutes, section 16B.371. The commissioner of administration must assess the board for services provided under this section.

Subd. 2. **Licensure by portfolio.** For licensure by portfolio:

\$	<u>34,000</u>	.....	<u>2018</u>
\$	<u>34,000</u>	.....	<u>2019</u>

This appropriation is from the educator licensure portfolio account in the special revenue fund.

Sec. 11. APPROPRIATIONS; MINNESOTA STATE ACADEMIES.

(a) The sums indicated in this section are appropriated from the general fund to the Minnesota State Academies for the Deaf and the Blind for the fiscal years designated:

\$	<u>13,204,000</u>	.....	<u>2018</u>
\$	<u>13,186,000</u>	.....	<u>2019</u>

(b) Any balance in the first year does not cancel but is available in the second year.

Sec. 12. APPROPRIATIONS; PERPICH CENTER FOR ARTS EDUCATION.

(a) The sums in this section are appropriated from the general fund to the Perpich Center for Arts Education and to its successor fiscal agent for the fiscal years designated:

\$	<u>5,212,000</u>	.....	<u>2018</u>
\$	<u>2,786,000</u>	.....	<u>2019</u>

(b) Of the amounts appropriated in paragraph (a), \$162,000 in fiscal year 2018 and \$361,000 in fiscal year 2019 are for transfer to the Department of Administration.

(c) The base for fiscal year 2020 and later is \$0.

(d) Any balance in the first year does not cancel but is available in the second year.

ARTICLE 12**FORECAST ADJUSTMENTS****A. GENERAL EDUCATION**

Section 1. Laws 2015, First Special Session chapter 3, article 1, section 27, subdivision 2, as amended by Laws 2016, chapter 189, article 27, section 17, is amended to read:

Subd. 2. **General education aid.** For general education aid under Minnesota Statutes, section 126C.13, subdivision 4:

\$	6,649,435,000	.....	2016
	6,815,372,000		
\$	<u>6,848,521,000</u>	.....	2017

The 2016 appropriation includes \$622,908,000 for 2015 and 6,026,524,000 for 2016.

The 2017 appropriation includes \$641,412,000 for 2016 and ~~\$6,173,962,000~~ \$6,207,109,000 for 2017.

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

Sec. 2. Laws 2015, First Special Session chapter 3, article 1, section 27, subdivision 3, is amended to read:

Subd. 3. **Enrollment options transportation.** For transportation of pupils attending postsecondary institutions under Minnesota Statutes, section 124D.09, or for transportation of pupils attending nonresident districts under Minnesota Statutes, section 124D.03:

\$	39,000	.....	2016
	42,000		
\$	<u>26,000</u>	.....	2017

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

Sec. 3. Laws 2015, First Special Session chapter 3, article 1, section 27, subdivision 4, as amended by Laws 2016, chapter 189, article 34, section 1, is amended to read:

Subd. 4. **Abatement revenue.** For abatement aid under Minnesota Statutes, section 127A.49:

\$	3,051,000	.....	2016
	3,425,000		
\$	<u>2,666,000</u>	.....	2017

The 2016 appropriation includes \$278,000 for 2015 and \$2,773,000 for 2016.

The 2017 appropriation includes \$308,000 for 2016 and ~~\$3,117,000~~ \$2,358,000 for 2017.

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

Sec. 4. Laws 2015, First Special Session chapter 3, article 1, section 27, subdivision 6, as amended by Laws 2016, chapter 189, article 34, section 3, is amended to read:

Subd. 6. **Nonpublic pupil education aid.** For nonpublic pupil education aid under Minnesota Statutes, sections 123B.40 to 123B.43 and 123B.87:

\$	16,759,000	.....	2016
	17,235,000		
\$	<u>16,879,000</u>	.....	2017

The 2016 appropriation includes \$1,575,000 for 2015 and \$15,184,000 for 2016.

The 2017 appropriation includes \$1,687,000 for 2016 and ~~\$15,548,000~~ \$15,192,000 for 2017.

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

Sec. 5. Laws 2015, First Special Session chapter 3, article 1, section 27, subdivision 7, as amended by Laws 2016, chapter 189, article 34, section 4, is amended to read:

Subd. 7. **Nonpublic pupil transportation.** For nonpublic pupil transportation aid under Minnesota Statutes, section 123B.92, subdivision 9:

\$	17,673,000	.....	2016
	18,103,000		
\$	<u>18,278,000</u>	.....	2017

The 2016 appropriation includes \$1,816,000 for 2015 and \$15,857,000 for 2016.

The 2017 appropriation includes \$1,761,000 for 2016 and ~~\$16,342,000~~ \$16,517,000 for 2017.

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

Sec. 6. Laws 2015, First Special Session chapter 3, article 1, section 27, subdivision 9, as amended by Laws 2016, chapter 189, article 34, section 5, is amended to read:

Subd. 9. **Career and technical aid.** For career and technical aid under Minnesota Statutes, section 124D.4531, subdivision 1b:

\$	5,922,000	.....	2016
	4,262,000		
\$	<u>4,806,000</u>	.....	2017

The 2016 appropriation includes \$574,000 for 2015 and \$5,348,000 for 2016.

The 2017 appropriation includes \$517,000 for 2016 and ~~\$3,745,000~~ \$4,289,000 for 2017.

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

B. EDUCATION EXCELLENCE

Sec. 7. Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 2, as amended by Laws 2016, chapter 189, article 25, section 44, is amended to read:

Subd. 2. **Alternative compensation.** For alternative teacher compensation aid under Minnesota Statutes, section 122A.415, subdivision 4:

\$	78,907,000	.....	2016
	89,049,000		
\$	<u>88,137,000</u>	.....	2017

The 2016 appropriation includes \$7,766,000 for 2015 and \$71,141,000 for 2016.

The 2017 appropriation includes \$7,876,000 for 2016 and ~~\$81,173,000~~ \$80,261,000 for 2017.

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

Sec. 8. Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 3, as amended by Laws 2016, chapter 189, article 25, section 45, is amended to read:

Subd. 3. **Achievement and integration aid.** For achievement and integration aid under Minnesota Statutes, section 124D.862:

\$	65,439,000	.....	2016
	69,372,000		
\$	<u>67,091,000</u>	.....	2017

The 2016 appropriation includes \$6,382,000 for 2015 and \$59,057,000 for 2016.

The 2017 appropriation includes \$6,561,000 for 2016 and ~~\$62,811,000~~ \$60,530,000 for 2017.

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

Sec. 9. Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 4, as amended by Laws 2016, chapter 189, article 34, section 6, is amended to read:

Subd. 4. **Literacy incentive aid.** For literacy incentive aid under Minnesota Statutes, section 124D.98:

\$	44,538,000	.....	2016
	45,855,000		
\$	<u>45,803,000</u>	.....	2017

The 2016 appropriation includes \$4,683,000 for 2015 and \$39,855,000 for 2016.

The 2017 appropriation includes \$4,428,000 for 2016 and ~~\$41,427,000~~ \$41,375,000 for 2017.

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

Sec. 10. Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 5, as amended by Laws 2016, chapter 189, article 34, section 7, is amended to read:

Subd. 5. **Interdistrict desegregation or integration transportation grants.** For interdistrict desegregation or integration transportation grants under Minnesota Statutes, section 124D.87:

\$	14,423,000	.....	2016
	15,193,000		
\$	<u>13,496,000</u>	.....	2017

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

Sec. 11. Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 7, as amended by Laws 2016, chapter 189, article 34, section 8, is amended to read:

Subd. 7. **Tribal contract schools.** For tribal contract school aid under Minnesota Statutes, section 124D.83:

\$	3,539,000	.....	2016
	3,715,000		
\$	<u>3,278,000</u>	.....	2017

The 2016 appropriation includes \$204,000 for 2015 and \$3,335,000 for 2016.

The 2017 appropriation includes \$370,000 for 2016 and ~~\$3,345,000~~ \$2,908,000 for 2017.

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

Sec. 12. Laws 2015, First Special Session chapter 3, article 2, section 70, subdivision 11, as amended by Laws 2016, chapter 189, article 34, section 9, is amended to read:

Subd. 11. **American Indian education aid.** For American Indian education aid under Minnesota Statutes, section 124D.81, subdivision 2a:

\$	7,740,000	.....	2016
	8,878,000		
\$	<u>8,838,000</u>	.....	2017

The 2016 appropriation includes \$0 for 2015 and \$7,740,000 for 2016.

The 2017 appropriation includes \$860,000 for 2016 and ~~\$8,018,000~~ \$7,978,000 for 2017.

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

Sec. 13. Laws 2015, First Special Session chapter 3, article 4, section 9, subdivision 2, as amended by Laws 2016, chapter 189, article 28, section 10, is amended to read:

Subd. 2. **Charter school building lease aid.** For building lease aid under Minnesota Statutes, section 124E.22:

\$	63,540,000	2016
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	70,132,000		
\$	<u>68,046,000</u>	2017

The 2016 appropriation includes \$6,032,000 for 2015 and \$57,508,000 for 2016.

The 2017 appropriation includes \$6,389,000 for 2016 and ~~\$63,743,000~~ \$61,657,000 for 2017.

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

C. SPECIAL EDUCATION

Sec. 14. Laws 2015, First Special Session chapter 3, article 5, section 30, subdivision 2, as amended by Laws 2016, chapter 189, article 29, section 15, is amended to read:

Subd. 2. **Special education; regular.** For special education aid under Minnesota Statutes, section 125A.75:

\$	1,183,619,000	.....	2016
	1,247,107,000		
\$	<u>1,258,250,000</u>	.....	2017

The 2016 appropriation includes \$137,932,000 for 2015 and \$1,045,687,000 for 2016.

The 2017 appropriation includes \$147,202,000 for 2016 and ~~\$1,099,905,000~~ \$1,111,048,000 for 2017.

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

Sec. 15. Laws 2015, First Special Session chapter 3, article 5, section 30, subdivision 3, as amended by Laws 2016, chapter 189, article 34, section 10, is amended to read:

Subd. 3. **Travel for home-based services.** For aid for teacher travel for home-based services under Minnesota Statutes, section 125A.75, subdivision 1:

\$	416,000	.....	2016
	435,000		
\$	<u>482,000</u>	.....	2017

The 2016 appropriation includes \$35,000 for 2015 and \$381,000 for 2016.

The 2017 appropriation includes \$42,000 for 2016 and ~~\$393,000~~ \$440,000 for 2017.

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

Sec. 16. Laws 2015, First Special Session chapter 3, article 5, section 30, subdivision 5, as amended by Laws 2016, chapter 189, article 34, section 11, is amended to read:

Subd. 5. **Aid for children with disabilities.** For aid under Minnesota Statutes, section 125A.75, subdivision 3, for children with disabilities placed in residential facilities within the district boundaries for whom no district of residence can be determined:

\$	1,307,000	.....	2016
	1,516,000		
\$	<u>1,390,000</u>	.....	2017

If the appropriation for either year is insufficient, the appropriation for the other year is available.

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

Sec. 17. Laws 2015, First Special Session chapter 3, article 5, section 30, subdivision 6, is amended to read:

Subd. 6. **Court-placed special education revenue.** For reimbursing serving school districts for unreimbursed eligible expenditures attributable to children placed in the serving school district by court action under Minnesota Statutes, section 125A.79, subdivision 4:

\$	56,000	.....	2016
	57,000		
\$	<u>45,000</u>	.....	2017

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

D. FACILITIES AND TECHNOLOGY

Sec. 18. Laws 2015, First Special Session chapter 3, article 6, section 13, subdivision 2, as amended by Laws 2016, chapter 189, article 30, section 23, is amended to read:

Subd. 2. **Long-term facilities maintenance equalization equalized aid.** For long-term facilities maintenance ~~equalization equalized~~ aid under Minnesota Statutes, section 123B.595:

\$	0	.....	2016
	52,844,000		
\$	<u>50,571,000</u>	.....	2017

The 2017 appropriation includes \$0 for 2016 and ~~\$52,844,000~~ \$50,571,000 for 2017.

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

Sec. 19. Laws 2015, First Special Session chapter 3, article 6, section 13, subdivision 3, as amended by Laws 2016, chapter 189, article 34, section 12, is amended to read:

Subd. 3. **Debt service equalization.** For debt service aid according to Minnesota Statutes, section 123B.53, subdivision 6:

\$	20,349,000	.....	2016
	22,926,000		
\$	<u>20,406,000</u>	.....	2017

The 2016 appropriation includes \$2,295,000 for 2015 and \$18,054,000 for 2016.

The 2017 appropriation includes \$2,005,000 for 2016 and ~~\$20,921,000~~ \$18,401,000 for 2017.

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

E. NUTRITION

Sec. 20. Laws 2015, First Special Session chapter 3, article 7, section 7, subdivision 2, as amended by Laws 2016, chapter 189, article 27, section 18, is amended to read:

Subd. 2. **School lunch.** For school lunch aid according to Minnesota Statutes, section 124D.111, and Code of Federal Regulations, title 7, section 210.17:

\$	16,251,000	.....	2016
	16,775,000		
\$	<u>16,234,000</u>	.....	2017

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

Sec. 21. Laws 2015, First Special Session chapter 3, article 7, section 7, subdivision 3, as amended by Laws 2016, chapter 189, article 27, section 19, is amended to read:

Subd. 3. **School breakfast.** For traditional school breakfast aid under Minnesota Statutes, section 124D.1158:

\$	9,457,000	.....	2016
	10,365,000		
\$	<u>9,869,000</u>	.....	2017

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

Sec. 22. Laws 2015, First Special Session chapter 3, article 7, section 7, subdivision 4, as amended by Laws 2016, chapter 189, article 34, section 15, is amended to read:

Subd. 4. **Kindergarten milk.** For kindergarten milk aid under Minnesota Statutes, section 124D.118:

\$	788,000	.....	2016
	788,000		
\$	<u>758,000</u>	.....	2017

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

F. EARLY CHILDHOOD EDUCATION

Sec. 23. Laws 2015, First Special Session chapter 3, article 9, section 8, subdivision 5, as amended by Laws 2016, chapter 189, article 34, section 16, is amended to read:

Subd. 5. **Early childhood family education aid.** For early childhood family education aid under Minnesota Statutes, section 124D.135:

\$	27,948,000	2016
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~~29,336,000~~
\$ 28,944,000 2017

The 2016 appropriation includes \$2,713,000 for 2015 and \$25,235,000 for 2016.

The 2017 appropriation includes \$2,803,000 for 2016 and ~~\$26,533,000~~ \$26,141,000 for 2017.

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

Sec. 24. Laws 2015, First Special Session chapter 3, article 9, section 8, subdivision 6, as amended by Laws 2016, chapter 189, article 34, section 17, is amended to read:

Subd. 6. **Developmental screening aid.** For developmental screening aid under Minnesota Statutes, sections 121A.17 and 121A.19:

\$ 3,477,000 2016
~~3,488,000~~
\$ 3,573,000 2017

The 2016 appropriation includes \$338,000 for 2015 and \$3,139,000 for 2016.

The 2017 appropriation includes \$348,000 for 2016 and ~~\$3,140,000~~ \$3,225,000 for 2017.

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

Sec. 25. Laws 2015, First Special Session chapter 3, article 10, section 3, subdivision 2, as amended by Laws 2016, chapter 189, article 34, section 18, is amended to read:

Subd. 2. **Community education aid.** For community education aid under Minnesota Statutes, section 124D.20:

\$ 790,000 2016
~~553,000~~
\$ 555,000 2017

The 2016 appropriation includes \$107,000 for 2015 and \$683,000 for 2016.

The 2017 appropriation includes \$75,000 for 2016 and ~~\$478,000~~ \$480,000 for 2017.

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

G. SELF-SUFFICIENCY AND LIFELONG LEARNING

Sec. 26. Laws 2015, First Special Session chapter 3, article 11, section 3, subdivision 2, as amended by Laws 2016, chapter 189, article 34, section 19, is amended to read:

Subd. 2. **Adult basic education aid.** For adult basic education aid under Minnesota Statutes, section 124D.531:

\$ 48,231,000 2016

~~49,683,000~~
\$ 48,762,000 2017

The 2016 appropriation includes \$4,782,000 for 2015 and \$43,449,000 for 2016.

The 2017 appropriation includes \$4,827,000 for 2016 and ~~\$44,856,000~~ \$43,935,000 for 2017.

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

Delete the title and insert:

"A bill for an act relating to education finance; providing funding in early childhood, kindergarten through grade 12, and adult education, including general education, education excellence, teachers, special education, facilities and technology, nutrition, libraries, early childhood and family support, community education and prevention, self-sufficiency and lifelong learning, and state agencies; making forecast adjustments; requiring a report; appropriating money; amending Minnesota Statutes 2016, sections 43A.08, subdivisions 1, 1a; 120A.22, subdivision 9; 120A.41; 120B.021, subdivisions 1, 3; 120B.022, subdivision 1b; 120B.12, subdivisions 2, 2a, 3; 120B.125; 120B.132; 120B.22, subdivision 2; 120B.23, subdivision 3; 120B.232, subdivision 1; 120B.30, subdivision 1; 120B.31, subdivision 4, by adding a subdivision; 120B.35, subdivision 3; 120B.36, subdivision 1; 121A.22, subdivision 2; 121A.221; 122A.14, subdivision 9; 122A.18, subdivisions 7c, 8; 122A.21, subdivisions 1, 2, by adding a subdivision; 122A.40, subdivision 10; 122A.41, by adding a subdivision; 122A.414, subdivision 2; 122A.415, subdivision 4; 122A.416; 123A.30, subdivision 6; 123A.73, subdivision 2; 123B.41, subdivisions 2, 5a; 123B.52, subdivision 1, by adding a subdivision; 123B.595, subdivisions 1, 4; 123B.71, subdivisions 11, 12; 123B.92, subdivision 1; 124D.03, subdivision 5a; 124D.05, subdivision 3; 124D.09, subdivisions 3, 5, 10, 12, 13, by adding subdivisions; 124D.1158, subdivisions 3, 4; 124D.165, subdivisions 1, 2, 3, 4; 124D.52, subdivision 7; 124D.549; 124D.55; 124D.59, subdivision 2; 124D.68, subdivision 2; 124D.695; 124E.03, subdivision 2; 124E.05, subdivision 7; 124E.11; 124E.22; 125A.0941; 125A.11, subdivision 1; 125A.21, subdivision 2; 125A.515; 125A.56, subdivision 1; 125A.74, subdivision 1; 125A.76, subdivision 2c; 126C.05, subdivisions 1, 8; 126C.10, subdivisions 2, 2a, 3, 13a, by adding a subdivision; 126C.17, subdivision 9; 127A.45, subdivision 10; 134.31, subdivision 2; 136A.1791, subdivisions 1, 2, 9; 256B.0625, subdivision 26; 256J.08, subdivisions 38, 39; 297A.70, subdivision 2; Laws 2015, First Special Session chapter 3, article 1, section 27, subdivisions 2, as amended, 3, 4, as amended, 6, as amended, 7, as amended, 9, as amended; article 2, section 70, subdivisions 2, as amended, 3, as amended, 4, as amended, 5, as amended, 7, as amended, 11, as amended; article 4, section 9, subdivision 2, as amended; article 5, section 30, subdivisions 2, as amended, 3, as amended, 5, as amended, 6; article 6, section 13, subdivisions 2, as amended, 3, as amended; article 7, section 7, subdivisions 2, as amended, 3, as amended, 4, as amended; article 9, section 8, subdivisions 5, as amended, 6, as amended; article 10, section 3, subdivision 2, as amended; article 11, section 3, subdivision 2, as amended; Laws 2016, chapter 189, article 25, sections 58; 62, subdivisions 7, 11, 17; article 30, section 25, subdivision 5; proposing coding for new law in Minnesota Statutes, chapters 120A; 120B; 121A; 122A; 124D; 127A; 136A; repealing Minnesota Statutes 2016, sections 122A.40, subdivision 11; 122A.41, subdivision 14; 123A.73, subdivision 3; 124D.151; 124D.73, subdivision 2; 125A.75, subdivision 7; 125A.76, subdivision 2b; 129C.10, subdivisions 1, 2, 3, 3a, 3b, 4, 4a, 5a, 6, 7, 8; 129C.105; 129C.15; 129C.20; 129C.25; 129C.26; 129C.30; Minnesota Rules, parts 3500.3100, subpart 4; 3600.0010, subparts 1, 2, 2a, 2b, 3, 6; 3600.0020; 3600.0030, subparts 1, 2, 4, 6; 3600.0045; 3600.0055; 3600.0065; 3600.0075; 3600.0085."

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

House Conferees: Jenifer Loon, Sondra Erickson, Peggy Bennett, Ron Kresha

Senate Conferees: Carla J. Nelson, Eric R. Pratt, Justin Eichorn, Bill Weber

Senator Nelson moved the foregoing recommendations and Conference Committee report on H.F. No. 890 be now adopted, and that the bill be repassed as amended by the Conference Committee.

The roll was called, and there were yeas 34 and nays 32, as follows:

Those who voted in the affirmative were:

Abeler	Eichorn	Jasinski	Mathews	Rosen
Anderson, B.	Fischbach	Jensen	Miller	Ruud
Anderson, P.	Gazelka	Johnson	Nelson	Senjem
Benson	Goggin	Kiffmeyer	Newman	Utke
Chamberlain	Hall	Koran	Osmek	Weber
Dahms	Housley	Lang	Pratt	Westrom
Draheim	Ingebrigtsen	Limmer	Relph	

Those who voted in the negative were:

Bakk	Dziedzic	Isaacson	Marty	Tomassoni
Carlson	Eaton	Kent	Newton	Torres Ray
Champion	Eken	Klein	Pappas	Wiger
Clausen	Franzen	Laine	Rest	Wiklund
Cohen	Frentz	Latz	Schoen	
Cwodzinski	Hayden	Little	Simonson	
Dibble	Hoffman	Lourey	Sparks	

The motion prevailed. So the recommendations and Conference Committee report were adopted.

H.F. No. 890 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 34 and nays 32, as follows:

Those who voted in the affirmative were:

Abeler	Eichorn	Jasinski	Mathews	Rosen
Anderson, B.	Fischbach	Jensen	Miller	Ruud
Anderson, P.	Gazelka	Johnson	Nelson	Senjem
Benson	Goggin	Kiffmeyer	Newman	Utke
Chamberlain	Hall	Koran	Osmek	Weber
Dahms	Housley	Lang	Pratt	Westrom
Draheim	Ingebrigtsen	Limmer	Relph	

Those who voted in the negative were:

Bakk	Dziedzic	Isaacson	Marty	Tomassoni
Carlson	Eaton	Kent	Newton	Torres Ray
Champion	Eken	Klein	Pappas	Wiger
Clausen	Franzen	Laine	Rest	Wiklund
Cohen	Frentz	Latz	Schoen	
Cwodzinski	Hayden	Little	Simonson	
Dibble	Hoffman	Lourey	Sparks	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Madam President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 800, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 800: A bill for an act relating to human services finance and policy; appropriating money for human services and health-related programs; modifying various provisions governing community supports, housing, continuing care, health care, managed care organizations, health insurance, direct care and treatment, children and families, chemical and mental health services, Department of Human Services operations, Department of Health policy, and health licensing boards; establishing a license for substance abuse disorder treatment; authorizing transfers; providing for supplemental rates; modifying reimbursement rates and premium scales; making forecast adjustments; providing for audits; establishing crumb rubber playground moratorium; authorizing pilot projects and studies; requiring reports; establishing a legislative commission; making technical and terminology changes; amending Minnesota Statutes 2016, sections 3.972, by adding a subdivision; 13.32, by adding a subdivision; 13.46, subdivisions 1, 2, 4; 13.69, subdivision 1; 13.84, subdivision 5; 62A.04, subdivision 1; 62A.21, subdivision 2a; 62A.3075; 62D.105, subdivisions 1, 2; 62E.04, subdivision 11; 62E.05, subdivision 1; 62E.06, by adding a subdivision; 62M.07; 62U.02; 62V.05, subdivision 12; 103I.101, subdivisions 2, 5; 103I.111, subdivisions 6, 7, 8; 103I.205; 103I.301; 103I.501; 103I.505; 103I.515; 103I.535, subdivisions 3, 6, by adding a subdivision; 103I.541; 103I.545, subdivisions 1, 2; 103I.711, subdivision 1; 103I.715, subdivision 2; 119B.011, by adding subdivisions; 119B.02, subdivision 5; 119B.09, subdivision 9a; 119B.125, subdivisions 4, 6; 119B.13, subdivisions 1, 6; 119B.16, subdivisions 1, 1a, 1b, by adding subdivisions; 144.05, subdivision 6; 144.0724, subdivisions 4, 6; 144.122; 144.1501, subdivision 2; 144.551, subdivision 1; 144A.071, subdivision 4d; 144A.351; 144A.472, subdivision 7; 144A.474, subdivision 11; 144A.4799, subdivision 3; 144A.70, subdivision 6, by adding a subdivision; 144D.04, subdivision 2, by adding a subdivision; 144D.06; 145.4716, subdivision 2; 145.986, subdivision 1a; 146B.02, subdivisions 2, 5, 8, by adding subdivisions; 146B.03, subdivisions 6, 7; 146B.07, subdivision 4; 146B.10, subdivision 1; 147.01, subdivision 7; 147.02, subdivision 1; 147.03, subdivision 1; 147B.08, by adding a subdivision; 147C.40, by adding a subdivision; 148.5194, subdivision 7; 148.6402, subdivision 4; 148.6405; 148.6408, subdivision 2; 148.6410, subdivision 2; 148.6412, subdivision 2; 148.6415; 148.6418, subdivisions 1, 2, 4, 5; 148.6420, subdivisions 1, 3, 5; 148.6423; 148.6425, subdivisions 2, 3; 148.6428; 148.6443, subdivisions 5, 6, 7, 8; 148.6445, subdivisions 1, 10; 148.6448; 157.16, subdivision 1; 214.01, subdivision 2; 245.4889, subdivision 1; 245.91, subdivisions 4, 6; 245.97, subdivision 6; 245A.02, subdivision 2b, by adding a subdivision; 245A.03, subdivisions 2, 7; 245A.04, subdivision 14; 245A.06, subdivision 2; 245A.07, subdivision 3; 245A.11, by adding subdivisions; 245A.191; 245A.50, subdivision 5; 245D.03, subdivision 1; 245D.04, subdivision 3; 245D.071, subdivision 3; 245D.11, subdivision 4; 245D.24, subdivision 3; 245E.01, by adding a subdivision; 245E.02, subdivisions 1, 3, 4; 245E.03, subdivisions 2, 4; 245E.04; 245E.05, subdivision 1; 245E.06, subdivisions 1, 2, 3; 245E.07, subdivision 1; 252.27, subdivision 2a; 252.41, subdivision 3; 253B.10, subdivision 1; 253B.22, subdivision 1; 254A.01; 254A.02, subdivisions 2, 3, 5, 6, 8, 10, by adding subdivisions; 254A.03; 254A.035, subdivision 1; 254A.04; 254A.08; 254A.09;

254A.19, subdivision 3; 254B.01, subdivision 3, by adding a subdivision; 254B.03, subdivision 2; 254B.04, subdivisions 1, 2b; 254B.05, subdivisions 1, 1a, 5; 254B.051; 254B.07; 254B.08; 254B.09; 254B.12, subdivision 2; 254B.13, subdivision 2a; 256.01, subdivision 41, by adding a subdivision; 256.045, subdivision 3; 256.969, subdivisions 2b, 4b, by adding a subdivision; 256.975, subdivision 7, by adding a subdivision; 256.98, subdivision 8; 256B.04, subdivisions 21, 22; 256B.056, subdivision 5c; 256B.0621, subdivision 10; 256B.0625, subdivisions 3b, 7, 20, 45a, 57, 64, by adding subdivisions; 256B.0659, subdivisions 1, 2, 11, 21, by adding a subdivision; 256B.072; 256B.0755, subdivisions 1, 3, 4, by adding a subdivision; 256B.0911, subdivisions 1a, 3a, 4d, by adding subdivisions; 256B.0915, subdivisions 1, 1a, 3a, 3e, 3h, 5, by adding subdivisions; 256B.092, subdivision 4; 256B.0922, subdivision 1; 256B.0924, by adding a subdivision; 256B.0943, subdivision 13; 256B.0945, subdivisions 2, 4; 256B.196, subdivision 2; 256B.431, subdivisions 10, 16, 30; 256B.434, subdivisions 4, 4f; 256B.49, subdivisions 11, 15; 256B.4913, subdivision 4a, by adding a subdivision; 256B.4914, subdivisions 2, 3, 5, 6, 7, 8, 9, 10, 16; 256B.493, subdivisions 1, 2, by adding a subdivision; 256B.50, subdivision 1b; 256B.5012, by adding a subdivision; 256B.69, subdivision 9e; 256B.76, subdivisions 1, 2; 256B.766; 256B.85, subdivisions 3, 5, 6; 256C.23, subdivision 2, by adding subdivisions; 256C.233, subdivisions 1, 2; 256C.24, subdivisions 1, 2, by adding a subdivision; 256C.261; 256D.44, subdivisions 4, 5; 256E.30, subdivision 2; 256I.03, subdivision 8; 256I.04, subdivisions 1, 2d, 2g, 3; 256I.05, subdivisions 1a, 1c, 1e, 1j, 1m, 8, by adding subdivisions; 256I.06, subdivisions 2, 8; 256J.24, subdivision 5; 256J.45, subdivision 2; 256L.03, subdivisions 1, 1a, 5; 256L.15, subdivision 2; 256P.06, subdivision 2; 256R.02, subdivisions 4, 18; 256R.07, by adding a subdivision; 256R.10, by adding a subdivision; 256R.37; 256R.40, subdivision 5; 256R.41; 256R.47; 256R.49, subdivision 1; 260C.451, subdivision 6; 317A.811, subdivision 1, by adding a subdivision; 327.15, subdivision 3; 609.5315, subdivision 5c; 626.556, subdivisions 2, 3, 3c, 10d, 10j; Laws 2009, chapter 101, article 1, section 12; Laws 2012, chapter 247, article 6, section 2, subdivision 2; Laws 2013, chapter 108, article 15, section 2, subdivision 2; Laws 2014, chapter 312, article 23, section 9, subdivision 8, by adding a subdivision; Laws 2015, chapter 71, article 14, section 3, subdivision 2, as amended; Laws 2017, chapter 2, article 1, sections 1, subdivision 3; 2, subdivision 4, by adding a subdivision; 3; 5; 7; article 2, section 13; proposing coding for new law in Minnesota Statutes, chapters 62J; 62K; 62Q; 119B; 144; 144D; 145; 147A; 148; 245; 245A; 256; 256B; 256I; 256N; 256R; 317A; 448; proposing coding for new law as Minnesota Statutes, chapters 144H; 245G; repealing Minnesota Statutes 2016, sections 13.468; 147A.21; 147B.08, subdivisions 1, 2, 3; 147C.40, subdivisions 1, 2, 3, 4; 148.6402, subdivision 2; 148.6450; 245A.1915; 245A.192; 254A.02, subdivision 4; 256B.0659, subdivision 22; 256B.19, subdivision 1c; 256B.4914, subdivision 16; 256B.64; 256C.23, subdivision 3; 256C.233, subdivision 4; 256C.25, subdivisions 1, 2; 256J.626, subdivision 5; Laws 2014, chapter 312, article 23, section 9, subdivision 5; Minnesota Rules, parts 5600.2500; 9530.6405, subparts 1, 1a, 2, 3, 4, 5, 6, 7, 7a, 8, 9, 10, 11, 12, 13, 14, 14a, 15, 15a, 16, 17, 17a, 17b, 17c, 18, 20, 21; 9530.6410; 9530.6415; 9530.6420; 9530.6422; 9530.6425; 9530.6430; 9530.6435; 9530.6440; 9530.6445; 9530.6450; 9530.6455; 9530.6460; 9530.6465; 9530.6470; 9530.6475; 9530.6480; 9530.6485; 9530.6490; 9530.6495; 9530.6500; 9530.6505.

Senate File No. 800 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 9, 2017

RECESS

Senator Gazelka 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.

MEMBERS EXCUSED

Senator Clausen was excused from the Session of today from 12:00 to 12:20 p.m. Senator Hawj was excused from the Session of today at 8:30 p.m.

ADJOURNMENT

Senator Gazelka moved that the Senate do now adjourn until 12:00 noon, Wednesday, May 10, 2017. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate