

## STATE OF MINNESOTA

## EIGHTY-SIXTH SESSION — 2009

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 FORTIETH DAY

SAINT PAUL, MINNESOTA, FRIDAY, APRIL 24, 2009

The House of Representatives convened at 10:30 a.m. and was called to order by Al Juhnke, Speaker pro tempore.

Prayer was offered by Minister R'Gina Sellers, Celebrate New Life Ministries International, Eagan, Minnesota.

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

The roll was called and the following members were present:

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

A quorum was present.

Atkins, Lesch and Wagenius were excused.

Mariani was excused until 12:50 p.m.

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

### REPORTS OF CHIEF CLERK

S. F. No. 1288 and H. F. No. 1532, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

### SUSPENSION OF RULES

Kalin moved that the rules be so far suspended that S. F. No. 1288 be substituted for H. F. No. 1532 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1539 and H. F. No. 1719, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

### SUSPENSION OF RULES

Atkins moved that the rules be so far suspended that S. F. No. 1539 be substituted for H. F. No. 1719 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1711 and H. F. No. 1717, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

### SUSPENSION OF RULES

Atkins moved that the rules be so far suspended that S. F. No. 1711 be substituted for H. F. No. 1717 and that the House File be indefinitely postponed. The motion prevailed.

## PETITIONS AND COMMUNICATIONS

The following communication was received:

STATE OF MINNESOTA  
OFFICE OF THE SECRETARY OF STATE  
ST. PAUL 55155

The Honorable Margaret Anderson Kelliher  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

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

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2009</i>	<i>Date Filed 2009</i>
33		24	1:10 p.m. April 23	April 23

Sincerely,

MARK RITCHIE  
Secretary of State

**REPORTS OF STANDING COMMITTEES AND DIVISIONS**

Carlson from the Committee on Finance to which was referred:

H. F. No. 1362, A bill for an act relating to human services; requiring the commissioner to apply for federal funds; amending Minnesota Statutes 2008, section 256D.051, subdivision 2a.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

LICENSING

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

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

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

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

- (1) in cases of financial hardship;
- (2) if the county has a shortage of providers in the county's area;
- (3) for new providers; or
- (4) for providers who have attained at least 16 hours of training before seeking initial licensure.

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

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

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

- (1) in cases of financial hardship;

- (2) if the county has a shortage of providers in the county's area; or
- (3) for new providers.

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

Subd. 3. **Application fee for initial license or certification.** (a) For fees required under subdivision 1, an applicant for an initial license or certification issued by the commissioner shall submit a ~~\$500~~ \$750 application fee with each new application required under this subdivision. The application fee shall not be prorated, is nonrefundable, and is in lieu of the annual license or certification fee that expires on December 31. The commissioner shall not process an application until the application fee is paid.

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

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

(2) For a license to provide supported employment, crisis respite, or semi-independent living services to persons with developmental disabilities ~~or related conditions under chapter 245B~~, an applicant shall submit a single application to provide services statewide.

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

Sec. 3. Minnesota Statutes 2008, section 245A.10, subdivision 4, is amended to read:

Subd. 4. **License ~~or certification~~ fee for certain programs a child care center.** ~~(a) A child care center and programs with a licensed capacity center shall pay an annual nonrefundable license or certification fee based on the following schedule:~~

Licensed Capacity	Child Care Center License Fee <u>Fiscal</u> <u>Year 2010</u>	<del>Other Program</del> License Fee <u>Fiscal Year 2011</u> <u>and thereafter</u>
1 to 24 persons	<del>\$225</del> <u>\$295</u>	<del>\$400</del> <u>\$360</u>
25 to 49 persons	<del>\$340</del> <u>\$410</u>	<del>\$600</del> <u>\$475</u>
50 to 74 persons	<del>\$450</del> <u>\$520</u>	<del>\$800</del> <u>\$585</u>
75 to 99 persons	<del>\$565</del> <u>\$635</u>	<del>\$1,000</del> <u>\$700</u>
100 to 124 persons	<del>\$675</del> <u>\$745</u>	<del>\$1,200</del> <u>\$810</u>
125 to 149 persons	<del>\$900</del> <u>\$970</u>	<del>\$1,400</del> <u>\$1,035</u>

150 to 174 persons	<del>\$1,050</del> <u>\$1,120</u>	<del>\$1,600</del> <u>\$1,185</u>
175 to 199 persons	<del>\$1,200</del> <u>\$1,270</u>	<del>\$1,800</del> <u>\$1,335</u>
200 to 224 persons	<del>\$1,350</del> <u>\$1,420</u>	<del>\$2,000</del> <u>\$1,485</u>
225 or more persons	<del>\$1,500</del> <u>\$1,570</u>	<del>\$2,500</del> <u>\$1,635</u>

~~(b) A day training and habilitation program serving persons with developmental disabilities or related conditions shall be assessed a license fee based on the schedule in paragraph (a) unless the license holder serves more than 50 percent of the same persons at two or more locations in the community. Except as provided in paragraph (c), when a day training and habilitation program serves more than 50 percent of the same persons in two or more locations in a community, the day training and habilitation program shall pay a license fee based on the licensed capacity of the largest facility and the other facility or facilities shall be charged a license fee based on a licensed capacity of a residential program serving one to 24 persons.~~

~~(c) When a day training and habilitation program serving persons with developmental disabilities or related conditions seeks a single license allowed under section 245B.07, subdivision 12, clause (2) or (3), the licensing fee must be based on the combined licensed capacity for each location.~~

Sec. 4. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

Subd. 4a. **License fee for an adult day care center.** An adult day care center licensed under Minnesota Rules, parts 9555.9600 to 9555.9730, shall pay an annual nonrefundable license fee based on the following schedule:

<u>Licensed Capacity</u>	<u>License Fee Fiscal Year 2010</u>	<u>License Fee Fiscal Year 2011 and thereafter</u>
<u>1 to 24 persons</u>	<u>\$930</u>	<u>\$1,460</u>
<u>25 to 49 persons</u>	<u>\$1,130</u>	<u>\$1,660</u>
<u>50 to 74 persons</u>	<u>\$1,330</u>	<u>\$1,860</u>
<u>75 to 99 persons</u>	<u>\$1,530</u>	<u>\$2,060</u>
<u>100 or more persons</u>	<u>\$1,730</u>	<u>\$2,260</u>

Sec. 5. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

Subd. 4b. **License fee for day training and habilitation program.** (a) A day training and habilitation program licensed under chapter 245B to provide services to persons with developmental disabilities shall pay an annual nonrefundable license fee based on the following schedule:

<u>Licensed Capacity</u>	<u>License Fee Fiscal Year 2010</u>	<u>License Fee Fiscal Year 2011 and thereafter</u>
<u>1 to 24 persons</u>	<u>\$925</u>	<u>\$1,430</u>
<u>25 to 49 persons</u>	<u>\$1,125</u>	<u>\$1,630</u>
<u>50 to 74 persons</u>	<u>\$1,325</u>	<u>\$1,830</u>
<u>75 to 99 persons</u>	<u>\$1,525</u>	<u>\$2,030</u>
<u>100 to 124 persons</u>	<u>\$1,725</u>	<u>\$2,230</u>
<u>125 to 149 persons</u>	<u>\$1,925</u>	<u>\$2,430</u>

<u>150 to 174 persons</u>	<u>\$2,125</u>	<u>\$2,630</u>
<u>175 to 199 persons</u>	<u>\$2,325</u>	<u>\$2,830</u>
<u>200 to 224 persons</u>	<u>\$2,525</u>	<u>\$3,030</u>
<u>225 or more persons</u>	<u>\$3,025</u>	<u>\$3,530</u>

(b) A day training and habilitation program licensed under chapter 245B must be assessed a license fee based on the schedule in paragraph (a) unless the license holder serves more than 50 percent of the same persons at two or more locations in the community. Except as provided in paragraph (c), when a day training and habilitation program serves more than 50 percent of the same persons in two or more locations in a community, the day training and habilitation program shall pay a license fee based on the licensed capacity of the largest facility and the other facility or facilities must be charged a license fee based on a licensed capacity of a residential program serving one to 24 persons.

(c) When a day training and habilitation program serving persons with developmental disabilities seeks a single license allowed under section 245B.07, subdivision 12, clause (2) or (3), the licensing fee must be based on the combined licensed capacity for each location.

Sec. 6. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

Subd. 4c. **License fee for residential program serving persons with developmental disabilities.** A residential program licensed under chapter 245B whether certified as an intermediate care facility for persons with developmental disabilities or not shall pay an annual nonrefundable license fee based on the following schedule:

<u>Licensed Capacity</u>	<u>License Fee Fiscal Year 2010</u>	<u>License Fee Fiscal Year 2011 and thereafter</u>
<u>1 to 24 persons</u>	<u>\$1,000</u>	<u>\$1,600</u>
<u>25 to 49 persons</u>	<u>\$1,200</u>	<u>\$1,800</u>
<u>50 to 74 persons</u>	<u>\$1,400</u>	<u>\$2,000</u>
<u>75 or more persons</u>	<u>\$1,600</u>	<u>\$2,200</u>

Sec. 7. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

Subd. 4d. **License fee for program providing crisis respite.** (a) In fiscal year 2010, a program licensed to provide crisis respite services for persons with developmental disabilities under chapter 245B shall pay an annual nonrefundable license fee of \$1,600.

(b) In fiscal year 2011 and thereafter, a program licensed to provide crisis respite services for persons with developmental disabilities under chapter 245B shall pay an annual nonrefundable license fee of \$2,000.

Sec. 8. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

Subd. 4e. **License fee for program providing residential-based habilitation services.** (a) In fiscal year 2010, a program licensed to provide residential-based habilitation services for persons with developmental disabilities under chapter 245B shall pay an annual nonrefundable license fee that is based on a base rate of \$715 plus \$50 times the number of clients served on the first day of August of the current license year. State-operated programs are exempt from the license fee under this paragraph and paragraph (b).

(b) In fiscal year 2011 and thereafter, a program licensed to provide residential-based habilitation services for persons with developmental disabilities under chapter 245B shall pay an annual nonrefundable license fee that is based on a base rate of \$1,000 plus \$70 times the number of clients served on the first day of August of the current license year.

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

**Subd. 4f. License fee for program providing semi-independent living services or supported employment services.** (a) In fiscal year 2010, a program licensed to provide semi-independent living services for persons with developmental disabilities under chapter 245B or supported employment services for persons with developmental disabilities under chapter 245B shall pay an annual nonrefundable license fee of \$1,250.

(b) In fiscal year 2011 and thereafter, a program licensed to provide semi-independent living services for persons with developmental disabilities under chapter 245B or supported employment services for persons with developmental disabilities under chapter 245B shall pay an annual nonrefundable license fee of \$2,000.

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

**Subd. 4g. License fee for residential program serving persons with physical disabilities.** A residential program licensed under Minnesota Rules, parts 9570.2000 to 9570.3400, to serve persons with physical disabilities shall pay an annual nonrefundable license fee based on the following schedule:

<u>Licensed Capacity</u>	<u>License Fee Fiscal Year 2010</u>	<u>License Fee Fiscal Year 2011 and thereafter</u>
<u>1 to 24 persons</u>	<u>\$713</u>	<u>\$1,025</u>
<u>25 to 49 persons</u>	<u>\$913</u>	<u>\$1,225</u>
<u>50 to 74 persons</u>	<u>\$1,113</u>	<u>\$1,425</u>
<u>75 to 99 persons</u>	<u>\$1,313</u>	<u>\$1,625</u>
<u>100 to 124 persons</u>	<u>\$1,513</u>	<u>\$1,825</u>
<u>125 or more persons</u>	<u>\$1,713</u>	<u>\$2,025</u>

Sec. 11. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

**Subd. 4h. License fee for residential programs serving adults with mental illness.** (a) In fiscal year 2010, a residential program licensed under Minnesota Rules, parts 9520.0500 to 9520.0670, to serve adults with mental illness shall pay an annual nonrefundable license fee of \$2,450.

(b) In fiscal year 2011 and thereafter, a residential program licensed under Minnesota Rules, parts 9520.0500 to 9520.0670, to serve adults with mental illness shall pay an annual nonrefundable license fee of \$4,400.

Sec. 12. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

**Subd. 4i. License fee for a children's residential program.** (a) In fiscal year 2010, a children's residential program licensed under Minnesota Rules, chapter 2960, shall pay an annual nonrefundable license fee of \$2,450.

(b) In fiscal year 2011 and thereafter, a children's residential program licensed under Minnesota Rules, chapter 2960, shall pay an annual nonrefundable license fee of \$4,400.

Sec. 13. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

**Subd. 4j. License fee for programs licensed to provide drug or chemical dependency treatment.** (a) A program licensed under Minnesota Rules, parts 9530.6405 to 9530.6505 or 9530.6510 to 9530.6590, to provide drug or chemical dependency treatment shall pay an annual nonrefundable license fee based on the following schedule:

<u>Licensed Capacity</u>	<u>License Fee Fiscal Year 2010</u>	<u>License Fee Fiscal Year 2011 and thereafter</u>
<u>1 to 24 persons</u>	<u>\$755</u>	<u>\$1,035</u>
<u>25 to 49 persons</u>	<u>\$955</u>	<u>\$1,235</u>
<u>50 to 74 persons</u>	<u>\$1,155</u>	<u>\$1,435</u>
<u>75 to 99 persons</u>	<u>\$1,355</u>	<u>\$1,635</u>
<u>100 to 124 persons</u>	<u>\$1,555</u>	<u>\$1,835</u>
<u>125 or more persons</u>	<u>\$1,755</u>	<u>\$2,035</u>

(b) In fiscal year 2010, if a license issued to a program under Minnesota Rules, parts 9530.6405 to 9530.6505, does not have a stated licensed capacity, the drug or chemical dependency treatment program shall pay an annual nonrefundable license fee based on a licensed capacity of one to 24 persons for fiscal year 2010.

(c) In fiscal year 2011 and thereafter, if a license issued to a program under Minnesota Rules, parts 9530.6405 to 9530.6505, does not have a stated licensed capacity, the drug or chemical dependency treatment program shall pay an annual nonrefundable license fee based on a licensed capacity of one to 24 persons for fiscal year 2011 and thereafter.

Sec. 14. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

Subd. 4k. **License fee for independent living assistance for youth.** A program licensed to provide independent living assistance for youth under section 245A.22, shall pay an annual nonrefundable license fee of \$2,000.

Sec. 15. Minnesota Statutes 2008, section 245A.10, is amended by adding a subdivision to read:

Subd. 4l. **License fee for private agencies that provide child foster care or adoption services.** A private agency licensed under Minnesota Rules, parts 9545.0755 to 9545.0845, to provide child foster care or adoption services shall pay an annual nonrefundable license fee of \$400.

Sec. 16. Minnesota Statutes 2008, section 245A.10, subdivision 5, is amended to read:

Subd. 5. ~~License or Mental health center or mental health clinic certification fee for other programs.~~ (a) Except as provided in paragraphs (b) and (c), a program without a stated licensed capacity shall pay a license or certification fee of \$400.

~~(b) A mental health center or mental health clinic requesting certification for purposes of insurance and subscriber contract reimbursement under Minnesota Rules, parts 9520.0750 to 9520.0870, shall pay a certification fee of \$1,000 per year. If the mental health center or mental health clinic provides services at a primary location with satellite facilities, the satellite facilities shall be certified with the primary location without an additional charge.~~

~~(c) A program licensed to provide residential based habilitation services under the home and community based waiver for persons with developmental disabilities shall pay an annual license fee that includes a base rate of \$250 plus \$38 times the number of clients served on the first day of August of the current license year. State operated programs are exempt from the license fee under this paragraph.~~



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

**Subd. 7. Human services licensing revenue and appropriations.** Effective July 1, 2011:

(1) departmental earnings collected under subdivisions 3, 4 to 4l, and 5 shall be deposited in the state government special revenue fund; and

(2) the direct appropriation to the department for licensing activities in subdivisions 3, 4 to 4l, and 5 shall be transferred from the general fund to the state government special revenue fund.

Sec. 18. Minnesota Statutes 2008, section 245A.11, subdivision 2a, is amended to read:

**Subd. 2a. Adult foster care license capacity.** The commissioner shall issue adult foster care licenses with a maximum licensed capacity of four beds, including nonstaff roomers and boarders, except that the commissioner may issue a license with a capacity of five beds, including roomers and boarders, according to paragraphs (a) to (e).

(a) An adult foster care license holder may have a maximum license capacity of five if all persons in care are age 55 or over and do not have a serious and persistent mental illness or a developmental disability.

(b) The commissioner may grant variances to paragraph (a) to allow a foster care provider with a licensed capacity of five persons to admit an individual under the age of 55 if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(c) The commissioner may grant variances to paragraph (a) to allow the use of a fifth bed for emergency crisis services for a person with serious and persistent mental illness or a developmental disability, regardless of age, if the variance complies with section 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed foster care provider is located.

(d) ~~Notwithstanding paragraph (a),~~ If the 2009 legislature adopts a rate reduction that impacts providers of adult foster care services, the commissioner may issue an adult foster care license with a capacity of five adults if the fifth bed does not increase the overall statewide capacity of licensed adult foster care beds in homes that are not the primary residence of the license holder, over the licensed capacity in such homes on July 1, 2009, as identified in a plan submitted to the commissioner by the county, when the capacity is recommended by the county licensing agency of the county in which the facility is located and if the recommendation verifies that:

(1) the facility meets the physical environment requirements in the adult foster care licensing rule;

(2) the five-bed living arrangement is specified for each resident in the resident's:

(i) individualized plan of care;

(ii) individual service plan under section 256B.092, subdivision 1b, if required; or

(iii) individual resident placement agreement under Minnesota Rules, part 9555.5105, subpart 19, if required;

(3) the license holder obtains written and signed informed consent from each resident or resident's legal representative documenting the resident's informed choice to living in the home and that the resident's refusal to consent would not have resulted in service termination; and

(4) the facility was licensed for adult foster care before March 1, ~~2003~~ 2009.

(e) The commissioner shall not issue a new adult foster care license under paragraph (d) after June 30, ~~2005~~ 2011. The commissioner shall allow a facility with an adult foster care license issued under paragraph (d) before June 30, ~~2005~~ 2011, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (d).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

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

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

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

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

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

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

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

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

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

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

(i) a description of the triggering incident;

(ii) the date and time of the triggering incident;

(iii) the time of the response or responses under paragraph (e), clause (1) or (2);

(iv) whether the response met the resident's needs;

(v) whether the existing policies and response protocols were followed; and

(vi) whether the existing policies and protocols are adequate or need modification.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 20. Minnesota Statutes 2008, section 245A.16, subdivision 1, is amended to read:

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

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

(2) adult foster care maximum capacity;

(3) adult foster care minimum age requirement;

(4) child foster care maximum age requirement;

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

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

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

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

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

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

Sec. 21. Minnesota Statutes 2008, section 245A.16, subdivision 3, is amended to read:

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

Sec. 22. Minnesota Statutes 2008, section 245C.04, subdivision 1, is amended to read:

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

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

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

(1) registered under chapter 144D; or

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

(3) the following conditions are met:

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

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

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

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

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

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

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

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

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

Sec. 23. Minnesota Statutes 2008, section 245C.05, subdivision 4, is amended to read:

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

- (1) background study information to the commissioner;
- (2) background study results to the license holder; ~~and~~
- (3) background study results to county and private agencies for background studies conducted by the commissioner for child foster care; and
- (4) background study results to county agencies for background studies conducted by the commissioner for adult foster care.

Sec. 24. Minnesota Statutes 2008, section 245C.08, subdivision 2, is amended to read:

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

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

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

(3) information from the Bureau of Criminal Apprehension.

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

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

Sec. 25. Minnesota Statutes 2008, section 245C.10, is amended by adding a subdivision to read:

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

Sec. 26. Minnesota Statutes 2008, section 245C.10, is amended by adding a subdivision to read:

Subd. 8. **Private agencies.** The commissioner shall recover the cost of conducting background studies under section 245C.33 for studies initiated by private agencies for the purpose of adoption through a fee of no more than \$70 per study charged to the private agency. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 27. Minnesota Statutes 2008, section 245C.17, is amended by adding a subdivision to read:

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

Sec. 28. Minnesota Statutes 2008, section 245C.20, is amended to read:

#### **245C.20 LICENSE HOLDER RECORD KEEPING.**

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

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

Sec. 29. Minnesota Statutes 2008, section 245C.21, subdivision 1a, is amended to read:

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

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

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

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

Sec. 30. Minnesota Statutes 2008, section 245C.23, subdivision 2, is amended to read:

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

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

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

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

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

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

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

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



Sec. 31. Minnesota Statutes 2008, section 256B.092, is amended by adding a subdivision to read:

**Subd. 5b. Revised per diem based on legislated rate reduction.** Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 256B.49, subdivision 17, is amended to read:

**Subd. 17. Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need-based methods for allocating to local agencies the home and community-based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:

- (1) an incentive-based payment process for achieving outcomes;
- (2) the need for a state-level risk pool;
- (3) the need for retention of management responsibility at the state agency level; and
- (4) a phase-in strategy as appropriate.

(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:

(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community-based services; or

(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.

(d) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 and 256B.0653 to 256B.0656. The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

(e) Notwithstanding section 252.28, subdivision 3, paragraph (d), if the 2009 legislature adopts a rate reduction that impacts payment to providers of adult foster care services, the commissioner may issue adult foster care licenses that permit a capacity of five adults. The application for a five-bed license must meet the requirements of section 245A.11, subdivision 2a. Prior to admission of the fifth recipient of adult foster care services, the county must negotiate a revised per diem rate for room and board and waiver services that reflects the legislated rate reduction and results in an overall average per diem reduction for all foster care recipients in that home. The revised per diem must allow the provider to maintain, as much as possible, the level of services or enhanced services provided in the residence, while mitigating the losses of the legislated rate reduction.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 33. **WAIVER.**

By December 1, 2009, the commissioner shall request all federal approvals and waiver amendments to the disability home and community-based waivers to allow properly licensed adult foster care homes to provide residential services for up to five individuals.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 34. **REPEALER.**

(a) Minnesota Statutes 2008, section 256B.092, subdivision 5a, is repealed effective July 1, 2009.

(b) Minnesota Rules, part 9555.6125, subpart 4, item B, is repealed.

## ARTICLE 2

### MFIP, CHILDREN, AND ADULT SUPPORTS

Section 1. Minnesota Statutes 2008, section 256D.051, subdivision 2a, is amended to read:

Subd. 2a. **Duties of commissioner.** In addition to any other duties imposed by law, the commissioner shall:

(1) based on this section and section 256D.052 and Code of Federal Regulations, title 7, section 273.7, supervise the administration of food stamp employment and training services to county agencies;

(2) disburse money appropriated for food stamp employment and training services to county agencies based upon the county's costs as specified in section 256D.051, subdivision 6c;

(3) accept and supervise the disbursement of any funds that may be provided by the federal government or from other sources for use in this state for food stamp employment and training services;

(4) apply for the maximum allowable federal matching funds under United States Code, title 7, section 2025, paragraph (h), for state expenditures made on behalf of family stabilization services participants voluntarily engaged in food stamp employment and training activities, where appropriate;

(5) cooperate with other agencies including any agency of the United States or of another state in all matters concerning the powers and duties of the commissioner under this section and section 256D.052; and

~~(5)~~ (6) in cooperation with the commissioner of employment and economic development, ensure that each component of an employment and training program carried out under this section is delivered through a statewide workforce development system, unless the component is not available locally through such a system.

Sec. 2. Minnesota Statutes 2008, section 256D.0515, is amended to read:

**256D.0515 ASSET LIMITATIONS FOR FOOD STAMP HOUSEHOLDS.**

All food stamp households must be determined eligible for the benefit discussed under section 256.029. Food stamp households must demonstrate that:

~~(1) their gross income meets the federal Food Stamp requirements under United States Code, title 7, section 2014(c); and~~

~~(2) they have financial resources, excluding vehicles, of less than \$7,000.~~

Sec. 3. Minnesota Statutes 2008, section 256D.06, subdivision 2, is amended to read:

Subd. 2. **Emergency need.** (a) Notwithstanding the provisions of subdivision 1, a grant of emergency general assistance shall, to the extent funds are available, be made to an eligible single adult, married couple, or family for an emergency need, as defined in rules promulgated by the commissioner, where the recipient requests temporary assistance not exceeding 30 days if an emergency situation appears to exist under criteria adopted by the county agency and the individual or family is ineligible for MFIP or DWP or is not a participant of MFIP or DWP and whose annual net income is no greater than 200 percent of the federal poverty level for the previous calendar year. If an applicant or recipient relates facts to the county agency which may be sufficient to constitute an emergency situation, the county agency shall, to the extent funds are available, advise the person of the procedure for applying for assistance according to this subdivision. An emergency general assistance grant is available to a recipient not more than once in any 12-month period.

(b) Funding for an emergency general assistance program is limited to the appropriation. Each fiscal year, the commissioner shall allocate to counties the money appropriated for emergency general assistance grants based on each county agency's average share of state's emergency general expenditures for the immediate past three fiscal years as determined by the commissioner, and may reallocate any unspent amounts to other counties.

(c) No county shall be allocated less than \$1,000 for the fiscal year.

(d) Should an emergency be declared as provided in section 12.31, the commissioner may immediately reallocate unspent funds without regard to the other provisions of this section to meet the emergency needs. The emergency reallocation must be excluded from calculations for subsequent allocations as provided in paragraphs (b) and (c).

(e) Any emergency general assistance expenditures by a county above the amount of the commissioner's allocation to the county must be made from county funds.

Sec. 4. Minnesota Statutes 2008, section 256D.09, subdivision 6, is amended to read:

Subd. 6. **Recovery of overpayments.** (a) If an amount of general assistance or family general assistance is paid to a recipient in excess of the payment due, it shall be recoverable by the county agency. The agency shall give written notice to the recipient of its intention to recover the overpayment.

(b) Except as provided for interim assistance in section 256D.06, subdivision 5, when an overpayment occurs, the county agency shall recover the overpayment from a current recipient by reducing the amount of aid payable to the assistance unit of which the recipient is a member, for one or more monthly assistance payments, until the overpayment is repaid. All county agencies in the state shall reduce the assistance payment by three percent of the assistance unit's standard of need in nonfraud cases and ten percent where fraud has occurred, or the amount of the monthly payment, whichever is less, for all overpayments.

(c) In cases when there is both an overpayment and underpayment, the county agency shall offset one against the other in correcting the payment.

(d) Overpayments may also be voluntarily repaid, in part or in full, by the individual, in addition to the aid reductions provided in this subdivision, to include further voluntary reductions in the grant level agreed to in writing by the individual, until the total amount of the overpayment is repaid.

(e) The county agency shall make reasonable efforts to recover overpayments to persons no longer on assistance under standards adopted in rule by the commissioner of human services. The county agency need not attempt to recover overpayments of less than \$35 paid to an individual no longer on assistance if the individual does not receive assistance again within three years, unless the individual has been convicted of violating section 256.98.

(f) Establishment of an overpayment is limited to 12 months prior to the month of discovery due to an agency error and six years prior to the month of discovery due to a client error or an intentional program violation determined under section 256.046.

Sec. 5. Minnesota Statutes 2008, section 256D.49, subdivision 3, is amended to read:

Subd. 3. **Overpayment of monthly grants and recovery of ATM errors.** (a) When the county agency determines that an overpayment of the recipient's monthly payment of Minnesota supplemental aid has occurred, it shall issue a notice of overpayment to the recipient. If the person is no longer receiving Minnesota supplemental aid, the county agency may request voluntary repayment or pursue civil recovery. If the person is receiving Minnesota supplemental aid, the county agency shall recover the overpayment by withholding an amount equal to three percent of the standard of assistance for the recipient or the total amount of the monthly grant, whichever is less.

(b) Establishment of an overpayment is limited to 12 months prior to the month of discovery due to an agency error and six years prior to the month of discovery due to a client error or an intentional program violation determined under section 256.046.

(c) For recipients receiving benefits via electronic benefit transfer, if the overpayment is a result of an automated teller machine (ATM) dispensing funds in error to the recipient, the agency may recover the ATM error by immediately withdrawing funds from the recipient's electronic benefit transfer account, up to the amount of the error.

~~(d) Residents of nursing homes, regional treatment centers, and licensed residential facilities with negotiated rates shall not have overpayments recovered from their personal needs allowance.~~

Sec. 6. Minnesota Statutes 2008, section 256I.03, subdivision 7, is amended to read:

Subd. 7. **Countable income.** "Countable income" means all income received by an applicant or recipient less any applicable exclusions or disregards. For a recipient of any cash benefit from the SSI program, countable income means the SSI benefit limit in effect at the time the person is in a GRH ~~setting less \$20~~, less the medical assistance personal needs allowance. If the SSI limit has been reduced for a person due to events occurring prior to the persons entering the GRH setting, countable income means actual income less any applicable exclusions and disregards.

**EFFECTIVE DATE.** This section is effective April 1, 2010.

Sec. 7. Minnesota Statutes 2008, section 256I.05, subdivision 7c, is amended to read:

Subd. 7c. **Demonstration project.** The commissioner is authorized to pursue the expansion of a demonstration project under federal food stamp regulation for the purpose of gaining additional federal reimbursement of food and nutritional costs currently paid by the state group residential housing program. The commissioner shall seek approval no later than ~~January 1, 2004~~ October 1, 2009. Any reimbursement received is nondedicated revenue to the general fund.

Sec. 8. Minnesota Statutes 2008, section 256J.20, subdivision 3, is amended to read:

Subd. 3. **Other property limitations.** To be eligible for MFIP, the equity value of all nonexcluded real and personal property of the assistance unit must not exceed \$2,000 for applicants and \$5,000 for ongoing participants. The value of assets in clauses (1) to (19) must be excluded when determining the equity value of real and personal property:

(1) a licensed vehicle up to a loan value of less than or equal to ~~\$15,000~~ \$7,500. ~~If the assistance unit owns more than one licensed vehicle, the county agency shall determine the loan value of all additional vehicles and exclude the combined loan value of less than or equal to \$7,500.~~ The county agency shall apply any excess loan value as if it were equity value to the asset limit described in this section; If the assistance unit owns more than one licensed vehicle, the county agency shall determine the vehicle with the highest loan value and count only the loan value over \$7,500, excluding: (i) the value of one vehicle per physically disabled person when the vehicle is needed to transport the disabled unit member; this exclusion does not apply to mentally disabled people; (ii) the value of special equipment for a disabled member of the assistance unit; and (iii) any vehicle used for long-distance travel, other than daily commuting, for the employment of a unit member.

The county agency shall count the loan value of all other vehicles and apply this amount as if it were equity value to the asset limit described in this section. To establish the loan value of vehicles, a county agency must use the N.A.D.A. Official Used Car Guide, Midwest Edition, for newer model cars. When a vehicle is not listed in the guidebook, or when the applicant or participant disputes the loan value listed in the guidebook as unreasonable given the condition of the particular vehicle, the county agency may require the applicant or participant document the loan value by securing a written statement from a motor vehicle dealer licensed under section 168.27, stating the amount that the dealer would pay to purchase the vehicle. The county agency shall reimburse the applicant or participant for the cost of a written statement that documents a lower loan value;

(2) the value of life insurance policies for members of the assistance unit;

(3) one burial plot per member of an assistance unit;

(4) the value of personal property needed to produce earned income, including tools, implements, farm animals, inventory, business loans, business checking and savings accounts used at least annually and used exclusively for the operation of a self-employment business, and any motor vehicles if at least 50 percent of the vehicle's use is to produce income and if the vehicles are essential for the self-employment business;

(5) the value of personal property not otherwise specified which is commonly used by household members in day-to-day living such as clothing, necessary household furniture, equipment, and other basic maintenance items essential for daily living;

(6) the value of real and personal property owned by a recipient of Supplemental Security Income or Minnesota supplemental aid;

(7) the value of corrective payments, but only for the month in which the payment is received and for the following month;

(8) a mobile home or other vehicle used by an applicant or participant as the applicant's or participant's home;

(9) money in a separate escrow account that is needed to pay real estate taxes or insurance and that is used for this purpose;

(10) money held in escrow to cover employee FICA, employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are paid at least annually, but less often than monthly;

(11) monthly assistance payments for the current month's or short-term emergency needs under section 256J.626, subdivision 2;

(12) the value of school loans, grants, or scholarships for the period they are intended to cover;

(13) payments listed in section 256J.21, subdivision 2, clause (9), which are held in escrow for a period not to exceed three months to replace or repair personal or real property;

(14) income received in a budget month through the end of the payment month;

(15) savings from earned income of a minor child or a minor parent that are set aside in a separate account designated specifically for future education or employment costs;

(16) the federal earned income credit, Minnesota working family credit, state and federal income tax refunds, state homeowners and renters credits under chapter 290A, property tax rebates and other federal or state tax rebates in the month received and the following month;

(17) payments excluded under federal law as long as those payments are held in a separate account from any nonexcluded funds;

(18) the assets of children ineligible to receive MFIP benefits because foster care or adoption assistance payments are made on their behalf; and

(19) the assets of persons whose income is excluded under section 256J.21, subdivision 2, clause (43).

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 9. Minnesota Statutes 2008, section 256J.24, subdivision 5a, is amended to read:

Subd. 5a. **Food portion of MFIP transitional standard.** The commissioner shall adjust the food portion of the MFIP transitional standard ~~by October 1 each year beginning October 1998 as needed~~ to reflect the cost of living adjustments to the food ~~Stamp support~~ program. The commissioner shall ~~annually publish in the State Register~~ the transitional standard for an assistance unit of sizes one to ten in the State Register whenever an adjustment is made.

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

Sec. 10. Minnesota Statutes 2008, section 256J.24, subdivision 10, is amended to read:

Subd. 10. **MFIP exit level.** The commissioner shall adjust the MFIP earned income disregard to ensure that most participants do not lose eligibility for MFIP until their income reaches at least ~~45~~ 110 percent of the federal poverty guidelines in effect ~~in October of each fiscal year~~ at the time of the adjustment. The adjustment to the disregard shall be based on a household size of three, and the resulting earned income disregard percentage must be applied to all household sizes. The adjustment under this subdivision must be implemented ~~at the same time as the October food stamp or whenever there is a food support cost-of-living adjustment is reflected in the food portion of MFIP transitional standard as required under subdivision 5a.~~

**EFFECTIVE DATE.** This section is effective October 1, 2010.

Sec. 11. Minnesota Statutes 2008, section 256J.37, subdivision 3a, is amended to read:

Subd. 3a. **Rental subsidies; unearned income.** (a) ~~Effective July 1, 2003,~~ The county agency shall count ~~\$50~~ \$100 of the value of public and assisted rental subsidies provided through the Department of Housing and Urban Development (HUD) as unearned income to the cash portion of the MFIP grant. The full amount of the subsidy must be counted as unearned income when the subsidy is less than ~~\$50~~ \$100. The income from this subsidy shall be budgeted according to section 256J.34.

(b) The provisions of this subdivision shall not apply to an MFIP assistance unit which includes a participant who is:

(1) age 60 or older;

(2) a caregiver who is suffering from an illness, injury, or incapacity that has been certified by a qualified professional when the illness, injury, or incapacity is expected to continue for more than 30 days and prevents the person from obtaining or retaining employment; or

(3) a caregiver whose presence in the home is required due to the illness or incapacity of another member in the assistance unit, a relative in the household, or a foster child in the household when the illness or incapacity and the need for the participant's presence in the home has been certified by a qualified professional and is expected to continue for more than 30 days.

(c) The provisions of this subdivision shall not apply to an MFIP assistance unit where the parental caregiver is an SSI recipient.

(d) Prior to implementing this provision, the commissioner must identify the MFIP participants subject to this provision and provide written notice to these participants at least 30 days before the first grant reduction. The notice must inform the participant of the basis for the potential grant reduction, the exceptions to the provision, if any, and inform the participant of the steps necessary to claim an exception. A person who is found not to meet one of the exceptions to the provision must be notified and informed of the right to a fair hearing under section 256J.40. The notice must also inform the participant that the participant may be eligible for a rent reduction resulting from a reduction in the MFIP grant and encourage the participant to contact the local housing authority.

**EFFECTIVE DATE.** This section is effective October 1, 2010.

Sec. 12. Minnesota Statutes 2008, section 256J.37, is amended by adding a subdivision to read:

**Subd. 11. Treatment of Supplemental Security Income.** Effective March 1, 2010, the county shall reduce the cash portion of the MFIP grant by up to \$125 for an MFIP assistance unit that includes one or more Supplemental Security Income (SSI) recipients who reside in the household, and who would otherwise be included in the MFIP assistance unit under section 256J.24, subdivision 2, but are excluded solely due to the SSI recipient status under section 256J.24, subdivision 3, paragraph (a), clause (1). If the SSI recipient or recipients receive less than \$125 of SSI, only the amount received must be used in calculating the MFIP cash assistance payment. This provision does not apply to relative caregivers who could elect to be included in the MFIP assistance unit under section 256J.24, subdivision 4, unless the caregiver's children or stepchildren are included in the MFIP assistance unit.

**EFFECTIVE DATE.** This section is effective October 1, 2010.

Sec. 13. Minnesota Statutes 2008, section 256J.38, subdivision 1, is amended to read:

Subdivision 1. **Scope of overpayment.** (a) When a participant or former participant receives an overpayment due to agency, client, or ATM error, or due to assistance received while an appeal is pending and the participant or former participant is determined ineligible for assistance or for less assistance than was received, the county agency must recoup or recover the overpayment using the following methods:

(1) reconstruct each affected budget month and corresponding payment month;

(2) use the policies and procedures that were in effect for the payment month; and

(3) do not allow employment disregards in section 256J.21, subdivision 3 or 4, in the calculation of the overpayment when the unit has not reported within two calendar months following the end of the month in which the income was received.

(b) Establishment of an overpayment is limited to 12 months prior to the month of discovery due to agency error and six years prior to the month of discovery due to client error or an intentional program violation determined under section 256.046.

Sec. 14. Minnesota Statutes 2008, section 256J.575, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** (a) The following MFIP ~~or diversionary work program (DWP)~~ participants are eligible for the services under this section:

(1) a participant who meets the requirements for or has been granted a hardship extension under section 256J.425, subdivision 2 or 3, except that it is not necessary for the participant to have reached or be approaching 60 months of eligibility for this section to apply;

(2) a participant who is applying for Supplemental Security Income or Social Security disability insurance; and

(3) a participant who is a noncitizen who has been in the United States for 12 or fewer months.

(b) Families must meet all other eligibility requirements for MFIP established in this chapter. Families are eligible for financial assistance to the same extent as if they were participating in MFIP.

(c) A participant under paragraph (a), clause (3), must be provided with English as a second language opportunities and skills training for up to 12 months. After 12 months, the case manager and participant must determine whether the participant should continue with English as a second language classes or skills training, or both, and continue to receive family stabilization services.

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 15. Minnesota Statutes 2008, section 256J.575, subdivision 6, is amended to read:

Subd. 6. **Cooperation with services requirements.** (a) ~~To be eligible,~~ A participant who is eligible for family stabilization services under this section shall comply with paragraphs (b) to (d).

(b) Participants shall engage in family stabilization plan services for the appropriate number of hours per week that the activities are scheduled and available, unless good cause exists for not doing so, as defined in section 256J.57, subdivision 1. The appropriate number of hours must be based on the participant's plan.

(c) The case manager shall review the participant's progress toward the goals in the family stabilization plan every six months to determine whether conditions have changed, including whether revisions to the plan are needed.

(d) A participant's requirement to comply with any or all family stabilization plan requirements under this subdivision is excused when the case management services, training and educational services, or family support services identified in the participant's family stabilization plan are unavailable for reasons beyond the control of the participant, including when money appropriated is not sufficient to provide the services.

Sec. 16. Minnesota Statutes 2008, section 256J.575, subdivision 7, is amended to read:

Subd. 7. **Sanctions.** (a) The county agency or employment services provider must follow the requirements of this subdivision at the time the county agency or employment services provider has information that an MFIP recipient may meet the eligibility criteria in subdivision 3.



(b) The financial assistance grant of a participating family is reduced according to section 256J.46, if a participating adult fails without good cause to comply or continue to comply with the family stabilization plan requirements in this subdivision, unless compliance has been excused under subdivision 6, paragraph (d).

~~(b) (c)~~ Given the purpose of the family stabilization services in this section and the nature of the underlying family circumstances that act as barriers to both employment and full compliance with program requirements, there must be a review by the county agency prior to imposing a sanction to determine whether the plan was appropriated to the needs of the participant and family, ~~and~~ There must be a current assessment by a behavioral health or medical professional confirming that the participant in all ways had the ability to comply with the plan, as confirmed by a behavioral health or medical professional.

~~(e) (d)~~ Prior to the imposition of a sanction, the county agency or employment services provider shall review the participant's case to determine if the family stabilization plan is still appropriate and meet with the participant face-to-face. ~~The participant may bring an advocate~~ The county agency or employment services provider must inform the participant of the right to bring an advocate to the face-to-face meeting.

During the face-to-face meeting, the county agency shall:

(1) determine whether the continued noncompliance can be explained and mitigated by providing a needed family stabilization service, as defined in subdivision 2, paragraph (d);

(2) determine whether the participant qualifies for a good cause exception under section 256J.57, or if the sanction is for noncooperation with child support requirements, determine if the participant qualifies for a good cause exemption under section 256.741, subdivision 10;

(3) determine whether activities in the family stabilization plan are appropriate based on the family's circumstances;

(4) explain the consequences of continuing noncompliance;

(5) identify other resources that may be available to the participant to meet the needs of the family; and

(6) inform the participant of the right to appeal under section 256J.40.

If the lack of an identified activity or service can explain the noncompliance, the county shall work with the participant to provide the identified activity.

(d) If the participant fails to come to the face-to-face meeting, the case manager or a designee shall attempt at least one home visit. If a face-to-face meeting is not conducted, the county agency shall send the participant a written notice that includes the information under paragraph (c).

(e) After the requirements of paragraphs (c) and (d) are met and prior to imposition of a sanction, the county agency shall provide a notice of intent to sanction under section 256J.57, subdivision 2, and, when applicable, a notice of adverse action under section 256J.31.

(f) Section 256J.57 applies to this section except to the extent that it is modified by this subdivision.

Sec. 17. Minnesota Statutes 2008, section 256J.621, is amended to read:

**256J.621 WORK PARTICIPATION CASH BENEFITS.**

(a) Effective October 1, 2009, upon exiting the diversionary work program (DWP) or upon terminating the Minnesota family investment program with earnings, a participant who is employed may be eligible for work participation cash benefits of ~~\$75~~ \$50 per month to assist in meeting the family's basic needs as the participant continues to move toward self-sufficiency.

(b) To be eligible for work participation cash benefits, the participant shall not receive MFIP or diversionary work program assistance during the month and the participant or participants must meet the following work requirements:

(1) if the participant is a single caregiver and has a child under six years of age, the participant must be employed at least 87 hours per month;

(2) if the participant is a single caregiver and does not have a child under six years of age, the participant must be employed at least 130 hours per month; or

(3) if the household is a two-parent family, at least one of the parents must be employed an average of at least 130 hours per month.

Whenever a participant exits the diversionary work program or is terminated from MFIP and meets the other criteria in this section, work participation cash benefits are available for up to 24 consecutive months.

(c) Expenditures on the program are maintenance of effort state funds under a separate state program for participants under paragraph (b), clauses (1) and (2). Expenditures for participants under paragraph (b), clause (3), are nonmaintenance of effort funds. Months in which a participant receives work participation cash benefits under this section do not count toward the participant's MFIP 60-month time limit.

Sec. 18. Minnesota Statutes 2008, section 256J.626, subdivision 6, is amended to read:

Subd. 6. **Base allocation to counties and tribes; definitions.** (a) For purposes of this section, the following terms have the meanings given.

(1) "2002 historic spending base" means the commissioner's determination of the sum of the reimbursement related to fiscal year 2002 of county or tribal agency expenditures for the base programs listed in clause ~~(6)~~ (5), items (i) through (iv), and earnings related to calendar year 2002 in the base program listed in clause ~~(6)~~ (5), item (v), and the amount of spending in fiscal year 2002 in the base program listed in clause ~~(6)~~ (5), item (vi), issued to or on behalf of persons residing in the county or tribal service delivery area.

(2) "Adjusted caseload factor" means a factor weighted:

(i) 47 percent on the MFIP cases in each county at four points in time in the most recent 12-month period for which data is available multiplied by the county's caseload difficulty factor; and

(ii) 53 percent on the count of adults on MFIP in each county and tribe at four points in time in the most recent 12-month period for which data is available multiplied by the county or tribe's caseload difficulty factor.

(3) "Caseload difficulty factor" means a factor determined by the commissioner for each county and tribe based upon the self-support index described in section 256J.751, subdivision 2, clause (6).

~~(4) "Initial allocation" means the amount potentially available to each county or tribe based on the formula in paragraphs (b) through (d).~~

~~(5) (4) "Final allocation" means the amount available to each county or tribe based on the formula in paragraphs (b) through (d), after adjustment by subdivision 7 and (c).~~

~~(6)~~ (5) "Base programs" means the:

(i) MFIP employment and training services under Minnesota Statutes 2002, section 256J.62, subdivision 1, in effect June 30, 2002;

(ii) bilingual employment and training services to refugees under Minnesota Statutes 2002, section 256J.62, subdivision 6, in effect June 30, 2002;

(iii) work literacy language programs under Minnesota Statutes 2002, section 256J.62, subdivision 7, in effect June 30, 2002;

(iv) supported work program authorized in Laws 2001, First Special Session chapter 9, article 17, section 2, in effect June 30, 2002;

(v) administrative aid program under section 256J.76 in effect December 31, 2002; and

(vi) emergency assistance program under Minnesota Statutes 2002, section 256J.48, in effect June 30, 2002.

(b) The commissioner shall:

~~(1) beginning July 1, 2003, determine the initial allocation of funds available under this section according to clause (2);~~

~~(2) allocate all of the funds available for the period beginning July 1, 2003, and ending December 31, 2004, to each county or tribe in proportion to the county's or tribe's share of the statewide 2002 historic spending base;~~

~~(3) determine for calendar year 2005 the initial allocation of funds to be made available under this section in proportion to the county or tribe's initial allocation for the period of July 1, 2003, to December 31, 2004;~~

~~(4) determine for calendar year 2006 the initial allocation of funds to be made available under this section based 90 percent on the proportion of the county or tribe's share of the statewide 2002 historic spending base and ten percent on the proportion of the county or tribe's share of the adjusted caseload factor;~~

~~(5) determine for calendar year 2007 the initial allocation of funds to be made available under this section based 70 percent on the proportion of the county or tribe's share of the statewide 2002 historic spending base and 30 percent on the proportion of the county or tribe's share of the adjusted caseload factor; and~~

~~(6) determine for calendar year 2008 and subsequent years the initial allocation of allocate funds to be made available under this section based 50 percent on the proportion of the county or tribe's share of the statewide 2002 historic spending base and 50 percent on the proportion of the county or tribe's share of the adjusted caseload factor.~~

(c) With the commencement of a new or expanded tribal TANF program or an agreement under section 256.01, subdivision 2, paragraph (g), in which some or all of the responsibilities of particular counties under this section are transferred to a tribe, the commissioner shall:

(1) in the case where all responsibilities under this section are transferred to a tribal program, determine the percentage of the county's current caseload that is transferring to a tribal program and adjust the affected county's allocation accordingly; and

(2) in the case where a portion of the responsibilities under this section are transferred to a tribal program, the commissioner shall consult with the affected county or counties to determine an appropriate adjustment to the allocation.

~~(d) Effective January 1, 2005, counties and tribes will have their final allocations adjusted based on the performance provisions of subdivision 7.~~

**EFFECTIVE DATE.** This section is effective July 1, 2010.

Sec. 19. Minnesota Statutes 2008, section 256J.751, is amended by adding a subdivision to read:

Subd. 2a. **County performance standards.** (a) For the purpose of this section, the following terms have the meanings given:

(1) "Caseload reduction credit" (CRC) means the measure of how much the Minnesota TANF caseload, including the separate state program caseload, has fallen relative to the federal fiscal year 2005 caseload based on caseload data from October 1 to September 30.

(2) "TANF participation rate target" means a 50 percent participation rate reduced by the CRC as calculated by the Department of Human Services.

(b) A county or tribe shall negotiate a multiyear improvement plan with the commissioner if the county or tribe does not:

(1) achieve the TANF participation rate target or a five percentage point improvement over the county or tribe's previous year's TANF participation rate under subdivision 2, clause (7), as averaged across 12 consecutive months for the most recent year for which the measurements are available; or

(2) perform within or above its range of expected performance on the annualized three-year self-support index under subdivision 2, clause (6).

(c) A county or tribe that has successfully negotiated an improvement plan must provide a semiannual report indicating that the plan has been implemented, the impact of the plan, and any anticipated changes to the plan.

Sec. 20. Minnesota Statutes 2008, section 256J.95, subdivision 12, is amended to read:

Subd. 12. **Conversion or referral to MFIP.** (a) If at any time during the DWP application process or during the four-month DWP eligibility period, it is determined that a participant is unlikely to benefit from the diversionary work program, the county shall convert or refer the participant to MFIP as specified in paragraph (d). Participants who are determined to be unlikely to benefit from the diversionary work program must develop and sign an employment plan. ~~Participants who meet any one of the criteria in paragraph (b) shall be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.~~

(b) A participant who meets the eligibility requirements under section 256J.575, subdivision 3, must be considered to be unlikely to benefit from DWP, provided the necessary documentation is available to support the determination.

~~(1) has been determined by a qualified professional as being unable to obtain or retain employment due to an illness, injury, or incapacity that is expected to last at least 60 days;~~

~~(2) is required in the home as a caregiver because of the illness, injury, or incapacity, of a family member, or a relative in the household, or a foster child, and the illness, injury, or incapacity and the need for a person to provide assistance in the home has been certified by a qualified professional and is expected to continue more than 60 days;~~

~~(3) is determined by a qualified professional as being needed in the home to care for a child or adult meeting the special medical criteria in section 256J.561, subdivision 2, paragraph (d), clause (3);~~

~~(4) is pregnant and is determined by a qualified professional as being unable to obtain or retain employment due to the pregnancy; or~~

~~(5) has applied for SSI or SSDI.~~

(c) In a two-parent family unit, ~~both parents must be~~ if one parent is determined to be unlikely to benefit from the diversionary work program ~~before,~~ the family unit ~~can~~ must be converted or referred to MFIP.

(d) A participant who is determined to be unlikely to benefit from the diversionary work program shall be converted to MFIP and, if the determination was made within 30 days of the initial application for benefits, no additional application form is required. A participant who is determined to be unlikely to benefit from the diversionary work program shall be referred to MFIP and, if the determination is made more than 30 days after the initial application, the participant must submit a program change request form. The county agency shall process the program change request form by the first of the following month to ensure that no gap in benefits is due to delayed action by the county agency. In processing the program change request form, the county must follow section 256J.32, subdivision 1, except that the county agency shall not require additional verification of the information in the case file from the DWP application unless the information in the case file is inaccurate, questionable, or no longer current.

(e) The county shall not request a combined application form for a participant who has exhausted the four months of the diversionary work program, has continued need for cash and food assistance, and has completed, signed, and submitted a program change request form within 30 days of the fourth month of the diversionary work program. The county must process the program change request according to section 256J.32, subdivision 1, except that the county agency shall not require additional verification of information in the case file unless the information is inaccurate, questionable, or no longer current. When a participant does not request MFIP within 30 days of the diversionary work program benefits being exhausted, a new combined application form must be completed for any subsequent request for MFIP.

**EFFECTIVE DATE.** This section is effective March 1, 2010.

Sec. 21. Minnesota Statutes 2008, section 393.07, subdivision 10, is amended to read:

Subd. 10. **Food stamp program; Maternal and Child Nutrition Act.** (a) The local social services agency shall establish and administer the food stamp program according to rules of the commissioner of human services, the supervision of the commissioner as specified in section 256.01, and all federal laws and regulations. The commissioner of human services shall monitor food stamp program delivery on an ongoing basis to ensure that each county complies with federal laws and regulations. Program requirements to be monitored include, but are not limited to, number of applications, number of approvals, number of cases pending, length of time required to process each application and deliver benefits, number of applicants eligible for expedited issuance, length of time required to process and deliver expedited issuance, number of terminations and reasons for terminations, client profiles by age, household composition and income level and sources, and the use of phone certification and home visits. The commissioner shall determine the county-by-county and statewide participation rate.

(b) On July 1 of each year, the commissioner of human services shall determine a statewide and county-by-county food stamp program participation rate. The commissioner may designate a different agency to administer the food stamp program in a county if the agency administering the program fails to increase the food stamp program participation rate among families or eligible individuals, or comply with all federal laws and regulations governing the food stamp program. The commissioner shall review agency performance annually to determine compliance with this paragraph.

(c) A person who commits any of the following acts has violated section 256.98 or 609.821, or both, and is subject to both the criminal and civil penalties provided under those sections:

(1) obtains or attempts to obtain, or aids or abets any person to obtain by means of a willful statement or misrepresentation, or intentional concealment of a material fact, food stamps or vouchers issued according to sections 145.891 to 145.897 to which the person is not entitled or in an amount greater than that to which that person is entitled or which specify nutritional supplements to which that person is not entitled; or

(2) presents or causes to be presented, coupons or vouchers issued according to sections 145.891 to 145.897 for payment or redemption knowing them to have been received, transferred or used in a manner contrary to existing state or federal law; or

(3) willfully uses, possesses, or transfers food stamp coupons, authorization to purchase cards or vouchers issued according to sections 145.891 to 145.897 in any manner contrary to existing state or federal law, rules, or regulations; or

(4) buys or sells food stamp coupons, authorization to purchase cards, other assistance transaction devices, vouchers issued according to sections 145.891 to 145.897, or any food obtained through the redemption of vouchers issued according to sections 145.891 to 145.897 for cash or consideration other than eligible food.

(d) A peace officer or welfare fraud investigator may confiscate food stamps, authorization to purchase cards, or other assistance transaction devices found in the possession of any person who is neither a recipient of the food stamp program nor otherwise authorized to possess and use such materials. Confiscated property shall be disposed of as the commissioner may direct and consistent with state and federal food stamp law. The confiscated property must be retained for a period of not less than 30 days to allow any affected person to appeal the confiscation under section 256.045.

~~(e) Food stamp overpayment claims which are due in whole or in part to client error shall be established by the county agency for a period of six years from the date of any resultant overpayment. Establishment of a food stamp overpayment is limited to 12 months prior to the month of discovery due to an agency error and six years prior to the month of discovery due to a client error or an intentional program violation determined under section 256.046.~~

(f) With regard to the federal tax revenue offset program only, recovery incentives authorized by the federal food and consumer service shall be retained at the rate of 50 percent by the state agency and 50 percent by the certifying county agency.

(g) A peace officer, welfare fraud investigator, federal law enforcement official, or the commissioner of health may confiscate vouchers found in the possession of any person who is neither issued vouchers under sections 145.891 to 145.897, nor otherwise authorized to possess and use such vouchers. Confiscated property shall be disposed of as the commissioner of health may direct and consistent with state and federal law. The confiscated property must be retained for a period of not less than 30 days.

(h) The commissioner of human services may seek a waiver from the United States Department of Agriculture to allow the state to specify foods that may and may not be purchased in Minnesota with benefits funded by the federal Food Stamp Program. The commissioner shall consult with the members of the house of representatives and senate policy committees having jurisdiction over food support issues in developing the waiver. The commissioner, in consultation with the commissioners of health and education, shall develop a broad public health policy related to improved nutrition and health status. The commissioner must seek legislative approval prior to implementing the waiver.

#### Sec. 22. **AMERICAN INDIAN CHILD WELFARE PROJECTS.**

Notwithstanding Minnesota Statutes, section 16A.28, the commissioner of human services shall extend payment of state fiscal year 2009 funds in state fiscal year 2010 to tribes participating in the American Indian child welfare projects under Minnesota Statutes, section 256.01, subdivision 14b. Future extensions of payment for a tribe participating in the Indian child welfare projects under Minnesota Statutes, section 256.01, subdivision 14b, must be granted according to the commissioner's authority under Minnesota Statutes, section 16A.28.

#### Sec. 23. **REPEALER.**

(a) Minnesota Statutes 2008, sections 256D.46; 256I.06, subdivision 9; and 256J.626, subdivision 7, are repealed.

(b) Minnesota Rules, parts 9500.1243, subpart 3; and 9500.1261, subparts 3, 4, 5, and 6, are repealed.

## ARTICLE 3

## CHILD SUPPORT

Section 1. Minnesota Statutes 2008, section 518A.53, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purpose of this section, the following terms have the meanings provided in this subdivision unless otherwise stated.

(b) "Payor of funds" means any person or entity that provides funds to an obligor, including an employer as defined under chapter 24 of the Internal Revenue Code, section 3401(d), an independent contractor, payor of worker's compensation benefits or unemployment benefits, or a financial institution as defined in section 13B.06.

(c) "Business day" means a day on which state offices are open for regular business.

(d) The term "arrear" means amounts owed under a support order that are past due as used in this section has the meaning provided in section 518A.26.

**EFFECTIVE DATE.** This section is effective April 1, 2010.

Sec. 2. Minnesota Statutes 2008, section 518A.53, subdivision 4, is amended to read:

Subd. 4. **Collection services.** (a) The commissioner of human services shall prepare and make available to the courts a notice of services that explains child support and maintenance collection services available through the public authority, including income withholding, and the fees for such services. Upon receiving a petition for dissolution of marriage or legal separation, the court administrator shall promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

(b) Either the obligee or obligor may at any time apply to the public authority for either full IV-D services or for income withholding only services.

(c) For those persons applying for income withholding only services, a monthly service fee of \$15 must be charged to the obligor. This fee is in addition to the amount of the support order and shall be withheld through income withholding. The public authority shall explain the service options in this section to the affected parties and encourage the application for full child support collection services.

(d) If the obligee is not a current recipient of public assistance as defined in section 256.741, the person who applied for services may at any time choose to terminate either full IV-D services or income withholding only services regardless of whether income withholding is currently in place. The obligee or obligor may reapply for either full IV-D services or income withholding only services at any time. Unless the applicant is a recipient of public assistance as defined in section 256.741, a \$25 application fee shall be charged at the time of each application.

(e) When a person terminates IV-D services, if an arrearage for public assistance as defined in section 256.741 exists, the public authority may continue income withholding, as well as use any other enforcement remedy for the collection of child support, until all public assistance arrears are paid in full. Income withholding shall be in an amount equal to 20 percent of the support order in effect at the time the services terminated, unless the support order includes a specific monthly payback amount. If the support order includes a specific monthly payback amount, income withholding shall be in the specific amount ordered. The provisions of this paragraph apply to all support orders in effect on or before April 1, 2010, and to all support orders in effect after April 1, 2010.

**EFFECTIVE DATE.** This section is effective April 1, 2010.

Sec. 3. Minnesota Statutes 2008, section 518A.53, subdivision 10, is amended to read:

Subd. 10. **Arrearage order.** (a) This section does not prevent the court from ordering the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in support order payments. This remedy shall not operate to exclude availability of other remedies to enforce judgments. The employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid, unless the support order includes a specific monthly payback amount. If the support order includes a specific monthly payback amount, income withholding shall be in the specific amount ordered. The provisions of this paragraph apply to all support orders in effect on or before April 1, 2010, and to all support orders in effect after April 1, 2010.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 518A.26, subdivision 8, whether periodic or lump sum, are not exempt from attachment or execution upon a judgment for child support arrearage.

(c) Absent an order to the contrary, if an arrearage exists at the time a support order would otherwise terminate, income withholding shall continue in effect or may be implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

**EFFECTIVE DATE.** This section is effective April 1, 2010.

#### ARTICLE 4

#### STATE-OPERATED SERVICES

Section 1. Minnesota Statutes 2008, section 246.50, subdivision 5, is amended to read:

Subd. 5. **Cost of care.** "Cost of care" means the commissioner's charge for services provided to any person admitted to a state facility.

For purposes of this subdivision, "charge for services" means ~~the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all inclusive charge per facility, per disability group, or per treatment program. The commissioner may determine a charge per service, using a method that includes direct and indirect costs.~~ usual and customary fee charged for services provided to clients. The usual and customary fee shall be established in a manner required to appropriately bill services to all payers and shall include the costs related to the operations of any program offered by the state.

Sec. 2. Minnesota Statutes 2008, section 246.50, is amended by adding a subdivision to read:

Subd. 10. **State-operated community-based program.** "State-operated community-based program" means any program operated in the community including community behavioral health hospitals, crisis centers, residential facilities, outpatient services, and other community-based services developed and operated by the state and under the commissioner's control.

Sec. 3. Minnesota Statutes 2008, section 246.50, is amended by adding a subdivision to read:

Subd. 11. **Health plan company.** "Health plan company" has the meaning given it in section 62Q.01, subdivision 4, and also includes a demonstration provider as defined in section 256B.69, subdivision 2, paragraph (b), a county or group of counties participating in county-based purchasing according to section 256B.692, and a children's mental health collaborative under contract to provide medical assistance for individuals enrolled in the prepaid medical assistance and MinnesotaCare programs under sections 245.493 to 245.495.



Sec. 4. Minnesota Statutes 2008, section 246.51, is amended by adding a subdivision to read:

**Subd. 1a. Clients in state-operated community-based programs; determination.** For clients admitted to a state-operated community-based program, the commissioner shall make an investigation to determine the available health plan coverage for services being provided. If the health plan coverage requires a co-pay or deductible, or if there is no available health plan coverage, the commission shall make an investigation as necessary to determine, and as circumstances require redetermine, what part of the noncovered cost of care, if any, the client is able to pay. If the client is unable to pay the uncovered cost of care, the commissioner shall make a determination as to the ability of the client's relatives to pay. The client and relatives shall provide the commissioner documents and proof necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the client or relatives liable for the full cost of care until the time when sufficient information is provided. If it is determined that the responsible party does not have the ability to pay, the commissioner shall waive payment of the portion that exceeds ability to pay under the determination.

Sec. 5. Minnesota Statutes 2008, section 246.51, is amended by adding a subdivision to read:

**Subd. 1b. Clients served by regional treatment centers or nursing homes; determination.** For clients served in regional treatment centers or nursing homes operated by state-operated services, the commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the client is able to pay. If the client is unable to pay the full cost of care, the commissioner shall determine whether the client's relatives have the ability to pay. The client and relatives shall provide the commissioner documents and proof necessary to determine their ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the client or relatives liable for the full cost of care until the time when sufficient information is provided. No parent shall be liable for the cost of care given a client at a regional treatment center after the client has reached the age of 18 years.

Sec. 6. Minnesota Statutes 2008, section 246.511, is amended to read:

#### **246.511 RELATIVE RESPONSIBILITY.**

Except for chemical dependency services paid for with funds provided under chapter 254B, a client's relatives shall not, pursuant to the commissioner's authority under section 246.51, be ordered to pay more than ~~ten percent of the cost of the following:~~ (1) for services provided in a community-based service, the noncovered cost of care as determined under the ability to pay determination; and (2) for services provided at a regional treatment center operated by state-operated services, 20 percent of the cost of care, unless they reside outside the state. Parents of children in state facilities shall have their responsibility to pay determined according to section 252.27, subdivision 2, or in rules adopted under chapter 254B if the cost of care is paid under chapter 254B. The commissioner may accept voluntary payments in excess of ~~ten~~ 20 percent. The commissioner may require full payment of the full per capita cost of care in state facilities for clients whose parent, parents, spouse, guardian, or conservator do not reside in Minnesota.

Sec. 7. Minnesota Statutes 2008, section 246.52, is amended to read:

#### **246.52 PAYMENT FOR CARE; ORDER; ACTION.**

The commissioner shall issue an order to the client or the guardian of the estate, if there be one, and relatives determined able to pay requiring them to pay ~~monthly~~ to the state of Minnesota the amounts so determined the total of which shall not exceed the full cost of care. Such order shall specifically state the commissioner's determination and shall be conclusive unless appealed from as herein provided. When a client or relative fails to pay the amount due hereunder the attorney general, upon request of the commissioner, may institute, or direct the appropriate county attorney to institute, civil action to recover such amount.

Sec. 8. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 1a. **Client.** "Client" means a person who is admitted to the Minnesota sex offender program or subject to a court hold order under section 253B.185 for the purpose of assessment, diagnosis, care, treatment, supervision, or other services provided by the Minnesota sex offender program.

Sec. 9. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 1b. **Client's county.** "Client's county" means the county of the client's legal settlement for poor relief purposes at the time of commitment. If the client has no legal settlement for poor relief in this state, it means the county of commitment, except that when a client with no legal settlement for poor relief is committed while serving a sentence at a penal institution, it means the county from which the client was sentenced.

Sec. 10. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 2a. **Cost of care.** "Cost of care" means the commissioner's charge for housing and treatment services provided to any person admitted to the Minnesota sex offender program.

For purposes of this subdivision, "charge for housing and treatment services" means the cost of services, treatment, maintenance, bonds issued for capital improvements, depreciation of buildings and equipment, and indirect costs related to the operation of state facilities. The commissioner may determine the charge for services on an anticipated average per diem basis as an all-inclusive charge per facility.

Sec. 11. Minnesota Statutes 2008, section 246B.01, is amended by adding a subdivision to read:

Subd. 2b. **Local social services agency.** "Local social services agency" means the local social services agency of the client's county as defined in subdivision 1b and of the county of commitment, and any other local social services agency possessing information regarding, or requested by the commissioner to investigate, the financial circumstances of a client.

Sec. 12. **[246B.07] PAYMENT FOR CARE AND TREATMENT: DETERMINATION.**

Subdivision 1. **Procedures.** The commissioner shall make investigation as necessary to determine, and as circumstances require redetermine, what part of the cost of care, if any, the client is able to pay. The client shall provide the commissioner documents and proof necessary to determine the ability to pay. Failure to provide the commissioner with sufficient information to determine ability to pay may make the client liable for the full cost of care until the time when sufficient information is provided.

Subd. 2. **Rules.** The commissioner shall adopt, pursuant to the Administrative Procedure Act, rules establishing uniform standards for determination of client liability for care provided by the Minnesota sex offender program. These rules shall have the force and effect of law.

Subd. 3. **Applicability.** The commissioner may recover, under sections 246B.07 to 246B.10, the cost of any care provided by the Minnesota sex offender program.

Sec. 13. **[246B.08] PAYMENT FOR CARE; ORDER; ACTION.**

The commissioner shall issue an order to the client or the guardian of the estate, if there is one, requiring them to pay to the state the amounts so determined, the total of which shall not exceed the full cost of care. The order shall specifically state the commissioner's determination and must be conclusive, unless appealed. When a client fails to pay the amount due, the attorney general, upon request of the commissioner, may institute, or direct the appropriate county attorney to institute, civil action to recover the amount.

Sec. 14. **[246B.09] CLAIM AGAINST ESTATE OF DECEASED CLIENT.**

Subdivision 1. **Client's estate.** Upon the death of a client, or a former client, the total cost of care given the client, less the amount actually paid toward the cost of care by the client, shall be filed by the commissioner as a claim against the estate of the client with the court having jurisdiction to probate the estate and all proceeds collected by the state in the case shall be divided between the state and county in proportion to the cost of care each has borne.

Subd. 2. **Preferred status.** An estate claim in subdivision 1 shall be considered an expense of the last illness for purposes of section 524.3-805.

If the commissioner of human services determines that the property or estate of a client is not more than needed to care for and maintain the spouse and minor or dependent children of a deceased client, the commissioner has the power to compromise the claim of the state in a manner deemed just and proper.

Subd. 3. **Exception from statute of limitations.** Any statute of limitations that limits the commissioner in recovering the cost of care obligation incurred by a client or former client must not apply to any claim against an estate made under this section to recover cost of care.

Sec. 15. **[246B.10] LIABILITY OF COUNTY; REIMBURSEMENT.**

The client's county shall pay to the state a portion of the cost of care provided in the Minnesota sex offender program to a client legally settled in that county. A county's payment shall be made from the county's own sources of revenue and payments shall equal ten percent of the cost of care, as determined by the commissioner, for each day or portion of a day, that the client spends at the facility. If payments received by the state under sections 246.50 to 246.53 exceed 90 percent of the cost of care, the county shall be responsible for paying the state only the remaining amount. The county shall not be entitled to reimbursement from the client, the client's estate, or from the client's relatives, except as provided in section 246B.07.

Sec. 16. **REPEALER.**

Minnesota Statutes 2008, sections 246.51, subdivision 1; and 246.53, subdivision 3, are repealed.

ARTICLE 5

DEPARTMENT OF HEALTH AND HEALTH CARE

Section 1. Minnesota Statutes 2008, section 13.465, subdivision 8, is amended to read:

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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 2. Minnesota Statutes 2008, section 62J.495, is amended to read:

**62J.495 HEALTH INFORMATION TECHNOLOGY AND INFRASTRUCTURE.**

Subdivision 1. **Implementation.** By January 1, 2015, all hospitals and health care providers must have in place an interoperable electronic health records system within their hospital system or clinical practice setting. The commissioner of health, in consultation with the e-Health ~~Information Technology and Infrastructure~~ Advisory Committee, shall develop a statewide plan to meet this goal, including uniform standards to be used for the

interoperable system for sharing and synchronizing patient data across systems. The standards must be compatible with federal efforts. The uniform standards must be developed by January 1, 2009, ~~with a status report on the development of these standards submitted to the legislature by January 15, 2008~~ and updated on an ongoing basis. The commissioner shall include an update on standards development as part of an annual report to the legislature.

Subd. 1a. **Definitions.** (a) "Certified electronic health record technology" means an electronic health record that is certified pursuant to section 3001(c)(5) of the HITECH Act to meet the standards and implementation specifications adopted under section 3004 as applicable.

(b) "Commissioner" means the commissioner of health.

(c) "Pharmaceutical electronic data intermediary" means any entity that provides the infrastructure to connect computer systems or other electronic devices utilized by prescribing practitioners with those used by pharmacies, health plans, third party administrators, and pharmacy benefit manager in order to facilitate the secure transmission of electronic prescriptions, refill authorization requests, communications, and other prescription-related information between such entities.

(d) "HITECH Act" means the Health Information Technology for Economic and Clinical Health Act in division A, title XIII and division B, title IV of the American Recovery and Reinvestment Act of 2009, including federal regulations adopted under that act.

(e) "Interoperable electronic health record" means an electronic health record that securely exchanges health information with another electronic health record system that meets national requirements for certification under the HITECH Act.

(f) "Qualified electronic health record" means an electronic record of health-related information on an individual that includes patient demographic and clinical health information and has the capacity to:

(1) provide clinical decision support;

(2) support physician order entry;

(3) capture and query information relevant to health care quality; and

(4) exchange electronic health information with, and integrate such information from, other sources.

Subd. 2. ~~**E-Health Information Technology and Infrastructure Advisory Committee.**~~ (a) The commissioner shall establish ~~a an e-Health Information Technology and Infrastructure~~ Advisory Committee governed by section 15.059 to advise the commissioner on the following matters:

(1) assessment of the adoption and effective use of health information technology by the state, licensed health care providers and facilities, and local public health agencies;

(2) recommendations for implementing a statewide interoperable health information infrastructure, to include estimates of necessary resources, and for determining standards for ~~administrative~~ clinical data exchange, clinical support programs, patient privacy requirements, and maintenance of the security and confidentiality of individual patient data;

(3) recommendations for encouraging use of innovative health care applications using information technology and systems to improve patient care and reduce the cost of care, including applications relating to disease management and personal health management that enable remote monitoring of patients' conditions, especially those with chronic conditions; and

(4) other related issues as requested by the commissioner.

(b) The members of the ~~e-Health Information Technology and Infrastructure~~ Advisory Committee shall include the commissioners, or commissioners' designees, of health, human services, administration, and commerce and additional members to be appointed by the commissioner to include persons representing Minnesota's local public health agencies, licensed hospitals and other licensed facilities and providers, private purchasers, the medical and nursing professions, health insurers and health plans, the state quality improvement organization, academic and research institutions, consumer advisory organizations with an interest and expertise in health information technology, and other stakeholders as identified by the ~~Health Information Technology and Infrastructure Advisory Committee~~ commissioner to fulfill the requirements of section 3013, paragraph (g) of the HITECH Act.

(c) The commissioner shall prepare and issue an annual report not later than January 30 of each year outlining progress to date in implementing a statewide health information infrastructure and recommending ~~future projects~~ action on policy and necessary resources to continue the promotion of adoption and effective use of health information technology.

(d) Notwithstanding section 15.059, this subdivision expires June 30, 2015.

Subd. 3. **Interoperable electronic health record requirements.** ~~(a)~~ To meet the requirements of subdivision 1, hospitals and health care providers must meet the following criteria when implementing an interoperable electronic health records system within their hospital system or clinical practice setting.

(a) The electronic health record must be a qualified electronic health record.

(b) The electronic health record must be certified by the ~~Certification Commission for Healthcare Information Technology, or its successor~~ Office of the National Coordinator pursuant to the HITECH Act. This criterion only applies to hospitals and health care providers ~~whose practice setting is a practice setting covered by the Certification Commission for Healthcare Information Technology certifications~~ only if a certified electronic health record product for the provider's particular practice setting is available. This criterion shall be considered met if a hospital or health care provider is using an electronic health records system that has been certified within the last three years, even if a more current version of the system has been certified within the three-year period.

(c) The electronic health record must meet the standards established according to section 3004 of the HITECH Act as applicable.

(d) The electronic health record must have the ability to generate information on clinical quality measures and other measures reported under sections 4101, 4102, and 4201 of the HITECH Act.

~~(e)~~ (e) A health care provider who is a prescriber or dispenser of ~~controlled substances~~ legend drugs must have an electronic health record system that meets the requirements of section 62J.497.

Subd. 4. **Coordination with national HIT activities.** (a) The commissioner, in consultation with the e-Health Advisory Committee, shall update the statewide implementation plan required under subdivision 2 and released June 2008, to be consistent with the updated Federal HIT Strategic Plan released by the Office of the National Coordinator in accordance with section 3001 of the HITECH Act. The statewide plan shall meet the requirements for a plan required under section 3013 of the HITECH Act.

(b) The commissioner, in consultation with the e-Health Advisory Committee, shall work to ensure coordination between state, regional, and national efforts to support and accelerate efforts to effectively use health information technology to improve the quality and coordination of health care and continuity of patient care among health care providers, to reduce medical errors, to improve population health, to reduce health disparities, and to reduce chronic disease. The commissioner's coordination efforts shall include but not be limited to:

(1) assisting in the development and support of health information technology regional extension centers established under section 3012(c) of the HITECH Act to provide technical assistance and disseminate best practices; and

(2) providing supplemental information to the best practices gathered by regional centers to ensure that the information is relayed in a meaningful way to the Minnesota health care community.

(c) The commissioner, in consultation with the e-Health Advisory Committee, shall monitor national activity related to health information technology and shall coordinate statewide input on policy development. The commissioner shall coordinate statewide responses to proposed federal health information technology regulations in order to ensure that the needs of the Minnesota health care community are adequately and efficiently addressed in the proposed regulations. The commissioner's responses may include, but are not limited to:

(1) reviewing and evaluating any standard, implementation specification, or certification criteria proposed by the national HIT standards committee;

(2) reviewing and evaluating policy proposed by the national HIT policy committee relating to the implementation of a nationwide health information technology infrastructure;

(3) monitoring and responding to activity related to the development of quality measures and other measures as required by section 4101 of the HITECH Act. Any response related to quality measures shall consider and address the quality efforts required under chapter 62U; and

(4) monitoring and responding to national activity related to privacy, security, and data stewardship of electronic health information and individually identifiable health information.

(d) To the extent that the state is either required or allowed to apply, or designate an entity to apply for or carry out activities and programs under section 3013 of the HITECH Act, the commissioner of health, in consultation with the e-Health Advisory Committee and the commissioner of human services, shall be the lead applicant or sole designating authority. The commissioner shall make such designations consistent with the goals and objectives of sections 62J.495 to 62J.497, and sections 62J.50 to 62J.61.

(e) The commissioner of human services shall apply for funding necessary to administer the incentive payments to providers authorized under title IV of the American Recovery and Reinvestment Act.

(f) The commissioner shall include in the report to the legislature information on the activities of this subdivision and provide recommendations on any relevant policy changes that should be considered in Minnesota.

**Subd. 5. Collection of data for assessment and eligibility determination.** (a) The commissioner of health, in consultation with the commissioner of human services, may require providers, dispensers, group purchasers, and pharmaceutical electronic data intermediaries to submit data in a form and manner specified by the commissioner to assess the status of adoption, effective use, and interoperability of electronic health records for the purpose of:

(1) demonstrating Minnesota's progress on goals established by the Office of the National Coordinator to accelerate the adoption and effective use of health information technology established under the HITECH Act;

(2) assisting the Center for Medicare and Medicaid Services and Department of Human Services in determining eligibility of health care professionals and hospitals to receive federal incentives for the adoption and effective use of health information technology under the HITECH Act or other federal incentive programs;

(3) assisting the Office of the National Coordinator in completing required assessments of the impact of the implementation and effective use of health information technology in achieving goals identified in the national strategic plan, and completing studies required by the HITECH Act;

(4) providing the data necessary to assist the Office of the National Coordinator in conducting evaluations of regional extension centers as required by the HITECH Act; and

(5) other purposes as necessary to support the implementation of the HITECH Act.

(b) The commissioner shall coordinate with the commissioner of human services and other state agencies in the collection of data required under this section to:

(1) avoid duplicative reporting requirements;

(2) maximize efficiencies in the development of reports on state activities as required by HITECH; and

(3) determine health professional and hospital eligibility for incentives available under the HITECH Act.

Subd. 6. **Data classification.** (a) Data collected on providers, dispensers, group purchasers, and electronic data intermediaries under this section are private data on individuals or nonpublic data, as defined in section 13.02. Notwithstanding the definition of summary data in section 13.02, subdivision 19, summary data prepared under this subdivision may be derived from nonpublic data.

(b) Nothing in this section authorizes the collection of individual patient data.

Sec. 3. Minnesota Statutes 2008, section 62J.496, is amended to read:

**62J.496 ELECTRONIC HEALTH RECORD SYSTEM REVOLVING ACCOUNT AND LOAN PROGRAM.**

Subdivision 1. **Account establishment.** (a) An account is established to: ~~provide loans to eligible borrowers to assist in financing the installation or support of an interoperable health record system. The system must provide for the interoperable exchange of health care information between the applicant and, at a minimum, a hospital system, pharmacy, and a health care clinic or other physician group.~~

(1) finance the purchase of certified electronic health records or qualified electronic health records as defined in section 62J.495, subdivision 1a;

(2) enhance the utilization of electronic health record technology, which may include costs associated with upgrading the technology to meet the criteria necessary to be a certified electronic health record or a qualified electronic health record;

(3) train personnel in the use of electronic health record technology; and

(4) improve the secure electronic exchange of health information.

(b) Amounts deposited in the account, including any grant funds obtained through federal or other sources, loan repayments, and interest earned on the amounts shall be used only for awarding loans or loan guarantees, as a source of reserve and security for leveraged loans, or for the administration of the account.

(c) The commissioner may accept contributions to the account from private sector entities subject to the following provisions:

(1) the contributing entity may not specify the recipient or recipients of any loan issued under this subdivision;

(2) the commissioner shall make public the identity of any private contributor to the loan fund, as well as the amount of the contribution provided; and

(3) the commissioner may issue letters of commendation or make other awards that have no financial value to any such entity.

A contributing entity may not specify that the recipient or recipients of any loan use specific products or services, nor may the contributing entity imply that a contribution is an endorsement of any specific product or service.

(d) The commissioner may use the loan funds to reimburse private sector entities for any contribution made to the loan fund. Reimbursement to private entities may not exceed the principle amount contributed to the loan fund.

(e) The commissioner may use funds deposited in the account to guarantee, or purchase insurance for, a local obligation if the guarantee or purchase would improve credit market access or reduce the interest rate applicable to the obligation involved.

(f) The commissioner may use funds deposited in the account as a source of revenue or security for the payment of principal and interest on revenue or bonds issued by the state if the proceeds of the sale of the bonds will be deposited into the loan fund.

Subd. 2. **Eligibility.** (a) "Eligible borrower" means one of the following:

(1) federally qualified health centers;

~~(1)~~ (2) community clinics, as defined under section 145.9268;

~~(2)~~ (3) nonprofit hospitals eligible for rural hospital capital improvement grants, as defined in section 144.148 licensed under sections 144.50 to 144.56;

~~(3)~~ physician clinics located in a community with a population of less than 50,000 according to United States Census Bureau statistics and outside the seven county metropolitan area;

(4) individual or small group physician practices that are focused primarily on primary care;

~~(4)~~ (5) nursing facilities licensed under sections 144A.01 to 144A.27; and

(6) local public health departments as defined in chapter 145A; and

~~(5)~~ (7) other providers of health or health care services approved by the commissioner for which interoperable electronic health record capability would improve quality of care, patient safety, or community health.

(b) The commissioner shall administer the loan fund to prioritize support and assistance to:

(1) critical access hospitals;

(2) federally qualified health centers;

(3) entities that serve uninsured, underinsured, and medically underserved individuals, regardless of whether such area is urban or rural; and

(4) individual or small group practices that are primarily focused on primary care.



~~(b) To be eligible for a loan under this section, the~~ (c) An eligible applicant must submit a loan application to the commissioner of health on forms prescribed by the commissioner. The application must include, at a minimum:

(1) the amount of the loan requested and a description of the purpose or project for which the loan proceeds will be used;

(2) a quote from a vendor;

(3) a description of the health care entities and other groups participating in the project;

(4) evidence of financial stability and a demonstrated ability to repay the loan; and

(5) a description of how the system to be financed ~~interconnects~~ interoperates or plans in the future to ~~interconnect~~ interoperate with other health care entities and provider groups located in the same geographical area;

(6) a plan on how the certified electronic health record technology will be maintained and supported over time; and

(7) any other requirements for applications included or developed pursuant to section 3014 of the HITECH Act.

Subd. 3. **Loans and grants.** (a) The commissioner of health may make a ~~no interest grant, or a no interest loan or low interest~~ loan to a provider or provider group who is eligible under subdivision 2 ~~on a first come, first served basis provided that the applicant is able to comply with this section~~ consistent with the priorities established in subdivision 2. The total accumulative loan principal must not exceed ~~\$1,500,000~~ \$3,000,000 per loan. The interest rate for each loan, if imposed, shall not exceed the current market interest rate. The commissioner of health has discretion over the size, interest rate, and number of loans made. Nothing in this section shall require the commissioner to make a loan to an eligible borrower under subdivision 2.

(b) The commissioner of health may prescribe forms and establish an application process and, notwithstanding section 16A.1283, may impose a reasonable nonrefundable application fee to cover the cost of administering the loan program. Any application fees imposed and collected under the electronic health records system revolving account and loan program in this section are appropriated to the commissioner of health for the duration of the loan program. The commissioner may apply for and use all federal funds available through the HITECH Act to administer the loan program.

(c) For loans approved prior to July 1, 2009, the borrower must begin repaying the principal no later than two years from the date of the loan. Loans must be amortized no later than six years from the date of the loan.

(d) For loans granted on January 1, 2010, or thereafter, the borrower must begin repaying the principle no later than one year from the date of the loan. Loans must be amortized no later than six years after the date of the loan.

~~(d) Repayments~~ (e) All repayments and interest paid on each loan must be credited to the account.

(f) The loan agreement shall include the assurances that borrower meets requirements included or developed pursuant to section 3014 of the HITECH Act. The requirements shall include, but are not limited to:

(1) submitting reports on quality measures in compliance with regulations adopted by the federal government;

(2) demonstrating that any certified electronic health record technology purchased, improved, or otherwise financially supported by this loan program is used to exchange health information in a manner that, in accordance with law and standards applicable to the exchange of information, improves the quality of health care;

(3) including a plan on how the borrower intends to maintain and support the certified electronic health record technology over time and the resources expected to be used to maintain and support the technology purchased with the loan; and

(4) complying with other requirements the secretary may require to use loans funds under the HITECH Act.

Subd. 4. **Data classification.** Data collected by the commissioner of health on the application to determine eligibility under subdivision 2 and to monitor borrowers' default risk or collect payments owed under subdivision 3 are (1) private data on individuals as defined in section 13.02, subdivision 12; and (2) nonpublic data as defined in section 13.02, subdivision 9. The names of borrowers and the amounts of the loans granted are public data.

Sec. 4. Minnesota Statutes 2008, section 62J.497, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, the following terms have the meanings given.

(a) "Backward compatible" means that the newer version of a data transmission standard would retain, at a minimum, the full functionality of the versions previously adopted, and would permit the successful completion of the applicable transactions with entities that continue to use the older versions.

~~(b)~~ (b) "Dispense" or "dispensing" has the meaning given in section 151.01, subdivision 30. Dispensing does not include the direct administering of a controlled substance to a patient by a licensed health care professional.

~~(c)~~ (c) "Dispenser" means a person authorized by law to dispense a controlled substance, pursuant to a valid prescription.

~~(d)~~ (d) "Electronic media" has the meaning given under Code of Federal Regulations, title 45, part 160.103.

~~(e)~~ (e) "E-prescribing" means the transmission using electronic media of prescription or prescription-related information between a prescriber, dispenser, pharmacy benefit manager, or group purchaser, either directly or through an intermediary, including an e-prescribing network. E-prescribing includes, but is not limited to, two-way transmissions between the point of care and the dispenser and two-way transmissions related to eligibility, formulary, and medication history information.

~~(f)~~ (f) "Electronic prescription drug program" means a program that provides for e-prescribing.

~~(g)~~ (g) "Group purchaser" has the meaning given in section 62J.03, subdivision 6.

~~(h)~~ (h) "HL7 messages" means a standard approved by the standards development organization known as Health Level Seven.

~~(i)~~ (i) "National Provider Identifier" or "NPI" means the identifier described under Code of Federal Regulations, title 45, part 162.406.

~~(j)~~ (j) "NCPDP" means the National Council for Prescription Drug Programs, Inc.

~~(k)~~ (k) "NCPDP Formulary and Benefits Standard" means the National Council for Prescription Drug Programs Formulary and Benefits Standard, Implementation Guide, Version 1, Release 0, October 2005.

~~(l)~~ (l) "NCPDP SCRIPT Standard" means the National Council for Prescription Drug Programs Prescriber/Pharmacist Interface SCRIPT Standard, Implementation Guide Version 8, Release 1 (Version 8.1), October 2005, or the most recent standard adopted by the Centers for Medicare and Medicaid Services for

e-prescribing under Medicare Part D as required by section 1860D-4(e)(4)(D) of the Social Security Act, and regulations adopted under it. The standards shall be implemented according to the Centers for Medicare and Medicaid Services schedule for compliance. Subsequently released versions of the NCPDP SCRIPT Standard may be used, provided that the new version of the standard is backward compatible to the current version adopted by the Centers for Medicare and Medicaid Services.

~~(m)~~ (m) "Pharmacy" has the meaning given in section 151.01, subdivision 2.

~~(n)~~ (n) "Prescriber" means a licensed health care professional who is authorized to prescribe a controlled substance under section 152.12, subdivision 1, practitioner, other than a veterinarian, as defined in section 151.01, subdivision 23.

~~(o)~~ (o) "Prescription-related information" means information regarding eligibility for drug benefits, medication history, or related health or drug information.

~~(p)~~ (p) "Provider" or "health care provider" has the meaning given in section 62J.03, subdivision 8.

Sec. 5. Minnesota Statutes 2008, section 62J.497, subdivision 2, is amended to read:

Subd. 2. **Requirements for electronic prescribing.** (a) Effective January 1, 2011, all providers, group purchasers, prescribers, and dispensers must establish ~~and~~ maintain, and use an electronic prescription drug program ~~that complies. This program must comply~~ with the applicable standards in this section for transmitting, directly or through an intermediary, prescriptions and prescription-related information using electronic media.

~~(b) Nothing in this section requires providers, group purchasers, prescribers, or dispensers to conduct the transactions described in this section. If transactions described in this section are conducted, they must be done electronically using the standards described in this section. Nothing in this section requires providers, group purchasers, prescribers, or dispensers to electronically conduct transactions that are expressly prohibited by other sections or federal law.~~

(c) Providers, group purchasers, prescribers, and dispensers must use either HL7 messages or the NCPDP SCRIPT Standard to transmit prescriptions or prescription-related information internally when the sender and the recipient are part of the same legal entity. If an entity sends prescriptions outside the entity, it must use the NCPDP SCRIPT Standard or other applicable standards required by this section. Any pharmacy within an entity must be able to receive electronic prescription transmittals from outside the entity using the adopted NCPDP SCRIPT Standard. This exemption does not supersede any Health Insurance Portability and Accountability Act (HIPAA) requirement that may require the use of a HIPAA transaction standard within an organization.

~~(d) Entities transmitting prescriptions or prescription-related information where the prescriber is required by law to issue a prescription for a patient to a nonprescribing provider that in turn forwards the prescription to a dispenser are exempt from the requirement to use the NCPDP SCRIPT Standard when transmitting prescriptions or prescription-related information.~~

Sec. 6. Minnesota Statutes 2008, section 62J.497, is amended by adding a subdivision to read:

Subd. 4. **Development and use of uniform formulary exception form.** (a) The commissioner of health, in consultation with the Minnesota Administrative Uniformity Committee, shall develop by July 1, 2009, or six weeks after enactment of this subdivision, whichever is later, a uniform formulary exception form that allows health care providers to request exceptions from group purchaser formularies using a uniform form. Upon development of the form, all health care providers must submit requests for formulary exceptions using the uniform form, and all group purchasers must accept this form from health care providers.

(b) No later than January 1, 2011, the uniform formulary exception form must be accessible and submitted by health care providers, and accepted and processed by group purchasers, through secure electronic transmissions. Facsimile shall not be considered secure electronic transmissions.

Sec. 7. Minnesota Statutes 2008, section 62J.497, is amended by adding a subdivision to read:

Subd. 5. **Electronic drug prior authorization standardization and transmission.** (a) The commissioner of health, in consultation with the Minnesota e-Health Advisory Committee and the Minnesota Administrative Uniformity Committee, shall, by February 15, 2010, identify an outline on how best to standardize drug prior authorization request transactions between providers and group purchasers with the goal of maximizing administrative simplification and efficiency in preparation for electronic transmissions.

(b) No later than January 1, 2011, drug prior authorization requests must be accessible and submitted by health care providers, and accepted and processed by group purchasers, electronically through secure electronic transmissions. Facsimile shall not be considered electronic transmission.

Sec. 8. **[62Q.676] MEDICATION THERAPY MANAGEMENT.**

A pharmacy benefit manager that provides prescription drug services must make available medication therapy management services for enrollees taking four or more prescriptions to treat or prevent two or more chronic medical conditions. For purposes of this section, "medication therapy management" means the provision of the following pharmaceutical care services by a licensed pharmacist to optimize the therapeutic outcomes of the patient's medications:

(1) performing a comprehensive medication review to identify, resolve, and prevent medication-related problems, including adverse drug events;

(2) communicating essential information to the patient's other primary care providers; and

(3) providing verbal education and training designed to enhance patient understanding and appropriate use of the patient's medications.

Nothing in this section shall be construed to expand or modify the scope of practice of the pharmacist as defined in section 151.01, subdivision 27.

Sec. 9. Minnesota Statutes 2008, section 144.122, is amended to read:

**144.122 LICENSE, PERMIT, AND SURVEY FEES.**

(a) The state commissioner of health, by rule, may prescribe procedures and fees for filing with the commissioner as prescribed by statute and for the issuance of original and renewal permits, licenses, registrations, and certifications issued under authority of the commissioner. The expiration dates of the various licenses, permits, registrations, and certifications as prescribed by the rules shall be plainly marked thereon. Fees may include application and examination fees and a penalty fee for renewal applications submitted after the expiration date of the previously issued permit, license, registration, and certification. The commissioner may also prescribe, by rule, reduced fees for permits, licenses, registrations, and certifications when the application therefor is submitted during the last three months of the permit, license, registration, or certification period. Fees proposed to be prescribed in the rules shall be first approved by the Department of Finance. All fees proposed to be prescribed in rules shall be reasonable. The fees shall be in an amount so that the total fees collected by the commissioner will, where practical, approximate the cost to the commissioner in administering the program. All fees collected shall be deposited in the state treasury and credited to the state government special revenue fund unless otherwise specifically appropriated by law for specific purposes.

(b) The commissioner may charge a fee for voluntary certification of medical laboratories and environmental laboratories, and for environmental and medical laboratory services provided by the department, without complying with paragraph (a) or chapter 14. Fees charged for environment and medical laboratory services provided by the department must be approximately equal to the costs of providing the services.

(c) The commissioner may develop a schedule of fees for diagnostic evaluations conducted at clinics held by the services for children with disabilities program. All receipts generated by the program are annually appropriated to the commissioner for use in the maternal and child health program.

(d) The commissioner shall set license fees for hospitals and nursing homes that are not boarding care homes at the following levels:

Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and American Osteopathic Association (AOA) hospitals	\$ <del>7,555</del> <u>\$7,655</u> plus \$ <del>13</del> <u>\$16</u> per bed
Non-JCAHO and non-AOA hospitals	\$ <del>5,180</del> <u>\$5,280</u> plus \$ <del>247</del> <u>\$250</u> per bed
Nursing home	\$183 plus \$91 per bed

The commissioner shall set license fees for outpatient surgical centers, boarding care homes, and supervised living facilities at the following levels:

Outpatient surgical centers	\$ <del>3,349</del> <u>\$3,712</u>
Boarding care homes	\$183 plus \$91 per bed
Supervised living facilities	\$183 plus \$91 per bed.

(e) Unless prohibited by federal law, the commissioner of health shall charge applicants the following fees to cover the cost of any initial certification surveys required to determine a provider's eligibility to participate in the Medicare or Medicaid program:

Prospective payment surveys for hospitals	\$900
Swing bed surveys for nursing homes	\$1,200
Psychiatric hospitals	\$1,400
Rural health facilities	\$1,100
Portable x-ray providers	\$500
Home health agencies	\$1,800
Outpatient therapy agencies	\$800
End stage renal dialysis providers	\$2,100
Independent therapists	\$800
Comprehensive rehabilitation outpatient facilities	\$1,200
Hospice providers	\$1,700
Ambulatory surgical providers	\$1,800
Hospitals	\$4,200
Other provider categories or additional resurveys required to complete initial certification	Actual surveyor costs: average surveyor cost x number of hours for the survey process.

These fees shall be submitted at the time of the application for federal certification and shall not be refunded. All fees collected after the date that the imposition of fees is not prohibited by federal law shall be deposited in the state treasury and credited to the state government special revenue fund.

Sec. 10. Minnesota Statutes 2008, section 144.218, subdivision 1, is amended to read:

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

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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 11. Minnesota Statutes 2008, section 144.225, subdivision 2, is amended to read:

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

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

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

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

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

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

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

(2) child support enforcement purposes; and

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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 12. Minnesota Statutes 2008, section 144.2252, is amended to read:

**144.2252 ACCESS TO ORIGINAL BIRTH RECORD AFTER ADOPTION.**

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

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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 13. **[144.2253] ACCESS TO ORIGINAL BIRTH RECORDS BY ADOPTED PERSON; DEPARTMENT DUTIES.**

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 14. Minnesota Statutes 2008, section 144.226, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 15. Minnesota Statutes 2008, section 144.226, subdivision 4, is amended to read:

Subd. 4. **Vital records surcharge.** (a) In addition to any fee prescribed under subdivision 1, there is a nonrefundable surcharge of \$2 for each certified and noncertified birth, stillbirth, or death record, and for a certification that the record cannot be found. The local or state registrar shall forward this amount to the commissioner of finance to be deposited into the state government special revenue fund. This surcharge shall not be charged under those circumstances in which no fee for a birth, stillbirth, or death record is permitted under subdivision 1, paragraph (a).

(b) Effective August 1, 2005, ~~to June 30, 2009,~~ the surcharge in paragraph (a) ~~shall be~~ is \$4.

Sec. 16. Minnesota Statutes 2008, section 148.6445, is amended by adding a subdivision to read:

**Subd. 2a. Duplicate license fee.** The fee for a duplicate license is \$25.

Sec. 17. Minnesota Statutes 2008, section 259.89, subdivision 1, is amended to read:



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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 18. Minnesota Statutes 2008, section 260C.317, subdivision 4, is amended to read:

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

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

(2) the right of the person to file at any time with the state registrar of vital statistics an affidavit stating that the information on the original birth record shall not be disclosed as provided in section ~~144.2252~~ 144.2253; ~~and.~~

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

**EFFECTIVE DATE.** This section is effective August 1, 2010.

Sec. 19. **REPEALER.**

(a) Minnesota Statutes 2008, sections 259.83, subdivision 3; and 259.89, subdivisions 2, 3, and 4, are repealed effective retroactively from August 1, 2008.

(b) Minnesota Statutes 2008, section 62U.08, is repealed.

## ARTICLE 6

### HEALTH CARE PROGRAMS

Section 1. Minnesota Statutes 2008, section 62J.692, subdivision 7, is amended to read:

Subd. 7. **Transfers from the commissioner of human services.** ~~(a) The amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clause (1), shall be distributed by the commissioner annually to clinical medical education programs that meet the qualifications of subdivision 3 based on the formula in subdivision 4, paragraph (a). Of the amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clauses (1) to (4), \$21,714,000 must be distributed as follows:~~

(1) \$2,157,000 by the commissioner to the University of Minnesota Board of Regents for the purposes described in sections 137.38 to 137.40;

(2) \$1,035,360 by the commissioner to the Hennepin County Medical Center for clinical medical education;

(3) \$17,400,000 by the commissioner to the University of Minnesota Board of Regents for purposes of medical education;

(4) \$1,121,640 by the commissioner to clinical medical education dental innovation grants in accordance with subdivision 7a; and

(5) the remainder of the amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clauses (1) to (4), must be distributed by the commissioner annually to clinical medical education programs that meet the qualifications of subdivision 3 based on the formula in subdivision 4, paragraph (a).

~~(b) Fifty percent of the amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clause (2), shall be distributed by the commissioner to the University of Minnesota Board of Regents for the purposes described in sections 137.38 to 137.40. Of the remaining amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clause (2), 24 percent of the amount shall be distributed by the commissioner to the Hennepin County Medical Center for clinical medical education. The remaining 26 percent of the amount transferred shall be distributed by the commissioner in accordance with subdivision 7a. If the federal approval is not obtained for the matching funds under section 256B.69, subdivision 5c, paragraph (a), clause (2), 100 percent of the amount transferred under this paragraph shall be distributed by the commissioner to the University of Minnesota Board of Regents for the purposes described in sections 137.38 to 137.40.~~

~~(c) The amount transferred according to section 256B.69, subdivision 5c, paragraph (a), clauses (3) and (4), shall be distributed by the commissioner upon receipt to the University of Minnesota Board of Regents for the purposes of clinical graduate medical education.~~

Sec. 2. Minnesota Statutes 2008, section 125A.744, subdivision 3, is amended to read:

Subd. 3. **Implementation.** Consistent with section 256B.0625, subdivision 26, school districts may enroll as medical assistance providers or subcontractors and bill the Department of Human Services under the medical assistance fee for service claims processing system for special education services which are covered services under chapter 256B, which are provided in the school setting for a medical assistance recipient, and for whom the district has secured informed consent consistent with section 13.05, subdivision 4, paragraph (d), and section 256B.77, subdivision 2, paragraph (p), to bill for each type of covered service. School districts shall be reimbursed by the commissioner of human services for the federal share of individual education plan health-related services that qualify for reimbursement by medical assistance, minus up to five percent retained by the commissioner of human services for administrative costs, ~~not to exceed \$350,000 per fiscal year~~. The commissioner may withhold up to five percent of each payment to a school district. Following the end of each fiscal year, the commissioner shall settle up with each school district in order to ensure that collections from each district for departmental administrative costs are made on a pro rata basis according to federal earnings for these services in each district. A school district is not eligible to enroll as a home care provider or a personal care provider organization for purposes of billing home care services under sections 256B.0651 and 256B.0653 to 256B.0656 until the commissioner of human services issues a bulletin instructing county public health nurses on how to assess for the needs of eligible recipients during school hours. To use private duty nursing services or personal care 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.

Sec. 3. Minnesota Statutes 2008, section 256.01, subdivision 2b, is amended to read:

Subd. 2b. **Performance payments; performance measurement.** (a) The commissioner shall develop and implement a pay-for-performance system to provide performance payments to eligible medical groups and clinics that demonstrate optimum care in serving individuals with chronic diseases who are enrolled in health care programs administered by the commissioner under chapters 256B, 256D, and 256L. The commissioner may receive any federal matching money that is made available through the medical assistance program for managed care oversight contracted through vendors, including consumer surveys, studies, and external quality reviews as required by the federal Balanced Budget Act of 1997, Code of Federal Regulations, title 42, part 438-managed care, subpart E-external quality review. Any federal money received for managed care oversight is appropriated to the commissioner for this purpose. The commissioner may expend the federal money received in either year of the biennium.

~~(b) Effective July 1, 2008, or upon federal approval, whichever is later, the commissioner shall develop and implement a patient incentive health program to provide incentives and rewards to patients who are enrolled in health care programs administered by the commissioner under chapters 256B, 256D, and 256L, and who have agreed to and have met personal health goals established with the patients' primary care providers to manage a chronic disease or condition, including but not limited to diabetes, high blood pressure, and coronary artery disease. The commissioner, in consultation with the Health and Human Services Policy Committee, shall develop and provide to the legislature by December 15, 2009, a methodology and any draft legislation necessary to allow for the release, upon request, of summary data as defined in section 13.02, subdivision 19, on claims and utilization for medical assistance, general assistance medical care, and MinnesotaCare enrollees at no charge to the University of Minnesota Medical School, the Mayo Medical School, Northwestern Health Sciences University, the Institute for Clinical Systems Improvement, and other research institutions, to conduct analyses of health care outcomes and treatment effectiveness, provided the research institutions do not release private or nonpublic data, or data for which dissemination is prohibited by law.~~

Sec. 4. Minnesota Statutes 2008, section 256.01, is amended by adding a subdivision to read:

Subd. 18a. **Public Assistance Reporting Information System.** (a) Effective October 1, 2009, the commissioner shall comply with the federal requirements in Public Law 110-379 in implementing the Public Assistance Reporting Information System (PARIS) to determine eligibility for all individuals applying for:

(1) health care benefits under chapters 256B, 256D, and 256L; and

(2) public benefits under chapters 119B, 256D, 256I, and the supplemental nutrition assistance program.

(b) The commissioner shall determine eligibility under paragraph (a) by performing data matches, including matching with medical assistance, cash, child care, and supplemental assistance programs operated by other states.

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

Sec. 5. Minnesota Statutes 2008, section 256.962, subdivision 2, is amended to read:

Subd. 2. **Outreach grants.** (a) The commissioner shall award grants to public and private organizations, regional collaboratives, and regional health care outreach centers for outreach activities, including, but not limited to:

(1) providing information, applications, and assistance in obtaining coverage through Minnesota public health care programs;

(2) collaborating with public and private entities such as hospitals, providers, health plans, legal aid offices, pharmacies, insurance agencies, and faith-based organizations to develop outreach activities and partnerships to ensure the distribution of information and applications and provide assistance in obtaining coverage through Minnesota health care programs; ~~and~~

(3) providing or collaborating with public and private entities to provide multilingual and culturally specific information and assistance to applicants in areas of high uninsurance in the state or populations with high rates of uninsurance; and

(4) targeting geographic areas with high rates of (i) eligible but unenrolled children, including children who reside in rural areas, or (ii) racial and ethnic minorities and health disparity populations.

(b) The commissioner shall ensure that all outreach materials are available in languages other than English.

(c) The commissioner shall establish an outreach trainer program to provide training to designated individuals from the community and public and private entities on application assistance in order for these individuals to provide training to others in the community on an as-needed basis.

Sec. 6. Minnesota Statutes 2008, section 256.962, subdivision 6, is amended to read:

Subd. 6. **School districts and charter schools.** (a) At the beginning of each school year, a school district ~~or charter school~~ shall provide information to each student on the availability of health care coverage through the Minnesota health care programs and how to obtain an application for the Minnesota health care programs.

~~(b) For each child who is determined to be eligible for the free and reduced-price school lunch program, the district shall provide the child's family with information on how to obtain an application for the Minnesota health care programs and application assistance.~~

~~(c)~~ A school district or charter school shall also ensure that applications and information on application assistance are available at early childhood education sites and public schools located within the district's jurisdiction.

~~(d)~~ (c) Each district shall designate an enrollment specialist to provide application assistance and follow-up services with families who have indicated an interest in receiving information or an application for the Minnesota health care program. A district is eligible for the application assistance bonus described in subdivision 5.

~~(e) Each~~ (d) If a school district or charter school maintains a district Web site, the school district or charter school shall provide on ~~their~~ its Web site a link to information on how to obtain an application and application assistance.

Sec. 7. Minnesota Statutes 2008, section 256.963, is amended by adding a subdivision to read:

Subd. 3. **Urgent dental care services.** The commissioner of human services shall authorize pilot projects to reduce the total costs to the state for dental services provided to persons enrolled in Minnesota health care programs by reducing hospital emergency room costs for preventable and nonemergency dental services. The commissioner may provide start-up funding and establish special payment rates for urgent dental care services provided as an alternative to emergency room services and may change or waive existing payment policies in order to adequately reimburse providers for providing cost-effective alternative services in outpatient or urgent care settings. The commissioner may establish a project in conjunction with the initiative authorized under subdivisions 1 and 2, or establish new initiatives, or may implement both approaches.

Sec. 8. Minnesota Statutes 2008, section 256.969, subdivision 3a, is amended to read:

Subd. 3a. **Payments.** (a) Acute care hospital billings under the medical assistance program must not be submitted until the recipient is discharged. However, the commissioner shall establish monthly interim payments for inpatient hospitals that have individual patient lengths of stay over 30 days regardless of diagnostic category. Except as provided in section 256.9693, medical assistance reimbursement for treatment of mental illness shall be reimbursed based on diagnostic classifications. Individual hospital payments established under this section and sections 256.9685, 256.9686, and 256.9695, in addition to third party and recipient liability, for discharges occurring during the rate year shall not exceed, in aggregate, the charges for the medical assistance covered inpatient services paid for the same period of time to the hospital. This payment limitation shall be calculated separately for medical assistance and general assistance medical care services. The limitation on general assistance medical care shall be effective for admissions occurring on or after July 1, 1991. Services that have rates established under subdivision 11 or 12, must be limited separately from other services. After consulting with the affected hospitals, the commissioner may consider related hospitals one entity and may merge the payment rates while maintaining separate provider numbers. The operating and property base rates per admission or per day shall be derived from the best Medicare

and claims data available when rates are established. The commissioner shall determine the best Medicare and claims data, taking into consideration variables of recency of the data, audit disposition, settlement status, and the ability to set rates in a timely manner. The commissioner shall notify hospitals of payment rates by December 1 of the year preceding the rate year. The rate setting data must reflect the admissions data used to establish relative values. Base year changes from 1981 to the base year established for the rate year beginning January 1, 1991, and for subsequent rate years, shall not be limited to the limits ending June 30, 1987, on the maximum rate of increase under subdivision 1. The commissioner may adjust base year cost, relative value, and case mix index data to exclude the costs of services that have been discontinued by the October 1 of the year preceding the rate year or that are paid separately from inpatient services. Inpatient stays that encompass portions of two or more rate years shall have payments established based on payment rates in effect at the time of admission unless the date of admission preceded the rate year in effect by six months or more. In this case, operating payment rates for services rendered during the rate year in effect and established based on the date of admission shall be adjusted to the rate year in effect by the hospital cost index.

(b) For fee-for-service admissions occurring on or after July 1, 2002, the total payment, before third-party liability and spenddown, made to hospitals for inpatient services is reduced by .5 percent from the current statutory rates.

(c) In addition to the reduction in paragraph (b), the total payment for fee-for-service admissions occurring on or after July 1, 2003, made to hospitals for inpatient services before third-party liability and spenddown, is reduced five percent from the current statutory rates. Mental health services within diagnosis related groups 424 to 432, and facilities defined under subdivision 16 are excluded from this paragraph.

(d) In addition to the reduction in paragraphs (b) and (c), the total payment for fee-for-service admissions occurring on or after July 1, 2005, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 6.0 percent from the current statutory rates. Mental health services within diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Notwithstanding section 256.9686, subdivision 7, for purposes of this paragraph, medical assistance does not include general assistance medical care. Payments made to managed care plans shall be reduced for services provided on or after January 1, 2006, to reflect this reduction.

(e) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2008, through June 30, 2009, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 3.46 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after January 1, 2009, through June 30, 2009, to reflect this reduction.

(f) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2009, through June 30, 2010, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 1.9 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after July 1, 2009, through June 30, 2010, to reflect this reduction.

(g) In addition to the reductions in paragraphs (b), (c), and (d), the total payment for fee-for-service admissions occurring on or after July 1, 2010, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 1.79 percent from the current statutory rates. Mental health services with diagnosis related groups 424 to 432 and facilities defined under subdivision 16 are excluded from this paragraph. Payments made to managed care plans shall be reduced for services provided on or after July 1, 2010, to reflect this reduction.

(h) In addition to the reductions in paragraphs (b), (c), (d), (f), and (g), the total payment for fee-for-service admissions occurring on or after July 1, 2009, made to hospitals for inpatient services before third-party liability and spenddown, is reduced 3.0 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, 2010, to reflect this reduction.

(i) In addition to the reductions in paragraphs (b) and (h), the total payment for fee-for-service admissions occurring on or after July 1, 2009, made to hospitals for mental health services within diagnosis-related groups 424 to 432 before third-party liability and spenddown, is reduced 5.2 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, 2010, to reflect this reduction.

Sec. 9. Minnesota Statutes 2008, section 256B.056, subdivision 3, is amended to read:

Subd. 3. **Asset limitations for individuals and families.** To be eligible for medical assistance, a person must not individually own more than \$3,000 in assets, or if a member of a household with two family members, husband and wife, or parent and child, the household must not own more than \$6,000 in assets, plus \$200 for each additional legal dependent. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The accumulation of the clothing and personal needs allowance according to section 256B.35 must also be reduced to the maximum at the time of the eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance is the value of those assets excluded under the supplemental security income program for aged, blind, and disabled persons, with the following exceptions:

(1) household goods and personal effects are not considered;

(2) capital and operating assets of a trade or business that the local agency determines are necessary to the person's ability to earn an income are not considered. A bank account that contains personal income or assets, or is used to pay personal expenses, is not considered a capital or operating asset of a trade or business;

(3) motor vehicles are excluded to the same extent excluded by the supplemental security income program;

(4) assets designated as burial expenses are excluded to the same extent excluded by the supplemental security income program. Burial expenses funded by annuity contracts or life insurance policies must irrevocably designate the individual's estate as contingent beneficiary to the extent proceeds are not used for payment of selected burial expenses; and

(5) effective upon federal approval, for a person who no longer qualifies as an employed person with a disability due to loss of earnings, assets allowed while eligible for medical assistance under section 256B.057, subdivision 9, are not considered for 12 months, beginning with the first month of ineligibility as an employed person with a disability, to the extent that the person's total assets remain within the allowed limits of section 256B.057, subdivision 9, paragraph (c).

The assets specified in clause (2) must be disclosed to the local agency at the time of application and at the time of an eligibility redetermination, and must be verified upon request of the local agency.

**EFFECTIVE DATE.** This section is effective January 1, 2011, or upon federal approval, whichever is later.

Sec. 10. Minnesota Statutes 2008, section 256B.056, subdivision 3b, is amended to read:

Subd. 3b. **Treatment of trusts.** (a) A "medical assistance qualifying trust" is a revocable or irrevocable trust, or similar legal device, established on or before August 10, 1993, by a person or the person's spouse under the terms of which the person receives or could receive payments from the trust principal or income and the trustee has discretion in making payments to the person from the trust principal or income. Notwithstanding that definition, a medical

assistance qualifying trust does not include: (1) a trust set up by will; (2) a trust set up before April 7, 1986, solely to benefit a person with a developmental disability living in an intermediate care facility for persons with developmental disabilities; or (3) a trust set up by a person with payments made by the Social Security Administration pursuant to the United States Supreme Court decision in *Sullivan v. Zebley*, 110 S. Ct. 885 (1990). The maximum amount of payments that a trustee of a medical assistance qualifying trust may make to a person under the terms of the trust is considered to be available assets to the person, without regard to whether the trustee actually makes the maximum payments to the person and without regard to the purpose for which the medical assistance qualifying trust was established.

(b) Except as provided in paragraphs (c) and (d), trusts established after August 10, 1993, are treated according to section 13611(b) of the Omnibus Budget Reconciliation Act of 1993 (OBRA), Public Law 103-66.

(c) For purposes of paragraph (d), a pooled trust means a trust established under United States Code, title 42, section 1396p(d)(4)(C).

(d) A beneficiary's interest in a pooled trust is considered an available asset unless the trust provides that upon the death of the beneficiary or termination of the trust during the beneficiary's lifetime, whichever is sooner, the department receives any amount in excess of reasonable administrative fees remaining in the beneficiary's trust account up to the amount of medical assistance benefits paid on behalf of the beneficiary under the state medical assistance plan. The trust may provide the nonprofit trustee, prior to payment to the state:

(1) reimbursement of reasonable expenses incurred by the trustee on behalf of the beneficiary which are subject to reimbursement under the terms of the trust; and

(2) reimbursement of reasonable administrative costs and fees.

A remainder interest may be retained by the nonprofit trustee that does not exceed five percent of the remaining balance in the trust account upon the death of the beneficiary or the termination of the trust, and must only be used for the benefit of disabled individuals who have a beneficial interest in the pooled trust.

**EFFECTIVE DATE.** This section is effective for pooled trust accounts established on or after January 1, 2011.

Sec. 11. Minnesota Statutes 2008, section 256B.056, subdivision 3c, is amended to read:

Subd. 3c. **Asset limitations for families and children.** A household of two or more persons must not own more than \$20,000 in total net assets, and a household of one person must not own more than \$10,000 in total net assets. In addition to these maximum amounts, an eligible individual or family may accrue interest on these amounts, but they must be reduced to the maximum at the time of an eligibility redetermination. The value of assets that are not considered in determining eligibility for medical assistance for families and children is the value of those assets excluded under the AFDC state plan as of July 16, 1996, as required by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, with the following exceptions:

(1) household goods and personal effects are not considered;

(2) capital and operating assets of a trade or business up to \$200,000 are not considered, except that a bank account that contains personal income or assets, or is used to pay personal expenses, is not considered a capital or operating asset of a trade or business;

(3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;

(4) one burial plot and all other burial expenses equal to the supplemental security income program asset limit are not considered for each individual;

- (5) court-ordered settlements up to \$10,000 are not considered;
- (6) individual retirement accounts and funds are not considered; and
- (7) assets owned by children are not considered.

The assets specified in clause (2) must be disclosed to the local agency at the time of application and at the time of an eligibility redetermination, and must be verified upon request of the local agency.

**EFFECTIVE DATE.** This section is effective January 1, 2011, or upon federal approval, whichever is later.

Sec. 12. Minnesota Statutes 2008, section 256B.056, is amended by adding a subdivision to read:

Subd. 10a. **Presumptive eligibility.** Medical assistance is available during a presumptive period of eligibility that meets the requirements of United States Code, title 42, section 1396r-1a. Presumptive eligibility shall be determined by the state or local agency for children under age 19 who appear to meet income requirements of section 256B.057, subdivisions 1, 2, and 8, on the basis of preliminary information. The presumptive period begins on the first day of the month in which presumptive eligibility is determined. The agency must provide notice of presumptive eligibility and information on the procedures for completing the eligibility process. The presumptive period ends on the earlier of the date of the determination for medical assistance eligibility, or the last day of the month following the presumptive eligibility determination if a complete application with requested verifications is not submitted by that date. Enrollees who are terminated for failure to complete an application or provide verifications cannot be granted presumptive eligibility again for 12 months.

**EFFECTIVE DATE.** This section is effective January 1, 2010, or upon federal approval, whichever is later.

Sec. 13. Minnesota Statutes 2008, section 256B.057, subdivision 3, is amended to read:

Subd. 3. **Qualified Medicare beneficiaries.** A person who is entitled to Part A Medicare benefits, whose income is equal to or less than 100 percent of the federal poverty guidelines, and whose assets are no more than ~~\$10,000 for a single individual and \$18,000 for a married couple or family of two or more~~ the maximum resource level applied for the year for an individual or an individual and the individual's spouse according to United States Code, title 42, section 1396d(p)(1)(C), is eligible for medical assistance reimbursement of Part A and Part B premiums, Part A and Part B coinsurance and deductibles, and cost-effective premiums for enrollment with a health maintenance organization or a competitive medical plan under section 1876 of the Social Security Act. Reimbursement of the Medicare coinsurance and deductibles, when added to the amount paid by Medicare, must not exceed the total rate the provider would have received for the same service or services if the person were a medical assistance recipient with Medicare coverage. Increases in benefits under Title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

**EFFECTIVE DATE.** This section is effective January 1, 2012.

Sec. 14. Minnesota Statutes 2008, section 256B.057, subdivision 9, is amended to read:

Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for a person who is employed and who:

- (1) meets the definition of disabled under the supplemental security income program;
- (2) is at least 16 but less than 65 years of age;
- (3) meets the asset limits in paragraph (c); and



(4) effective November 1, 2003, pays a premium and other obligations under paragraph (e).

Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(b) After the month of enrollment, a person enrolled in medical assistance under this subdivision who:

(1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician, may retain eligibility for up to four calendar months; or

(2) effective January 1, 2004, loses employment for reasons not attributable to the enrollee, may retain eligibility for up to four consecutive months after the month of job loss. To receive a four-month extension, enrollees must verify the medical condition or provide notification of job loss. All other eligibility requirements must be met and the enrollee must pay all calculated premium costs for continued eligibility.

(c) For purposes of determining eligibility under this subdivision, a person's assets must not exceed \$20,000, excluding:

(1) all assets excluded under section 256B.056;

(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans; and

(3) medical expense accounts set up through the person's employer.

(d)(1) Effective January 1, 2004, for purposes of eligibility, there will be a \$65 earned income disregard. To be eligible, a person applying for medical assistance under this subdivision must have earned income above the disregard level.

(2) Effective January 1, 2004, to be considered earned income, Medicare, Social Security, and applicable state and federal income taxes must be withheld. To be eligible, a person must document earned income tax withholding.

(e)(1) A person whose earned and unearned income is equal to or greater than 100 percent of federal poverty guidelines for the applicable family size must pay a premium to be eligible for medical assistance under this subdivision. The premium shall be based on the person's gross earned and unearned income and the applicable family size using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines. Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

(2) Effective January 1, 2004, all enrollees must pay a premium to be eligible for medical assistance under this subdivision. An enrollee shall pay the greater of a ~~\$35~~ \$50 premium or the premium calculated in clause (1).

(3) Effective November 1, 2003, all enrollees who receive unearned income must pay ~~one-half of one~~ 2.5 percent of unearned income in addition to the premium amount.

(4) Effective November 1, 2003, for enrollees whose income does not exceed 200 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner must reimburse the enrollee for Medicare Part B premiums under section 256B.0625, subdivision 15, paragraph (a).

(5) Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

(f) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

(g) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

(h) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(i) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. Good cause exists if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to D, are met. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

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

Sec. 15. Minnesota Statutes 2008, section 256B.057, is amended by adding a subdivision to read:

**Subd. 11. Treatment for colorectal cancer.** (a) State-only funded medical assistance may be paid for an individual who:

(1) has been screened for colorectal cancer by the colorectal cancer prevention demonstration project;

(2) according to the individual's treating health professional, needs treatment for colorectal cancer;

(3) meets income eligibility guidelines for the colorectal cancer prevention demonstration project;

(4) is under the age of 65; and

(5) is not otherwise eligible for federally funded medical assistance or covered under creditable coverage as defined under United States Code, title 42, section 1396a(aa).

(b) Medical assistance provided under this subdivision shall be limited to services provided during the period that the individual receives treatment for colorectal cancer.

(c) An individual meeting the criteria in paragraph (a) is eligible for state-only funded medical assistance without meeting the eligibility criteria relating to income and assets in section 256B.056, subdivisions 1a to 5b.

Sec. 16. Minnesota Statutes 2008, section 256B.0575, is amended to read:

**256B.0575 AVAILABILITY OF INCOME FOR INSTITUTIONALIZED PERSONS.**

**Subdivision 1. Income deductions.** When an institutionalized person is determined eligible for medical assistance, the income that exceeds the deductions in paragraphs (a) and (b) must be applied to the cost of institutional care.

(a) The following amounts must be deducted from the institutionalized person's income in the following order:

(1) the personal needs allowance under section 256B.35 or, for a veteran who does not have a spouse or child, or a surviving spouse of a veteran having no child, the amount of an improved pension received from the veteran's administration not exceeding \$90 per month;

(2) the personal allowance for disabled individuals under section 256B.36;

(3) if the institutionalized person has a legally appointed guardian or conservator, five percent of the recipient's gross monthly income up to \$100 as reimbursement for guardianship or conservatorship services;

(4) a monthly income allowance determined under section 256B.058, subdivision 2, but only to the extent income of the institutionalized spouse is made available to the community spouse;

(5) a monthly allowance for children under age 18 which, together with the net income of the children, would provide income equal to the medical assistance standard for families and children according to section 256B.056, subdivision 4, for a family size that includes only the minor children. This deduction applies only if the children do not live with the community spouse and only to the extent that the deduction is not included in the personal needs allowance under section 256B.35, subdivision 1, as child support garnished under a court order;

(6) a monthly family allowance for other family members, equal to one-third of the difference between 122 percent of the federal poverty guidelines and the monthly income for that family member;

(7) reparations payments made by the Federal Republic of Germany and reparations payments made by the Netherlands for victims of Nazi persecution between 1940 and 1945;

(8) all other exclusions from income for institutionalized persons as mandated by federal law; and

(9) amounts for reasonable expenses, as specified in subdivision 2, incurred for necessary medical or remedial care for the institutionalized person that are recognized under state law, not medical assistance covered expenses, and ~~that are~~ not subject to payment by a third party.

~~Reasonable expenses are limited to expenses that have not been previously used as a deduction from income and are incurred during the enrollee's current period of eligibility, including retroactive months associated with the current period of eligibility, for medical assistance payment of long-term care services.~~

For purposes of clause (6), "other family member" means a person who resides with the community spouse and who is a minor or dependent child, dependent parent, or dependent sibling of either spouse. "Dependent" means a person who could be claimed as a dependent for federal income tax purposes under the Internal Revenue Code.

(b) Income shall be allocated to an institutionalized person for a period of up to three calendar months, in an amount equal to the medical assistance standard for a family size of one if:

(1) a physician certifies that the person is expected to reside in the long-term care facility for three calendar months or less;

(2) if the person has expenses of maintaining a residence in the community; and

(3) if one of the following circumstances apply:

(i) the person was not living together with a spouse or a family member as defined in paragraph (a) when the person entered a long-term care facility; or

(ii) the person and the person's spouse become institutionalized on the same date, in which case the allocation shall be applied to the income of one of the spouses.

For purposes of this paragraph, a person is determined to be residing in a licensed nursing home, regional treatment center, or medical institution if the person is expected to remain for a period of one full calendar month or more.

**Subd. 2. Reasonable expenses.** (a) For the purposes of subdivision 1, paragraph (a), clause (9), reasonable expenses are limited to expenses that have not been previously used as a deduction from income and were not:

(1) for long-term care expenses incurred during a period of ineligibility as defined in section 256B.0595, subdivision 2;

(2) incurred more than three months before the month of application associated with the current period of eligibility;

(3) for expenses incurred by a recipient that are duplicative of services that are covered under chapter 256B; or

(4) nursing facility expenses incurred without a timely assessment as required under section 256B.0911.

Sec. 17. Minnesota Statutes 2008, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. **Prohibited transfers.** (a) For transfers of assets made on or before August 10, 1993, if an institutionalized person or the institutionalized person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security program, within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.

(b) Effective for transfers made after August 10, 1993, an institutionalized person, an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or institutionalized person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the Supplemental Security Income program, for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person requests medical assistance payment of long-term care services, or 36 months before or any time after a medical assistance recipient becomes an institutionalized person, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the institutionalized person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the institutionalized person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. In the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, or in the case of any other disposal of assets made on or after February 8, 2006, any transfers made within 60 months before or any time after an institutionalized person requests medical assistance payment of long-term care services and within 60 months before or any time after a medical assistance recipient becomes an institutionalized person, may be considered.

(c) This section applies to transfers, for less than fair market value, of income or assets, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the institutionalized person or the institutionalized person's spouse is entitled but does not

receive due to action by the institutionalized person, the institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or the institutionalized person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any asset or interest that an institutionalized person, an institutionalized person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the institutionalized person or the institutionalized person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the institutionalized person or institutionalized person's spouse while alive, based on estimated life expectancy as determined according to the current actuarial tables published by the Office of the Chief Actuary of the Social Security Administration. The commissioner may adopt rules reducing life expectancies based on the need for long-term care. This section applies to an annuity purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, by or on behalf of an institutionalized person who has applied for or is receiving long-term care services or the institutionalized person's spouse shall be treated as the disposal of an asset for less than fair market value unless the department is named a preferred remainder beneficiary as described in section 256B.056, subdivision 11. Any subsequent change to the designation of the department as a preferred remainder beneficiary shall result in the annuity being treated as a disposal of assets for less than fair market value. The amount of such transfer shall be the maximum amount the institutionalized person or the institutionalized person's spouse could receive from the annuity or similar financial instrument. Any change in the amount of the income or principal being withdrawn from the annuity or other similar financial instrument at the time of the most recent disclosure shall be deemed to be a transfer of assets for less than fair market value unless the institutionalized person or the institutionalized person's spouse demonstrates that the transaction was for fair market value. In the event a distribution of income or principal has been improperly distributed or disbursed from an annuity or other retirement planning instrument of an institutionalized person or the institutionalized person's spouse, a cause of action exists against the individual receiving the improper distribution for the cost of medical assistance services provided or the amount of the improper distribution, whichever is less.

(g) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, by or on behalf of an institutionalized person applying for or receiving long-term care services shall be treated as a disposal of assets for less than fair market value unless it is:

(i) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

(ii) purchased with proceeds from:

(A) an account or trust described in subsection (a), (c), or (p) of section 408 of the Internal Revenue Code;

(B) a simplified employee pension within the meaning of section 408(k) of the Internal Revenue Code; or

(C) a Roth IRA described in section 408A of the Internal Revenue Code; or

(iii) an annuity that is irrevocable and nonassignable; is actuarially sound as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration; and provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

(h) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with developmental disabilities, and home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with developmental disabilities or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

(i) This section applies to funds used to purchase a promissory note, loan, or mortgage unless the note, loan, or mortgage:

(1) has a repayment term that is actuarially sound;

(2) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

(3) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not meet an exception in clauses (1) to (3), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the institutionalized person's request for medical assistance payment of long-term care services.

(j) This section applies to the purchase of a life estate interest in another person's home unless the purchaser resides in the home for a period of at least one year after the date of purchase.

(k) This section applies to transfers into a pooled trust that qualifies under United States Code, title 42, section 1396p(d)(4)(C), by:

(1) a person age 65 or older or the person's spouse; or

(2) any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of a person age 65 or older or the person's spouse.

Sec. 18. Minnesota Statutes 2008, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. **Period of ineligibility for long-term care services.** (a) For any uncompensated transfer occurring on or before August 10, 1993, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost

of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was reported to the local agency after the date that advance notice of a period of ineligibility that affects the next month could be provided to the recipient and the recipient received medical assistance services or the transfer was not reported to the local agency, and the applicant or recipient received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for that portion of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

(1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer;

(2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or

(3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

(c) For uncompensated transfers made on or after February 8, 2006, the period of ineligibility:

(1) for uncompensated transfers by or on behalf of individuals receiving medical assistance payment of long-term care services, begins the first day of the month following advance notice of the ~~penalty period of ineligibility~~, but no later than the first day of the month that follows three full calendar months from the date of the report or discovery of the transfer; or

(2) for uncompensated transfers by individuals requesting medical assistance payment of long-term care services, begins the date on which the individual is eligible for medical assistance under the Medicaid state plan and would otherwise be receiving long-term care services based on an approved application for such care but for the ~~application of the penalty period of ineligibility resulting from the uncompensated transfer~~; and

(3) cannot begin during any other period of ineligibility.

(d) If a calculation of a ~~penalty period of ineligibility~~ results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction.

(e) In the case of multiple fractional transfers of assets in more than one month for less than fair market value on or after February 8, 2006, the period of ineligibility is calculated by treating the total, cumulative, uncompensated value of all assets transferred during all months on or after February 8, 2006, as one transfer.

(f) A period of ineligibility established under paragraph (c) may be eliminated if all of the assets transferred for less than fair market value used to calculate the period of ineligibility, or cash equal to the value of the assets at the time of the transfer, are returned within 12 months after the date the period of ineligibility began. A period of ineligibility must not be adjusted if less than the full amount of the transferred assets or the full cash value of the transferred assets are returned.

**EFFECTIVE DATE.** This section is effective for periods of ineligibility established on or after January 1, 2011.

Sec. 19. Minnesota Statutes 2008, section 256B.06, subdivision 4, is amended to read:

Subd. 4. **Citizenship requirements.** (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States. Citizens or nationals of the United States must cooperate in obtaining satisfactory documentary evidence of citizenship or nationality according to the requirements of the federal Deficit Reduction Act of 2005, Public Law 109-171.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:



- (i) refugees admitted to the United States according to United States Code, title 8, section 1157;
- (ii) persons granted asylum according to United States Code, title 8, section 1158;
- (iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);
- (iv) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or
- (v) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

Notwithstanding paragraph (j), beginning July 1, 2010, children and pregnant women who are qualified noncitizens, as described in paragraph (b), are eligible for medical assistance with federal financial participation as provided by the federal Children's Health Insurance Program Reauthorization Act of 2009, Public Law 111-3.

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully present in the United States, as defined in Code of Federal Regulations, title 8, section 103.12, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the United States Citizenship and Immigration Services to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of this chapter are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of this chapter, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Beginning July 1, 2009, pregnant noncitizens who are undocumented, nonimmigrants, or ~~eligible for medical assistance as described in paragraph (j), lawfully present as designated in paragraph (e)~~ and who are not covered by a group health plan or health insurance coverage according to Code of Federal Regulations, title 42, section 457.310, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance through the

period of pregnancy, including labor and delivery, and 60 days postpartum, to the extent federal funds are available under title XXI of the Social Security Act, and the state children's health insurance program, ~~followed by 60 days postpartum without federal financial participation.~~

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) Beginning October 1, 2003, persons who are receiving care and rehabilitation services from a nonprofit center established to serve victims of torture and are otherwise ineligible for medical assistance under this chapter are eligible for medical assistance without federal financial participation. These individuals are eligible only for the period during which they are receiving services from the center. Individuals eligible under this paragraph shall not be required to participate in prepaid medical assistance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 256B.06, subdivision 5, is amended to read:

Subd. 5. **Deeming of sponsor income and resources.** When determining eligibility for any federal or state funded medical assistance under this section, the income and resources of all noncitizens shall be deemed to include their sponsors' income and resources as required under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules. This section is effective May 1, 1997. Beginning July 1, 2010, sponsor deeming does not apply to pregnant women and children who are qualified noncitizens, as described in section 256B.06, subdivision 4, paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2010.

Sec. 21. Minnesota Statutes 2008, section 256B.0625, subdivision 3c, is amended to read:

Subd. 3c. **Health Services Policy Committee.** (a) The commissioner, after receiving recommendations from professional physician associations, professional associations representing licensed nonphysician health care professionals, and consumer groups, shall establish a 13-member Health Services Policy Committee, which consists of 12 voting members and one nonvoting member. The Health Services Policy Committee shall advise the commissioner regarding health services pertaining to the administration of health care benefits covered under the medical assistance, general assistance medical care, and MinnesotaCare programs. The Health Services Policy Committee shall meet at least quarterly. The Health Services Policy Committee shall annually elect a physician chair from among its members, who shall work directly with the commissioner's medical director, to establish the agenda for each meeting. The Health Services Policy Committee shall also recommend criteria for verifying centers of excellence for specific aspects of medical care where a specific set of combined services, a volume of patients necessary to maintain a high level of competency, or a specific level of technical capacity is associated with improved health outcomes.

(b) The commissioner shall establish a dental subcommittee to operate under the Health Services Policy Committee. The dental subcommittee consists of general dentists, dental specialists, safety net providers, dental hygienists, health plan company and county and public health representatives, health researchers, consumers, and the Minnesota Department of Health oral health director. The dental subcommittee shall advise the commissioner regarding:

(1) the critical access dental program under section 256B.76, subdivision 4;

(2) any changes to the critical access dental provider program necessary to comply with program expenditure limits;

(3) dental coverage policy based on evidence, quality, continuity of care, and best practices;

(4) the development of dental delivery models; and

(5) dental services to be added or eliminated from subdivision 9, paragraph (b).

(c) The Health Services Policy Committee shall study approaches to making provider reimbursement under the medical assistance, MinnesotaCare, and general assistance medical care programs contingent on patient participation in a patient-centered decision-making process, and shall evaluate the impact of these approaches on health care quality, patient satisfaction, and health care costs. The committee shall present findings and recommendations to the commissioner and the legislative committees with jurisdiction over health care by January 15, 2010.

Sec. 22. Minnesota Statutes 2008, section 256B.0625, subdivision 9, is amended to read:

Subd. 9. **Dental services.** (a) Medical assistance covers dental services. ~~Dental services include, with prior authorization, fixed bridges that are cost effective for persons who cannot use removable dentures because of their medical condition.~~

(b) Medical assistance dental coverage for nonpregnant adults is limited to the following services:

(1) comprehensive exams, limited to once every five years;

(2) periodic exams, limited to one per year;

(3) limited exams;

(4) bitewing x-rays, limited to one per year;

(5) periapical x-rays;

(6) panoramic x-rays, limited to one every five years, and only if provided in conjunction with a posterior extraction or scheduled outpatient facility procedure, or as medically necessary for the diagnosis and follow-up of oral and maxillofacial pathology and trauma. Panoramic x-rays may be taken once every two years for patients who cannot cooperate for intraoral film due to a developmental disability or medical condition that does not allow for intraoral film placement;

(7) prophylaxis, limited to one per year;

(8) application of fluoride varnish, limited to one per year;

(9) posterior fillings, all at the amalgam rate;

(10) anterior fillings;

(11) endodontics, limited to root canals on the anterior and premolars only;

(12) removable prostheses, each dental arch limited to one every six years;

(13) oral surgery, limited to extractions, biopsies, and incision and drainage of abscesses;

(14) palliative treatment and sedative fillings for relief of pain; and

(15) full-mouth debridement, limited to one every five years.

(c) In addition to the services specified in paragraph (b), medical assistance covers the following services for adults, if provided in an outpatient hospital setting or freestanding ambulatory surgical center as part of outpatient dental surgery:

(1) periodontics, limited to periodontal scaling and root planing once every two years;

(2) general anesthesia; and

(3) full-mouth survey once every five years.

(d) Medical assistance covers dental services for children that are medically necessary. The following guidelines apply:

(1) posterior fillings are paid at the amalgam rate;

(2) application of sealants once every five years per permanent molar; and

(3) application of fluoride varnish once every six months.

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 23. Minnesota Statutes 2008, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. **Payment rates.** (a) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The pharmacy dispensing fee shall be \$3.65, except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be \$8 per bag, \$14 per bag for cancer chemotherapy products, and \$30 per bag for total parenteral nutritional products dispensed in one liter quantities, or \$44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. Effective July 1, 2008, the actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus ~~44~~ 15 percent. The actual acquisition cost of antihemophilic factor drugs shall be estimated at the average wholesale price minus 30 percent. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in

Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(c) Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, or on the maximum allowable cost established by the commissioner.

(d) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider or the amount established for Medicare by the United States Department of Health and Human Services pursuant to title XVIII, section 1847a of the federal Social Security Act.

(e) The commissioner may negotiate lower reimbursement rates for specialty pharmacy products than the rates specified in paragraph (a). The commissioner may require individuals enrolled in the health care programs administered by the department to obtain specialty pharmacy products from providers with whom the commissioner has negotiated lower reimbursement rates. Specialty pharmacy products are defined as those used by a small number of recipients or recipients with complex and chronic diseases that require expensive and challenging drug regimens. Examples of these conditions include, but are not limited to: multiple sclerosis, HIV/AIDS, transplantation, hepatitis C, growth hormone deficiency, Crohn's Disease, rheumatoid arthritis, and certain forms of cancer. Specialty pharmaceutical products include injectable and infusion therapies, biotechnology drugs, high-cost therapies, and therapies that require complex care. The commissioner shall consult with the formulary committee to develop a list of specialty pharmacy products subject to this paragraph. In consulting with the formulary committee in developing this list, the commissioner shall take into consideration the population served by specialty pharmacy products, the current delivery system and standard of care in the state, and access to care issues. The commissioner shall have the discretion to adjust the reimbursement rate to prevent access to care issues.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 256B.0625, subdivision 17, is amended to read:

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

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

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

(1) \$17 for the base rate and ~~\$1.35~~ \$1.65 per mile for services to eligible persons who need a wheelchair-accessible van;

(2) ~~\$41.50~~ \$8.50 for the base rate and \$1.30 per mile for services to eligible persons who do not need a wheelchair-accessible van; and

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

Sec. 25. Minnesota Statutes 2008, section 256B.0625, subdivision 26, is amended to read:

Subd. 26. **Special education services.** (a) Medical assistance covers medical services identified in a recipient's individualized education plan and covered under the medical assistance state plan. Covered services include occupational therapy, physical therapy, speech-language therapy, clinical psychological services, nursing services, school psychological services, school social work services, personal care assistants serving as management aides, assistive technology devices, transportation services, health assessments, and other services covered under the medical assistance state plan. Mental health services eligible for medical assistance reimbursement must be provided or coordinated through a children's mental health collaborative where a collaborative exists if the child is included in the collaborative operational target population. The provision or coordination of services does not require that the individual education plan be developed by the collaborative.

The services may be provided by a Minnesota school district that is enrolled as a medical assistance provider or its subcontractor, and only if the services meet all the requirements otherwise applicable if the service had been provided by a provider other than a school district, in the following areas: medical necessity, physician's orders, documentation, personnel qualifications, and prior authorization requirements. The nonfederal share of costs for services provided under this subdivision is the responsibility of the local school district as provided in section 125A.74. Services listed in a child's individual education plan are eligible for medical assistance reimbursement only if those services meet criteria for federal financial participation under the Medicaid program.

(b) Approval of health-related services for inclusion in the individual education plan does not require prior authorization for purposes of reimbursement under this chapter. The commissioner may require physician review and approval of the plan not more than once annually or upon any modification of the individual education plan that reflects a change in health-related services.

(c) Services of a speech-language pathologist provided under this section are covered notwithstanding Minnesota Rules, part 9505.0390, subpart 1, item L, if the person:

(1) holds a masters degree in speech-language pathology;

(2) is licensed by the Minnesota Board of Teaching as an educational speech-language pathologist; and

(3) either has a certificate of clinical competence from the American Speech and Hearing Association, has completed the equivalent educational requirements and work experience necessary for the certificate or has completed the academic program and is acquiring supervised work experience to qualify for the certificate.

(d) Medical assistance coverage for medically necessary services provided under other subdivisions in this section may not be denied solely on the basis that the same or similar services are covered under this subdivision.

(e) The commissioner shall develop and implement package rates, bundled rates, or per diem rates for special education services under which separately covered services are grouped together and billed as a unit in order to reduce administrative complexity.

(f) The commissioner shall develop a cost-based payment structure for payment of these services. The commissioner shall reimburse claims submitted based on an interim rate, and shall settle at a final rate once the department has determined it. The commissioner shall notify the school district of the final rate. The school district has 60 days to appeal the final rate. To appeal the final rate, the school district shall file a written appeal request to the commissioner within 60 days of the date the final rate determination was mailed. The appeal request shall specify (1) the disputed items and (2) the name and address of the person to contact regarding the appeal.

(g) Effective July 1, 2000, medical assistance services provided under an individual education plan or an individual family service plan by local school districts shall not count against medical assistance authorization thresholds for that child.

(h) Nursing services as defined in section 148.171, subdivision 15, and provided as an individual education plan health-related service, are eligible for medical assistance payment if they are otherwise a covered service under the medical assistance program. Medical assistance covers the administration of prescription medications by a licensed nurse who is employed by or under contract with a school district when the administration of medications is identified in the child's individualized education plan. The simple administration of medications alone is not covered under medical assistance when administered by a provider other than a school district or when it is not identified in the child's individualized education plan.

Sec. 26. Minnesota Statutes 2008, section 256B.0631, subdivision 1, is amended to read:

Subdivision 1. **Co-payments.** (a) Except as provided in subdivision 2, the medical assistance benefit plan shall include the following co-payments for all recipients, effective for services provided on or after ~~October 1, 2003, and before January 1, 2009~~ July 1, 2009:

(1) \$3 per nonpreventive visit. For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, nurse midwife, advanced practice nurse, audiologist, optician, or optometrist;

(2) \$3 for eyeglasses;

(3) \$6 for nonemergency visits to a hospital-based emergency room; ~~and~~

~~(4) \$3 per brand name drug prescription and \$1 per generic drug prescription, subject to a \$12 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness.~~

~~(b) Except as provided in subdivision 2, the medical assistance benefit plan shall include the following co-payments for all recipients, effective for services provided on or after January 1, 2009:~~

~~(1) \$6 for nonemergency visits to a hospital-based emergency room;~~

~~(2) (4) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$7 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness; and~~

~~(3) (5) for individuals identified by the commissioner with income at or below 100 percent of the federal poverty guidelines, total monthly co-payments must not exceed five percent of family income. For purposes of this paragraph, family income is the total earned and unearned income of the individual and the individual's spouse, if the spouse is enrolled in medical assistance and also subject to the five percent limit on co-payments.~~

~~(e) (b) Recipients of medical assistance are responsible for all co-payments in this subdivision.~~

**Sec. 27. [256B.0755] PAYMENT REFORM DEMONSTRATION PROJECT FOR SPECIAL PATIENT POPULATIONS.**

**Subdivision 1. Demonstration project.** (a) The commissioner of human services, in consultation with the commissioner of health, shall establish a payment reform demonstration project implementing an alternative payment system for health care providers serving an identified group of patients who are enrolled in a state health care program, and are either high utilizers of high-cost health care services or have characteristics that put them at high risk of becoming high utilizers. The purpose of the demonstration project is to implement and evaluate methods of reducing hospitalizations, emergency room use, high-cost medications and specialty services, admissions to nursing facilities, or use of long-term home and community-based services, in order to reduce the total cost of care and services for the patients.

(b) The commissioner shall give the highest priority to projects that will serve patients who have chronic medical conditions or complex medical needs that are complicated by a physical disability, serious mental illness, or serious socioeconomic factors such as poverty, homelessness, or language or cultural barriers. The commissioner shall also give the highest priority to providers or groups of providers who have the highest concentrations of patients with these characteristics.

(c) The commissioner must implement this payment reform demonstration project in a manner consistent with the payment reform initiative provided in sections 62U.02 to 62U.04.

(d) For purposes of this section, "state health care program" means the medical assistance, MinnesotaCare, and general assistance medical care programs.

**Subd. 2. Participation.** (a) The commissioner shall request eligible providers or groups of providers to submit a proposal to participate in the demonstration project by September 1, 2009. The providers who are interested in participating shall negotiate with the commissioner to determine:

(1) the identified group of patients who are to be enrolled in the program;

(2) the services that are to be included in the total cost of care calculation;

(3) the methodology for calculating the total cost of care, which may take into consideration the impact on costs to other state or local government programs including, but not limited to, social services and income maintenance programs;

(4) the time period to be covered under the bid;

(5) the implementation of a risk adjustment mechanism to adjust for factors that are beyond the control of the provider including nonclinical factors that will affect the cost or outcomes of treatment;

(6) the payment reforms and payment methods to be used under the project, which may include but are not limited to adjustments in fee-for-service payments, payment of care coordination fees, payments for start-up and implementation costs to be recovered or repaid later in the project, payments adjusted based on a provider's proportion of patients who are enrolled in state health care programs; payments adjusted for the clinical or socioeconomic complexity of the patients served, payment incentives tied to use of inpatient and emergency room services, and periodic settle-up adjustments;

(7) methods of sharing financial risk and benefit between the commissioner and the provider or groups of providers, which may include but are not limited to stop-loss arrangements to cover high-cost outlier cases or costs that are beyond the control of the provider, and risk-sharing and benefit-sharing corridors; and



(8) performance and outcome benchmarks to be used to measure performance, achievement of cost-savings targets, and quality of care provided.

(b) A provider or group of providers may submit a proposal for a demonstration project in partnership with a health maintenance organization or county-based purchasing plan for the purposes of sharing risk, claims processing, or administration of the project, or to extend participation in the project to persons who are enrolled in prepaid health care programs.

Subd. 3. **Total cost of care agreement.** Based on negotiations, the commissioner must enter into an agreement with interested and eligible providers or groups of providers to implement projects that are designed to reduce the total cost of care for the identified patients. To the extent possible, the projects shall begin implementation on January 1, 2010, or upon federal approval, whichever is later.

Subd. 4. **Eligibility.** To be eligible to participate, providers or groups of providers must meet certification standards for health care homes established by the Department of Health and the Department of Human Services under section 256B.0751.

Subd. 5. **Alternative payments.** The commissioner shall seek all federal waivers and approvals necessary to implement this section and to obtain federal matching funds. To the extent authorized by federal law, the commissioner may waive existing fee-for-service payment rates, provider contract or performance requirements, consumer incentive policies, or other requirements in statute or rule in order to allow the providers or groups of providers to utilize alternative payment and financing methods that will appropriately fund necessary and cost-effective primary care and care coordination services; establish appropriate incentives for prevention, health promotion, and care coordination; and mitigate financial harm to participating providers caused by the successful reduction in preventable hospitalization, emergency room use, and other costly services.

Subd. 6. **Cost neutrality.** The total cost, including administrative costs, of this demonstration project must not exceed the costs that would otherwise be incurred by the state had services to the state health care program enrollees participating in the demonstration project been provided, as applicable for the enrollee, under fee-for-service or through managed care or county-based purchasing plans.

Sec. 28. Minnesota Statutes 2008, section 256B.08, is amended by adding a subdivision to read:

Subd. 4. **Data from Social Security.** The commissioner shall accept data from the Social Security Administration in accordance with United States Code, title 42, section 1396U-5(a).

**EFFECTIVE DATE.** This section is effective January 1, 2010.

Sec. 29. Minnesota Statutes 2008, section 256B.15, subdivision 1, is amended to read:

Subdivision 1. **Policy and applicability.** (a) It is the policy of this state that individuals or couples, either or both of whom participate in the medical assistance program, use their own assets to pay their share of the total cost of their care during or after their enrollment in the program according to applicable federal law and the laws of this state. The following provisions apply:

(1) subdivisions 1c to 1k shall not apply to claims arising under this section which are presented under section 525.313;

(2) the provisions of subdivisions 1c to 1k expanding the interests included in an estate for purposes of recovery under this section give effect to the provisions of United States Code, title 42, section 1396p, governing recoveries, but do not give rise to any express or implied liens in favor of any other parties not named in these provisions;

(3) the continuation of a recipient's life estate or joint tenancy interest in real property after the recipient's death for the purpose of recovering medical assistance under this section modifies common law principles holding that these interests terminate on the death of the holder;

(4) all laws, rules, and regulations governing or involved with a recovery of medical assistance shall be liberally construed to accomplish their intended purposes;

(5) a deceased recipient's life estate and joint tenancy interests continued under this section shall be owned by the remaindermen or surviving joint tenants as their interests may appear on the date of the recipient's death. They shall not be merged into the remainder interest or the interests of the surviving joint tenants by reason of ownership. They shall be subject to the provisions of this section. Any conveyance, transfer, sale, assignment, or encumbrance by a remainderman, a surviving joint tenant, or their heirs, successors, and assigns shall be deemed to include all of their interest in the deceased recipient's life estate or joint tenancy interest continued under this section; and

(6) the provisions of subdivisions 1c to 1k continuing a recipient's joint tenancy interests in real property after the recipient's death do not apply to a homestead owned of record, on the date the recipient dies, by the recipient and the recipient's spouse as joint tenants with a right of survivorship. Homestead means the real property occupied by the surviving joint tenant spouse as their sole residence on the date the recipient dies and classified and taxed to the recipient and surviving joint tenant spouse as homestead property for property tax purposes in the calendar year in which the recipient dies. For purposes of this exemption, real property the recipient and their surviving joint tenant spouse purchase solely with the proceeds from the sale of their prior homestead, own of record as joint tenants, and qualify as homestead property under section 273.124 in the calendar year in which the recipient dies and prior to the recipient's death shall be deemed to be real property classified and taxed to the recipient and their surviving joint tenant spouse as homestead property in the calendar year in which the recipient dies. The surviving spouse, or any person with personal knowledge of the facts, may provide an affidavit describing the homestead property affected by this clause and stating facts showing compliance with this clause. The affidavit shall be prima facie evidence of the facts it states.

(b) For purposes of this section, "medical assistance" includes the medical assistance program under this chapter and the general assistance medical care program under chapter 256D and alternative care for nonmedical assistance recipients under section 256B.0913.

(c) For purposes of this section, beginning January 1, 2010, "medical assistance" does not include Medicare cost-sharing benefits in accordance with United States Code, title 42, section 1396p.

~~(d)~~ (d) All provisions in this subdivision, and subdivisions 1d, 1f, 1g, 1h, 1i, and 1j, related to the continuation of a recipient's life estate or joint tenancy interests in real property after the recipient's death for the purpose of recovering medical assistance, are effective only for life estates and joint tenancy interests established on or after August 1, 2003. For purposes of this paragraph, medical assistance does not include alternative care.

Sec. 30. Minnesota Statutes 2008, section 256B.15, subdivision 1a, is amended to read:

Subd. 1a. **Estates subject to claims.** (a) If a person receives any medical assistance hereunder, on the person's death, if single, or on the death of the survivor of a married couple, either or both of whom received medical assistance, or as otherwise provided for in this section, the total amount paid for medical assistance rendered for the person and spouse shall be filed as a claim against the estate of the person or the estate of the surviving spouse in the court having jurisdiction to probate the estate or to issue a decree of descent according to sections 525.31 to 525.313.

(b) For the purposes of this section, the person's estate must consist of:

(1) the person's probate estate;

(2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death;

(3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6-301 to 524.6-311 at the time of the person's death, to the extent the interests or proceeds of those interests become part of the probate estate under section 524.6-307;

(4) all of the person's interests in joint accounts, multiple-party accounts, and pay-on-death accounts, brokerage accounts, investment accounts, or the proceeds of those accounts, as provided under sections 524.6-201 to 524.6-214 at the time of the person's death to the extent the interests become part of the probate estate under section 524.6-207; and

(5) assets conveyed to a survivor, heir, or assign of the person through survivorship, living trust, or other arrangements.

(c) For the purpose of this section and recovery in a surviving spouse's estate for medical assistance paid for a predeceased spouse, the estate must consist of all of the legal title and interests the deceased individual's predeceased spouse had in jointly owned or marital property at the time of the spouse's death, as defined in subdivision 2b, and the proceeds of those interests, that passed to the deceased individual or another individual, a survivor, an heir, or an assign of the predeceased spouse through a joint tenancy, tenancy in common, survivorship, life estate, living trust, or other arrangement. A deceased recipient who, at death, owned the property jointly with the surviving spouse shall have an interest in the entire property.

(d) For the purpose of recovery in a single person's estate or the estate of a survivor of a married couple, "other arrangement" includes any other means by which title to all or any part of the jointly owned or marital property or interest passed from the predeceased spouse to another including, but not limited to, transfers between spouses which are permitted, prohibited, or penalized for purposes of medical assistance.

(e) A claim shall be filed if medical assistance was rendered for either or both persons under one of the following circumstances:

~~(a)~~ (1) the person was over 55 years of age, and received services under this chapter;

~~(b)~~ (2) the person resided in a medical institution for six months or longer, received services under this chapter, and, at the time of institutionalization or application for medical assistance, whichever is later, the person could not have reasonably been expected to be discharged and returned home, as certified in writing by the person's treating physician. For purposes of this section only, a "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with developmental disabilities, nursing facility, or inpatient hospital; or

~~(c)~~ (3) the person received general assistance medical care services under chapter 256D.

(f) The claim shall be considered an expense of the last illness of the decedent for the purpose of section 524.3-805. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section must be a creditor under section 524.6-307. Any statute of limitations that purports to limit any county agency or the state agency, or both, to recover for medical assistance granted hereunder shall not apply to any claim made hereunder for reimbursement for any medical assistance granted hereunder. Notice of the claim shall be given to all heirs and devisees of the decedent whose identity can be ascertained with reasonable diligence. The notice must include procedures and instructions for making an application for a hardship waiver under subdivision 5; time frames for

submitting an application and determination; and information regarding appeal rights and procedures. Counties are entitled to one-half of the nonfederal share of medical assistance collections from estates that are directly attributable to county effort. Counties are entitled to ten percent of the collections for alternative care directly attributable to county effort.

Sec. 31. Minnesota Statutes 2008, section 256B.15, subdivision 1h, is amended to read:

Subd. 1h. **Estates of specific persons receiving medical assistance.** (a) For purposes of this section, paragraphs (b) to ~~(k)~~ (j) apply if a person received medical assistance for which a claim may be filed under this section and died single, or the surviving spouse of the couple and was not survived by any of the persons described in subdivisions 3 and 4.

~~(b)~~ For purposes of this section, the person's estate consists of: ~~(1) the person's probate estate; (2) all of the person's interests or proceeds of those interests in real property the person owned as a life tenant or as a joint tenant with a right of survivorship at the time of the person's death; (3) all of the person's interests or proceeds of those interests in securities the person owned in beneficiary form as provided under sections 524.6 301 to 524.6 311 at the time of the person's death, to the extent they become part of the probate estate under section 524.6 307; (4) all of the person's interests in joint accounts, multiple party accounts, and pay on death accounts, or the proceeds of those accounts, as provided under sections 524.6 201 to 524.6 214 at the time of the person's death to the extent they become part of the probate estate under section 524.6 207; and (5) the person's legal title or interest at the time of the person's death in real property transferred under a transfer on death deed under section 507.071, or in the proceeds from the subsequent sale of the person's interest in the real property. Notwithstanding any law or rule to the contrary, a state or county agency with a claim under this section shall be a creditor under section 524.6 307.~~

~~(c)~~ (b) Notwithstanding any law or rule to the contrary, the person's life estate or joint tenancy interest in real property not subject to a medical assistance lien under sections 514.980 to 514.985 on the date of the person's death shall not end upon the person's death and shall continue as provided in this subdivision. The life estate in the person's estate shall be that portion of the interest in the real property subject to the life estate that is equal to the life estate percentage factor for the life estate as listed in the Life Estate Mortality Table of the health care program's manual for a person who was the age of the medical assistance recipient on the date of the person's death. The joint tenancy interest in real property in the estate shall be equal to the fractional interest the person would have owned in the jointly held interest in the property had they and the other owners held title to the property as tenants in common on the date the person died.

~~(d)~~ (c) The court upon its own motion, or upon motion by the personal representative or any interested party, may enter an order directing the remaindermen or surviving joint tenants and their spouses, if any, to sign all documents, take all actions, and otherwise fully cooperate with the personal representative and the court to liquidate the decedent's life estate or joint tenancy interests in the estate and deliver the cash or the proceeds of those interests to the personal representative and provide for any legal and equitable sanctions as the court deems appropriate to enforce and carry out the order, including an award of reasonable attorney fees.

~~(e)~~ (d) The personal representative may make, execute, and deliver any conveyances or other documents necessary to convey the decedent's life estate or joint tenancy interest in the estate that are necessary to liquidate and reduce to cash the decedent's interest or for any other purposes.

~~(f)~~ (e) Subject to administration, all costs, including reasonable attorney fees, directly and immediately related to liquidating the decedent's life estate or joint tenancy interest in the decedent's estate, shall be paid from the gross proceeds of the liquidation allocable to the decedent's interest and the net proceeds shall be turned over to the personal representative and applied to payment of the claim presented under this section.

~~(g)~~ (f) The personal representative shall bring a motion in the district court in which the estate is being probated to compel the remaindermen or surviving joint tenants to account for and deliver to the personal representative all or any part of the proceeds of any sale, mortgage, transfer, conveyance, or any disposition of real property allocable to the decedent's life estate or joint tenancy interest in the decedent's estate, and do everything necessary to liquidate

and reduce to cash the decedent's interest and turn the proceeds of the sale or other disposition over to the personal representative. The court may grant any legal or equitable relief including, but not limited to, ordering a partition of real estate under chapter 558 necessary to make the value of the decedent's life estate or joint tenancy interest available to the estate for payment of a claim under this section.

~~(h)~~ (g) Subject to administration, the personal representative shall use all of the cash or proceeds of interests to pay an allowable claim under this section. The remaindermen or surviving joint tenants and their spouses, if any, may enter into a written agreement with the personal representative or the claimant to settle and satisfy obligations imposed at any time before or after a claim is filed.

~~(i)~~ (h) The personal representative may, at their discretion, provide any or all of the other owners, remaindermen, or surviving joint tenants with an affidavit terminating the decedent's estate's interest in real property the decedent owned as a life tenant or as a joint tenant with others, if the personal representative determines in good faith that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section, or if the personal representative has filed an affidavit with the court that the estate has other assets sufficient to pay a claim, as presented, or if there is a written agreement under paragraph ~~(h)~~ (g), or if the claim, as allowed, has been paid in full or to the full extent of the assets the estate has available to pay it. The affidavit may be recorded in the office of the county recorder or filed in the Office of the Registrar of Titles for the county in which the real property is located. Except as provided in section 514.981, subdivision 6, when recorded or filed, the affidavit shall terminate the decedent's interest in real estate the decedent owned as a life tenant or a joint tenant with others. The affidavit shall:

- (1) be signed by the personal representative;
- (2) identify the decedent and the interest being terminated;
- (3) give recording information sufficient to identify the instrument that created the interest in real property being terminated;
- (4) legally describe the affected real property;
- (5) state that the personal representative has determined that neither the decedent nor any of the decedent's predeceased spouses received any medical assistance for which a claim could be filed under this section;
- (6) state that the decedent's estate has other assets sufficient to pay the claim, as presented, or that there is a written agreement between the personal representative and the claimant and the other owners or remaindermen or other joint tenants to satisfy the obligations imposed under this subdivision; and
- (7) state that the affidavit is being given to terminate the estate's interest under this subdivision, and any other contents as may be appropriate.

The recorder or registrar of titles shall accept the affidavit for recording or filing. The affidavit shall be effective as provided in this section and shall constitute notice even if it does not include recording information sufficient to identify the instrument creating the interest it terminates. The affidavit shall be conclusive evidence of the stated facts.

~~(j)~~ (i) The holder of a lien arising under subdivision 1c shall release the lien at the holder's expense against an interest terminated under paragraph ~~(h)~~ (g) to the extent of the termination.

~~(k)~~ (j) If a lien arising under subdivision 1c is not released under paragraph ~~(j)~~ (i), prior to closing the estate, the personal representative shall deed the interest subject to the lien to the remaindermen or surviving joint tenants as their interests may appear. Upon recording or filing, the deed shall work a merger of the recipient's life estate or joint tenancy interest, subject to the lien, into the remainder interest or interest the decedent and others owned jointly. The lien shall attach to and run with the property to the extent of the decedent's interest at the time of the decedent's death.

Sec. 32. Minnesota Statutes 2008, section 256B.15, subdivision 2, is amended to read:

Subd. 2. **Limitations on claims.** The claim shall include only the total amount of medical assistance rendered after age 55 or during a period of institutionalization described in subdivision 1a, ~~clause (b) paragraph (e)~~, and the total amount of general assistance medical care rendered, and shall not include interest. Claims that have been allowed but not paid shall bear interest according to section 524.3-806, paragraph (d). A claim against the estate of a surviving spouse who did not receive medical assistance, for medical assistance rendered for the predeceased spouse, shall be payable from the full value of all of the predeceased spouse's assets and interests which are part of the surviving spouse's estate under subdivisions 1a and 2b. Recovery of medical assistance expenses in the nonrecipient surviving spouse's estate is limited to the value of the assets of the estate that were marital property or jointly owned property at any time during the marriage. The claim is not payable from the value of assets or proceeds of assets in the estate attributable to a predeceased spouse whom the individual married after the death of the predeceased recipient spouse for whom the claim is filed or from assets and the proceeds of assets in the estate which the nonrecipient decedent spouse acquired with assets which were not marital property or jointly owned property after the death of the predeceased recipient spouse. Claims for alternative care shall be net of all premiums paid under section 256B.0913, subdivision 12, on or after July 1, 2003, and shall be limited to services provided on or after July 1, 2003. Claims against marital property shall be limited to claims against recipients who died on or after July 1, 2009.

Sec. 33. Minnesota Statutes 2008, section 256B.15, is amended by adding a subdivision to read:

Subd. 2b. **Controlling provisions.** (a) For purposes of this subdivision and subdivisions 1a and 2, paragraphs (b) to (d) apply.

(b) At the time of death of a recipient spouse and solely for purpose of recovery of medical assistance benefits received, a predeceased recipient spouse shall have a legal title or interest in the undivided whole of all of the property which the recipient and the recipient's surviving spouse owned jointly or which was marital property at any time during their marriage regardless of the form of ownership and regardless of whether it was owned or titled in the names of one or both the recipient and the recipient's spouse. Title and interest in the property of a predeceased recipient spouse shall not end or extinguish upon the person's death and shall continue for the purpose of allowing recovery of medical assistance in the estate of the surviving spouse. Upon the death of the predeceased recipient spouse, title and interest in the predeceased spouse's property shall vest in the surviving spouse by operation of law and without the necessity for any probate or decree of descent proceedings and shall continue to exist after the death of the predeceased spouse and the surviving spouse to permit recovery of medical assistance. The recipient spouse and the surviving spouse of a deceased recipient spouse shall not encumber, disclaim, transfer, alienate, hypothecate, or otherwise divest themselves of these interests before or upon death.

(c) For purposes of this section, "marital property" includes any and all real or personal property of any kind or interests in such property the predeceased recipient spouse and their spouse, or either of them, owned at the time of their marriage to each other or acquired during their marriage regardless of whether it was owned or titled in the names of one or both of them. If either or both spouses of a married couple received medical assistance, all property owned during the marriage or which either or both spouses acquired during their marriage shall be presumed to be marital property for purposes of recovering medical assistance unless there is clear and convincing evidence to the contrary.

(d) The agency responsible for the claim for medical assistance for a recipient spouse may, at its discretion, release specific real and personal property from the provisions of this section. The release shall extinguish the interest created under paragraph (b) in the land it describes upon filing or recording. The release need not be attested, certified, or acknowledged as a condition of filing or recording and shall be filed or recorded in the office of the county recorder or registrar of titles, as appropriate, in the county where the real property is located. The party to whom the release is given shall be responsible for paying all fees and costs necessary to record and file the

release. If the property described in the release is registered property, the registrar of titles shall accept it for recording and shall record it on the certificate of title for each parcel of property described in the release. If the property described in the release is abstract property, the recorder shall accept it for filing and file it in the county's grantor-grantee indexes and any tract index the county maintains for each parcel of property described in the release.

Sec. 34. Minnesota Statutes 2008, section 256B.15, is amended by adding a subdivision to read:

Subd. 9. **Commissioner's intervention.** The commissioner shall be permitted to intervene as a party in any proceeding involving recovery of medical assistance upon filing a notice of intervention and serving such notice on the other parties.

Sec. 35. Minnesota Statutes 2008, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section and county-based purchasing plan's payment rate under section 256B.692 for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23. ~~A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.~~

~~(d)(4)~~ Effective for services rendered on or after January 1, 2009, the commissioner shall withhold three percent of managed care plan payments under this section and county-based purchasing plan payments under section 256B.692 for the prepaid medical assistance and general assistance medical care programs. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

~~(2) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph.~~—The return of the withhold under this paragraph is not subject to the requirements of paragraph (c).

(e) Effective for services rendered on or after January 1, 2010, the commissioner shall include as part of the performance targets described in paragraph (a) a reduction in the health plan's emergency room utilization rate for state health care program enrollees by a measurable rate of five percent from the plan's utilization rate for state health care program enrollees for the previous calendar year.

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 withhold described in this paragraph shall continue for each consecutive contract period until the health plan's emergency room utilization rate for state health care program enrollees is reduced by 25 percent of the health plan's emergency room utilization rate for state health care program enrollees for calendar year 2008.

(f) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

Sec. 36. Minnesota Statutes 2008, section 256B.69, subdivision 5c, is amended to read:

Subd. 5c. **Medical education and research fund.** (a) Except as provided in paragraph (c), the commissioner of human services shall transfer each year to the medical education and research fund established under section 62J.692, the following:

(1) an amount equal to the reduction in the prepaid medical assistance and prepaid general assistance medical care payments as specified in this clause. Until January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments and after the regional rate adjustments under section 256B.69, subdivision 5b, is reduced 6.3 percent for Hennepin County, two percent for the remaining metropolitan counties, and no reduction for nonmetropolitan Minnesota counties; and after January 1, 2002, the county medical assistance and general assistance medical care capitation base rate prior to plan specific adjustments is reduced 6.3 percent for Hennepin County, two percent for the remaining metropolitan counties, and 1.6 percent for nonmetropolitan Minnesota counties. Nursing facility and elderly waiver payments and demonstration project payments operating under subdivision 23 are excluded from this reduction. The amount calculated under this clause shall not be adjusted for periods already paid due to subsequent changes to the capitation payments;

(2) beginning July 1, 2003, ~~\$2,157,000~~ \$4,314,000 from the capitation rates paid under this section ~~plus any federal matching funds on this amount;~~

(3) beginning July 1, 2002, an additional \$12,700,000 from the capitation rates paid under this section; and

(4) beginning July 1, 2003, an additional \$4,700,000 from the capitation rates paid under this section.

(b) This subdivision shall be effective upon approval of a federal waiver which allows federal financial participation in the medical education and research fund. Effective July 1, 2009, and thereafter, the transfers required by paragraph (a), clauses (1) to (4), shall not exceed the total amount transferred for fiscal year 2009. Any excess shall first reduce the amounts otherwise required to be transferred under paragraph (a), clauses (2), (3), and (4). Any excess following this reduction shall proportionally reduce the transfers under paragraph (a), clause (1).

(c) Effective July 1, 2003, the amount reduced from the prepaid general assistance medical care payments under paragraph (a), clause (1), shall be transferred to the general fund.

(d) Beginning July 1, 2009, of the amounts in paragraph (a), the commissioner shall transfer \$21,714,000 each fiscal year to the medical education and research fund. The balance of the transfers under paragraph (a) shall be transferred to the medical education and research fund no earlier than July 1 of the following fiscal year.



Sec. 37. Minnesota Statutes 2008, section 256B.69, subdivision 5f, is amended to read:

Subd. 5f. **Capitation rates.** (a) Beginning July 1, 2002, the capitation rates paid under this section are increased by \$12,700,000 per year. Beginning July 1, 2003, the capitation rates paid under this section are increased by \$4,700,000 per year.

(b) Beginning July 1, 2009, the capitation rates paid under this section are increased each year by the lesser of \$21,714,000 or an amount equal to the difference between the estimated value of the reductions described in subdivision 5c, paragraph (a), clause (1), and the amount of the limit described in subdivision 5c, paragraph (b).

Sec. 38. **[256B.695] PAYMENT FOR BASIC CARE SERVICES.**

Effective service date July 1, 2009, total payments for basic care services, except prescription drugs, medical supplies, prosthetics, lab, radiology, medical transportation, and services subject to or specifically exempted from section 256B.76, subdivision 1, paragraph (c), shall be reduced by 3.0 percent, prior to third-party liability. Payments made to managed care and county-based purchasing plans shall be reduced for services provided on or after January 1, 2010, to reflect this reduction.

Sec. 39. Minnesota Statutes 2008, section 256B.76, subdivision 1, is amended to read:

Subdivision 1. **Physician reimbursement.** (a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992; and

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992.

(b) Effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services. The increases in this paragraph shall be implemented January 1, 2000, for managed care.

(c) Effective for services rendered on or after July 1, 2009, payment rates for physician and professional services shall be reduced by three percent over the rates in effect on June 30, 2009, except for office or other outpatient services (procedure codes 99201 to 99215) and preventive medicine services (procedure codes 99381 to 99412) billed by the following primary care specialties: general practitioner, internal medicine, pediatrics, geriatric nurse practitioner, pediatric nurse practitioner, family practice nurse practitioner, adult nurse practitioner, geriatrics, and family practice. The commissioner, effective January 1, 2010, shall reduce capitation rates paid to managed care and county-based purchasing plans under sections 256B.69 and 256B.692 to reflect this payment reduction.

Sec. 40. Minnesota Statutes 2008, section 256B.76, subdivision 4, is amended to read:

Subd. 4. **Critical access dental providers.** Effective for dental services rendered on or after January 1, 2002, the commissioner shall increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. For dental services rendered on or after July 1, 2007, the commissioner shall increase reimbursement by 30 percent above the reimbursement rate that would otherwise be paid to the critical access dental provider. The commissioner shall pay the health plan companies in amounts sufficient to reflect increased reimbursements to critical access dental providers as approved by the commissioner. In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review:

(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;

(2) the level of services provided by the dentist or dental clinic to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage; and

(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within the service area.

In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area. The commissioner shall administer this subdivision within the limits of available appropriations.

Sec. 41. Minnesota Statutes 2008, section 256B.76, is amended by adding a subdivision to read:

Subd. 4a. **Designation and termination of critical access dental providers.** (a) The commissioner shall not designate an individual dentist or clinic as a critical access dental provider under subdivision 4 or section 256L.11, subdivision 7, when the owner or any dentist employed by or under contract with the practice:

(1) has been subject to a corrective or disciplinary action by the Minnesota Board of Dentistry within the past five years or is currently subject to a corrective or disciplinary action by the board. Designation shall not be made until the provider is no longer subject to a corrective or disciplinary action;

(2) does not bill on a clinic-specific location basis;

(3) has been subject, within the past five years, to a postinvestigation action by the commissioner of human services or contracted health plan when investigating services provided to Minnesota health care program enrollees, including administrative sanctions, monetary recovery, referral to state regulatory agency, referral to the state attorney general or county attorney general, or issuance of a warning as specified in Minnesota Rules, parts 9505.2160 to 9505.2245. Designation shall not be considered until the January of the year following documentation that the activity that resulted in postinvestigative action has stopped; or

(4) has not completed the application for critical access dental provider designation, has submitted the application after the due date, provided incorrect information, or has knowingly and willfully submitted a fraudulent designation form.

(b) The commissioner shall terminate a critical access designation of an individual dentist or clinic, if the owner or any dentist employed by or under contract with the practice:

(1) becomes subject to a disciplinary or corrective action by the Minnesota Board of Dentistry. The provider shall not be considered for critical access designation until the January following the year in which the action has ended; or

(2) becomes subject to a postinvestigation action by the commissioner of human services or contracted health plan including administrative sanctions, monetary recovery, referral to state regulatory agency, referral to the state attorney general or county attorney general, or issuance of a warning as specified in Minnesota Rules, parts 9505.2160 to 9505.2245. Designation shall not be considered until the January of the year following documentation that the activity that resulted in postinvestigative action has stopped.

(c) Any termination is retroactive to the date of the:

(1) postinvestigative action; or

(2) disciplinary or corrective action by the Minnesota Board of Dentistry.

(d) A provider who has been terminated or not designated may appeal only through the contested hearing process as defined in section 14.02, subdivision 3, by filing with the commissioner a written request of appeal. The appeal request must be received by the commissioner no later than 30 days after notification of termination or nondesignation.

(e) The commissioner may make an exception to paragraph (a), clauses (1) and (3), and paragraph (b), if an action taken by the Minnesota Board of Dentistry, commissioner of human services, or contracted health plan is the result of a onetime event by an individual employed or contracted by a group practice.

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

Sec. 42. Minnesota Statutes 2008, section 256D.03, subdivision 4, is amended to read:

Subd. 4. **General assistance medical care; services.** (a)(i) For a person who is eligible under subdivision 3, paragraph (a), clause (2), item (i), general assistance medical care covers, except as provided in paragraph (c):

(1) inpatient hospital services;

(2) outpatient hospital services;

(3) services provided by Medicare certified rehabilitation agencies;

(4) prescription drugs and other products recommended through the process established in section 256B.0625, subdivision 13;

(5) equipment necessary to administer insulin and diagnostic supplies and equipment for diabetics to monitor blood sugar level;

(6) eyeglasses and eye examinations provided by a physician or optometrist;

(7) hearing aids;

(8) prosthetic devices;

(9) laboratory and X-ray services;

- (10) physician's services;
- (11) medical transportation except special transportation;
- (12) chiropractic services as covered under the medical assistance program;
- (13) podiatric services;
- (14) dental services as covered under the medical assistance program;
- (15) mental health services covered under chapter 256B;
- (16) prescribed medications for persons who have been diagnosed as mentally ill as necessary to prevent more restrictive institutionalization;
- (17) medical supplies and equipment, and Medicare premiums, coinsurance and deductible payments;
- (18) medical equipment not specifically listed in this paragraph when the use of the equipment will prevent the need for costlier services that are reimbursable under this subdivision;
- (19) services performed by a certified pediatric nurse practitioner, a certified family nurse practitioner, a certified adult nurse practitioner, a certified obstetric/gynecological nurse practitioner, a certified neonatal nurse practitioner, or a certified geriatric nurse practitioner in independent practice, if (1) the service is otherwise covered under this chapter as a physician service, (2) the service provided on an inpatient basis is not included as part of the cost for inpatient services included in the operating payment rate, and (3) the service is within the scope of practice of the nurse practitioner's license as a registered nurse, as defined in section 148.171;
- (20) services of a certified public health nurse or a registered nurse practicing in a public health nursing clinic that is a department of, or that operates under the direct authority of, a unit of government, if the service is within the scope of practice of the public health nurse's license as a registered nurse, as defined in section 148.171;
- (21) telemedicine consultations, to the extent they are covered under section 256B.0625, subdivision 3b;
- (22) care coordination and patient education services provided by a community health worker according to section 256B.0625, subdivision 49; and
- (23) regardless of the number of employees that an enrolled health care provider may have, sign language interpreter services when provided by an enrolled health care provider during the course of providing a direct, person-to-person covered health care service to an enrolled recipient who has a hearing loss and uses interpreting services.
  - (ii) Effective October 1, 2003, for a person who is eligible under subdivision 3, paragraph (a), clause (2), item (ii), general assistance medical care coverage is limited to inpatient hospital services, including physician services provided during the inpatient hospital stay. A \$1,000 deductible is required for each inpatient hospitalization.
  - (b) Effective August 1, 2005, sex reassignment surgery is not covered under this subdivision.
  - (c) In order to contain costs, the commissioner of human services shall select vendors of medical care who can provide the most economical care consistent with high medical standards and shall where possible contract with organizations on a prepaid capitation basis to provide these services. The commissioner shall consider proposals by counties and vendors for prepaid health plans, competitive bidding programs, block grants, or other vendor payment

mechanisms designed to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. Before implementing prepaid programs in counties with a county operated or affiliated public teaching hospital or a hospital or clinic operated by the University of Minnesota, the commissioner shall consider the risks the prepaid program creates for the hospital and allow the county or hospital the opportunity to participate in the program in a manner that reflects the risk of adverse selection and the nature of the patients served by the hospital, provided the terms of participation in the program are competitive with the terms of other participants considering the nature of the population served. Payment for services provided pursuant to this subdivision shall be as provided to medical assistance vendors of these services under sections 256B.02, subdivision 8, and 256B.0625. For payments made during fiscal year 1990 and later years, the commissioner shall consult with an independent actuary in establishing prepayment rates, but shall retain final control over the rate methodology.

(d) Effective January 1, 2008, drug coverage under general assistance medical care is limited to prescription drugs that:

(i) are covered under the medical assistance program as described in section 256B.0625, subdivisions 13 and 13d; and

(ii) are provided by manufacturers that have fully executed general assistance medical care rebate agreements with the commissioner and comply with the agreements. Prescription drug coverage under general assistance medical care must conform to coverage under the medical assistance program according to section 256B.0625, subdivisions 13 to 13g.

(e) Recipients eligible under subdivision 3, paragraph (a), shall pay the following co-payments for services provided on or after October 1, 2003, and before January 1, 2009:

(1) \$25 for eyeglasses;

(2) \$25 for nonemergency visits to a hospital-based emergency room;

(3) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$12 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness; and

(4) 50 percent coinsurance on restorative dental services.

(f) Recipients eligible under subdivision 3, paragraph (a), shall include the following co-payments for services provided on or after January 1, 2009:

(1) \$25 for nonemergency visits to a hospital-based emergency room; and

(2) \$3 per brand-name drug prescription and \$1 per generic drug prescription, subject to a \$7 per month maximum for prescription drug co-payments. No co-payments shall apply to antipsychotic drugs when used for the treatment of mental illness.

(g) MS 2007 Supp [Expired]

(h) Effective January 1, 2009, co-payments shall be limited to one per day per provider for nonemergency visits to a hospital-based emergency room. Recipients of general assistance medical care are responsible for all co-payments in this subdivision. The general assistance medical care reimbursement to the provider shall be reduced by the amount of the co-payment, except that reimbursement for prescription drugs shall not be reduced once a recipient has reached the \$7 per month maximum for prescription drug co-payments. The provider collects the co-payment from the recipient. Providers may not deny services to recipients who are unable to pay the co-payment.

(i) General assistance medical care reimbursement to fee-for-service providers and payments to managed care plans shall not be increased as a result of the removal of the co-payments effective January 1, 2009.

(j) Any county may, from its own resources, provide medical payments for which state payments are not made.

(k) Chemical dependency services that are reimbursed under chapter 254B must not be reimbursed under general assistance medical care.

(l) The maximum payment for new vendors enrolled in the general assistance medical care program after the base year shall be determined from the average usual and customary charge of the same vendor type enrolled in the base year.

(m) The conditions of payment for services under this subdivision are the same as the conditions specified in rules adopted under chapter 256B governing the medical assistance program, unless otherwise provided by statute or rule.

(n) Inpatient and outpatient payments shall be reduced by five percent, effective July 1, 2003. This reduction is in addition to the five percent reduction effective July 1, 2003, and incorporated by reference in paragraph (l).

(o) Payments for all other health services except inpatient, outpatient, and pharmacy services shall be reduced by five percent, effective July 1, 2003.

(p) Payments to managed care plans shall be reduced by five percent for services provided on or after October 1, 2003.

(q) A hospital receiving a reduced payment as a result of this section may apply the unpaid balance toward satisfaction of the hospital's bad debts.

(r) Fee-for-service payments for nonpreventive visits shall be reduced by \$3 for services provided on or after January 1, 2006. For purposes of this subdivision, a visit means an episode of service which is required because of a recipient's symptoms, diagnosis, or established illness, and which is delivered in an ambulatory setting by a physician or physician ancillary, chiropractor, podiatrist, advance practice nurse, audiologist, optician, or optometrist.

(s) Payments to managed care plans shall not be increased as a result of the removal of the \$3 nonpreventive visit co-payment effective January 1, 2006.

(t) Payments for mental health services added as covered benefits after December 31, 2007, are not subject to the reductions in paragraphs (l), (n), (o), and (p).

(u) In addition to the reductions in paragraphs (k) and (l), effective service date July 1, 2009, total payments for basic care services, except prescription drugs, medical supplies, prosthetics, lab, radiology, medical transportation, and services subject to or specifically exempted from paragraph (v), shall be reduced by 3.0 percent, prior to third-party liability. Payments made to managed care and county-based purchasing plans shall be reduced for services provided on or after January 1, 2010, to reflect this reduction.

(v) Effective for services rendered on or after July 1, 2009, payment rates for physician and professional services shall be reduced by three percent over the rates in effect on June 30, 2009, except for office or other outpatient services (procedure codes 99201 to 99215) and preventive medicine services (procedure codes 99381 to 99412) billed by the following primary care specialties: general practitioner, internal medicine, pediatrics, geriatric nurse practitioner, pediatric nurse practitioner, family practice nurse practitioner, adult nurse practitioner, geriatrics, and family practice. The commissioner, effective January 1, 2010, shall reduce capitation rates paid to managed care and county-based purchasing plans under paragraph (c) to reflect this payment reduction.

Sec. 43. Minnesota Statutes 2008, section 256L.04, subdivision 10a, is amended to read:

Subd. 10a. **Sponsor's income and resources deemed available; documentation.** When determining eligibility for any federal or state benefits under sections 256L.01 to 256L.18, the income and resources of all noncitizens whose sponsor signed an affidavit of support as defined under United States Code, title 8, section 1183a, shall be deemed to include their sponsors' income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules. To be eligible for the program, noncitizens must provide documentation of their immigration status. Beginning July 1, 2010, or upon federal approval, whichever is later, sponsor deeming does not apply to pregnant women and children who are qualified noncitizens, as described in section 256B.06, subdivision 4, paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2010, or upon federal approval, whichever is later. The commissioner shall notify the revisor of statutes when federal approval has been obtained.

Sec. 44. Minnesota Statutes 2008, section 256L.04, is amended by adding a subdivision to read:

Subd. 14. **Presumptive eligibility.** MinnesotaCare is available during a presumptive period of eligibility, for children who appear to meet the income requirements of subdivision 1, on the basis of preliminary information. The presumptive period begins on the first day of the month following the date on which presumptive eligibility is determined by the state or local agency. The agency must provide notice of presumptive eligibility and information on the procedures for completing the eligibility process. The effective date of coverage for children who are determined presumptively eligible is in accordance with section 256L.05, subdivision 3. The presumptive period ends on the earlier of the date of the determination for MinnesotaCare eligibility, or the last day of the month following the month the presumptive eligibility period begins if a complete application with requested verifications is not submitted by that date. Applicants and enrollees who are denied or terminated for failure to complete an application or provide verifications cannot be granted presumptive eligibility again for 12 months.

**EFFECTIVE DATE.** This section is effective January 1, 2010, or upon federal approval, whichever is later.

Sec. 45. Minnesota Statutes 2008, section 256L.05, subdivision 1, is amended to read:

Subdivision 1. **Application assistance and information availability.** (a) Applications and application assistance must be made available at provider offices, local human services agencies, school districts, public and private elementary schools in which 25 percent or more of the students receive free or reduced price lunches, community health offices, Women, Infants and Children (WIC) program sites, Head Start program sites, public housing councils, crisis nurseries, child care centers, early childhood education and preschool program sites, legal aid offices, and libraries. These sites may accept applications and forward the forms to the commissioner or local county human services agencies ~~that choose to participate as an enrollment site~~. Otherwise, applicants may apply directly to the commissioner or to participating local county human services agencies.

(b) Application assistance must be available for applicants choosing to file an online application.

(c) The commissioner and local agencies shall assist enrollees in choosing a managed care organization by:

(1) establishing a Web site to provide information about managed care organizations and to allow online enrollment;

(2) making applications and information on managed care organizations available to applicants and enrollees according to Title VI of the Civil Rights Act and federal regulations adopted under that law, or any guidance from the United States Department of Health and Human Services; and

(3) making benefit educators available to assist applicants in choosing a managed care organization.

Sec. 46. Minnesota Statutes 2008, section 256L.05, is amended by adding a subdivision to read:

**Subd. 1c. Open enrollment and streamlined application and enrollment process.** (a) The commissioner and local agencies working in partnership must develop a streamlined and efficient application and enrollment process for medical assistance and MinnesotaCare enrollees that meets the criteria specified in this subdivision.

(b) The commissioners of human services and education shall provide recommendations to the legislature by January 15, 2010, on the creation of an open enrollment process for medical assistance and MinnesotaCare that is coordinated with the public education system. The recommendations must:

(1) be developed in consultation with medical assistance and MinnesotaCare enrollees and representatives from organizations that advocate on behalf of children and families, low-income persons and minority populations, counties, school administrators and nurses, health plans, and health care providers;

(2) be based on enrollment and renewal procedures best practices, including express lane eligibility as required under subdivision 1d;

(3) simplify the enrollment and renewal processes wherever possible; and

(4) establish a process:

(i) to disseminate information on medical assistance and MinnesotaCare to all children in the public education system, including prekindergarten programs; and

(ii) for the commissioner of human services to enroll children and other household members who are eligible.

The commissioner of human services in coordination with the commissioner of education shall implement an open enrollment process by August 1, 2010, to be effective beginning with the 2010-2011 school year.

(c) The commissioner and local agencies shall develop an online application process for medical assistance and MinnesotaCare.

(d) The commissioner shall develop an application that is easily understandable and does not exceed four pages in length.

(e) The commissioner of human services shall present to the legislature, by January 15, 2010, an implementation plan for the open enrollment period and online application process.

**EFFECTIVE DATE.** This section is effective July 1, 2010, or upon federal approval, which must be requested by the commissioner, whichever is later.

Sec. 47. Minnesota Statutes 2008, section 256L.05, is amended by adding a subdivision to read:

**Subd. 1d. Express lane eligibility.** (a) Children who complete an application for educational benefits and indicate an interest in enrolling in medical assistance or MinnesotaCare on the application form shall have the form considered an application for those programs.

(b) The commissioner of education shall forward electronically the information for families who are eligible for educational benefits to the commissioner of human services as required under section 124D.1115.



(c) The commissioner of human services shall accept the income determination made by the commissioner of education in administering the free and reduced-price school lunch program as proof of income for medical assistance and MinnesotaCare eligibility until renewal. Within 30 days of receipt of information provided by the commissioner of education under paragraph (d), the commissioner of human services shall:

(1) enroll all eligible children in the medical assistance or MinnesotaCare programs; and

(2) provide information about medical assistance and MinnesotaCare to other household members. The date of application for the medical assistance and MinnesotaCare programs is the date on the signed application for educational benefits.

Sec. 48. Minnesota Statutes 2008, section 256L.11, subdivision 1, is amended to read:

Subdivision 1. **Medical assistance rate to be used.** (a) Payment to providers under sections 256L.01 to 256L.11 shall be at the same rates and conditions established for medical assistance, except as provided in subdivisions 2 to 6.

(b) Effective service date July 1, 2009, total payments for basic care services, except prescription drugs, medical supplies, prosthetics, lab, radiology, medical transportation, and services subject to or specifically exempted from paragraph (c), shall be reduced by 3.0 percent, prior to third-party liability. Payments made to managed care and county-based purchasing plans shall be reduced for services provided on or after January 1, 2010, to reflect this reduction.

(c) Effective for services rendered on or after July 1, 2009, payment rates for physician and professional services shall be reduced by three percent over the rates in effect on June 30, 2009, except for office or other outpatient services (procedure codes 99201 to 99215) and preventive medicine services (procedure codes 99381 to 99412) billed by the following primary care specialties: general practitioner, internal medicine, pediatrics, geriatric nurse practitioner, pediatric nurse practitioner, family practice nurse practitioner, adult nurse practitioner, geriatrics, and family practice. The commissioner, effective January 1, 2010, shall reduce capitation rates paid to managed care and county-based purchasing plans under section 256L.12 to reflect this payment reduction.

Sec. 49. Minnesota Statutes 2008, section 256L.11, subdivision 7, is amended to read:

Subd. 7. **Critical access dental providers.** Effective for dental services provided to MinnesotaCare enrollees on or after January 1, ~~2007~~ 2010, the commissioner shall increase payment rates to dentists and dental clinics deemed by the commissioner to be critical access providers under section 256B.76, ~~subdivision 4~~ subdivisions 4 and 4a, by ~~50~~ 30 percent above the payment rate that would otherwise be paid to the provider. The commissioner shall pay the prepaid health plans under contract with the commissioner amounts sufficient to reflect this rate increase. The prepaid health plan must pass this rate increase to providers who have been identified by the commissioner as critical access dental providers under section 256B.76, subdivision 4. The commissioner shall administer this subdivision within the limits of available appropriations.

Sec. 50. Minnesota Statutes 2008, section 256L.12, subdivision 9, is amended to read:

Subd. 9. **Rate setting; performance withholds.** (a) Rates will be prospective, per capita, where possible. The commissioner may allow health plans to arrange for inpatient hospital services on a risk or nonrisk basis. The commissioner shall consult with an independent actuary to determine appropriate rates.

~~(b) For services rendered on or after January 1, 2003, to December 31, 2003, the commissioner shall withhold .5 percent of managed care plan payments under this section pending completion of performance targets. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year if performance targets in the contract are achieved. A managed care plan may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.~~

(e) (b) For services rendered on or after January 1, 2004, the commissioner shall withhold five percent of managed care plan payments and county-based purchasing plan payments under this section pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, such as characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following calendar year if performance targets in the contract are achieved. ~~A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.~~

(c) Effective for services rendered on or after January 1, 2010, the commissioner shall include as part of the performance targets described in paragraph (b) a reduction in the plan's emergency room utilization rate for state health care program enrollees by a measurable rate of five percent from the plan's utilization rate for the previous calendar year.

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 withhold described in this paragraph shall continue for each consecutive contract period until the health plan's emergency room utilization rate for state health care program enrollees is reduced by 25 percent of the health plan's emergency room utilization rate for state health care program enrollees for calendar year 2008.

(d) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this section that is reasonably expected to be returned.

Sec. 51. Minnesota Statutes 2008, section 256L.17, subdivision 3, is amended to read:

Subd. 3. **Documentation.** (a) The commissioner of human services shall require individuals and families, at the time of application or renewal, to indicate on a ~~checkoff~~ form developed by the commissioner whether they satisfy the MinnesotaCare asset requirement.

(b) The commissioner may require individuals and families to provide any information the commissioner determines necessary to verify compliance with the asset requirement, if the commissioner determines that there is reason to believe that an individual or family has assets that exceed the program limit.

Sec. 52. Minnesota Statutes 2008, section 501B.89, is amended by adding a subdivision to read:

Subd. 4. **Annual filing requirement for supplemental needs trusts.** (a) A trustee of a trust under subdivision 3 and United States Code, title 42, section 1396p(d)(4)(A) or (C), shall submit to the commissioner of human services, at the time of a beneficiary's request for medical assistance, the following information about the trust:

(1) a copy of the trust instrument; and

(2) an inventory of the beneficiary's trust account assets and the value of those assets.

(b) A trustee of a trust under subdivision 3 and United States Code, title 42, section 1396p(d)(4)(A) or (C), shall submit an accounting of the beneficiary's trust account to the commissioner of human services at least annually until the trust, or the beneficiary's interest in the trust, terminates. Accountings are due on the anniversary of the execution date of the trust unless another annual date is established by the terms of the trust. The accounting must include the following information for the accounting period:

(1) an inventory of trust assets and the value of those assets at the beginning of the accounting period;

(2) additions to the trust during the accounting period and the source of those additions;

(3) itemized distributions from the trust during the accounting period, including the purpose of the distributions and to whom the distributions were made;

(4) an inventory of trust assets and the value of those assets at the end of the accounting period; and

(5) changes to the trust instrument during the accounting period.

(c) For the purpose of paragraph (b), an accounting period is 12 months unless an accounting period of a different length is permitted by the commissioner.

**EFFECTIVE DATE.** This section is effective for applications for medical assistance and renewals of medical assistance submitted on or after July 1, 2009.

Sec. 53. Minnesota Statutes 2008, section 519.05, is amended to read:

**519.05 LIABILITY OF HUSBAND AND WIFE.**

(a) A spouse is not liable to a creditor for any debts of the other spouse. Where husband and wife are living together, they shall be jointly and severally liable for necessary medical services that have been furnished to either spouse, including any claims arising under section 246.53, 256B.15, 256D.16, or 261.04, and necessary household articles and supplies furnished to and used by the family. Notwithstanding this paragraph, in a proceeding under chapter 518 the court may apportion such debt between the spouses.

(b) Either spouse may close a credit card account or other unsecured consumer line of credit on which both spouses are contractually liable, by giving written notice to the creditor.

Sec. 54. Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended by Laws 2004, chapter 272, article 2, section 2, is amended to read:

Subdivision 1. <b>Total Appropriation</b>		<b>\$3,848,049,000</b>	<b>\$4,135,780,000</b>
	Summary by Fund		
General	3,301,811,000	3,561,055,000	
State Government Special Revenue	534,000	534,000	
Health Care Access	273,723,000	302,272,000	
Federal TANF	270,425,000	270,363,000	
Lottery Cash Flow	1,556,000	1,556,000	

**Federal Contingency Appropriation.** (a) Federal Medicaid funds made available under title IV of the federal Jobs and Growth Tax Relief Reconciliation Act of 2003 are appropriated to the commissioner of human services for use in the state's medical assistance and MinnesotaCare programs. The commissioners of human services and finance shall report to the legislative advisory committee on the additional federal Medicaid matching funds that will be available to the state.

(b) Because of the availability of these funds, the following policies shall become effective:

(1) medical assistance and MinnesotaCare eligibility and local financial participation changes provided for in this act may be implemented prior to September 2, 2003, or may be delayed as necessary to maximize the use of federal funds received under title IV of the Jobs and Growth Tax Relief Reconciliation Act of 2003;

(2) the aggregate cap on the services identified in Minnesota Statutes, section 256L.035, paragraph (a), clause (3), shall be increased from \$2,000 to \$5,000. This increase shall expire at the end of fiscal year 2007. Funds may be transferred from the general fund to the health care access fund as necessary to implement this provision; and

(3) the following payment shifts shall not be implemented:

(i) MFIP payment shift found in subdivision 11;

(ii) the county payment shift found in subdivision 1; and

(iii) the delay in medical assistance and general assistance medical care fee-for-service payments found in subdivision 6.

(c) Notwithstanding section 14, paragraphs (a) and (b) shall expire June 30, 2007.

**Receipts for Systems Projects.** Appropriations and federal receipts for information system projects for MAXIS, PRISM, MMIS, and SSIS must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota office of technology, funded by the legislature, and approved by the commissioner of finance may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

**Gifts.** Notwithstanding Minnesota Statutes, chapter 7, the commissioner may accept on behalf of the state additional funding from sources other than state funds for the purpose of financing the cost of assistance program grants or nongrant administration. All additional funding is appropriated to the commissioner for use as designated by the grantor of funding.

**Systems Continuity.** In the event of disruption of technical systems or computer operations, the commissioner may use available grant appropriations to ensure continuity of payments for maintaining the health, safety, and well-being of clients served by programs administered by the department of human services. Grant funds must be used in a manner consistent with the original intent of the appropriation.

**Nonfederal Share Transfers.** The nonfederal share of activities for which federal administrative reimbursement is appropriated to the commissioner may be transferred to the special revenue fund.

**TANF Funds Appropriated to Other Entities.** Any expenditures from the TANF block grant shall be expended in accordance with the requirements and limitations of part A of title IV of the Social Security Act, as amended, and any other applicable federal requirement or limitation. Prior to any expenditure of these funds, the commissioner shall assure that funds are expended in compliance with the requirements and limitations of federal law and that any reporting requirements of federal law are met. It shall be the responsibility of any entity to which these funds are appropriated to implement a memorandum of understanding with the commissioner that provides the necessary assurance of compliance prior to any expenditure of funds. The commissioner shall receipt TANF funds appropriated to other state agencies and coordinate all related interagency accounting transactions necessary to implement these appropriations. Unexpended TANF funds appropriated to any state, local, or nonprofit entity cancel at the end of the state fiscal year unless appropriating language permits otherwise.

**TANF Funds Transferred to Other Federal Grants.** The commissioner must authorize transfers from TANF to other federal block grants so that funds are available to meet the annual expenditure needs as appropriated. Transfers may be authorized prior to the expenditure year with the agreement of the receiving entity. Transferred funds must be expended in the year for which the funds were appropriated unless appropriation language permits otherwise. In accelerating transfer authorizations, the commissioner must aim to preserve the future potential transfer capacity from TANF to other block grants.

**TANF Maintenance of Effort.** (a) In order to meet the basic maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1, the commissioner may only report nonfederal money expended for allowable activities listed in the following clauses as TANF/MOE expenditures:

(1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;

(2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

(3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;

(4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;

(5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j); and

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671.

(b) The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's TANF/MOE requirements. For the activities listed in paragraph (a), clauses (2) to (6), the commissioner may only report expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) By August 31 of each year, the commissioner shall make a preliminary calculation to determine the likelihood that the state will meet its annual federal work participation requirement under Code of Federal Regulations, title 45, sections 261.21 and 261.23, after adjustment for any caseload reduction credit under Code of Federal Regulations, title 45, section 261.41. If the commissioner determines that the state will meet its federal work participation rate for the federal fiscal year ending that September, the commissioner may reduce the expenditure under paragraph (a), clause (1), to the extent allowed under Code of Federal Regulations, title 45, section 263.1(a)(2).

(d) For fiscal years beginning with state fiscal year 2003, the commissioner shall assure that the maintenance of effort used by the commissioner of finance for the February and November forecasts required under Minnesota Statutes, section 16A.103,

contains expenditures under paragraph (a), clause (1), equal to at least 25 percent of the total required under Code of Federal Regulations, title 45, section 263.1.

(e) If nonfederal expenditures for the programs and purposes listed in paragraph (a) are insufficient to meet the state's TANF/MOE requirements, the commissioner shall recommend additional allowable sources of nonfederal expenditures to the legislature, if the legislature is or will be in session to take action to specify additional sources of nonfederal expenditures for TANF/MOE before a federal penalty is imposed. The commissioner shall otherwise provide notice to the legislative commission on planning and fiscal policy under paragraph (g).

(f) If the commissioner uses authority granted under section 11, or similar authority granted by a subsequent legislature, to meet the state's TANF/MOE requirement in a reporting period, the commissioner shall inform the chairs of the appropriate legislative committees about all transfers made under that authority for this purpose.

(g) If the commissioner determines that nonfederal expenditures under paragraph (a) are insufficient to meet TANF/MOE expenditure requirements, and if the legislature is not or will not be in session to take timely action to avoid a federal penalty, the commissioner may report nonfederal expenditures from other allowable sources as TANF/MOE expenditures after the requirements of this paragraph are met. The commissioner may report nonfederal expenditures in addition to those specified under paragraph (a) as nonfederal TANF/MOE expenditures, but only ten days after the commissioner of finance has first submitted the commissioner's recommendations for additional allowable sources of nonfederal TANF/MOE expenditures to the members of the legislative commission on planning and fiscal policy for their review.

(h) The commissioner of finance shall not incorporate any changes in federal TANF expenditures or nonfederal expenditures for TANF/MOE that may result from reporting additional allowable sources of nonfederal TANF/MOE expenditures under the interim procedures in paragraph (g) into the February or November forecasts required under Minnesota Statutes, section 16A.103, unless the commissioner of finance has approved the additional sources of expenditures under paragraph (g).

(i) Minnesota Statutes, section 256.011, subdivision 3, which requires that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, do not apply if the grants or aids are federal TANF funds.

(j) Notwithstanding section 14, paragraph (a), clauses (1) to (6), and paragraphs (b) to (j) expire June 30, 2007.

**Working Family Credit Expenditures as TANF MOE.** The commissioner may claim as TANF maintenance of effort up to the following amounts of working family credit expenditures for the following fiscal years:

- (1) fiscal year 2004, \$7,013,000;
- (2) fiscal year 2005, \$25,133,000;
- (3) fiscal year 2006, \$6,942,000; and
- (4) fiscal year 2007, \$6,707,000.

**Fiscal Year 2003 Appropriations Carryforward.** Effective the day following final enactment, notwithstanding Minnesota Statutes, section 16A.28, or any other law to the contrary, state agencies and constitutional offices may carry forward unexpended and unencumbered nongrant operating balances from fiscal year 2003 general fund appropriations into fiscal year 2004 to offset general budget reductions.

**Transfer of Grant Balances.** Effective the day following final enactment, the commissioner of human services, with the approval of the commissioner of finance and after notification of the chair of the senate health, human services and corrections budget division and the chair of the house of representatives health and human services finance committee, may transfer unencumbered appropriation balances for the biennium ending June 30, 2003, in fiscal year 2003 among the MFIP, MFIP child care assistance under Minnesota Statutes, section 119B.05, general assistance, general assistance medical care, medical assistance, Minnesota supplemental aid, and group residential housing programs, and the entitlement portion of the chemical dependency consolidated treatment fund, and between fiscal years of the biennium.

**TANF Appropriation Cancellation.** Notwithstanding the provisions of Laws 2000, chapter 488, article 1, section 16, any prior appropriations of TANF funds to the department of trade and economic development or to the job skills partnership board or any transfers of TANF funds from another agency to the department of trade and economic development or to the job skills partnership board are not available until expended, and if unobligated as of June 30, 2003, these appropriations or transfers shall cancel to the TANF fund.

**Shift County Payment.** The commissioner shall make up to 100 percent of the calendar year 2005 payments to counties for developmental disabilities semi-independent living services grants,



developmental disabilities family support grants, and adult mental health grants from fiscal year 2006 appropriations. This is a onetime payment shift. Calendar year 2006 and future payments for these grants are not affected by this shift. This provision expires June 30, 2006.

**Capitation Rate Increase.** Of the health care access fund appropriations to the University of Minnesota in the higher education omnibus appropriation bill, ~~\$2,157,000 in fiscal year 2004 and \$2,157,000 in fiscal year 2005~~ are to be used to increase the capitation payments under for fiscal years beginning July 1, 2003, and thereafter, \$2,157,000 each year shall be transferred to the commissioner for purposes of Minnesota Statutes, section 256B.69. Notwithstanding the provisions of section 14, this provision shall not expire.

Sec. 55. **INCOME METHODOLOGY.**

The commissioner of human services shall study approaches toward adopting a uniform income methodology for families and children under medical assistance and MinnesotaCare. The approaches to be examined by the commissioner must include, but are not limited to: (1) replacing the MinnesotaCare gross income standard with a net income standard based on the medical assistance families with children methodology; and (2) replacing the medical assistance net income standard for families with children with the MinnesotaCare gross income standard. The commissioner must evaluate the impact of each approach on the number of potential MinnesotaCare and medical assistance enrollees who are families and children and on administrative, health care, and other costs to the state. The commissioner shall present findings and recommendations to the legislative committees with jurisdiction over health care by January 15, 2010.

Sec. 56. **ADMINISTRATION OF MINNESOTACARE.**

The commissioner of human services, in cooperation with representatives of county human services agencies, shall develop a plan to administer the MinnesotaCare program. The plan must require county agencies to administer MinnesotaCare in their respective counties under the supervision of the state agency and the commissioner of human services. The plan, to the extent feasible, must incorporate procedures and requirements that are identical to or consistent with those procedures and requirements that apply to county administration of the medical assistance program. The commissioner shall present recommendations to the legislative committees with jurisdiction over health care by January 15, 2010.

Sec. 57. **EXPENDITURE LIMIT.**

For calendar years beginning on or after January 1, 2010, the commissioner of human services shall limit annual expenditures for the critical access dental provider program under Minnesota Statutes, sections 256B.76, subdivisions 4 and 4a, and 256L.11, subdivision 7, to 75 percent of the expenditure level for the calendar year ending December 31, 2008.

Sec. 58. **FEDERAL APPROVAL.**

The commissioner of human services shall resubmit for federal approval the elimination of depreciation for self-employed farmers in determining income eligibility for MinnesotaCare passed in Laws 2007, chapter 147, article 5, section 33.

Sec. 59. **REPEALER.**

Minnesota Statutes 2008, section 256.962, subdivision 7, is repealed.

## ARTICLE 7

## TECHNICAL

Section 1. Minnesota Statutes 2008, section 125A.744, subdivision 3, is amended to read:

Subd. 3. **Implementation.** Consistent with section 256B.0625, subdivision 26, school districts may enroll as medical assistance providers or subcontractors and bill the Department of Human Services under the medical assistance fee for service claims processing system for special education services which are covered services under chapter 256B, which are provided in the school setting for a medical assistance recipient, and for whom the district has secured informed consent consistent with section 13.05, subdivision 4, paragraph (d), and section 256B.77, subdivision 2, paragraph (p), to bill for each type of covered service. School districts shall be reimbursed by the commissioner of human services for the federal share of individual education plan health-related services that qualify for reimbursement by medical assistance, minus up to five percent retained by the commissioner of human services for administrative costs, not to exceed \$350,000 per fiscal year. The commissioner may withhold up to five percent of each payment to a school district. Following the end of each fiscal year, the commissioner shall settle up with each school district in order to ensure that collections from each district for departmental administrative costs are made on a pro rata basis according to federal earnings for these services in each district. A school district is not eligible to enroll as a home care provider or a personal care provider organization for purposes of billing home care services under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 ~~and 256B.0659~~ until the commissioner of human services issues a bulletin instructing county public health nurses on how to assess for the needs of eligible recipients during school hours. To use private duty nursing services or personal care 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.

Sec. 2. Minnesota Statutes 2008, section 144A.46, subdivision 1, is amended to read:

Subdivision 1. **License required.** (a) A home care provider may not operate in the state without a current license issued by the commissioner of health. A home care provider may hold a separate license for each class of home care licensure.

(b) Within ten days after receiving an application for a license, the commissioner shall acknowledge receipt of the application in writing. The acknowledgment must indicate whether the application appears to be complete or whether additional information is required before the application will be considered complete. Within 90 days after receiving a complete application, the commissioner shall either grant or deny the license. If an applicant is not granted or denied a license within 90 days after submitting a complete application, the license must be deemed granted. An applicant whose license has been deemed granted must provide written notice to the commissioner before providing a home care service.

(c) Each application for a home care provider license, or for a renewal of a license, shall be accompanied by a fee to be set by the commissioner under section 144.122.

(d) The commissioner of health, in consultation with the commissioner of human services, shall provide recommendations to the legislature by February 15, 2009, for provider standards for personal care assistant services as described in section ~~256B.0655~~ 256B.0659.

Sec. 3. Minnesota Statutes 2008, section 176.011, subdivision 9, is amended to read:

Subd. 9. **Employee.** "Employee" means any person who performs services for another for hire including the following:

- (1) an alien;
- (2) a minor;

(3) a sheriff, deputy sheriff, police officer, firefighter, county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of a person charged with or suspected of crime;

(4) a person requested or commanded to aid an officer in arresting or retaking a person who has escaped from lawful custody, or in executing legal process, in which cases, for purposes of calculating compensation under this chapter, the daily wage of the person shall be the prevailing wage for similar services performed by paid employees;

(5) a county assessor;

(6) an elected or appointed official of the state, or of a county, city, town, school district, or governmental subdivision in the state. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

(8) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioners of human services and corrections similar to those of officers and employees of the institutions, and whose services have been accepted or contracted for by the commissioner of human services or corrections as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(9) a voluntary uncompensated worker engaged in emergency management as defined in section 12.03, subdivision 4, who is:

(i) registered with the state or any political subdivision of it, according to the procedures set forth in the state or political subdivision emergency operations plan; and

(ii) acting under the direction and control of, and within the scope of duties approved by, the state or political subdivision.

The daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed by paid employees;

(10) a voluntary uncompensated worker participating in a program established by a local social services agency. For purposes of this clause, "local social services agency" means any agency established under section 393.01. In the event of injury or death of the worker, the wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid in the county at the time of the injury or death for similar services performed by paid employees working a normal day and week;

(11) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089. The daily wage of the worker for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(12) a voluntary uncompensated worker in the building and construction industry who renders services for joint labor-management nonprofit community service projects. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(13) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(14) a voluntary uncompensated worker, accepted by the director of the Minnesota Historical Society, rendering services as a volunteer, pursuant to chapter 138. The daily wage of the worker, for the purposes of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(15) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind, and whose services have been accepted or contracted for by the commissioner of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(16) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(17) a worker performing services under section ~~256B.0655~~ 256B.0659 for a recipient in the home of the recipient or in the community under section 256B.0625, subdivision 19a, who is paid from government funds through a fiscal intermediary under section ~~256B.0655, subdivision 7~~ 256B.0659, subdivision 33. For purposes of maintaining workers' compensation insurance, the employer of the worker is as designated in law by the commissioner of the Department of Human Services, notwithstanding any other law to the contrary;

(18) students enrolled in and regularly attending the Medical School of the University of Minnesota in the graduate school program or the postgraduate program. The students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits under this chapter;

(19) a faculty member of the University of Minnesota employed for an academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota;

(20) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(21) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the Department of Administration. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

(22) a voluntary uncompensated worker rendering service directly to the Pollution Control Agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees;

(23) a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees;

(24) a voluntary uncompensated member of the civil air patrol rendering service on the request and under the authority of the state or any of its political subdivisions. The daily wage of the member for the purposes of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(25) a Minnesota Responds Medical Reserve Corps volunteer, as provided in sections 145A.04 and 145A.06, responding at the request of or engaged in training conducted by the commissioner of health. The daily wage of the volunteer for the purposes of calculating compensation payable under this chapter is established in section 145A.06. A person who qualifies under this clause and who may also qualify under another clause of this subdivision shall receive benefits in accordance with this clause.

If it is difficult to determine the daily wage as provided in this subdivision, the trier of fact may determine the wage upon which the compensation is payable.

Sec. 4. Minnesota Statutes 2008, section 245C.03, subdivision 2, is amended to read:

Subd. 2. **Personal care provider organizations.** The commissioner shall conduct background studies on any individual required under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659 to have a background study completed under this chapter.

Sec. 5. Minnesota Statutes 2008, section 245C.04, subdivision 3, is amended to read:

Subd. 3. **Personal care provider organizations.** (a) The commissioner shall conduct a background study of an individual required to be studied under section 245C.03, subdivision 2, at least upon application for initial enrollment under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659.

(b) Organizations required to initiate background studies under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659 for individuals described in section 245C.03, subdivision 2, must submit a completed background study form to the commissioner before those individuals begin a position allowing direct contact with persons served by the organization.

Sec. 6. Minnesota Statutes 2008, section 245C.10, subdivision 3, is amended to read:

Subd. 3. **Personal care provider organizations.** The commissioner shall recover the cost of background studies initiated by a personal care provider organization under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659 through a fee of no more than \$20 per study charged to the organization responsible for submitting the background study form. The fees collected under this subdivision are appropriated to the commissioner for the purpose of conducting background studies.

Sec. 7. Minnesota Statutes 2008, section 256B.04, subdivision 16, is amended to read:

Subd. 16. **Personal care services.** (a) Notwithstanding any contrary language in this paragraph, the commissioner of human services and the commissioner of health shall jointly promulgate rules to be applied to the licensure of personal care services provided under the medical assistance program. The rules shall consider standards for personal care services that are based on the World Institute on Disability's recommendations regarding

personal care services. These rules shall at a minimum consider the standards and requirements adopted by the commissioner of health under section 144A.45, which the commissioner of human services determines are applicable to the provision of personal care services, in addition to other standards or modifications which the commissioner of human services determines are appropriate.

The commissioner of human services shall establish an advisory group including personal care consumers and providers to provide advice regarding which standards or modifications should be adopted. The advisory group membership must include not less than 15 members, of which at least 60 percent must be consumers of personal care services and representatives of recipients with various disabilities and diagnoses and ages. At least 51 percent of the members of the advisory group must be recipients of personal care.

The commissioner of human services may contract with the commissioner of health to enforce the jointly promulgated licensure rules for personal care service providers.

Prior to final promulgation of the joint rule the commissioner of human services shall report preliminary findings along with any comments of the advisory group and a plan for monitoring and enforcement by the Department of Health to the legislature by February 15, 1992.

Limits on the extent of personal care services that may be provided to an individual must be based on the cost-effectiveness of the services in relation to the costs of inpatient hospital care, nursing home care, and other available types of care. The rules must provide, at a minimum:

(1) that agencies be selected to contract with or employ and train staff to provide and supervise the provision of personal care services;

(2) that agencies employ or contract with a qualified applicant that a qualified recipient proposes to the agency as the recipient's choice of assistant;

(3) that agencies bill the medical assistance program for a personal care service by a personal care assistant and supervision by a qualified professional supervising the personal care assistant unless the recipient selects the fiscal agent option under section ~~256B.0655, subdivision 7~~ 256B.0659, subdivision 33;

(4) that agencies establish a grievance mechanism; and

(5) that agencies have a quality assurance program.

(b) The commissioner may waive the requirement for the provision of personal care services through an agency in a particular county, when there are less than two agencies providing services in that county and shall waive the requirement for personal care assistants required to join an agency for the first time during 1993 when personal care services are provided under a relative hardship waiver under Minnesota Statutes 1992, section 256B.0627, subdivision 4, paragraph (b), clause (7), and at least two agencies providing personal care services have refused to employ or contract with the independent personal care assistant.

Sec. 8. Minnesota Statutes 2008, section 256B.055, subdivision 12, is amended to read:

Subd. 12. **Disabled children.** (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and the child requires a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with developmental disabilities, for whom home care is appropriate, provided that the cost to medical assistance under this section is not more than the amount that medical assistance would pay for if the child resides in an institution. After the child is determined to

be eligible under this section, the commissioner shall review the child's disability under United States Code, title 42, section 1382c(a) and level of care defined under this section no more often than annually and may elect, based on the recommendation of health care professionals under contract with the state medical review team, to extend the review of disability and level of care up to a maximum of four years. The commissioner's decision on the frequency of continuing review of disability and level of care is not subject to administrative appeal under section 256.045. The county agency shall send a notice of disability review to the enrollee six months prior to the date the recertification of disability is due. Nothing in this subdivision shall be construed as affecting other redeterminations of medical assistance eligibility under this chapter and annual cost-effective reviews under this section.

(b) For purposes of this subdivision, "hospital" means an institution as defined in section 144.696, subdivision 3, 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and licensed pursuant to sections 144.50 to 144.58. For purposes of this subdivision, a child requires a level of care provided in a hospital if the child is determined by the commissioner to need an extensive array of health services, including mental health services, for an undetermined period of time, whose health condition requires frequent monitoring and treatment by a health care professional or by a person supervised by a health care professional, who would reside in a hospital or require frequent hospitalization if these services were not provided, and the daily care needs are more complex than a nursing facility level of care.

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing and chronic psychosis or severe, ongoing and chronic developmental problems requiring continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse. For purposes of this subdivision, a child requires the level of care provided in a nursing facility if the child is determined by the commissioner to meet the requirements of the preadmission screening assessment document under section 256B.0911 and the home care independent rating document under section ~~256B.0655, subdivision 4, clause (3)~~ 256B.0659, adjusted to address age-appropriate standards for children age 18 and under, pursuant to section ~~256B.0655, subdivision 3~~ 256B.0659.

(d) For purposes of this subdivision, "intermediate care facility for persons with developmental disabilities" or "ICF/MR" means a program licensed to provide services to persons with developmental disabilities under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota Department of Health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with developmental disabilities who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs. For purposes of this subdivision, a child requires a level of care provided in an ICF/MR if the commissioner finds that the child has a developmental disability in accordance with section 256B.092, is in need of a 24-hour plan of care and active treatment similar to persons with developmental disabilities, and there is a reasonable indication that the child will need ICF/MR services.

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner and published in March 1997 as the Minnesota Mental Health Level of Care for Children and Adolescents with Severe Emotional Disorders.

(f) The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the parent or guardian, the child's physician or physicians, and other professionals as requested by the commissioner. The commissioner shall establish a screening team to conduct the level of care determinations according to this subdivision.

(g) If a child meets the conditions in paragraph (b), (c), (d), or (e), the commissioner must assess the case to determine whether:

(1) the child qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance if residing in a medical institution; and

(2) the cost of medical assistance services for the child, if eligible under this subdivision, would not be more than the cost to medical assistance if the child resides in a medical institution to be determined as follows:

(i) for a child who requires a level of care provided in an ICF/MR, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICF's/MR;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

(h) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1, 1996. Children found to be ineligible may not be removed from the program until January 1, 1996.

Sec. 9. Minnesota Statutes 2008, section 256B.0621, subdivision 2, is amended to read:

Subd. 2. **Targeted case management; definitions.** For purposes of subdivisions 3 to 10, the following terms have the meanings given them:

(1) "home care service recipients" means those individuals receiving the following services under sections 256B.0651 to 256B.0656 and 256B.0659: skilled nursing visits, home health aide visits, private duty nursing, personal care assistants, or therapies provided through a home health agency;

(2) "home care targeted case management" means the provision of targeted case management services for the purpose of assisting home care service recipients to gain access to needed services and supports so that they may remain in the community;

(3) "institutions" means hospitals, consistent with Code of Federal Regulations, title 42, section 440.10; regional treatment center inpatient services, consistent with section 245.474; nursing facilities; and intermediate care facilities for persons with developmental disabilities;

(4) "relocation targeted case management" includes the provision of both county targeted case management and public or private vendor service coordination services for the purpose of assisting recipients to gain access to needed services and supports if they choose to move from an institution to the community. Relocation targeted case management may be provided during the lesser of:



(i) the last 180 consecutive days of an eligible recipient's institutional stay; or

(ii) the limits and conditions which apply to federal Medicaid funding for this service; and

(5) "targeted case management" means case management services provided to help recipients gain access to needed medical, social, educational, and other services and supports.

Sec. 10. Minnesota Statutes 2008, section 256B.0652, subdivision 3, is amended to read:

Subd. 3. **Assessment and prior authorization process.** Effective January 1, 1996, for purposes of providing informed choice, coordinating of local planning decisions, and streamlining administrative requirements, the assessment and prior authorization process for persons receiving both home care and home and community-based waived services for persons with developmental disabilities shall meet the requirements of sections 256B.0651 and ~~256B.0653~~ to 256B.0656 and 256B.0659 with the following exceptions:

(a) Upon request for home care services and subsequent assessment by the public health nurse under sections 256B.0651 and ~~256B.0653~~ to 256B.0656 and 256B.0659, the public health nurse shall participate in the screening process, as appropriate, and, if home care services are determined to be necessary, participate in the development of a service plan coordinating the need for home care and home and community-based waived services with the assigned county case manager, the recipient of services, and the recipient's legal representative, if any.

(b) The public health nurse shall give prior authorization for home care services to the extent that home care services are:

(1) medically necessary;

(2) chosen by the recipient and their legal representative, if any, from the array of home care and home and community-based waived services available;

(3) coordinated with other services to be received by the recipient as described in the service plan; and

(4) provided within the county's reimbursement limits for home care and home and community-based waived services for persons with developmental disabilities.

(c) If the public health agency is or may be the provider of home care services to the recipient, the public health agency shall provide the commissioner of human services with a written plan that specifies how the assessment and prior authorization process will be held separate and distinct from the provision of services.

Sec. 11. Minnesota Statutes 2008, section 256B.0657, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) The self-directed supports option is available to a person who:

(1) is a recipient of medical assistance as determined under sections 256B.055, 256B.056, and 256B.057, subdivision 9;

(2) is eligible for personal care assistant services under section ~~256B.0655~~ 256B.0659;

(3) lives in the person's own apartment or home, which is not owned, operated, or controlled by a provider of services not related by blood or marriage;

(4) has the ability to hire, fire, supervise, establish staff compensation for, and manage the individuals providing services, and to choose and obtain items, related services, and supports as described in the participant's plan. If the recipient is not able to carry out these functions but has a legal guardian or parent to carry them out, the guardian or parent may fulfill these functions on behalf of the recipient; and

(5) has not been excluded or disenrolled by the commissioner.

(b) The commissioner may disenroll or exclude recipients, including guardians and parents, under the following circumstances:

(1) recipients who have been restricted by the Primary Care Utilization Review Committee may be excluded for a specified time period;

(2) recipients who exit the self-directed supports option during the recipient's service plan year shall not access the self-directed supports option for the remainder of that service plan year; and

(3) when the department determines that the recipient cannot manage recipient responsibilities under the program.

Sec. 12. Minnesota Statutes 2008, section 256B.0657, subdivision 6, is amended to read:

Subd. 6. **Services covered.** (a) Services covered under the self-directed supports option include:

(1) personal care assistant services under section ~~256B.0655~~ 256B.0659; and

(2) items, related services, and supports, including assistive technology, that increase independence or substitute for human assistance to the extent expenditures would otherwise be used for human assistance.

(b) Items, supports, and related services purchased under this option shall not be considered home care services for the purposes of section 144A.43.

Sec. 13. Minnesota Statutes 2008, section 256B.0657, subdivision 8, is amended to read:

Subd. 8. **Self-directed budget requirements.** The budget for the provision of the self-directed service option shall be equal to the greater of either:

(1) the annual amount of personal care assistant services under section ~~256B.0655~~ 256B.0659 that the recipient has used in the most recent 12-month period; or

(2) the amount determined using the consumer support grant methodology under section 256.476, subdivision 11, except that the budget amount shall include the federal and nonfederal share of the average service costs.

Sec. 14. Minnesota Statutes 2008, section 256B.49, subdivision 17, is amended to read:

Subd. 17. **Cost of services and supports.** (a) The commissioner shall ensure that the average per capita expenditures estimated in any fiscal year for home and community-based waiver recipients does not exceed the average per capita expenditures that would have been made to provide institutional services for recipients in the absence of the waiver.

(b) The commissioner shall implement on January 1, 2002, one or more aggregate, need-based methods for allocating to local agencies the home and community-based waived service resources available to support recipients with disabilities in need of the level of care provided in a nursing facility or a hospital. The commissioner shall allocate resources to single counties and county partnerships in a manner that reflects consideration of:

- (1) an incentive-based payment process for achieving outcomes;
- (2) the need for a state-level risk pool;
- (3) the need for retention of management responsibility at the state agency level; and
- (4) a phase-in strategy as appropriate.

(c) Until the allocation methods described in paragraph (b) are implemented, the annual allowable reimbursement level of home and community-based waiver services shall be the greater of:

(1) the statewide average payment amount which the recipient is assigned under the waiver reimbursement system in place on June 30, 2001, modified by the percentage of any provider rate increase appropriated for home and community-based services; or

(2) an amount approved by the commissioner based on the recipient's extraordinary needs that cannot be met within the current allowable reimbursement level. The increased reimbursement level must be necessary to allow the recipient to be discharged from an institution or to prevent imminent placement in an institution. The additional reimbursement may be used to secure environmental modifications; assistive technology and equipment; and increased costs for supervision, training, and support services necessary to address the recipient's extraordinary needs. The commissioner may approve an increased reimbursement level for up to one year of the recipient's relocation from an institution or up to six months of a determination that a current waiver recipient is at imminent risk of being placed in an institution.

(d) Beginning July 1, 2001, medically necessary private duty nursing services will be authorized under this section as complex and regular care according to sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659. The rate established by the commissioner for registered nurse or licensed practical nurse services under any home and community-based waiver as of January 1, 2001, shall not be reduced.

Sec. 15. Minnesota Statutes 2008, section 256B.501, subdivision 4a, is amended to read:

Subd. 4a. **Inclusion of home care costs in waiver rates.** The commissioner shall adjust the limits of the established average daily reimbursement rates for waived services to include the cost of home care services that may be provided to waived services recipients. This adjustment must be used to maintain or increase services and shall not be used by county agencies for inflation increases for waived services vendors. Home care services referenced in this section are those listed in section 256B.0651, subdivision 2. The average daily reimbursement rates established in accordance with the provisions of this subdivision apply only to the combined average, daily costs of waived and home care services and do not change home care limitations under sections 256B.0651 ~~and 256B.0653~~ to 256B.0656 and 256B.0659. Waivered services recipients receiving home care as of June 30, 1992, shall not have the amount of their services reduced as a result of this section.

Sec. 16. Minnesota Statutes 2008, section 256G.02, subdivision 6, is amended to read:

Subd. 6. **Excluded time.** "Excluded time" means:

(a) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other than an emergency shelter, halfway house, foster home, semi-independent living domicile or services program, residential facility offering care, board and lodging facility or other institution for the hospitalization or care of human beings, as defined in section 144.50, 144A.01, or 245A.02, subdivision 14; maternity home, battered women's shelter, or correctional facility; or any facility based on an emergency hold under sections 253B.05, subdivisions 1 and 2, and 253B.07, subdivision 6;

(b) any period an applicant spends on a placement basis in a training and habilitation program, including a rehabilitation facility or work or employment program as defined in section 268A.01; or receiving personal care assistant services pursuant to section ~~256B.0655, subdivision 2~~ 256B.0659; semi-independent living services provided under section 252.275, and Minnesota Rules, parts 9525.0500 to 9525.0660; day training and habilitation programs and assisted living services; and

(c) any placement for a person with an indeterminate commitment, including independent living.

Sec. 17. Minnesota Statutes 2008, section 256I.05, subdivision 1a, is amended to read:

Subd. 1a. **Supplementary service rates.** (a) Subject to the provisions of section 256I.04, subdivision 3, the county agency may negotiate a payment not to exceed \$426.37 for other services necessary to provide room and board provided by the group residence if the residence is licensed by or registered by the Department of Health, or licensed by the Department of Human Services to provide services in addition to room and board, and if the provider of services is not also concurrently receiving funding for services for a recipient under a home and community-based waiver under title XIX of the Social Security Act; or funding from the medical assistance program under section ~~256B.0655, subdivision 2~~ 256B.0659, for personal care services for residents in the setting; or residing in a setting which receives funding under Minnesota Rules, parts 9535.2000 to 9535.3000. If funding is available for other necessary services through a home and community-based waiver, or personal care services under section ~~256B.0655, subdivision 2~~ 256B.0659, then the GRH rate is limited to the rate set in subdivision 1. Unless otherwise provided in law, in no case may the supplementary service rate exceed \$426.37. The registration and licensure requirement does not apply to establishments which are exempt from state licensure because they are located on Indian reservations and for which the tribe has prescribed health and safety requirements. Service payments under this section may be prohibited under rules to prevent the supplanting of federal funds with state funds. The commissioner shall pursue the feasibility of obtaining the approval of the Secretary of Health and Human Services to provide home and community-based waiver services under title XIX of the Social Security Act for residents who are not eligible for an existing home and community-based waiver due to a primary diagnosis of mental illness or chemical dependency and shall apply for a waiver if it is determined to be cost-effective.

(b) The commissioner is authorized to make cost-neutral transfers from the GRH fund for beds under this section to other funding programs administered by the department after consultation with the county or counties in which the affected beds are located. The commissioner may also make cost-neutral transfers from the GRH fund to county human service agencies for beds permanently removed from the GRH census under a plan submitted by the county agency and approved by the commissioner. The commissioner shall report the amount of any transfers under this provision annually to the legislature.

(c) The provisions of paragraph (b) do not apply to a facility that has its reimbursement rate established under section 256B.431, subdivision 4, paragraph (c).

Sec. 18. Minnesota Statutes 2008, section 256J.45, subdivision 3, is amended to read:

Subd. 3. **Good cause exemptions for not attending orientation.** (a) The county agency shall not impose the sanction under section 256J.46 if it determines that the participant has good cause for failing to attend orientation. Good cause exists when:

(1) appropriate child care is not available;

(2) the participant is ill or injured;

(3) a family member is ill and needs care by the participant that prevents the participant from attending orientation. For a caregiver with a child or adult in the household who meets the disability or medical criteria for home care services under section ~~256B.0655, subdivision 1e~~ 256B.0659, or a home and community-based waiver services program under chapter 256B, or meets the criteria for severe emotional disturbance under section 245.4871,

subdivision 6, or for serious and persistent mental illness under section 245.462, subdivision 20, paragraph (c), good cause also exists when an interruption in the provision of those services occurs which prevents the participant from attending orientation;

(4) the caregiver is unable to secure necessary transportation;

(5) the caregiver is in an emergency situation that prevents orientation attendance;

(6) the orientation conflicts with the caregiver's work, training, or school schedule; or

(7) the caregiver documents other verifiable impediments to orientation attendance beyond the caregiver's control.

(b) Counties must work with clients to provide child care and transportation necessary to ensure a caregiver has every opportunity to attend orientation.

Sec. 19. Minnesota Statutes 2008, section 604A.33, subdivision 1, is amended to read:

Subdivision 1. **Application.** This section applies to residential treatment programs for children or group homes for children licensed under chapter 245A, residential services and programs for juveniles licensed under section 241.021, providers licensed pursuant to sections 144A.01 to 144A.33 or sections 144A.43 to 144A.47, personal care provider organizations under section ~~256B.0655, subdivision 1~~ 256B.0659, providers of day training and habilitation services under sections 252.40 to 252.46, board and lodging facilities licensed under chapter 157, intermediate care facilities for persons with developmental disabilities, and other facilities licensed to provide residential services to persons with developmental disabilities.

Sec. 20. Minnesota Statutes 2008, section 609.232, subdivision 11, is amended to read:

Subd. 11. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651; ~~and 256B.0653~~ to 256B.0656 and 256B.0659; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

Sec. 21. Minnesota Statutes 2008, section 626.5572, subdivision 6, is amended to read:

Subd. 6. **Facility.** (a) "Facility" means a hospital or other entity required to be licensed under sections 144.50 to 144.58; a nursing home required to be licensed to serve adults under section 144A.02; a residential or nonresidential facility required to be licensed to serve adults under sections 245A.01 to 245A.16; a home care provider licensed or required to be licensed under section 144A.46; a hospice provider licensed under sections 144A.75 to 144A.755; or a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, ~~and 256B.0653~~ to 256B.0656, and 256B.0659.

(b) For home care providers and personal care attendants, the term "facility" refers to the provider or person or organization that exclusively offers, provides, or arranges for personal care services, and does not refer to the client's home or other location at which services are rendered.

Sec. 22. Minnesota Statutes 2008, section 626.5572, subdivision 21, is amended to read:

Subd. 21. **Vulnerable adult.** "Vulnerable adult" means any person 18 years of age or older who:

(1) is a resident or inpatient of a facility;

(2) receives services at or from a facility required to be licensed to serve adults under sections 245A.01 to 245A.15, except that a person receiving outpatient services for treatment of chemical dependency or mental illness, or one who is served in the Minnesota sex offender program on a court-hold order for commitment, or is committed as a sexual psychopathic personality or as a sexually dangerous person under chapter 253B, is not considered a vulnerable adult unless the person meets the requirements of clause (4);

(3) receives services from a home care provider required to be licensed under section 144A.46; or from a person or organization that exclusively offers, provides, or arranges for personal care assistant services under the medical assistance program as authorized under sections 256B.04, subdivision 16, 256B.0625, subdivision 19a, 256B.0651, ~~and 256B.0653~~ to 256B.0656, and 256B.0659; or

(4) regardless of residence or whether any type of service is received, possesses a physical or mental infirmity or other physical, mental, or emotional dysfunction:

(i) that impairs the individual's ability to provide adequately for the individual's own care without assistance, including the provision of food, shelter, clothing, health care, or supervision; and

(ii) because of the dysfunction or infirmity and the need for assistance, the individual has an impaired ability to protect the individual from maltreatment.

## ARTICLE 8

### CHEMICAL AND MENTAL HEALTH

Section 1. Minnesota Statutes 2008, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** ~~The county board shall, (a) Prior to admission, except in the case of emergency admission, determine the needed level of care for all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if public funds are used to pay for the services. The county board shall also determine the needed level of care for all children admitted to an acute care hospital for treatment of severe emotional disturbance if public funds other than reimbursement under chapters 256B and 256D are used to pay for the services.~~ (a) Prior to admission, except in the case of emergency admission, determine the needed level of care for all children referred for treatment of severe emotional disturbance in a treatment foster care setting, residential treatment facility, or informally admitted to a regional treatment center shall undergo an assessment to determine the appropriate level of care if public funds are used to pay for the services.

(b) The county board shall determine the appropriate level of care when county-controlled funds are used to pay for the services. When the child is enrolled in a prepaid health program under section 256B.69, the enrolled child's contracted health plan must determine the appropriate level of care. When the child is an Indian tribal member seeking placement through the tribe in a tribally operated or contracted facility, the tribe must determine the appropriate level of care. When more than one entity bears responsibility for coverage, the entities shall coordinate level of care determination activities to the extent possible.

(c) The level of care determination shall determine whether the proposed treatment:

- (1) is necessary;
- (2) is appropriate to the child's individual treatment needs;
- (3) cannot be effectively provided in the child's home; and
- (4) provides a length of stay as short as possible consistent with the individual child's need.

(d) When a level of care determination is conducted, the ~~county board~~ responsible entity may not determine that referral or admission to a treatment foster care setting, or residential treatment facility, or acute care hospital is not appropriate solely because services were not first provided to the child in a less restrictive setting and the child failed to make progress toward or meet treatment goals in the less restrictive setting. The level of care determination must be based on a diagnostic assessment that includes a functional assessment which evaluates family, school, and community living situations; and an assessment of the child's need for care out of the home using a validated tool which assesses a child's functional status and assigns an appropriate level of care. The validated tool must be approved by the commissioner of human services. If a diagnostic assessment including a functional assessment has been completed by a mental health professional within the past 180 days, a new diagnostic assessment need not be completed unless in the opinion of the current treating mental health professional the child's mental health status has changed markedly since the assessment was completed. The child's parent shall be notified if an assessment will not be completed and of the reasons. A copy of the notice shall be placed in the child's file. Recommendations developed as part of the level of care determination process shall include specific community services needed by the child and, if appropriate, the child's family, and shall indicate whether or not these services are available and accessible to the child and family.

During the level of care determination process, the child, child's family, or child's legal representative, as appropriate, must be informed of the child's eligibility for case management services and family community support services and that an individual family community support plan is being developed by the case manager, if assigned.

The level of care determination shall comply with section 260C.212. ~~Wherever possible,~~ The parent shall be consulted in the process, unless clinically ~~inappropriate~~ detrimental to the child.

The level of care determination, and placement decision, and recommendations for mental health services must be documented in the child's record.

~~An alternate review process may be approved by the commissioner if the county board demonstrates that an alternate review process has been established by the county board and the times of review, persons responsible for the review, and review criteria are comparable to the standards in clauses (1) to (4).~~

Sec. 2. Minnesota Statutes 2008, section 254A.02, is amended by adding a subdivision to read:

Subd. 8a. **Placing authority.** "Placing authority" means a county, prepaid health plan, or tribal governing board governed by Minnesota Rules, parts 9530.6600 to 9530.6655.

Sec. 3. Minnesota Statutes 2008, section 254A.16, is amended by adding a subdivision to read:

Subd. 6. **Monitoring.** The commissioner shall gather and placing authorities shall provide information to measure compliance with Minnesota Rules, parts 9530.6600 to 9530.6655. The commissioner shall specify the format for data collection to facilitate tracking, aggregating, and using the information.

Sec. 4. Minnesota Statutes 2008, section 254B.03, subdivision 1, is amended to read:

Subdivision 1. **Local agency duties.** (a) Every local agency shall provide chemical dependency services to persons residing within its jurisdiction who meet criteria established by the commissioner for placement in a chemical dependency residential or nonresidential treatment service. Chemical dependency money must be administered by the local agencies according to law and rules adopted by the commissioner under sections 14.001 to 14.69.

(b) In order to contain costs, ~~the county board shall, with the approval of~~ the commissioner of human services, shall select eligible vendors of chemical dependency services who can provide economical and appropriate treatment. Unless the local agency is a social services department directly administered by a county or human services board, the local agency shall not be an eligible vendor under section 254B.05. The commissioner may approve proposals from county boards to provide services in an economical manner or to control utilization, with safeguards to ensure that necessary services are provided. If a county implements a demonstration or experimental medical services funding plan, the commissioner shall transfer the money as appropriate. ~~If a county selects a vendor located in another state, the county shall ensure that the vendor is in compliance with the rules governing licensure of programs located in the state.~~

(c) A culturally specific vendor that provides assessments under a variance under Minnesota Rules, part 9530.6610, shall be allowed to provide assessment services to persons not covered by the variance.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 254B.03, subdivision 3, is amended to read:

Subd. 3. **Local agencies to pay state for county share.** Local agencies shall pay the state for the county share of the services authorized by the local agency, except when the payment is made according to section 254B.09, subdivision 8.

Sec. 6. Minnesota Statutes 2008, section 254B.03, is amended by adding a subdivision to read:

**Subd. 9. Commissioner to select vendors and set rates.** (a) Effective July 1, 2011, the commissioner shall:

(1) enter into agreements with eligible vendors that:

(i) meet the standards in section 254B.05, subdivision 1;

(ii) have good standing in all applicable licensure; and

(iii) have a current approved provider agreement as a Minnesota health care program provider; and

(2) set rates for services reimbursed under this chapter.

(b) When setting rates, the commissioner shall consider the complexity and the acuity of the problems presented by the client.



(c) When rates set under this section and rates set under section 254B.09, subdivision 8, apply to the same treatment placement, section 254B.09, subdivision 8, supersedes.

Sec. 7. Minnesota Statutes 2008, section 254B.05, subdivision 1, is amended to read:

Subdivision 1. **Licensure required.** Programs licensed by the commissioner are eligible vendors. Hospitals may apply for and receive licenses to be eligible vendors, notwithstanding the provisions of section 245A.03. American Indian programs located on federally recognized tribal lands that provide chemical dependency primary treatment, extended care, transitional residence, or outpatient treatment services, and are licensed by tribal government are eligible vendors. Detoxification programs are not eligible vendors. Programs that are not licensed as a chemical dependency residential or nonresidential treatment program by the commissioner or by tribal government are not eligible vendors. To be eligible for payment under the Consolidated Chemical Dependency Treatment Fund, a vendor of a chemical dependency service must participate in the Drug and Alcohol Abuse Normative Evaluation System and the treatment accountability plan.

Effective January 1, 2000, vendors of room and board are eligible for chemical dependency fund payment if the vendor:

(1) ~~is certified by the county or tribal governing body as having~~ has rules prohibiting residents bringing chemicals into the facility or using chemicals while residing in the facility and provide consequences for infractions of those rules;

(2) has a current contract with a county or tribal governing body;

(3) is determined to meet applicable health and safety requirements;

(4) is not a jail or prison; and

(5) is not concurrently receiving funds under chapter 256I for the recipient.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 8. Minnesota Statutes 2008, section 254B.09, subdivision 2, is amended to read:

Subd. 2. **American Indian agreements.** The commissioner may enter into agreements with federally recognized tribal units to pay for chemical dependency treatment services provided under Laws 1986, chapter 394, sections 8 to 20. The agreements must clarify how the governing body of the tribal unit fulfills local agency responsibilities regarding:

~~(1) selection of eligible vendors under section 254B.03, subdivision 1;~~

~~(2) negotiation of agreements that establish vendor services and rates for programs located on the tribal governing body's reservation;~~

~~(3)~~ (1) the form and manner of invoicing; and

~~(4)~~ (2) provide that only invoices for eligible vendors according to section 254B.05 will be included in invoices sent to the commissioner for payment, to the extent that money allocated under subdivisions 4 and 5 is used.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 9. **[254B.11] MAXIMUM RATES.**

The commissioner shall publish maximum rates for vendors of the consolidated chemical dependency treatment fund by July 1 of each year for implementation the following January 1. Rates for calendar year 2010 must not exceed 185 percent of the average rate on January 1, 2009, for each group of vendors with similar attributes. Unless a new rate methodology is developed under section 254B.12, rates for services provided on and after July 1, 2011, must not exceed 160 percent of the average rate on January 1, 2009, for each group of vendors with similar attributes. Payment for services provided by Indian Health Services or by agencies operated by Indian tribes for medical assistance-eligible individuals must be governed by the applicable federal rate methodology.

Sec. 10. **[254B.12] RATE METHODOLOGY.**

(a) The commissioner shall, with broad-based stakeholder input, develop a recommendation and present a report to the 2011 legislature, including proposed legislation for a new rate methodology for the consolidated chemical dependency treatment fund. The new methodology must replace county-negotiated rates with a uniform statewide methodology that must include:

(1) a graduated reimbursement scale based on the patients' level of acuity and complexity; and

(2) beginning July 1, 2012, retroactive quality incentive payments up to four percent of each provider's prior-year approved chemical dependency fund claims.

(b) The quality incentive payments under paragraph (a), clause (2), must be based on each provider's performance in the prior year relating to certain program criteria, based on best practices in addiction treatment. The quality incentive criteria under paragraph (a), clause (2), may include program completion rates, national outcome measures, program innovations, lack of licensing violations, and other measures to be determined by the commissioner.

Sec. 11. Minnesota Statutes 2008, section 256B.0625, subdivision 41, is amended to read:

Subd. 41. **Residential services for children with severe emotional disturbance.** Medical assistance covers rehabilitative services in accordance with section 256B.0945 that are provided by a ~~county through a~~ residential facility under contract with a county or Indian tribe, for children who have been diagnosed with severe emotional disturbance and have been determined to require the level of care provided in a residential facility.

Sec. 12. Minnesota Statutes 2008, section 256B.0625, subdivision 47, is amended to read:

Subd. 47. **Treatment foster care services.** Effective July 1, ~~2007~~ 2011, and subject to federal approval, medical assistance covers treatment foster care services according to section 256B.0946.

Sec. 13. Minnesota Statutes 2008, section 256B.0944, is amended by adding a subdivision to read:

Subd. 4a. **Alternative provider standards.** If a provider entity demonstrates that, due to geographic or other barriers, it is not feasible to provide mobile crisis intervention services 24 hours a day, seven days a week, according to the standards in subdivision 4, paragraph (b), clause (1), the commissioner may approve a crisis response provider based on an alternative plan proposed by a provider entity. The alternative plan must:

(1) result in increased access and a reduction in disparities in the availability of crisis services; and

(2) provide mobile services outside of the usual nine-to-five office hours and on weekends and holidays.

Sec. 14. Minnesota Statutes 2008, 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 by a residential facility shall 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.

~~(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.~~

~~(c)~~ (b) 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.

~~(c) The payment rate negotiated and paid to a provider by prepaid health plans under section 256B.69 for services under this section must be supplemented by the commissioner from state appropriations to cover the nontreatment costs at a rate equal to the portion of the county negotiated per diem attributable to nontreatment service costs for that provider as determined by the commissioner of human services.~~

~~(d) Payment for mental health rehabilitative services provided under this section by or under contract with an Indian tribe or tribal organization or by agencies operated by or under contract with an Indian tribe or tribal organization may be made according to section 256B.0625, subdivision 34, or other relevant federally approved rate setting methodology.~~

Sec. 15. Minnesota Statutes 2008, section 256B.0947, subdivision 1, is amended to read:

Subdivision 1. **Scope.** ~~Subject to federal approval~~ Effective November 1, 2010, and subject to federal approval, medical assistance covers medically necessary, intensive nonresidential rehabilitative mental health services as defined in subdivision 2, for recipients as defined in subdivision 3, when the services are provided by an entity meeting the standards in this section.

Sec. 16. Minnesota Statutes 2008, section 256B.761, is amended to read:

**256B.761 REIMBURSEMENT FOR MENTAL HEALTH SERVICES.**

(a) Effective for services rendered on or after July 1, 2001, payment for medication management provided to psychiatric patients, outpatient mental health services, day treatment services, home-based mental health services, and family community support services shall be paid at the lower of (1) submitted charges, or (2) 75.6 percent of the 50th percentile of 1999 charges.

(b) Effective July 1, 2001, the medical assistance rates for outpatient mental health services provided by an entity that operates: (1) a Medicare-certified comprehensive outpatient rehabilitation facility; and (2) a facility that was certified prior to January 1, 1993, with at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year who are medical assistance recipients, will be increased by 38 percent, when those services are provided within the comprehensive outpatient rehabilitation facility and provided to residents of nursing facilities owned by the entity.

(c) Effective January 1, 2010, the rate for partial hospitalization for children is increased to equal the rate for partial hospitalization for adults.

Sec. 17. **AUTISM SPECTRUM DISORDER JOINT TASK FORCE.**

(a) The Autism Spectrum Disorder Joint Task Force is composed of 25 members, appointed as follows:

(1) two members of the senate, one appointed by the majority leader and one appointed by the minority leader;

(2) two members of the house of representatives, one from the majority party, appointed by the speaker of the house, and one from the minority party, appointed by the minority leader; and

(3) 11 public members appointed by the legislature, with regard to geographic diversity in the state, with the senate Subcommittee on Committees of the Committee on Rules and Administration making the appointments for the senate, and the speaker of the house making the appointments for the house:

(i) three members who are parents of children with autism spectrum disorder (ASD), two of whom shall be appointed by the senate, and one of whom shall be appointed by the house;

(ii) two members who have ASD, one of whom shall be appointed by the senate, and one by the house;

(iii) one member representing an agency that provides residential housing services to individuals with ASD, appointed by the house;

(iv) one member representing an agency that provides employment services to individuals with ASD, appointed by the senate;

(v) one member who is a behavior analyst, appointed by the house;

(vi) two members who are providers of ASD therapy, with one member appointed by the senate and one member appointed by the house; and

(vii) one member who is a director of public school student support services;

(4) two members appointed by the Minnesota chapter of the American Academy of Pediatrics, one who is a developmental behavioral pediatrician and one who is a general pediatrician;

(5) one member appointed by the Minnesota Psychological Society who is a neuropsychologist;

(6) one member appointed by the Association of Minnesota Counties;

(7) one member appointed by the Minnesota Association of School Administrators;

(8) one member appointed by the Somali American Autism Foundation;

(9) one member appointed by the ARC of Minnesota;

(10) one member appointed by the Autism Society of Minnesota;

(11) one member appointed by the Parent Advocacy Coalition for Educational Rights; and

(12) one member appointed by the Minnesota Council of Health Plans.

Appointments must be made by September 1, 2009. The Legislative Coordinating Commission shall provide meeting space for the task force. The senate member appointed by the minority leader of the senate shall convene the first meeting of the task force no later than October 1, 2009. The task force shall elect a chair from among the public members at the first meeting.

(b) The commissioners of education, employment and economic development, health, and human services shall provide assistance to the task force, including providing the task force with a count of children who have ASD with an individual education program or an individual family service plan and children with ASD who have a 504 plan. Additionally, the commissioner of human services shall submit a count of the adults with ASD enrolled in social service programs and the number of individuals with ASD who are enrolled in medical assistance and other waiver programs.

(c) The task force shall develop recommendations and report on the following topics:

(1) ways to improve services provided by all state and political subdivisions;

(2) sources of public and private funding available for treatment and ways to improve efficiency in the use of these funds;

(3) methods to improve coordination in the delivery of service between public and private agencies, health providers, and schools;

(4) increasing the availability of and the training for medical providers and educators who identify and provide services to individuals with ASD;

(5) ways to enhance Minnesota's role in ASD research and delivery of service;

(6) methods to educate parents, family members, and the public on ASD and the available services; and

(7) treatment options supported by peer-reviewed, established scientific research for individuals with ASD.

(d) The task force shall coordinate with existing efforts at the Departments of Education, Health, Human Services, and Employment and Economic Development related to ASD.

(e) By January 15 of each year, the task force shall provide a report regarding its findings and consideration of the topics listed under paragraph (c), and the action taken under paragraph (d), including draft legislation if necessary, to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services.

**EFFECTIVE DATE.** This section is effective July 1, 2009, and expires June 30, 2011.

Sec. 18. **LAND SALE; MORATORIUM.**

Surplus land surrounding the Anoka-Metro Regional Treatment Center must not be sold for five years.

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

Sec. 19. **STATE-COUNTY CHEMICAL HEALTH CARE HOME PILOT PROJECT.**

Subdivision 1. **Establishment; purpose.** There is established a state-county chemical health care home pilot project. The purpose of the pilot project is for the Department of Human Services and counties to work in partnership to redesign the current chemical health delivery system to promote greater accountability, productivity, and results in the delivery of state chemical dependency services. The pilot project must look to promote appropriate flexibility in a way that better aligns systems and services to offer the most appropriate level of chemical

health care services to the client. This may include, but is not limited to, developing new governance agreements, performance agreements, or service level agreements. The pilot projects must maintain eligibility levels under the current programmatic entitlement structure, continue to meet the requirements of Rule 25 and Rule 31, and must not put at risk current and future federal funding toward chemical health-related services in Minnesota.

Subd. 2. **Work group.** A work group must be convened on or before July 1, 2009, consisting of representatives from the Department of Human Services and participating counties to develop final proposals for pilot projects meeting the requirements of this section. This work group must focus its efforts on the need for systems change, mandate and waiver relief, payment reform or other funding options, and outcomes. The work group must report back to the legislative committees having jurisdiction over chemical health by January 15, 2010, for final approval of pilot projects to be implemented starting July 10, 2010.

Subd. 3. **Report.** The Department of Human Services shall report back to the legislative committees having jurisdiction over chemical health by January 15, 2011, evaluating the effectiveness of pilot projects, including recommendations for how to implement the pilot projects on a statewide basis.

Subd. 4. **Expiration.** These pilot projects expire .....

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

## ARTICLE 9

### CONTINUING CARE

Section 1. Minnesota Statutes 2008, section 144.0724, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given.

(a) "Assessment reference date" means the last day of the minimum data set observation period. The date sets the designated endpoint of the common observation period, and all minimum data set items refer back in time from that point.

(b) "Case mix index" means the weighting factors assigned to the RUG-III classifications.

(c) "Index maximization" means classifying a resident who could be assigned to more than one category, to the category with the highest case mix index.

(d) "Minimum data set" means the assessment instrument specified by the Centers for Medicare and Medicaid Services and designated by the Minnesota Department of Health.

(e) "Representative" means a person who is the resident's guardian or conservator, the person authorized to pay the nursing home expenses of the resident, a representative of the nursing home ombudsman's office whose assistance has been requested, or any other individual designated by the resident.

(f) "Resource utilization groups" or "RUG" means the system for grouping a nursing facility's residents according to their clinical and functional status identified in data supplied by the facility's minimum data set.

(g) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility, positioning, eating, and toileting.

(h) "Nursing facility level of care determination" means the assessment process that results in a determination of a resident's or prospective resident's need for nursing facility level of care as established in subdivision 11 for purposes of medical assistance payment of long-term care services for:

- (1) nursing facility services under section 256B.434 or 256B.441;
- (2) elderly waiver services under section 256B.0915;
- (3) CADI and TBI waiver services under section 256B.49; and
- (4) state payment of alternative care services under section 256B.0913.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 2. Minnesota Statutes 2008, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the commissioner of health case mix assessments that conform with the assessment schedule defined by Code of Federal Regulations, title 42, section 483.20, and published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, in the Long Term Care Assessment Instrument User's Manual, version 2.0, October 1995, and subsequent clarifications made in the Long-Term Care Assessment Instrument Questions and Answers, version 2.0, August 1996. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments used to determine a case mix classification for reimbursement include the following:

- (1) a new admission assessment must be completed by day 14 following admission;
- (2) an annual assessment must be completed within 366 days of the last comprehensive assessment;
- (3) a significant change assessment must be completed within 14 days of the identification of a significant change; and
- (4) the second quarterly assessment following either a new admission assessment, an annual assessment, or a significant change assessment, and all quarterly assessments beginning October 1, 2006. Each quarterly assessment must be completed within 92 days of the previous assessment.

(c) In addition to the assessments listed in paragraph (b), the assessments used to determine nursing facility level of care include the following:

- (1) preadmission screening completed under section 256B.0911, subdivision 4a, by a county, tribe, or managed care organization under contract with the Department of Human Services; and
- (2) a face-to-face long-term care consultation assessment completed under section 256B.0911, subdivision 3a, 3b, or 4d, by a county, tribe, or managed care organization under contract with the Department of Human Services.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 3. Minnesota Statutes 2008, section 144.0724, subdivision 8, is amended to read:

Subd. 8. **Request for reconsideration of resident classifications.** (a) The resident, or resident's representative, or the nursing facility or boarding care home may request that the commissioner of health reconsider the assigned reimbursement classification. The request for reconsideration must be submitted in writing to the commissioner within 30 days of the day the resident or the resident's representative receives the resident classification notice. The request for reconsideration must include the name of the resident, the name and address of the facility in which the resident resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation which establishes that the needs of the resident at the time of the assessment justify a classification which is different than the classification established by the commissioner of health.

(b) Upon request, the nursing facility must give the resident or the resident's representative a copy of the assessment form and the other documentation that was given to the commissioner of health to support the assessment findings. The nursing facility shall also provide access to and a copy of other information from the resident's record that has been requested by or on behalf of the resident to support a resident's reconsideration request. A copy of any requested material must be provided within three working days of receipt of a written request for the information. If a facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the nursing facility immediately comply with the request for information and that as of the date of the issuance of the correction order, the facility shall forfeit to the state a \$100 fine for the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues.

(c) In addition to the information required under paragraphs (a) and (b), a reconsideration request from a nursing facility must contain the following information: (i) the date the reimbursement classification notices were received by the facility; (ii) the date the classification notices were distributed to the resident or the resident's representative; and (iii) a copy of a notice sent to the resident or to the resident's representative. This notice must inform the resident or the resident's representative that a reconsideration of the resident's classification is being requested, the reason for the request, that the resident's rate will change if the request is approved by the commissioner, the extent of the change, that copies of the facility's request and supporting documentation are available for review, and that the resident also has the right to request a reconsideration. If the facility fails to provide the required information with the reconsideration request, the request must be denied, and the facility may not make further reconsideration requests on that specific reimbursement classification.

(d) Reconsideration by the commissioner must be made by individuals not involved in reviewing the assessment, audit, or reconsideration that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under paragraphs (a) and (b). If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. Within 15 working days of receiving the request for reconsideration, the commissioner shall affirm or modify the original resident classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the needs or assessment characteristics of the resident at the time of the assessment. The resident and the nursing facility or boarding care home shall be notified within five working days after the decision is made. A decision by the commissioner under this subdivision is the final administrative decision of the agency for the party requesting reconsideration.

(e) The resident classification established by the commissioner shall be the classification that applies to the resident while the request for reconsideration is pending. If a request for reconsideration applies to an assessment used to determine nursing facility level of care under subdivision 4, paragraph (c), the resident shall continue to be eligible for nursing facility level of care while the request for reconsideration is pending.



(f) The commissioner may request additional documentation regarding a reconsideration necessary to make an accurate reconsideration determination.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 4. Minnesota Statutes 2008, section 144.0724, is amended by adding a subdivision to read:

Subd. 11. **Nursing facility level of care.** (a) For purposes of medical assistance payment of long-term care services, a recipient must be determined, using assessments defined in subdivision 4, to meet one of the following nursing facility level of care criteria:

(1) the person needs the assistance of another person or constant supervision to begin and complete at least four of the following activities of living: bathing, bed mobility, dressing, eating, grooming, toileting, transferring, and walking;

(2) the person needs the assistance of another person or constant supervision to begin and complete toileting, transferring, or positioning and the assistance cannot be scheduled;

(3) the person has significant difficulty with memory, using information, daily decision making, or behavioral needs that require intervention;

(4) the person has had a qualifying nursing facility stay of at least 90 days; or

(5) the person is determined to be at risk for nursing facility admission or readmission through a face-to-face long-term care consultation assessment as specified in section 256B.0911, subdivision 3a, 3b, or 4d, by a county, tribe, or managed care organization under contract with the Department of Human Services. The person is considered at risk under this clause if the person currently lives alone or will live alone upon discharge and also meets one of the following criteria:

(i) the person has experienced a fall resulting in a fracture;

(ii) the person has been determined to be at risk of maltreatment or neglect, including self-neglect; or

(iii) the person has a sensory impairment that substantially impacts functional ability and maintenance of a community residence.

(b) The assessment used to establish medical assistance payment for nursing facility services must be the most recent assessment performed under subdivision 4, paragraph (b), that occurred no more than 90 calendar days before the effective date of medical assistance eligibility for payment of long-term care services. In no case shall medical assistance payment for long-term care services occur prior to the date of the determination of nursing facility level of care.

(c) The assessment used to establish medical assistance payment for long-term care services provided under sections 256B.0915 and 256B.49 and alternative care payment for services provided under section 256B.0913 must be the most recent face-to-face assessment performed under subdivision 4, paragraph (c), clause (2), that occurred no more than 60 calendar days before the effective date of medical assistance eligibility for payment of long-term care services.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 5. Minnesota Statutes 2008, section 144.0724, is amended by adding a subdivision to read:

Subd. 12. **Appeal of nursing facility level of care determination.** A resident or prospective resident whose level of care determination results in a denial of long-term care services can appeal the determination as outlined in section 256B.0911, subdivision 3a, paragraph (h), clause (7).

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 6. Minnesota Statutes 2008, section 144A.073, is amended by adding a subdivision to read:

Subd. 12. **Extension of approval of moratorium exception projects.** Notwithstanding subdivision 3, the commissioner of health shall extend project approval by an additional 18 months for an approved proposal for an exception to the nursing home licensure and certification moratorium if the proposal was approved under this section between July 1, 2007, and June 30, 2009.

Sec. 7. Minnesota Statutes 2008, section 144A.44, subdivision 2, is amended to read:

Subd. 2. **Interpretation and enforcement of rights.** These rights are established for the benefit of persons who receive home care services. "Home care services" means home care services as defined in section 144A.43, subdivision 3, and unlicensed personal care assistance services, including services covered by medical assistance under section 256B.0625, subdivision 19a. A home care provider may not require a person to surrender these rights as a condition of receiving services. A guardian or conservator or, when there is no guardian or conservator, a designated person, may seek to enforce these rights. This statement of rights does not replace or diminish other rights and liberties that may exist relative to persons receiving home care services, persons providing home care services, or providers licensed under Laws 1987, chapter 378. A copy of these rights must be provided to an individual at the time home care services, including personal care assistance services, are initiated. The copy shall also contain the address and phone number of the Office of Health Facility Complaints and the Office of Ombudsman for Long-Term Care and a brief statement describing how to file a complaint with these offices. Information about how to contact the Office of Ombudsman for Long-Term Care shall be included in notices of change in client fees and in notices where home care providers initiate transfer or discontinuation of services.

Sec. 8. Minnesota Statutes 2008, section 245A.03, is amended by adding a subdivision to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. Exceptions to the moratorium include:

(1) foster care settings that are required to be registered under chapter 144D;

(2) foster care licenses replacing foster care licenses in existence on the effective date of this section and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/MR, or regional treatment center;

(4) new foster care licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level of care;

(5) new foster care licenses determined to be needed by the commissioner for the transition of people from personal care assistance to the home and community-based services; or

(6) new foster care residences in development that have received county approval prior to June 1, 2009, but may not have received a license from the commissioner for the actual residence.

(b) The commissioner shall determine the need for newly licensed foster care homes as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) Residential settings that would otherwise fall under the moratorium established in paragraph (a), that are in the process of receiving an adult or child foster care license as of July 1, 2009, must be able to continue to complete the process of receiving an adult or child foster care license. For purposes of this paragraph, all of the following conditions must be met to be considered in the process of receiving an adult or child foster care license:

(1) participants have made decisions to move into the residential setting, including documentation in each participant's care plans;

(2) the provider has purchased housing or has made a financial investment in the property;

(3) the lead agency has approved the plans, including costs for the residential setting for each individual;

(4) the completion of the licensing process, including all necessary inspections, is the only remaining component prior to being able to provide services; and

(5) the needs of the individuals cannot be met within the existing capacity in that county.

To qualify for the process under this paragraph, the lead agency must submit documentation to the commissioner by August 1, 2009, that all of the criteria in this paragraph are met.

(d) The commissioner shall study the effects of the license moratorium under this subdivision and shall report back to the legislature by January 15, 2011.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 9. Minnesota Statutes 2008, section 245A.11, is amended by adding a subdivision to read:

**Subd. 8. Community residential setting license.** (a) The commissioner shall establish provider standards for residential support services that integrate service standards and the residential setting under one license. The commissioner shall propose statutory language and an implementation plan for licensing requirements for residential support services to the legislature by January 15, 2011.

(b) Providers licensed under chapter 245B, and providing, contracting, or arranging for services in settings licensed as adult foster care under Minnesota Rules, parts 9555.5105 to 9555.6265, or child foster care under Minnesota Rules, parts 2960.3000 to 2960.3340; and meeting the provisions of section 256B.092, subdivision 11, paragraph (b), must be required to obtain a community residential setting license.

Sec. 10. Minnesota Statutes 2008, section 252.46, is amended by adding a subdivision to read:

Subd. 1a. **Day training and habilitation rates.** The commissioner shall establish a statewide rate-setting methodology for all day training and habilitation services. The rate-setting methodology must abide by the principles of transparency and equitability across the state. The methodology must involve a uniform process of structuring rates for each service and must promote quality and participant choice.

Sec. 11. Minnesota Statutes 2008, section 252.50, subdivision 1, is amended to read:

Subdivision 1. **Community-based programs established.** The commissioner shall establish a system of state-operated, community-based programs for persons with developmental disabilities. For purposes of this section, "state-operated, community-based program" means a program administered by the state to provide treatment and habilitation in noninstitutional community settings to persons with developmental disabilities. Employees of the programs, except clients who work within and benefit from these treatment and habilitation programs, must be state employees under chapters 43A and 179A. Although any clients who work within and benefit from these treatment and habilitation programs are not employees under chapters 43A and 179A, the Department of Human Services may consider clients who work within and benefit from these programs employees for federal tax purposes. The establishment of state-operated, community-based programs must be within the context of a comprehensive definition of the role of state-operated services in the state. The role of state-operated services must be defined within the context of a comprehensive system of services for persons with developmental disabilities. State-operated, community-based programs may include, but are not limited to, community group homes, foster care, supportive living services, day training and habilitation programs, and respite care arrangements. The commissioner may operate the pilot projects established under Laws 1985, First Special Session chapter 9, article 1, section 2, subdivision 6, and shall, within the limits of available appropriations, establish additional state-operated, community-based programs for persons with developmental disabilities. State-operated, community-based programs may accept admissions from regional treatment centers, from the person's own home, or from community programs. State-operated, community-based programs offering day program services may be provided for persons with developmental disabilities who are living in state-operated, community-based residential programs until July 1, 2000. No later than 1994, the commissioner, together with family members, counties, advocates, employee representatives, and other interested parties, shall begin planning so that by July 1, 2000, state-operated, community-based residential facilities will be in compliance with section 252.41, subdivision 9.

Sec. 12. Minnesota Statutes 2008, section 256.01, is amended by adding a subdivision to read:

Subd. 29. **State medical review team.** (a) To ensure the timely processing of determinations of disability by the commissioner's state medical review team under sections 256B.055, subdivision 7, paragraph (b), and 256B.057, subdivision 9, paragraph (j), the commissioner shall review all medical evidence submitted by county agencies with a referral and seek additional information from providers, applicants, and enrollees to support the determination of disability where necessary.

(b) Prior to a denial or withdrawal of a requested determination of disability due to insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary and appropriate to a determination of disability, and (2) assist applicants and enrollees to obtain the evidence, including, but not limited to, medical examinations and electronic medical records.

(c) The commissioner shall provide the chairs of the legislative committees with jurisdiction over health and human services finance and budget the following information on the activities of the state medical review team by February 1, 2010, and annually thereafter:

(1) the number of applications to the state medical review team that were denied, approved, or withdrawn;

(2) the average length of time from receipt of the application to a decision;

(3) the number of appeals and appeal results;

(4) for applicants, their age, health coverage at the time of application, hospitalization history within three months of application, and whether an application for Social Security or Supplemental Security Income benefits is pending; and

(5) specific information on the medical certification, licensure, or other credentials of the person or persons performing the medical review determinations and length of time in that position.

Sec. 13. **[256.0281] INTERAGENCY DATA EXCHANGE.**

The Department of Human Services, the Department of Health, and the Office of the Ombudsman for Mental Health and Developmental Disabilities may establish interagency agreements governing the electronic exchange of data on providers and individuals collected, maintained, or used by each agency when such exchange is outlined by each agency in an interagency agreement to accomplish the purposes in clauses (1) to (4):

(1) to improve provider enrollment processes for home and community-based services and state plan home care services;

(2) to improve quality management of providers between state agencies;

(3) to establish and maintain provider eligibility to participate as providers under Minnesota health care programs; and

(4) to meet the quality assurance reporting requirements under federal law under section 1915(c) of the Social Security Act related to home and community-based waiver programs.

Each interagency agreement must include provisions to ensure anonymity of individuals, including mandated reporters, and must outline the specific uses of and access to shared data within each agency. Electronic interfaces between source data systems developed under these interagency agreements must incorporate these provisions as well as other HIPPA provisions related to individual data.

Sec. 14. Minnesota Statutes 2008, section 256.476, subdivision 5, is amended to read:

Subd. 5. **Reimbursement, allocations, and reporting.** (a) For the purpose of transferring persons to the consumer support grant program from the family support program and personal care assistant services, home health aide services, or private duty nursing services, the amount of funds transferred by the commissioner between the family support program account, the medical assistance account, or the consumer support grant account shall be based on each county's participation in transferring persons to the consumer support grant program from those programs and services.

(b) At the beginning of each fiscal year, county allocations for consumer support grants shall be based on:

(1) the number of persons to whom the county board expects to provide consumer supports grants;

(2) their eligibility for current program and services;

(3) the ~~amount of non-federal dollars~~ monthly grant levels allowed under subdivision 11; and

(4) projected dates when persons will start receiving grants. County allocations shall be adjusted periodically by the commissioner based on the actual transfer of persons or service openings, and the ~~nonfederal dollars~~ monthly grant levels associated with those persons or service openings, to the consumer support grant program.

(c) The amount of funds transferred by the commissioner from the medical assistance account for an individual may be changed if it is determined by the county or its agent that the individual's need for support has changed.

(d) The authority to utilize funds transferred to the consumer support grant account for the purposes of implementing and administering the consumer support grant program will not be limited or constrained by the spending authority provided to the program of origination.

(e) The commissioner may use up to five percent of each county's allocation, as adjusted, for payments for administrative expenses, to be paid as a proportionate addition to reported direct service expenditures.

(f) The county allocation for each person or the person's legal representative or other authorized representative cannot exceed the amount allowed under subdivision 11.

(g) The commissioner may recover, suspend, or withhold payments if the county board, local agency, or grantee does not comply with the requirements of this section.

(h) Grant funds unexpended by consumers shall return to the state once a year. The annual return of unexpended grant funds shall occur in the quarter following the end of the state fiscal year.

Sec. 15. Minnesota Statutes 2008, section 256.476, subdivision 11, is amended to read:

Subd. 11. **Consumer support grant program after July 1, 2001.** ~~(a)~~ Effective July 1, 2001, the commissioner shall allocate consumer support grant resources to serve additional individuals based on a review of Medicaid authorization and payment information of persons eligible for a consumer support grant from the most recent fiscal year. The commissioner shall use the following methodology to calculate maximum allowable monthly consumer support grant levels:

(1) For individuals whose program of origination is medical assistance home care under sections 256B.0651 and 256B.0653 to 256B.0656, the maximum allowable monthly grant levels are calculated by:

- (i) determining ~~the nonfederal share~~ 50 percent of the average service authorization for each home care rating;
- (ii) calculating the overall ratio of actual payments to service authorizations by program;
- (iii) applying the overall ratio to the average service authorization level of each home care rating;
- (iv) adjusting the result for any authorized rate increases provided by the legislature; and
- (v) adjusting the result for the average monthly utilization per recipient.

(2) The commissioner may review and evaluate the methodology to reflect changes in the home care ~~program's overall ratio of actual payments to service authorizations~~ programs.

~~(b) Effective January 1, 2004, persons previously receiving exception grants will have their grants calculated using the methodology in paragraph (a), clause (1). If a person currently receiving an exception grant wishes to have their home care rating reevaluated, they may request an assessment as defined in section 256B.0651, subdivision 1, paragraph (b).~~

Sec. 16. Minnesota Statutes 2008, section 256.975, subdivision 7, is amended to read:

Subd. 7. **Consumer information and assistance; senior linkage.** (a) The Minnesota Board on Aging shall operate a statewide information and assistance service to aid older Minnesotans and their families in making informed choices about long-term care options and health care benefits. Language services to persons with limited English language skills may be made available. The service, known as Senior LinkAge Line, must be available during business hours through a statewide toll-free number and must also be available through the Internet.

(b) The service must ~~assist~~ provide long-term care options counseling by assisting older adults, caregivers, and providers in accessing information about choices in long-term care services that are purchased through private providers or available through public options. The service must:

(1) develop a comprehensive database that includes detailed listings in both consumer- and provider-oriented formats;

(2) make the database accessible on the Internet and through other telecommunication and media-related tools;

(3) link callers to interactive long-term care screening tools and make these tools available through the Internet by integrating the tools with the database;

(4) develop community education materials with a focus on planning for long-term care and evaluating independent living, housing, and service options;

(5) conduct an outreach campaign to assist older adults and their caregivers in finding information on the Internet and through other means of communication;

(6) implement a messaging system for overflow callers and respond to these callers by the next business day;

(7) link callers with county human services and other providers to receive more in-depth assistance and consultation related to long-term care options;

(8) link callers with quality profiles for nursing facilities and other providers developed by the commissioner of health; ~~and~~

(9) incorporate information about housing with services and consumer rights within the MinnesotaHelp.info network long-term care database to facilitate consumer comparison of services and costs among housing with services establishments and with other in-home services and to support financial self-sufficiency as long as possible. Housing with services establishments and their arranged home care providers shall provide ~~information to the commissioner of human services that is consistent with information required by the commissioner of health under section 144G.06, the Uniform Consumer Information Guide~~ price and other information requested by the commissioner of human services regarding rents and services. The commissioners of human services and health shall align the data elements required by this section, and section 144G.06, the Uniform Consumer Information Guide, 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; and

(10) provide long-term care options counseling. Long-term care options counselors shall:

(i) for individuals not eligible for case management under a public program or public funding source, provide interactive decision support whereby 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 defined as 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.

(c) The Minnesota Board on Aging shall conduct an evaluation of the effectiveness of the statewide information and assistance, and submit this evaluation to the legislature by December 1, 2002. The evaluation must include an analysis of funding adequacy, gaps in service delivery, continuity in information between the service and identified linkages, and potential use of private funding to enhance the service.

Sec. 17. Minnesota Statutes 2008, section 256B.055, subdivision 7, is amended to read:

Subd. 7. **Aged, blind, or disabled persons.** (a) Medical assistance may be paid for a person who meets the categorical eligibility requirements of the supplemental security income program or, who would meet those requirements except for excess income or assets, and who meets the other eligibility requirements of this section.

(b) Following a determination that the applicant is not aged or blind and does not meet any other category of eligibility for medical assistance and has not been determined disabled by the Social Security Administration, applicants under this subdivision shall be referred to the commissioner's state medical review team for a determination of disability. Disability shall be determined according to the rules of title XVI and title XIX of the Social Security Act and pertinent rules and policies of the Social Security Administration.

Sec. 18. Minnesota Statutes 2008, section 256B.057, subdivision 9, is amended to read:

Subd. 9. **Employed persons with disabilities.** (a) Medical assistance may be paid for a person who is employed and who:

- (1) meets the definition of disabled under the supplemental security income program;
- (2) is at least 16 but less than 65 years of age;
- (3) meets the asset limits in paragraph (c); and
- (4) effective November 1, 2003, pays a premium and other obligations under paragraph (e).

Any spousal income or assets shall be disregarded for purposes of eligibility and premium determinations.

(b) After the month of enrollment, a person enrolled in medical assistance under this subdivision who:

(1) is temporarily unable to work and without receipt of earned income due to a medical condition, as verified by a physician, may retain eligibility for up to four calendar months; or

(2) effective January 1, 2004, loses employment for reasons not attributable to the enrollee, may retain eligibility for up to four consecutive months after the month of job loss. To receive a four-month extension, enrollees must verify the medical condition or provide notification of job loss. All other eligibility requirements must be met and the enrollee must pay all calculated premium costs for continued eligibility.



(c) For purposes of determining eligibility under this subdivision, a person's assets must not exceed \$20,000, excluding:

(1) all assets excluded under section 256B.056;

(2) retirement accounts, including individual accounts, 401(k) plans, 403(b) plans, Keogh plans, and pension plans; and

(3) medical expense accounts set up through the person's employer.

(d)(1) Effective January 1, 2004, for purposes of eligibility, there will be a \$65 earned income disregard. To be eligible, a person applying for medical assistance under this subdivision must have earned income above the disregard level.

(2) Effective January 1, 2004, to be considered earned income, Medicare, Social Security, and applicable state and federal income taxes must be withheld. To be eligible, a person must document earned income tax withholding.

(e)(1) A person whose earned and unearned income is equal to or greater than 100 percent of federal poverty guidelines for the applicable family size must pay a premium to be eligible for medical assistance under this subdivision. The premium shall be based on the person's gross earned and unearned income and the applicable family size using a sliding fee scale established by the commissioner, which begins at one percent of income at 100 percent of the federal poverty guidelines and increases to 7.5 percent of income for those with incomes at or above 300 percent of the federal poverty guidelines. Annual adjustments in the premium schedule based upon changes in the federal poverty guidelines shall be effective for premiums due in July of each year.

(2) Effective January 1, 2004, all enrollees must pay a premium to be eligible for medical assistance under this subdivision. An enrollee shall pay the greater of a \$35 premium or the premium calculated in clause (1).

(3) Effective November 1, 2003, all enrollees who receive unearned income must pay one-half of one percent of unearned income in addition to the premium amount.

(4) Effective November 1, 2003, for enrollees whose income does not exceed 200 percent of the federal poverty guidelines and who are also enrolled in Medicare, the commissioner must reimburse the enrollee for Medicare Part B premiums under section 256B.0625, subdivision 15, paragraph (a).

(5) Increases in benefits under title II of the Social Security Act shall not be counted as income for purposes of this subdivision until July 1 of each year.

(f) A person's eligibility and premium shall be determined by the local county agency. Premiums must be paid to the commissioner. All premiums are dedicated to the commissioner.

(g) Any required premium shall be determined at application and redetermined at the enrollee's six-month income review or when a change in income or household size is reported. Enrollees must report any change in income or household size within ten days of when the change occurs. A decreased premium resulting from a reported change in income or household size shall be effective the first day of the next available billing month after the change is reported. Except for changes occurring from annual cost-of-living increases, a change resulting in an increased premium shall not affect the premium amount until the next six-month review.

(h) Premium payment is due upon notification from the commissioner of the premium amount required. Premiums may be paid in installments at the discretion of the commissioner.

(i) Nonpayment of the premium shall result in denial or termination of medical assistance unless the person demonstrates good cause for nonpayment. Good cause exists if the requirements specified in Minnesota Rules, part 9506.0040, subpart 7, items B to D, are met. Except when an installment agreement is accepted by the commissioner, all persons disenrolled for nonpayment of a premium must pay any past due premiums as well as current premiums due prior to being reenrolled. Nonpayment shall include payment with a returned, refused, or dishonored instrument. The commissioner may require a guaranteed form of payment as the only means to replace a returned, refused, or dishonored instrument.

(j) Following a determination that the applicant is not aged or blind and does not meet any other category of eligibility for medical assistance and has not been determined disabled by the Social Security Administration, applicants under this subdivision shall be referred to the commissioner's state medical review team for a determination of disability. Disability shall be determined according to the rules of title XVI and title XIX of the Social Security Act and pertinent rules and policies of the Social Security Administration.

Sec. 19. Minnesota Statutes 2008, section 256B.0625, subdivision 7, is amended to read:

Subd. 7. **Private duty nursing.** Medical assistance covers private duty nursing services in a recipient's home. Recipients who are authorized to receive private duty nursing services in their home may use approved hours outside of the home during hours when normal life activities take them outside of their home. To use private duty nursing services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Medical assistance does not cover private duty nursing services for residents of a hospital, nursing facility, intermediate care facility, or a health care facility licensed by the commissioner of health, except as authorized in section 256B.64 for ventilator-dependent recipients in hospitals or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the private duty nursing services or forgoes the facility per diem for the leave days that private duty nursing services are used. Total hours of service and payment allowed for services outside the home cannot exceed that which is otherwise allowed in an in-home setting according to sections 256B.0651 and ~~256B.0653~~ 256B.0654 to 256B.0656. All private duty nursing services must be provided according to the limits established under sections 256B.0651 and 256B.0653 to 256B.0656. Private duty nursing services may not be reimbursed if the nurse is the family foster care provider of a recipient who is under age 18 except as allowed under section 256B.0659, subdivision 4.

Sec. 20. Minnesota Statutes 2008, section 256B.0625, subdivision 8, is amended to read:

Subd. 8. **Physical therapy.** Medical assistance covers physical therapy, as described in section 148.65, and related services, including specialized maintenance therapy. Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate.

Sec. 21. Minnesota Statutes 2008, section 256B.0625, subdivision 8a, is amended to read:

Subd. 8a. **Occupational therapy.** Medical assistance covers occupational therapy, as described in section 148.6404, and related services, including specialized maintenance therapy. Services provided by an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant that are provided under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate.

Sec. 22. Minnesota Statutes 2008, section 256B.0625, subdivision 19a, is amended to read:

Subd. 19a. **Personal care assistant services.** Medical assistance covers personal care assistant services in a recipient's home. To qualify for personal care assistant services, a recipient must require assistance and be determined dependent in one activity of daily living as defined in section 256B.0659 or have a level I behavior as defined in section 256B.0659. Recipients or responsible parties must be able to identify the recipient's needs, direct and evaluate task accomplishment, and provide for health and safety. Approved hours may be used outside the home when normal life activities take them outside the home. To use personal care assistant services at school, the recipient or responsible party must provide written authorization in the care plan identifying the chosen provider and the daily amount of services to be used at school. Total hours for services, whether actually performed inside or outside the recipient's home, cannot exceed that which is otherwise allowed for personal care assistant services in an in-home setting according to sections 256B.0651 ~~and 256B.0653~~ to 256B.0656. Medical assistance does not cover personal care assistant services for residents of a hospital, nursing facility, intermediate care facility, health care facility licensed by the commissioner of health, or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the personal care assistant services or forgoes the facility per diem for the leave days that personal care assistant services are used. All personal care assistant services must be provided according to sections 256B.0651 ~~and 256B.0653~~ to 256B.0656. Personal care assistant services may not be reimbursed if the personal care assistant is the spouse or ~~legal paid~~ guardian of the recipient or the parent of a recipient under age 18, or the responsible party or the foster care provider ~~of a recipient who cannot direct the recipient's own care unless, in the case of a foster care provider, unless the foster home is the licensed provider's primary residence and~~ a county or state case manager visits the recipient as needed, but not less than every six months, to monitor the health and safety of the recipient and to ensure the goals of the care plan are met. ~~Parents of adult recipients, adult children of the recipient or adult siblings of the recipient may be reimbursed for personal care assistant services, if they are granted a waiver under sections 256B.0651 and 256B.0653 to 256B.0656.~~ Notwithstanding the provisions of section ~~256B.0655, subdivision 2, paragraph (b), clause (4)~~ 256B.0659, the ~~noncorporate legal unpaid~~ guardian or conservator of an adult, who is not the responsible party and not the personal care provider organization, may be ~~granted a hardship waiver under sections 256B.0651 and 256B.0653 to 256B.0656, to be~~ reimbursed to provide personal care assistant services to the recipient if the guardian or conservator meet all criteria for a personal care assistant according to section 256B.0659, and shall not be considered to have a service provider interest for purposes of participation on the screening team under section 256B.092, subdivision 7.

Sec. 23. Minnesota Statutes 2008, section 256B.0625, subdivision 19c, is amended to read:

Subd. 19c. **Personal care.** (a) Medical assistance covers personal care assistant services provided by an individual who is qualified to provide the services according to subdivision 19a and sections 256B.0651 ~~and 256B.0653~~ to 256B.0656, ~~where the services have a statement of need by a physician, provided in accordance with a plan, and are supervised by the recipient or a qualified professional. The physician's statement of need for personal care assistant services shall be documented on a form approved by the commissioner and include the diagnosis or condition of the person that results in a need for personal care assistant services and be updated when the person's medical condition requires a change, but at least annually if the need for personal care assistant services is ongoing.~~

(b) "Qualified professional" means a mental health professional as defined in section 245.462, subdivision 18, or 245.4871, subdivision 27; or a registered nurse as defined in sections 148.171 to 148.285, ~~or~~ a licensed social worker as defined in section 148B.21; or qualified developmental disabilities professional under section 245B.07, subdivision 4. ~~As part of the assessment, the county public health nurse will assist the recipient or responsible party to identify the most appropriate person to provide supervision of the personal care assistant.~~ The qualified professional shall perform the duties ~~described~~ required in Minnesota Rules, part 9505.0335, subpart 4 section 256B.0659.

Sec. 24. Minnesota Statutes 2008, section 256B.0651, is amended to read:

**256B.0651 HOME CARE SERVICES.**

Subdivision 1. **Definitions.** ~~(a) "Activities of daily living" includes eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning. For the purposes of sections 256B.0651 to 256B.0656 and 256B.0659, the terms in paragraphs (b) to (g) have the meanings given.~~

~~(b)~~ (b) "Activities of daily living" has the meaning given in section 256B.0659, subdivision 1, paragraph (b).

~~(b) (c)~~ (c) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. ~~Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for medical assistance home care services for developmental disability and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.~~

~~(e) (d)~~ (d) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a service plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. ~~Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long term care facility or as specified in section 256B.0625 means medical assistance covered services that are home health agency services, including skilled nurse visits; home health aide visits; physical therapy, occupational therapy, respiratory therapy, and language-speech pathology therapy; private duty nursing; and personal care assistance.~~

~~(e)~~ (e) "Home residence" means a residence owned or rented by the recipient either alone, with roommates of the recipient's choosing, or with an unpaid responsible party or legal representative; or a family foster home where the license holder lives with the recipient and is not paid to provide home care services for the recipient.

~~(d) (f)~~ (f) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

~~(e)~~ (g) "Telehomecare" means the use of telecommunications technology by a home health care professional to deliver home health care services, within the professional's scope of practice, to a patient located at a site other than the site where the practitioner is located.

~~(g)~~ (g) "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent on a ventilator for at least 30 consecutive days.

Subd. 2. **Services covered.** Home care services covered under this section and sections ~~256B.0653~~ 256B.0652 to 256B.0656 and 256B.0659 include:

(1) nursing services under ~~section~~ sections 256B.0625, subdivision 6a, and 256B.0653;

(2) private duty nursing services under ~~section~~ sections 256B.0625, subdivision 7, and 256B.0654;

(3) home health services under ~~section~~ sections 256B.0625, subdivision 6a, and 256B.0653;

(4) personal care assistant services under ~~section~~ sections 256B.0625, subdivision 19a, and 256B.0659;

(5) supervision of personal care assistant services provided by a qualified professional under ~~section~~ sections 256B.0625, subdivision 19a, and 256B.0659;

~~(6) qualified professional of personal care assistant services under the fiscal intermediary option as specified in section 256B.0655, subdivision 7;~~

~~(7) (6) face-to-face assessments by county public health nurses for services under section sections 256B.0625, subdivision 19a, and 256B.0659; and~~

~~(8) (7) service updates and review of temporary increases for personal care assistant services by the county public health nurse for services under section sections 256B.0625, subdivision 19a, and 256B.0659.~~

Subd. 3. **Noncovered home care services.** The following home care services are not eligible for payment under medical assistance:

~~(1) skilled nurse visits for the sole purpose of supervision of the home health aide;~~

~~(2) a skilled nursing visit:~~

~~(i) only for the purpose of monitoring medication compliance with an established medication program for a recipient; or~~

~~(ii) to administer or assist with medication administration, including injections, prefilling syringes for injections, or oral medication set up of an adult recipient, when as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient is physically and mentally able to self-administer or prefill a medication;~~

~~(3) home care services to a recipient who is eligible for covered services under the Medicare program or any other insurance held by the recipient;~~

~~(4) services to other members of the recipient's household;~~

~~(5) a visit made by a skilled nurse solely to train other home health agency workers;~~

~~(6) any home care service included in the daily rate of the community-based residential facility where the recipient is residing;~~

~~(7) nursing and rehabilitation therapy services that are reasonably accessible to a recipient outside the recipient's place of residence, excluding the assessment, counseling and education, and personal assistant care;~~

~~(8) any home health agency service, excluding personal care assistant services and private duty nursing services, which are performed in a place other than the recipient's residence; and~~

~~(9) Medicare evaluation or administrative nursing visits on dual eligible recipients that do not qualify for Medicare visit billing.~~

(1) services provided in a nursing facility, hospital, or intermediate care facility with exceptions in section 256B.0653;

(2) services for the sole purpose of monitoring medication compliance with an established medication program for a recipient;

(3) home care services for covered services under the Medicare program or any other insurance held by the recipient;

(4) services to other members of the recipient's household;

(5) any home care service included in the daily rate of the community-based residential facility where the recipient is residing;

(6) nursing and rehabilitation therapy services that are reasonably accessible to a recipient outside the recipient's place of residence, excluding the assessment, counseling and education, and personal assistance care; or

(7) Medicare evaluation or administrative nursing visits on dual-eligible recipients that do not qualify for Medicare visit billing.

Subd. 4. **Prior Authorization; exceptions.** All home care services above the limits in subdivision 11 must receive the commissioner's ~~prior~~ authorization before services begin, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

~~(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened;~~ a recipient's medical assistance eligibility has lapsed, is then retroactively reinstated, and an authorization for home care services is completed based on the date of a current assessment, eligibility, and request for authorization;

(3) a third-party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request;

(4) the commissioner has determined that a county or state human services agency has made an error; or

~~(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer;~~ if a recipient enrolled in managed care experiences a temporary disenrollment from a health plan, the commissioner shall accept the current health plan authorization for personal care assistance services for up to 60 days. The request must be received within the first 30 days of the disenrollment. If the recipient's reenrollment in managed care is after the 60 days and before 90 days, the provider shall request an additional 30-day extension of the current health plan authorization, for a total limit of 90 days from the time of disenrollment.

~~Subd. 5. **Retroactive authorization.** A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.~~

Subd. 6. **Prior Authorization.** (a) The commissioner, or the commissioner's designee, shall review the assessment, ~~service update~~, request for temporary services, ~~request for flexible use option~~, service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows: provided in this section.

~~(a) Home health services.~~ (b) All Home health services provided by a home health aide including skilled nurse visits and home health aide visits must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. The commissioner must receive the request for authorization of skilled nurse visits and home health aide visits within 20 working days of the start of service. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit home health aide visits to no more than one visit each per day. The commissioner, or the commissioner's designee, may authorize up to two skilled nurse visits per day.

~~(b) Ventilator dependent recipients.~~ (c) If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this paragraph, home care services means all direct care services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days. Recipients who meet the definition of ventilator dependent and the EN home care rating and utilize a combination of home care services are limited up to a total of 24 hours of home care services per day. Additional hours may be authorized when a recipient's assessment indicates a need for two staff to perform activities. Additional time is limited to four hours per day.

Subd. 7. **Prior Authorization; time limits.** (a) The commissioner or the commissioner's designee shall determine the time period for which a prior an authorization shall be effective and, if flexible use has been requested, whether to allow the flexible use option. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. A personal care provider agency must request a new personal care assistant services assessment, or service update if allowed, at least 60 days prior to the end of the current prior authorization time period. The request for the assessment must be made on a form approved by the commissioner. Under no circumstances, other than the exceptions in subdivision 4, shall a prior An authorization must be valid prior to the date the commissioner receives the request or for no more than 12 months.

The amount and type of personal care assistant services authorized based upon the assessment and service plan must remain in effect for the recipient whether the recipient chooses a different provider or enrolls or disenrolls from a managed care plan under section 256B.0659, unless the service needs of the recipient change and a new assessment is warranted under section 256B.0655, subdivision 1b.

(b) A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under subdivision 8, pending an appeal under section 256.045. The commissioner must provide ensure that the recipient has a copy of the most recent service plan that contains a detailed explanation of why the authorized services which areas of covered personal care assistant tasks are reduced in amount from those requested by the home care provider and provide notice of the amount of time per day reduced, and the reasons for the reduction in the recipient's notice of denial, termination, or reduction.

Subd. 8. **Prior Authorization requests; temporary services.** The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

Subd. 9. **Prior Authorization for foster care setting.** (a) Home care services provided in an adult or child foster care setting must receive prior authorization by the department commissioner according to the limits established in subdivision 11.

(b) The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement, difficulty of care, and administrative rules;

(2) personal care assistant services when the foster care license holder is also the personal care provider or personal care assistant, unless the foster home is the licensed provider's primary residence and unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a; or

~~(3) personal care assistant services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a; or~~

~~(4) (3) personal care assistant and private duty nursing services when the number of foster care residents licensed capacity is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that personal care assistant and private duty nursing services be provided, and case management is provided as required in section 256B.0625, subdivision 19a.~~

~~Subd. 10. **Limitation on payments.** Medical assistance payments for home care services shall be limited according to subdivisions 4 to 12 and sections 256B.0654, subdivision 2, and 256B.0655, subdivisions 3 and 4.~~

Subd. 11. **Limits on services without prior authorization.** A recipient may receive the following home care services during a calendar year:

(1) up to two face-to-face assessments to determine a recipient's need for personal care assistant services;

(2) one service update done to determine a recipient's need for personal care assistant services; and

(3) up to nine face-to-face skilled nurse visits.

Subd. 12. **Approval of home care services.** The commissioner or the commissioner's designee shall determine the medical necessity of home care services, the level of caregiver according to subdivision 2, and the institutional comparison according to subdivisions 4 to 12 and sections 256B.0654, subdivision 2, and ~~256B.0655, subdivisions 3 and 4~~ 256B.0659, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

Subd. 13. **Recovery of excessive payments.** The commissioner shall seek monetary recovery from providers of payments made for services which exceed the limits established in this section and sections 256B.0653 to 256B.0656 and 256B.0659. This subdivision does not apply to services provided to a recipient at the previously authorized level pending an appeal under section 256.045, subdivision 10.

Subd. 14. **Referrals to Medicare providers required.** Home care providers that do not participate in or accept Medicare assignment must refer and document the referral of dual-eligible recipients to Medicare providers when Medicare is determined to be the appropriate payer for services and supplies and equipment. Providers must be terminated from participation in the medical assistance program for failure to make these referrals.



Subd. 15. **Quality assurance for program integrity.** The commissioner shall maintain processes for monitoring ongoing program integrity including provider standards and training, consumer surveys, and random reviews of documentation.

Subd. 16. **Oversight of enrolled providers.** The commissioner shall establish an ongoing quality assurance process for home care services. The commissioner has the authority to request proof of documentation of meeting provider standards, quality standards of care, correct billing practices, and other information. Failure to provide access and information to demonstrate compliance with laws, rules, or policies must result in suspension, denial, or termination of the provider agency's enrollment with the department.

Sec. 25. Minnesota Statutes 2008, section 256B.0652, is amended to read:

**256B.0652 PRIOR AUTHORIZATION AND REVIEW OF HOME CARE SERVICES.**

Subdivision 1. **State coordination.** The commissioner shall supervise the coordination of the ~~prior~~ authorization and review of home care services that are reimbursed by medical assistance.

Subd. 2. **Duties.** (a) The commissioner may contract with or employ ~~qualified registered nurses and~~ necessary ~~support~~ staff, or contract with qualified agencies, to provide home care ~~prior~~ authorization and review services for medical assistance recipients who are receiving home care services.

(b) Reimbursement for the ~~prior~~ authorization function shall be made through the medical assistance administrative authority. The state shall pay the nonfederal share. The functions will be to:

- (1) assess the recipient's individual need for services required to be cared for safely in the community;
- (2) ensure that a service care plan that meets the recipient's needs is developed by the appropriate agency or individual;
- (3) ensure cost-effectiveness and nonduplication of medical assistance home care services;
- (4) recommend the approval or denial of the use of medical assistance funds to pay for home care services;
- (5) reassess the recipient's need for and level of home care services at a frequency determined by the commissioner; ~~and~~
- (6) conduct on-site assessments when determined necessary by the commissioner and recommend changes to care plans that will provide more efficient and appropriate home care-; and

(7) on the department's Web site:

(i) provide a link to MinnesotaHelp.info for a list of enrolled home care agencies with the following information: main office address, contact information for the agency, counties in which services are provided, type of home care services provided, whether the personal care assistance choice option is offered, types of qualified professionals employed, number of personal care assistants employed, and data on staff turnover; and

(ii) post data on home care services including information from both fee-for-service and managed care plans as available.

(c) In addition, the commissioner or the commissioner's designee may:

(1) review care plans, service plans, and reimbursement data for utilization of services that exceed community-based standards for home care, inappropriate home care services, medical necessity, home care services that do not meet quality of care standards, or unauthorized services and make appropriate referrals within the department or to other appropriate entities based on the findings;

(2) assist the recipient in obtaining services necessary to allow the recipient to remain safely in or return to the community;

(3) coordinate home care services with other medical assistance services under section 256B.0625;

(4) assist the recipient with problems related to the provision of home care services;

(5) assure the quality of home care services; and

(6) assure that all liable third-party payers including, but not limited to, Medicare have been used prior to medical assistance for home care services, ~~including but not limited to, home health agency, elected hospice benefit, waived services, alternative care program services, and personal care services.~~

(d) For the purposes of this section, "home care services" means medical assistance services defined under section 256B.0625, subdivisions 6a, 7, and 19a.

Subd. 3. **Assessment and prior authorization process for persons receiving personal care assistance and developmental disabilities services.** ~~Effective January 1, 1996,~~ For purposes of providing informed choice, coordinating of local planning decisions, and streamlining administrative requirements, the assessment and ~~prior~~ authorization process for persons receiving both home care and home and community-based waived services for persons with developmental disabilities shall meet the requirements of sections 256B.0651 and 256B.0653 to 256B.0656 with the following exceptions:

(a) Upon request for home care services and subsequent assessment by the public health nurse under sections 256B.0651 and 256B.0653 to 256B.0656, the public health nurse shall participate in the screening process, as appropriate, and, if home care services are determined to be necessary, participate in the development of a service plan coordinating the need for home care and home and community-based waived services with the assigned county case manager, the recipient of services, and the recipient's legal representative, if any.

(b) The public health nurse shall give ~~prior~~ authorization for home care services to the extent that home care services are:

(1) medically necessary;

(2) chosen by the recipient and their legal representative, if any, from the array of home care and home and community-based waived services available;

(3) coordinated with other services to be received by the recipient as described in the service plan; and

(4) provided within the county's reimbursement limits for home care and home and community-based waived services for persons with developmental disabilities.

(c) If the public health agency is or may be the provider of home care services to the recipient, the public health agency shall provide the commissioner of human services with a written plan that specifies how the assessment and ~~prior~~ authorization process will be held separate and distinct from the provision of services.

Sec. 26. Minnesota Statutes 2008, section 256B.0653, is amended to read:

**256B.0653 HOME HEALTH AGENCY COVERED SERVICES.**

Subdivision 1. ~~Homecare; skilled nurse visits~~ **Scope.** ~~"Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:~~

~~(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;~~

~~(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;~~

~~(3) assessments performed only by a registered nurse; and~~

~~(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse. This section applies to home health agency services including, home health aide, skilled nursing visits, physical therapy, occupational therapy, respiratory therapy, and speech language pathology therapy.~~

Subd. 2. ~~Telehomecare; skilled nurse visits~~ **Definitions.** ~~Medical assistance covers skilled nurse visits according to section 256B.0625, subdivision 6a, provided via telehomecare, for services which do not require hands-on care between the home care nurse and recipient. The provision of telehomecare must be made via live, two-way interactive audiovisual technology and may be augmented by utilizing store and forward technologies. Store and forward technology includes telehomecare services that do not occur in real time via synchronous transmissions, and that do not require a face to face encounter with the recipient for all or any part of any such telehomecare visit. Individually identifiable patient data obtained through real time or store and forward technology must be maintained as health records according to sections 144.291 to 144.298. If the video is used for research, training, or other purposes unrelated to the care of the patient, the identity of the patient must be concealed. A communication between the home care nurse and recipient that consists solely of a telephone conversation, facsimile, electronic mail, or a consultation between two health care practitioners, is not to be considered a telehomecare visit. Multiple daily skilled nurse visits provided via telehomecare are allowed. Coverage of telehomecare is limited to two visits per day. All skilled nurse visits provided via telehomecare must be prior authorized by the commissioner or the commissioner's designee and will be covered at the same allowable rate as skilled nurse visits provided in person. For the purposes of this section, the following terms have the meanings given.~~

~~(a) "Assessment" means an evaluation of the recipient's medical need for home health agency services by a registered nurse or appropriate therapist that is conducted within 30 days of a request and as specified in Code of Federal Regulations, title 42, sections 484.1 to 494.55.~~

~~(b) "Home care therapies" means occupational, physical, and respiratory therapy and speech-language pathology services, provided in the home by a Medicare-certified home health agency.~~

~~(c) "Home health agency services" means services delivered in the recipient's home residence, except as specified in section 256B.0625, by a home health agency to a recipient with medical needs due to illness, disability, or physical conditions.~~

~~(d) "Home health aide" means an employee of a home health agency who meets the requirements of Code of Federal Regulations, title 42, sections 484.1 to 494.55, and 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 satisfying the requirements of Code of Federal Regulations, title 42, sections 484.1 to 494.55.

(f) "Occupational therapy services" mean the services defined in Minnesota Rules, part 9505.0390.

(g) "Physical therapy services" mean the services defined in Minnesota Rules, part 9505.0390.

(h) "Respiratory therapy services" mean the services defined in chapter 147C and Minnesota Rules, part 4668.0003, subpart 37.

(i) "Speech-language pathology services" mean the services defined in Minnesota Rules, part 9505.0390.

(j) "Skilled nurse visit" means a professional nursing visit to complete nursing tasks required due to a recipient's medical condition that can only be safely provided by a professional nurse to restore and maintain optimal health.

(k) "Store-and-forward technology" means telehomecare services that do not occur in real time via synchronous transmissions such as diabetic and vital sign monitoring.

(l) "Telehomecare" means the use of telecommunications technology via live, two-way interactive audiovisual technology which may be augmented by store-and-forward technology.

(m) "Telehomecare skilled nurse visit" means a visit by a professional nurse to deliver a skilled nurse visit to a recipient located at a site other than the site where the nurse is located and is used in combination with face-to-face skilled nurse visits to adequately meet the recipient's needs.

Subd. 3. ~~**Therapies through home health agencies**~~ **Home health aide visits.** ~~(a) Medical assistance covers physical therapy and related services, including specialized maintenance therapy. Services provided by a physical therapy assistant shall be reimbursed at the same rate as services performed by a physical therapist when the services of the physical therapy assistant are provided under the direction of a physical therapist who is on the premises. Services provided by a physical therapy assistant that are provided under the direction of a physical therapist who is not on the premises shall be reimbursed at 65 percent of the physical therapist rate. Direction of the physical therapy assistant must be provided by the physical therapist as described in Minnesota Rules, part 9505.0390, subpart 1, item B. The physical therapist and physical therapist assistant may not both bill for services provided to a recipient on the same day.~~

~~(b) Medical assistance covers occupational therapy and related services, including specialized maintenance therapy. Services provided by an occupational therapy assistant shall be reimbursed at the same rate as services performed by an occupational therapist when the services of the occupational therapy assistant are provided under the direction of the occupational therapist who is on the premises. Services provided by an occupational therapy assistant under the direction of an occupational therapist who is not on the premises shall be reimbursed at 65 percent of the occupational therapist rate. Direction of the occupational therapy assistant must be provided by the occupational therapist as described in Minnesota Rules, part 9505.0390, subpart 1, item B. The occupational therapist and occupational therapist assistant may not both bill for services provided to a recipient on the same day.~~

(a) Home health aide visits must be provided by a certified home health aide using a written plan of care that is updated in compliance with Medicare regulations. A home health aide shall provide hands-on personal care, perform simple procedures as an extension of therapy or nursing services, and assist in instrumental activities of daily living as defined in section 256B.0659. Home health aide visits must be provided in the recipient's home.

(b) All home health aide visits must have authorization under section 256B.0652. The commissioner shall limit home health aide visits to no more than one visit per day per recipient.

(c) Home health aides must be supervised by a registered nurse or an appropriate therapist when providing services that are an extension of therapy.

**Subd. 4. Skilled nurse visit services.** (a) Skilled nurse visit services must be provided by a registered nurse or a licensed practical nurse under the supervision of a registered nurse, according to the written plan of care and accepted standards of medical and nursing practice according to chapter 148. Skilled nurse visit services must be ordered by a physician and documented in a plan of care that is reviewed and approved by the ordering physician at least once every 60 days. All skilled nurse visits must be medically necessary and provided in the recipient's home residence except as allowed under section 256B.0625, subdivision 6a.

(b) Skilled nurse visits include face-to-face and telehomecare visits with a limit of up to two visits per day per recipient. All visits must be based on assessed needs.

(c) Telehomecare skilled nurse visits are allowed when the recipient's health status can be accurately measured and assessed without a need for a face-to-face, hands-on encounter. All telehomecare skilled nurse visits must have authorization and are paid at the same allowable rates as face-to-face skilled nurse visits.

(d) The provision of telehomecare must be made via live, two-way interactive audiovisual technology and may be augmented by utilizing store-and-forward technologies. Individually identifiable patient data obtained through real-time or store-and-forward technology must be maintained as health records according to sections 144.291 to 144.298. If the video is used for research, training, or other purposes unrelated to the care of the patient, the identity of the patient must be concealed.

(e) Authorization for skilled nurse visits must be completed under section 256B.0652. A total of nine face-to-face skilled nurses visits per calendar year do not require authorization. All telehomecare skilled nurse visits require authorization.

**Subd. 5. Home care therapies.** (a) Home care therapies include the following: physical therapy, occupational therapy, respiratory therapy, and speech and language pathology therapy services.

(b) Home care therapies must be:

(1) provided in the recipient's residence after it has been determined the recipient is unable to access outpatient therapy;

(2) prescribed, ordered, or referred by a physician and documented in a plan of care and reviewed, according to Minnesota Rules, part 9505.0390;

(3) assessed by an appropriate therapist; and

(4) provided by a Medicare-certified home health agency enrolled as a Medicaid provider agency.

(c) Restorative and specialized maintenance therapies must be provided according to Minnesota Rules, part 9505.0390. Physical and occupational therapy assistants may be used as allowed under Minnesota Rules, part 9505.0390, subpart 1, item B.

(d) For both physical and occupational therapies, the therapist and the therapist's assistant may not both bill for services provided to a recipient on the same day.

**Subd. 6. Noncovered home health agency services.** The following are not eligible for payment under medical assistance as a home health agency service:

(1) telehomecare skilled nurses services that is communication between the home care nurse and recipient that consists solely of a telephone conversation, facsimile, electronic mail, or a consultation between two health care practitioners;

(2) the following skilled nurse visits:

(i) for the purpose of monitoring medication compliance with an established medication program for a recipient;

(ii) administering or assisting with medication administration, including injections, prefilling syringes for injections, or oral medication setup of an adult recipient, when, as determined and documented by the registered nurse, the need can be met by an available pharmacy or the recipient or a family member is physically and mentally able to self-administer or prefill a medication;

(iii) services done for the sole purpose of supervision of the home health aide or personal care assistant;

(iv) services done for the sole purpose to train other home health agency workers;

(v) services done for the sole purpose of blood samples or lab draw or Synagis injections when the recipient is able to access these services outside the home; and

(vi) Medicare evaluation or administrative nursing visits required by Medicare;

(3) home health aide visits when the following activities are the sole purpose for the visit: companionship, socialization, household tasks, transportation, and education; and

(4) home care therapies provided in other settings such as a clinic, day program, or as an inpatient or when the recipient can access therapy outside of the recipient's residence.

Sec. 27. Minnesota Statutes 2008, section 256B.0654, is amended to read:

**256B.0654 PRIVATE DUTY NURSING.**

Subdivision 1. **Definitions.** ~~(a) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a registered private duty nurse. Assessments for medical assistance home care services for developmental disabilities and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication.~~

~~(b) (a) "Complex and regular private duty nursing care" means:~~

~~(1) complex care is private duty nursing services provided to recipients who are ventilator dependent or for whom a physician has certified that were it not for private duty nursing the recipient would meet meets the criteria for inpatient hospital intensive care unit (ICU) level of care; and~~

~~(2) regular care is private duty nursing provided to all other recipients.~~

(b) "Private duty nursing" means ongoing professional nursing services by a registered or licensed practical nurse including assessment, professional nursing tasks, and education, based on an assessment and physician orders to maintain or restore optimal health of the recipient.

(c) "Private duty nursing agency" means a medical assistance enrolled provider licensed under chapter 144A to provide private duty nursing services.

(d) "Regular private duty nursing" means nursing services provided to a recipient who is considered stable and not at an inpatient hospital intensive care unit level of care, but may have episodes of instability that are not life threatening.

(e) "Shared private duty nursing" means the provision of nursing services by a private duty nurse to two recipients at the same time and in the same setting.

Subd. 2. **Authorization; private duty nursing services.** (a) All private duty nursing services shall be ~~prior~~ authorized by the commissioner or the commissioner's designee. ~~Prior~~ Authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services in quarter-hour units when:

(1) the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; or

(2) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

(b) The commissioner may authorize:

(1) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(2) private duty nursing in combination with other home care services up to the total cost allowed under section 256B.0655, subdivision 4;

(3) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in clause (1) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0501 to 9505.0540.

(c) The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section and sections 256B.0651, 256B.0653, ~~256B.0655,~~ and 256B.0656, and 256B.0659 than would otherwise be authorized under section 256B.49.

Subd. 2a. **Private duty nursing services.** (a) Private duty nursing services must be used:

(1) in the recipient's home or outside the home when normal life activities require;

(2) when the recipient requires more individual and continuous care than can be provided during a skilled nurse visit; and

(3) when the care required is outside of the scope of services that can be provided by a home health aide or personal care assistant.

(b) Private duty nursing services must be:

(1) assessed by a registered nurse on a form approved by the commissioner;

(2) ordered by a physician and documented in a plan of care that is reviewed by the physician at least once every 60 days; and

(3) authorized by the commissioner under section 256B.0652.

Subd. 2b. **Noncovered private duty nursing services.** Private duty nursing services do not cover the following:

(1) nursing services by a nurse who is the foster care provider of a person who has not reached 18 years of age unless allowed under subdivision 4;

(2) nursing services to more than two persons receiving shared private duty nursing services from a private duty nurse in a single setting; and

(3) nursing services provided by a registered nurse or licensed practical nurse who is the recipient's legal guardian or related to the recipient as spouse, parent, family foster parent, or child, whether by blood, marriage, or adoption except as specified in section 256B.0652, subdivision 4.

Subd. 3. **Shared private duty nursing care option.** (a) Medical assistance payments for shared private duty nursing services by a private duty nurse shall be limited according to this subdivision. ~~For the purposes of this section and sections 256B.0651, 256B.0653, 256B.0655, and 256B.0656, "private duty nursing agency" means an agency licensed under chapter 144A to provide private duty nursing services.~~ Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to private duty nursing services apply to shared private duty nursing services. Nothing in this subdivision shall be construed to reduce the total number of private duty nursing hours authorized for an individual recipient.

~~(b) Recipients of private duty nursing services may share nursing staff and the commissioner shall provide a rate methodology for shared private duty nursing. For two persons sharing nursing care, the rate paid to a provider shall not exceed 1.5 times the regular private duty nursing rates paid for serving a single individual by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared private duty nursing care on the date for which the service is billed. No more than two persons may receive shared private duty nursing services from a private duty nurse in a single setting.~~

~~(b)~~ (b) Shared private duty nursing care is the provision of nursing services by a private duty nurse to two medical assistance eligible recipients at the same time and in the same setting. This subdivision does not apply when a private duty nurse is caring for multiple recipients in more than one setting.

(c) For the purposes of this subdivision, "setting" means:

(1) the home residence or foster care home of one of the individual recipients as defined in section 256B.0651;  
or

(2) a child care program licensed under chapter 245A or operated by a local school district or private school; or

(3) an adult day care service licensed under chapter 245A; or

(4) outside the home residence or foster care home of one of the recipients when normal life activities take the recipients outside the home.



~~This subdivision does not apply when a private duty nurse is caring for multiple recipients in more than one setting.~~

~~(d) The private duty nursing agency must offer the recipient the option of shared or one-on-one private duty nursing services. The recipient may withdraw from participating in a shared service arrangement at any time.~~

~~(e)~~ (e) The recipient or the recipient's legal representative, and the recipient's physician, in conjunction with the ~~home health care~~ private duty nursing agency, shall determine:

(1) whether shared private duty nursing care is an appropriate option based on the individual needs and preferences of the recipient; and

(2) the amount of shared private duty nursing services authorized as part of the overall authorization of nursing services.

~~(f)~~ (f) The recipient or the recipient's legal representative, in conjunction with the private duty nursing agency, shall approve the setting, grouping, and arrangement of shared private duty nursing care based on the individual needs and preferences of the recipients. Decisions on the selection of recipients to share services must be based on the ages of the recipients, compatibility, and coordination of their care needs.

~~(g)~~ (g) The following items must be considered by the recipient or the recipient's legal representative and the private duty nursing agency, and documented in the recipient's health service record:

(1) the additional training needed by the private duty nurse to provide care to two recipients in the same setting and to ensure that the needs of the recipients are met appropriately and safely;

(2) the setting in which the shared private duty nursing care will be provided;

(3) the ongoing monitoring and evaluation of the effectiveness and appropriateness of the service and process used to make changes in service or setting;

(4) a contingency plan which accounts for absence of the recipient in a shared private duty nursing setting due to illness or other circumstances;

(5) staffing backup contingencies in the event of employee illness or absence; and

(6) arrangements for additional assistance to respond to urgent or emergency care needs of the recipients.

~~(g) The provider must offer the recipient or responsible party the option of shared or one on one private duty nursing services. The recipient or responsible party can withdraw from participating in a shared service arrangement at any time.~~

~~(h) The private duty nursing agency must document the following in the health service record for each individual recipient sharing private duty nursing care. The documentation for shared private duty nursing must be on a form approved by the commissioner for each individual recipient sharing private duty nursing. The documentation must be part of the recipient's health service record and include:~~

(1) permission by the recipient or the recipient's legal representative for the maximum number of shared nursing ~~care~~ hours per week chosen by the recipient and permission for shared private duty nursing services provided in and outside the recipient's home residence;

~~(2) permission by the recipient or the recipient's legal representative for shared private duty nursing services provided outside the recipient's residence;~~

~~(3) permission by the recipient or the recipient's legal representative for others to receive shared private duty nursing services in the recipient's residence;~~

~~(4) (2) revocation by the recipient or the recipient's legal representative of for the shared private duty nursing care authorization, or the shared care to be provided to others in the recipient's residence, or the shared private duty nursing services to be provided outside permission, or services provided to others in and outside the recipient's residence; and~~

~~(5) (3) daily documentation of the shared private duty nursing services provided by each identified private duty nurse, including:~~

~~(i) the names of each recipient receiving shared private duty nursing services together;~~

~~(ii) the setting for the shared services, including the starting and ending times that the recipient received shared private duty nursing care; and~~

~~(iii) notes by the private duty nurse regarding changes in the recipient's condition, problems that may arise from the sharing of private duty nursing services, and scheduling and care issues.~~

~~(i) Unless otherwise provided in this subdivision, all other statutory and regulatory provisions relating to private duty nursing services apply to shared private duty nursing services.~~

~~Nothing in this subdivision shall be construed to reduce the total number of private duty nursing hours authorized for an individual recipient under subdivision 2.~~

(i) The commissioner shall provide a rate methodology for shared private duty nursing. For two persons sharing nursing care, the rate paid to a provider must not exceed 1.5 times the regular private duty nursing rates paid for serving a single individual by a registered nurse or licensed practical nurse. These rates apply only to situations in which both recipients are present and receive shared private duty nursing care on the date for which the service is billed.

Subd. 4. **Hardship criteria; private duty nursing.** (a) Payment is allowed for extraordinary services that require specialized nursing skills and are provided by parents of minor children, family foster parents, spouses, and legal guardians who are providing private duty nursing care under the following conditions:

(1) the provision of these services is not legally required of the parents, family foster parents, spouses, or legal guardians;

(2) the services are necessary to prevent hospitalization of the recipient; and

(3) the recipient is eligible for state plan home care or a home and community-based waiver and one of the following hardship criteria are met:

(i) the parent, spouse, or legal guardian resigns from a part-time or full-time job to provide nursing care for the recipient; ~~or~~

(ii) the parent, spouse, or legal guardian goes from a full-time to a part-time job with less compensation to provide nursing care for the recipient; ~~or~~

(iii) the parent, spouse, or legal guardian takes a leave of absence without pay to provide nursing care for the recipient; or

(iv) because of labor conditions, special language needs, or intermittent hours of care needed, the parent, spouse, or legal guardian is needed in order to provide adequate private duty nursing services to meet the medical needs of the recipient.

(b) Private duty nursing may be provided by a parent, spouse, family foster parent, or legal guardian who is a nurse licensed in Minnesota. Private duty nursing services provided by a parent, spouse, family foster parent, or legal guardian cannot be used in lieu of nursing services covered and available under liable third-party payors, including Medicare. The private duty nursing provided by a parent, family foster parent, spouse, or legal guardian must be included in the service plan. Authorized skilled nursing services for a single recipient or recipients with the same residence and provided by the parent, family foster parent, spouse, or legal guardian may not exceed 50 percent of the total approved nursing hours, or eight hours per day, whichever is less, up to a maximum of 40 hours per week. A parent or parents, family foster parents, spouse, or legal guardian shall not provide more than 40 hours of services in a seven-day period. For parents, family foster parents, and legal guardians, 40 hours is the total amount allowed regardless of the number of children or adults who receive services. Nothing in this subdivision precludes the parent's, family foster parents', spouse's, or legal guardian's obligation of assuming the nonreimbursed family responsibilities of emergency backup caregiver and primary caregiver.

(c) A parent, family foster parent, or a spouse may not be paid to provide private duty nursing care if:

(1) the parent or spouse fails to pass a criminal background check according to chapter 245C, ~~or if;~~

(2) it has been determined by the home ~~health care~~ agency, the case manager, or the physician that the private duty nursing ~~care~~ provided by the parent, family foster parents, spouse, or legal guardian is unsafe; or

(3) the parent, family foster parents, spouse, or legal guardian do not follow physician orders.

(d) For purposes of this section, "assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing must be conducted by a registered nurse.

Sec. 28. Minnesota Statutes 2008, section 256B.0655, subdivision 1b, is amended to read:

Subd. 1b. **Assessment.** "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for personal care assistant services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. ~~A face-to-face~~ An in-person assessment must include: documentation of health status, determination of need, evaluation of service effectiveness, identification of appropriate services, service plan development or modification, coordination of services, referrals and follow-up to appropriate payers and community resources, completion of required reports, recommendation of service authorization, and consumer education. Once the need for personal care assistant services is determined under this section or sections 256B.0651, 256B.0653, 256B.0654, and 256B.0656, the county public health nurse or certified public health nurse under contract with the county is responsible for communicating this recommendation to the commissioner and the recipient. ~~A face-to-face assessment for personal care assistant services is conducted on those recipients who have never had a county public health nurse assessment.~~ A face-to-face An in-person assessment must occur at least annually or when there is a significant change in the recipient's condition or when there is a change in the need for personal care assistant services. A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistant service. A service update may be completed by telephone, used when there is no need for an increase in personal care assistant services, and used for two consecutive assessments if followed by a face-to-face assessment. A service update must be completed on a form approved by the commissioner. A service update or

review for temporary increase includes a review of initial baseline data, evaluation of service effectiveness, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party or personal care provider agency.

Sec. 29. Minnesota Statutes 2008, section 256B.0655, subdivision 4, is amended to read:

Subd. 4. **Prior Authorization; personal care assistance and qualified professional.** ~~The commissioner, or the commissioner's designee, shall review the assessment, service update, request for temporary services, request for flexible use option, service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows:~~

~~(1) (a) All personal care assistant services and supervision by a qualified professional, if requested by the recipient, and additional services beyond the limits established in section 256B.0652, subdivision 11, must be prior authorized by the commissioner or the commissioner's designee before services begin except for the assessments established in section sections 256B.0651, subdivision 11, and 256B.0655, subdivision 1b. The authorization for personal care assistance and qualified professional services under section 256B.0659 must be completed within 30 calendar days after receiving a complete request.~~

~~(b) The amount of personal care assistant services authorized must be based on the recipient's home care rating. The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner identifying the following:~~

~~A child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:~~

~~(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or~~

~~(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least seven activities of daily living and need physical assistance with eating or have a neurological diagnosis; or~~

~~(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have Level I behavior, plus any inflation adjustment as provided by the legislature for personal care service; or~~

~~(D) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or~~

~~(E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and~~

~~(F) a reasonable amount of time for the provision of supervision by a qualified professional of personal care assistant services, if a qualified professional is requested by the recipient or responsible party.~~

~~(2) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, as established by May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, 1992. These limits shall be calculated to the nearest quarter hour.~~

~~(3) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and protocols under this section and sections 256B.0651, 256B.0653, 256B.0654, and 256B.0656 and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.~~

~~(4) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:~~

~~(A) daily tube feedings;~~

~~(B) daily parenteral therapy;~~

~~(C) wound or decubiti care;~~

~~(D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;~~

~~(E) catheterization;~~

~~(F) ostomy care;~~

~~(G) quadriplegia; or~~

~~(H) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.~~

~~(5) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:~~

~~(A) injury to the recipient's own body;~~

~~(B) physical injury to other people; or~~

~~(C) destruction of property.~~

~~(6) Time authorized for personal care relating to Level I behavior in paragraph (5), clauses (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.~~

~~(7) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care assistant services under subdivision 2, paragraph (a):~~

~~(A) unusual or repetitive habits;~~

~~(B) withdrawn behavior; or~~

~~(C) offensive behavior.~~

~~(8) A recipient with a home care rating of Level II behavior in paragraph (7), clauses (A) to (C), shall be rated as comparable to a recipient with complex medical needs under paragraph (4). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the next complex category up to the maximum rating under paragraph (1), clause (B).~~

~~(1) total number of dependencies of activities of daily living as defined in section 256B.0659;~~

~~(2) number of complex health-related functions as defined in section 256B.0659; and~~

~~(3) number of behavior criteria as defined in section 256B.0659.~~

~~(c) The methodology to determine total time for personal care assistance services is based on the median paid units per day for each home care rating from fiscal year 2007 data. Each home care rating has a base level of hours assigned. Additional time is added through the assessment and identification of the following:~~

~~(1) 30 additional minutes per day for a dependency in each critical activity of daily living as defined in section 256B.0659;~~

~~(2) 30 additional minutes per day for each complex health-related need as defined in section 256B.0659; and~~

~~(3) 30 additional minutes per day for each behavior criteria as defined in section 256B.0659.~~

~~(d) A limit of 96 units of qualified professional supervision may be authorized for each recipient receiving personal care assistance services. A request to the commissioner to exceed this total in a calendar year must be requested by the personal care provider agency on a form approved by the commissioner.~~

Sec. 30. Minnesota Statutes 2008, section 256B.0657, subdivision 8, is amended to read:

Subd. 8. **Self-directed budget requirements.** The budget for the provision of the self-directed service option shall be equal to the greater of either established based on:

~~(1) the annual amount of personal care assistant services under section 256B.0655 that the recipient has used in the most recent 12-month period assessed personal care assistance units, not to exceed the maximum number of personal care assistance units available, as determined by section 256B.0655; or~~

~~(2) the amount determined using the consumer support grant methodology under section 256.476, subdivision 11, except that the budget amount shall include the federal and nonfederal share of the average service costs, the personal care assistance unit rate:~~

~~(i) with a reduction to the unit rate to pay for a program administrator as defined in subdivision 10; and~~

~~(ii) an additional adjustment to the unit rate as needed to ensure cost neutrality for the state.~~

Sec. 31. Minnesota Statutes 2008, section 256B.0657, is amended by adding a subdivision to read:

Subd. 12. **Enrollment and evaluation.** Enrollment in the self-directed supports option is available to current personal care assistance recipients upon annual personal care assistance reassessment, with a maximum enrollment of 1,000 people in the first fiscal year of implementation and an additional 1,000 people in the second fiscal year. The commissioner shall evaluate the self-directed supports option during the first two years of implementation and make any necessary changes prior to the option becoming available statewide.

Sec. 32. **[256B.0659] PERSONAL CARE ASSISTANCE PROGRAM.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in paragraphs (b) to (p) have the meanings given unless otherwise provided in text.

(b) "Activities of daily living" means grooming, dressing, bathing, transferring, mobility, positioning, eating, and toileting.

(c) "Behavior" means categories to determine the home care rating and is based on the criteria found in this section. Level I behavior means physical aggression to self or others and destruction of property.

(d) "Complex health-related needs" means a category to determine the home care rating and is based on the criteria found in this section.

(e) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

(f) "Dependency in activities of daily living" means a person requires assistance to begin or complete one or more of the activities of daily living.

(g) "Health-related functions" means functions that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care assistant.

(h) "Instrumental activities of daily living" means activities to include meal planning and preparation; basic assistance with paying bills; shopping for food, clothing, and other essential items; performing household tasks integral to the personal care assistance services; communication by telephone and other media; and traveling, including to medical appointments, and participating in the community.

(i) "Managing employee" has the same definition as described in Code of Federal Regulations, title 42, section 455.

(j) "Qualified professional" means a professional providing supervision of personal care assistance services and staff as defined in section 256B.0625, subdivision 19c.

(k) "Personal care assistance provider agency" means a medical assistance enrolled provider that provides or assists with providing personal care assistance services and includes personal care assistance provider organizations, personal care assistance choice agency, class A licensed nursing agency, and Medicare-certified home health agency.

(l) "Personal care assistant" means an individual employed by a personal care assistance agency that provides personal care assistance services.

(m) "Personal care assistance care plan" means a written description of personal care assistance services developed by the personal care assistance provider according to the service plan.

(n) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(o) "Self-administered medication" means medication taken orally, by injection or insertion, or applied topically without the need for assistance.

(p) "Service plan" means a written summary of the assessment and description of the services needed by the recipient.

**Subd. 2. Personal care assistance services; covered services.** (a) The personal care assistance services eligible for payment include services and supports furnished to an individual, as needed, to assist in:

(1) activities of daily living;

(2) health-related procedures and tasks;

(3) assistance with behavior needs; 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 or tasks include the following covered services:

(1) range of motion and passive exercise to maintain a recipient's optimal level of strength and muscle functioning;

(2) assistance with self-administered medication as defined by this section, including reminders to take medication, bringing medication to the recipient, and assistance with opening medication under the direction of the recipient or responsible party;



(3) interventions for seizure disorders, including monitoring and observation; and

(4) other activities considered within the scope of the personal care service and meeting the definition of health-related procedures or tasks under this section.

(d) A personal care assistant may perform health-related procedures and tasks associated with the complex health-related needs of a recipient if the 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 task. Delegation of health-related procedures and tasks and all training must be documented in the personal care assistance care plan and the recipient's and personal care assistant's files.

(e) 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 functions 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) 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.

**Subd. 3. Noncovered personal care assistance services.** (a) Personal care assistance services are not eligible for medical assistance payment under this section when provided:

(1) by the recipient's spouse, parent of a recipient under the age of 18, paid legal guardian, licensed foster provider, except as allowed under section 256B.0651, subdivision 9, or responsible party;

(2) in lieu of other staffing options in a residential or child care setting;

(3) solely as a child care or babysitting service; or

(4) without authorization by the commissioner or the commissioner's designee.

(b) The following personal care services are not eligible for medical assistance payment under this section when provided in residential settings:

(1) when the provider of home care services who is not related by blood, marriage, or adoption owns or otherwise controls the living arrangement, including licensed or unlicensed services; or

(2) when personal care assistance services are the responsibility of a residential or program license holder under the terms of a service agreement and administrative rules.

(c) Other specific tasks not covered under paragraph (a) or (b) that are not eligible for medical assistance reimbursement for personal care assistance services under this section include:

(1) sterile procedures;

(2) injections of fluids and medications into veins, muscles, or skin;

(3) home maintenance or chore services;

(4) homemaker services not an integral part of assessed personal care assistance services needed by a recipient;

(5) application of restraints or implementation of procedures under section 245.825;

(6) instrumental activities of daily living for children under the age of 18; and

(7) assessments for personal care assistance services by personal care assistance provider agencies or by independently enrolled registered nurses.

**Subd. 4. Assessment for personal care assistance services.** (a) An assessment as defined in section 256B.0655, subdivision 1b, must be completed for personal care assistance services.

(b) The following conditions apply to the assessment:

(1) a person must be assessed as dependent in an activity of daily living based on the person's need, on a daily basis, for:

(i) cueing or supervision to complete the task; or

(ii) hands-on assistance to complete the task; and

(2) a child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity. Assistance needed is the assistance appropriate for a typical child of the same age.

(c) Assessment for complex health-related needs must meet the criteria in this paragraph. During the assessment process, a recipient qualifies as having complex health-related functions if the recipient has one or more of the interventions that are ordered by a physician, specified in a personal care assistance care plan, and found in the following:

(1) tube feedings requiring:

(i) a gastro/jejunostomy tube; or

(ii) continuous tube feeding lasting longer than 12 hours per day;

(2) wounds described as:

(i) stage III or stage IV;

(ii) multiple wounds;

(iii) requiring sterile or clean dressing changes or a wound vac; or

(iv) open lesions such as burns, fistulas, tube sites, or ostomy sites that require specialized care;

(3) parenteral therapy described as:

(i) IV therapy more than two times per week lasting longer than four hours for each treatment; or

(ii) total parenteral nutrition (TPN) daily;

(4) respiratory interventions including:

(i) oxygen required more than eight hours per day;

(ii) respiratory vest more than one time per day;

(iii) bronchial drainage treatments more than two times per day;

(iv) sterile or clean suctioning more than six times per day;

(v) dependence on another to apply respiratory ventilation augmentation devices such as BiPAP and CPAP; and

(vi) ventilator dependence under section 256B.0652;

(5) insertion and maintenance of catheter including:

(i) sterile catheter changes more than one time per month;

(ii) clean self-catheterization more than six times per day; or

(iii) bladder irrigations;

(6) bowel program more than two times per week requiring more than 30 minutes to perform each time;

(7) neurological intervention including:

(i) seizures more than two times per week and requiring significant physical assistance to maintain safety; or

(ii) swallowing disorders diagnosed by a physician and requiring specialized assistance from another on a daily basis; and

(8) other congenital or acquired diseases creating a need for significantly increased direct hands-on assistance and interventions in six to eight activities of daily living.

(d) An assessment of behaviors must meet the criteria in this paragraph. A recipient qualifies as having a need for assistance due to behaviors if the recipient's behavior requires assistance at least four times per week and shows one or more of the following behaviors:

(1) physical aggression towards self, others, or property that requires immediate response of another;

(2) increased vulnerability due to cognitive deficits or socially inappropriate behavior; or

(3) verbally aggressive and resistive to care.

Subd. 5. **Service and support planning and referral.** (a) The assessor, with the recipient or responsible party, shall review the assessment information and determine referrals for other payers, services, and community supports as appropriate.

(b) The recipient must be referred for evaluation, services, or supports that are appropriate to help meet the recipient's needs including, but not limited to, the following circumstances:

(1) when there is another payer who is responsible to provide the service to meet the recipient's needs;

(2) when the recipient qualifies for assistance due to mental illness or behaviors under this section, a referral for a mental health diagnostic and functional assessment must be completed, or referral must be made for other specific mental health services or community services;

(3) when the recipient is eligible for medical assistance and meets medical assistance eligibility for a home health aide or skilled nurse visit;

(4) when the recipient would benefit from an evaluation for another service; and

(5) when there is a more appropriate service to meet the assessed needs.

(c) The reimbursement rates for public health nurse visits that relate to the provision of personal care assistance services under this section and section 256B.0625, subdivision 19a, are:

(1) \$210.50 for a face-to-face assessment visit;

(2) \$105.25 for each service update; and

(3) \$105.25 for each request for a temporary service increase.

(d) The rates specified in paragraph (c) must be adjusted to reflect provider rate increases for personal care assistance services that are approved by the legislature for the fiscal year ending June 30, 2000, and subsequent fiscal years. Any requirements applied by the legislature to provider rate increases for personal care assistance services also apply to adjustments under this paragraph.

(e) Effective July 1, 2008, the payment rate for an assessment under this section and section 256B.0651 shall be reduced by 25 percent when the assessment is not completed on time and the service agreement documentation is not submitted in time to continue services. The commissioner shall reduce the amount of the claim for those assessments that are not submitted on time.

Subd. 6. **Service plan.** The service plan must be completed by the assessor with the recipient and responsible party on a form determined by the commissioner and include a summary of the assessment with a description of the need, authorized amount, and expected outcomes and goals of personal care assistance services. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within ten working days. The recipient or responsible party must be given information by the assessor about the options in the personal care assistance program to allow for review and decision making.

Subd. 7. **Personal care assistance care plan.** (a) Each recipient must have a current personal care assistance care plan based on the service plan in subdivision 21 that is developed by the qualified professional with the recipient and responsible party. A copy of the most current personal care assistance care plan is required to be in the recipient's home and in the recipient's file at the provider agency.

(b) The personal care assistance care plan must have the following components:

(1) start and end date of the care plan;

(2) recipient demographic information, including name and telephone number;

(3) emergency numbers, procedures, and a description of measures to address identified safety and vulnerability issues, including a backup staffing plan;

(4) name of responsible party and instructions for contact;

(5) description of the recipient's individualized needs for assistance with activities of daily living, instrumental activities of daily living, health-related tasks, and behaviors; and

(6) dated signatures of recipient or responsible party and qualified professional.

(c) The personal care assistance care plan must have instructions and comments about the recipient's needs for assistance and any special instructions or procedures required. The month-to-month plan for the use of personal care assistance services is part of the personal care assistance care plan. The personal care assistance care plan must be completed within the first week after start of services with a personal care provider agency and must be updated as needed when there is a change in need for personal care assistance services. A new personal care assistance care plan is required annually at the time of the reassessment.

Subd. 8. **Communication with recipient's physician.** The personal care assistance program requires communication with the recipient's physician about a recipient's assessed needs for personal care assistance services. The commissioner shall work with the state medical director to develop options for communication with the recipient's physician.

Subd. 9. **Responsible party; generally.** (a) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community.

(b) A responsible party must be 18 years of age, actively participate in planning and directing of personal care assistance services, and attend all assessments for the recipient.

(c) A responsible party must not be the:

(1) personal care assistant;

(2) home care provider agency owner or staff; or

(3) county staff acting as part of employment.

(d) A licensed family foster parent who lives with the recipient may be the responsible party as long as the family foster parent meets the other responsible party requirements.

(e) A responsible party is required when:

(1) the person is a minor according to section 524.5-102, subdivision 10;

(2) the person is an incapacitated adult according to section 524.5-102, subdivision 6, resulting in a court-appointed guardian; or

(3) the assessment according to section 256B.0911 determines that the recipient is in need of a responsible party to direct the recipient's care.

(f) There may be two persons designated as the responsible party for reasons such as divided households and court-ordered custodies. Each person named as responsible party must meet the program criteria and responsibilities.

(g) The recipient or the recipient's legal representative shall appoint a responsible party if necessary to direct and supervise the care provided to the recipient. The responsible party must be identified at the time of assessment and listed on the recipient's service agreement and personal care assistance care plan.

Subd. 10. **Responsible party; duties; delegation.** (a) A responsible party with a personal care assistance provider agency shall enter into a written agreement, on a form determined by the commissioner, to perform the following duties:

(1) be available while care is provided in a method agreed upon by the individual or the individual's legal representative and documented in the recipient's personal care assistance care plan;

(2) monitor personal care assistance services to ensure the recipient's personal care assistance care plan is being followed; and

(3) review and sign personal care assistance time sheets after services are provided to provide verification that personal care assistance services were provided.

Failure to provide the support required by the recipient must result in a referral to the county common entry point.

(b) Responsible parties who are parents of minors or guardians of minors or incapacitated persons may delegate the responsibility to another adult who is not the personal care assistant during a temporary absence of at least 24 hours but not more than six months. The person delegated as a responsible party must be able to meet the definition of the responsible party, except that the delegated responsible party is required to reside with the recipient only while serving as the responsible party. The responsible party must ensure that the delegate performs the functions of the responsible party, is identified at the time of the assessment, and is listed on the personal care assistance care plan. The responsible party must communicate to the personal care assistance provider agency about the need for a delegate responsible party, including the name of the delegated responsible party, dates the delegated responsible party will be acting as the responsible party, and contact numbers.

Subd. 11. **Personal care assistant; requirements.** (a) A personal care assistant must meet the following requirements:

(1) be at least 18 years of age and if 16 or 17 years of age only if:

(i) supervised by a qualified professional every 60 days; and

(ii) employed 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 non-pay-to provider after clearing a background study. Before a personal care assistant provides services, the personal care assistance provider agency must initiate a background study on the personal care assistant under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the personal care assistant is:

(i) not disqualified under section 245C.14; or

(ii) is disqualified, but the personal care assistant has received a set aside of the disqualification under section 245C.22;

(4) be able to effectively communicate with the recipient and personal care assistance provider agency;

(5) be able to provide covered personal care assistance services according to the recipient's personal care assistance care plan, respond appropriately to recipient needs, and report changes in the recipient's condition to the supervising qualified professional or physician;

(6) not be a consumer of personal care assistance services;

(7) maintain daily written records including, but not limited to, time sheets under subdivision 12;

(8) complete standardized training as determined or approved by the commissioner before completing enrollment. Personal care assistant training must include successful completion of the following training components: basic first aid, vulnerable adult, child maltreatment, OSHA universal precautions, basic roles and responsibilities of personal care assistants including information about assistance with lifting and transfers for recipients, orientation to positive behavior practices, emergency preparedness, 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 the recipient. Personal care assistant training and orientation must be completed within the first seven days after the services begin and be directed to the needs of the recipient and the recipient's personal care assistance care plan; and

(9) be limited to providing and being paid for no more than 310 hours per month of personal care assistance services that is determined by the commissioner regardless of the number of recipients being served or the number of personal care assistance provider agencies enrolled with.

(b) A legal guardian may be a personal care assistant if the guardian is not being paid for the guardian services and meets the criteria for personal care assistants in paragraph (a).

(c) Persons who do not qualify as a personal care assistant include parents and stepparents of minors, spouses, paid legal guardians, foster care providers, except as otherwise allowed in section 256B.0625, subdivision 19a, or staff of a residential setting.

**Subd. 12. Documentation of personal care assistance services provided.** (a) Personal care assistance services for a recipient must be documented daily by each personal care assistant, on a time sheet form approved by the commissioner. All documentation may be Web-based, electronic, or paper documentation. The completed form must be submitted on a monthly basis to the provider and kept in the recipient's health record.

(b) The activity documentation must correspond to the personal care assistance care plan and be reviewed by the qualified professional.

(c) The personal care assistant time sheet must be on a form approved by the commissioner documenting time the personal care assistant provides services in the home. The following criteria must be included in the time sheet:

(1) full name of personal care assistant and individual provider number;

(2) provider name and telephone numbers;

(3) full name of recipient;

(4) consecutive dates, including month, day, and year, and arrival and departure time with a.m. or p.m. notations;

(5) signatures of recipient or the responsible party;

(6) personal signature of the personal care assistant;

(7) any shared care provided, if applicable;

(8) a statement that it is a federal crime to provide false information on personal care service billings for medical assistance payments; and

(9) dates and location of recipient stays in a hospital, care facility, or incarceration.

**Subd. 13. Qualified professional; qualifications.** (a) The qualified professional must be employed by a personal care assistance provider agency and meet the definition under section 256B.0625, subdivision 19c. Before a qualified professional provides services, the personal care assistance provider agency must initiate a background study on the qualified professional under chapter 245C, and the personal care assistance provider agency must have received a notice from the commissioner that the qualified professional:

(1) is not disqualified under section 245C.14; or

(2) is disqualified, but the qualified professional has received a set aside of the disqualification under section 245C.22.

(b) The qualified professional shall perform the duties of training, supervision, and evaluation of the personal care assistance staff and evaluation of the effectiveness of personal care assistance services. The qualified professional shall:

(1) develop and monitor with the recipient a personal care assistance care plan based on the service plan and individualized needs of the recipient;

(2) develop and monitor with the recipient a monthly plan for the use of personal care assistance services;

(3) review documentation of personal care assistance services provided;

(4) provide training and ensure competency for the personal care assistant in the individual needs of the recipient; and

(5) document all training, communication, evaluations, and needed actions to improve performance of the personal care assistants.

(c) The qualified professional shall complete the provider training with basic information about the personal care assistance program approved by the commissioner within six months of the date hired by a personal care assistance provider agency. Qualified professionals who have completed the required trainings as an employee with a personal care assistance provider agency do not need to repeat the required trainings if they are hired by another agency, if they have completed the training within the last three years.

**Subd. 14. Qualified professional; duties.** (a) All personal care assistants must be supervised by a qualified professional or in a joint supervision relationship with the recipient or the responsible party.

(b) Through direct training, observation, return demonstrations, and consultation with the staff and the recipient, the qualified professional must ensure and document that the personal care assistant is:

(1) capable of providing the required personal care assistance services;



(2) knowledgeable about the plan of personal care assistance services before services are performed; and

(3) able to identify conditions that should be immediately brought to the attention of the qualified professional.

(c) The qualified professional shall evaluate the personal care assistant within the first 14 days of starting to provide services for a recipient, except for those providing services under the personal care assistant choice option under subdivision 19. The qualified professional shall evaluate the personal care assistance services for a recipient through direct observation of a personal care assistant's work:

(1) at least every 90 days thereafter for the first year of a recipient's services; and

(2) every 120 days after the first year of a recipient's service, or whenever needed for response to a recipient's request for increased supervision of the personal care assistance staff.

(d) Communication with the recipient is a part of the evaluation process of the personal care assistance staff.

(e) At each supervisory visit, the qualified professional shall evaluate personal care assistance services including the following information:

(1) satisfaction level of the recipient with personal care assistance services;

(2) review of the month-to-month plan for use of personal care assistance services;

(3) review of documentation of personal care assistance services provided;

(4) whether the personal care assistance services are meeting the goals of the service as stated in the personal care assistance care plan and service plan;

(5) a written record of the results of the evaluation and actions taken to correct any deficiencies in the work of a personal care assistant; and

(6) revision of the personal care assistance care plan as necessary in consultation with the recipient or responsible party, to meet the needs of the recipient.

(f) The qualified professional shall complete the required documentation in the agency recipient and employee files and the recipient's home, including the following documentation:

(1) the personal care assistance care plan based on the service plan and individualized needs of the recipient;

(2) a month-to-month plan for use of personal care assistance services;

(3) changes in need of the recipient requiring a change to the level of service and the personal care assistance care plan;

(4) evaluation results of supervision visits and identified issues with personal care assistance staff with actions taken;

(5) all communication with the recipient and personal care assistance staff; and

(6) hands-on training or individualized training for the care of the recipient.

(g) The documentation in paragraph (f) must be completed on agency forms.

(h) The services that are not eligible for payment as qualified professional services include:

(1) direct professional nursing tasks that could be assessed and authorized as skilled nursing tasks;

(2) supervision of personal care assistance completed by telephone;

(3) agency administrative activities;

(4) training other than the individualized training required to provide care for a recipient; and

(5) any other activity that is not described in this section.

Subd. 15. **Flexible use.** (a) "Flexible use" means the scheduled use of authorized hours of personal care assistance services, which vary within a service authorization period covering no more than six months, in order to more effectively meet the needs and schedule of the recipient. Each 12-month service agreement is divided into two six-month authorization date spans. No more than 75 percent of the total authorized units for a 12-month service agreement may be used in a six-month date span.

(b) Authorization of flexible use occurs during the authorization process under section 256B.0652. The flexible use of authorized hours does not increase the total amount of authorized hours available to a recipient. The commissioner shall not authorize additional personal care assistance services to supplement a service authorization that is exhausted before the end date under a flexible service use plan, unless the assessor determines a change in condition and a need for increased services is established. Authorized hours not used within the six-month period must not be carried over to another time period.

(c) A recipient who has terminated personal care assistance services before the end of the 12-month authorization period must not receive additional hours upon reapplying during the same 12-month authorization period, except if a change in condition is documented. Services must be prorated for the remainder of the 12-month authorization period based on the first six-month assessment.

(d) The recipient, responsible party, and qualified professional must develop a written month-to-month plan of the projected use of personal care assistance services that is part of the personal care assistance care plan and ensures:

(1) that the health and safety needs of the recipient are met throughout both date spans of the authorization period; and

(2) that the total authorized amount of personal care assistance services for each date span must not be used before the end of each date span in the authorization period.

(e) The personal care assistance provider agency shall monitor the use of personal care assistance services to ensure health and safety needs of the recipient are met throughout both date spans of the authorization period. The commissioner or the commissioner's designee shall provide written notice to the provider and the recipient or responsible party when a recipient is at risk of exceeding the personal care assistance services prior to the end of the six-month period.

(f) Misuse and abuse of the flexible use of personal care assistance services resulting in the overuse of units in a manner where the recipient will not have enough units to meet their needs for assistance and ensure health and safety for the entire six-month date span may lead to an action by the commissioner. The commissioner may take

action including, but not limited to: (1) restricting recipients to service authorizations of no more than one month in duration; (2) requiring the recipient to have a responsible party; and (3) requiring a qualified professional to monitor and report services on a monthly basis.

Subd. 16. **Shared services.** (a) Medical assistance payments for shared personal care assistance services are limited according to this subdivision.

(b) Shared service is the provision of personal care assistance services by a personal care assistant to two or three recipients, eligible for medical assistance, who voluntarily enter into an agreement to receive services at the same time and in the same setting.

(c) For the purposes of this subdivision, "setting" means:

(1) the home residence or family foster care home of one or more of the individual recipients; or

(2) a child care program licensed under chapter 245A or operated by a local school district or private school.

(d) Shared personal care assistance services follow the same criteria for covered services as subdivision 2.

(e) Noncovered shared personal care assistance services include the following:

(1) services for more than three recipients by one personal care assistant at one time;

(2) staff requirements for child care programs under chapter 245C;

(3) caring for multiple recipients in more than one setting;

(4) additional units of personal care assistance based on the selection of the option; and

(5) use of more than one personal care assistance provider agency for the shared care services.

(f) The option of shared personal care assistance is elected by the recipient or the responsible party with the assistance of the assessor. The option must be determined appropriate based on the ages of the recipients, compatibility, and coordination of their assessed care needs. The recipient or the responsible party, in conjunction with the qualified professional, shall arrange the setting and grouping of shared services based on the individual needs and preferences of the recipients. The personal care assistance provider agency shall offer the recipient or the responsible party the option of shared or one-on-one personal care assistance services or a combination of both. The recipient or the responsible party may withdraw from participating in a shared services arrangement at any time.

(g) Authorization for the shared service option must be determined by the commissioner based on the criteria that the shared service is appropriate to meet all of the recipients' needs and their health and safety is maintained. The authorization of shared services is part of the overall authorization of personal care assistance services. Nothing in this subdivision must be construed to reduce the total number of hours authorized for an individual recipient.

(h) A personal care assistant providing shared personal care assistance services must:

(1) receive training specific for each recipient served; and

(2) follow all required documentation requirements for time and services provided.

(i) A qualified professional shall:

(1) evaluate the ability of the personal care assistant to provide services for all of the recipients in a shared setting;

(2) visit the shared setting as services are being provided at least once every six months or whenever needed for response to a recipient's request for increased supervision of the personal care assistance staff;

(3) provide ongoing monitoring and evaluation of the effectiveness and appropriateness of the shared services;

(4) develop a contingency plan with each of the recipients which accounts for absence of the recipient in a share services setting due to illness or other circumstances;

(5) obtain permission from each of the recipients who are sharing a personal care assistant for number of shared hours for services provided inside and outside the home residence; and

(6) document the training completed by the personal care assistants specific to the shared setting and recipients sharing services.

Subd. 17. **Shared services; rates.** The commissioner shall establish a rate system for shared personal care assistance services. For two persons sharing services, the rate paid to a provider must not exceed one and one-half times the rate paid for serving a single individual, and for three persons sharing services, the rate paid to a provider must not exceed twice the rate paid for serving a single individual. These rates apply only when all of the criteria for the shared care personal care assistance service have been met.

Subd. 18. **Personal care assistance choice option; generally.** (a) The commissioner may allow a recipient of personal care assistance services to use a fiscal intermediary to assist the recipient in paying and account for medically necessary covered personal care assistance services. Unless otherwise provided in this section, all other statutory and regulatory provisions relating to personal care assistance services apply to a recipient using the personal care assistance choice option.

(b) Personal care assistance choice is an option of the personal care assistance program that allows the recipient who receives personal care assistance services to be responsible for the hiring, training, scheduling, and termination of personal care assistants. This program offers greater control and choice for the recipient in deciding who provides the personal care assistance service and when the service is scheduled. The recipient or the recipient's responsible party must choose a personal care assistance choice provider agency as a fiscal intermediary. This personal care assistance choice provider agency manages payroll, invoices the state, is responsible for all payroll related taxes and insurance, and is responsible for providing the consumer training and support in managing the recipient's personal care assistance services.

Subd. 19. **Personal care assistance choice option; qualifications; duties.** (a) Under personal care assistance choice, the recipient or responsible party shall:

(1) recruit, hire, schedule, and terminate personal care assistants and a qualified professional;

(2) develop a personal care assistance care plan based on the assessed needs and addressing the health and safety of the recipient with the assistance of a qualified professional as needed;

(3) orient and train the personal care assistant with assistance as needed from the qualified professional;

(4) supervise and evaluate the personal care assistant with the qualified professional, who is required to visit at least every 180 days;

(5) monitor and verify in writing and report to the personal care assistance choice agency the number of hours worked by the personal care assistant and the qualified professional;

(6) engage in an annual face-to-face reassessment to determine continuing eligibility and service authorization and

(7) use the same personal care assistance choice provider agency if shared personal assistance care is being used.

(b) The personal care assistance choice provider agency shall:

(1) meet all personal care assistance provider agency standards;

(2) enter into a written agreement with the recipient, responsible party, and personal care assistants;

(3) not be related as a parent, child, sibling, or spouse to the recipient, qualified professional, or the personal care assistant; and

(4) ensure arm's-length transactions without undue influence or coercion with the recipient and personal care assistant.

(c) The duties of the personal care assistance choice provider agency are to:

(1) be the employer of the personal care assistant and the qualified professional for employment law and related regulations including but not limited to purchasing and maintaining workers' compensation, unemployment insurance, surety and fidelity bonds, and liability insurance, and submit any or all necessary documentation including, but not limited to, workers' compensation and unemployment insurance;

(2) bill the medical assistance program for personal care assistance services and qualified professional services;

(3) request and complete background studies that comply with the requirements for personal care assistants and qualified professionals;

(4) pay the personal care assistant and qualified professional based on actual hours of services provided;

(5) withhold and pay all applicable federal and state taxes;

(6) verify and keep records of hours worked by the personal care assistant and qualified professional;

(7) make the arrangements and pay taxes and other benefits, if any; and comply with any legal requirements for a Minnesota employer;

(8) enroll in the medical assistance program as a personal care assistance choice agency; and

(9) enter into a written agreement as specified in subdivision 20 before services are provided.

**Subd. 20. Personal care assistance choice option; administration.** (a) Before services commence under the personal care assistance choice option, and annually thereafter, the personal care assistance choice provider agency, recipient, or responsible party, each personal care assistant, and the qualified professional shall enter into a written agreement. The agreement must include at a minimum:

(1) duties of the recipient, qualified professional, personal care assistant, and personal care assistance choice provider agency;

(2) salary and benefits for the personal care assistant and the qualified professional;

(3) administrative fee of the personal care assistance choice provider agency and services paid for with that fee, including background study fees;

(4) grievance procedures to respond to complaints;

(5) procedures for hiring and terminating the personal care assistant; and

(6) documentation requirements including, but not limited to, time sheets, activity records, and the personal care assistance care plan.

(b) Except for the administrative fee of the personal care assistance choice provider agency as reported on the written agreement, the remainder of the rates paid to the personal care assistance choice provider agency must be used to pay for the salary and benefits for the personal care assistant or the qualified professional. The personal care assistance choice provider agency must provide a minimum of 75 percent of the revenue generated by the medical assistance rate for personal care assistance for employee personal care assistant wages and benefits.

(c) The commissioner shall deny, revoke, or suspend the authorization to use the personal care assistance choice option if:

(1) it has been determined by the qualified professional or public health nurse that the use of this option jeopardizes the recipient's health and safety;

(2) the parties have failed to comply with the written agreement specified in subdivision 20;

(3) the use of the option has led to abusive or fraudulent billing for personal care assistance services; or

(4) the department terminates the personal care assistance choice option.

(d) The recipient or responsible party may appeal the commissioner's decision in paragraph (c) according to section 256.045. The denial, revocation, or suspension to use the personal care assistance choice option must not affect the recipient's authorized level of personal care assistance services.

**Subd. 21. Requirements for initial enrollment of personal care assistance provider agencies.** (a) All personal care assistance provider agencies must provide, at the time of enrollment as a personal care assistance provider agency in a format determined by the commissioner, information and documentation that includes, but is not limited to, the following:

(1) the personal care assistance provider agency's current contact information including address, telephone number, and e-mail address;

(2) proof of surety bond coverage in the amount of \$50,000 or ten percent of the provider's payments from Medicaid in the previous year, whichever is less;

(3) proof of fidelity bond coverage in the amount of \$20,000;

(4) proof of workers' compensation insurance coverage;

(5) a description of the personal care assistance provider agency's organization identifying the names of all owners, managerial officials, staff, board of directors, and the affiliations of the directors, owners, or staff to other service providers;

(6) a copy of the personal care assistance provider agency's written policies and procedures including: hiring of employees; training requirements; service delivery; and employee and consumer safety including process for notification and resolution of consumer grievances, identification and prevention of communicable diseases, and employee misconduct;

(7) copies of all other forms the personal care assistance provider agency uses in the course of daily business including, but not limited to:

(i) a copy of the personal care assistance provider agency's time sheet if the time sheet varies from the standard time sheet for personal care assistance services approved by the commissioner, and a letter requesting approval of the personal care assistance provider agency's nonstandard time sheet;

(ii) the personal care assistance provider agency's template for the personal care assistance care plan; and

(iii) the personal care assistance provider agency's template and the written agreement in subdivision 20 for recipients using the personal care assistance choice option, if applicable;

(8) a list of all trainings and classes that the personal care assistance provider agency requires of its staff providing personal care assistance services;

(9) documentation that the personal care assistance provider agency and staff have successfully completed all the training required by this section;

(10) disclosure of ownership, leasing, or management of all residential properties that is used or could be used for providing home care services;

(11) documentation of the agency's marketing practices; and

(12) documentation that the agency will provide 75 percent for the personal care assistance choice provider agency and 65 percent for regular personal care assistance agency, or revenue generated from the medical assistance rate paid for personal care assistance services for employee personal care assistant wages and benefits.

(b) Personal care assistance provider agencies shall provide the information specified in paragraph (a) to the commissioner at the time the personal care assistance provider agency enrolls as a vendor or upon request from the commissioner. The commissioner shall collect the information specified in paragraph (a) from all personal care assistance providers beginning upon enactment of this section.

(c) All personal care assistance provider agencies shall complete mandatory training as determined by the commissioner before enrollment as a provider. Personal care assistance provider agencies are required to send all owners employed by the agency and all other managerial officials to the initial and subsequent trainings. Personal care assistance provider agency billing staff shall complete training about personal care assistance program financial management. This training is effective upon enactment of this section. Any personal care assistance provider agency enrolled before that date shall, if it has not already, complete the provider training within 18 months of the effective date of this section. Any new owners, new qualified professionals, and new managerial officials are required to complete mandatory training as a requisite of hiring.

**Subd. 22. Annual review for personal care providers.** (a) All personal care assistance provider agencies shall resubmit, on an annual basis, the information specified in subdivision 21, in a format determined by the commissioner, and provide a copy of the personal care assistance provider agency's most current version of its grievance policies and procedures along with a written record of grievances and resolutions of the grievances that the personal care assistance provider agency has received in the previous year and any other information requested by the commissioner.

(b) The commissioner shall send annual review notification to personal care assistance provider agencies 30 days prior to renewal. The notification must:

- (1) list the materials and information the personal care assistance provider agency is required to submit;
- (2) provide instructions on submitting information to the commissioner; and
- (3) provide a due date by which the commissioner must receive the requested information.

Personal care assistance provider agencies shall submit required documentation for annual review within 30 days of notification from the commissioner. If no documentation is submitted, the personal care assistance provider agency enrollment number must be terminated or suspended.

(c) Personal care assistance provider agencies also currently licensed under Minnesota Rules, part 4668.0012, as a class A provider or currently certified for participation in Medicare as a home health agency under Code of Federal Regulations, title 42, part 484, are deemed in compliance with the personal care assistance requirements for enrollment, annual review process, and documentation.

Subd. 23. **Enrollment requirements following termination.** (a) A terminated personal care assistance provider agency, including all named individuals on the current enrollment disclosure form and known or discovered affiliates of the personal care assistance provider agency, is not eligible to enroll as a personal care assistance provider agency for two years following the termination.

(b) After the two-year period in paragraph (a), if the provider seeks to reenroll as a personal care assistance provider agency, the personal care assistance provider agency must be placed on a one-year probation period, beginning after completion of the following:

- (1) the department's provider trainings under this section; and
- (2) initial enrollment requirements under subdivision 21.

(c) During the probationary period the commissioner shall complete site visits and request submission of documentation to review compliance with program policies.

Subd. 24. **Personal care assistance provider agency; general duties.** A personal care assistance provider agency shall:

(1) enroll as a Medicaid provider meeting all provider standards, including completion of the required provider training;

(2) comply with general medical assistance coverage requirements;

(3) demonstrate compliance with law and policies of the personal care assistance program to be determined by the commissioner;

(4) comply with background study requirements;

(5) verify and keep records of hours worked by the personal care assistant and qualified professional;

(6) pay the personal care assistant or qualified professional based on actual hours of services provided;



(7) document that the agency uses a minimum of 75 percent of the revenue generated from the medical assistance rate for personal care assistant services for employee personal care assistant wages and benefits;

(8) withhold and pay all applicable federal and state taxes;

(9) make the arrangements and pay unemployment insurance, taxes, workers' compensation, liability insurance, and other benefits, if any;

(10) enter into a written agreement under subdivision 21 before services are provided;

(11) report suspected neglect and abuse to the common entry point according to section 256B.0651;

(12) provide the recipient with a copy of the home care bill of rights at start of service; and

(13) market agency services only through printed information in brochures and on Web sites and not engage in any direct contact or marketing in person, by telephone, or other electronic means to potential recipients, guardians, or family members.

Subd. 25. **Personal care assistance provider agency; background studies.** Personal care assistance provider agencies enrolled to provide personal care assistance services under the medical assistance program shall comply with the following:

(1) owners who have a five percent interest or more and all managerial officials are subject to a background study as provided in chapter 245C. This applies to currently enrolled personal care assistance provider agencies and those agencies seeking enrollment as a personal care assistance provider agency. Managerial official has the same meaning as Code of Federal Regulations, title 42, section 455. An organization is barred from enrollment if:

(i) the organization has not initiated background studies on owners and managerial officials; or

(ii) the organization has initiated background studies on owners and managerial officials, but the commissioner has sent the organization a notice that an owner or managerial official of the organization has been disqualified under section 245C.14, and the owner or managerial official has not received a set aside of the disqualification under section 245C.22;

(2) a background study must be initiated and completed for all qualified professionals; and

(3) a background study must be initiated and completed for all personal care assistants.

Subd. 26. **Personal care assistance provider agency; communicable disease prevention.** A personal care assistance provider agency shall establish and implement policies and procedures for prevention, control, and investigation of infections and communicable diseases according to current nationally recognized infection control practices or guidelines established by the United States Centers for Disease Control and Prevention, as well as applicable regulations of other federal or state agencies.

Subd. 27. **Personal care assistance provider agency; ventilator training.** The personal care assistance provider agency is required to provide training for the personal care assistant responsible for working with a recipient who is ventilator dependent. All training must be administered by a respiratory therapist, nurse, or physician. Qualified professional supervision by a nurse must be completed and documented on file in the personal care assistant's employment record and the recipient's health record. If offering personal care services to a ventilator-dependent recipient, the personal care assistance provider agency shall demonstrate the ability to:

(1) train the personal care assistant;

(2) supervise the personal care assistant in ventilator operation and maintenance; and

(3) supervise the recipient and responsible party in ventilator operation and maintenance.

**Subd. 28. Personal care assistance provider agency; required documentation.** Required documentation must be completed and kept in the personal care assistance provider agency file or the recipient's home residence. The required documentation consists of:

(1) employee files, including:

(i) applications for employment;

(ii) background study requests and results;

(iii) orientation records about the agency policies;

(iv) trainings completed with demonstration of competence;

(v) supervisory visits;

(vi) evaluations of employment; and

(vii) signature on fraud statement;

(2) recipient files, including:

(i) demographics;

(ii) emergency contact information and emergency backup plan;

(iii) personal care assistance service plan;

(iv) personal care assistance care plan;

(v) month-to-month service use plan;

(vi) all communication records;

(vii) start of service information, including the written agreement with recipient; and

(viii) date the home care bill of rights was given to the recipient;

(3) agency policy manual, including:

(i) policies for employment and termination;

(ii) grievance policies with resolution of consumer grievances;

(iii) staff and consumer safety;

(iv) staff misconduct; and

(v) staff hiring, service delivery, staff and consumer safety, staff misconduct, and resolution of consumer grievances; and

(4) time sheets for each personal care assistant along with completed activity sheets for each recipient served.

Subd. 29. **Transitional assistance.** Notwithstanding any contrary provision in this section, the commissioner, counties, and personal care assistance providers shall work together to provide transitional assistance for recipients and families to come into compliance with the requirements of this section, and ensure that personal care assistance services are not provided by the housing provider. The commissioner and counties shall provide this assistance until July 1, 2010.

Subd. 30. **Notice of service changes to recipients.** All recipients who will be affected by the changes in medical assistance home care services must be provided notice of the changes at least 30 days before the effective date of the change. The notice shall include how to get further information on the changes, how to get help to obtain other services, a list of community resources, and appeal rights. Notwithstanding section 256.045, a recipient may request continued services pending appeal within the time period allowed to request an appeal.

Sec. 33. Minnesota Statutes 2008, section 256B.0911, subdivision 1, is amended to read:

Subdivision 1. **Purpose and goal.** (a) The purpose of long-term care consultation services is to assist persons with long-term or chronic care needs in making long-term care decisions and selecting options that meet their needs and reflect their preferences. The availability of, and access to, information and other types of assistance, including assessment and support planning, is also intended to prevent or delay certified nursing facility placements and to provide transition assistance after admission. Further, the goal of these services is to contain costs associated with unnecessary certified nursing facility admissions. Long-term consultation services must be available to any person regardless of public program eligibility. The ~~commissioners~~ commissioner of human services ~~and health~~ shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

(b) These services must be coordinated with services long-term care options counseling provided under section 256.975, subdivision 7, and ~~with services provided by other public and private agencies in the community~~ section 256.01, subdivision 24, for telephone assistance and follow up and to offer a variety of cost-effective alternatives to persons with disabilities and elderly persons. The county or tribal agency or managed care plan providing long-term care consultation services shall encourage the use of volunteers from families, religious organizations, social clubs, and similar civic and service organizations to provide community-based services.

Sec. 34. Minnesota Statutes 2008, section 256B.0911, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of this section, the following definitions apply:

(a) "Long-term care consultation services" means:

~~(1) providing information and education to the general public regarding availability of the services authorized under this section;~~

~~(2) an intake process that provides access to the services described in this section;~~

~~(3) assessment of the health, psychological, and social needs of referred individuals;~~

~~(4) (1) assistance in identifying services needed to maintain an individual in the least restrictive most inclusive environment;~~

~~(5)~~ (2) providing recommendations on cost-effective community services that are available to the individual;

~~(6)~~ (3) development of an individual's person-centered community support plan;

~~(7)~~ (4) providing information regarding eligibility for Minnesota health care programs;

(5) face-to-face long-term care consultation assessments, which may be completed in a hospital, nursing facility, intermediate care facility for persons with developmental disabilities (ICF/DDs), regional treatment centers, or the person's current or planned residence;

~~(8) preadmission~~ (6) federally mandated screening to determine the need for a nursing facility institutional level of care under section 256B.0911, subdivision 4, paragraph (a);

~~(9) preliminary~~ (7) determination of Minnesota health care programs home and community-based waiver service eligibility including level of care determination for individuals who need a nursing facility an institutional level of care as defined under section 144.0724, subdivision 11, or 256B.092, service eligibility including state plan home care services identified in section 256B.0625, subdivisions 6, 7, and 19, paragraphs (a) and (c), based on assessment and support plan development with appropriate referrals for final determination;

~~(10)~~ (8) providing recommendations for nursing facility placement when there are no cost-effective community services available; and

~~(11)~~ (9) assistance to transition people back to community settings after facility admission.

(b) "Long-term care options counseling" means the services provided by the linkage lines as mandated by sections 256.01 and 256.975, subdivision 7.

~~(b)~~ (c) "Minnesota health care programs" means the medical assistance program under chapter 256B and the alternative care program under section 256B.0913.

(d) "Lead agencies" means counties or a collaboration of counties, tribes, and health plans administering long-term care consultation assessment and support planning services.

**EFFECTIVE DATE.** The amendment to paragraph (a), clause (7), replacing a reference to nursing facility level of care with institutional level of care as defined under Minnesota Statutes, section 144.0724, subdivision 11, or 256B.092, is effective July 1, 2011.

Sec. 35. Minnesota Statutes 2008, section 256B.0911, is amended by adding a subdivision to read:

**Subd. 2b. Certified assessors.** (a) Beginning January 1, 2011, each lead agency shall have certified assessors who have completed training and certification process determined by the commissioner in subdivision 2c. Certified assessors shall demonstrate best practices in assessment and support planning including person-centered planning principals and have a common set of skills that must ensure consistency and equitable access to services statewide.

(b) Certified assessors are persons with a minimum of a bachelor's degree in social work, nursing with a public health nursing certificate, or other closely related field with at least one year of home and community-based experience or a two-year registered nursing degree with at least three years of home and community-based experience that have received training and certification specific to assessment and consultation for long-term care services in the state.

Sec. 36. Minnesota Statutes 2008, section 256B.0911, is amended by adding a subdivision to read:

Subd. 2c. **Assessor training and certification.** The commissioner shall develop curriculum and a certification process to begin no later than January 1, 2010. All existing lead agency staff designated to provide the services defined in subdivision 1a must be certified by December 30, 2010. Each lead agency is required to ensure that they have sufficient numbers of certified assessors to provide long-term consultation assessment and support planning within the timelines and parameters of the service by January 1, 2011. Certified assessors are required to be recertified every three years.

Sec. 37. Minnesota Statutes 2008, section 256B.0911, subdivision 3, is amended to read:

**Subd. 3. Long-term care consultation team.** (a) Until January 1, 2011, a long-term care consultation team shall be established by the county board of commissioners. Each local consultation team shall consist of at least one social worker and at least one public health nurse from their respective county agencies. The board may designate public health or social services as the lead agency for long-term care consultation services. If a county does not have a public health nurse available, it may request approval from the commissioner to assign a county registered nurse with at least one year experience in home care to participate on the team. Two or more counties may collaborate to establish a joint local consultation team or teams.

(b) The team is responsible for providing long-term care consultation services to all persons located in the county who request the services, regardless of eligibility for Minnesota health care programs.

(c) The commissioner shall allow arrangements and make recommendations that encourage counties to collaborate to establish joint local long-term care consultation teams to ensure that long-term care consultations are done within the timelines and parameters of the service. This includes integrated service models as required in section 256B.0911, subdivision 1, paragraph (b).

Sec. 38. Minnesota Statutes 2008, section 256B.0911, subdivision 3a, is amended to read:

**Subd. 3a. Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment in order to determine personal care assistance services, private duty nursing services, home health agency services, waiver or alternative care program eligibility, must be visited by a long-term care consultation team or after January 1, 2011, a certified assessor within ten working 15 calendar days after the date on which an assessment was requested or recommended. Face-to-face assessments must be conducted according to paragraphs (b) to ~~(j)~~ (k).

(b) The county may utilize a team of either the social worker or public health nurse, or both, after January 1, 2011, lead agencies shall use a certified assessor to conduct the assessment in a face-to-face interview. The consultation team members must confer regarding the most appropriate care for each individual screened or assessed.

(c) The long-term care consultation team must assess the health and social needs of the person, assessment must be comprehensive and include a person-centered assessment of the health, psychological, functional, environmental, and social needs of referred individuals and provide information necessary to develop a support plan that meets the consumers needs, using an assessment form provided by the commissioner.

(d) The team must conduct the assessment must be conducted in a face-to-face interview with the person being assessed and the person's legal representative, if applicable as required by legally executed documents, and other individuals as requested by the person, who can provide information on the needs, strengths, and preferences of the person necessary to develop a support plan that ensures the person's health and safety, but who is not a provider of service or has any financial interest in the provision of services.

(e) The ~~team must provide the~~ person, or the person's legal representative, must be provided with written recommendations for facility or community-based services. ~~The team must document or institutional care that include documentation~~ that the most cost-effective alternatives available were offered to the individual. For purposes of this requirement, "cost-effective alternatives" means community services and living arrangements that cost the same as or less than ~~nursing facility~~ institutional care.

(f) If the person chooses to use community-based services, the ~~team must provide the~~ person or the person's legal representative must be provided with a written community support plan, regardless of whether the individual is eligible for Minnesota health care programs. ~~The A~~ person may request assistance in ~~developing a community support plan identifying~~ community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to the services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(g) The person has the right to make the final decision between ~~nursing facility~~ institutional placement and community placement after the ~~screening team's recommendation~~ recommendations have been provided, except as provided in subdivision 4a, paragraph (c).

(h) The team must give the person receiving assessment or support planning, or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

- (1) the need for and purpose of preadmission screening if the person selects nursing facility placement;
- (2) the role of the long-term care consultation assessment and support planning in waiver and alternative care program eligibility determination;
- (3) information about Minnesota health care programs;
- (4) the person's freedom to accept or reject the recommendations of the team;
- (5) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;
- (6) the long-term care consultant's decision regarding the person's need for ~~nursing facility~~ institutional level of care as determined under criteria established in section 144.0724, subdivision 11, or 256B.092; and
- (7) the person's right to appeal the decision regarding the need for nursing facility level of care or the county's final decisions regarding public programs eligibility according to section 256.045, subdivision 3.

(i) Face-to-face assessment completed as part of eligibility determination for the alternative care, elderly waiver, community alternatives for disabled individuals, community alternative care, and traumatic brain injury waiver programs under sections 256B.0915, 256B.0917, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of assessment. The effective eligibility start date for these programs can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated in a face-to-face visit and documented in the department's Medicaid Management Information System (MMIS). The effective date of program eligibility in this case cannot be prior to the date the updated assessment is completed.

**EFFECTIVE DATE.** The amendment to paragraph (h), clause (6), is effective July 1, 2011.

Sec. 39. Minnesota Statutes 2008, section 256B.0911, subdivision 4a, is amended to read:

Subd. 4a. **Preadmission screening activities related to nursing facility admissions.** (a) All applicants to Medicaid certified nursing facilities, including certified boarding care facilities, must be screened prior to admission regardless of income, assets, or funding sources for nursing facility care, except as described in subdivision 4b. The purpose of the screening is to determine the need for nursing facility level of care as described in paragraph (d) and to complete activities required under federal law related to mental illness and developmental disability as outlined in paragraph (b).

(b) A person who has a diagnosis or possible diagnosis of mental illness or developmental disability must receive a preadmission screening before admission regardless of the exemptions outlined in subdivision 4b, paragraph (b), to identify the need for further evaluation and specialized services, unless the admission prior to screening is authorized by the local mental health authority or the local developmental disabilities case manager, or unless authorized by the county agency according to Public Law 101-508.

The following criteria apply to the preadmission screening:

(1) the county must use forms and criteria developed by the commissioner to identify persons who require referral for further evaluation and determination of the need for specialized services; and

(2) the evaluation and determination of the need for specialized services must be done by:

(i) a qualified independent mental health professional, for persons with a primary or secondary diagnosis of a serious mental illness; or

(ii) a qualified developmental disability professional, for persons with a primary or secondary diagnosis of developmental disability. For purposes of this requirement, a qualified developmental disability professional must meet the standards for a qualified developmental disability professional under Code of Federal Regulations, title 42, section 483.430.

(c) The local county mental health authority or the state developmental disability authority under Public Law Numbers 100-203 and 101-508 may prohibit admission to a nursing facility if the individual does not meet the nursing facility level of care criteria or needs specialized services as defined in Public Law Numbers 100-203 and 101-508. For purposes of this section, "specialized services" for a person with developmental disability means active treatment as that term is defined under Code of Federal Regulations, title 42, section 483.440 (a)(1).

(d) The determination of the need for nursing facility level of care must be made according to criteria established in section 144.0724, subdivision 11, and 256B.092, using forms developed by the commissioner. In assessing a person's needs, consultation team members shall have a physician available for consultation and shall consider the assessment of the individual's attending physician, if any. The individual's physician must be included if the physician chooses to participate. Other personnel may be included on the team as deemed appropriate by the county.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 40. Minnesota Statutes 2008, section 256B.0911, subdivision 5, is amended to read:

Subd. 5. **Administrative activity.** The commissioner shall minimize the number of ~~forms required in the provision of long-term care consultation services and shall limit the screening document to items necessary for community support plan approval, reimbursement, program planning, evaluation, and policy development~~ business processes required to provide the services in this section and shall implement integrated solutions to automate the business processes to the extent necessary for community support plan approval, reimbursement, program planning, evaluation, and policy development.

Sec. 41. Minnesota Statutes 2008, section 256B.0911, subdivision 6, is amended to read:

Subd. 6. **Payment for long-term care consultation services.** (a) The total payment for each county must be paid monthly by certified nursing facilities in the county. The monthly amount to be paid by each nursing facility for each fiscal year must be determined by dividing the county's annual allocation for long-term care consultation services by 12 to determine the monthly payment and allocating the monthly payment to each nursing facility based on the number of licensed beds in the nursing facility. Payments to counties in which there is no certified nursing facility must be made by increasing the payment rate of the two facilities located nearest to the county seat.

(b) The commissioner shall include the total annual payment determined under paragraph (a) for each nursing facility reimbursed under section 256B.431 or 256B.434 according to section 256B.431, subdivision 2b, paragraph (g).

(c) In the event of the layaway, delicensure and decertification, or removal from layaway of 25 percent or more of the beds in a facility, the commissioner may adjust the per diem payment amount in paragraph (b) and may adjust the monthly payment amount in paragraph (a). The effective date of an adjustment made under this paragraph shall be on or after the first day of the month following the effective date of the layaway, delicensure and decertification, or removal from layaway.

(d) Payments for long-term care consultation services are available to the county or counties to cover staff salaries and expenses to provide the services described in subdivision 1a. The county shall employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide long-term care consultation services while meeting the state's long-term care outcomes and objectives as defined in section 256B.0917, subdivision 1. The county shall be accountable for meeting local objectives as approved by the commissioner in the biennial home and community-based services quality assurance plan on a form provided by the commissioner.

(e) Notwithstanding section 256B.0641, overpayments attributable to payment of the screening costs under the medical assistance program may not be recovered from a facility.

(f) The commissioner of human services shall amend the Minnesota medical assistance plan to include reimbursement for the local consultation teams.

(g) The county may bill, as case management services, assessments, support planning, and follow-along provided to persons determined to be eligible for case management under Minnesota health care programs. No individual or family member shall be charged for an initial assessment or initial support plan development provided under subdivision 3a or 3b.

(h) The commissioner shall develop an alternative payment methodology for long-term care consultation services that includes the funding available under this subdivision, and sections 256B.092 and 256B.0655. In developing the new payment methodology, the commissioner shall consider the maximization of federal funding for this activity.

Sec. 42. Minnesota Statutes 2008, section 256B.0911, subdivision 7, is amended to read:

Subd. 7. **Reimbursement for certified nursing facilities.** (a) Medical assistance reimbursement for nursing facilities shall be authorized for a medical assistance recipient only if a preadmission screening has been conducted prior to admission or the county has authorized an exemption. Medical assistance reimbursement for nursing facilities shall not be provided for any recipient who the local screener has determined does not meet the level of care criteria for nursing facility placement in section 144.0724, subdivision 11, or, if indicated, has not had a level II OBRA evaluation as required under the federal Omnibus Budget Reconciliation Act of 1987 completed unless an admission for a recipient with mental illness is approved by the local mental health authority or an admission for a recipient with developmental disability is approved by the state developmental disability authority.

(b) The nursing facility must not bill a person who is not a medical assistance recipient for resident days that preceded the date of completion of screening activities as required under subdivisions 4a, 4b, and 4c. The nursing facility must include unreimbursed resident days in the nursing facility resident day totals reported to the commissioner.

**EFFECTIVE DATE.** The section is effective July 1, 2011.



Sec. 43. Minnesota Statutes 2008, section 256B.0913, subdivision 4, is amended to read:

Subd. 4. **Eligibility for funding for services for nonmedical assistance recipients.** (a) Funding for services under the alternative care program is available to persons who meet the following criteria:

(1) the person has been determined by a community assessment under section 256B.0911 to be a person who would require the level of care provided in a nursing facility according to the criteria established in section 144.0724, subdivision 11, but for the provision of services under the alternative care program;

(2) the person is age 65 or older;

(3) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

(4) the person is not ineligible for the payment of long-term care services by the medical assistance program due to an asset transfer penalty under section 256B.0595 or equity interest in the home exceeding \$500,000 as stated in section 256B.056;

(5) the person needs long-term care services that are not funded through other state or federal funding;

(6) the monthly cost of the alternative care services funded by the program for this person does not exceed 75 percent of the monthly limit described under section 256B.0915, subdivision 3a. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased under this section exceed the difference between the client's monthly service limit defined under section 256B.0915, subdivision 3, and the alternative care program monthly service limit defined in this paragraph. If care-related supplies and equipment or environmental modifications and adaptations are or will be purchased for an alternative care services recipient, the costs may be prorated on a monthly basis for up to 12 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's other alternative care services exceeds the monthly limit established in this paragraph, the annual cost of the alternative care services shall be determined. In this event, the annual cost of alternative care services shall not exceed 12 times the monthly limit described in this paragraph; and

(7) the person is making timely payments of the assessed monthly fee.

A person is ineligible if payment of the fee is over 60 days past due, unless the person agrees to:

(i) the appointment of a representative payee;

(ii) automatic payment from a financial account;

(iii) the establishment of greater family involvement in the financial management of payments; or

(iv) another method acceptable to the lead agency to ensure prompt fee payments.

The lead agency may extend the client's eligibility as necessary while making arrangements to facilitate payment of past-due amounts and future premium payments. Following disenrollment due to nonpayment of a monthly fee, eligibility shall not be reinstated for a period of 30 days.

(b) Alternative care funding under this subdivision is not available for a person who is a medical assistance recipient or who would be eligible for medical assistance without a spenddown or waiver obligation. A person whose initial application for medical assistance and the elderly waiver program is being processed may be served under the alternative care program for a period up to 60 days. If the individual is found to be eligible for medical

assistance, medical assistance must be billed for services payable under the federally approved elderly waiver plan and delivered from the date the individual was found eligible for the federally approved elderly waiver plan. Notwithstanding this provision, alternative care funds may not be used to pay for any service the cost of which: (i) is payable by medical assistance; (ii) is used by a recipient to meet a waiver obligation; or (iii) is used to pay a medical assistance income spenddown for a person who is eligible to participate in the federally approved elderly waiver program under the special income standard provision.

(c) Alternative care funding is not available for a person who resides in a licensed nursing home, certified boarding care home, hospital, or intermediate care facility, except for case management services which are provided in support of the discharge planning process for a nursing home resident or certified boarding care home resident to assist with a relocation process to a community-based setting.

(d) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256B.0915, subdivision 1d, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 44. Minnesota Statutes 2008, section 256B.0915, subdivision 3e, is amended to read:

Subd. 3e. **Customized living service rate.** (a) Payment for customized living services shall be a monthly rate ~~negotiated and~~ authorized by the lead agency within the parameters established by the commissioner. The payment agreement must delineate the ~~services that have been customized for each recipient and specify the amount of each component service included in the recipient's customized living service to be provided plan.~~ amount of each component service included in the recipient's customized living service to be provided plan. The lead agency shall ensure that there is a documented need ~~for all~~ within the parameters established by the commissioner for all component customized living services authorized. ~~Customized living services must not include rent or raw food costs.~~

(b) ~~The negotiated~~ payment rate must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes shall use tools issued by the commissioner to develop and document customized living service plans and rates.

~~Negotiated~~ (c) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale. Customized living services must not include rent or raw food costs.

(~~b~~) (d) ~~The individualized monthly negotiated authorized payment for the customized living services service plan shall not exceed the nonfederal share, in effect on July 1 of the state fiscal year for which the rate limit is being calculated, 50 percent~~ of the greater of either the statewide or any of the geographic groups' weighted average monthly nursing facility rate of the case mix resident class to which the elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0050 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph (a), until the July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented. Effective on July 1 of the state fiscal year in which the resident assessment system as described in section 256B.438 for nursing home rate determination is implemented and July 1 of each subsequent state fiscal year, the individualized monthly ~~negotiated authorized~~ payment for the services described in this clause shall not exceed the limit ~~described in this clause~~ which was in effect on June 30 of the previous state fiscal year ~~and which has been adjusted by the greater of any legislatively adopted home and community-based services cost of living percentage increase or any legislatively adopted statewide percent rate increase for nursing facilities updated annually based on legislatively adopted changes to all service rate maximums for home and community-based service providers.~~

(e) Customized living services are delivered by a provider licensed by the Department of Health as a class A or class F home care provider and provided in a building that is registered as a housing with services establishment under chapter 144D.

Sec. 45. Minnesota Statutes 2008, section 256B.0915, subdivision 3h, is amended to read:

Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The payment rates for 24-hour customized living services ~~is~~ are a monthly rate ~~negotiated and~~ authorized by the lead agency within the parameters established by the commissioner of human services. The payment agreement must delineate the ~~services that have been customized for each recipient and specify the~~ amount of each component service included in each recipient's customized living service to be provided plan. The lead agency shall ensure that there is a documented need within the parameters established by the commissioner for all component customized living services authorized. The lead agency shall not authorize 24-hour customized living services unless there is a documented need for 24-hour supervision.

(b) For purposes of this section, "24-hour supervision" means that the recipient requires assistance due to needs related to one or more of the following:

- (1) intermittent assistance with toileting or transferring;
- (2) cognitive or behavioral issues;
- (3) a medical condition that requires clinical monitoring; or

(4) other conditions or needs as defined by the commissioner of human services. The lead agency shall ensure that the frequency and mode of supervision of the recipient and the qualifications of staff providing supervision are described and meet the needs of the recipient. ~~Customized living services must not include rent or raw food costs.~~

(c) The ~~negotiated~~ payment rate for 24-hour customized living services must be based on the amount of component services to be provided utilizing component rates established by the commissioner. Counties and tribes will use tools issued by the commissioner to develop and document customized living plans and authorize rates.

~~Negotiated~~ (d) Component service rates must not exceed payment rates for comparable elderly waiver or medical assistance services and must reflect economies of scale.

(e) The individually ~~negotiated~~ authorized 24-hour customized living payments, in combination with the payment for other elderly waiver services, including case management, must not exceed the recipient's community budget cap specified in subdivision 3a. Customized living services must not include rent or raw food costs.

(f) The individually authorized 24-hour customized living payment rates shall not exceed the 95 percentile of statewide monthly authorizations for 24-hour customized living services in effect and in the Medicaid management information systems on March 31, 2009, for each case mix resident class under Minnesota Rules, parts 9549.0050 to 9549.0059, to which elderly waiver service clients are assigned. When there are fewer than 50 authorizations in effect in the case mix resident class, the commissioner shall multiply the calculated service payment rate maximum for the A classification by the standard weight for that classification under Minnesota Rules, parts 9549.0050 to 9549.0059, to determine the applicable payment rate maximum. Service payment rate maximums shall be updated annually based on legislatively adopted changes to all service rates for home and community-based service providers.

(g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may establish alternative payment rate systems for 24-hour customized living services in housing with services establishments which are freestanding buildings with a capacity of 16 or fewer, by applying a single hourly rate for covered component services provided in either:

(1) licensed corporate adult foster homes; or

(2) specialized dementia care units which meet the requirements of section 144D.065 and in which:

(i) each resident is offered the option of having their own apartment; or

(ii) the units are licensed as board and lodge establishments with maximum capacity of eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205, subparts 1, 2, 3, and 4, item A.

Sec. 46. Minnesota Statutes 2008, section 256B.0915, subdivision 5, is amended to read:

Subd. 5. **Assessments and reassessments for waiver clients.** (a) Each client shall receive an initial assessment of strengths, informal supports, and need for services in accordance with section 256B.0911, subdivisions 3, 3a, and 3b. A reassessment of a client served under the elderly waiver must be conducted at least every 12 months and at other times when the case manager determines that there has been significant change in the client's functioning. This may include instances where the client is discharged from the hospital. There must be a determination that the client requires nursing facility level of care as defined in section 144.0724, subdivision 11, at initial and subsequent assessments to initiate and maintain participation in the waiver program.

(b) Regardless of other assessments identified in section 144.0724, subdivision 4, as appropriate to determine nursing facility level of care for purposes of medical assistance payment for nursing facility services, only face-to-face assessments conducted according to section 256B.0911, subdivisions 3a and 3b, that result in a nursing facility level of care determination will be accepted for purposes of initial and ongoing access to waiver service payment.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 47. Minnesota Statutes 2008, section 256B.0915, is amended by adding a subdivision to read:

Subd. 10. **Waiver payment rates; managed care organizations.** The commissioner shall adjust the elderly waiver capitation payment rates for managed care organizations paid under section 256B.69, subdivisions 6a and 23, to reflect the maximum service rate limits for customized living services and 24-hour customized living services under subdivisions 3e and 3h for the contract period beginning October 1, 2009. Medical assistance rates paid to customized living providers by managed care organizations under this section shall not exceed the maximum service rate limits determined by the commissioner under subdivisions 3e and 3h.

Sec. 48. Minnesota Statutes 2008, section 256B.0916, subdivision 2, is amended to read:

Subd. 2. **Distribution of funds; partnerships.** (a) Beginning with fiscal year 2000, the commissioner shall distribute all funding available for home and community-based waiver services for persons with developmental disabilities to individual counties or to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals. The commissioner shall encourage counties to form partnerships that have a sufficient number of recipients and funding to adequately manage the risk and maximize use of available resources.

(b) Counties must submit a request for funds and a plan for administering the program as required by the commissioner. The plan must identify the number of clients to be served, their ages, and their priority listing based on:

(1) requirements in Minnesota Rules, part 9525.1880; and

~~(2) unstable living situations due to the age or incapacity of the primary caregiver; statewide priorities identified in section 256B.092, subdivision 12.~~

~~(3) the need for services to avoid out-of-home placement of children;~~

~~(4) the need to serve persons affected by private sector ICF/MR closures; and~~

~~(5) the need to serve persons whose consumer support grant exception amount was eliminated in 2004.~~

The plan must also identify changes made to improve services to eligible persons and to improve program management.

(c) In allocating resources to counties, priority must be given to groups of counties that form partnerships to jointly plan, administer, and authorize funding for eligible individuals and to counties determined by the commissioner to have sufficient waiver capacity to maximize resource use.

(d) Within 30 days after receiving the county request for funds and plans, the commissioner shall provide a written response to the plan that includes the level of resources available to serve additional persons.

(e) Counties are eligible to receive medical assistance administrative reimbursement for administrative costs under criteria established by the commissioner.

Sec. 49. Minnesota Statutes 2008, section 256B.0917, is amended by adding a subdivision to read:

Subd. 14. **Essential community supports grants.** (a) The purpose of the essential community supports grant program is to provide targeted services to persons 65 years and older who need essential community support, but whose needs do not meet the level of care required for nursing facility placement under section 144.0724, subdivision 11.

(b) Within the limits of the appropriation and not to exceed \$400 per person per month, funding must be available to a person who:

(1) is age 65 or older;

(2) is not eligible for medical assistance;

(3) would otherwise be financially eligible for the alternative care program under section 256B.0913, subdivision 4;

(4) has received a community assessment under section 256B.0911, subdivision 3a or 3b, and does not require the level of care provided in a nursing facility;

(5) has a community support plan; and

(6) has been determined by a community assessment under section 256B.0911, subdivision 3a or 3b, to be a person who would require provision of at least one of the following services, as defined in the approved elderly waiver plan, in order to maintain their community residence:

(i) caregiver support;

(ii) homemaker;

(iii) chore; or

(iv) a personal emergency response device or system.

(c) The person receiving any of the essential community supports in this subdivision must also receive service coordination as part of their community support plan.

(d) A person who has been determined to be eligible for an essential community support grant must be reassessed at least annually and continue to meet the criteria in paragraph (b) to remain eligible for an essential community support grant.

(e) The commissioner shall allocate grants to counties and tribes under contract with the department based upon the historic use of the medical assistance elderly waiver and alternative care grant programs and other criteria as determined by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2011.

Sec. 50. Minnesota Statutes 2008, section 256B.092, subdivision 8a, is amended to read:

Subd. 8a. **County concurrence.** (a) If the county of financial responsibility wishes to place a person in another county for services, the county of financial responsibility shall seek concurrence from the proposed county of service and the placement shall be made cooperatively between the two counties. Arrangements shall be made between the two counties for ongoing social service, including annual reviews of the person's individual service plan. The county where services are provided may not make changes in the person's service plan without approval by the county of financial responsibility.

(b) When a person has been screened and authorized for services in an intermediate care facility for persons with developmental disabilities or for home and community-based services for persons with developmental disabilities, the case manager shall assist that person in identifying a service provider who is able to meet the needs of the person according to the person's individual service plan. If the identified service is to be provided in a county other than the county of financial responsibility, the county of financial responsibility shall request concurrence of the county where the person is requesting to receive the identified services. The county of service may refuse to concur if:

(1) it can demonstrate that the provider is unable to provide the services identified in the person's individual service plan as services that are needed and are to be provided; or

(2) in the case of an intermediate care facility for persons with developmental disabilities, there has been no authorization for admission by the admission review team as required in section 256B.0926; ~~or,~~

~~(3) in the case of home and community based services for persons with developmental disabilities, the county of service can demonstrate that the prospective provider has failed to substantially comply with the terms of a past contract or has had a prior contract terminated within the last 12 months for failure to provide adequate services, or has received a notice of intent to terminate the contract.~~

(c) The county of service shall notify the county of financial responsibility of concurrence or refusal to concur no later than 20 working days following receipt of the written request. Unless other mutually acceptable arrangements are made by the involved county agencies, the county of financial responsibility is responsible for costs of social services and the costs associated with the development and maintenance of the placement. The county of service may request that the county of financial responsibility purchase case management services from the county of service or from a contracted provider of case management when the county of financial responsibility is not providing case management as defined in this section and rules adopted under this section, unless other mutually

acceptable arrangements are made by the involved county agencies. Standards for payment limits under this section may be established by the commissioner. Financial disputes between counties shall be resolved as provided in section 256G.09.

Sec. 51. Minnesota Statutes 2008, section 256B.092, is amended by adding a subdivision to read:

**Subd. 11. Residential support services.** (a) Upon federal approval, there is established a new service called residential support that is available on the CAC, CADI, DD, and TBI waivers. Existing waiver service descriptions must be modified to the extent necessary to ensure there is no duplication between other services. Residential support services must be provided by vendors licensed under category community residential setting as defined in section 245A.11, subdivision 8.

(b) Residential support services must meet the following criteria:

(1) providers of residential support services must own or control the residential site;

(2) the residential site must not be the primary residence of the license holder;

(3) the residential site must have a designated program supervisor responsible for program oversight, development, and implementation of policies and procedures;

(4) the provider of residential support services must provide supervision, training, and assistance as described in the person's community support plan; and

(5) the provider of residential support services must meet the requirements of licensure and additional requirements of the person's community support plan.

(c) Providers of residential support services that meet the definition in paragraph (a) must be registered using a process determined by the commissioner beginning July 1, 2009.

Sec. 52. Minnesota Statutes 2008, section 256B.092, is amended by adding a subdivision to read:

**Subd. 12. Waivered services statewide priorities.** (a) The commissioner shall establish statewide priorities for individuals on the waiting list for developmental disabilities (DD) waiver services, as of January 1, 2010. The statewide priorities must include, but are not limited to, individuals who continue to have a need for waiver services after they have maximized the use of state plan services and other funding resources, including natural supports, prior to accessing waiver services, and who meet at least one of the following criteria:

(1) have unstable living situations due to the age, incapacity, or sudden loss of the primary caregivers;

(2) are moving from an institution due to bed closures;

(3) experience a sudden closure of their current living arrangement;

(4) require protection from confirmed abuse, neglect, or exploitation;

(5) experience a sudden change in need that can no longer be met through state plan services or other funding resources alone; or

(6) meet other priorities established by the department.

(b) When allocating resources to lead agencies, the commissioner shall take into consideration the number of individuals waiting who meet statewide priorities.

(c) The commissioner shall evaluate the impact of the use of statewide priorities and provide recommendations to the legislature on whether to continue the use of statewide priorities in the November 1, 2011, annual report required by the commissioner in sections 256B.0916, subdivision 7, and 256B.49, subdivision 21.

Sec. 53. Minnesota Statutes 2008, section 256B.37, subdivision 1, is amended to read:

Subdivision 1. **Subrogation.** Upon furnishing medical assistance or alternative care services under section 256B.0913 to any person who has private accident or health care coverage, or receives or has a right to receive health or medical care from any type of organization or entity, or has a cause of action arising out of an occurrence that necessitated the payment of medical assistance, the state agency or the state agency's agent shall be subrogated, to the extent of the cost of medical care furnished, to any rights the person may have under the terms of the coverage, or against the organization or entity providing or liable to provide health or medical care, or under the cause of action.

The right of subrogation created in this section includes all portions of the cause of action, notwithstanding any settlement allocation or apportionment that purports to dispose of portions of the cause of action not subject to subrogation.

Sec. 54. Minnesota Statutes 2008, section 256B.37, subdivision 5, is amended to read:

Subd. 5. **Private benefits to be used first.** Private accident and health care coverage including Medicare for medical services is primary coverage and must be exhausted before medical assistance ~~is~~ or alternative care services are paid for medical services including home health care, personal care assistant services, hospice, supplies and equipment, or services covered under a Centers for Medicare and Medicaid Services waiver. When a person who is otherwise eligible for medical assistance has private accident or health care coverage, including Medicare or a prepaid health plan, the private health care benefits available to the person must be used first and to the fullest extent.

Sec. 55. Minnesota Statutes 2008, section 256B.437, subdivision 6, is amended to read:

Subd. 6. **Planned closure rate adjustment.** (a) The commissioner of human services shall calculate the amount of the planned closure rate adjustment available under subdivision 3, paragraph (b), for up to 5,140 beds according to clauses (1) to (4):

(1) the amount available is the net reduction of nursing facility beds multiplied by \$2,080;

(2) the total number of beds in the nursing facility or facilities receiving the planned closure rate adjustment must be identified;

(3) capacity days are determined by multiplying the number determined under clause (2) by 365; and

(4) the planned closure rate adjustment is the amount available in clause (1), divided by capacity days determined under clause (3).

(b) A planned closure rate adjustment under this section is effective on the first day of the month following completion of closure of the facility designated for closure in the application and becomes part of the nursing facility's total operating payment rate.



(c) Applicants may use the planned closure rate adjustment to allow for a property payment for a new nursing facility or an addition to an existing nursing facility or as an operating payment rate adjustment. Applications approved under this subdivision are exempt from other requirements for moratorium exceptions under section 144A.073, subdivisions 2 and 3.

(d) Upon the request of a closing facility, the commissioner must allow the facility a closure rate adjustment as provided under section 144A.161, subdivision 10.

(e) A facility that has received a planned closure rate adjustment may reassign it to another facility that is under the same ownership at any time within three years of its effective date. The amount of the adjustment shall be computed according to paragraph (a).

(f) If the per bed dollar amount specified in paragraph (a), clause (1), is increased, the commissioner shall recalculate planned closure rate adjustments for facilities that delicense beds under this section on or after July 1, 2001, to reflect the increase in the per bed dollar amount. The recalculated planned closure rate adjustment shall be effective from the date the per bed dollar amount is increased.

(g) For planned closures approved after June 30, 2009, the commissioner of human services shall calculate the amount of the planned closure rate adjustment available under subdivision 3, paragraph (b), according to paragraph (a), clauses (1) to (4).

Sec. 56. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 24a. **Medicare costs.** For purposes of computing rates under this section for rate years beginning on or after October 1, 2009, "Medicare costs" means 70.4 percent of Medicare Part A and Part B revenues received during the reporting year.

Sec. 57. Minnesota Statutes 2008, section 256B.441, subdivision 48, is amended to read:

**Subd. 48. Calculation of operating per diems.** The direct care per diem for each facility shall be the facility's direct care costs divided by its standardized days. The other care-related per diem shall be the sum of the facility's activities costs, other direct care costs, raw food costs, therapy costs, and social services costs, divided by the facility's resident days. The other operating per diem shall be the sum of the facility's administrative costs, dietary costs, housekeeping costs, laundry costs, and maintenance and plant operations costs divided by the facility's resident days. For rate years beginning on or after October 1, 2009, the calculations of the direct care per diem, other care-related per diem, and other operating per diem shall:

(1) have allowable costs reduced by Medicare costs as defined in subdivision 24a. The Medicare costs must be allocated between direct care, other care-related, and other operating based on a ratio of allowable expenses from the cost report; and

(2) have resident days and standardized days computed without using days paid by Medicare.

Sec. 58. Minnesota Statutes 2008, section 256B.441, subdivision 55, is amended to read:

**Subd. 55. Phase-in of rebased operating payment rates.** (a) For the rate years beginning October 1, 2008, to October 1, 2015, the operating payment rate calculated under this section shall be phased in by blending the operating rate with the operating payment rate determined under section 256B.434. For purposes of this subdivision, the rate to be used that is determined under section 256B.434 shall not include the portion of the operating payment rate related to performance-based incentive payments under section 256B.434, subdivision 4, paragraph (d). For the rate year beginning October 1, 2008, the operating payment rate for each facility shall be 13

percent of the operating payment rate from this section, and 87 percent of the operating payment rate from section 256B.434. For the rate year ~~period~~ beginning October 1, 2009, through September 30, 2013, the operating payment rate for each facility shall be 14 percent of the operating payment rate from this section, and 86 percent of the operating payment rate from section 256B.434. ~~For the rate year beginning October 1, 2010, the operating payment rate for each facility shall be 14 percent of the operating payment rate from this section, and 86 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2011, the operating payment rate for each facility shall be 31 percent of the operating payment rate from this section, and 69 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2012, the operating payment rate for each facility shall be 48 percent of the operating payment rate from this section, and 52 percent of the operating payment rate from section 256B.434.~~ For the rate year beginning October 1, 2013, the operating payment rate for each facility shall be 65 percent of the operating payment rate from this section, and 35 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2014, the operating payment rate for each facility shall be 82 percent of the operating payment rate from this section, and 18 percent of the operating payment rate from section 256B.434. For the rate year beginning October 1, 2015, the operating payment rate for each facility shall be the operating payment rate determined under this section. The blending of operating payment rates under this section shall be performed separately for each RUG's class.

(b) For the rate year beginning October 1, 2008, the commissioner shall apply limits to the operating payment rate increases under paragraph (a) by creating a minimum percentage increase and a maximum percentage increase.

(1) Each nursing facility that receives a blended October 1, 2008, operating payment rate increase under paragraph (a) of less than one percent, when compared to its operating payment rate on September 30, 2008, computed using rates with RUG's weight of 1.00, shall receive a rate adjustment of one percent.

(2) The commissioner shall determine a maximum percentage increase that will result in savings equal to the cost of allowing the minimum increase in clause (1). Nursing facilities with a blended October 1, 2008, operating payment rate increase under paragraph (a) greater than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the maximum percentage increase.

(3) Nursing facilities with a blended October 1, 2008, operating payment rate increase under paragraph (a) greater than one percent and less than the maximum percentage increase determined by the commissioner, when compared to its operating payment rate on September 30, 2008, computed using rates with a RUG's weight of 1.00, shall receive the blended October 1, 2008, operating payment rate increase determined under paragraph (a).

(4) The October 1, 2009, through October 1, 2015, operating payment rate for facilities receiving the maximum percentage increase determined in clause (2) shall be the amount determined under paragraph (a) less the difference between the amount determined under paragraph (a) for October 1, 2008, and the amount allowed under clause (2). This rate restriction does not apply to rate increases provided in any other section.

(c) A portion of the funds received under this subdivision that are in excess of operating payment rates that a facility would have received under section 256B.434, as determined in accordance with clauses (1) to (3), shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h).

(1) Determine the amount of additional funding available to a facility, which shall be equal to total medical assistance resident days from the most recent reporting year times the difference between the blended rate determined in paragraph (a) for the rate year being computed and the blended rate for the prior year.

(2) Determine the portion of all operating costs, for the most recent reporting year, that are compensation related. If this value exceeds 75 percent, use 75 percent.

(3) Subtract the amount determined in clause (2) from 75 percent.

(4) The portion of the fund received under this subdivision that shall be subject to the requirements in section 256B.434, subdivision 19, paragraphs (b) to (h), shall equal the amount determined in clause (1) times the amount determined in clause (3).

Sec. 59. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 59. **Single-bed payments for medical assistance recipients.** Effective October 1, 2009, the amount paid for a private room under Minnesota Rules, part 9549.0070, subpart 3, is reduced from 115 percent to 111.5 percent.

Sec. 60. Minnesota Statutes 2008, section 256B.49, is amended by adding a subdivision to read:

Subd. 11a. **Waivered services waiting list.** (a) The commissioner shall establish statewide priorities for individuals on the waiting list for CAC, CADI, and TBI waiver services, as of January 1, 2010. The statewide priorities must include, but are not limited to, individuals who continue to have a need for waiver services after they have maximized the use of state plan services and other funding resources, including natural supports, prior to accessing waiver services, and who meet at least one of the following criteria:

(1) have unstable living situations due to the age, incapacity, or sudden loss of the primary caregivers;

(2) are moving from an institution due to bed closures;

(3) experience a sudden closure of their current living arrangement;

(4) require protection from confirmed abuse, neglect, or exploitation;

(5) experience a sudden change in need that can no longer be met through state plan services or other funding resources alone; or

(6) meet other priorities established by the department.

(b) When allocating resources to lead agencies, the commissioner shall take into consideration the number of individuals waiting who meet statewide priorities.

(c) The commissioner shall evaluate the impact of the use of statewide priorities and provide recommendations to the legislature on whether to continue the use of statewide priorities in the November 1, 2011, annual report required by the commissioner in sections 256B.0916, subdivision 7, and 256B.49, subdivision 21.

Sec. 61. Minnesota Statutes 2008, section 256B.49, subdivision 12, is amended to read:

Subd. 12. **Informed choice.** Persons who are determined likely to require the level of care provided in a nursing facility as determined under sections 256B.0911 and 144.0724, subdivision 11, or hospital shall be informed of the home and community-based support alternatives to the provision of inpatient hospital services or nursing facility services. Each person must be given the choice of either institutional or home and community-based services using the provisions described in section 256B.77, subdivision 2, paragraph (p).

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 62. Minnesota Statutes 2008, section 256B.49, subdivision 13, is amended to read:

Subd. 13. **Case management.** (a) Each recipient of a home and community-based waiver shall be provided case management services by qualified vendors as described in the federally approved waiver application. The case management service activities provided will include:

- (1) assessing the needs of the individual within 20 working days of a recipient's request;
- (2) developing the written individual service plan within ten working days after the assessment is completed;
- (3) informing the recipient or the recipient's legal guardian or conservator of service options;
- (4) assisting the recipient in the identification of potential service providers;
- (5) assisting the recipient to access services;
- (6) coordinating, evaluating, and monitoring of the services identified in the service plan;
- (7) completing the annual reviews of the service plan; and

(8) informing the recipient or legal representative of the right to have assessments completed and service plans developed within specified time periods, and to appeal county action or inaction under section 256.045, subdivision 3, including the determination of nursing facility level of care.

(b) The case manager may delegate certain aspects of the case management service activities to another individual provided there is oversight by the case manager. The case manager may not delegate those aspects which require professional judgment including assessments, reassessments, and care plan development.

Sec. 63. Minnesota Statutes 2008, section 256B.49, subdivision 14, is amended to read:

Subd. 14. **Assessment and reassessment.** (a) Assessments of each recipient's strengths, informal support systems, and need for services shall be completed within 20 working days of the recipient's request. Reassessment of each recipient's strengths, support systems, and need for services shall be conducted at least every 12 months and at other times when there has been a significant change in the recipient's functioning.

(b) There must be a determination that the client requires a hospital level of care or a nursing facility level of care as defined in section 144.0724, subdivision 11, at initial and subsequent assessments to initiate and maintain participation in the waiver program.

(c) Regardless of other assessments identified in section 144.0724, subdivision 4, as appropriate to determine nursing facility level of care for purposes of medical assistance payment for nursing facility services, only face-to-face assessments conducted according to section 256B.0911, subdivisions 3a, 3b, and 4d, that result in a hospital level of care determination or a nursing facility level of care determination must be accepted for purposes of initial and ongoing access to waiver services payment.

(d) Persons with developmental disabilities who apply for services under the nursing facility level waiver programs shall be screened for the appropriate level of care according to section 256B.092.

(e) ~~(e)~~ Recipients who are found eligible for home and community-based services under this section before their 65th birthday may remain eligible for these services after their 65th birthday if they continue to meet all other eligibility factors.

**EFFECTIVE DATE.** The section is effective July 1, 2011.

Sec. 64. Minnesota Statutes 2008, section 256B.49, is amended by adding a subdivision to read:

Subd. 22. **Residential support services.** For the purposes of this section, the provisions of section 256B.092, subdivision 11, are controlling.

Sec. 65. **[256B.4912] HOME AND COMMUNITY-BASED WAIVERS; PROVIDERS AND PAYMENT.**

Subdivision 1. **Provider qualifications.** For the home and community-based waivers providing services to seniors and individuals with disabilities, the commissioner shall establish:

(1) agreements with enrolled waiver service providers to ensure providers meet qualifications defined in the waiver plans;

(2) regular reviews of provider qualifications; and

(3) processes to gather the necessary information to determine provider qualifications.

By July 2010, staff that provide direct contact, as defined in section 245C.02, subdivision 11, that are employees of waiver service providers must meet the requirements of chapter 245C prior to providing waiver services and as part of ongoing enrollment. Upon federal approval, this requirement must also apply to consumer-directed community supports.

Subd. 2. **Rate-setting methodologies.** The commissioner shall establish statewide rate-setting methodologies that meet federal waiver requirements for home and community-based waiver services for individuals with disabilities. The rate-setting methodologies must utilize person-centered methods that result in quality of life beyond custodial care, promote individual choice and service stability, are understandable to families and nonfinancial county staff, are equitable across the state, are transparent and available to the public, and are flexible to adapt to recipients' individual service needs. The methodologies must involve a uniform process of structuring rates for each service and must promote quality and participant choice. The rate-setting methodologies developed under this section must be codified in statute before implementation.

Sec. 66. Minnesota Statutes 2008, section 256B.5011, subdivision 2, is amended to read:

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

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

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

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

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

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

(b) The commissioner of human services and the commissioner of health, in consultation with representatives from counties, advocacy organizations, and the provider community, shall review the consolidated standards under chapter 245B and the supervised living facility rule under Minnesota Rules, chapter 4665, to determine what

provisions in Minnesota Rules, chapter 4665, may be waived by the commissioner of health for intermediate care facilities in order to enable facilities to implement the performance measures in their contract and provide quality services to residents without a duplication of or increase in regulatory requirements.

Sec. 67. Minnesota Statutes 2008, section 256B.5012, is amended by adding a subdivision to read:

Subd. 8. **ICF/MR rate decreases effective July 1, 2009.** The commissioner shall decrease each facility reimbursed under this section operating payment adjustments equal to 3.0 percent of the operating payment rates in effect on June 30, 2009. For each facility, the commissioner shall implement the rate reduction, based on occupied beds, using the percentage specified in this subdivision multiplied by the total payment rate, including the variable rate but excluding the property-related payment rate, in effect on the preceding date. The total rate reduction shall include the adjustment provided in section 256B.502, subdivision 7.

Sec. 68. Minnesota Statutes 2008, section 256B.5013, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

Sec. 69. Minnesota Statutes 2008, section 256B.69, subdivision 5a, is amended to read:

Subd. 5a. **Managed care contracts.** (a) Managed care contracts under this section and sections 256L.12 and 256D.03, shall be entered into or renewed on a calendar year basis beginning January 1, 1996. Managed care contracts which were in effect on June 30, 1995, and set to renew on July 1, 1995, shall be renewed for the period July 1, 1995 through December 31, 1995 at the same terms that were in effect on June 30, 1995. The commissioner may issue separate contracts with requirements specific to services to medical assistance recipients age 65 and older.

(b) A prepaid health plan providing covered health services for eligible persons pursuant to chapters 256B, 256D, and 256L, is responsible for complying with the terms of its contract with the commissioner. Requirements applicable to managed care programs under chapters 256B, 256D, and 256L, established after the effective date of a contract with the commissioner take effect when the contract is next issued or renewed.

(c) Effective for services rendered on or after January 1, 2003, the commissioner shall withhold five percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs pending completion of performance targets. Each performance target must be quantifiable, objective, measurable, and reasonably attainable, except in the case of a performance target based on a federal or state law or rule. Criteria for assessment of each performance target must be outlined in writing prior to the contract effective date. The managed care plan must demonstrate, to the commissioner's satisfaction, that the data submitted regarding attainment of the performance target is accurate. The commissioner shall periodically change the administrative measures used as performance targets in order to improve plan performance across a broader range of administrative services. The performance targets must include measurement of plan efforts to contain spending on health care services and administrative activities. The commissioner may adopt plan-specific performance targets that take into account factors affecting only one plan, including characteristics of the plan's enrollee population. The withheld funds must be returned no sooner than July of the following year if performance targets in the contract are achieved. The commissioner may exclude special demonstration projects under subdivision 23. A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph that is reasonably expected to be returned.

(d)(1) Effective for services rendered on or after January 1, 2009, the commissioner shall withhold three percent of managed care plan payments under this section for the prepaid medical assistance and general assistance medical care programs. The withheld funds must be returned no sooner than July 1 and no later than July 31 of the following year. The commissioner may exclude special demonstration projects under subdivision 23.

(2) A managed care plan or a county-based purchasing plan under section 256B.692 may include as admitted assets under section 62D.044 any amount withheld under this paragraph. The return of the withhold under this paragraph is not subject to the requirements of paragraph (c).

(e) Effective for services provided on or after January 1, 2010, the commissioner shall require that managed care plans use the fee-for-service medical assistance assessment and authorization processes, forms, timelines, standards, documentation, and data reporting requirements, protocols, billing processes, and policies for all personal care assistance services under section 256B.0659.

Sec. 70. Minnesota Statutes 2008, section 256D.44, subdivision 5, is amended to read:

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

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

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

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

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

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

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

(f)(1) Notwithstanding the language in this subdivision, an amount equal to the maximum allotment authorized by the federal Food Stamp Program for a single individual which is in effect on the first day of July of each year will be added to the standards of assistance established in subdivisions 1 to 4 for adults under the age of 65 who qualify as shelter needy and are: (i) relocating from an institution, or an adult mental health residential treatment program



under section 256B.0622; (ii) eligible for the self-directed supports option as defined under section 256B.0657, subdivision 2; or (iii) home and community-based waiver recipients living in their own home or rented or leased apartment which is not owned, operated, or controlled by a provider of service not related by blood or marriage.

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

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

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

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

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

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

Sec. 71. Minnesota Statutes 2008, section 626.556, subdivision 3c, is amended to read:

**Subd. 3c. Local welfare agency, Department of Human Services or Department of Health responsible for assessing or investigating reports of maltreatment.** (a) The county local welfare agency is the agency responsible for assessing or investigating allegations of maltreatment in child foster care, family child care, ~~and~~ legally unlicensed child care ~~and in~~ juvenile correctional facilities licensed under section 241.021 located in the local welfare agency's county, and unlicensed personal care assistance provider organizations providing services and receiving reimbursements under chapter 256B.

(b) The Department of Human Services is the agency responsible for assessing or investigating allegations of maltreatment in facilities licensed under chapters 245A and 245B, except for child foster care and family child care.

(c) The Department of Health is the agency responsible for assessing or investigating allegations of child maltreatment in facilities licensed under sections 144.50 to 144.58 and 144A.46, and in unlicensed home health care.

(d) The commissioners of human services, public safety, and education must jointly submit a written report by January 15, 2007, to the education policy and finance committees of the legislature recommending the most efficient and effective allocation of agency responsibility for assessing or investigating reports of maltreatment and must specifically address allegations of maltreatment that currently are not the responsibility of a designated agency.

Sec. 72. Minnesota Statutes 2008, section 626.5572, subdivision 13, is amended to read:

Subd. 13. **Lead agency.** "Lead agency" is the primary administrative agency responsible for investigating reports made under section 626.557.

(a) The Department of Health is the lead agency for the facilities which are licensed or are required to be licensed as hospitals, home care providers, nursing homes, residential care homes, or boarding care homes.

(b) The Department of Human Services is the lead agency for the programs licensed or required to be licensed as adult day care, adult foster care, programs for people with developmental disabilities, mental health programs, or chemical health programs, or personal care provider organizations.

(c) The county social service agency or its designee is the lead agency for all other reports, including personal care provider organizations under section 256B.0659.

Sec. 73. **COMMISSIONER TO REPORT ON PERSONAL CARE ASSISTANCE PROGRAM.**

The commissioner of human services must report to the legislative committees with jurisdiction over health and human services policy and finance by January 1, 2010, on the training developed and delivered for all types of participants in the personal care assistance program, audit and financial integrity measures and results, information developed for consumers and responsible parties, available demographic, health care service use, and housing information about individuals who no longer qualify for personal care assistance, and quality assurance measures and results.

Sec. 74. **COLA COMPENSATION REQUIREMENTS.**

Effective July 1, 2009, providers who received rate increases under Laws 2007, chapter 147, article 7, section 71, as amended by Laws 2008, chapter 363, article 15, section 17, and Minnesota Statutes, section 256B.5012, subdivision 7, for state fiscal years 2008 and 2009 are no longer required to continue or retain employee compensation or wage-related increases required by those sections.

Sec. 75. **PROVIDER RATE AND GRANT REDUCTIONS.**

(a) The commissioner of human services shall decrease grants, allocations, reimbursement rates, or rate limits, as applicable, by 3.0 percent effective July 1, 2009, for services rendered on or after that date. County or tribal contracts for services specified in this section must be amended to pass through these rate reductions within 60 days of the effective date of the decrease and must be retroactive from the effective date of the rate decrease.

(b) The annual rate decreases described in this section must be provided to:

(1) home and community-based waived services for persons with developmental disabilities or related conditions, including consumer-directed community supports, under Minnesota Statutes, section 256B.501;

(2) home and community-based waived services for the elderly, including consumer-directed community supports, under Minnesota Statutes, section 256B.0915;

(3) waived services under community alternatives for disabled individuals, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(4) community alternative care waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(5) traumatic brain injury waived services, including consumer-directed community supports, under Minnesota Statutes, section 256B.49;

(6) nursing services and home health services under Minnesota Statutes, section 256B.0625, subdivision 6a;

(7) personal care services and qualified professional supervision of personal care services under Minnesota Statutes, section 256B.0625, subdivisions 6a and 19a;

(8) private duty nursing services under Minnesota Statutes, section 256B.0625, subdivision 7;

(9) day training and habilitation services for adults with developmental disabilities or related conditions under Minnesota Statutes, sections 252.40 to 252.46, including the additional cost of rate adjustments on day training and habilitation services, provided as a social service under Minnesota Statutes, section 256M.60;

(10) alternative care services under Minnesota Statutes, section 256B.0913;

(11) the group residential housing supplementary service rate under Minnesota Statutes, section 256I.05, subdivision 1a;

(12) semi-independent living services (SILS) under Minnesota Statutes, section 252.275, including SILS funding under county social services grants formerly funded under Minnesota Statutes, chapter 256I;

(13) community support services for deaf and hard-of-hearing adults with mental illness who use or wish to use sign language as their primary means of communication under Minnesota Statutes, section 256.01, subdivision 2; and deaf and hard-of-hearing grants under Minnesota Statutes, sections 256C.233 and 256C.25; Laws 1985, chapter 9; and Laws 1997, First Special Session chapter 5, section 20;

(14) consumer support grants under Minnesota Statutes, section 256.476;

(15) family support grants under Minnesota Statutes, section 252.32;

(16) aging grants under Minnesota Statutes, sections 256.975 to 256.977, 256B.0917, and 256B.0928;

(17) disability linkage line grants under Minnesota Statutes, section 256.01, subdivision 24; and

(18) housing access grants under Minnesota Statutes, section 256B.0658.

(c) A managed care plan receiving state payments for the services in this section must include these decreases in their payments to providers effective on January 1 following the effective date of the rate decrease.

**Sec. 76. RECOMMENDATIONS FOR PERSONAL CARE ASSISTANCE SERVICES CHANGES AND CONSULTATION WITH STAKEHOLDERS.**

The commissioner shall consult with representatives of interested stakeholders beginning in July 2009 to examine and develop recommendations for the personal care assistance services program, including recommendations to streamline the home care ratings and assignment of units of service to eligible recipients. The recommendations shall include proposed changes, alternative services, and costs for those whose services will

change, as well as personal care assistance program data for public reporting. The recommendations are to result in a reduction of spending growth as authorized by the legislature in personal care assistance services beginning January 1, 2011. The recommendations shall be provided to the chairs and ranking minority members of the legislative committees having jurisdiction over health and human services by January 15, 2010.

Sec. 77. **ESTABLISHING A SINGLE SET OF STANDARDS.**

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

(1) enable optimum consumer choice;

(2) be consumer driven;

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

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

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

(6) utilize person-centered planning; and

(7) maximize federal financial participation.

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

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

Sec. 78. **COMMON SERVICE MENU FOR HOME AND COMMUNITY-BASED WAIVER PROGRAMS.**

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

Sec. 79. **INTERMEDIATE CARE FACILITIES FOR PERSONS WITH DEVELOPMENTAL DISABILITIES REPORT.**

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

Sec. 80. **HOUSING OPTIONS.**

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

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

The commissioner shall provide a written report on the findings of the evaluation of housing options to the chairs and ranking minority members of the house of representatives and senate standing committees with jurisdiction over health and human services policy and funding by December 15, 2010. This report shall replace the November 1, 2010, annual report by the commissioner required in Minnesota Statutes, sections 256B.0916, subdivision 7, and 256B.49, subdivision 21.

Sec. 81. **REVISOR'S INSTRUCTION.**

Subdivision 1. **Renumbering of Minnesota Statutes, section 256B.0652, authorization and review of home care services.** (a) The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number in column B.

<u>Column A</u>	<u>Column B</u>
<u>256B.0652, subdivision 3</u>	<u>256B.0652, subdivision 14</u>
<u>256B.0651, subdivision 6, paragraph (a)</u>	<u>256B.0652, subdivision 3</u>
<u>256B.0651, subdivision 6, paragraph (b)</u>	<u>256B.0652, subdivision 4</u>
<u>256B.0651, subdivision 6, paragraph (c)</u>	<u>256B.0652, subdivision 7</u>
<u>256B.0651, subdivision 7, paragraph (a)</u>	<u>256B.0652, subdivision 8</u>
<u>256B.0651, subdivision 7, paragraph (b)</u>	<u>256B.0652, subdivision 14</u>
<u>256B.0651, subdivision 8</u>	<u>256B.0652, subdivision 9</u>
<u>256B.0651, subdivision 9</u>	<u>256B.0652, subdivision 10</u>
<u>256B.0651, subdivision 11</u>	<u>256B.0652, subdivision 11</u>
<u>256B.0654, subdivision 2</u>	<u>256B.0652, subdivision 5</u>
<u>256B.0655, subdivision 4</u>	<u>256B.0652, subdivision 6</u>

(b) The revisor of statutes shall make necessary cross-reference changes in statutes and rules consistent with the renumbering in paragraph (a). The Department of Human Services shall assist the revisor with any cross-reference changes. The revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text to conform with the intent of the renumbering in paragraph (a).

Subd. 2. **Renumbering personal care assistance services.** The revisor of statutes shall replace any reference to Minnesota Statutes, section 256B.0655 with section 256B.0659, wherever it appears in statutes or rules. The revisor shall correct any cross reference changes that are necessary as a result of this section. The Department of Human Services shall assist the revisor in making these changes, and if necessary, shall draft a corrections bill with changes for introduction in the 2010 legislative session. The revisor may make changes to punctuation, grammar, or sentence structure to preserve the integrity of statutes and effectuate the intention of this section.

Sec. 82. **REPEALER.**

(a) Minnesota Statutes 2008, sections 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, and 13; and 256B.071, subdivisions 1, 2, 3, and 4, are repealed.

(b) Laws 1988, chapter 689, section 251, is repealed effective July 1, 2009.

(c) Minnesota Statutes 2008, sections 256B.19, subdivision 1d; and 256B.431, subdivision 23, are repealed effective May 1, 2009.

ARTICLE 10

STATE-COUNTY RESULTS, ACCOUNTABILITY, AND SERVICE DELIVERY REFORM ACT

Section 1. **[402A.01] CITATION.**

Sections 402A.01 to 402A.50 may be cited as the "State-County Results, Accountability, and Service Delivery Reform Act."

Sec. 2. **[402A.10] DEFINITIONS.**

Subdivision 1. **Terms defined.** For the purposes of this chapter, the terms defined in this subdivision have the meanings given.

Subd. 2. **Commissioner.** "Commissioner" means the commissioner of human services.

Subd. 3. **Council.** "Council" means the Council on State-County Results, Accountability, and Service Delivery Redesign established in section 402A.40.

Subd. 4. **Essential human services programs.** "Essential human services programs" means assistance and services to recipients or potential recipients of public welfare and other services delivered by counties that are mandated in state law that are to be available in all counties of the state.

Subd. 5. **Redesign.** "Redesign" means the State-County Results, Accountability, and Service Delivery Redesign under this chapter.

Subd. 6. **Service delivery authority.** "Service delivery authority" means a single county, or group of counties operating by execution of a joint powers agreement under section 471.59 or other contractual agreement, that has voluntarily chosen by resolution of the county board of commissioners to participate in the redesign under this chapter.

Subd. 7. **Steering committee.** "Steering committee" means the Steering Committee on Performance and Outcome Reforms.

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

Sec. 3. **[402A.15] STEERING COMMITTEE ON PERFORMANCE AND OUTCOME REFORMS.**

Subdivision 1. Duties. (a) The Steering Committee on Performance and Outcome Reforms shall develop a uniform process to establish and review performance and outcome standards for essential human services programs, and to develop appropriate reporting measures and a uniform accountability process for responding to a county's or human service authority's failure to make adequate progress on achieving outcome goals. The accountability process shall focus on the performance measures rather than inflexible implementation requirements.

(b) The steering committee shall:

(1) by November 1, 2009, establish an agreed upon list of essential services;

(2) by January 10, 2010, develop and recommend to the legislature a uniform, graduated process for responding to a county's failure to make adequate progress on achieving outcome goals, including recommendations for the specific measures and penalties to be imposed; and

(3) by December 15, 2009, establish a three-year schedule of ongoing program reviews to evaluate and establish outcome goals, modify the reporting system, and review the distribution of state and federal funds for those services, taking into consideration program demand and the unique differences of local areas in geography and the populations served. Priority shall be given to services with the greatest variation in availability and greatest administrative demands. The schedule shall be published on the agency Web site and reported to the legislative committees with jurisdiction over health and human services.

(c) As far as possible, the outcome goals, reporting system, and distribution formulas shall be consistent across program areas. The development of outcome goals shall consider the manner in which achievement of these goals will be reported. An estimate of increased or decreased state and local administrative costs in collecting and reporting outcomes shall be included when outcome goals are established. The steering committee shall take into consideration that the goal of implementing changes to program monitoring and reporting the progress toward achieving outcomes is to significantly minimize the cost of administrative requirements and to allow funds freed by reduced administrative expenditures to be used to provide additional services, allow flexibility in service design and management, and focus energies on achieving program and client outcomes.

(d) In making its recommendations, the steering committee shall consider input from the council established in section 402A.40. The steering committee shall review the measurable goals established under section 402A.30, subdivision 2, paragraph (b), and consider whether they may be applied as statewide performance outcomes.

(e) The steering committee shall form work groups that include persons who provide or receive essential services and representatives of organizations who advocate on behalf of those persons.

(f) By January 15 of each year starting January 15, 2010, the steering committee shall report to the legislative committees with jurisdiction over health and human services its recommendations for outcome goals, a reporting system, and funding distribution formulas. The steering committee shall also identify statutory provisions, administrative rules and requirements, and reports that should be repealed or eliminated. In addition, the commissioner shall post quarterly updates on the progress of the steering committee on the department Web site.

(g) The commissioner shall publish instructional bulletins in a timely manner that contain the outcome goals and reporting requirements adopted by the legislature. The commissioner shall initiate state plan amendments necessary to implement provisions of this section in a timely manner.

Subd. 2. Composition. (a) The steering committee shall include:

(1) the commissioner of human services, or designee;

(2) three county commissioners, representative of rural, suburban, and urban counties, selected by the Association of Minnesota Counties;

(3) three county directors of human services, representative of rural, suburban, and urban counties, selected by the Minnesota Association of County Social Service Administrators; and

(4) five clients or client advocates representing different populations receiving services from the Department of Human Services, who are appointed by the commissioner.

(b) The commissioner, or designee, and a county commissioner shall serve as cochairs of the committee. The committee shall be convened within 60 days of final enactment of this legislation.

(c) State agency staff shall serve as informational resources and staff to the steering committee. Statewide county associations shall assemble county program data as required.

(d) To promote information sharing and coordination between the steering committee and council, one of the county representatives from paragraph (a), clause (2), and one of the county representatives from paragraph (a), clause (3), must also serve as a representative on the council under section 402A.40, subdivision 1, paragraph (b), clause (5) or (6).

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

**Sec. 4. [402A.20] STATE-COUNTY RESULTS, ACCOUNTABILITY, AND SERVICE DELIVERY REDESIGN.**

The State-County Results, Accountability, and Service Delivery Redesign is established to authorize implementation of methods and procedures for administering assistance and services to recipients or potential recipients of public welfare and other services delivered by counties which encourage greater transparency, more effective governance, and innovation through the use of flexibility and performance measurement.

**Sec. 5. [402A.30] DESIGNATION OF SERVICE DELIVERY AUTHORITY.**

Subdivision 1. **Establishment.** A county or consortium of counties may establish a service delivery authority to redesign the delivery of some or all essential services, or other services as appropriate.

Subd. 2. **New state-county governance framework.** (a) Upon recommendation of the council and approval of the commissioner, a single county with a population over 55,000, or two or more counties meeting the criteria in subdivision 4 may, by resolution of their county boards of commissioners, establish a service delivery authority having the composition, powers, and duties agreed upon. These counties may, by agreement entered into through action of their bodies, jointly or cooperatively exercise any power common to the contracting parties in carrying out their duties under current law, including, but not limited to, chapters 245 to 267, 393, and 402. Participating county boards shall establish acceptable ways of apportioning the cost of the services.

(b) To establish a service delivery authority, each participating county and the state must enter into the following binding agreements to establish a joint state-county governance framework:

(1) a governance agreement which defines the scope of essential services or other services over which the service delivery authority has jurisdiction, and the respective authority, powers, roles, and responsibilities of the state and service delivery authorities. Each service delivery authority shall designate a single administrative structure to oversee the delivery of services over which the service delivery authority has jurisdiction. As part of the governance agreement, the service delivery authority shall be held accountable for achieving measurable goals as defined in the



performance agreement under clause (2). The state and participating counties shall identify in the agreement the waivers from statutory requirements that are needed to ensure greater local control and flexibility to determine the most cost-effective means of achieving specified measurable goals. The commissioner shall grant the identified waivers, subject to clause (2). The governance agreement shall set forth the terms under which a county may withdraw from participation;

(2) a performance agreement which defines measurable goals in key operational areas that the service delivery authority is expected to achieve. This agreement must identify the dependencies and other requirements necessary for the service delivery authority to achieve the measurable goals as defined in the performance agreement. The dependencies and requirements may include, but are not limited to, specific resource commitments of the state and the service delivery authority, and funding or expenditure flexibility.

The performance goals must, at a minimum, satisfy performance outcomes recommended by the steering committee and enacted into law; and

(3) a service level agreement which specifies the expectations and responsibilities of the state and the service delivery authority regarding administrative and information technology support necessary to achieve the measurable goals specified in the performance agreement under clause (2). The service level agreement shall set forth a reasonable level of targeted reductions in overhead and administrative costs for each county participating in the service delivery authority.

(c) After January 1, 2010, each county board in Minnesota shall vote to determine whether the county intends to participate in a service delivery authority under this chapter. Counties may withdraw from participation as set forth in the governance agreement, but no county may withdraw except under the following conditions:

(1) the county shall submit written notification to the council after August 1 in the preceding calendar year in which the county wishes to withdraw; and

(2) if a county wishing to withdraw has received an appropriation from the state for costs related to the county's participation in the redesign, those funds must be repaid. If a county withdraws after participating in the redesign for:

(i) one year or less, the county must repay 75 percent of the money appropriated;

(ii) more than one year but less than two years, the county must repay 50 percent of the money appropriated;

(iii) two years or more but less than three years, the county must repay 25 percent of the money appropriated; or

(iv) three years or more, the county is not required to repay the appropriation.

The commissioner may waive the repayment requirement in clause (2).

(d) Nothing in this chapter precludes local governments from utilizing sections 465.81 and 465.82 to establish procedures for local governments to merge, with the consent of the voters. Any agreement under subdivision 2, paragraph (b), must be governed by this chapter. Nothing in this chapter limits the authority of a county board to enter into contractual agreements for services not covered by the provisions of the redesign with other agencies or with other units of government.

**Subd. 3. Duties.** (a) The service delivery authority shall:

(1) carry out the responsibilities required of local agencies under chapter 393 and human service boards under chapter 402;

(2) manage the public resources devoted to human services and other public services delivered or purchased by the counties that are subsidized or regulated by the Department of Human Services under chapter 245 or 267;

(3) employ staff to assist in carrying out the redesign;

(4) develop and maintain a continuity of operations plan to ensure the continued operation or resumption of essential human services functions in the event of any business interruption according to local, state, and federal emergency planning requirements;

(5) receive and expend funds received for the redesign;

(6) plan and deliver services directly or through contract with other governmental or nongovernmental providers;

(7) rent, purchase, sell, and otherwise dispose of real and personal property as necessary to carry out the redesign; and

(8) carry out any other service designated as a responsibility of a county.

(b) Each service delivery authority certified under subdivision 4 shall designate a single administrative structure that has the powers and duties assigned to the service delivery authority.

Subd. 4. **Certification of service delivery authority.** The council shall recommend certification of a county or consortium of counties as a service delivery authority to the commissioner of human services if:

(1) the conditions in subdivision 2, paragraphs (a) and (b), are met; and

(2) the county or consortium of counties are:

(i) a single county with a population of 55,000 or more;

(ii) a consortium of counties with a total combined population of 55,000 or more and the counties comprising the consortium are in reasonable geographic proximity;

(iii) four or more counties in reasonable geographic proximity without regard to population; or

(iv) a single county or consortium of counties meeting the criteria for exemption from minimum population standards in this subdivision and subdivision 6.

Subd. 5. **Single county service delivery authority.** For counties with populations over 55,000, the board of county commissioners may be the service delivery authority and retain existing authority under law. Counties with populations over 55,000 that serve as their own service delivery authority may enter into shared services arrangements with other service delivery authorities or smaller counties. These shared services arrangements may include, but are not limited to, human services, corrections, public health, veterans planning, human resources, program development and operations, training, technical systems, joint purchasing, and consultative services or direct services to transient, special needs, or low-incidence populations.

Subd. 6. **Exemption.** The council may recommend that the commissioner of human services exempt a single county or multicounty service delivery authority from the minimum population standard in this subdivision if that service delivery authority can demonstrate that it can otherwise meet the requirements of this chapter.

Subd. 7. **Commissioner remedies.** The commissioner may submit to the council a recommendation of remedies for performance improvement for any service delivery authority not meeting the measurable goals agreed upon in performance agreements under subdivision 2, paragraph (b). This provision does not preclude other powers of the commissioner of human services to remedy county performance issues in a county or counties not certified as a service delivery authority.

Sec. 6. **[402A.40] COUNCIL.**

Subdivision 1. **Council.** (a) A State-County Results, Accountability, and Service Delivery Redesign Council is established. The council is responsible for review of the redesign and must be convened by the commissioner of human services. Appointed council members must be appointed by their respective agencies, associations, or governmental units by November 1, 2009. The council shall be cochaired by the commissioner of human services, or designee, and a county representative from paragraph (b), clause (5) or (6), appointed by the Association of Minnesota Counties. Recommendations of the council must be approved by a majority of the council members. The provisions of section 15.059 do not apply to this council, and this council does not expire.

(b) The council must consist of the following members:

(1) one representative from the governor's office;

(2) from the house of representatives, one member of the majority party and one member of the minority party, appointed by the speaker of the house;

(3) from the senate, one member of the majority party and one member of the minority party, appointed by the senate majority leader;

(4) the commissioner of human services, or designee, and two employees from the department;

(5) two county commissioners appointed by the Association of Minnesota Counties;

(6) two county representatives appointed by the Minnesota Association of County Social Service Administrators;

(7) one representative appointed by AFSCME; and

(8) one representative appointed by the Teamsters.

(c) Administrative support to the council may be provided by the Association of Minnesota Counties and affiliates.

(d) Member agencies and associations are responsible for initial and subsequent appointments to the council.

Subd. 2. **Council duties.** (a) The council shall:

(1) provide oversight of administration of the redesign;

(2) recommend the approval of waivers from statutory requirements, administrative rules, and standards necessary to achieve the requirements of the agreements under section 402A.30, subdivision 2, paragraph (b), to the commissioner of human services or other appropriate entity, for counties certified as service delivery authorities under section 402A.30;

(3) recommend approval of the agreements in section 402A.30, subdivision 2, paragraph (b), to the commissioner of human services and ensure the consistency of the agreements with the performance standards recommended by the steering committee and enacted by the legislature;

(4) recommend certification of a county or consortium of counties as a service delivery authority to the commissioner of human services;

(5) recommend approval of shared services arrangements under section 402A.30, subdivision 5;

(6) establish a process to take public input on a proposed service delivery authority and the governance framework;

(7) form work groups as necessary to carry out the duties of the council under the redesign; and

(8) establish a process for the mediation of conflicts among participating counties or between participating counties and the commissioner of human services.

(b) In order to carry out the provisions of the redesign, and to effectuate the agreements established under section 402A.30, subdivision 2, paragraph (b), the commissioner of human services shall exercise authority under section 256.01, subdivision 2, paragraph (1), including seeking all necessary waivers. The commissioner of human services has authority to approve shared service arrangements as defined in section 402A.30, subdivision 5.

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

Sec. 7. **[402A.50]; PRIVATE SECTOR FUNDING.**

The council may support stakeholder agencies, if not otherwise prohibited by law, to separately or jointly seek and receive funds to provide expert technical assistance to the council, the council's work group, and any sub-work groups for executing the provisions of the redesign.

Sec. 8. **APPROPRIATION.**

\$350,000 is appropriated for the biennium beginning July 1, 2009, from the general fund to the Council on State-County Results, Accountability, and Service Delivery Redesign, for the purposes of the State-County Results, Accountability, and Service Delivery Reform Act under Minnesota Statutes, sections 402A.01 to 402A.50. The council shall establish a methodology for distributing funds to certified service delivery authorities for the purposes of carrying out the requirements of the redesign.

## ARTICLE 11

### PUBLIC HEALTH

Section 1. Minnesota Statutes 2008, section 103I.208, subdivision 2, is amended to read:

Subd. 2. **Permit fee.** The permit fee to be paid by a property owner is:

(1) for a water supply well that is not in use under a maintenance permit, \$175 annually;

(2) for construction of a monitoring well, \$215, which includes the state core function fee;

(3) for a monitoring well that is unsealed under a maintenance permit, \$175 annually;

(4) for a monitoring well owned by a federal agency, state agency, or local unit of government that is unsealed under a maintenance permit, \$50 annually. "Local unit of government" means a statutory or home rule charter city, town, county, or soil and water conservation district, watershed district, an organization formed for the joint exercise of powers under section 471.59, a board of health or community health board, or other special purpose district or authority with local jurisdiction in water and related land resources management;

(5) for monitoring wells used as a leak detection device at a single motor fuel retail outlet, a single petroleum bulk storage site excluding tank farms, or a single agricultural chemical facility site, the construction permit fee is \$215, which includes the state core function fee, per site regardless of the number of wells constructed on the site, and the annual fee for a maintenance permit for unsealed monitoring wells is \$175 per site regardless of the number of monitoring wells located on site;

~~(5)~~ (6) for a groundwater thermal exchange device, in addition to the notification fee for water supply wells, \$215, which includes the state core function fee;

~~(6)~~ (7) for a vertical heat exchanger with less than ten tons of heating/cooling capacity, \$215;

(8) for a vertical heat exchanger with ten to 50 tons of heating/cooling capacity, \$425;

(9) for a vertical heat exchanger with greater than 50 tons of heating/cooling capacity, \$650;

~~(7)~~ (10) for a dewatering well that is unsealed under a maintenance permit, \$175 annually for each dewatering well, except a dewatering project comprising more than five dewatering wells shall be issued a single permit for \$875 annually for dewatering wells recorded on the permit; and

~~(8)~~ (11) for an elevator boring, \$215 for each boring.

Sec. 2. Minnesota Statutes 2008, section 144.121, subdivision 1a, is amended to read:

Subd. 1a. **Fees for ionizing radiation-producing equipment.** (a) A facility with ionizing radiation-producing equipment must pay an annual initial or annual renewal registration fee consisting of a base facility fee of ~~\$66~~ \$100 and an additional fee for each radiation source, as follows:

(1) medical or veterinary equipment	\$ <del>53</del> <u>100</u>
(2) dental x-ray equipment	\$ <del>33</del> <u>40</u>
<del>(3) accelerator</del>	\$66
<del>(4) radiation therapy equipment</del>	\$66
<del>(5)</del> <u>(3)</u> x-ray equipment not used on humans or animals	\$ <del>53</del> <u>100</u>
<del>(6)</del> <u>(4)</u> devices with sources of ionizing radiation not used on humans or animals	\$ <del>53</del> <u>100</u>

(b) A facility with radiation therapy and accelerator equipment must pay an annual registration fee of \$500. A facility with an industrial accelerator must pay an annual registration fee of \$150.

(c) Electron microscopy equipment is exempt from the registration fee requirements of this section.

Sec. 3. Minnesota Statutes 2008, section 144.121, subdivision 1b, is amended to read:

Subd. 1b. **Penalty fee for late registration.** Applications for initial or renewal registrations submitted to the commissioner after the time specified by the commissioner shall be accompanied by a ~~penalty fee of \$20~~ an amount equal to 25 percent of the fee due in addition to the fees prescribed in subdivision 1a.

Sec. 4. Minnesota Statutes 2008, section 144.1222, subdivision 1a, is amended to read:

Subd. 1a. **Fees.** All plans and specifications for public pool and spa construction, installation, or alteration or requests for a variance that are submitted to the commissioner according to Minnesota Rules, part 4717.3975, shall be accompanied by the appropriate fees. All public pool construction plans submitted for review after January 1, 2009, must be certified by a professional engineer registered in the state of Minnesota. If the commissioner determines, upon review of the plans, that inadequate fees were paid, the necessary additional fees shall be paid before plan approval. For purposes of determining fees, a project is defined as a proposal to construct or install a public pool, spa, special purpose pool, or wading pool and all associated water treatment equipment and drains, gutters, decks, water recreation features, spray pads, and those design and safety features that are within five feet of any pool or spa. The commissioner shall charge the following fees for plan review and inspection of public pools and spas and for requests for variance from the public pool and spa rules:

- (1) each pool, ~~\$800~~ \$1,500;
- (2) each spa pool, ~~\$500~~ \$800;
- (3) each slide, ~~\$400~~ \$600;
- (4) projects valued at \$250,000 or more, the greater of the sum of the fees in clauses (1), (2), and (3) or 0.5 percent of the documented estimated project cost to a maximum fee of ~~\$10,000~~ \$15,000;
- (5) alterations to an existing pool without changing the size or configuration of the pool, ~~\$400~~ \$600;
- (6) removal or replacement of pool disinfection equipment only, ~~\$75~~ \$100; and
- (7) request for variance from the public pool and spa rules, \$500.

Sec. 5. Minnesota Statutes 2008, section 144.125, subdivision 1, is amended to read:

Subdivision 1. **Duty to perform testing.** It is the duty of (1) the administrative officer or other person in charge of each institution caring for infants 28 days or less of age, (2) the person required in pursuance of the provisions of section 144.215, to register the birth of a child, or (3) the nurse midwife or midwife in attendance at the birth, to arrange to have administered to every infant or child in its care tests for heritable and congenital disorders according to subdivision 2 and rules prescribed by the state commissioner of health. Testing and the recording and reporting of test results shall be performed at the times and in the manner prescribed by the commissioner of health. The commissioner shall charge a fee so that the total of fees collected will approximate the costs of conducting the tests and implementing and maintaining a system to follow-up infants with heritable or congenital disorders, including hearing loss detected through the early hearing detection and intervention program under section 144.966. The fee is ~~\$104~~ \$105 per specimen. Costs associated with capital expenditures and the development of new procedures may be prorated over a three-year period when calculating the amount of the fees.

**EFFECTIVE DATE.** This section is effective July 1, 2010.

Sec. 6. Minnesota Statutes 2008, section 144.72, subdivision 1, is amended to read:

Subdivision 1. **Permits License required.** The state commissioner of health is authorized to issue ~~permits for the operation of youth camps which are required to obtain the permits~~ a license according to chapter 157.

Sec. 7. Minnesota Statutes 2008, section 144.72, subdivision 3, is amended to read:

Subd. 3. **Issuance of permits license.** If the commissioner should determine from the application that the health and safety of the persons using the camp will be properly safeguarded, the commissioner may, prior to actual inspection of the camp, issue the permit license in writing. ~~No fee shall be charged for the permit.~~ The permit license shall be posted in a conspicuous place on the premises occupied by the camp.

Sec. 8. Minnesota Statutes 2008, section 144.9501, is amended by adding a subdivision to read:

Subd. 8a. **Disclosure pamphlet.** "Disclosure pamphlet" means the EPA pamphlet titled "Renovate Right: Important Lead Hazard Information for Families, Child Care Providers and Schools" developed under section 406(a) of the Toxic Substance Control Act.

Sec. 9. Minnesota Statutes 2008, section 144.9501, subdivision 22b, is amended to read:

Subd. 22b. **Lead sampling technician.** "Lead sampling technician" means an individual who performs clearance inspections for ~~nonabatement or nonorder lead hazard reduction~~ renovation sites, and lead dust sampling ~~in other settings, or visual assessment for deteriorated paint for nonabatement sites~~, and who is registered with the commissioner under section 144.9505.

Sec. 10. Minnesota Statutes 2008, section 144.9501, subdivision 26a, is amended to read:

Subd. 26a. **Regulated lead work.** (a) "Regulated lead work" means:

- (1) abatement;
- (2) interim controls;
- (3) a clearance inspection;
- (4) a lead hazard screen;
- (5) a lead inspection;
- (6) a lead risk assessment;
- (7) lead project designer services;
- (8) lead sampling technician services; ~~or~~
- (9) swab team services;
- (10) renovation activities; or
- (11) activities performed to comply with lead orders issued by a board of health.

(b) Regulated lead work does not include abatement, interim controls, swab team services, or renovation activities that disturb painted surfaces that total no more than:

~~(1) activities such as remodeling, renovation, installation, rehabilitation, or landscaping activities, the primary intent of which is to remodel, repair, or restore a structure or dwelling, rather than to permanently eliminate lead hazards, even though these activities may incidentally result in a reduction in lead hazards; or~~

~~(2) interim control activities that are not performed as a result of a lead order and that do not disturb painted surfaces that total more than:~~

~~(i) (1) 20 square feet (two square meters) on exterior surfaces; or~~

~~(ii) two (2) six square feet (0.2 0.6 square meters) in an interior room; or~~

~~(iii) ten percent of the total surface area on an interior or exterior type of component with a small surface area.~~

Sec. 11. Minnesota Statutes 2008, section 144.9501, is amended by adding a subdivision to read:

Subd. 26b. **Renovation.** "Renovation" means the modification of any affected property that results in the disturbance of painted surfaces, unless that activity is performed as an abatement. A renovation performed for the purpose of converting a building or part of a building into an affected property is a renovation under this subdivision.

Sec. 12. Minnesota Statutes 2008, section 144.9505, subdivision 1g, is amended to read:

Subd. 1g. **Certified lead firm.** A person within the state intending to directly perform or cause to be performed through subcontracting or similar delegation any regulated lead work shall first obtain certification from the commissioner. A person who employs individuals to perform regulated lead work outside of the person's property must obtain certification as a lead firm. The certificate must be in writing, contain an expiration date, be signed by the commissioner, and give the name and address of the person to whom it is issued. The certification fee is \$100, is nonrefundable, and must be submitted with each application. The certificate or a copy of the certificate must be readily available at the worksite for review by the contracting entity, the commissioner, and other public health officials charged with the health, safety, and welfare of the state's citizens.

Sec. 13. Minnesota Statutes 2008, section 144.9505, subdivision 4, is amended to read:

Subd. 4. **Notice of regulated lead work.** (a) At least five working days before starting work at each regulated lead worksite, the person performing the regulated lead work shall give written notice to the commissioner and the appropriate board of health.

(b) This provision does not apply to lead hazard screen, lead inspection, lead risk assessment, lead sampling technician, renovation, or lead project design activities.

Sec. 14. Minnesota Statutes 2008, section 144.9508, subdivision 2, is amended to read:

Subd. 2. **Regulated lead work standards and methods.** (a) The commissioner shall adopt rules establishing regulated lead work standards and methods in accordance with the provisions of this section, for lead in paint, dust, drinking water, and soil in a manner that protects public health and the environment for all residences, including residences also used for a commercial purpose, child care facilities, playgrounds, and schools.

(b) In the rules required by this section, the commissioner shall require lead hazard reduction of intact paint only if the commissioner finds that the intact paint is on a chewable or lead-dust producing surface that is a known source of actual lead exposure to a specific individual. The commissioner shall prohibit methods that disperse lead dust into the air that could accumulate to a level that would exceed the lead dust standard specified under this section. The commissioner shall work cooperatively with the commissioner of administration to determine which lead hazard reduction methods adopted under this section may be used for lead-safe practices including prohibited practices, preparation, disposal, and cleanup. The commissioner shall work cooperatively with the commissioner of the Pollution Control Agency to develop disposal procedures. In adopting rules under this section, the commissioner shall require the best available technology for regulated lead work methods, paint stabilization, and repainting.



(c) The commissioner of health shall adopt regulated lead work standards and methods for lead in bare soil in a manner to protect public health and the environment. The commissioner shall adopt a maximum standard of 100 parts of lead per million in bare soil. The commissioner shall set a soil replacement standard not to exceed 25 parts of lead per million. Soil lead hazard reduction methods shall focus on erosion control and covering of bare soil.

(d) The commissioner shall adopt regulated lead work standards and methods for lead in dust in a manner to protect the public health and environment. Dust standards shall use a weight of lead per area measure and include dust on the floor, on the window sills, and on window wells. Lead hazard reduction methods for dust shall focus on dust removal and other practices which minimize the formation of lead dust from paint, soil, or other sources.

(e) The commissioner shall adopt lead hazard reduction standards and methods for lead in drinking water both at the tap and public water supply system or private well in a manner to protect the public health and the environment. The commissioner may adopt the rules for controlling lead in drinking water as contained in Code of Federal Regulations, title 40, part 141. Drinking water lead hazard reduction methods may include an educational approach of minimizing lead exposure from lead in drinking water.

(f) The commissioner of the Pollution Control Agency shall adopt rules to ensure that removal of exterior lead-based coatings from residences and steel structures by abrasive blasting methods is conducted in a manner that protects health and the environment.

(g) All regulated lead work standards shall provide reasonable margins of safety that are consistent with more than a summary review of scientific evidence and an emphasis on overprotection rather than underprotection when the scientific evidence is ambiguous.

(h) No unit of local government shall have an ordinance or regulation governing regulated lead work standards or methods for lead in paint, dust, drinking water, or soil that require a different regulated lead work standard or method than the standards or methods established under this section.

(i) Notwithstanding paragraph (h), the commissioner may approve the use by a unit of local government of an innovative lead hazard reduction method which is consistent in approach with methods established under this section.

(j) The commissioner shall adopt rules for issuing lead orders required under section 144.9504, rules for notification of abatement or interim control activities requirements, and other rules necessary to implement sections 144.9501 to 144.9512.

(k) The commissioners shall adopt rules consistent with section 402(c)(3) of the Toxic Substances Control Act to ensure that renovation in a pre-1978 affected property where a child or pregnant female resides is conducted in a manner that protects health and the environment.

(l) The commissioner shall adopt rules consistent with sections 406(a) and 406(b) of the Toxic Substances Control Act.

Sec. 15. Minnesota Statutes 2008, section 144.9508, subdivision 3, is amended to read:

Subd. 3. **Licensure and certification.** The commissioner shall adopt rules to license lead supervisors, lead workers, lead project designers, lead inspectors, ~~and~~ lead risk assessors, ~~and~~ lead sampling technicians. The commissioner shall also adopt rules requiring certification of firms that perform regulated lead work ~~and rules requiring registration of lead sampling technicians.~~ The commissioner shall require periodic renewal of licenses, ~~and certificates, and registrations~~ and shall establish the renewal periods.

Sec. 16. Minnesota Statutes 2008, section 144.9508, subdivision 4, is amended to read:

Subd. 4. **Lead training course.** The commissioner shall establish by rule requirements for training course providers and the renewal period for each lead-related training course required for certification or licensure. The commissioner shall establish criteria in rules for the content and presentation of training courses intended to qualify trainees for licensure under subdivision 3. The commissioner shall establish criteria in rules for the content and presentation of training courses for lead ~~interim control workers~~ renovation and lead sampling technicians. Training course permit fees shall be nonrefundable and must be submitted with each application in the amount of \$500 for an initial training course, \$250 for renewal of a permit for an initial training course, \$250 for a refresher training course, and \$125 for renewal of a permit of a refresher training course.

Sec. 17. Minnesota Statutes 2008, section 144.9512, subdivision 2, is amended to read:

Subd. 2. **Grants; administration.** Within the limits of the available appropriation, the commissioner shall make grants to a nonprofit ~~organization currently operating the CLEARCorps lead hazard reduction project organizations~~ to train workers to provide lead screening, education, outreach, and swab team services for residential property. Projects that provide Americorps funding or positions, or leverage matching funds, as part of the delivery of the services must be given priority for the grant funds.

Sec. 18. Minnesota Statutes 2008, section 144.966, is amended by adding a subdivision to read:

Subd. 3a. **Support services to families.** The commissioner shall contract with a nonprofit organization to provide support and assistance to families with children who are deaf or have a hearing loss. The family support provided must include direct parent-to-parent assistance and information on communication, educational, and medical options. The commissioner shall give preference to a nonprofit organization that has the ability to provide these services throughout the state.

Sec. 19. Minnesota Statutes 2008, section 144.97, subdivision 2, is amended to read:

Subd. 2. **Certification Accreditation.** ~~"Certification" means written acknowledgment of a laboratory's demonstrated capability to perform tests for a specific purpose~~ "Accreditation" means written acknowledgment that a laboratory has the policies, procedures, equipment, and practices to produce reliable data in the analysis of environmental samples.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 144.97, subdivision 4, is amended to read:

Subd. 4. **Contract Commercial laboratory.** ~~"Contract Commercial laboratory"~~ means a laboratory that performs tests on samples on a contract or fee-for-service basis.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 144.97, is amended by adding a subdivision to read:

Subd. 5a. **Field of testing.** "Field of testing" means the combination of analyte, method, matrix, and test category for which a laboratory may hold accreditation.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 22. Minnesota Statutes 2008, section 144.97, subdivision 6, is amended to read:

Subd. 6. **Laboratory.** "Laboratory" means the state, a person, corporation, or other entity, including governmental, that examines, analyzes, or tests samples in a specified physical location.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 23. Minnesota Statutes 2008, section 144.97, is amended by adding a subdivision to read:

Subd. 8. **Test category.** "Test category" means the combination of program and category as provided by section 144.98, subdivisions 3, paragraph (b), clauses (1) to (10), and 3a, paragraph (a), clauses (1) to (5).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 144.98, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** The commissioner of health ~~may certify~~ shall accredit environmental laboratories that test environmental samples according to national standards developed using a consensus process as established by Circular A-119, published by the United States Office of Management and Budget.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 144.98, subdivision 2, is amended to read:

Subd. 2. **Rules and standards.** The commissioner may adopt rules to ~~implement this section, including:~~ carry out the commissioner's responsibilities under the national standards specified in subdivisions 1 and 2a.

~~(1) procedures, requirements, and fee adjustments for laboratory certification, including provisional status and recertification;~~

~~(2) standards and fees for certificate approval, suspension, and revocation;~~

~~(3) standards for environmental samples;~~

~~(4) analysis methods that assure reliable test results;~~

~~(5) laboratory quality assurance, including internal quality control, proficiency testing, and personnel training; and~~

~~(6) criteria for recognition of certification programs of other states and the federal government.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 26. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 2a. **Standards.** The commissioner shall accredit laboratories according to the most current environmental laboratory accreditation standards under subdivision 1 and as accepted by the accreditation bodies recognized by the National Environmental Laboratory Accreditation Program (NELAP) of the NELAC Institute.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 27. Minnesota Statutes 2008, section 144.98, subdivision 3, is amended to read:

Subd. 3. **Annual fees.** (a) An application for ~~certification accreditation~~ under subdivision ~~4 6~~ must be accompanied by the ~~biennial fee~~ annual fees specified in this subdivision. ~~The fees are for~~ annual fees include:

- (1) base ~~certification accreditation~~ fee, ~~\$1,600~~ \$1,500;
- (2) sample preparation techniques ~~fees~~ fee, ~~\$100~~ \$200 per technique; ~~and~~
- (3) an administrative fee for laboratories located outside this state, \$3,750; and
- (4) test category ~~certification~~ fees;

<del>Test Category</del>	<del>Certification Fee</del>
<del>Clean water program bacteriology</del>	<del>\$800</del>
<del>Safe drinking water program bacteriology</del>	<del>\$800</del>
<del>Clean water program inorganic chemistry</del>	<del>\$800</del>
<del>Safe drinking water program inorganic chemistry</del>	<del>\$800</del>
<del>Clean water program chemistry metals</del>	<del>\$1,200</del>
<del>Safe drinking water program chemistry metals</del>	<del>\$1,200</del>
<del>Resource conservation and recovery program chemistry metals</del>	<del>\$1,200</del>
<del>Clean water program volatile organic compounds</del>	<del>\$1,500</del>
<del>Safe drinking water program volatile organic compounds</del>	<del>\$1,500</del>
<del>Resource conservation and recovery program volatile organic compounds</del>	<del>\$1,500</del>
<del>Underground storage tank program volatile organic compounds</del>	<del>\$1,500</del>
<del>Clean water program other organic compounds</del>	<del>\$1,500</del>
<del>Safe drinking water program other organic compounds</del>	<del>\$1,500</del>
<del>Resource conservation and recovery program other organic compounds</del>	<del>\$1,500</del>
<del>Clean water program radiochemistry</del>	<del>\$2,500</del>
<del>Safe drinking water program radiochemistry</del>	<del>\$2,500</del>
<del>Resource conservation and recovery program agricultural contaminants</del>	<del>\$2,500</del>
<del>Resource conservation and recovery program emerging contaminants</del>	<del>\$2,500</del>

~~(b) Laboratories located outside of this state that require an on-site inspection shall be assessed an additional \$3,750 fee. For the programs in subdivision 3a, the commissioner may accredit laboratories for fields of testing under the categories listed in clauses (1) to (10) upon completion of the application requirements provided by subdivision 6 and receipt of the fees for each category under each program that accreditation is requested. The categories offered and related fees include:~~

- ~~(1) microbiology, \$450;~~
- ~~(2) inorganics, \$450;~~
- ~~(3) metals, \$1,000;~~
- ~~(4) volatile organics, \$1,300;~~
- ~~(5) other organics, \$1,300;~~
- ~~(6) radiochemistry, \$1,500;~~
- ~~(7) emerging contaminants, \$1,500;~~
- ~~(8) agricultural contaminants, \$1,250;~~
- ~~(9) toxicity (bioassay), \$1,000; and~~
- ~~(10) physical characterization, \$250.~~

~~(c) The total biennial certification annual fee includes the base fee, the sample preparation techniques fees, the test category fees per program, and, when applicable, the on-site inspection fee an administrative fee for out-of-state laboratories.~~

~~(d) Fees must be set so that the total fees support the laboratory certification program. Direct costs of the certification service include program administration, inspections, the agency's general support costs, and attorney general costs attributable to the fee function.~~

~~(e) A change fee shall be assessed if a laboratory requests additional analytes or methods at any time other than when applying for or renewing its certification. The change fee is equal to the test category certification fee for the analyte.~~

~~(f) A variance fee shall be assessed if a laboratory requests and is granted a variance from a rule adopted under this section. The variance fee is \$500 per variance.~~

~~(g) Refunds or credits shall not be made for analytes or methods requested but not approved.~~

~~(h) Certification of a laboratory shall not be awarded until all fees are paid.~~

Sec. 28. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 3a. **Available programs, categories, and analytes.** (a) The commissioner shall accredit laboratories that test samples under the following programs:

(1) the clean water program, such as compliance monitoring under the federal Clean Water Act, and ambient monitoring of surface and groundwater, or analysis of biological tissue;

(2) the safe drinking water program, including compliance monitoring under the federal Safe Drinking Water Act, and the state requirements for monitoring private wells;

(3) the resource conservation and recovery program, including federal and state requirements for monitoring solid and hazardous wastes, biological tissue, leachates, and groundwater monitoring wells not intended as drinking water sources;

(4) the underground storage tank program; and

(5) the clean air program, including air and emissions testing under the federal Clean Air Act, and state and federal requirements for vapor intrusion monitoring.

(b) The commissioner shall maintain and publish a list of analytes available for accreditation. The list must be reviewed at least once every six months and the changes published in the State Register and posted on the program's Web site. The commissioner shall publish the notification of changes and review comments on the changes no less than 30 days from the date the list is published.

Sec. 29. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 3b. **Additional fees.** (a) Laboratories located outside of this state that require an on-site assessment more frequent than once every two years must pay an additional assessed fee of \$3,000 per assessment for each additional on-site assessment conducted. The laboratory must pay the fee within 15 business days of receiving the commissioner's notification that an on-site assessment is required. The commissioner may conduct additional on-site assessments to determine a laboratory's continued compliance with the standards provided in subdivision 2a.

(b) A late fee of \$200 shall be added to the annual fee for accredited laboratories submitting renewal applications to the commissioner after November 1.

(c) A change fee shall be assessed if a laboratory requests additional fields of testing at any time other than when initially applying for or renewing its accreditation. A change fee does not apply for applications to add fields of testing for new analytes in response to the published notice under subdivision 3a, paragraph (b), if the laboratory holds valid accreditation for the changed test category and applies for additional analytes within the same test category. The change fee is equal to the applicable test category fee for the field of testing requested. An application that requests accreditation of multiple fields of testing within a test category requires a single payment of the applicable test category fee per application submitted.

(d) A variance fee shall be assessed if a laboratory requests a variance from a standard provided in subdivision 2a. The variance fee is \$500 per variance.

(e) The commissioner shall assess a fee for changes to laboratory information regarding ownership, name, address, or personnel. Laboratories must submit changes through the application process under subdivision 6. The information update fee is \$250 per application.

(f) Fees must be set so that the total fees support the laboratory accreditation program. Direct costs of the accreditation service include program administration, assessments, the agency's general support costs, and attorney general costs attributable to the fee function.

Sec. 30. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 3c. **Refunds and nonpayment.** Refunds or credits shall not be made for applications received but not approved. Accreditation of a laboratory shall not be awarded until all fees are paid.

Sec. 31. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 6. **Application.** (a) Laboratories seeking accreditation must apply on a form provided by the commissioner, include the laboratory's procedures and quality manual, and pay the applicable fees.

(b) Laboratories may be fixed-base or mobile. The commissioner shall accredit mobile laboratories individually and require a vehicle identification number, license plate number, or other uniquely identifying information in addition to the application requirements of paragraph (a).

(c) Laboratories maintained on separate properties, even though operated under the same management or ownership, must apply separately. Laboratories with more than one building on the same or adjoining properties do not need to submit a separate application.

(d) The commissioner may accredit laboratories located out-of-state. Accreditation for out-of-state laboratories may be obtained directly from the commissioner following the requirements in paragraph (a), or out-of-state laboratories may be accredited through a reciprocal agreement if the laboratory:

(1) is accredited by a NELAP-recognized accreditation body for those fields of testing in which the laboratory requests accreditation from the commissioner;

(2) submits an application and documentation according to this subdivision; and

(3) submits a current copy of the laboratory's unexpired accreditation from a NELAP-recognized accreditation body showing the fields of accreditation for which the laboratory is currently accredited.

(e) Under the conflict of interest determinations provided in section 43A.38, subdivision 6, clause (a), the commissioner shall not accredit governmental laboratories operated by agencies of the executive branch of the state. If accreditation is required, laboratories operated by agencies of the executive branch of the state must apply for accreditation through any other NELAP-recognized accreditation body.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 6a. **Implementation and effective date.** All laboratories must comply with standards under this section by July 1, 2009. Fees under subdivisions 3 and 3b apply to applications received and accreditations issued after June 30, 2009. Accreditations issued on or before June 30, 2009, shall expire upon their current expiration date.

Sec. 33. Minnesota Statutes 2008, section 144.98, is amended by adding a subdivision to read:

Subd. 7. **Initial accreditation and annual accreditation renewal.** (a) The commissioner shall issue or renew accreditation after receipt of the completed application and documentation required in this section, provided the laboratory maintains compliance with the standards specified in subdivision 2a, and attests to the compliance on the application form.

(b) The commissioner shall prorate the fees in subdivision 3 for laboratories applying for accreditation after December 31. The fees are prorated on a quarterly basis beginning with the quarter in which the commissioner receives the completed application from the laboratory.

(c) Applications for renewal of accreditation must be received by November 1 and no earlier than October 1 of each year. The commissioner shall send annual renewal notices to laboratories 90 days before expiration. Failure to receive a renewal notice does not exempt laboratories from meeting the annual November 1 renewal date.

(d) The commissioner shall issue all accreditations for the calendar year for which the application is made, and the accreditation shall expire on December 31 of that year.

(e) The accreditation of any laboratory that fails to submit a renewal application and fees to the commissioner expires automatically on December 31 without notice or further proceeding. Any person who operates a laboratory as accredited after expiration of accreditation or without having submitted an application and paid the fees is in violation of the provisions of this section and is subject to enforcement action under sections 144.989 to 144.993, the Health Enforcement Consolidation Act. A laboratory with expired accreditation may reapply under subdivision 6.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 34. Minnesota Statutes 2008, section 144.99, subdivision 1, is amended to read:

Subdivision 1. **Remedies available.** The provisions of chapters 103I and 157 and sections 115.71 to 115.77; 144.12, subdivision 1, paragraphs (1), (2), (5), (6), (10), (12), (13), (14), and (15); 144.1201 to 144.1204; 144.121; 144.1222; 144.35; 144.381 to 144.385; 144.411 to 144.417; 144.495; 144.71 to 144.74; 144.9501 to 144.9512; 144.97; 144.98; 144.992; 326.70 to 326.785; 327.10 to 327.131; and 327.14 to 327.28 and all rules, orders, stipulation agreements, settlements, compliance agreements, licenses, registrations, certificates, and permits adopted or issued by the department or under any other law now in force or later enacted for the preservation of public health may, in addition to provisions in other statutes, be enforced under this section.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 35. Minnesota Statutes 2008, section 157.15, is amended by adding a subdivision to read:

Subd. 20. **Youth camp.** "Youth camp" has the meaning given in section 144.71, subdivision 2.

Sec. 36. Minnesota Statutes 2008, section 157.16, is amended to read:

#### **157.16 LICENSES REQUIRED; FEES.**

Subdivision 1. **License required annually.** A license is required annually for every person, firm, or corporation engaged in the business of conducting a food and beverage service establishment, for-profit youth camp, hotel, motel, lodging establishment, public pool, or resort. Any person wishing to operate a place of business licensed in this section shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. ~~Seasonal and temporary food stands and~~ Special event food stands are not required to submit plans. Nonprofit organizations operating a special event food stand with multiple locations at an annual one-day event shall be issued only one license. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the building, structure, or enclosure, the lessee and manager of the food and beverage service establishment, hotel, motel, lodging establishment, public pool, or resort; the name under which the business is to be conducted; and any other information as may be required by the commissioner to complete the application for license.

Subd. 2. **License renewal.** Initial and renewal licenses for all food and beverage service establishments, for-profit youth camps, hotels, motels, lodging establishments, public pools, and resorts shall be issued ~~for the calendar year for which application is made and shall expire on December 31 of such year~~ on an annual basis. Any person who operates a place of business after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the Health Enforcement Consolidation Act, sections 144.989 to 144.993. In addition, a penalty of ~~\$50~~ \$60 shall be added to the total of the license fee for any food and beverage service establishment operating without a license as a mobile food unit, a seasonal temporary or seasonal permanent food stand, or a



special event food stand, and a penalty of ~~\$100~~ \$120 shall be added to the total of the license fee for all restaurants, food carts, hotels, motels, lodging establishments, for-profit youth camps, public pools, and resorts operating without a license for a period of up to 30 days. A late fee of ~~\$300~~ \$360 shall be added to the license fee for establishments operating more than 30 days without a license.

Subd. 2a. **Food manager certification.** An applicant for certification or certification renewal as a food manager must submit to the commissioner a ~~\$28~~ \$35 nonrefundable certification fee payable to the Department of Health. The commissioner shall issue a duplicate certificate to replace a lost, destroyed, or mutilated certificate if the applicant submits a completed application on a form provided by the commissioner for a duplicate certificate and pays \$20 to the department for the cost of duplication.

Subd. 3. **Establishment fees; definitions.** (a) The following fees are required for food and beverage service establishments, for-profit youth camps, hotels, motels, lodging establishments, public pools, and resorts licensed under this chapter. Food and beverage service establishments must pay the highest applicable fee under paragraph (d), clause (1), (2), (3), or (4), and establishments serving alcohol must pay the highest applicable fee under paragraph (d), clause (6) or (7). The license fee for new operators previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All food and beverage service establishments, except special event food stands, and all hotels, motels, lodging establishments, public pools, and resorts shall pay an annual base fee of \$150.

(c) A special event food stand shall pay a flat fee of ~~\$40~~ \$50 annually. "Special event food stand" means a fee category where food is prepared or served in conjunction with celebrations, county fairs, or special events from a special event food stand as defined in section 157.15.

(d) In addition to the base fee in paragraph (b), each food and beverage service establishment, other than a special event food stand, and each hotel, motel, lodging establishment, public pool, and resort shall pay an additional annual fee for each fee category, additional food service, or required additional inspection specified in this paragraph:

(1) Limited food menu selection, ~~\$50~~ \$60. "Limited food menu selection" means a fee category that provides one or more of the following:

- (i) prepackaged food that receives heat treatment and is served in the package;
- (ii) frozen pizza that is heated and served;
- (iii) a continental breakfast such as rolls, coffee, juice, milk, and cold cereal;
- (iv) soft drinks, coffee, or nonalcoholic beverages; or
- (v) cleaning for eating, drinking, or cooking utensils, when the only food served is prepared off site.

(2) Small establishment, including boarding establishments, ~~\$100~~ \$120. "Small establishment" means a fee category that has no salad bar and meets one or more of the following:

(i) possesses food service equipment that consists of no more than a deep fat fryer, a grill, two hot holding containers, and one or more microwave ovens;

- (ii) serves dipped ice cream or soft serve frozen desserts;
- (iii) serves breakfast in an owner-occupied bed and breakfast establishment;
- (iv) is a boarding establishment; or

(v) meets the equipment criteria in clause (3), item (i) or (ii), and has a maximum patron seating capacity of not more than 50.

(3) Medium establishment, ~~\$260~~ \$310. "Medium establishment" means a fee category that meets one or more of the following:

- (i) possesses food service equipment that includes a range, oven, steam table, salad bar, or salad preparation area;
- (ii) possesses food service equipment that includes more than one deep fat fryer, one grill, or two hot holding containers; or
- (iii) is an establishment where food is prepared at one location and served at one or more separate locations.

Establishments meeting criteria in clause (2), item (v), are not included in this fee category.

(4) Large establishment, ~~\$460~~ \$540. "Large establishment" means either:

- (i) a fee category that (A) meets the criteria in clause (3), items (i) or (ii), for a medium establishment, (B) seats more than 175 people, and (C) offers the full menu selection an average of five or more days a week during the weeks of operation; or
- (ii) a fee category that (A) meets the criteria in clause (3), item (iii), for a medium establishment, and (B) prepares and serves 500 or more meals per day.

(5) Other food and beverage service, including food carts, mobile food units, seasonal temporary food stands, and seasonal permanent food stands, ~~\$50~~ \$60.

(6) Beer or wine table service, ~~\$50~~ \$60. "Beer or wine table service" means a fee category where the only alcoholic beverage service is beer or wine, served to customers seated at tables.

(7) Alcoholic beverage service, other than beer or wine table service, ~~\$135~~ \$165.

"Alcohol beverage service, other than beer or wine table service" means a fee category where alcoholic mixed drinks are served or where beer or wine are served from a bar.

(8) Lodging per sleeping accommodation unit, ~~\$8~~ \$10, including hotels, motels, lodging establishments, and resorts, up to a maximum of ~~\$800~~ \$1,000. "Lodging per sleeping accommodation unit" means a fee category including the number of guest rooms, cottages, or other rental units of a hotel, motel, lodging establishment, or resort; or the number of beds in a dormitory.

(9) First public pool, ~~\$180~~ \$325; each additional public pool, ~~\$100~~ \$175. "Public pool" means a fee category that has the meaning given in section 144.1222, subdivision 4.

(10) First spa, ~~\$110~~ \$175; each additional spa, ~~\$50~~ \$100. "Spa pool" means a fee category that has the meaning given in Minnesota Rules, part 4717.0250, subpart 9.

(11) Private sewer or water, ~~\$50~~ \$60. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(12) Additional food service, ~~\$130~~ \$150. "Additional food service" means a location at a food service establishment, other than the primary food preparation and service area, used to prepare or serve food to the public.

(13) Additional inspection fee, ~~\$300~~ \$360. "Additional inspection fee" means a fee to conduct the second inspection each year for elementary and secondary education facility school lunch programs when required by the Richard B. Russell National School Lunch Act.

(e) A fee of ~~\$350~~ for review of ~~the~~ construction plans must accompany the initial license application for restaurants, hotels, motels, lodging establishments, ~~or resorts with five or more sleeping units~~, seasonal food stands, and mobile food units. The fee for this construction plan review is as follows:

<u>Service Area</u>	<u>Type</u>	<u>Fee</u>
<u>Food</u>	<u>limited food menu</u>	<u>\$275</u>
	<u>small establishment</u>	<u>\$400</u>
	<u>medium establishment</u>	<u>\$450</u>
	<u>large food establishment</u>	<u>\$500</u>
	<u>additional food service</u>	<u>\$150</u>
<u>Transient food service</u>	<u>food cart</u>	<u>\$250</u>
	<u>seasonal permanent food stand</u>	<u>\$250</u>
	<u>seasonal temporary food stand</u>	<u>\$250</u>
	<u>mobile food unit</u>	<u>\$350</u>
<u>Alcohol</u>	<u>beer or wine table service</u>	<u>\$150</u>
	<u>alcohol service from bar</u>	<u>\$250</u>
<u>Lodging</u>	<u>less than 25 rooms</u>	<u>\$375</u>
	<u>25 to less than 100 rooms</u>	<u>\$400</u>
	<u>100 rooms or more</u>	<u>\$500</u>
	<u>less than five cabins</u>	<u>\$350</u>
	<u>five to less than ten cabins</u>	<u>\$400</u>
	<u>ten cabins or more</u>	<u>\$450</u>

(f) When existing food and beverage service establishments, hotels, motels, lodging establishments, ~~or resorts~~, seasonal food stands, and mobile food units are extensively remodeled, a fee of ~~\$250~~ must be submitted with the remodeling plans. A fee of \$250 must be submitted for new construction or remodeling for a restaurant with a limited food menu selection, a seasonal permanent food stand, a mobile food unit, or a food cart, or for a hotel, motel, resort, or lodging establishment addition of less than five sleeping units. The fee for this construction plan review is as follows:

<u>Service Area</u>	<u>Type</u>	<u>Fee</u>
<u>Food</u>	<u>limited food menu</u>	<u>\$250</u>
	<u>small establishment</u>	<u>\$300</u>
	<u>medium establishment</u>	<u>\$350</u>
	<u>large food establishment</u>	<u>\$400</u>
	<u>additional food service</u>	<u>\$150</u>

<u>Transient food service</u>	<u>food cart</u>	<u>\$250</u>
	<u>seasonal permanent food stand</u>	<u>\$250</u>
	<u>seasonal temporary food stand</u>	<u>\$250</u>
	<u>mobile food unit</u>	<u>\$250</u>
<u>Alcohol</u>	<u>beer or wine table service</u>	<u>\$150</u>
	<u>alcohol service from bar</u>	<u>\$250</u>
<u>Lodging</u>	<u>less than 25 rooms</u>	<u>\$250</u>
	<u>25 to less than 100 rooms</u>	<u>\$300</u>
	<u>100 rooms or more</u>	<u>\$450</u>
	<u>less than five cabins</u>	<u>\$250</u>
	<u>five to less than ten cabins</u>	<u>\$350</u>
	<u>ten cabins or more</u>	<u>\$400</u>

(g) ~~Seasonal temporary food stands and~~ Special event food stands are not required to submit construction or remodeling plans for review.

(h) For-profit youth camp fee, \$500.

Subd. 3a. **Statewide hospitality fee.** Every person, firm, or corporation that operates a licensed boarding establishment, food and beverage service establishment, seasonal temporary or permanent food stand, special event food stand, mobile food unit, food cart, resort, hotel, motel, or lodging establishment in Minnesota must submit to the commissioner a \$35 annual statewide hospitality fee for each licensed activity. The fee for establishments licensed by the Department of Health is required at the same time the licensure fee is due. For establishments licensed by local governments, the fee is due by July 1 of each year.

Subd. 4. **Posting requirements.** Every food and beverage service establishment, for-profit youth camp, hotel, motel, lodging establishment, public pool, or resort must have the license posted in a conspicuous place at the establishment. Mobile food units, food carts, and seasonal temporary food stands shall be issued decals with the initial license and each calendar year with license renewals. The current license year decal must be placed on the unit or stand in a location determined by the commissioner. Decals are not transferable.

Sec. 37. Minnesota Statutes 2008, section 157.22, is amended to read:

#### **157.22 EXEMPTIONS.**

This chapter ~~shall not be construed to~~ does not apply to:

- (1) interstate carriers under the supervision of the United States Department of Health and Human Services;
- (2) any building constructed and primarily used for religious worship;
- (3) any building owned, operated, and used by a college or university in accordance with health regulations promulgated by the college or university under chapter 14;
- (4) any person, firm, or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05, is exempt at that premises from licensure as a food or beverage establishment; provided that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of this chapter or the rules of the state commissioner of health relating to food and beverage service establishments;

(5) family day care homes and group family day care homes governed by sections 245A.01 to 245A.16;

(6) nonprofit senior citizen centers for the sale of home-baked goods;

(7) fraternal or patriotic organizations that are tax exempt under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7), 501(c)(10), or 501(c)(19) of the Internal Revenue Code of 1986, or organizations related to or affiliated with such fraternal or patriotic organizations. Such organizations may organize events at which home-prepared food is donated by organization members for sale at the events, provided:

(i) the event is not a circus, carnival, or fair;

(ii) the organization controls the admission of persons to the event, the event agenda, or both; and

(iii) the organization's licensed kitchen is not used in any manner for the event;

(8) food not prepared at an establishment and brought in by individuals attending a potluck event for consumption at the potluck event. An organization sponsoring a potluck event under this clause may advertise the potluck event to the public through any means. Individuals who are not members of an organization sponsoring a potluck event under this clause may attend the potluck event and consume the food at the event. Licensed food establishments other than schools cannot be sponsors of potluck events. A school may sponsor and hold potluck events in areas of the school other than the school's kitchen, provided that the school's kitchen is not used in any manner for the potluck event. For purposes of this clause, "school" means a public school as defined in section 120A.05, subdivisions 9, 11, 13, and 17, or a nonpublic school, church, or religious organization at which a child is provided with instruction in compliance with sections 120A.22 and 120A.24. Potluck event food shall not be brought into a licensed food establishment kitchen; ~~and~~

(9) a home school in which a child is provided instruction at home; and

(10) concession stands operated in conjunction with school-sponsored events on school property are exempt from the 21-day restriction.

Sec. 38. Minnesota Statutes 2008, section 327.14, is amended by adding a subdivision to read:

Subd. 9. **Special event recreational camping area.** "Special event recreational camping area" means a recreational camping area which operates no more than two times annually and for no more than 14 consecutive days.

Sec. 39. Minnesota Statutes 2008, section 327.15, is amended to read:

**327.15 LICENSE REQUIRED; RENEWAL; ~~PLANS FOR EXPANSION FEES.~~**

Subdivision 1. **License required; plan review.** No person, firm or corporation shall establish, maintain, conduct or operate a manufactured home park or recreational camping area within this state without first obtaining a license therefor from the state Department of Health. Any person wishing to obtain a license shall first make application, pay the required fee specified in this section, and receive approval for operation, including plan review approval. Application shall be made on forms provided by the commissioner and shall require the applicant to state the full name and address of the owner of the manufactured home park or recreational camping area, the name under which the business is to be conducted, and any other information as may be required by the commissioner to complete the application for license. Any person, firm, or corporation desiring to operate either a manufactured home park or a recreational camping area on the same site in connection with the other, need only obtain one license. ~~A license shall expire and be renewed as prescribed by the commissioner pursuant to section~~

~~144.122.~~—The license shall state the number of manufactured home sites and recreational camping sites allowed according to state commissioner of health approval. ~~No renewal license shall be issued if the number of sites specified in the application exceeds those of the original application. The number of licensed sites shall not be increased unless the plans for expansion or the construction for expansion are submitted and the expansion first approved by the Department of Health. Any manufactured home park or recreational camping area located in more than one municipality shall be dealt with as two separate manufactured home parks or camping areas.~~—The license shall be conspicuously displayed in the office of the manufactured home park or camping area. The license is not transferable as to person or place.

Subd. 2. **License renewal.** Initial and renewal licenses for all manufactured home parks and recreational camping areas shall be issued annually and shall have an expiration date included on the license. Any person who operates a manufactured home park or recreational camping area after the expiration date of a license or without having submitted an application and paid the fee shall be deemed to have violated the provisions of this chapter and shall be subject to enforcement action, as provided in the Health Enforcement Consolidation Act, sections 144.989 to 144.993. In addition, a penalty of \$120 shall be added to the total of the license fee for any manufactured home park or recreational camping area operating without a license for a period of up to 30 days. A late fee of \$360 shall be added to the license fee for any manufactured home park or recreational camping area operating more than 30 days without a license.

Subd. 3. **Fees; manufactured home parks; recreational camping areas.** (a) The following fees are required for manufactured home parks and recreational camping areas licensed under this chapter. Recreational camping areas and manufactured home parks must pay the highest applicable fee under paragraph (c). The license fee for new operators of a manufactured home park or recreational camping area previously licensed under this chapter for the same calendar year is one-half of the appropriate annual license fee, plus any penalty that may be required. The license fee for operators opening on or after October 1 is one-half of the appropriate annual license fee, plus any penalty that may be required.

(b) All manufactured home parks and recreational camping areas, except special event recreational camping areas, shall pay an annual base fee of \$150 plus \$4 for each licensed site, except that any operator of a manufactured home park or recreational camping area who is licensed under section 157.16 for the same location shall not be required to pay the base fee.

(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; and

(2) individual private sewer or water, \$60. "Individual private water" means a fee category with a water supply other than a community public water supply as defined in Minnesota Rules, chapter 4720. "Individual private sewer" means a fee category with an individual sewage treatment system which uses subsurface treatment and disposal.

(d) The following fees must accompany a plan review application for initial construction of a manufactured home park or recreational camping area for initial construction of:

(1) less than 25 sites, \$375;

(2) 25 to less than 100 sites, \$400; and

(3) 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 for expansion of:

- (1) less than 25 sites, \$250;
- (2) 25 but less than 100 sites, \$300; and
- (3) 100 or more sites, \$450.

**Subd. 4. Fees; special event recreational camping areas.** (a) The following fees are required for special event recreational camping areas licensed under this chapter.

(b) All special event recreational camping areas shall pay an annual fee of \$150 plus \$1 for each licensed site.

(c) A special event recreational camping area shall pay a late fee of \$360 for failing to obtain a license prior to operating.

(d) The following fees must accompany a plan review application for initial construction of a special event recreational camping area for initial construction of:

- (1) less than 25 special event recreational camping sites, \$375;
- (2) 25 to less than 100 sites, \$400; and
- (3) 100 or more sites, \$500.

(e) The following fees must accompany a plan review application for expansion of a special event recreational camping area for expansion of:

- (1) less than 25 sites, \$250;
- (2) 25 but less than 100 sites, \$300; and
- (3) 100 or more sites, \$450.

Sec. 40. Minnesota Statutes 2008, section 327.16, is amended to read:

#### **327.16 LICENSE PLAN REVIEW APPLICATION.**

Subdivision 1. **Made to state Department of Health.** The plan review application for license to operate and maintain a manufactured home park or recreational camping area shall be made to the state Department of Health, at such office and in such manner as may be prescribed by that department.

Subd. 2. **Contents.** The applicant for a primary license or annual license shall make application in writing plan review application shall be made upon a form provided by the state Department of Health setting forth:

- (1) The full name and address of the applicant or applicants, or names and addresses of the partners if the applicant is a partnership, or the names and addresses of the officers if the applicant is a corporation.
- (2) A legal description of the site, lot, field, or tract of land upon which the applicant proposes to operate and maintain a manufactured home park or recreational camping area.

(3) The proposed and existing facilities on and about the site, lot, field, or tract of land for the proposed construction or alteration and maintaining of a sanitary community building for toilets, urinals, sinks, wash basins, slop-sinks, showers, drains, laundry facilities, source of water supply, sewage, garbage and waste disposal; except that no toilet facilities shall be required in any manufactured home park which permits only manufactured homes equipped with toilet facilities discharging to water carried sewage disposal systems; and method of fire and storm protection.

(4) The proposed method of lighting the structures and site, lot, field, or tract of land upon which the manufactured home park or recreational camping area is to be located.

(5) The calendar months of the year which the applicant will operate the manufactured home park or recreational camping area.

(6) Plans and drawings for new construction or alteration, including buildings, wells, plumbing and sewage disposal systems.

Subd. 3. **Fees; Approval.** The application for ~~the primary license plan review~~ shall be submitted with all plans and specifications enumerated in subdivision 2, ~~and payment of a fee in an amount prescribed by the state commissioner of health pursuant to section 144.122~~ and shall be accompanied by an approved zoning permit from the municipality or county wherein the park is to be located, or a statement from the municipality or county that it does not require an approved zoning permit. ~~The fee for the annual license shall be in an amount prescribed by the state commissioner of health pursuant to section 144.122. All license fees paid to the commissioner of health shall be turned over to the state treasury.~~ The fee submitted for the primary license plan review shall be retained by the state even though the proposed project is not approved and a license is denied.

When construction has been completed in accordance with approved plans and specifications the state commissioner of health shall promptly cause the manufactured home park or recreational camping area and appurtenances thereto to be inspected. When the inspection and report has been made and the state commissioner of health finds that all requirements of sections 327.10, 327.11, 327.14 to 327.28, and such conditions of health and safety as the state commissioner of health may require, have been met by the applicant, the state commissioner of health shall forthwith issue the primary license in the name of the state.

Subd. 4. **Sanitary facilities Compliance with current state law.** ~~During the pendency of the application for such primary license any change in the sanitary or safety facilities of the intended manufactured home park or recreational camping area shall be immediately reported in writing to the state Department of Health through the office through which the application was made. If no objection is made by the state Department of Health to such change in such sanitary or safety facilities within 60 days of the date such change is reported, it shall be deemed to have the approval of the state Department of Health. Any manufactured home park or recreational camping area must be constructed and operated according to all applicable state electrical, fire, plumbing, and building codes.~~

Subd. 5. **Permit.** When the plans and specifications have been approved, the state Department of Health shall issue an approval report permitting the applicant to construct or make alterations upon a manufactured home park or recreational camping area and the appurtenances thereto according to the plans and specifications presented.

Such approval does not relieve the applicant from securing building permits in municipalities that require permits or from complying with any other municipal ordinance or ordinances, applicable thereto, not in conflict with this statute.

Subd. 6. **Denial of construction.** If the application to construct or make alterations upon a manufactured home park or recreational camping area and the appurtenances thereto or a primary license to operate and maintain the same is denied by the state commissioner of health, the commissioner shall so state in writing giving the reason or



reasons for denying the application. If the objections can be corrected the applicant may amend the application and resubmit it for approval, and if denied the applicant may appeal from the decision of the state commissioner of health as provided in section 144.99, subdivision 10.

Sec. 41. Minnesota Statutes 2008, section 327.20, subdivision 1, is amended to read:

Subdivision 1. **Rules.** No domestic animals or house pets of occupants of manufactured home parks or recreational camping areas shall be allowed to run at large, or commit any nuisances within the limits of a manufactured home park or recreational camping area. Each manufactured home park or recreational camping area licensed under the provisions of sections 327.10, 327.11, and 327.14 to 327.28 shall, among other things, provide for the following, ~~in the manner hereinafter specified:~~

(1) A responsible attendant or caretaker shall be in charge of every manufactured home park or recreational camping area at all times, who shall maintain the park or area, and its facilities and equipment in a clean, orderly and sanitary condition. In any manufactured home park containing more than 50 lots, the attendant, caretaker, or other responsible park employee, shall be readily available at all times in case of emergency.

(2) All manufactured home parks shall be well drained and be located so that the drainage of the park area will not endanger any water supply. No wastewater from manufactured homes or recreational camping vehicles shall be deposited on the surface of the ground. All sewage and other water carried wastes shall be discharged into a municipal sewage system whenever available. When a municipal sewage system is not available, a sewage disposal system acceptable to the state commissioner of health shall be provided.

(3) No manufactured home shall be located closer than three feet to the side lot lines of a manufactured home park, if the abutting property is improved property, or closer than ten feet to a public street or alley. Each individual site shall abut or face on a driveway or clear unoccupied space of not less than 16 feet in width, which space shall have unobstructed access to a public highway or alley. There shall be an open space of at least ten feet between the sides of adjacent manufactured homes including their attachments and at least three feet between manufactured homes when parked end to end. The space between manufactured homes may be used for the parking of motor vehicles and other property, if the vehicle or other property is parked at least ten feet from the nearest adjacent manufactured home position. The requirements of this paragraph shall not apply to recreational camping areas and variances may be granted by the state commissioner of health in manufactured home parks when the variance is applied for in writing and in the opinion of the commissioner the variance will not endanger the health, safety, and welfare of manufactured home park occupants.

(4) An adequate supply of water of safe, sanitary quality shall be furnished at each manufactured home park or recreational camping area. The source of the water supply shall first be approved by the state Department of Health.

(5) All plumbing shall be installed in accordance with the rules of the state commissioner of labor and industry and the provisions of the Minnesota Plumbing Code.

(6) In the case of a manufactured home park with less than ten manufactured homes, a plan for the sheltering or the safe evacuation to a safe place of shelter of the residents of the park in times of severe weather conditions, such as tornadoes, high winds, and floods. The shelter or evacuation plan shall be developed with the assistance and approval of the municipality where the park is located and shall be posted at conspicuous locations throughout the park. The park owner shall provide each resident with a copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c. Nothing in this paragraph requires the Department of Health to review or approve any shelter or evacuation plan developed by a park. Failure of a municipality to approve a plan submitted by a park shall not be grounds for action against the park by the Department of Health if the park has made a good faith effort to develop the plan and obtain municipal approval.

(7) A manufactured home park with ten or more manufactured homes, licensed prior to March 1, 1988, shall provide a safe place of shelter for park residents or a plan for the evacuation of park residents to a safe place of shelter within a reasonable distance of the park for use by park residents in times of severe weather, including tornadoes and high winds. The shelter or evacuation plan must be approved by the municipality by March 1, 1989. The municipality may require the park owner to construct a shelter if it determines that a safe place of shelter is not available within a reasonable distance from the park. A copy of the municipal approval and the plan shall be submitted by the park owner to the Department of Health. The park owner shall provide each resident with a copy of the approved shelter or evacuation plan, as provided by section 327C.01, subdivision 1c.

(8) A manufactured home park with ten or more manufactured homes, receiving ~~a primary~~ an initial license after March 1, 1988, must provide the type of shelter required by section 327.205, except that for manufactured home parks established as temporary, emergency housing in a disaster area declared by the President of the United States or the governor, an approved evacuation plan may be provided in lieu of a shelter for a period not exceeding 18 months.

(9) For the purposes of this subdivision, "park owner" and "resident" have the ~~meaning~~ meanings given them in section 327C.01.

Sec. 42. Minnesota Statutes 2008, section 327.20, is amended by adding a subdivision to read:

Subd. 4. **Special event recreational camping areas.** Each special event camping area licensed under sections 327.10, 327.11, and 327.14 to 327.28 is subject to this section.

(1) Recreational camping vehicles and tents, including attachments, must be separated from each other and other structures by at least seven feet.

(2) A minimum area of 300 square feet per site must be provided and the total number of sites must not exceed one site for every 300 square feet of usable land area.

(3) Each site must abut or face a driveway or clear unoccupied space of at least 16 feet in width, which space must have unobstructed access to a public roadway.

(4) If no approved on-site water supply system is available, hauled water may be used, provided that persons using hauled water comply with Minnesota Rules, parts 4720.4000 to 4720.4600.

(5) Nonburied sewer lines may be permitted provided they are of approved materials, watertight, and properly maintained.

(6) If a sanitary dumping station is not provided on-site, arrangements must be made with a licensed sewage pumper to service recreational camping vehicle holding tanks as needed.

(7) Toilet facilities must be provided consisting of toilets connected to an approved sewage disposal system, portable toilets, or approved, properly constructed privies.

(8) Toilets must be provided in the ratio of one toilet for each sex for each 150 sites.

(9) Toilets must be not more than 400 feet from any site.

(10) If a central building or buildings are provided with running water, then toilets and handwashing lavatories must be provided in the building or buildings that meet the requirements of this subdivision.

(11) Showers, if provided, must be provided in the ratio of one shower for each sex for each 250 sites. Showerheads must be provided, where running water is available, for each camping event exceeding two nights.

(12) Central toilet and shower buildings, if provided, must be constructed with adequate heating, ventilation, and lighting, and floors of impervious material sloped to drain. Walls must be of a washable material. Permanent facilities must meet the requirements of the Americans with Disabilities Act.

(13) An adequate number of durable, covered, watertight containers must be provided for all garbage and refuse. Garbage and refuse must be collected as often as necessary to prevent nuisance conditions.

(14) Campgrounds must be located in areas free of poison ivy or other noxious weeds considered detrimental to health. Sites must not be located in areas of tall grass or weeds and sites must be adequately drained.

(15) Campsites for recreational vehicles may not be located on inclines of greater than eight percent grade or one inch drop per lineal foot.

(16) A responsible attendant or caretaker must be available on-site at all times during the operation of any special event recreational camping area that has 50 or more sites.

Sec. 43. **MINNESOTA COLORECTAL CANCER PREVENTION ACT.**

Subdivision 1. **Purpose.** Colon cancer is one of Minnesota's leading causes of death and one of the most preventable forms of cancer. The Minnesota Colorectal Cancer Prevention Act creates a demonstration project and public-private partnership that leverages business, nonprofit, and government sectors to reduce the incidence of colon cancer, reduce future health care expenditures, and address health disparities by emphasizing prevention in a manner consistent with Minnesota's health care reform goals.

Subd. 2. **Establishment.** The commissioner of health shall award grants to Hennepin County Medical Center and MeritCare Bemidji for a colorectal screening demonstration project to provide screening to uninsured and underinsured women and men.

Subd. 3. **Eligibility.** To be eligible for colorectal screening under this demonstration project, an applicant must:

- (1) be at least 50 years of age, or under the age of 50 and at high risk for colon cancer;
- (2) be uninsured, or if insured, has coverage that does not cover the full cost of colorectal cancer screenings;
- (3) not eligible for medical assistance, general assistance medical care, or MinnesotaCare programs; and
- (4) have a gross family income at or below 250 percent of the federal poverty level.

Subd. 4. **Services.** Services provided under this project shall include:

- (1) colorectal cancer screening, according to standard practices of medicine, or guidelines provided by the Institute for Clinical Systems Improvement or the American Cancer Society;
- (2) follow-up services for abnormal tests; and
- (3) diagnostic services to determine the extent and proper course of treatment.

Subd. 5. **Project evaluation.** The commissioner of health, in consultation with the University of Minnesota School of Public Health, shall evaluate the demonstration project and make recommendations for increasing the number of persons in Minnesota who receive recommended colon cancer screening. The commissioner of health shall submit the evaluation and recommendations to the legislature by January 1, 2011.

Sec. 44. **WOMEN'S HEART HEALTH PILOT PROJECT.**

Subdivision 1. **Establishment.** The commissioner of health shall develop and implement a women's heart health pilot project to provide heart disease risk screening to uninsured and underinsured women, who are low-income, American Indian, or other minority.

Subd. 2. **Services.** Under this project, the commissioner must contract with health care clinics to provide heart disease risk screenings to eligible women. The clinics may also provide follow-up services to women found to be at risk for heart disease.

Subd. 3. **Eligibility.** To be eligible for screening under this program, an applicant must:

- (1) be between the ages of 40 and 64 years;
- (2) receive breast and cervical cancer screening services under the Department of Health's Sage program;
- (3) be uninsured, or have insurance that does not cover heart disease risk screenings; and
- (4) have a gross family income at or below 150 percent of the federal poverty level.

Sec. 45. **EXPOSURE LEVELS STUDY.**

The commissioner of health shall work with appropriate local, state, and federal agencies to determine whether the levels of exposure to pentachlorophenol (PCP) in Minneapolis neighborhoods where utility poles treated with PCP or creosote, probable human carcinogens, are installed, exceed human health risk limits or maximum contaminant levels for residents, utility workers, and others who handle the treated poles.

Sec. 46. **FEASIBILITY PILOT PROJECT FOR CANCER SURVEILLANCE.**

The commissioner of health must provide a grant to the Hennepin County Medical Center for a one-year feasibility pilot project to collect occupational history and residential history data from newly diagnosed cancer patients at the Hennepin County Medical Center's Cancer Center. Funding for this grant shall come from the Department of Health's current resources for the Chronic Disease and Environmental Epidemiology Section. The grant shall cover the cost of one full-time equivalent position at the Hennepin County Medical Center. The grant must be sufficient to cover the responsibilities associated with carrying out the feasibility pilot project.

Under this pilot project, Hennepin County Medical Center will design an expansion of its existing cancer registry to include the collection of additional data, including the cancer patient's occupational history, residential history, and military service history. Patient consent is required for collection of these additional data. The data collection expansion may also include the cancer patient's possible toxic environmental exposure history, if known. The purpose of this pilot project is to determine the following:

- (1) the feasibility of collecting these data on a statewide scale;
- (2) the potential design of a self-administered patient questionnaire template; and

(3) necessary qualifications for staff who will collect these data.

Hennepin County Medical Center must report the results of this pilot project to the legislature by October 1, 2010.

Sec. 47. **SMOKING CESSATION.**

The commissioner of health must prioritize smoking prevention and smoking cessation activities in low-income, indigenous, and minority communities in their collaborations with the ClearWay organization.

Sec. 48. **MEDICAL RESPONSE UNIT REIMBURSEMENT PILOT PROGRAM.**

(a) The Department of Public Safety or its contract designee shall collaborate with the Minnesota Ambulance Association to create the parameters of the medical response unit reimbursement pilot program, including determining criteria for baseline data reporting.

(b) In conducting the pilot program, the Department of Public Safety must consult with the Minnesota Ambulance Association, Minnesota Fire Chiefs Association, Emergency Services Regulatory Board, and the Minnesota Council of Health Plans to:

(1) identify no more than five medical response units registered as medical response units with the Minnesota Emergency Medical Services Regulatory Board according to Minnesota Statutes, chapter 144E, to participate in the program;

(2) outline and develop criteria for reimbursement;

(3) determine the amount of reimbursement for each unit response; and

(4) collect program data to be analyzed for a final report.

(c) Further criteria for the medical response unit reimbursement pilot program shall include:

(1) the pilot program will expire on December 31, 2010, or when the appropriation is extended, whichever occurs first;

(2) a report shall be made to the legislature by March 1, 2011, by the Department of Public Safety or its contractor as to the effectiveness and value of this reimbursement pilot program to the emergency medical services delivery system, any actual or potential savings to the health care system, and impact on patient outcomes;

(3) participating medical response units must adhere to the requirements of this pilot program outlined in an agreement between the Department of Public Safety and the medical response unit, including but not limited to, requirements relating to data collection, response criteria, and patient outcomes and disposition;

(4) individual entities licensed to provide ambulance care under Minnesota Statutes, chapter 144E, are not eligible for participation in this pilot program;

(5) if a participating medical response unit withdraws from the pilot program, the Department of Public Safety in consultation with the Minnesota Ambulance Association may choose another pilot site if funding is available;

(6) medical response units must coordinate their operations under this pilot project with the ambulance service or services licensed to provide care in their first response geographic areas;

(7) licensed ambulance services that participate with the medical response unit in the pilot program assume no financial or legal liability for the actions of the participating medical response unit; and

(8) the Department of Public Safety and its pilot program partners have no ongoing responsibility to reimburse medical response units beyond the parameters of the pilot program.

Sec. 49. **REPEALER.**

(a) Minnesota Statutes 2008, sections 103I.112; 144.9501, subdivision 17b; and 327.14, subdivisions 5 and 6, are repealed.

(b) Minnesota Rules, part 4626.2015, subpart 9, is repealed.

ARTICLE 12

HEALTH-RELATED FEES

Section 1. Minnesota Statutes 2008, section 148.108, is amended to read:

**148.108 FEES.**

Subdivision 1. **Fees.** In addition to the fees established in Minnesota Rules, chapter 2500, and according to sections 148.05, 148.06, 148.07, and 148.10, subdivisions 2 and 3, the board is authorized to charge the fees in this section.

Subd. 2. ~~Annual renewal of inactive acupuncture registration~~ **License and registration fees.** ~~The annual renewal of an inactive acupuncture registration fee is \$25.~~ License and registration fees are as follows:

(1) for a license application fee, \$300;

(2) for a license active renewal fee, \$220;

(3) for a license inactive renewal fee, \$165;

(4) for an acupuncture initial registration fee, \$125;

(5) for an acupuncture active registration renewal fee, \$75;

(6) for an acupuncture registration reinstatement fee, \$50;

(7) for an acupuncture inactive registration renewal fee, \$25;

(8) for an animal chiropractic registration fee, \$125;

(9) for an animal chiropractic active registration renewal fee, \$75; and

(10) for an animal chiropractic inactive registration renewal fee, \$25.

Subd. 3. ~~Acupuncture reinstatement.~~ ~~The acupuncture reinstatement fee is \$50.~~

Sec. 2. Minnesota Statutes 2008, section 148D.180, subdivision 1, is amended to read:

Subdivision 1. **Application fees.** Application fees for licensure are as follows:

- (1) for a licensed social worker, \$45;
- (2) for a licensed graduate social worker, \$45;
- (3) for a licensed independent social worker, ~~\$90~~ \$45;
- (4) for a licensed independent clinical social worker, ~~\$90~~ \$45;
- (5) for a temporary license, \$50; and
- (6) for a licensure by endorsement, ~~\$150~~ \$85.

The fee for criminal background checks is the fee charged by the Bureau of Criminal Apprehension. The criminal background check fee must be included with the application fee as required pursuant to section 148D.055.

Sec. 3. Minnesota Statutes 2008, section 148D.180, subdivision 2, is amended to read:

Subd. 2. **License fees.** License fees are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216;
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50;
- (5) for an emeritus license, \$43.20; and
- (6) for a temporary leave fee, the same as the renewal fee specified in subdivision 3.

If the licensee's initial license term is less or more than 24 months, the required license fees must be prorated proportionately.

Sec. 4. Minnesota Statutes 2008, section 148D.180, subdivision 3, is amended to read:

Subd. 3. **Renewal fees.** Renewal fees for licensure are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216; and
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50.

Sec. 5. Minnesota Statutes 2008, section 148D.180, subdivision 5, is amended to read:

Subd. 5. **Late fees.** Late fees are as follows:

- (1) renewal late fee, ~~one-half~~ one-fourth of the renewal fee specified in subdivision 3; and

(2) supervision plan late fee, \$40.

Sec. 6. Minnesota Statutes 2008, section 148E.180, subdivision 1, is amended to read:

Subdivision 1. **Application fees.** Application fees for licensure are as follows:

- (1) for a licensed social worker, \$45;
- (2) for a licensed graduate social worker, \$45;
- (3) for a licensed independent social worker, ~~\$90~~ \$45;
- (4) for a licensed independent clinical social worker, ~~\$90~~ \$45;
- (5) for a temporary license, \$50; and
- (6) for a licensure by endorsement, ~~\$150~~ \$85.

The fee for criminal background checks is the fee charged by the Bureau of Criminal Apprehension. The criminal background check fee must be included with the application fee as required according to section 148E.055.

Sec. 7. Minnesota Statutes 2008, section 148E.180, subdivision 2, is amended to read:

Subd. 2. **License fees.** License fees are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216;
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50;
- (5) for an emeritus license, \$43.20; and
- (6) for a temporary leave fee, the same as the renewal fee specified in subdivision 3.

If the licensee's initial license term is less or more than 24 months, the required license fees must be prorated proportionately.

Sec. 8. Minnesota Statutes 2008, section 148E.180, subdivision 3, is amended to read:

Subd. 3. **Renewal fees.** Renewal fees for licensure are as follows:

- (1) for a licensed social worker, ~~\$115.20~~ \$81;
- (2) for a licensed graduate social worker, ~~\$201.60~~ \$144;
- (3) for a licensed independent social worker, ~~\$302.40~~ \$216; and
- (4) for a licensed independent clinical social worker, ~~\$331.20~~ \$238.50.



Sec. 9. Minnesota Statutes 2008, section 148E.180, subdivision 5, is amended to read:

Subd. 5. **Late fees.** Late fees are as follows:

- (1) renewal late fee, ~~one-half~~ one-fourth of the renewal fee specified in subdivision 3; and
- (2) supervision plan late fee, \$40.

Sec. 10. Minnesota Statutes 2008, section 153A.17, is amended to read:

**153A.17 EXPENSES; FEES.**

(a) The expenses for administering the certification requirements including the complaint handling system for certified hearing aid dispensers in sections 153A.14 and 153A.15 and the Consumer Information Center under section 153A.18 must be paid from initial application and examination fees, renewal fees, penalties, and fines. ~~All fees are nonrefundable.~~

(b) The certificate application fee is \$350, the examination fee is \$250 for the written portion and \$250 for the practical portion each time one or the other is taken, and the trainee application fee is \$200. The penalty fee for late submission of a renewal application is \$200. The fee for verification of certification to other jurisdictions or entities is \$25. All fees are nonrefundable.

(c) All fees, penalties, and fines received must be deposited in the state government special revenue fund. The commissioner may prorate the certification fee for new applicants based on the number of quarters remaining in the annual certification period.

(d) The fees charged by the commissioner must reflect the actual costs of administering the program under paragraph (a). Fees must not be increased to cover the costs associated with investigating allegations against uncertified hearing aid dispensers.

Sec. 11. **[156.011] LICENSE, APPLICATION, AND EXAMINATION FEES.**

Subdivision 1. **Application fee.** A person applying for a license to practice veterinary medicine in Minnesota or applying for a permit to take the national veterinary medical examination must pay a \$60 nonrefundable application fee to the board. Persons submitting concurrent applications for licensure and a national examination permit shall pay only one application fee.

Subd. 2. **Examination fees.** (a) An applicant for veterinary licensure in Minnesota must successfully pass the Minnesota Veterinary Jurisprudence Examination. The fee for this examination is \$60, payable to the board.

(b) An applicant participating in the national veterinary licensing examination must complete a separate application for the national examination and submit the application to the board for approval. Payment for the national examination must be made by the applicant to the national board examination committee.

Sec. 12. **[156.012] INITIAL AND RENEWAL FEE.**

Subdivision 1. **Required for licensure.** A person now licensed to practice veterinary medicine in this state, or who becomes licensed by the Board of Veterinary Medicine to engage in the practice, shall pay an initial fee or a biennial license renewal fee if the person wishes to practice veterinary medicine in the coming two-year period or remain licensed as a veterinarian. A licensure period begins on March 1 and expires the last day of February two years later. A licensee with an even-numbered license shall renew by March 1 of even-numbered years and a licensee with an odd-numbered license shall renew by March 1 of odd-numbered years.

Subd. 2. **Amount.** The initial licensure fee and the biennial renewal fee is \$280 and must be paid to the executive director of the board. By January 1 of the first year for which the biennial renewal fee is due, the board shall issue a renewal application to a current licensee to the last address maintained in the board file. Failure to receive this notice does not relieve the licensee of the obligation to pay renewal fees so that they are received by the board on or before the renewal date of March 1.

Initial licenses issued after the start of the licensure renewal period are valid only until the end of the period.

Subd. 3. **Date due.** A licensee must apply for a renewal license on or before March 1 of the first year of the biennial license renewal period. A renewal license is valid from March 1 through the last day of February of the last year of the two-year license renewal period. An application postmarked no later than the last day of February must be considered to have been received on March 1.

Subd. 4. **Late renewal penalty.** An applicant for renewal must pay a late renewal penalty of \$140 in addition to the renewal fee if the application for renewal is received after March 1 of the licensure renewal period. A renewed license issued after March 1 of the licensure renewal period is valid only to the end of the period regardless of when the renewal fee is received.

Subd. 5. **Reinstatement fee.** An applicant for license renewal whose license has previously been suspended by official board action for nonrenewal must pay a reinstatement fee of \$60 in addition to the \$280 renewal fee and the \$140 late renewal penalty.

Subd. 6. **Penalty for failure to pay.** Within 30 days after the renewal date, a licensee who has not renewed the license must be notified by letter sent to the last known address of the licensee in the file of the board that the renewal is overdue and that failure to pay the current fee and current late fee within 60 days after the renewal date will result in suspension of the license. A second notice must be sent by registered or certified mail at least seven days before a board meeting occurring 60 days or more after the renewal date to a licensee who has not paid the renewal fee and late fee.

Subd. 7. **Suspension.** The board, by means of a roll call vote, shall suspend the license of a licensee whose license renewal is at least 60 days overdue and to whom notification has been sent as provided in Minnesota Rules, part 9100.0500, subpart 5. Failure of a licensee to receive notification is not grounds for later challenge by the licensee of the suspension. The former licensee must be notified by registered or certified letter within seven days of the board action. The suspended status placed on a license may be removed only on payment of renewal fees and late penalty fees for each licensure period or part of a period that the license was not renewed. A licensee who fails to renew a license for five years or more must meet the criteria of section 156.071 for relicensure.

Subd. 8. **Inactive license.** (a) A person holding a current active license to practice veterinary medicine in Minnesota may, at the time of the person's next biennial license renewal date, renew the license as an inactive license at one-half the renewal fee of an active license. The license may be continued in an inactive status by renewal on a biennial basis at one-half the regular license fee.

(b) A person holding an inactive license is not permitted to practice veterinary medicine in Minnesota and remains under the disciplinary authority of the board.

(c) A person may convert a current inactive license to an active license upon application to and approval by the board. The application must include:

(1) documentation of licensure in good standing and of having met continuing education requirements of current state of practice, or documentation of having met Minnesota continuing education requirements retroactive to the date of licensure inactivation;

(2) certification by the applicant that the applicant is not currently under disciplinary orders or investigation for acts that could result in disciplinary action in any other jurisdiction; and

(3) payment of a fee equal to the full difference between an inactive and active license if converting during the first year of the biennial license cycle or payment of a fee equal to one-half the difference between an inactive and an active license if converting during the second year of the license cycle.

(d) Deadline for renewal of an inactive license is March 1 of the first year of the biennial license renewal period. A late renewal penalty of one-half the inactive renewal fee must be paid if renewal is received after March 1.

Sec. 13. Minnesota Statutes 2008, section 156.015, is amended to read:

**156.015 MISCELLANEOUS FEES.**

Subdivision 1. **Verification of licensure.** The board may charge a fee of \$25 per license verification to a licensee for verification of licensure status provided to other veterinary licensing boards.

Subd. 2. **Continuing education review.** The board may charge a fee of \$50 per submission to a sponsor for review and approval of individual continuing education seminars, courses, wet labs, and lectures. This fee does not apply to continuing education sponsors that already meet the criteria for preapproval under Minnesota Rules, part 9100.1000, subpart 3, item A.

Subd. 3. **Temporary license fee.** A person meeting the requirements for issuance of a temporary permit to practice veterinary medicine under section 156.073, pending examination, who desires a temporary permit shall pay a fee of \$60 to the board.

Subd. 4. **Duplicate license.** A person requesting issuance of a duplicate or replacement license shall pay a fee of \$15 to the board.

Subd. 5. **Mailing examination and reference materials.** An applicant who resides outside the Twin Cities metropolitan area may request to take the Minnesota Veterinary Jurisprudence Examination by mail. The fee for mailing the examination and reference materials is \$15.

Sec. 14. **REPEALER.**

(a) Minnesota Rules, parts 9100.0400, subparts 1 and 3; 9100.0500; and 9100.0600, are repealed.

(b) Minnesota Statutes 2008, section 148D.180, subdivision 8, is repealed.

ARTICLE 13

HEALTH APPROPRIATIONS

Section 1. **HEALTH APPROPRIATION.**

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

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

Sec. 2. **COMMISSIONER OF HEALTH**

Subdivision 1. **Total Appropriation**

**\$103,645,000**

**\$98,574,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>60,670,000</u>	<u>55,310,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>31,531,000</u>	<u>31,242,000</u>
<u>Federal TANF</u>	<u>11,733,000</u>	<u>11,733,000</u>

Subd. 2. **Community and Family Health Promotion**

Appropriations by Fund

<u>General</u>	<u>43,701,000</u>	<u>38,441,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>1,033,000</u>	<u>1,322,000</u>
<u>Federal TANF</u>	<u>11,733,000</u>	<u>11,733,000</u>

**Support Services for Families With Children Who are Deaf or Have Hearing Loss.** Of the state government special revenue fund amount, \$18,000 in fiscal year 2010 and \$271,000 in fiscal year 2011 is for support services to families with children who are deaf or have hearing loss. Of this amount, in fiscal year 2011, \$198,000 is for grants and the balance is for administrative costs. Base funding in fiscal years 2012 and 2013 is \$288,000 each year. Of this amount, \$215,000 each year is for grants and the balance is for administrative costs.

**Funding Usage.** Up to 75 percent of the fiscal year 2012 appropriation for local public health grants may be used to fund calendar year 2011 allocations for this program. The general fund reduction of \$5,060,000 in fiscal year 2011 for local public health grants is onetime and the base funding for local public health grants for fiscal year 2012 is increased by \$5,060,000.

**Grants Reduction.** Effective July 1, 2009, base-level funding for general fund community and family health grants issued under this paragraph shall be reduced by 2.55 percent at the allotment level.

Effective July 1, 2011, base-level funding for general fund community and family health grants issued under this paragraph shall be reduced by 5.5 percent at the allotment level.

**Colorectal Screening.** \$100,000 in fiscal year 2010 is for grants to the Hennepin County Medical Center and MeritCare Bemidji for colorectal screening demonstration projects.

**Women's Heart Health Pilot Project.** \$100,000 in fiscal year 2010 is for the women's heart health pilot project. This is a onetime appropriation and is available until expended.

**TANF Appropriations.** (1) \$1,156,000 of the TANF funds are appropriated each year to the commissioner for family planning grants under Minnesota Statutes, section 145.925.

(2) \$3,579,000 of the TANF funds are appropriated each year to the commissioner for home visiting and nutritional services listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funds must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1.

(3) \$2,000,000 of the TANF funds are appropriated each year to the commissioner for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7.

(4) \$4,998,000 of the TANF funds are appropriated each year to the commissioner for the family home visiting grant program according to Minnesota Statutes, section 145A.17. \$4,000,000 of the funding must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1. \$998,000 of the funding must be distributed to tribal governments according to Minnesota Statutes, section 145A.14, subdivision 2a. The commissioner may use five percent of the funds appropriated each fiscal year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and may use ten percent of the funds appropriated each fiscal year to provide training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

**TANF Carryforward.** Any unexpended balance of the TANF appropriation in the first year of the biennium does not cancel but is available for the second year.

Subd. 3. **Policy, Quality, and Compliance**

100,000

0

**Rural Pharmacy Planning.** \$100,000 in fiscal year 2010 is for the rural pharmacy planning and transition grant program under Minnesota Statutes, section 144.1476. The appropriation is available until expended.

**Subd. 4. Health Protection**Appropriations by Fund

<u>General</u>	<u>9,679,000</u>	<u>9,679,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>30,209,000</u>	<u>30,209,000</u>

**Grants Reduction.** Effective July 1, 2009, base-level funding for general fund health protection grants issued under this paragraph shall be reduced by 2.55 percent at the allotment level. Effective July 1, 2011, base-level funding for general fund health protection grants issued under this paragraph shall be reduced by 5.5 percent at the allotment level.

**Session Laws Adjustment.** (a) \$163,000 each year is for the lead abatement grant program. This adjustment is onetime.

(b) \$100,000 each year is for emergency preparedness and response activities. This adjustment is onetime. Of this amount, \$50,000 each year is for tuberculosis prevention and control.

**Subd. 5. Administrative Support Services** 7,190,000      7,190,000

**Sec. 3. HEALTH-RELATED BOARDS**

**Subdivision 1. Total Appropriation** **\$14,753,000**      **\$15,036,000**

This appropriation is from the state government special revenue fund.

**Transfer From Special Revenue Fund.** During the fiscal year beginning July 1, 2011, the commissioner of finance shall transfer \$10,000,000 from the state government special revenue fund to the general fund. The boards must allocate this reduction to boards carrying a positive balance as of July 1, 2011.

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

<b>Subd. 2. <u>Board of Chiropractic Examiners</u></b>	<u>492,000</u>	<u>509,000</u>
<b>Subd. 3. <u>Board of Dentistry</u></b>	<u>1,100,000</u>	<u>1,136,000</u>
<b>Subd. 4. <u>Board of Dietetic and Nutrition Practice</u></b>	<u>105,000</u>	<u>105,000</u>
<b>Subd. 5. <u>Board of Marriage and Family Therapy</u></b>	<u>159,000</u>	<u>167,000</u>
<b>Subd. 6. <u>Board of Medical Practice</u></b>	<u>3,682,000</u>	<u>3,682,000</u>

Subd. 7. <b><u>Board of Nursing</u></b>	<u>3,368,000</u>	<u>3,521,000</u>
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Subd. 8. <b><u>Board of Nursing Home Administrators</u></b>	<u>1,358,000</u>	<u>1,262,000</u>
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**Administrative Services Unit - Operating Costs.** Of this appropriation, \$524,000 in fiscal year 2010 and \$526,000 in fiscal year 2011 are for operating costs of the administrative services unit. The administrative services unit may receive and expend reimbursements for services performed by other agencies.

**Administrative Services Unit - Retirement Costs.** Of this appropriation in fiscal year 2010, \$201,000 is for onetime retirement costs in the health-related boards. This funding may be transferred to the health boards incurring those costs for their payment. These funds are available either year of the biennium.

**Administrative Services Unit - Volunteer Health Care Provider Program.** Of this appropriation, \$79,000 in fiscal year 2010 and \$89,000 in fiscal year 2011 are to pay for medical professional liability coverage required under Minnesota Statutes, section 214.40.

**Administrative Services Unit - Contested Cases and Other Legal Proceedings.** Of this appropriation, \$200,000 in fiscal year 2010 and \$200,000 in fiscal year 2011 are for costs of contested case hearings and other unanticipated costs of legal proceedings involving health-related boards funded under this section. Upon certification of a health-related board to the administrative services unit that the costs will be incurred and that there is insufficient money available to pay for the costs out of money currently available to that board, the administrative services unit is authorized to transfer money from this appropriation to the board for payment of those costs with the approval of the commissioner of finance. This appropriation does not cancel. Any unencumbered and unspent balances remain available for these expenditures in subsequent fiscal years.

Subd. 9. <b><u>Board of Optometry</u></b>	<u>105,000</u>	<u>108,000</u>
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Subd. 10. <b><u>Board of Pharmacy</u></b>	<u>1,509,000</u>	<u>1,579,000</u>
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Subd. 11. <b><u>Board of Physical Therapy</u></b>	<u>346,000</u>	<u>356,000</u>
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Subd. 12. <b><u>Board of Podiatry</u></b>	<u>61,000</u>	<u>64,000</u>
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Subd. 13. <b><u>Board of Psychology</u></b>	<u>876,000</u>	<u>907,000</u>
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Subd. 14. <b><u>Board of Social Work</u></b>	<u>958,000</u>	<u>996,000</u>
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Subd. 15. <b><u>Board of Veterinary Medicine</u></b>	<u>240,000</u>	<u>250,000</u>
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Subd. 16. <b><u>Board of Behavioral Health and Therapy</u></b>	<u>394,000</u>	<u>394,000</u>
Sec. 4. <b><u>EMERGENCY MEDICAL SERVICES BOARD</u></b>	<b><u>\$4,024,000</u></b>	<b><u>\$4,054,000</u></b>

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>3,288,000</u>	<u>3,288,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>736,000</u>	<u>766,000</u>
<u>Cooper/Sams Volunteer</u>		
<u>Ambulance Trust</u>	<u>625,000</u>	<u>0</u>

**Longevity Award and Incentive Program.** Of the general fund appropriation, \$700,000 in fiscal year 2010 and \$700,000 in fiscal year 2011 are to the board for the ambulance service personnel longevity award and incentive program, under Minnesota Statutes, section 144E.40.

**Transfer.** In fiscal year 2010, \$626,000 is transferred from the Cooper/Sams volunteer ambulance trust, established under Minnesota Statutes, section 144E.42, to the general fund.

**Health Professional Services Program.** \$736,000 in fiscal year 2010 and \$766,000 in fiscal year 2011 from the state government special revenue fund are for the health professional services program.

**Regional Medical Services Program.** (a) \$400,000 in the first year is transferred from the Cooper/Sams volunteer ambulance trust to the emergency medical services system fund.

(b) \$400,000 in the first year from the emergency medical services system fund is for the regional emergency medical services programs. This amount shall be distributed equally to the eight emergency medical service regions. Notwithstanding Minnesota Statutes, section 144E.50, 100 percent of the appropriation shall be passed on to the emergency medical service regions.

**Comprehensive Advanced Life-Support Educational (CALS) Program.** \$100,000 in the first year from the Cooper/Sams volunteer ambulance trust is for the comprehensive advanced life-support educational (CALS) program established under Minnesota Statutes, section 144E.37. This appropriation is to extend availability and affordability of the CALS program for rural emergency medical personnel and to assist hospital staff in attaining the credentialing levels necessary for implementation of the statewide trauma system.



**Emergency Medical Services for Children (EMS-C) Program.** \$25,000 in the first year from the Cooper/Sams volunteer ambulance trust is for the emergency medical services for children (EMS-C) program. This appropriation is to meet increased need for medical training specific to pediatric emergencies.

Sec. 5. **DEPARTMENT OF VETERANS AFFAIRS**

**\$200,000**

**\$0**

**Veterans Paramedic Apprenticeship Program.** \$200,000 in the first year is from the Cooper/Sams volunteer ambulance trust to the commissioner of veterans affairs for a grant to the Minnesota Ambulance Association to implement a veterans paramedic apprenticeship program to reintegrate returning military medics into Minnesota's workforce in the field of paramedic and emergency services, thereby guaranteeing returning military medics gainful employment with livable wages and benefits. This appropriation is available until expended.

Sec. 6. **DEPARTMENT OF PUBLIC SAFETY**

**\$250,000**

**\$0**

**Medical Response Unit Reimbursement Pilot Program.** (a) \$250,000 in the first year is from the Cooper/Sams volunteer ambulance trust to the Department of Public Safety for a medical response unit reimbursement pilot program. Of this appropriation, \$75,000 is for administrative costs to the Department of Public Safety, including providing contract staff support and technical assistance to the pilot program partners if necessary.

(b) Of the amount in paragraph (a), \$175,000 is to the Department of Public Safety to be used to provide a predetermined reimbursement amount to the participating medical response units. The Department of Public Safety or its contract designee will develop an agreement with the medical response units outlining reimbursement and program requirements to include HIPAA compliance while participating in the pilot program.

Sec. 7. **COUNCIL ON DISABILITY**

**\$524,000**

**\$524,000**

Sec. 8. **OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES**

**\$1,655,000**

**\$1,580,000**

Sec. 9. **OMBUDSPERSON FOR FAMILIES**

**\$265,000**

**\$265,000**

Sec. 10. **FEDERAL STIMULUS FUNDS; REPORT.**

By February 15, 2010, the commissioner of health shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public health and public safety finance a report on how funds from the American Recovery and Reinvestment Act of 2009 are used: (1) to support advancing the objectives of the Minnesota Department of Health's Sexual Violence Prevention Plan; and (2) to support any pilot programs that might demonstrate and evaluate how use of community-based prevention grants might serve as a model for future investment of state resources to help advance the department's Sexual Violence Prevention Plan.

## ARTICLE 14

## HUMAN SERVICES APPROPRIATIONS

**Section 1. EMERGENCY SERVICES SHELTER GRANTS FROM AMERICAN RECOVERY AND REINVESTMENT ACT.**

To the extent permitted under federal law, the commissioner of human services, when determining the uses of the emergency services shelter grants provided under the American Recovery and Reinvestment Act, shall give priority to programs that serve the following:

(1) homeless youth;

(2) American Indian women who are victims of trafficking;

(3) high-risk adult males considered to be very likely to enter or reenter state or county correctional programs, or chemical and mental health programs;

(4) battered women; and

(5) families affected by foreclosure.

**Sec. 2. HUMAN SERVICES APPROPRIATIONS.**

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

	<b><u>APPROPRIATIONS</u></b>	
	<b><u>Available for the Year</u></b>	
	<b><u>Ending June 30</u></b>	
	<b><u>2010</u></b>	<b><u>2011</u></b>
<b><u>Sec. 3. HUMAN SERVICES</u></b>		
Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$15,993,000</u></b>	<b><u>\$14,990,000</u></b>
<u>Appropriations by Fund</u>		
	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>10,993,000</u>	<u>14,990,000</u>
<u>Federal Fiscal</u>		
<u>Stabilization Account</u>	<u>5,000,000</u>	<u>0</u>
Subd. 2. <b><u>Other Children and Economic Assistance Grants</u></b>	<b><u>15,993,000</u></b>	<b><u>14,990,000</u></b>

**Federal Funding.** \$5,000,000 in fiscal year 2010 is from the federal fiscal stabilization account.

**Homeless and Runaway Youth.** \$238,000 in fiscal year 2010 is for the Runaway and Homeless Youth Act under Minnesota Statutes, section 256K.45. Funds shall be spent in each area of the continuum of care to ensure that programs are meeting the greatest need. Any unexpended balance in the first year is available in the second year. Beginning July 1, 2011, the base is increased by \$119,000 each year.

**Foodshelf Programs.** \$275,000 in fiscal year 2010 is for foodshelf programs under Minnesota Statutes, section 256E.34. This is a onetime appropriation and is available until expended. This appropriation is to complement the federal funding under the American Recovery and Reinvestment Act.

**Supportive Housing Services.** \$1,500,000 each year is for supportive services under Minnesota Statutes, section 256K.26. This is a onetime appropriation. Beginning in fiscal year 2012, the base is increased by \$68,000 per year.

**Community Action Grants.** Community action grants are reduced one time by \$1,764,000 each year. This reduction is due to the availability of federal funds under the American Recovery and Reinvestment Act.

## ARTICLE 15

### HUMAN SERVICES FORECAST ADJUSTMENTS

#### Section 1. **SUMMARY OF APPROPRIATIONS; DEPARTMENT OF HUMAN SERVICES FORECAST ADJUSTMENT.**

The dollar amounts shown are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2008, chapter 363, from the general fund, or any other fund named, to the Department of Human Services for the purposes specified in this article, to be available for the fiscal year indicated for each purpose. The figure "2009" used in this article means that the appropriation or appropriations listed are available for the fiscal year ending June 30, 2009. Supplemental appropriations and reductions to appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

#### Sec. 2. **COMMISSIONER OF HUMAN SERVICES**

Subdivision 1. **Total Appropriation** **\$(478,994,000)**

#### Appropriations by Fund

	<u>2009</u>
<u>General</u>	(445,130,000)
<u>Health Care Access</u>	(19,460,000)
<u>Federal TANF</u>	(14,404,000)

**Subd. 2. Revenue and Pass-Through**

<u>Federal TANF</u>	<u>1,107,000</u>
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**Subd. 3. Children and Economic Assistance Grants**

<u>General</u>	<u>27,002,000</u>
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<u>Federal TANF</u>	<u>(16,211,000)</u>
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<u>Total</u>	<u>10,791,000</u>
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The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MFIP/DWP Grants**

<u>General</u>	<u>17,530,000</u>
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<u>Federal TANF</u>	<u>(16,211,000)</u>
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<b><u>(b) MFIP Child Care Assistance Grants</u></b>	<u>4,933,000</u>
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<b><u>(c) General Assistance Grants</u></b>	<u>1,458,000</u>
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<b><u>(d) Minnesota Supplemental Aid Grants</u></b>	<u>513,000</u>
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<b><u>(e) Group Residential Housing Grants</u></b>	<u>2,568,000</u>
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**Subd. 4. Basic Health Care Grants**

<u>General</u>	<u>(224,341,000)</u>
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<u>Health Care Access</u>	<u>(19,460,000)</u>
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<u>Total</u>	<u>(243,801,000)</u>
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The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MinnesotaCare**

<u>Health Care Access</u>	<u>(19,460,000)</u>
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<b><u>(b) MA Basic Health Care - Families and Children</u></b>	<u>(100,055,000)</u>
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<b><u>(c) MA Basic Health Care - Elderly and Disabled</u></b>	<u>(136,795,000)</u>
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<b><u>(d) General Assistance Medical Care</u></b>	<u>12,539,000</u>
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**Subd. 5. Continuing Care Grants (247,791,000)**

The amounts that may be spent from this appropriation for each purpose are as follows:

(a) <u>MA Long-Term Care Facilities</u>	(59,204,000)
(b) <u>MA Long-Term Care Waivers</u>	(168,927,000)
(c) <u>Chemical Dependency Entitlement Grants</u>	(19,660,000)

ARTICLE 16

HEALTH AND HUMAN SERVICES APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$4,276,443,000</u>	<u>\$5,150,311,000</u>	<u>\$9,426,754,000</u>
<u>State Government Special Revenue</u>	<u>15,488,000</u>	<u>14,841,000</u>	<u>30,329,000</u>
<u>Health Care Access</u>	<u>463,239,000</u>	<u>560,223,000</u>	<u>1,023,462,000</u>
<u>Federal TANF</u>	<u>276,848,000</u>	<u>257,526,000</u>	<u>534,374,000</u>
<u>Lottery Prize</u>	<u>1,665,000</u>	<u>1,665,000</u>	<u>3,330,000</u>
<u>Federal Fund</u>	<u>99,800,000</u>	<u>0</u>	<u>99,800,000</u>
<b><u>Total</u></b>	<b><u>\$5,133,483,000</u></b>	<b><u>\$5,984,566,000</u></b>	<b><u>\$11,118,049,000</u></b>

Sec. 2. **HEALTH AND HUMAN SERVICES APPROPRIATION.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2010" and "2011" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2010, or June 30, 2011, respectively. "The first year" is fiscal year 2010. "The second year" is fiscal year 2011. "The biennium" is fiscal years 2010 and 2011. Appropriations from the federal fund are from money received under the American Reinvestment and Recovery Act of 2009, Public Law 111-5, unless otherwise specified. Appropriations for the fiscal year ending June 30, 2009, are effective the day following final enactment.

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

Sec. 3. **HUMAN SERVICES**

Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$5,083,386,000</u></b>	<b><u>\$5,950,114,000</u></b>
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	<u>Appropriations by Fund</u>	
	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>4,263,602,000</u>	<u>5,141,510,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>1,315,000</u>	<u>565,000</u>
<u>Health Care Access</u>	<u>450,156,000</u>	<u>548,848,000</u>
<u>Federal TANF</u>	<u>276,848,000</u>	<u>257,526,000</u>
<u>Lottery Prize</u>	<u>1,665,000</u>	<u>1,665,000</u>
<u>Federal Fund</u>	<u>89,800,000</u>	<u>0</u>

**Receipts for Systems Projects.** Appropriations and federal receipts for information systems projects for MAXIS, PRISM, MMIS, and SSIS must be deposited in the state system account authorized in Minnesota Statutes, section 256.014. Money appropriated for computer projects approved by the Minnesota Office of Enterprise Technology, funded by the legislature, and approved by the commissioner of finance, may be transferred from one project to another and from development to operations as the commissioner of human services considers necessary. Any unexpended balance in the appropriation for these projects does not cancel but is available for ongoing development and operations.

**Nonfederal Share Transfers.** The nonfederal share of activities for which federal administrative reimbursement is appropriated to the commissioner may be transferred to the special revenue fund.

**TANF Maintenance of Effort.**

(a) In order to meet the basic maintenance of effort (MOE) requirements of the TANF block grant specified under Code of Federal Regulations, title 45, section 263.1, the commissioner may only report nonfederal money expended for allowable activities listed in the following clauses as TANF/MOE expenditures:

(1) MFIP cash, diversionary work program, and food assistance benefits under Minnesota Statutes, chapter 256J;

(2) the child care assistance programs under Minnesota Statutes, sections 119B.03 and 119B.05, and county child care administrative costs under Minnesota Statutes, section 119B.15;

(3) state and county MFIP administrative costs under Minnesota Statutes, chapters 256J and 256K;

(4) state, county, and tribal MFIP employment services under Minnesota Statutes, chapters 256J and 256K;

(5) expenditures made on behalf of noncitizen MFIP recipients who qualify for the medical assistance without federal financial participation program under Minnesota Statutes, section 256B.06, subdivision 4, paragraphs (d), (e), and (j); and

(6) qualifying working family credit expenditures under Minnesota Statutes, section 290.0671.

(b) The commissioner shall ensure that sufficient qualified nonfederal expenditures are made each year to meet the state's TANF/MOE requirements. For the activities listed in paragraph (a), clauses (2) to (6), the commissioner may only report expenditures that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31.

(c) For fiscal years beginning with state fiscal year 2003, the commissioner shall ensure that the maintenance of effort used by the commissioner of finance for the February and November forecasts required under Minnesota Statutes, section 16A.103, contains expenditures under paragraph (a), clause (1), equal to at least 16 percent of the total required under Code of Federal Regulations, title 45, section 263.1.

(d) For the federal fiscal year beginning October 1, 2007, the commissioner may not claim an amount of TANF/MOE in excess of the 75 percent standard in Code of Federal Regulations, title 45, section 263.1(a)(2), except:

(1) to the extent necessary to meet the 80 percent standard under Code of Federal Regulations, title 45, section 263.1(a)(1), if it is determined by the commissioner that the state will not meet the TANF work participation target rate for the current year;

(2) to provide any additional amounts under Code of Federal Regulations, title 45, section 264.5, that relate to replacement of TANF funds due to the operation of TANF penalties; and

(3) to provide any additional amounts that may contribute to avoiding or reducing TANF work participation penalties through the operation of the excess MOE provisions of Code of Federal Regulations, title 45, section 261.43(a)(2).

For the purposes of clauses (1) to (3), the commissioner may supplement the MOE claim with working family credit expenditures to the extent such expenditures or other qualified expenditures are otherwise available after considering the expenditures allowed in this section.

(e) Minnesota Statutes, section 256.011, subdivision 3, which requires that federal grants or aids secured or obtained under that subdivision be used to reduce any direct appropriations provided by law, do not apply if the grants or aids are federal TANF funds.

(f) Notwithstanding any contrary provision in this article, this provision expires June 30, 2013.

**Working Family Credit Expenditures as TANF/MOE.** The commissioner may claim as TANF/MOE up to \$6,707,000 per year for fiscal year 2010 through fiscal year 2011.

**Working Family Credit Expenditures to be Claimed for TANF/MOE.** The commissioner may count the following amounts of working family credit expenditure as TANF/MOE:

(1) fiscal year 2010, \$6,707,000;

(2) fiscal year 2011, \$32,387,000;

(3) fiscal year 2012, \$38,052,000; and

(4) fiscal year 2013, \$42,555,000.

Notwithstanding any contrary provision in this article, this rider expires June 30, 2013.

**TANF Transfer to Federal Child Care and Development Fund.** The following TANF fund amounts are appropriated to the commissioner for the purposes of MFIP and transition year child care under Minnesota Statutes, section 119B.05:

(1) fiscal year 2010, \$0;

(2) fiscal year 2011, \$25,680,000;

(3) fiscal year 2012, \$31,345,000; and

(4) fiscal year 2013, \$35,848,000.

The commissioner shall authorize the transfer of sufficient TANF funds to the federal child care and development fund to meet this appropriation and shall ensure that all transferred funds are expended according to federal child care and development fund regulations. The transferred funds shall be used to offset any general fund reductions to MFIP child care in this article.

**Child Care and Development Fund Unexpended Balance.** The commissioner shall determine the unexpended balance of the federal Child Care and Development Fund (CCDF) for the basic sliding fee child care program by February 28, 2009. The balance



must first be used to fund programs described in paragraph (b) and the remainder must be available for the basic sliding fee child care under Minnesota Statutes, section 119B.03.

**Food Stamps Employment and Training.** Notwithstanding Minnesota Statutes, sections 256J.626 and 256D.051, subdivisions 1a, 6b, and 6c, federal food stamps employment and training funds received as reimbursement of MFIP consolidated fund grant expenditures and child care assistance program expenditures for two-parent families must be deposited in the general fund. The amount of funds must be limited to \$3,400,000 in fiscal year 2010 and \$4,400,000 in fiscal years 2011 through 2013, contingent on approval by the federal Food and Nutrition Service. Consistent with the receipt of these federal funds, the commissioner may adjust the level of working family credit expenditures claimed as TANF maintenance of effort. Notwithstanding any contrary provision in this article, this rider expires June 30, 2013.

**Emergency Fund for the TANF Program.** TANF Emergency Contingency funds available under the American Recovery and Reinvestment Act of 2009 (Public Law 111-5) are appropriated to the commissioner. The commissioner must request TANF Emergency Contingency funds from the Secretary of the Department of Health and Human Services to the extent the commissioner meets or expects to meet the requirements of section 403(c) of the Social Security Act. The commissioner must seek to maximize such grants. The funds received must be used as appropriated.

**Subd. 2. Agency Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

**(a) Financial Operations**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>3,380,000</u>	<u>3,908,000</u>
<u>Health Care Access</u>	<u>1,241,000</u>	<u>1,016,000</u>
<u>Federal TANF</u>	<u>122,000</u>	<u>122,000</u>

**(b) Legal and Regulatory Operations**

	<u>Appropriations by Fund</u>	
<u>General</u>	<u>13,710,000</u>	<u>13,495,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>440,000</u>	<u>440,000</u>

<u>Health Care Access</u>	<u>943,000</u>	<u>943,000</u>
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<u>Federal TANF</u>	<u>100,000</u>	<u>100,000</u>
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**Base Adjustment.** The general fund base is decreased \$4,550,000 in fiscal year 2012 and \$4,550,000 in fiscal year 2013. The state government special revenue fund base is increased \$4,500,000 in fiscal year 2012 and \$4,500,000 in fiscal year 2013.

**(c) Management Operations**

Appropriations by Fund

<u>General</u>	<u>4,715,000</u>	<u>4,715,000</u>
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<u>Health Care Access</u>	<u>242,000</u>	<u>242,000</u>
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**(d) Information Technology Operations**

Appropriations by Fund

<u>General</u>	<u>28,077,000</u>	<u>28,077,000</u>
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<u>Health Care Access</u>	<u>4,856,000</u>	<u>4,868,000</u>
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<b><u>Subd. 3. Revenue and Pass-Through Revenue Expenditures</u></b>	<u>65,746,000</u>	<u>92,748,000</u>
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This appropriation is from the federal TANF fund.

**Subd. 4. Children and Economic Assistance Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MFIP/DWP Grants**

Appropriations by Fund

<u>General</u>	<u>68,634,000</u>	<u>98,587,000</u>
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<u>Federal TANF</u>	<u>96,333,000</u>	<u>64,709,000</u>
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**(b) Support Services Grants**

Appropriations by Fund

<u>General</u>	<u>8,715,000</u>	<u>8,715,000</u>
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<u>Federal TANF</u>	<u>113,711,000</u>	<u>99,111,000</u>
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**MFIP Consolidated Fund.** The MFIP consolidated fund TANF appropriation is reduced by \$5,500,000 in fiscal year 2011.

**TANF Emergency Fund; Nonrecurrent Short-Term Benefits.**

TANF Emergency Contingency fund grants received due to increases in expenditures for nonrecurrent short-term benefits must be used to offset the increase in these expenditures for counties under the MFIP consolidated fund under Minnesota Statutes, section 256J.626, and the diversionary work program. The commissioner shall develop procedures to maximize reimbursement of these expenditures over the TANF emergency fund base year quarters.

**(c) MFIP Child Care Assistance Grants** 0 (25,680,000)

**ARRA Child Care and Development Block Grant Funds.** The funds available from the child care development block grant under the American Recovery and Reinvestment Act of 2009 (ARRA) must be used for MFIP child care to the extent that those funds are not earmarked for quality expansion or to improve the quality of infant and toddler care.

**(d) Child Care Development Grants** 4,000 4,000

**(e) Child Support Enforcement Grants** 3,705,000 3,705,000

**(f) Children's Services Grants**Appropriations by Fund

General 47,533,000 50,498,000

Federal TANF 340,000 240,000

**Base Adjustment.** The general fund base is increased by \$3,094,000 in fiscal year 2012 and \$18,907,000 in fiscal year 2013.

**Privatized Adoption Grants.** Federal reimbursement for privatized adoption grant and foster care recruitment grant expenditures is appropriated to the commissioner for adoption grants and foster care and adoption administrative purposes.

**Adoption Assistance Incentive Grants.** Federal funds available during fiscal year 2010 and fiscal year 2011 for the adoption incentive grants are appropriated to the commissioner for these purposes.

**Adoption Assistance and Relative Custody Assistance.** The commissioner may transfer unencumbered appropriation balances for adoption assistance and relative custody assistance between fiscal years and between programs.

**(g) Children and Community Services Grants** 67,604,000 67,463,000

**Targeted Case Management Temporary Funding Adjustment.**

The commissioner shall recover from each county and tribe receiving a targeted case management temporary funding payment in fiscal year 2008 an amount equal to that payment. The commissioner shall recover one-half of the funds by February 1, 2010, and the remainder by February 1, 2011. At the commissioner's discretion and at the request of a county or tribe, the commissioner may revise the payment schedule, but full payment must not be delayed beyond May 1, 2011. The commissioner may use the recovery procedure under Minnesota Statutes, section 256.017, to recover the funds. Recovered funds must be deposited into the general fund.

**(h) General Assistance Grants**49,315,00049,708,000

**General Assistance Standard.** The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at \$203. The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

**Combining Emergency Assistance for MSA and GA.** The amount appropriated for emergency general assistance funds is limited to no more than \$8,989,812 in fiscal year 2010 and \$8,989,812 in fiscal year 2011. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.

**(i) Minnesota Supplemental Aid Grants**32,830,00034,091,000**(j) Group Residential Housing Grants**111,689,000113,937,000**(k) Other Children and Economic Assistance Grants**285,000569,000**(l) Children's Mental Health Grants**16,885,00016,882,000

**Funding Usage.** Up to 75 percent of a fiscal year's appropriation for children's mental health grants may be used to fund allocations in that portion of the fiscal year ending December 31.

**Subd. 5. Children and Economic Assistance Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

**(a) Children and Economic Assistance Administration**Appropriations by Fund

<u>General</u>	<u>10,218,000</u>	<u>10,208,000</u>
<u>Federal TANF</u>	<u>496,000</u>	<u>496,000</u>

**(b) Children and Economic Assistance Operations**Appropriations by Fund

<u>General</u>	<u>33,773,000</u>	<u>33,423,000</u>
<u>Health Care Access</u>	<u>361,000</u>	<u>361,000</u>

**Financial Institution Data Match and Payment of Fees.** The commissioner is authorized to allocate up to \$310,000 each year in fiscal years 2010 and 2011 from the PRISM special revenue account to make payments to financial institutions in exchange for performing data matches between account information held by financial institutions and the public authority's database of child support obligors as authorized by Minnesota Statutes, section 13B.06, subdivision 7.

**Subd. 6. Basic Health Care Grants**

**ARRA Food Support Administration.** The funds available for food support administration under American Recovery and Reinvestment Act of 2009 must be appropriated to the commissioner for implementing the food support benefit increases, increased eligibility determinations and outreach. Of these funds, 20 percent shall be allocated to the commissioner and 80 percent must be allocated to counties. The commissioner shall reimburse counties proportionate to their food support caseload based on data for the most recent quarter available. Tribal reimbursement must be made from the state portion based on a caseload factor equivalent to that of a county.

The amounts that may be spent from this appropriation for each purpose are as follows:

<b><u>(a) MinnesotaCare Grants</u></b>	<u>414,258,000</u>	<u>513,994,000</u>
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This appropriation is from the health care access fund.

<b><u>(b) MA Basic Health Care Grants - Families and Children</u></b>	<u>755,064,000</u>	<u>1,002,267,000</u>
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**Medical Education Research Costs (MERC).** Of these funds, the commissioner of human services shall transfer \$38,000,000 in fiscal year 2010 to the medical education research fund. These funds must restore the fiscal year 2009 unallotment of the transfers under Minnesota Statutes, section 256B.69, subdivision 5c, paragraph (a), for the July 1, 2008, through June 30, 2009, period.

**Local Share Payment Modification Required for ARRA Compliance.** Effective retroactively from October 1, 2008, to June 30, 2009, the state shall reduce Hennepin County's monthly contribution to the nonfederal share of medical assistance costs to

the percentage required on September 1, 2008, to meet federal requirements for enhanced federal match under the American Reinvestment and Recovery Act of 2009. Notwithstanding the requirements of Minnesota Statutes 2008, section 256B.19, subdivision 1c, paragraph (d), for the period beginning October 1, 2008, to June 30, 2009, Hennepin County's monthly payment under that provision is reduced to \$434,688.

**Capitation Payments.** Effective retroactively from October 1, 2008, to December 31, 2010, and notwithstanding the requirements of Minnesota Statutes 2008, section 256B.19, subdivision 1c, paragraph (c), the commissioner of human services shall increase capitation payments made to the Metropolitan Health Plan under Minnesota Statutes 2008, section 256B.69, by \$6,800,000 to recognize higher than average medical education costs. The increased amount includes federal matching money.

**(c) MA Basic Health Care Grants - Elderly and Disabled**

969,013,000

1,177,139,000

**Minnesota Disability Health Options.** Notwithstanding Minnesota Statutes, section 256B.69, subdivision 5a, paragraph (b), for the period beginning July 1, 2009, to June 30, 2011, the monthly enrollment of people receiving home and community-based waived services under Minnesota Disability Health Options shall not exceed 1,000. If the budget neutrality provision in Minnesota Statutes, section 256B.69, subdivision 23, paragraph (f), is reached prior to June 30, 2011, the commissioner may waive this monthly enrollment requirement.

**(d) General Assistance Medical Care Grants**

Appropriations by Fund

<u>General</u>	<u>252,061,000</u>	<u>380,555,000</u>
<u>Federal</u>	<u>99,300,000</u>	<u>0</u>

**Use of Federal Funds.** \$99,300,000 in fiscal year 2010 is appropriated from the fiscal stabilization funds in the federal fund. This is a onetime appropriation.

**(e) Other Health Care Grants**

Appropriations by Fund

<u>General</u>	<u>295,000</u>	<u>295,000</u>
<u>Health Care Access</u>	<u>940,000</u>	<u>190,000</u>

Subd. 7. **Health Care Management**

The amounts that may be spent from the appropriation for each purpose are as follows:

**(a) Health Care Administration**

Appropriations by Fund

<u>General</u>	<u>7,779,000</u>	<u>7,535,000</u>
<u>Health Care Access</u>	<u>1,812,000</u>	<u>906,000</u>

**(b) Health Care Operations**

Appropriations by Fund

<u>General</u>	<u>19,902,000</u>	<u>18,869,000</u>
<u>Health Care Access</u>	<u>24,753,000</u>	<u>25,578,000</u>

**Base Adjustment.** The health care access fund base is decreased by \$62,000 in fiscal year 2012 and \$149,000 in fiscal year 2013. The general fund base is decreased by \$157,000 in fiscal year 2012 and \$157,000 in fiscal year 2013.

Subd. 8. **Continuing Care Grants**

The amounts that may be spent from the appropriation for each purpose are as follows:

**(a) Aging and Adult Services Grants**

Appropriations by Fund

<u>General</u>	<u>13,186,000</u>	<u>13,702,000</u>
<u>Federal</u>	<u>500,000</u>	<u>0</u>

**Base Adjustment.** The general fund base is increased by \$6,643,000 in fiscal year 2012 and \$7,511,000 in fiscal year 2013.

**Information and Assistance Reimbursement.** Federal administrative reimbursement obtained from information and assistance services provided by the Senior LinkAge or Disability Linkage lines to people who are identified as eligible for medical assistance shall be appropriated to the commissioner for this activity.

**Community Service Development Grant Reduction.** Funding for community service development grants must be reduced by \$240,000 per year for fiscal years 2010 and 2011. This reduction shall not adjust the base appropriation.

**Senior Nutrition Use of Federal Funds.** For fiscal year 2010, general fund grants for home-delivered meals shall be reduced by \$250,000 and general fund grants for congregate dining shall be reduced by \$250,000. The commissioner must replace these general fund reductions with equal amounts from federal funding for senior nutrition from the American Recovery and Reinvestment Act of 2009.

**(b) Alternative Care Grants**

51,165,000

50,976,000

**Base Adjustment.** The general fund base is decreased by \$6,068,000 in fiscal year 2012 and \$6,449,000 in fiscal year 2013.

**Alternative Care Transfer.** Any money allocated to the alternative care program that is not spent for the purposes indicated does not cancel but must be transferred to the medical assistance account.

**(c) Medical Assistance Grants; Long-Term Care Facilities.**

366,293,000

426,549,000

**(d) Medical Assistance Long-Term Care Waivers and Home Care Grants**

853,824,000

1,054,067,000

**Manage Growth in TBI and CADI Waivers.** During the fiscal years beginning on July 1, 2011, and July 1, 2012, the commissioner shall allocate money for home and community-based waiver programs under Minnesota Statutes, section 256B.49, to ensure a reduction in state spending that is equivalent to limiting the caseload growth of the TBI waiver to 12.5 allocations per month each year of the biennium and the CADI waiver to 95 allocations per month each year of the biennium. Limits do not apply: (1) when there is an approved plan for nursing facility bed closures for individuals under age 65 who require relocation due to the bed closure; (2) to fiscal year 2009 waiver allocations delayed due to unallotment; or (3) to transfers authorized by the commissioner from the personal care assistance program of individuals having a home care rating of "CS," "MT," or "HL." Priorities for the allocation of funds must be for individuals anticipated to be discharged from institutional settings or who are at imminent risk of a placement in an institutional setting.

**Manage Growth in DD Waiver.** The commissioner shall manage the growth in the DD waiver by limiting the allocations included in the February 2009 forecast to 15 additional diversion allocations each month for the calendar years that begin on January 1, 2012, and January 1, 2013. Additional allocations must be made available for transfers authorized by the commissioner from the personal care program of individuals having a home care rating of "CS," "MT," or "HL."



**Adjustment to Lead Agency Waiver allocations.** Prior to the availability of the alternative license defined in Minnesota Statutes, section 245A.11, subdivision 8, the commissioner shall reduce lead agency waiver allocations for the purposes of implementing a moratorium on corporate foster care.

**(e) Mental Health Grants**

Appropriations by Fund

<u>General</u>	<u>75,089,000</u>	<u>77,539,000</u>
<u>Health Care Access</u>	<u>750,000</u>	<u>750,000</u>
<u>Lottery Prize</u>	<u>1,508,000</u>	<u>1,508,000</u>

**Funding Usage.** Up to 75 percent of a fiscal year's appropriation for adult mental health grants may be used to fund allocations in that portion of the fiscal year ending December 31.

**Base Adjustment.** The general fund base is reduced by \$525,000 in fiscal year 2012 and \$525,000 is fiscal year 2013.

**(f) Deaf and Hard-of-Hearing Grants** 1,924,000 1,909,000

**(g) Chemical Dependency Entitlement Grants** 109,989,000 120,133,000

**Payments for Substance Abuse Treatment.** For services provided in fiscal years 2010 and 2011, county-negotiated rates and provider claims to the consolidated chemical dependency fund must not exceed rates charged for services in excess of those in effect on January 1, 2009. If statutes authorize a cost-of-living adjustment during fiscal years 2010 and 2011, then notwithstanding any law to the contrary, fiscal years 2010 and 2011 rates must not exceed those in effect on January 2, 2009, plus any authorized cost-of-living adjustments.

**Chemical Dependency Special Revenue Account.** For fiscal year 2010, \$750,000 must be transferred from the consolidated chemical dependency treatment fund administrative account and deposited into the general fund by September 1, 2010.

**(h) Chemical Dependency Nonentitlement Grants** 1,729,000 1,729,000

**(i) Other Continuing Care Grants** 17,958,000 11,941,000

**Base Adjustment.** The general fund base is increased \$424,000 in fiscal year 2012 and decreased \$505,000 in fiscal year 2013.

**Other Continuing Care Grants; HIV Grants.** Money appropriated for the HIV drug and insurance grant program in fiscal year 2010 may be used in either year of the biennium.

**Subd. 9. Continuing Care Management**Appropriations by Fund

<u>General</u>	<u>21,775,000</u>	<u>21,119,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>875,000</u>	<u>125,000</u>
<u>Lottery Prize</u>	<u>157,000</u>	<u>157,000</u>

**County Maintenance of Effort.** \$350,000 in fiscal year 2010 is from the general fund for the State-County Results Accountability and Service Delivery Reform under Minnesota Statutes, chapter 402A.

The general fund base is increased \$1,000,000 in fiscal year 2012 and \$950,000 in fiscal year 2013.

**Subd. 10. State-Operated Services**255,484,000262,881,000

The amounts that may be spent from the appropriation for each purpose are as follows:

**Transfer Authority Related to State-Operated Services.** Money appropriated to finance state-operated services may be transferred between the fiscal years of the biennium with the approval of the commissioner of finance.

**County Past Due Receivables.** The commissioner is authorized to withhold county federal administrative reimbursement when the county of financial responsibility for cost-of-care payments due the state under Minnesota Statutes, section 246.54 or 253B.045, is 90 days past due. The commissioner shall deposit the withheld federal administrative earnings for the county into the general fund to settle the claims with the county of financial responsibility. The process for withholding funds is governed by Minnesota Statutes, section 256.017.

**(a) Adult Mental Health Services**106,906,000111,643,000

**Appropriation Limitation.** No part of the appropriation in this article to the commissioner for mental health treatment services provided by state-operated services shall be used for the Minnesota sex offender program.

**Community Behavioral Health Hospitals.** Under Minnesota Statutes, section 246.51, subdivision 1, a determination order for the clients served in a community behavioral health hospital operated by the commissioner of human services is only required when a client's third-party coverage has been exhausted.

**(b) Minnesota Sex Offender Services** 64,843,000 67,503,000

**(c) Minnesota Security Hospital and METO Services** 83,735,000 83,735,000

**Minnesota Security Hospital.** For the purposes of enhancing the safety of the public, improving supervision, and enhancing community-based mental health treatment, state-operated services may establish additional community capacity for providing treatment and supervision of clients who have been ordered into a less restrictive alternative of care from the state-operated services transitional services program consistent with Minnesota Statutes, section 246.014.

**Base Adjustment.** The general fund base is increased by \$18,000 in fiscal year 2012.

Sec. 4. **COMMISSIONER OF HEALTH**

Subdivision 1. **Total Appropriation** **\$40,097,000** **\$34,452,000**

Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>12,841,000</u>	<u>8,801,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>14,173,000</u>	<u>14,276,000</u>
<u>Health Care Access</u>	<u>13,083,000</u>	<u>11,375,000</u>

Subd. 2. **Policy Quality and Compliance**

Appropriations by Fund

<u>General</u>	<u>12,841,000</u>	<u>8,801,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>14,173,000</u>	<u>14,276,000</u>
<u>Health Care Access</u>	<u>13,083,000</u>	<u>11,375,000</u>

**Value-Based Insurance Designs.** The commissioner of health, in consultation with the commissioner of human services, commerce, and Minnesota management and budget, shall study and report to the legislature on value-based insurance designs that vary enrollee cost-sharing based on clinical or cost-effectiveness of services. In performing this study, the commissioner shall consult with and seek input from health plans, health care providers, and employers. The commissioner shall report to the legislature by January 15, 2010.

**Health Information Technology.** Of the general fund appropriation, \$4,000,000 is to fund the revolving loan account under Minnesota Statutes, section 62J.496. This appropriation must not be expended unless it is matched with federal funding under the federal Health Information Technology for Economic and Clinical Health (HITECH) Act. This appropriation must not be included in the agency's base budget for the fiscal year beginning July 1, 2012.

**Base Adjustment.** The general fund base is \$8,801,000 in fiscal year 2012 and \$8,593,000 in fiscal year 2013. The health care access fund base is \$10,775,000 in fiscal year 2012 and \$6,641,000 in fiscal year 2013. The state government special revenue fund base is \$14,234,000 for each of fiscal years 2012 and 2013.

Sec. 5. Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended by Laws 2008, chapter 277, article 5, section 1; and Laws 2008, chapter 363, article 18, section 7, is amended to read:

**Subd. 4. Children and Economic Assistance Grants**

The amounts that may be spent from this appropriation for each purpose are as follows:

**(a) MFIP/DWP Grants**

	Appropriations by Fund	
General	62,069,000	62,405,000
Federal TANF	75,904,000	80,841,000

**(b) Support Services Grants**

	Appropriations by Fund	
General	8,715,000	8,715,000
Federal TANF	113,429,000	115,902,000

**TANF Prior Appropriation Cancellation.** Notwithstanding Laws 2001, First Special Session chapter 9, article 17, section 2, subdivision 11, paragraph (b), any unexpended TANF funds appropriated to the commissioner to contract with the Board of Trustees of Minnesota State Colleges and Universities, to provide tuition waivers to employees of health care and human service providers that are members of qualifying consortia operating under Minnesota Statutes, sections 116L.10 to 116L.15, must cancel at the end of fiscal year 2007.

**MFIP Pilot Program.** Of the TANF appropriation, \$100,000 in fiscal year 2008 and \$750,000 in fiscal year 2009 are for a grant to the Stearns-Benton Employment and Training Council for the Workforce U pilot program. Base level funding for this program shall be \$750,000 in 2010 and \$0 in 2011.

**Supported Work.** (1) Of the TANF appropriation, \$5,468,000 in fiscal year 2008 is for supported work for MFIP participants, to be allocated to counties and tribes based on the criteria under clauses (2) and (3), and is available until expended. Paid transitional work experience and other supported employment under this rider provides a continuum of employment assistance, including outreach and recruitment, program orientation and intake, testing and assessment, job development and marketing, preworksite training, supported worksite experience, job coaching, and postplacement follow-up, in addition to extensive case management and referral services. \* (The preceding text "and \$7,291,000 in fiscal year 2009" was indicated as vetoed by the governor.)

(2) A county or tribe is eligible to receive an allocation under this rider if:

(i) the county or tribe is not meeting the federal work participation rate;

(ii) the county or tribe has participants who are required to perform work activities under Minnesota Statutes, chapter 256J, but are not meeting hourly work requirements; and

(iii) the county or tribe has assessed participants who have completed six weeks of job search or are required to perform work activities and are not meeting the hourly requirements, and the county or tribe has determined that the participant would benefit from working in a supported work environment.

(3) A county or tribe may also be eligible for funds in order to contract for supplemental hours of paid work at the participant's child's place of education, child care location, or the child's physical or mental health treatment facility or office. This grant to counties and tribes is specifically for MFIP participants who need to work up to five hours more per week in order to meet the hourly work requirement, and the participant's employer cannot or will not offer more hours to the participant.

**Work Study.** Of the TANF appropriation, \$750,000 each year are to the commissioner to contract with the Minnesota Office of Higher Education for the biennium beginning July 1, 2007, for work study grants under Minnesota Statutes, section 136A.233, specifically for low-income individuals who receive assistance under Minnesota Statutes, chapter 256J, and for grants to opportunities industrialization centers. \*(The preceding text beginning "Work Study. Of the TANF appropriation," was indicated as vetoed by the governor.)

**Integrated Service Projects.** \$2,500,000 in fiscal year 2008 and \$2,500,000 in fiscal year 2009 are appropriated from the TANF fund to the commissioner to continue to fund the existing integrated services projects for MFIP families, and if funding allows, additional similar projects.

**Base Adjustment.** The TANF base for fiscal year 2010 is \$115,902,000 and for fiscal year 2011 is \$115,152,000.

**(c) MFIP Child Care Assistance Grants**

General	74,654,000	71,951,000
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**(d) Basic Sliding Fee Child Care Assistance Grants**

General	42,995,000	45,008,000
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**Base Adjustment.** The general fund base is \$44,881,000 for fiscal year 2010 and \$44,852,000 for fiscal year 2011.

**At-Home Infant Care Program.** No funding shall be allocated to or spent on the at-home infant care program under Minnesota Statutes, section 119B.035.

**(e) Child Care Development Grants**

General	4,390,000	6,390,000
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**Prekindergarten Exploratory Projects.** Of the general fund appropriation, \$2,000,000 the first year and \$4,000,000 the second year are for grants to the city of St. Paul, Hennepin County, and Blue Earth County to establish scholarship demonstration projects to be conducted in partnership with the Minnesota Early Learning Foundation to promote children's school readiness. This appropriation is available until June 30, 2009.

**Child Care Services Grants.** Of this appropriation, \$250,000 each year are for the purpose of providing child care services grants under Minnesota Statutes, section 119B.21, subdivision 5. This appropriation is for the 2008-2009 biennium only, and does not increase the base funding.

**Early Childhood Professional Development System.** Of this appropriation, \$250,000 each year are for purposes of the early childhood professional development system, which increases the quality and continuum of professional development opportunities for child care practitioners. This appropriation is for the 2008-2009 biennium only, and does not increase the base funding.

**Base Adjustment.** The general fund base is \$1,515,000 for each of fiscal years 2010 and 2011.

**(f) Child Support Enforcement Grants**

General	11,038,000	3,705,000
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**Child Support Enforcement.** \$7,333,000 for fiscal year 2008 is to make grants to counties for child support enforcement programs to make up for the loss under the 2005 federal Deficit Reduction Act of federal matching funds for federal incentive funds passed on to the counties by the state.

This appropriation is available until June 30, 2009.

**(g) Children's Services Grants**

## Appropriations by Fund

General	63,647,000	71,147,000
Health Care Access	250,000	-0-
TANF	240,000	340,000

**Grants for Programs Serving Young Parents.** Of the TANF fund appropriation, \$140,000 each year is for a grant to a program or programs that provide comprehensive services through a private, nonprofit agency to young parents in Hennepin County who have dropped out of school and are receiving public assistance. The program administrator shall report annually to the commissioner on skills development, education, job training, and job placement outcomes for program participants.

**County Allocations for Rate Increases.** County Children and Community Services Act allocations shall be increased by \$197,000 effective October 1, 2007, and \$696,000 effective October 1, 2008, to help counties pay for the rate adjustments to day training and habilitation providers for participants paid by county social service funds. Notwithstanding the provisions of Minnesota Statutes, section 256M.40, the allocation to a county shall be based on the county's proportion of social services spending for day training and habilitation services as determined in the most recent social services expenditure and grant reconciliation report.

**Privatized Adoption Grants.** Federal reimbursement for privatized adoption grant and foster care recruitment grant expenditures is appropriated to the commissioner for adoption grants and foster care and adoption administrative purposes.

**Adoption Assistance Incentive Grants.** Federal funds available during fiscal year 2008 and fiscal year 2009 for the adoption incentive grants are appropriated to the commissioner for these purposes.

**Adoption Assistance and Relative Custody Assistance.** The commissioner may transfer unencumbered appropriation balances for adoption assistance and relative custody assistance between fiscal years and between programs.

**Children's Mental Health Grants.** Of the general fund appropriation, \$5,913,000 in fiscal year 2008 and \$6,825,000 in fiscal year 2009 are for children's mental health grants. The purpose of these grants is to increase and maintain the state's children's mental health service capacity, especially for school-based mental health services. The commissioner shall require grantees to utilize all available third party reimbursement sources as a condition of using state grant funds. At least 15 percent of these funds shall be used to encourage efficiencies through early intervention services. At least another 15 percent shall be used to provide respite care services for children with severe emotional disturbance at risk of out-of-home placement.

**Mental Health Crisis Services.** Of the general fund appropriation, \$2,528,000 in fiscal year 2008 and \$2,850,000 in fiscal year 2009 are for statewide funding of children's mental health crisis services. Providers must utilize all available funding streams.

**Children's Mental Health Evidence-Based and Best Practices.** Of the general fund appropriation, \$375,000 in fiscal year 2008 and \$750,000 in fiscal year 2009 are for children's mental health evidence-based and best practices including, but not limited to: Adolescent Integrated Dual Diagnosis Treatment services; school-based mental health services; co-location of mental health and physical health care, and; the use of technological resources to better inform diagnosis and development of treatment plan development by mental health professionals. The commissioner shall require grantees to utilize all available third-party reimbursement sources as a condition of using state grant funds.

**Culturally Specific Mental Health Treatment Grants.** Of the general fund appropriation, \$75,000 in fiscal year 2008 and \$300,000 in fiscal year 2009 are for children's mental health grants to support increased availability of mental health services for persons from cultural and ethnic minorities within the state. The commissioner shall use at least 20 percent of these funds to help members of cultural and ethnic minority communities to become qualified mental health professionals and practitioners. The commissioner shall assist grantees to meet third-party credentialing requirements and require them to utilize all available third-party reimbursement sources as a condition of using state grant funds.

**Mental Health Services for Children with Special Treatment Needs.** Of the general fund appropriation, \$50,000 in fiscal year 2008 and \$200,000 in fiscal year 2009 are for children's mental



health grants to support increased availability of mental health services for children with special treatment needs. These shall include, but not be limited to: victims of trauma, including children subjected to abuse or neglect, veterans and their families, and refugee populations; persons with complex treatment needs, such as eating disorders; and those with low incidence disorders.

**MFIP and Children's Mental Health Pilot Project.** Of the TANF appropriation, \$100,000 in fiscal year 2008 and \$200,000 in fiscal year 2009 are to fund the MFIP and children's mental health pilot project. Of these amounts, up to \$100,000 may be expended on evaluation of this pilot.

~~**Prenatal Alcohol or Drug Use.** Of the general fund appropriation, \$75,000 each year is to award grants beginning July 1, 2007, to programs that provide services under Minnesota Statutes, section 254A.171, in Pine, Kanabec, and Carlton Counties. This appropriation shall become part of the base appropriation.~~

**Base Adjustment.** The general fund base is \$62,572,000 in fiscal year 2010 and \$62,575,000 in fiscal year 2011.

**(h) Children and Community Services Grants**

General	101,369,000	69,208,000
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**Base Adjustment.** The general fund base is \$69,274,000 in each of fiscal years 2010 and 2011.

**Targeted Case Management Temporary Funding.** (a) Of the general fund appropriation, \$32,667,000 in fiscal year 2008 is transferred to the targeted case management contingency reserve account in the general fund to be allocated to counties and tribes affected by reductions in targeted case management federal Medicaid revenue as a result of the provisions in the federal Deficit Reduction Act of 2005, Public Law 109-171.

(b) Contingent upon (1) publication by the federal Centers for Medicare and Medicaid Services of final regulations implementing the targeted case management provisions of the federal Deficit Reduction Act of 2005, Public Law 109-171, or (2) the issuance of a finding by the Centers for Medicare and Medicaid Services of federal Medicaid overpayments for targeted case management expenditures, up to \$32,667,000 is appropriated to the commissioner of human services. Prior to distribution of funds, the commissioner shall estimate and certify the amount by which the federal regulations or federal disallowance will reduce targeted case management Medicaid revenue over the 2008-2009 biennium.

(c) Within 60 days of a contingency described in paragraph (b), the commissioner shall distribute the grants proportionate to each affected county or tribe's targeted case management federal earnings for calendar year 2005, not to exceed the lower of (1) the amount of the estimated reduction in federal revenue or (2) \$32,667,000.

(d) These funds are available in either year of the biennium. Counties and tribes shall use these funds to pay for social service-related costs, but the funds are not subject to provisions of the Children and Community Services Act grant under Minnesota Statutes, chapter 256M.

(e) This appropriation shall be available to pay counties and tribes for expenses incurred on or after July 1, 2007. The appropriation shall be available until expended.

**(i) General Assistance Grants**

General	37,876,000	38,253,000
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**General Assistance Standard.** The commissioner shall set the monthly standard of assistance for general assistance units consisting of an adult recipient who is childless and unmarried or living apart from parents or a legal guardian at \$203. The commissioner may reduce this amount according to Laws 1997, chapter 85, article 3, section 54.

**Emergency General Assistance.** The amount appropriated for emergency general assistance funds is limited to no more than \$7,889,812 in fiscal year 2008 and \$7,889,812 in fiscal year 2009. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.06.

**(j) Minnesota Supplemental Aid Grants**

General	30,505,000	30,812,000
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**Emergency Minnesota Supplemental Aid Funds.** The amount appropriated for emergency Minnesota supplemental aid funds is limited to no more than \$1,100,000 in fiscal year 2008 and \$1,100,000 in fiscal year 2009. Funds to counties must be allocated by the commissioner using the allocation method specified in Minnesota Statutes, section 256D.46.

**(k) Group Residential Housing Grants**

General	91,069,000	98,671,000
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**People Incorporated.** Of the general fund appropriation, \$460,000 each year is to augment community support and mental health services provided to individuals residing in facilities under Minnesota Statutes, section 256I.05, subdivision 1m.

**(l) Other Children and Economic Assistance Grants**

General	20,183,000	16,333,000
Federal TANF	1,500,000	1,500,000

**Base Adjustment.** The general fund base shall be \$16,033,000 in fiscal year 2010 and \$15,533,000 in fiscal year 2011. The TANF base shall be \$1,500,000 in fiscal year 2010 and \$1,181,000 in fiscal year 2011.

**Homeless and Runaway Youth.** Of the general fund appropriation, \$500,000 each year are for the Runaway and Homeless Youth Act under Minnesota Statutes, section 256K.45. Funds shall be spent in each area of the continuum of care to ensure that programs are meeting the greatest need. This is a onetime appropriation.

**Long-Term Homelessness.** Of the general fund appropriation, \$2,000,000 in fiscal year 2008 is for implementation of programs to address long-term homelessness and is available in either year of the biennium. This is a onetime appropriation.

**Minnesota Community Action Grants.** (a) Of the general fund appropriation, \$250,000 each year is for the purposes of Minnesota community action grants under Minnesota Statutes, sections 256E.30 to 256E.32. This is a onetime appropriation.

(b) Of the TANF appropriation, \$1,500,000 each year is for community action agencies for auto repairs, auto loans, and auto purchase grants to individuals who are eligible to receive benefits under Minnesota Statutes, chapter 256J, or who have lost eligibility for benefits under Minnesota Statutes, chapter 256J, due to earnings in the prior 12 months. Base level funding for this activity shall be \$1,500,000 in fiscal year 2010 and \$1,181,000 in fiscal year 2011. \* (The preceding text beginning "(b) Of the TANF appropriation," was indicated as vetoed by the governor.)

(c) Money appropriated under paragraphs (a) and (b) that is not spent in the first year does not cancel but is available for the second year.

**Sec. 6. EXPIRATION OF UNCODIFIED LANGUAGE.**

All uncodified language contained in this article expires on June 30, 2011, unless a different expiration date is explicit.

**Sec. 7. EFFECTIVE DATE.**

The provisions in this article are effective July 1, 2009, unless a different effective date is specified."

Delete the title and insert:

"A bill for an act relating to state government; establishing the health and human services budget; making changes to licensing; Minnesota family investment program, children, and adult supports; child support; the Department of Health and health care; health care programs; making technical changes; chemical and mental health; continuing care programs; establishing the State-County Results, Accountability, and Service Delivery Redesign; public health; health-related fees; making forecast adjustments; creating work groups and pilot projects; requiring reports; increasing fees; appropriating money for health and human services; amending Minnesota Statutes 2008, sections 13.465, subdivision 8; 62J.495; 62J.496; 62J.497, subdivisions 1, 2, by adding subdivisions; 62J.692, subdivision 7; 103I.208, subdivision 2; 125A.744, subdivision 3; 144.0724, subdivisions 2, 4, 8, by adding subdivisions; 144.121, subdivisions 1a, 1b; 144.122; 144.1222, subdivision 1a; 144.125, subdivision 1; 144.218, subdivision 1; 144.225, subdivision 2; 144.2252; 144.226, subdivisions 1, 4; 144.72, subdivisions 1, 3; 144.9501, subdivisions 22b, 26a, by adding subdivisions; 144.9505, subdivisions 1g, 4; 144.9508, subdivisions 2, 3, 4; 144.9512, subdivision 2; 144.966, by adding a subdivision; 144.97, subdivisions 2, 4, 6, by adding subdivisions; 144.98, subdivisions 1, 2, 3, by adding subdivisions; 144.99, subdivision 1; 144A.073, by adding a subdivision; 144A.44, subdivision 2; 144A.46, subdivision 1; 148.108; 148.6445, by adding a subdivision; 148D.180, subdivisions 1, 2, 3, 5; 148E.180, subdivisions 1, 2, 3, 5; 153A.17; 156.015; 157.15, by adding a subdivision; 157.16; 157.22; 176.011, subdivision 9; 245.4885, subdivision 1; 245A.03, by adding a subdivision; 245A.10, subdivisions 2, 3, 4, 5, by adding subdivisions; 245A.11, subdivision 2a, by adding a subdivision; 245A.16, subdivisions 1, 3; 245C.03, subdivision 2; 245C.04, subdivisions 1, 3; 245C.05, subdivision 4; 245C.08, subdivision 2; 245C.10, subdivision 3, by adding subdivisions; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision 1a; 245C.23, subdivision 2; 246.50, subdivision 5, by adding subdivisions; 246.51, by adding subdivisions; 246.511; 246.52; 246B.01, by adding subdivisions; 252.46, by adding a subdivision; 252.50, subdivision 1; 254A.02, by adding a subdivision; 254A.16, by adding a subdivision; 254B.03, subdivisions 1, 3, by adding a subdivision; 254B.05, subdivision 1; 254B.09, subdivision 2; 256.01, subdivision 2b, by adding subdivisions; 256.476, subdivisions 5, 11; 256.962, subdivisions 2, 6; 256.963, by adding a subdivision; 256.969, subdivision 3a; 256.975, subdivision 7; 256B.04, subdivision 16; 256B.055, subdivisions 7, 12; 256B.056, subdivisions 3, 3b, 3c, by adding a subdivision; 256B.057, subdivisions 3, 9, by adding a subdivision; 256B.0575; 256B.0595, subdivisions 1, 2; 256B.06, subdivisions 4, 5; 256B.0621, subdivision 2; 256B.0625, subdivisions 3c, 7, 8, 8a, 9, 13e, 17, 19a, 19c, 26, 41, 47; 256B.0631, subdivision 1; 256B.0651; 256B.0652; 256B.0653; 256B.0654; 256B.0655, subdivisions 1b, 4; 256B.0657, subdivisions 2, 6, 8, by adding a subdivision; 256B.08, by adding a subdivision; 256B.0911, subdivisions 1, 1a, 3, 3a, 4a, 5, 6, 7, by adding subdivisions; 256B.0913, subdivision 4; 256B.0915, subdivisions 3e, 3h, 5, by adding a subdivision; 256B.0916, subdivision 2; 256B.0917, by adding a subdivision; 256B.092, subdivision 8a, by adding subdivisions; 256B.0944, by adding a subdivision; 256B.0945, subdivision 4; 256B.0947, subdivision 1; 256B.15, subdivisions 1, 1a, 1h, 2, by adding subdivisions; 256B.37, subdivisions 1, 5; 256B.437, subdivision 6; 256B.441, subdivisions 48, 55, by adding subdivisions; 256B.49, subdivisions 12, 13, 14, 17, by adding subdivisions; 256B.501, subdivision 4a; 256B.5011, subdivision 2; 256B.5012, by adding a subdivision; 256B.5013, subdivision 1; 256B.69, subdivisions 5a, 5c, 5f; 256B.76, subdivisions 1, 4, by adding a subdivision; 256B.761; 256D.03, subdivision 4; 256D.051, subdivision 2a; 256D.0515; 256D.06, subdivision 2; 256D.09, subdivision 6; 256D.44, subdivision 5; 256D.49, subdivision 3; 256G.02, subdivision 6; 256I.03, subdivision 7; 256I.05, subdivisions 1a, 7c; 256J.20, subdivision 3; 256J.24, subdivisions 5a, 10; 256J.37, subdivision 3a, by adding a subdivision; 256J.38, subdivision 1; 256J.45, subdivision 3; 256J.575, subdivisions 3, 6, 7; 256J.621; 256J.626, subdivision 6; 256J.751, by adding a subdivision; 256J.95, subdivision 12; 256L.04, subdivision 10a, by adding a subdivision; 256L.05, subdivision 1, by adding subdivisions; 256L.11, subdivisions 1, 7; 256L.12, subdivision 9; 256L.17, subdivision 3; 259.89, subdivision 1; 260C.317, subdivision 4; 327.14, by adding a subdivision; 327.15; 327.16; 327.20, subdivision 1, by adding a subdivision; 393.07, subdivision 10; 501B.89, by adding a subdivision; 518A.53, subdivisions 1, 4, 10; 519.05; 604A.33, subdivision 1; 609.232, subdivision 11; 626.556, subdivision 3c; 626.5572, subdivisions 6, 13, 21; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended; Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 62Q; 144; 156; 246B; 254B; 256; 256B; proposing coding for new law as Minnesota Statutes, chapter 402A; repealing Minnesota

Statutes 2008, sections 62U.08; 103I.112; 144.9501, subdivision 17b; 148D.180, subdivision 8; 246.51, subdivision 1; 246.53, subdivision 3; 256.962, subdivision 7; 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13; 256B.071, subdivisions 1, 2, 3, 4; 256B.092, subdivision 5a; 256B.19, subdivision 1d; 256B.431, subdivision 23; 256D.46; 256I.06, subdivision 9; 256J.626, subdivision 7; 259.83, subdivision 3; 259.89, subdivisions 2, 3, 4; 327.14, subdivisions 5, 6; Laws 1988, chapter 689, section 251; Minnesota Rules, parts 4626.2015, subpart 9; 9100.0400, subparts 1, 3; 9100.0500; 9100.0600; 9500.1243, subpart 3; 9500.1261, subparts 3, 4, 5, 6; 9555.6125, subpart 4, item B."

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

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 2175, A bill for an act relating to environment; establishing grant program for idling reduction technology and hybrid bus purchases; proposing coding for new law in Minnesota Statutes, chapter 116.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[116.935] PUBLIC TRANSIT AGENCY DIESEL POLLUTION REDUCTION GRANTS.**

Subdivision 1. **Authority and eligibility.** The commissioner may award a grant to any public transit agency in Minnesota for the purchase and installation costs of any equipment or fuel that results in decreased diesel pollution from transit vehicles, including but not limited to grants of up to 25 percent of the cost to purchase a hybrid bus.

Subd. 2. **Grants.** (a) Grant funds may be used by the recipient to purchase and install equipment or fuel or to purchase hybrid buses, if those purchases and installations will result in decreased emissions of one or more air contaminants from the bus on which it is installed or used or decreased energy use by the bus.

(b) The grant program in this section shall be implemented only if the agency's application for federal funding, as required under section 2, is successful.

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

Sec. 2. **APPLICATION FOR FEDERAL FUNDS.**

The Pollution Control Agency must submit an application to the federal Environmental Protection Agency for competitive grant funds made available under the federal Diesel Emission Reduction Act's National, Smartway, or Emerging Technologies Clean Diesel Grant Program, as specified in the American Recovery and Reinvestment Act of 2009, Public Law 111-5. The application must request funding to reduce the cost of purchasing and installing idling reduction devices in diesel-powered regular route transit buses and for the purchase of hybrid buses. Any funds awarded to the agency as a result of the application must be expended on the diesel truck idling reduction device grant program under section 1. The agency must report by January 15, 2010, to the committees of the legislature with responsibility for the Pollution Control Agency on the status of the grant application submitted under this section and the use of grant funds, if awarded under section 1.

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

Delete the title and insert:

"A bill for an act relating to environment; establishing grant program for assisting public transit agencies in Minnesota with efforts to reduce diesel pollution; proposing coding for new law in Minnesota Statutes, chapter 116."

With the recommendation that when so amended the bill pass.

The report was adopted.

### **SECOND READING OF HOUSE BILLS**

H. F. No. 2175 was read for the second time.

### **SECOND READING OF SENATE BILLS**

S. F. Nos. 1288, 1539 and 1711 were read for the second time.

### **INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House File was introduced:

Hackbarth introduced:

H. F. No. 2348, A bill for an act relating to natural resources; requiring a state trail pass; appropriating money; amending Minnesota Statutes 2008, section 84.0835, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 85.

The bill was read for the first time and referred to the Committee on Environment Policy and Oversight.

### **MESSAGES FROM THE SENATE**

The following messages were received from the Senate:

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2123, A bill for an act relating to state government; environment, natural resources, and energy finance; appropriating money for environment and natural resources; authorizing sale of gift cards and certificates; establishing composting competitive grant program; modifying regulation of storm water discharges; modifying waste management reporting requirements and creating a work group; requiring nonresident all-terrain vehicle state trail pass; modifying horse trail and state park pass requirements; requiring disclosure of certain chemicals in

children's products by manufacturers; requiring plastic yard waste bags to be compostable and establishing labeling standards; authorizing uses of the Hennepin County solid and hazardous waste fund; modifying greenhouse gas emissions provisions and requiring a registry; establishing and authorizing fees; providing for disposition of certain fees; modifying and establishing assessments for certain regulatory expenses; providing for fish consumption advisories in different languages; limiting use of certain funds; requiring reports; appropriating money to Department of Commerce and Public Utilities Commission to finance activities related to commerce and energy; modifying provisions related to Telecommunications Access Minnesota assessments, insurance audits, insurers and insurance products, certain financial institutions, regulated activities related to certain mortgage transactions and professionals, and debt management and debt settlement services; providing penalties and remedies; appropriating and allocating federal stimulus money for various energy programs; amending Minnesota Statutes 2008, sections 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 47.58, subdivision 1; 47.60, subdivisions 1, 3, 6; 48.21; 58.05, subdivision 3; 58.06, subdivision 2; 58.126; 58.13, subdivision 1; 60A.124; 60A.14, subdivision 1; 60B.03, subdivision 15; 60L.02, subdivision 3; 61B.19, subdivision 4; 61B.28, subdivisions 4, 8; 67A.01; 67A.06; 67A.07; 67A.14, subdivisions 1, 7; 67A.18, subdivision 1; 84.0835, subdivision 3; 84.415, subdivision 5, by adding a subdivision; 84.63; 84.631; 84.632; 84.788, subdivision 3; 84.922, subdivision 1a; 85.015, subdivision 1b; 85.053, subdivision 10; 85.46, subdivisions 3, 4, 7; 93.481, subdivisions 1, 3, 5, 7; 97A.075, subdivision 1; 103G.301, subdivisions 2, 3; 115.03, subdivision 5c; 115.073; 115.56, subdivision 4; 115.77, subdivision 1; 115A.1314, subdivision 2; 115A.557, subdivision 3; 115A.931; 116.07, subdivision 4d; 116.41, subdivision 2; 116C.834, subdivision 1; 116D.045; 216B.62, subdivisions 3, 4, 5, by adding a subdivision; 216H.10, subdivision 7; 216H.11; 325E.311, subdivision 6; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding a subdivision; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; Laws 2002, chapter 220, article 8, section 15; Laws 2007, chapter 57, article 1, section 4, subdivision 2; Laws 2008, chapter 363, article 5, section 4, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 60A; 61A; 67A; 84; 93; 115A; 116; 216H; 325E; 383B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 60A.129; 61B.19, subdivision 6; 67A.14, subdivision 5; 67A.17; 67A.19; Laws 2008, chapter 363, article 5, section 30; Minnesota Rules, parts 2675.2180; 2675.7100; 2675.7110; 2675.7120; 2675.7130; 2675.7140.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Knuth moved that the House refuse to concur in the Senate amendments to H. F. No. 2123, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1122, A bill for an act relating to appropriations; appropriating money for agriculture, the Board of Animal Health, Rural Finance Authority, veterans, and the military; changing certain agricultural and animal health requirements and programs; establishing a program; eliminating a sunset; requiring certain studies and reports; amending Minnesota Statutes 2008, sections 3.737, subdivision 1; 3.7371, subdivision 3; 13.643, by adding a subdivision; 17.115, subdivision 2; 18.75; 18.76; 18.77, subdivisions 1, 3, 5, by adding subdivisions; 18.78, subdivision 1, by adding a subdivision; 18.79; 18.80, subdivision 1; 18.81, subdivision 3, by adding subdivisions; 18.82, subdivisions 1, 3; 18.83; 18.84, subdivisions 1, 2, 3; 18.86; 18.87; 18.88; 18B.01, subdivision 8, by adding subdivisions; 18B.065, subdivisions 1, 2, 2a, 3, 7, by adding subdivisions; 18B.26, subdivisions 1, 3; 18B.31, subdivisions 3, 4; 18B.37, subdivision 1; 18C.415, subdivision 3; 18C.421; 18C.425, subdivisions 4, 6; 18E.03, subdivisions 2, 4; 18E.06; 18H.02, subdivision 12a, by adding subdivisions; 18H.07, subdivisions 2, 3; 18H.09; 18H.10; 28A.085, subdivision 1; 28A.21, subdivision 5; 31.94; 32.394, subdivision 8; 41A.09, subdivisions 2a, 3a; 41B.039, subdivision 2; 41B.04, subdivision 8; 41B.042, subdivision 4; 41B.043, subdivision 1b; 41B.045, subdivision 2; 43A.11, subdivision 7; 43A.23, subdivision 1; 97A.045, subdivision 1; 171.06, subdivision 3; 171.07,

by adding a subdivision; 171.12, by adding a subdivision; 197.455, subdivision 1; 197.46; 198.003, by adding subdivisions; 239.791, subdivisions 1, 1a; 336.9-601; 343.11; 550.365, subdivision 2; 559.209, subdivision 2; 582.039, subdivision 2; 583.215; 626.8517; Laws 2008, chapter 297, article 2, section 26, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 17; 18; 18B; 31; 41A; 192; 198; repealing Minnesota Statutes 2008, sections 17.49, subdivision 3; 18G.12, subdivision 5; 38.02, subdivisions 3, 4; 41.51; 41.52; 41.53; 41.55; 41.56; 41.57; 41.58, subdivisions 1, 2; 41.59, subdivision 1; 41.60; 41.61, subdivision 1; 41.62; 41.63; 41.65; Minnesota Rules, part 1505.0820.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Sertich moved that the House refuse to concur in the Senate amendments to H. F. No. 1122, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Sertich moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

There being no objection, the order of business reverted to Reports of Standing Committees and Divisions.

## **REPORTS OF STANDING COMMITTEES AND DIVISIONS**

Sertich from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 1362, A bill for an act relating to state government; establishing the health and human services budget; making changes to licensing; Minnesota family investment program, children, and adult supports; child support; the Department of Health and health care; health care programs; making technical changes; chemical and mental health; continuing care programs; establishing the State-County Results, Accountability, and Service Delivery Redesign; public health; health-related fees; making forecast adjustments; creating work groups and pilot projects; requiring reports; increasing fees; appropriating money for health and human services; amending Minnesota Statutes 2008, sections 13.465, subdivision 8; 62J.495; 62J.496; 62J.497, subdivisions 1, 2, by adding subdivisions; 62J.692, subdivision 7; 103I.208, subdivision 2; 125A.744, subdivision 3; 144.0724, subdivisions 2, 4, 8, by adding subdivisions; 144.121, subdivisions 1a, 1b; 144.122; 144.1222, subdivision 1a; 144.125, subdivision 1; 144.218, subdivision 1; 144.225, subdivision 2; 144.2252; 144.226, subdivisions 1, 4; 144.72, subdivisions 1, 3; 144.9501, subdivisions 22b, 26a, by adding subdivisions; 144.9505, subdivisions 1g, 4; 144.9508, subdivisions 2, 3, 4; 144.9512, subdivision 2; 144.966, by adding a subdivision; 144.97, subdivisions 2, 4, 6, by adding subdivisions; 144.98, subdivisions 1, 2, 3, by adding subdivisions; 144.99, subdivision 1; 144A.073, by adding a subdivision; 144A.44, subdivision 2; 144A.46, subdivision 1; 148.108; 148.6445, by adding a subdivision; 148D.180, subdivisions 1, 2, 3, 5; 148E.180, subdivisions 1, 2, 3, 5; 153A.17; 156.015; 157.15, by adding a subdivision; 157.16; 157.22; 176.011, subdivision 9; 245.4885, subdivision 1; 245A.03, by adding a subdivision; 245A.10, subdivisions 2, 3, 4, 5, by adding subdivisions; 245A.11, subdivision 2a, by adding a subdivision; 245A.16,



subdivisions 1, 3; 245C.03, subdivision 2; 245C.04, subdivisions 1, 3; 245C.05, subdivision 4; 245C.08, subdivision 2; 245C.10, subdivision 3, by adding subdivisions; 245C.17, by adding a subdivision; 245C.20; 245C.21, subdivision 1a; 245C.23, subdivision 2; 246.50, subdivision 5, by adding subdivisions; 246.51, by adding subdivisions; 246.511; 246.52; 246B.01, by adding subdivisions; 252.46, by adding a subdivision; 252.50, subdivision 1; 254A.02, by adding a subdivision; 254A.16, by adding a subdivision; 254B.03, subdivisions 1, 3, by adding a subdivision; 254B.05, subdivision 1; 254B.09, subdivision 2; 256.01, subdivision 2b, by adding subdivisions; 256.476, subdivisions 5, 11; 256.962, subdivisions 2, 6; 256.963, by adding a subdivision; 256.969, subdivision 3a; 256.975, subdivision 7; 256B.04, subdivision 16; 256B.055, subdivisions 7, 12; 256B.056, subdivisions 3, 3b, 3c, by adding a subdivision; 256B.057, subdivisions 3, 9, by adding a subdivision; 256B.0575; 256B.0595, subdivisions 1, 2; 256B.06, subdivisions 4, 5; 256B.0621, subdivision 2; 256B.0625, subdivisions 3c, 7, 8, 8a, 9, 13e, 17, 19a, 19c, 26, 41, 47; 256B.0631, subdivision 1; 256B.0651; 256B.0652; 256B.0653; 256B.0654; 256B.0655, subdivisions 1b, 4; 256B.0657, subdivisions 2, 6, 8, by adding a subdivision; 256B.08, by adding a subdivision; 256B.0911, subdivisions 1, 1a, 3, 3a, 4a, 5, 6, 7, by adding subdivisions; 256B.0913, subdivision 4; 256B.0915, subdivisions 3e, 3h, 5, by adding a subdivision; 256B.0916, subdivision 2; 256B.0917, by adding a subdivision; 256B.092, subdivision 8a, by adding subdivisions; 256B.0944, by adding a subdivision; 256B.0945, subdivision 4; 256B.0947, subdivision 1; 256B.15, subdivisions 1, 1a, 1h, 2, by adding subdivisions; 256B.37, subdivisions 1, 5; 256B.437, subdivision 6; 256B.441, subdivisions 48, 55, by adding subdivisions; 256B.49, subdivisions 12, 13, 14, 17, by adding subdivisions; 256B.501, subdivision 4a; 256B.5011, subdivision 2; 256B.5012, by adding a subdivision; 256B.5013, subdivision 1; 256B.69, subdivisions 5a, 5c, 5f; 256B.76, subdivisions 1, 4, by adding a subdivision; 256B.761; 256D.03, subdivision 4; 256D.051, subdivision 2a; 256D.0515; 256D.06, subdivision 2; 256D.09, subdivision 6; 256D.44, subdivision 5; 256D.49, subdivision 3; 256G.02, subdivision 6; 256I.03, subdivision 7; 256I.05, subdivisions 1a, 7c; 256J.20, subdivision 3; 256J.24, subdivisions 5a, 10; 256J.37, subdivision 3a, by adding a subdivision; 256J.38, subdivision 1; 256J.45, subdivision 3; 256J.575, subdivisions 3, 6, 7; 256J.621; 256J.626, subdivision 6; 256J.751, by adding a subdivision; 256J.95, subdivision 12; 256L.04, subdivision 10a, by adding a subdivision; 256L.05, subdivision 1, by adding subdivisions; 256L.11, subdivisions 1, 7; 256L.12, subdivision 9; 256L.17, subdivision 3; 259.89, subdivision 1; 260C.317, subdivision 4; 327.14, by adding a subdivision; 327.15; 327.16; 327.20, subdivision 1, by adding a subdivision; 393.07, subdivision 10; 501B.89, by adding a subdivision; 518A.53, subdivisions 1, 4, 10; 519.05; 604A.33, subdivision 1; 609.232, subdivision 11; 626.556, subdivision 3c; 626.5572, subdivisions 6, 13, 21; Laws 2003, First Special Session chapter 14, article 13C, section 2, subdivision 1, as amended; Laws 2007, chapter 147, article 19, section 3, subdivision 4, as amended; proposing coding for new law in Minnesota Statutes, chapters 62Q; 144; 156; 246B; 254B; 256; 256B; proposing coding for new law as Minnesota Statutes, chapter 402A; repealing Minnesota Statutes 2008, sections 62U.08; 103I.112; 144.9501, subdivision 17b; 148D.180, subdivision 8; 246.51, subdivision 1; 246.53, subdivision 3; 256.962, subdivision 7; 256B.0655, subdivisions 1, 1a, 1c, 1d, 1e, 1f, 1g, 1h, 1i, 2, 3, 5, 6, 7, 8, 9, 10, 11, 12, 13; 256B.071, subdivisions 1, 2, 3, 4; 256B.092, subdivision 5a; 256B.19, subdivision 1d; 256B.431, subdivision 23; 256D.46; 256I.06, subdivision 9; 256J.626, subdivision 7; 259.83, subdivision 3; 259.89, subdivisions 2, 3, 4; 327.14, subdivisions 5, 6; Laws 1988, chapter 689, section 251; Minnesota Rules, parts 4626.2015, subpart 9; 9100.0400, subparts 1, 3; 9100.0500; 9100.0600; 9500.1243, subpart 3; 9500.1261, subparts 3, 4, 5, 6; 9555.6125, subpart 4, item B.

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

Joint rule 2.03 has been waived for any further committee action on this bill.

The report was adopted.

## FISCAL CALENDAR

Pursuant to rule 1.22, Solberg requested immediate consideration of S. F. No. 802.

S. F. No. 802 was reported to the House.

Paymar moved to amend S. F. No. 802, the second engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1657, the first engrossment:

"ARTICLE 1  
APPROPRIATIONS

Section 1. **SUMMARY OF APPROPRIATIONS.**

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

	<u>2010</u>	<u>2011</u>	<u>Total</u>
<u>General</u>	<u>\$908,031,000</u>	<u>\$898,494,000</u>	<u>\$1,806,525,000</u>
<u>Federal</u>	<u>19,000,000</u>	<u>19,000,000</u>	<u>38,000,000</u>
<u>State Government Special Revenue</u>	<u>66,573,000</u>	<u>70,336,000</u>	<u>136,909,000</u>
<u>Environmental Fund</u>	<u>69,000</u>	<u>69,000</u>	<u>138,000</u>
<u>Special Revenue Fund</u>	<u>14,559,000</u>	<u>14,559,000</u>	<u>29,118,000</u>
<u>Trunk Highway</u>	<u>1,941,000</u>	<u>1,941,000</u>	<u>3,882,000</u>
<b><u>Total</u></b>	<b><u>\$1,010,173,000</u></b>	<b><u>\$1,004,399,000</u></b>	<b><u>\$2,014,572,000</u></b>

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

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

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

Sec. 3. **SUPREME COURT**

Subdivision 1. <b><u>Total Appropriation</u></b>	<b><u>\$43,919,000</u></b>	<b><u>\$43,366,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. Supreme Court Operations**31,740,00031,339,000

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

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

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

(d) **Judicial and Referee Vacancies.** The Supreme Court shall not certify a judicial or referee vacancy under Minnesota Statutes, section 2.722, until it has examined alternative options, such as temporarily suspending certification of the vacant position or assigning a retired judge to temporarily fill the position. Thirty days prior to certifying any judicial or referee vacancy to the governor, the Supreme Court shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety and judiciary policy and finance a report with a detailed explanation of the alternatives that were examined, why those alternatives were rejected, and why certification of the position is necessary for effective judicial administration and adequate access to the courts.

**Subd. 3. Civil Legal Services**12,179,00012,027,000**Legal Services to Low-Income Clients in Family Law Matters.**

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

**Sec. 4. COURT OF APPEALS****\$10,353,000****\$10,222,000****Sec. 5. TRIAL COURTS****\$251,696,000****\$248,540,000****Sec. 6. TAX COURT****\$800,000****\$800,000****Sec. 7. UNIFORM LAWS COMMISSION****\$51,000****\$50,000**

Sec. 8. **BOARD ON JUDICIAL STANDARDS****\$446,000****\$446,000**

The base budget for the Board on Judicial Standards shall be \$321,000 in fiscal year 2012 and \$321,000 in fiscal year 2013.

Sec. 9. **BOARD OF PUBLIC DEFENSE****\$67,628,000****\$65,028,000**

**Agency Lobbyists.** No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the board's legislative liaison or lobbyist.

Sec. 10. **PUBLIC SAFETY**Subdivision 1. **Total Appropriation****\$160,529,000****\$160,892,000**Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	82,439,000	79,039,000
<u>Special Revenue</u>	9,507,000	9,507,000
<u>State Government</u>		
<u>Special Revenue</u>	66,573,000	70,336,000
<u>Environmental</u>	69,000	69,000
<u>Trunk Highway</u>	1,941,000	1,941,000

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

(a) **Agency Lobbyists.** No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the agency's legislative liaison or lobbyist.

(b) **Employees of the Governor.** Any personnel costs attributable to the Office of the Governor must be accounted for through an appropriation to the Office of the Governor. The commissioner may not enter into agreements with the Office of the Governor under which personnel costs in the office of the governor are supported by appropriations to the agency.

(c) **Car Fleet.** By January 1, 2010, the commissioner must reduce the department's fleet of cars in the seven-county metropolitan area by 20 percent.

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

Appropriations by Fund

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

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

Subd. 3. **Criminal Apprehension** 43,763,000      42,063,000

Appropriations by Fund

<u>General</u>	<u>41,815,000</u>	<u>40,115,000</u>
<u>State Government Special Revenue</u>	<u>7,000</u>	<u>7,000</u>
<u>Trunk Highway</u>	<u>1,941,000</u>	<u>1,941,000</u>

(a) **Forensic Scientists.** When formulating the budget and the need for additional scientists for the state's crime labs, the commissioner, in consultation with the superintendent of the Bureau of Criminal Apprehension, must consider the number and capacity of scientists employed in labs operated by local units of government.

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

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

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

Of this amount, \$5,732,000 each year is for activities under Minnesota Statutes, section 299F.012, and \$2,268,000 each year is for transfer to the general fund under Minnesota Statutes, section 297I.06, subdivision 3.

Subd. 5. **Alcohol and Gambling Enforcement** 2,538,000      2,538,000

Appropriations by Fund

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

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

**Subd. 6. Office of Justice Programs**

37,175,000

35,475,000

Appropriations by Fund

<u>General</u>	<u>37,079,000</u>	<u>35,379,000</u>
<u>State Government</u>		
<u>Special Revenue</u>	<u>96,000</u>	<u>96,000</u>

(a) **Federal Stimulus Funds; Report.** By June 1, 2009, the Office of Justice Programs shall submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance a detailed plan outlining the competitive grant process to be used to administer the federal stimulus funds. The plan must describe: (1) the administrative process in accepting and reviewing applications, (2) the criteria used in awarding grants, and (3) program reporting requirements.

The Office of Justice Programs must consider awarding grants for federal stimulus funds for the following activities and programs:

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

(ii) nonprofit organizations dedicated to providing immediate and long-term emotional support and practical help for families and friends of persons who have died traumatically;

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

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

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

(vi) re-entry programs for offenders;

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

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

By October 1, 2009, the Office of Justice Programs must submit to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public safety policy and finance a list of all the grants awarded by the Office of Justice Programs using federal stimulus funds, including the name of the grantee, the amount awarded, the funded activities or programs, and the length of the grant.

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

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

Subd. 7. **Emergency Communication Networks**

66,470,000

70,233,000

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

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

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

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

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

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

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

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

(g) Next Generation 911. \$3,431,000 in fiscal year 2010 and \$6,490,000 in fiscal year 2011 is to replace the current system with the Next Generation Internet Protocol (IP) based network. The base level of funding for fiscal year 2012 shall be \$2,965,000.

(h) Emergency Communication System. \$5,000,000 the first year is to be used by the commissioner for any purpose related to the effective operation of the emergency communication system in the state, including the cost of personnel who prepare for and respond to emergencies.

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

**\$4,162,000**

**\$4,162,000**

(a) Excess Amounts Transferred. This appropriation is from the peace officer training account in the special revenue fund. Any new receipts credited to that account in the first year in excess of \$4,162,000 must be transferred and credited to the general fund. Any new receipts credited to that account in the second year in excess of \$4,162,000 must be transferred and credited to the general fund.

(b) Peace Officer Training Reimbursements. \$3,009,000 each year is for reimbursements to local governments for peace officer training costs.

(c) Agency Lobbyists. No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the board's legislative liaison or lobbyist.

Sec. 12. **PRIVATE DETECTIVE BOARD**

**\$125,000**

**\$125,000**

Sec. 13. **HUMAN RIGHTS**

**\$3,534,000**

**\$3,418,000**

The base budget for the Department of Human Rights shall be \$3,368,000 in fiscal year 2012 and \$3,368,000 in fiscal year 2013.



Sec. 14. **DEPARTMENT OF CORRECTIONS****Subdivision 1. Total Appropriation****\$466,339,000****\$466,759,000**Appropriations by Fund

	<u>2010</u>	<u>2011</u>
<u>General</u>	<u>446,449,000</u>	<u>446,869,000</u>
<u>Special Revenue</u>	<u>890,000</u>	<u>890,000</u>
<u>Federal</u>	<u>19,000,000</u>	<u>19,000,000</u>

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

(a) **Agency Lobbyists.** No portion of this appropriation may be used to pay the salary or fee of a person retained to serve as the agency's legislative liaison or lobbyist.

(b) **Employees of the Governor.** Any personnel costs attributable to the Office of the Governor must be accounted for through an appropriation to the Office of the Governor. The commissioner may not enter into agreements with the Office of the Governor under which personnel costs in the Office of the Governor are supported by appropriations to the agency.

(c) **Car Fleet.** By January 1, 2010, the commissioner must reduce the department's fleet of cars by 20 percent.

**Subd. 2. Correctional Institutions****328,336,000****333,363,000**Appropriations by Fund

<u>General</u>	<u>308,756,000</u>	<u>313,783,000</u>
<u>Special Revenue</u>	<u>580,000</u>	<u>580,000</u>
<u>Federal</u>	<u>19,000,000</u>	<u>19,000,000</u>

\$19,000,000 each year is from the fiscal stabilization account in the American Recovery and Reinvestment Act of 2009. This is a onetime appropriation.

The general fund base for this program shall be \$331,546,000 in fiscal year 2012 and \$336,085,000 in fiscal year 2013.

(a) **Treatment Alternatives; Report.** By December 15, 2009, the commissioner must submit a report to the chairs and ranking minority members of the house of representatives and senate

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

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

**(c) Performance Measures; Per Diem Reduction; Report to the Legislature.** The commissioner of corrections must reduce the fiscal year 2008 average adult facility per diem of \$89.77 by one percent. The base is cut by \$2,850,000 in the first year and \$2,850,000 in the second year to reflect a one percent reduction in the projected adult facility per diem.

In reducing the projected adult facility per diem, the commissioner must consider the following:

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

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

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

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

(5) implementing corrections best practices; and

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

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

If the commissioner fails to reduce the per diem by one percent, the commissioner must:

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

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

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

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

<u>Subd. 3. <b>Community Services</b></u>	<u>115,044,000</u>	<u>111,837,000</u>
<u>    Appropriations by Fund</u>		
<u>General</u>	<u>114,944,000</u>	<u>111,737,000</u>
<u>Special Revenue</u>	<u>100,000</u>	<u>100,000</u>

(a) **Short-Term Offenders.** \$1,607,000 in the first year is for costs associated with the housing and care of short-term offenders sentenced prior to June 30, 2009, and housed in local jails. The commissioner may use up to ten percent of the total amount of the appropriation for inpatient medical care for short-term offenders with less than six months to serve as affected by the changes made to Minnesota Statutes, section 609.105, by Laws 2003, First Special Session chapter 2, article 5, sections 7 to 9. All funds not expended for inpatient medical care shall be added to and distributed with the housing funds. These funds shall be distributed proportionately based on the total number of days short-term offenders are placed locally, not to exceed the fiscal year 2009 per diem. All funds remaining after reimbursements are

made shall be transferred to the department's institution base budget to offset the costs of housing short-term offenders who are sentenced on or after July 1, 2009, and incarcerated in state correctional facilities. Short-term offenders sentenced before July 1, 2009, may be housed in a state correctional facility at the discretion of the commissioner.

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

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

(b) **Federal Grants.** The commissioner must apply for all available grants for federal funds under the American Recovery and Reinvestment Act of 2009 and the Second Chance Act that the department is eligible to receive to continue and expand re-entry and restorative justice programs.

<b>Subd. 4. <u>Operations Support</u></b>	<u>22,959,000</u>	<u>21,559,000</u>
<u>Appropriations by Fund</u>		
<u>General</u>	<u>22,749,000</u>	<u>21,349,000</u>
<u>Special Revenue</u>	<u>210,000</u>	<u>210,000</u>

The general fund base for this program shall be \$20,949,000 in fiscal year 2012 and \$20,949,000 in fiscal year 2013.

<b>Sec. 15. <u>SENTENCING GUIDELINES</u></b>	<b><u>\$591,000</u></b>	<b><u>\$591,000</u></b>
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## ARTICLE 2

### COURTS AND PUBLIC DEFENDERS

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

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

Subd. 2a. **Petty misdemeanor cases and criminal convictions; fee assessment.** In Hennepin County and Ramsey County, the district court administrator or a designee may, upon the recommendation of the board of trustees and by standing order of the judges of the district court, include in the costs or disbursements assessed against a defendant convicted in the district court of the violation of a statute or municipal ordinance, a county law library fee. This fee may be collected in all petty misdemeanor cases and criminal prosecutions in which, upon conviction, the defendant may be subject to the payment of the costs or disbursements in addition to a fine or other penalty. When a defendant is convicted of more than one offense in a case, the county law library fee shall be imposed only once in that case.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 152.025, subdivision 1, is amended to read:

Subdivision 1. **Sale crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

(b) If a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully sells one or more mixtures containing marijuana or tetrahydrocannabinols, except a small amount of marijuana for no remuneration; or

(2) the person unlawfully sells one or more mixtures containing a controlled substance classified in schedule IV.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 152.025, subdivision 2, is amended to read:

Subd. 2. **Possession and other crimes.** (a) A person is guilty of controlled substance crime in the fifth degree and if convicted may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

(b) If a person is guilty of controlled substance crime in the fifth degree and the conviction is a subsequent controlled substance conviction, the person convicted shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000 if:

(1) the person unlawfully possesses one or more mixtures containing a controlled substance classified in schedule I, II, III, or IV, except a small amount of marijuana; or

(2) the person procures, attempts to procure, possesses, or has control over a controlled substance by any of the following means:

(i) fraud, deceit, misrepresentation, or subterfuge;

(ii) using a false name or giving false credit; or

(iii) falsely assuming the title of, or falsely representing any person to be, a manufacturer, wholesaler, pharmacist, physician, doctor of osteopathy licensed to practice medicine, dentist, podiatrist, veterinarian, or other authorized person for the purpose of obtaining a controlled substance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 152.0262, subdivision 1, is amended to read:

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

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

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

- (1) ephedrine;
- (2) pseudoephedrine;
- (3) phenyl-2-propanone;
- (4) phenylacetone;
- (5) anhydrous ammonia;
- (6) organic solvents;
- (7) hydrochloric acid;
- (8) lithium metal;
- (9) sodium metal;
- (10) ether;
- (11) sulfuric acid;
- (12) red phosphorus;
- (13) iodine;
- (14) sodium hydroxide;
- (15) benzaldehyde;
- (16) benzyl methyl ketone;



- (17) benzyl cyanide;
- (18) nitroethane;
- (19) methylamine;
- (20) phenylacetic acid;
- (21) hydriodic acid; or
- (22) hydriotic acid.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 169A.20, subdivision 1, is amended to read:

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 13. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 14. Minnesota Statutes 2008, section 169A.20, is amended by adding a subdivision to read:

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 15. Minnesota Statutes 2008, section 169A.25, subdivision 1, is amended to read:

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 16. Minnesota Statutes 2008, section 169A.26, subdivision 1, is amended to read:

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

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of third-degree driving while impaired.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 17. Minnesota Statutes 2008, section 169A.27, subdivision 1, is amended to read:

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 18. Minnesota Statutes 2008, section 169A.28, subdivision 2, is amended to read:

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

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

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

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

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

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired; impaired driving offenses);
- (2) section 169A.20, subdivision 2 (driving while impaired; test refusal offense);
- (3) section 169.791;
- (4) section 169.797;
- (5) section 171.09 (violation of condition of restricted license);
- (6) section 171.20, subdivision 2 (operation after revocation, suspension, cancellation, or disqualification);
- (7) section 171.24; and
- (8) section 171.30.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 19. Minnesota Statutes 2008, section 169A.284, is amended to read:

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 20. Minnesota Statutes 2008, section 169A.46, subdivision 1, is amended to read:

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 21. Minnesota Statutes 2008, section 169A.54, subdivision 1, is amended to read:

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

- (1) for an offense under section 169A.20, subdivision 1 (driving while impaired crime): not less than 30 days;
- (2) for an offense under section 169A.20, subdivision 2 (refusal to submit to chemical test crime): not less than 90 days;
- (3) for an offense occurring within ten years of a qualified prior impaired driving incident:
  - (i) if the current conviction is for a violation of section 169A.20, subdivision 1, 1a, 1b, or 1c, not less than 180 days and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70 (chemical use assessments); or
  - (ii) if the current conviction is for a violation of section 169A.20, subdivision 2, not less than one year and until the court has certified that treatment or rehabilitation has been successfully completed where prescribed in accordance with section 169A.70;
- (4) for an offense occurring within ten years of the first of two qualified prior impaired driving incidents: not less than one year, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner; or
- (5) for an offense occurring within ten years of the first of three or more qualified prior impaired driving incidents: not less than two years, together with denial under section 171.04, subdivision 1, clause (10), until rehabilitation is established in accordance with standards established by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 22. Minnesota Statutes 2008, section 299D.03, subdivision 5, is amended to read:

Subd. 5. **Traffic fines and forfeited bail money.** (a) All fines and forfeited bail money, ~~from traffic and motor vehicle law violations,~~ collected from persons apprehended or arrested by officers of the State Patrol, shall be ~~paid~~ transmitted by the person or officer collecting the fines, forfeited bail money, or installments thereof, on or before the tenth day after the last day of the month in which these moneys were collected, to the ~~county treasurer of the county where the violation occurred.~~ commissioner of finance. ~~Except where a different disposition is required in this paragraph, paragraph (b), section 387.213, or otherwise provided by law, three-eighths of these receipts shall be credited to the general revenue fund of the county, except that in a county in a judicial district under section 480.181, subdivision 1, paragraph (b), this three eighths share must be transmitted to the commissioner of finance for deposit deposited in the state treasury and credited to the state general fund. The other five-eighths of these receipts shall be transmitted by that officer to the commissioner of finance and must be deposited in the state treasury and credited as follows: (1) the first \$600,000 in each fiscal year must be credited to the Minnesota grade crossing safety account in the special revenue fund, and (2) remaining receipts must be credited to the state trunk highway fund. If, however, the violation occurs within a municipality and the city attorney prosecutes the offense, and a plea of not guilty is entered, one-third of the receipts shall be deposited in the state treasury and credited to the state general revenue fund of the county, one-third of the receipts shall be paid to the municipality prosecuting the offense, and one-third shall be transmitted to the commissioner of finance as provided in this subdivision. deposited in the state treasury and credited to the Minnesota grade crossing safety account or the state trunk highway fund as provided in this paragraph. When section 387.213 also is applicable to the fine, section 387.213 shall be applied before this paragraph is applied. All costs of participation in a nationwide police communication system chargeable to the state of Minnesota shall be paid from appropriations for that purpose.~~

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 23. Minnesota Statutes 2008, section 357.021, subdivision 2, is amended to read:

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

(1) In every civil action or proceeding in said court, including any case arising under the tax laws of the state that could be transferred or appealed to the Tax Court, the plaintiff, petitioner, or other moving party shall pay, when the first paper is filed for that party in said action, a fee of ~~\$240~~ \$300, except in marriage dissolution actions the fee is ~~\$270~~ \$330.

The defendant or other adverse or intervening party, or any one or more of several defendants or other adverse or intervening parties appearing separately from the others, shall pay, when the first paper is filed for that party in said action, a fee of ~~\$240~~ \$300, except in marriage dissolution actions the fee is ~~\$270~~ \$330.

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

The fees above stated shall be the full trial fee chargeable to said parties irrespective of whether trial be to the court alone, to the court and jury, or disposed of without trial, and shall include the entry of judgment in the action, but does not include copies or certified copies of any papers so filed or proceedings under chapter 103E, except the provisions therein as to appeals.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 24. Minnesota Statutes 2008, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to

vehicle parking, for which there shall be a ~~\$4~~ \$5 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the \$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 25. Minnesota Statutes 2008, section 357.021, subdivision 7, is amended to read:

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

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

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

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

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

(c) In addition to any amounts credited under paragraph (a), the commissioner of finance shall credit \$47 of each surcharge received under subdivision 6 and section 97A.065, subdivision 2, and the ~~\$4~~ \$5 parking surcharge, to the general fund.

(d) If the Ramsey County Board of Commissioners authorizes imposition of the additional \$1 surcharge provided for in subdivision 6, paragraph (a), the court administrator in the Second Judicial District shall transmit the surcharge to the commissioner of finance. The \$1 special surcharge is deposited in a Ramsey County surcharge account in the special revenue fund and amounts in the account are appropriated to the trial courts for the administration of the petty misdemeanor diversion program operated by the Second Judicial District Ramsey County Violations Bureau.

**EFFECTIVE DATE.** This section is effective July 1, 2009.



Sec. 26. Minnesota Statutes 2008, section 357.022, is amended to read:

**357.022 CONCILIATION COURT FEE.**

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 27. Minnesota Statutes 2008, section 357.08, is amended to read:

**357.08 PAID BY APPELLANT IN APPEAL.**

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 28. Minnesota Statutes 2008, section 364.08, is amended to read:

**364.08 PRACTICE OF LAW; EXCEPTION.**

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 29. Minnesota Statutes 2008, section 375.14, is amended to read:

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

The county board shall provide offices at the county seat for the auditor, treasurer, county recorder, sheriff, court administrator of the district court, and an office for the county engineer at a site determined by the county board, with suitable furniture and safes and vaults for the security and preservation of the books and papers of the offices,

and provide heating, lighting, and maintenance of the offices. The board shall furnish all county officers with all books, stationery, letterheads, envelopes, postage, telephone service, office equipment, electronic technology, and supplies necessary to the discharge of their respective duties ~~and make like provision for the judges of the district court as necessary to the discharge of their duties within the county or concerning matters arising in it.~~ The board is not required to furnish any county officer with professional or technical books or instruments except when the board deems them directly necessary to the discharge of official duties as part of the permanent equipment of the office.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 30. Minnesota Statutes 2008, section 480.15, is amended by adding a subdivision to read:

Subd. 10c. **Uniform collections policies and procedures for courts.** (a) Notwithstanding chapter 16D, the state court administrator under the direction of the Judicial Council may promulgate uniform collections policies and procedures for the courts and may contract with credit bureaus, public and private collection agencies, the Department of Revenue, and other public or private entities providing collection services as necessary for the collection of court debts. The court collection process and procedures are not subject to section 16A.125 or chapter 16D.

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 31. Minnesota Statutes 2008, section 484.85, is amended to read:

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

~~(a) In the event the Ramsey County District Court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey County, all fines, penalties, and forfeitures collected shall be paid over to the county treasurer except where a different disposition is~~

~~provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or town within Ramsey County which would be entitled to payment of the fines, forfeitures, or penalties in any case, and shall be paid to the administrator of the court for disposal of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:~~

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

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

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

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

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

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

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

(2) for offenses committed within any other municipality or subdivision of government within Ramsey County, one-half to the treasurer of the municipality or subdivision of government and one-half deposited in the state treasury and credited to the general fund.

All other fines, penalties, and forfeitures collected by the district court shall be forwarded to the commissioner of finance, who shall distribute them as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3; or

(2) the attorney general provides assistance to the city attorney under section 484.87, subdivision 5.

(c) The court administrator shall provide the commissioner of finance with the name of the municipality or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each city, town, or other subdivision of government, for the county, or for the state.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 32. Minnesota Statutes 2008, section 484.90, subdivision 6, is amended to read:

Subd. 6. **Allocation.** ~~The court administrator shall provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed which employed or provided by contract the arresting or apprehending officer and the name of the municipality or other subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the offense for each fine or penalty and the total amount of fines or penalties collected for each municipality or other subdivision of government. On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government within the county all fines or penalties for parking violations for which complaints and warrants have not been issued and one third of all fines or penalties collected during the previous month for offenses committed within the municipality or subdivision of government from persons arrested or issued citations by officers employed by the municipality or subdivision or provided by the municipality or subdivision by contract. An additional one third of all fines or penalties shall be paid to the municipality or subdivision of government providing prosecution of offenses of the type for which the fine or penalty is collected occurring within the municipality or subdivision, imposed for violations of state statute or of an ordinance, charter provision, rule, or regulation of a city whether or not a guilty plea is entered or bail is forfeited. Except as provided in section 299D.03, subdivision 5, or as otherwise provided by law, all other fines and forfeitures and all fees and statutory court costs collected by the court administrator shall be paid to the county treasurer of the county in which the funds were collected who shall dispense them as provided by law. In a county in a judicial district under section 480.181, subdivision 1, paragraph (b), all other fines, forfeitures, fees, and statutory court costs must be paid to the commissioner of finance for deposit in the state treasury and credited to the general fund. (a) In all cases prosecuted in district court by an attorney for a municipality or other subdivision of government within the county for violations of state statute, or of an ordinance; or charter provision, rule, or regulation of a city; all fines, penalties, and forfeitures collected shall be forwarded to the commissioner of finance and distributed according to this paragraph. Except where a different disposition is provided by section 299D.03, subdivision 5, 484.841, 484.85, or other law, on or before the last day of each month, the commissioner of finance shall pay over all fines, penalties, and forfeitures collected by the court administrator during the previous month as follows:~~

(1) 100 percent of all fines or penalties for parking violations for which complaints and warrants have not been issued to the treasurer of the city or town in which the offense was committed; and

(2) two-thirds of all other fines to the treasurer of the city or town in which the offense was committed and one-third deposited in the state treasury and credited to the general fund.

All other fines, penalties, and forfeitures collected by the court administrator shall be forwarded to the commissioner of finance, who shall distribute them as provided by law.

(b) Fines, penalties, and forfeitures shall be distributed as provided in paragraph (a) when:

(1) a city contracts with the county attorney for prosecutorial services under section 484.87, subdivision 3;

(2) a city has a population of 600 or less and has given the duty to prosecute cases to the county attorney under section 484.87; or

(3) the attorney general provides assistance to the county attorney as permitted by law.

(c) The court administrator shall provide the commissioner of finance with the name of the city, town, or other subdivision of government where the offense was committed and the total amount of fines or penalties collected for each city, town, or other subdivision of government, for the county, or for the state.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 33. Minnesota Statutes 2008, section 491A.02, subdivision 9, is amended to read:

Subd. 9. **Judgment debtor disclosure.** Notwithstanding any contrary provision in rule 518 of the Conciliation Court Rules, unless the parties have otherwise agreed, if a conciliation court judgment or a judgment of district court on removal from conciliation court has been docketed in district court, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earning. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 34. Minnesota Statutes 2008, section 525.091, subdivision 1, is amended to read:

Subdivision 1. **Original documents.** The court administrator of any county upon order of the judge exercising probate jurisdiction may destroy all the original documents in any probate proceeding of record in the office ~~five~~ **years** after the file in such proceeding has been closed provided the original or a Minnesota state archives commission approved photographic, photostatic, microphotographic, microfilmed, or similarly reproduced copy of the original of the following enumerated documents in the proceeding are on file in the office.

Enumerated original documents:

(a) In estates, the jurisdictional petition and proof of publication of the notice of hearing thereof; will and certificate of probate; letters; inventory and appraisal; orders directing and confirming sale, mortgage, lease, or for conveyance of real estate; order setting apart statutory selection; receipts for federal estate taxes and state estate taxes; orders of distribution and general protection; decrees of distribution; federal estate tax closing letter, consent to discharge by commissioner of revenue and order discharging representative; and any amendment of the listed documents.

When an estate is deemed closed as provided in clause (d) of this subdivision, the enumerated documents shall include all claims of creditors.

(b) In guardianships or conservatorships, the jurisdictional petition and order for hearing thereof with proof of service; letters; orders directing and confirming sale, mortgage, lease or for conveyance of real estate; order for restoration to capacity and order discharging guardian; and any amendment of the listed documents.

(c) In mental, inebriety, and indigent matters, the jurisdictional petition; report of examination; warrant of commitment; notice of discharge from institution, or notice of death and order for restoration to capacity; and any amendment of the listed documents.

(d) Except for the enumerated documents described in this subdivision, the court administrator may destroy all other original documents in any probate proceeding without retaining any reproduction of the document. For the purpose of this subdivision, a proceeding is deemed closed if no document has been filed in the proceeding for a period of 15 years, except in the cases of wills filed for safekeeping and those containing wills of decedents not adjudicated upon.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 35. Minnesota Statutes 2008, section 549.09, subdivision 1, is amended to read:

Subdivision 1. **When owed; rate.** (a) When a judgment or award is for the recovery of money, including a judgment for the recovery of taxes, interest from the time of the verdict, award, or report until judgment is finally entered shall be computed by the court administrator or arbitrator as provided in paragraph (c) and added to the judgment or award.

(b) Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest on pecuniary damages shall be computed as provided in paragraph (c) from the time of the commencement of the action or a demand for arbitration, or the time of a written notice of claim, whichever occurs first, except as provided herein. The action must be commenced within two years of a written notice of claim for interest to begin to accrue from the time of the notice of claim. If either party serves a written offer of settlement, the other party may serve a written acceptance or a written counteroffer within 30 days. After that time, interest on the judgment or award shall be calculated by the judge or arbitrator in the following manner. The prevailing party shall receive interest on any judgment or award from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from the time when special damages were incurred, if later, until the time of verdict, award, or report only if the amount of its offer is closer to the judgment or award than the amount of the opposing party's offer. If the amount of the losing party's offer was closer to the judgment or award than the prevailing party's offer, the prevailing party shall receive interest only on the amount of the settlement offer or the judgment or award, whichever is less, and only from the time of commencement of the action or a demand for arbitration, or the time of a written notice of claim, or as to special damages from when the special damages were incurred, if later, until the time the settlement offer was made. Subsequent offers and counteroffers supersede the legal effect of earlier offers and counteroffers. For the purposes of clause (2), the amount of settlement offer must be allocated between past and future damages in the same proportion as determined by the trier of fact. Except as otherwise provided by contract or allowed by law, preverdict, preaward, or prereport interest shall not be awarded on the following:

- (1) judgments, awards, or benefits in workers' compensation cases, but not including third-party actions;
- (2) judgments or awards for future damages;
- (3) punitive damages, fines, or other damages that are noncompensatory in nature;
- (4) judgments or awards not in excess of the amount specified in section 491A.01; and
- (5) that portion of any verdict, award, or report which is founded upon interest, or costs, disbursements, attorney fees, or other similar items added by the court or arbitrator.

(c)(1) For a judgment or award of \$50,000 or less, the interest shall be computed as simple interest per annum. The rate of interest shall be based on the secondary market yield of one year United States Treasury bills, calculated on a bank discount basis as provided in this section.

On or before the 20th day of December of each year the state court administrator shall determine the rate from the one-year constant maturity treasury yield for the most recent calendar month, reported on a monthly basis in the latest statistical release of the board of governors of the Federal Reserve System. This yield, rounded to the nearest one percent, or four percent, whichever is greater, shall be the annual interest rate during the succeeding calendar year. The state court administrator shall communicate the interest rates to the court administrators and sheriffs for use in computing the interest on verdicts and shall make the interest rates available to arbitrators.

(2) For a judgment or award over \$50,000, the interest rate shall be ten percent per year.

(3) When a judgment creditor, or the judgment creditor's attorney or agent, has received a payment after entry of judgment, whether the payment is made voluntarily by or on behalf of the judgment debtor, or is collected by legal process other than execution levy where a proper return has been filed with the court administrator, the judgment creditor, or the judgment creditor's attorney, before applying to the court administrator for an execution shall file with the court administrator an affidavit of partial satisfaction. The affidavit must state the dates and amounts of payments made upon the judgment after the most recent affidavit of partial satisfaction filed, if any; the part of each payment that is applied to taxable disbursements and to accrued interest and to the unpaid principal balance of the judgment; and the accrued, but the unpaid interest owing, if any, after application of each payment.

(d) This section does not apply to arbitrations between employers and employees under chapter 179 or 179A. An arbitrator is neither required to nor prohibited from awarding interest under chapter 179 or under section 179A.16 for essential employees.

**EFFECTIVE DATE.** This section is effective August 1, 2009, and applies to judgments and awards finally entered on or after that date.

Sec. 36. Minnesota Statutes 2008, section 550.011, is amended to read:

**550.011 JUDGMENT DEBTOR DISCLOSURE.**

Unless the parties have otherwise agreed, if a judgment has been docketed in district court for at least 30 days, and the judgment is not satisfied, the judgment creditor's attorney as an officer of the court may or the district court in the county in which the judgment originated shall, upon request of the judgment creditor, order the judgment debtor to mail by certified mail to the judgment creditor information as to the nature, amount, identity, and locations of all the debtor's assets, liabilities, and personal earnings. The information must be provided on a form prescribed by the Supreme Court, and the information shall be sufficiently detailed to enable the judgment creditor to obtain satisfaction of the judgment by way of execution on nonexempt assets and earnings of the judgment debtor. The order must contain a notice that failure to complete the form and mail it to the judgment creditor within ten days after service of the order may result in a citation for civil contempt of court. Cash bail posted as a result of being cited for civil contempt of court order under this section may be ordered payable to the creditor to satisfy the judgment, either partially or fully.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 37. Minnesota Statutes 2008, section 609.035, subdivision 2, is amended to read:

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

(b) When a person is being sentenced for a violation of section 171.09, 171.20, 171.24, or 171.30, the court may not impose a consecutive sentence for another violation of a provision in chapter 171.

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

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

(e) This subdivision applies to misdemeanor and gross misdemeanor violations of the following if the offender has two or more prior impaired driving convictions as defined in section 169A.03 within the past ten years:

- (1) section 169A.20, subdivision 1, 1a, 1b, or 1c, driving while impaired;
- (2) section 169A.20, subdivision 2, test refusal;
- (3) section 169.791, failure to provide proof of insurance;
- (4) section 169.797, failure to provide vehicle insurance;
- (5) section 171.09, violation of condition of restricted license;
- (6) section 171.20, subdivision 2, operation after revocation, suspension, cancellation, or disqualification;
- (7) section 171.24, driving without valid license; and
- (8) section 171.30, violation of condition of limited license.

(f) When a court is sentencing an offender for a violation of section 169A.20 and a violation of an offense listed in paragraph (e), and the offender has five or more qualified prior impaired driving incidents, as defined in section 169A.03, within the past ten years, the court shall sentence the offender to serve consecutive sentences for the offenses, notwithstanding the fact that the offenses arose out of the same course of conduct.

Sec. 38. Minnesota Statutes 2008, section 609.10, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a felony and compliance with the other provisions of this chapter the court, if it imposes sentence, may sentence the defendant to the extent authorized by law as follows:

- (1) to life imprisonment; or
- (2) to imprisonment for a fixed term of years set by the court; or
- (3) to both imprisonment for a fixed term of years and payment of a fine; or
- (4) to payment of a fine without imprisonment ~~or to imprisonment for a fixed term of years if the fine is not paid~~ or as an intermediate sanction on a stayed sentence; or
- (5) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or
- (6) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.



Sec. 39. Minnesota Statutes 2008, section 609.101, subdivision 4, is amended to read:

Subd. 4. **Minimum fines; other crimes.** Notwithstanding any other law:

(1) when a court sentences a person convicted of a felony that is not listed in subdivision 2 or 3, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law; and

(2) when a court sentences a person convicted of a gross misdemeanor or misdemeanor that is not listed in subdivision 2, it must impose a fine of not less than 30 percent of the maximum fine authorized by law nor more than the maximum fine authorized by law, unless the fine is set at a lower amount on a uniform fine schedule established by the Judicial Council in consultation with affected state and local agencies. ~~This schedule shall be promulgated not later than September 1 of each year and shall become effective on January 1 of the next year unless the legislature, by law, provides otherwise according to section 609.1315.~~

The minimum fine required by this subdivision is in addition to the surcharge or assessment required by section 357.021, subdivision 6, and is in addition to any sentence of imprisonment or restitution imposed or ordered by the court.

~~The court shall collect the fines mandated in this subdivision and, except for fines for traffic and motor vehicle violations governed by section 169.871 and section 299D.03 and fish and game violations governed by section 97A.065, forward 20 percent of the revenues to the commissioner of finance for deposit in the general fund.~~

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 40. **[609.104] FINE AND SURCHARGE COLLECTION.**

Subdivision 1. **Failure to pay restitution or fine.** (a) Any portion of a fine, surcharge, court cost, restitution, or fee that the defendant fails to pay by the due date may be referred for collection under section 480.15, subdivision 10c. If the defendant has agreed to a payment plan but fails to pay an installment when due, the entire amount remaining becomes due and payable and may be referred for collection under section 480.15, subdivision 10c.

(b) The defendant may contest the referral for collection based on inability to pay by requesting a hearing no later than the due date. The defendant shall be notified in writing at sentencing that under section 480.15, subdivision 10c, the court may refer the case for collection for nonpayment, and collection costs may be added to the amount due. The defendant shall also be notified in writing of the right to contest a referral for collection. The state court administrator shall develop the notice language.

Subd. 2. **Fine and surcharge collection.** (a) A defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive after the due date for a period set by the Judicial Council.

(b) Any change in the collection period established by the Judicial Council shall be effective on court-ordered fines, surcharges, court costs, restitution, and fees imposed on or after the effective date of this section.

(c) The period relating to a defendant's obligation to pay restitution under paragraph (a) does not limit the victim's right to collect restitution through other means such as a civil judgment.

(d) Nothing in this subdivision extends the period of a defendant's stay of sentence imposition or execution.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 41. Minnesota Statutes 2008, section 609.125, subdivision 1, is amended to read:

Subdivision 1. **Sentences available.** (a) Upon conviction of a misdemeanor or gross misdemeanor the court, if sentence is imposed, may, to the extent authorized by law, sentence the defendant:

(1) to imprisonment for a definite term; or

(2) to payment of a fine, ~~or to imprisonment for a specified term if the fine is not paid~~ without imprisonment or as an intermediate sanction on a stayed sentence; or

(3) to both imprisonment for a definite term and payment of a fine; or

(4) to payment of court-ordered restitution in addition to either imprisonment or payment of a fine, or both; or

(5) to payment of a local correctional fee as authorized under section 609.102 in addition to any other sentence imposed by the court; or

(6) to perform work service in a restorative justice program in addition to any other sentence imposed by the court.

(b) If the court imposes a fine or orders restitution under paragraph (a), payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 42. Minnesota Statutes 2008, section 609.131, subdivision 3, is amended to read:

Subd. 3. **Use of conviction for enhancement.** Notwithstanding any other law, a conviction for a violation that was originally charged as a misdemeanor and was treated as a petty misdemeanor under subdivision 1 or the Rules of Criminal Procedure, ~~or was treated as a petty misdemeanor by inclusion on the uniform fine schedule,~~ may not be used as the basis for charging a subsequent violation as a gross misdemeanor rather than a misdemeanor.

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

Sec. 43. **[609.1315] UNIFORM FINE SCHEDULE.**

Subdivision 1. **Establishment and effective date.** The Judicial Council shall establish a uniform fine schedule in consultation with affected state and local agencies. The uniform fine schedule may include petty misdemeanor and misdemeanor offenses, but shall not include targeted misdemeanors as defined in section 299C.10. The uniform fine schedule shall set a fine that may be paid for each offense in lieu of a court appearance. The uniform fine schedule and any modifications shall be submitted to the legislature for approval by January 1 of each year and shall become effective on July 1 of that year unless the legislature, by law, provides otherwise.

Subd. 2. **Effect on misdemeanor offenses.** Any misdemeanors included on the uniform fine schedule shall be treated as petty misdemeanors, unless on the third or subsequent offense the charge is brought by a formal complaint or, for offenses committed under chapter 169, the violation was committed in a manner or under circumstances so as to endanger or be likely to endanger any person or property. Nothing in this subdivision limits the authority of a peace officer to make an arrest for offenses included on the uniform fine schedule. Nothing in this section limits the operation of section 169.89, subdivision 1. This subdivision expires on July 1, 2011.

Subd. 3. **Notice.** A defendant must be advised in writing that payment of the fine for an offense on the uniform fine schedule constitutes a plea of guilty, waiver of the right to trial, and waiver of the right to counsel.

**EFFECTIVE DATE.** Subdivision 2 is effective July 1, 2009, and applies to acts committed on or after that date.

Sec. 44. Minnesota Statutes 2008, section 609.135, subdivision 1, is amended to read:

Subdivision 1. **Terms and conditions.** (a) Except when a sentence of life imprisonment is required by law, or when a mandatory minimum sentence is required by section 609.11, any court may stay imposition or execution of sentence and:

(1) may order intermediate sanctions without placing the defendant on probation; or

(2) may place the defendant on probation with or without supervision and on the terms the court prescribes, including intermediate sanctions when practicable. The court may order the supervision to be under the probation officer of the court, or, if there is none and the conviction is for a felony or gross misdemeanor, by the commissioner of corrections, or in any case by some other suitable and consenting person. Unless the court directs otherwise, state parole and probation agents and probation officers may impose community work service or probation violation sanctions, consistent with section 243.05, subdivision 1; sections 244.196 to 244.199; or 401.02, subdivision 5.

No intermediate sanction may be ordered performed at a location that fails to observe applicable requirements or standards of chapter 181A or 182, or any rule promulgated under them.

(b) For purposes of this subdivision, subdivision 6, and section 609.14, the term "intermediate sanctions" includes but is not limited to incarceration in a local jail or workhouse, home detention, electronic monitoring, intensive probation, sentencing to service, reporting to a day reporting center, chemical dependency or mental health treatment or counseling, restitution, fines, day-fines, community work service, work service in a restorative justice program, work in lieu of or to work off fines and, with the victim's consent, work in lieu of or to work off restitution.

(c) A court may not stay the revocation of the driver's license of a person convicted of violating the provisions of section 169A.20.

(d) If the court orders a fine, day-fine, or restitution as an intermediate sanction, payment is due on the date imposed unless the court otherwise establishes a due date or a payment plan.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 45. Minnesota Statutes 2008, section 609.135, subdivision 1a, is amended to read:

Subd. 1a. **Failure to pay restitution ~~or fine~~.** If the court orders payment of restitution ~~or a fine~~ as a condition of probation and if the defendant fails to pay the restitution ~~or a fine~~ in accordance with the payment schedule or structure established by the court or the probation officer, the prosecutor or the defendant's probation officer may, on the prosecutor's or the officer's own motion or at the request of the victim, ask the court to hold a hearing to determine whether or not the conditions of probation should be changed or probation should be revoked. The defendant's probation officer shall ask for the hearing if the restitution ~~or fine~~ ordered has not been paid prior to 60 days before the term of probation expires. The court shall schedule and hold this hearing and take appropriate action, including action under subdivision 2, paragraph (g), before the defendant's term of probation expires.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104 when a defendant fails to pay court-ordered restitution.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 46. Minnesota Statutes 2008, section 609.135, subdivision 2, is amended to read:

Subd. 2. **Stay of sentence maximum periods.** (a) If the conviction is for a felony other than section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than four years or the maximum period for which the sentence of imprisonment might have been imposed, whichever is longer.

(b) If the conviction is for a gross misdemeanor violation of section 169A.20 or 609.21, subdivision 1a, paragraph (d), or for a felony described in section 609.21, subdivision 1a, paragraph (b) or (c), the stay shall be for not more than six years. The court shall provide for unsupervised probation for the last year of the stay unless the court finds that the defendant needs supervised probation for all or part of the last year.

(c) If the conviction is for a gross misdemeanor not specified in paragraph (b), the stay shall be for not more than two years.

(d) If the conviction is for any misdemeanor under section 169A.20; 609.746, subdivision 1; 609.79; or 617.23; or for a misdemeanor under section 609.2242 or 609.224, subdivision 1, in which the victim of the crime was a family or household member as defined in section 518B.01, the stay shall be for not more than two years. The court shall provide for unsupervised probation for the second year of the stay unless the court finds that the defendant needs supervised probation for all or part of the second year.

(e) If the conviction is for a misdemeanor not specified in paragraph (d), the stay shall be for not more than one year.

(f) The defendant shall be discharged six months after the term of the stay expires, unless the stay has been revoked or extended under paragraph (g), or the defendant has already been discharged.

(g) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to one year if it finds, at a hearing conducted under subdivision 1a, that:

(1) the defendant has not paid court-ordered restitution ~~or a fine~~ in accordance with the payment schedule or structure; and

(2) the defendant is likely to not pay the restitution ~~or fine~~ the defendant owes before the term of probation expires.

This one-year extension of probation for failure to pay restitution ~~or a fine~~ may be extended by the court for up to one additional year if the court finds, at another hearing conducted under subdivision 1a, that the defendant still has not paid the court-ordered restitution ~~or fine~~ that the defendant owes.

Nothing in this subdivision limits the court's ability to refer the case to collections under section 609.104.

(h) Notwithstanding the maximum periods specified for stays of sentences under paragraphs (a) to (f), a court may extend a defendant's term of probation for up to three years if it finds, at a hearing conducted under subdivision 1c, that:

(1) the defendant has failed to complete court-ordered treatment successfully; and

(2) the defendant is likely not to complete court-ordered treatment before the term of probation expires.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 47. Minnesota Statutes 2008, section 611.17, is amended to read:

**611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT; STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.**

(a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or

(2) the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The forms must also contain conspicuous notice of the applicant's obligation to make a co-payment for the services of the district public defender, as specified under paragraph (c). The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant except for any prosecution under section 609.48. A refusal to execute the financial statement or produce financial records constitutes a waiver of the right to the appointment of a public defender. The court shall not appoint a district public defender to a defendant who is financially able to retain private counsel but refuses to do so.

An inquiry to determine financial eligibility of a defendant for the appointment of the district public defender shall be made whenever possible prior to the court appearance and by such persons as the court may direct. This inquiry may be combined with the prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. In no case shall the district public defender be required to perform this inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry. The inquiry must include the following:

(1) the liquidity of real estate assets, including the defendant's homestead;

(2) any assets that can be readily converted to cash or used to secure a debt;

(3) the determination of whether the transfer of an asset is voidable as a fraudulent conveyance; and

(4) the value of all property transfers occurring on or after the date of the alleged offense. The burden is on the accused to show that he or she is financially unable to afford counsel. Defendants who fail to provide information necessary to determine eligibility shall be deemed ineligible. The court must not appoint the district public defender as advisory counsel.

(c) Upon disposition of the case, an individual who has received public defender services shall pay to the court a ~~\$28~~ \$75 co-payment for representation provided by a public defender, unless the co-payment is, or has been, waived by the court.

The co-payment must be credited to the general fund. If a term of probation is imposed as a part of an offender's sentence, the co-payment required by this section must not be made a condition of probation. The co-payment required by this section is a civil obligation and must not be made a condition of a criminal sentence.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 48. Minnesota Statutes 2008, section 631.48, is amended to read:

**631.48 SENTENCE; COSTS OF PROSECUTION.**

In a criminal action, upon conviction of the defendant, the court may order as part of the sentence that defendant shall pay the whole or any part of the disbursements of the prosecution, including disbursements made to extradite a defendant. The court may order this payment in addition to any other penalty authorized by law which it may impose. The payment of the disbursements of prosecution may be enforced in the same manner as the sentence, or by execution against property. When collected, the disbursements ~~must be paid into the treasury of the county of conviction, but~~ of ordered prosecution costs shall be paid to the municipality or subdivision of government which employed the prosecuting attorney or otherwise provided for prosecution of the case. This payment may not interfere with the payment of officers', witnesses', or jurors' fees.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 49. **PUBLIC DEFENDER FEE; PUBLIC DEFENDER FEE ACCOUNT.**

Subdivision 1. **Creation of fee.** The state court administrator, through the lawyer registration office, may assess a public defender fee on each licensed attorney in the state. The fee must be equal to or greater than the civil legal services fee that licensed attorneys are required to pay pursuant to the rules of the Supreme Court on lawyer registration.

Subd. 2. **Creation of account.** A public defender fee account is created in the special revenue fund. The public defender fee is deposited in the public defender fee account in the special revenue fund. The amounts in the account are appropriated to the Board of Public Defense.

Subd. 3. **Purpose of account.** The purpose of the public defender fee account is to provide funding for the Board of Public Defense.

Subd. 4. **Prohibition on nonpublic defender transfers from account.** Notwithstanding any law to the contrary, money in the public defender fee account shall be appropriated solely for the purpose of funding the Board of Public Defense.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 50. **REPEALER.**

Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 484.90, subdivisions 1, 2, and 3; 487.08, subdivisions 1, 2, 3, and 5; and 609.135, subdivision 8, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

ARTICLE 3

PUBLIC SAFETY AND CORRECTIONS

Section 1. Minnesota Statutes 2008, section 152.025, subdivision 3, is amended to read:

Subd. 3. **Penalty.** (a) A person convicted under subdivision 1 or 2 may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

(b) If the conviction is a subsequent controlled substance conviction, a person convicted under subdivision 1 or 2 shall be committed to the commissioner of corrections or to a local correctional authority for not less than six months nor more than ten years and, in addition, may be sentenced to payment of a fine of not more than \$20,000. Prior to the time of sentencing, the prosecutor may file a motion to have the person sentenced without regard to the mandatory minimum sentence established by this paragraph. The motion must be accompanied by a statement on the record of the reasons for it. When presented with the motion, or on its own motion, the court may sentence the person without regard to the mandatory minimum sentence if the court finds, on the record, substantial and compelling reasons to do so. Sentencing a person in this manner is a departure from the sentencing guidelines.

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

Sec. 2. Minnesota Statutes 2008, section 171.29, subdivision 2, is amended to read:

Subd. 2. **Reinstatement fees and surcharges allocated and appropriated.** (a) An individual whose driver's license has been revoked as provided in subdivision 1, except under section 169A.52, 169A.54, or 609.21, must pay a \$30 fee before the driver's license is reinstated.

(b) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52, 169A.54, or 609.21, must pay a \$250 fee plus a \$430 surcharge before the driver's license is reinstated, except as provided in paragraph (f). The \$250 fee is to be credited as follows:

(1) Twenty percent must be credited to the driver services operating account in the special revenue fund as specified in section 299A.705.

(2) Sixty-seven percent must be credited to the general fund.

(3) Eight percent must be credited to a separate account to be known as the Bureau of Criminal Apprehension account. Money in this account ~~may be~~ is annually appropriated to the commissioner of public safety and the appropriated amount must be apportioned 80 percent for laboratory costs and 20 percent for carrying out the provisions of section 299C.065.

(4) Five percent must be credited to a separate account to be known as the vehicle forfeiture account, which is created in the special revenue fund. The money in the account is annually appropriated to the commissioner for costs of handling vehicle forfeitures.

(c) The revenue from \$50 of the surcharge must be credited to a separate account to be known as the traumatic brain injury and spinal cord injury account. The revenue from \$50 of the surcharge on a reinstatement under paragraph (f) is credited from the first installment payment to the traumatic brain injury and spinal cord injury account. The money in the account is annually appropriated to the commissioner of health to be used as follows: 83 percent for contracts with a qualified community-based organization to provide information, resources, and support to assist persons with traumatic brain injury and their families to access services, and 17 percent to maintain the traumatic brain injury and spinal cord injury registry created in section 144.662. For the purposes of this paragraph, a "qualified community-based organization" is a private, not-for-profit organization of consumers of traumatic brain injury services and their family members. The organization must be registered with the United States Internal Revenue Service under section 501(c)(3) as a tax-exempt organization and must have as its purposes:

(1) the promotion of public, family, survivor, and professional awareness of the incidence and consequences of traumatic brain injury;

- (2) the provision of a network of support for persons with traumatic brain injury, their families, and friends;
- (3) the development and support of programs and services to prevent traumatic brain injury;
- (4) the establishment of education programs for persons with traumatic brain injury; and
- (5) the empowerment of persons with traumatic brain injury through participation in its governance.

A patient's name, identifying information, or identifiable medical data must not be disclosed to the organization without the informed voluntary written consent of the patient or patient's guardian or, if the patient is a minor, of the parent or guardian of the patient.

(d) The remainder of the surcharge must be credited to a separate account to be known as the remote electronic alcohol-monitoring program account. The commissioner shall transfer the balance of this account to the commissioner of finance on a monthly basis for deposit in the general fund.

(e) When these fees are collected by a licensing agent, appointed under section 171.061, a handling charge is imposed in the amount specified under section 171.061, subdivision 4. The reinstatement fees and surcharge must be deposited in an approved depository as directed under section 171.061, subdivision 4.

(f) A person whose driver's license has been revoked as provided in subdivision 1 under section 169A.52 or 169A.54 and who the court certifies as being financially eligible for a public defender under section 611.17, may choose to pay 50 percent and an additional \$25 of the total amount of the surcharge and 50 percent of the fee required under paragraph (b) to reinstate the person's driver's license, provided the person meets all other requirements of reinstatement. If a person chooses to pay 50 percent of the total and an additional \$25, the driver's license must expire after two years. The person must pay an additional 50 percent less \$25 of the total to extend the license for an additional two years, provided the person is otherwise still eligible for the license. After this final payment of the surcharge and fee, the license may be renewed on a standard schedule, as provided under section 171.27. A handling charge may be imposed for each installment payment. Revenue from the handling charge is credited to the driver services operating account in the special revenue fund and is appropriated to the commissioner.

(g) Any person making installment payments under paragraph (f), whose driver's license subsequently expires, or is canceled, revoked, or suspended before payment of 100 percent of the surcharge and fee, must pay the outstanding balance due for the initial reinstatement before the driver's license is subsequently reinstated. Upon payment of the outstanding balance due for the initial reinstatement, the person may pay any new surcharge and fee imposed under paragraph (b) in installment payments as provided under paragraph (f).

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 241.016, subdivision 1, is amended to read:

Subdivision 1. **Biennial report.** (a) The Department of Corrections shall submit a performance report to the chairs and ranking minority members of the senate and house of representatives committees and divisions having jurisdiction over criminal justice funding by January 15, 2005, and every other year thereafter. The issuance and content of the report must include the following:

- (1) department strategic mission, goals, and objectives;
- (2) the department-wide per diem, adult facility-specific per diems, and an average per diem, reported in a standard calculated method as outlined in the departmental policies and procedures;



(3) department annual statistics as outlined in the departmental policies and procedures; and

(4) information about prison-based mental health programs, including, but not limited to, the availability of these programs, participation rates, and completion rates.

(b) The department shall maintain recidivism rates for adult facilities on an annual basis. In addition, each year the department shall, on an alternating basis, complete a recidivism analysis of adult facilities, juvenile services, and the community services divisions and include a three-year recidivism analysis in the report described in paragraph (a). The recidivism analysis must: (1) assess education programs, vocational programs, treatment programs, including mental health programs, industry, and employment; and (2) assess statewide re-entry policies and funding, including postrelease treatment, education, training, and supervision. In addition, when reporting recidivism for the department's adult and juvenile facilities, the department shall report on the extent to which offenders it has assessed as chemically dependent commit new offenses, with separate recidivism rates reported for persons completing and not completing the department's treatment programs.

(c) By August 31 of each odd-numbered year, the commissioner must present to the legislature a report that lists and describes the performance measures and targets the department will include in the biennial performance report. The measures and targets must include a budget target for the next two years and a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the data and information identified in paragraphs (a) and (b) regarding per diem, statistics, inmate programming, and recidivism, and the following:

(1) average statutory per diem for adult offenders, female offenders, and juvenile offenders;

(2) community corrections;

(3) staffing and salaries for both department divisions and institutions;

(4) the use of private and local institutions to house persons committed to the commissioner;

(5) the cost of inmate health and dental care;

(6) implementation and use of corrections best practices; and

(7) the challenge incarceration program.

**EFFECTIVE DATE.** This section is effective June 1, 2009.

Sec. 4. Minnesota Statutes 2008, section 244.055, subdivision 2, is amended to read:

Subd. 2. **Conditional release of certain nonviolent controlled substance offenders.** An offender who has been committed to the commissioner's custody may petition the commissioner for conditional release from prison before the offender's scheduled supervised release date or target release date if:

(1) the offender is serving a sentence for violating section 152.021, subdivision 2 or 2a; 152.022, subdivision 2; 152.023; 152.024; or 152.025;

(2) the offender committed the crime as a result of a controlled substance addiction, and not primarily for profit;

(3) the offender has served at least 36 months or one-half of the offender's term of imprisonment, whichever is less;

(4) the offender successfully completed a chemical dependency treatment program of the type described in this section while in prison;

(5) the offender has not previously been conditionally released under this section; ~~and~~

(6) the offender has not within the past ten years been convicted or adjudicated delinquent for a violent crime as defined in section 609.1095 other than the current conviction for the controlled substance offense; and

(7) the offender has access upon release to aftercare, community-based chemical dependency treatment, and housing.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 244.055, subdivision 11, is amended to read:

Subd. 11. **Sunset.** This section expires July 1, ~~2009~~ 2011.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 299A.01, subdivision 1a, is amended to read:

Subd. 1a. **Mission; efficiency.** It is part of the department's mission that within the department's resources the commissioner shall endeavor to:

(1) prevent the waste or unnecessary spending of public money;

(2) use innovative fiscal and human resource practices to manage the state's resources and operate the department as efficiently as possible;

(3) coordinate the department's activities wherever appropriate with the activities of other governmental agencies;

(4) use technology where appropriate to increase agency productivity, improve customer service, increase public access to information about government, and increase public participation in the business of government;

(5) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A; and

~~(6) report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to section 16A.10, subdivision 1; and~~

~~(7)~~ (6) recommend to the legislature appropriate changes in law necessary to carry out the mission and improve the performance of the department.

Sec. 7. Minnesota Statutes 2008, section 299A.01, is amended by adding a subdivision to read:

**Subd. 1c. Performance report; performance measures and targets.** (a) The commissioner, as part of the department's mission and within the department's resources, shall report to the legislature on the performance of agency operations and the accomplishment of agency goals in the agency's biennial budget according to paragraph (b) and section 16A.10, subdivision 1. The purpose of the report is to determine the extent to which each program is accomplishing the program's mission, goals, and objectives.

The report may address:

- (1) factors that limited or delayed achievement of objectives or goals;
- (2) resources used or saved and efficiencies achieved in reaching program objectives and goals;
- (3) information from customers and partners of the agency regarding the quality of service and effectiveness of the agency and the agency's programs;
- (4) recommendations on elimination of unnecessary or obsolete mandated reports; and
- (5) major cases, events, or circumstances that required an agency response.

(b) By June 30 of each odd-numbered year, the commissioner must present to the legislature a report that states the mission, goals, and objectives of each program and lists and describes the performance measures and targets the department will include in the performance report required under paragraph (a). The report must include information on how program goals and objectives were created and who participated in formulating them. The measures and targets must include a history of the department's performance for the previous five years. At a minimum, the report must include measures and targets for the following:

- (1) staffing and salaries for divisions within the agency;
- (2) caseloads and responsibilities of Bureau of Criminal Apprehension agents;
- (3) development and funding of the Allied Radio Matrix for Emergency Response (ARMER);
- (4) grant programs administered under the Office of Justice Programs and Homeland Security and Emergency Management;
- (5) receipt and expenditure of federal grant funds;
- (6) expenditure of the fire safety insurance surcharge;
- (7) emergency preparedness;
- (8) crime lab operations; and
- (9) assistance provided to crime victims.

**EFFECTIVE DATE.** This section is effective June 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 403.11, subdivision 1, is amended to read:

Subdivision 1. **Emergency telecommunications service fee; account.** (a) Each customer of a wireless or wire-line switched or packet-based telecommunications service provider connected to the public switched telephone network that furnishes service capable of originating a 911 emergency telephone call is assessed a fee based upon the number of wired or wireless telephone lines, or their equivalent, to cover the costs of ongoing maintenance and related improvements for trunking and central office switching equipment for 911 emergency telecommunications service, to offset administrative and staffing costs of the commissioner related to managing the 911 emergency telecommunications service program, to make distributions provided for in section 403.113, ~~and~~ to offset the costs, including administrative and staffing costs, incurred by the State Patrol Division of the Department of Public Safety in handling 911 emergency calls made from wireless phones, and for any other purpose the commissioner determines is related to the effective operation of the emergency telecommunications system in the state.

(b) Money remaining in the 911 emergency telecommunications service account after all other obligations are paid must not cancel and is carried forward to subsequent years and may be appropriated from time to time to the commissioner to provide financial assistance to counties for the improvement of local emergency telecommunications services. The improvements may include providing access to 911 service for telecommunications service subscribers currently without access and upgrading existing 911 service to include automatic number identification, local location identification, automatic location identification, and other improvements specified in revised county 911 plans approved by the commissioner.

(c) The fee may not be less than eight cents nor more than 65 cents a month until June 30, 2008, not less than eight cents nor more than 75 cents a month until June 30, 2009, not less than eight cents nor more than 85 cents a month until June 30, 2010, and not less than eight cents nor more than 95 cents a month on or after July 1, 2010, for each customer access line or other basic access service, including trunk equivalents as designated by the Public Utilities Commission for access charge purposes and including wireless telecommunications services. With the approval of the commissioner of finance, the commissioner of public safety shall establish the amount of the fee within the limits specified and inform the companies and carriers of the amount to be collected. When the revenue bonds authorized under section 403.27, subdivision 1, have been fully paid or defeased, the commissioner shall reduce the fee to reflect that debt service on the bonds is no longer needed. The commissioner shall provide companies and carriers a minimum of 45 days' notice of each fee change. The fee must be the same for all customers.

(d) The fee must be collected by each wireless or wire-line telecommunications service provider subject to the fee. Fees are payable to and must be submitted to the commissioner monthly before the 25th of each month following the month of collection, except that fees may be submitted quarterly if less than \$250 a month is due, or annually if less than \$25 a month is due. Receipts must be deposited in the state treasury and credited to a 911 emergency telecommunications service account in the special revenue fund. The money in the account may only be used for 911 telecommunications services.

(e) This subdivision does not apply to customers of interexchange carriers.

(f) The installation and recurring charges for integrating wireless 911 calls into enhanced 911 systems are eligible for payment by the commissioner if the 911 service provider is included in the statewide design plan and the charges are made pursuant to contract.

(g) Competitive local exchanges carriers holding certificates of authority from the Public Utilities Commission are eligible to receive payment for recurring 911 services.

(h) The revisions made to paragraph (a) in 2009 expire on June 30, 2011.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 609.105, subdivision 1, is amended to read:

Subdivision 1. **Sentence to less than 180 days more than one year.** ~~In~~ A felony sentence to imprisonment, ~~when the remaining term of imprisonment is for 180 days or less, the defendant~~ more than one year shall be ~~committed~~ commit the defendant to the custody of the commissioner of corrections ~~and must serve the remaining term of imprisonment at a workhouse, work farm, county jail, or other place authorized by law.~~

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

Sec. 10. **COUNTY-BASED REVOCATION CENTER PILOT PROJECT; REPORT.**

(a) Dodge, Fillmore, Olmsted, and Ramsey Counties and Tri-county and Hennepin Community Corrections, and any other county or community corrections department that requests to participate shall develop a proposal for a pilot project for a secure residential center and supervision of persons facing revocation of their supervised release or execution of a stayed prison sentence. The proposal must address the care, custody, and programming for offenders assigned to the facility as an intermediate sanction prior to revocation or execution of a stayed prison sentence.

(b) The counties must consider the following factors in developing the proposal:

(1) type and length of programming for offenders, including supervision, mental health and chemical dependency treatment options, and educational and employment readiness opportunities;

(2) medical care;

(3) the transport of offenders to and from any facility;

(4) detailed current and future costs and per diems associated with the facility;

(5) admission and release procedures of the proposed facility;

(6) intended outcomes of the pilot project; and

(7) other factors deemed appropriate for consideration by the counties.

(c) By December 1, 2009, the counties of Dodge, Fillmore, Olmsted, and Ramsey and Tri-county and Hennepin County Community Corrections shall report the pilot project proposal to the chairs and ranking minority members of the legislative committees having jurisdiction over public safety policy and finance.

**EFFECTIVE DATE.** This section is effective July 1, 2009.

Sec. 11. **REPEALER.**

Minnesota Statutes 2008, section 609.105, subdivisions 1a and 1b, are repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2009."

Delete the title and insert:

"A bill for an act relating to public safety; clarifying elements and penalties of certain crimes; requiring reports; increasing fees; providing for a uniform fine schedule; authorizing collection of fines and surcharges; requiring annual appropriation of money in Bureau of Criminal Apprehension account to commissioner of public safety; appropriating money for the courts, public defenders, public safety, corrections, and other criminal justice agencies; amending Minnesota Statutes 2008, sections 2.722, subdivisions 4, 4a; 2.724, subdivisions 2, 3; 86B.705, subdivision 2; 134A.09, subdivision 2a; 134A.10, subdivision 3; 152.025, subdivisions 1, 2, 3; 152.0262, subdivision 1; 169A.20, subdivision 1, by adding subdivisions; 169A.25, subdivision 1; 169A.26, subdivision 1; 169A.27, subdivision 1; 169A.28, subdivision 2; 169A.284; 169A.46, subdivision 1; 169A.54, subdivision 1; 171.29, subdivision 2; 241.016, subdivision 1; 244.055, subdivisions 2, 11; 299A.01, subdivision 1a, by adding a subdivision; 299D.03, subdivision 5; 357.021, subdivisions 2, 6, 7; 357.022; 357.08; 364.08; 375.14; 403.11, subdivision 1; 480.15, by adding a subdivision; 484.85; 484.90, subdivision 6; 491A.02, subdivision 9; 525.091,

subdivision 1; 549.09, subdivision 1; 550.011; 609.035, subdivision 2; 609.10, subdivision 1; 609.101, subdivision 4; 609.105, subdivision 1; 609.125, subdivision 1; 609.131, subdivision 3; 609.135, subdivisions 1, 1a, 2; 611.17; 631.48; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 2008, sections 152.025, subdivision 3; 152.0262, subdivision 2; 484.90, subdivisions 1, 2, 3; 487.08, subdivisions 1, 2, 3, 5; 609.105, subdivisions 1a, 1b; 609.135, subdivision 8."

The motion prevailed and the amendment was adopted.

Paymar moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 10, line 17, delete "first and"

Page 10, line 18, delete "third phases of the"

Page 35, line 28, delete "16A.125" and insert "16A.1285"

Page 52, line 25, delete "state court administrator" and insert "Supreme Court"

The motion prevailed and the amendment was adopted.

Shimanski moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 59, after line 20, insert:

"Sec. 8. Minnesota Statutes 2008, section 299C.65, subdivision 3a, is amended to read:

Subd. 3a. **Report.** The policy group, with the assistance of the task force, shall file ~~an annual~~ a biennial report with the governor, Supreme Court, and chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over criminal justice funding and policy by January 15 ~~of~~ in each odd-numbered year. The report must provide the following:

- (1) status and review of current integration efforts and projects;
- (2) recommendations concerning any legislative changes or appropriations that are needed to ensure that the criminal justice information systems operate accurately and efficiently; and
- (3) summary of the activities of the policy group and task force.

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

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Nornes and Westrom offered an amendment to S. F. No. 802, the second engrossment, as amended.

#### POINT OF ORDER

Paymar raised a point of order pursuant to rule 3.21 that the Nornes and Westrom amendment was not in order. The Speaker ruled the point of order well taken and the Nornes and Westrom amendment out of order.

Westrom appealed the decision of the Speaker.

A roll call was requested and properly seconded.

The vote was taken on the question "Shall the decision of the Speaker stand as the judgment of the House?" and the roll was called. There were 83 yeas and 48 nays as follows:

Those who voted in the affirmative were:

Anzelc	Eken	Hosch	Lillie	Obermueller	Simon
Benson	Falk	Huntley	Loeffler	Olin	Slawik
Bigham	Faust	Jackson	Mahoney	Paymar	Slocum
Bly	Fritz	Johnson	Mariani	Pelowski	Solberg
Brown	Gardner	Juhnke	Marquart	Persell	Sterner
Brynaert	Greiling	Kahn	Masin	Peterson	Swails
Bunn	Hansen	Kalin	Morgan	Poppe	Thao
Carlson	Hausman	Kath	Morrow	Reinert	Thissen
Champion	Haws	Knuth	Mullery	Rosenthal	Tillberry
Clark	Hayden	Koenen	Murphy, E.	Rukavina	Ward
Davnie	Hilstrom	Laine	Murphy, M.	Ruud	Welti
Dill	Hilty	Lenczewski	Nelson	Sailer	Winkler
Dittrich	Hornstein	Liebling	Newton	Scalze	Spk. Kelliher
Doty	Hortman	Lieder	Norton	Sertich	

Those who voted in the negative were:

Abeler	Davids	Emmer	Howes	McFarlane	Seifert
Anderson, B.	Dean	Garofalo	Kelly	McNamara	Severson
Anderson, P.	Demmer	Gottwalt	Kiffmeyer	Murdock	Shimanski
Anderson, S.	Dettmer	Gunther	Kohls	Nornes	Smith
Beard	Doepke	Hackbarth	Lanning	Otremba	Torkelson
Brod	Downey	Hamilton	Loon	Peppin	Urdahl
Buesgens	Drazkowski	Holberg	Mack	Sanders	Westrom
Cornish	Eastlund	Hoppe	Magnus	Scott	Zellers

So it was the judgment of the House that the decision of the Speaker should stand.

Urdahl offered an amendment to S. F. No. 802, the second engrossment, as amended.

## POINT OF ORDER

Solberg raised a point of order pursuant to rule 4.03 relating to Ways and Means Committee; Budget Resolution; Effect on Expenditure and Revenue Bills that the Urdahl amendment was not in order. The Speaker ruled the point of order well taken and the Urdahl amendment out of order.

Seifert offered an amendment to S. F. No. 802, the second engrossment, as amended.

## POINT OF ORDER

Paymar raised a point of order pursuant to rule 3.21 that the Seifert amendment was not in order. The Speaker ruled the point of order well taken and the Seifert amendment out of order.

The Speaker called Juhnke to the chair.

Westrom moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 15, after line 29, insert:

"(e) **Private prisons.** The commissioner shall not expand current prison facilities or build new prison facilities until the commissioner has evaluated utilizing private prisons and has submitted a report detailing the evaluation process to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over public safety policy and finance."

A roll call was requested and properly seconded.

The question was taken on the Westrom amendment and the roll was called. There were 42 yeas and 89 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Falk	Hoppe	McFarlane	Seifert
Anderson, P.	Dettmer	Garofalo	Kelly	McNamara	Severson
Anderson, S.	Doepke	Gottwalt	Kiffmeyer	Murdock	Shimanski
Beard	Downey	Gunther	Kohls	Nornes	Torkelson
Brod	Drazkowski	Hackbarth	Loon	Otremba	Urdahl
Buesgens	Eastlund	Hamilton	Mack	Peppin	Westrom
Davids	Emmer	Holberg	Magnus	Scott	Zellers

Those who voted in the negative were:

Abeler	Bigham	Brynaert	Champion	Davnie	Dittrich
Anzelc	Bly	Bunn	Clark	Dean	Doty
Benson	Brown	Carlson	Cornish	Dill	Eken



Faust	Hosch	Lanning	Mullery	Poppe	Smith
Fritz	Howes	Lenczewski	Murphy, E.	Reinert	Solberg
Gardner	Huntley	Liebling	Murphy, M.	Rosenthal	Sterner
Greiling	Jackson	Lieder	Nelson	Rukavina	Swails
Hansen	Johnson	Lillie	Newton	Ruud	Thao
Hausman	Juhnke	Loeffler	Norton	Sailer	Thissen
Haws	Kahn	Mahoney	Obermueller	Sanders	Tillberry
Hayden	Kalin	Mariani	Olin	Scalze	Ward
Hilstrom	Kath	Marquart	Paymar	Sertich	Welti
Hilty	Knuth	Masin	Pelowski	Simon	Winkler
Hornstein	Koenen	Morgan	Persell	Slawik	Spk. Kelliher
Hortman	Laine	Morrow	Peterson	Slocum	

The motion did not prevail and the amendment was not adopted.

Hoppe was excused between the hours of 1:50 p.m. and 5:45 p.m.

Kohls moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 6, after line 22, insert:

**"(c) Domestic Terrorism Investigations.** The superintendent of the bureau of criminal apprehension may not initiate an investigation of a citizen of the state based solely on information contained in the United States Department of Homeland Security's threat assessment of domestic terrorism dated April 7, 2009."

The motion prevailed and the amendment was adopted.

Cornish moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 5, line 26, after the period, insert "This paragraph shall not apply to State Patrol vehicles purchased or maintained using trunk highway funds."

The motion prevailed and the amendment was adopted.

Kohls moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 15, delete lines 1 to 3

The motion did not prevail and the amendment was not adopted.

Kohls moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 41, delete section 35

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Kohls amendment and the roll was called. There were 42 yeas and 86 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Dean	Emmer	Kelly	McFarlane	Seifert
Anderson, P.	Demmer	Garofalo	Kiffmeyer	McNamara	Severson
Anderson, S.	Dettmer	Gottwalt	Kohls	Murdock	Shimanski
Beard	Doepke	Gunther	Lanning	Nornes	Torkelson
Brod	Downey	Hackbarth	Loon	Peppin	Urdahl
Buesgens	Drazkowski	Hamilton	Mack	Sanders	Westrom
Cornish	Eastlund	Holberg	Magnus	Scott	Zellers

Those who voted in the negative were:

Abeler	Doty	Howes	Loeffler	Paymar	Smith
Anzelc	Eken	Huntley	Mahoney	Pelowski	Solberg
Benson	Falk	Jackson	Mariani	Persell	Sterner
Bigham	Faust	Johnson	Marquart	Peterson	Swails
Bly	Fritz	Juhnke	Masin	Poppe	Thao
Brown	Gardner	Kahn	Morgan	Reinert	Thissen
Brynaert	Hansen	Kalin	Morrow	Rosenthal	Tillberry
Bunn	Hausman	Kath	Murphy, E.	Rukavina	Ward
Carlson	Haws	Knuth	Murphy, M.	Ruud	Welti
Champion	Hayden	Koenen	Nelson	Sailer	Winkler
Clark	Hilstrom	Laine	Newton	Scalze	Spk. Kelliher
Davids	Hilty	Lenczewski	Norton	Sertich	
Davnie	Hornstein	Liebling	Obermueller	Simon	
Dill	Hortman	Lieder	Olin	Slawik	
Dittrich	Hosch	Lillie	Otremba	Slocum	

The motion did not prevail and the amendment was not adopted.

Kelly moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 17, after line 9, insert:

"Prior to accepting a federal grant, the commissioner must consider all ongoing costs to the state after the grant funds are exhausted."

A roll call was requested and properly seconded.

The question was taken on the Kelly amendment and the roll was called. There were 59 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Gottwalt	Lanning	Obermueller	Shimanski
Anderson, B.	Demmer	Gunther	Loon	Pelowski	Smith
Anderson, P.	Dettmer	Hackbarth	Mack	Peppin	Sterner
Anderson, S.	Doepke	Hamilton	Magnus	Reinert	Swails
Beard	Downey	Holberg	McFarlane	Rosenthal	Torkelson
Brod	Drazkowski	Howes	McNamara	Sanders	Urdahl
Buesgens	Eastlund	Kath	Morgan	Scalze	Walti
Bunn	Emmer	Kelly	Murdock	Scott	Westrom
Cornish	Faust	Kiffmeyer	Nornes	Seifert	Zellers
Davids	Garofalo	Kohls	Norton	Severson	

Those who voted in the negative were:

Anzelc	Doty	Hornstein	Lenczewski	Murphy, M.	Sertich
Benson	Eken	Hortman	Liebling	Nelson	Simon
Bigham	Falk	Hosch	Lieder	Newton	Slawik
Bly	Fritz	Huntley	Lillie	Olin	Slocum
Brown	Gardner	Jackson	Loeffler	Otremba	Solberg
Brynaert	Greiling	Johnson	Mahoney	Paymar	Thao
Carlson	Hansen	Juhnke	Mariani	Persell	Thissen
Champion	Hausman	Kahn	Marquart	Peterson	Tillberry
Clark	Haws	Kalin	Masin	Poppe	Ward
Davnie	Hayden	Knuth	Morrow	Rukavina	Winkler
Dill	Hilstrom	Koenen	Mullery	Ruud	Spk. Kelliher
Dittrich	Hilty	Laine	Murphy, E.	Sailer	

The motion did not prevail and the amendment was not adopted.

Westrom and Scott moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 57, after line 10, insert:

"Sec. 4. Minnesota Statutes 2008, section 243.515, is amended to read:

**243.515 TRANSFER UNDER TREATY; EXTRADITION UNDER TREATY.**

Whenever a treaty is in force between the United States and a foreign country providing for the transfer or exchange of convicted offenders to the country of which they are citizens or nationals, and for the extradition of persons residing in the territory of the United States who have been charged with or convicted of crime committed within the territory of that foreign country, the governor ~~may~~ shall, on behalf of the state and subject to the terms of the appropriate treaty, ~~authorize~~ require the commissioner of corrections to: (1) consent to the transfer or exchange of offenders who have served at least half of their executed sentence; and (2) deliver any inmate of a state correctional facility for whom an extradition demand has been made pursuant to this section to the custody of the appropriate officials of the United States for surrender to the proper officials of that foreign country to finish the inmate's sentence in the foreign country. No offender may be extradited unless the treaty provides that the offender will be incarcerated in a correctional facility in the foreign country. The commissioner of corrections shall take any other action necessary to implement the participation of this state in the treaty.

The extradition of any convicted offender from the custody of the commissioner of corrections shall not diminish the effect of any sentence pursuant to which the offender was committed to the custody of the commissioner of corrections. The sentence shall continue to run during the time that the offender is in the custody of the appropriate officials of the United States or the foreign country to which extradited. The offender shall not be subject to return to the territory of the United States and to the custody of the commissioner of corrections pursuant to this section unless there remains an unserved portion of the Minnesota sentence."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

#### POINT OF ORDER

Paymar raised a point of order pursuant to rule 3.21 that the Westrom and Scott amendment was not in order. Speaker pro tempore Juhnke ruled the point of order not well taken and the Westrom and Scott amendment in order.

The question recurred on the Westrom and Scott amendment and the roll was called. There were 55 yeas and 73 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Gottwalt	Kelly	Murdock	Torkelson
Anderson, B.	Dettmer	Gunther	Kiffmeyer	Nornes	Urdahl
Anderson, P.	Doepke	Hackbarth	Kohls	Peppin	Welti
Anderson, S.	Doty	Hamilton	Lanning	Sanders	Westrom
Beard	Downey	Hansen	Liebling	Scott	Zellers
Brod	Drazkowski	Holberg	Loon	Seifert	
Buesgens	Eastlund	Hosch	Mack	Severson	
Cornish	Emmer	Howes	Magnus	Shimanski	
Davids	Faust	Juhnke	McFarlane	Smith	
Dean	Garofalo	Kath	McNamara	Sterner	

Those who voted in the negative were:

Anzelc	Eken	Jackson	Masin	Pelowski	Solberg
Benson	Falk	Johnson	Morgan	Persell	Swails
Bigham	Fritz	Kahn	Morrow	Poppe	Thao
Bly	Gardner	Kalin	Mullery	Reinert	Thissen
Brown	Greiling	Knuth	Murphy, E.	Rosenthal	Tillberry
Brynaert	Hausman	Koenen	Murphy, M.	Rukavina	Ward
Bunn	Haws	Laine	Nelson	Ruud	Winkler
Carlson	Hayden	Lenczewski	Newton	Sailer	Spk. Kelliher
Champion	Hilstrom	Lieder	Norton	Scalze	
Clark	Hilty	Lillie	Obermueller	Sertich	
Davnie	Hornstein	Mahoney	Olin	Simon	
Dill	Hortman	Mariani	Otremba	Slawik	
Dittrich	Huntley	Marquart	Paymar	Slocum	

The motion did not prevail and the amendment was not adopted.

Drazkowski moved to amend S. F. No. 802, the second engrossment, as amended, as follows:

Page 57, after line 33, insert:

"Sec. 6. Minnesota Statutes 2008, section 244.09, subdivision 11, is amended to read:

Subd. 11. **Modification.** The commission shall meet ~~as necessary~~ quarterly for the purpose of modifying and improving the guidelines. Any modification which amends the Sentencing Guidelines grid, including severity levels and criminal history scores, or which would result in the reduction of any sentence or in the early release of any inmate, with the exception of a modification mandated or authorized by the legislature or relating to a crime created or amended by the legislature in the preceding session, shall be submitted to the legislature by January 15 of any year in which the commission wishes to make the change and shall be effective on August 1 of that year, unless the legislature by law provides otherwise. All other modifications shall take effect according to the procedural rules of the commission. On or before January 15 of each year, the commission shall submit a written report to the committees of the senate and the house of representatives with jurisdiction over criminal justice policy that identifies and explains all modifications made during the preceding 12 months and all proposed modifications that are being submitted to the legislature that year.

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

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Urdahl, Downey, Abeler, Kiffmeyer, Koenen, Falk, Beard, Lillie and Anderson, P., offered an amendment to S. F. No. 802, the second engrossment, as amended.

#### POINT OF ORDER

Paymar raised a point of order pursuant to rule 3.21 that the Urdahl et al amendment was not in order. Speaker pro tempore Juhnke ruled the point of order well taken and the Urdahl et al amendment out of order.

S. F. No. 802, A bill for an act relating to public safety; appropriating money for public safety, corrections, and other criminal justice agencies; requiring annual appropriation of money in Bureau of Criminal Apprehension account to commissioner of public safety; repealing the mandatory minimum sentences for predatory offender registration offenses and subsequent controlled substances offenses; providing a 90-day cap on incarceration for certain first-time supervised release violations; eliminating the requirement that judges impose a minimum sentence on felony DWI offenders; requesting the Sentencing Guidelines Commission to rerank the felony DWI offense; providing for supervised release of offenders; expanding the challenge incarceration program; requiring the Sentencing Guidelines Commission and the Departments of Corrections and Public Safety to review its reports; requiring Department of Corrections to annually report on felony DWI offenders; requiring that reports to the legislature by criminal justice agencies be submitted electronically; modifying and expanding the conditional release program for nonviolent drug offenders; including an advisory board for consultation with the commissioner of corrections for the conditional release program; repealing the conditional release program's sunset; authorizing correctional facilities to forward surcharges from offender wages to court or other entity collecting the surcharge; repealing reports on out-of-state juvenile placement; implementing the legislative auditor's recommendations

relating to MINNCOR; requiring the licensure of firefighters; expanding the stay of adjudication provision for low-level controlled substance offenders; imposing criminal penalties; appropriating money; amending Minnesota Statutes 2008, sections 3.195, subdivision 1, by adding a subdivision; 152.021, subdivision 3; 152.022, subdivision 3; 152.023, subdivision 3; 152.024, subdivision 3; 152.025, subdivision 3; 152.18, subdivision 1; 169A.275, subdivisions 3, 4, 5; 169A.276, subdivisions 1, 2; 171.29, subdivision 2; 241.27, subdivision 1a, by adding subdivisions; 243.166, subdivision 5; 244.055, subdivisions 2, 3, 5, 7, by adding subdivisions; 244.17; 244.172, subdivision 1; 299N.02, subdivision 3; 357.021, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 244; 299N; repealing Minnesota Statutes 2008, sections 152.026; 244.055, subdivisions 6, 11; 260B.199, subdivision 2; 260B.201, subdivision 3; 325E.22.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 85 yeas and 45 nays as follows:

Those who voted in the affirmative were:

Anzelc	Eken	Huntley	Mahoney	Paymar	Solberg
Benson	Falk	Jackson	Mariani	Pelowski	Sterner
Bigham	Faust	Johnson	Marquart	Persell	Swails
Bly	Fritz	Juhnke	Masin	Peterson	Thao
Brown	Gardner	Kahn	Morgan	Poppe	Thissen
Brynaert	Greiling	Kalin	Morrow	Reinert	Tillberry
Bunn	Hansen	Kath	Mullery	Rosenthal	Ward
Carlson	Hausman	Knuth	Murphy, E.	Rukavina	Walti
Champion	Haws	Koenen	Murphy, M.	Ruud	Winkler
Clark	Hayden	Laine	Nelson	Sailer	Spk. Kelliher
Cornish	Hilstrom	Lenczewski	Newton	Scalze	
Davnie	Hilty	Liebling	Norton	Sertich	
Dill	Hornstein	Lieder	Obermueller	Simon	
Dittrich	Hortman	Lillie	Olin	Slawik	
Doty	Hosch	Loeffler	Otremba	Slocum	

Those who voted in the negative were:

Abeler	Dean	Garofalo	Kiffmeyer	Murdock	Smith
Anderson, B.	Demmer	Gottwalt	Kohls	Nornes	Torkelson
Anderson, P.	Dettmer	Gunther	Lanning	Peppin	Urdahl
Anderson, S.	Doepke	Hackbarth	Loon	Sanders	Westrom
Beard	Downey	Hamilton	Mack	Scott	Zellers
Brod	Drazkowski	Holberg	Magnus	Seifert	
Buesgens	Eastlund	Howes	McFarlane	Severson	
Davids	Emmer	Kelly	McNamara	Shimanski	

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

Cornish was excused for the remainder of today's session.

Pursuant to rule 1.22, Solberg requested immediate consideration of S. F. No. 2081.

S. F. No. 2081 was reported to the House.

Rukavina moved to amend S. F. No. 2081, the unofficial engrossment, as follows:

Page 2, line 22, delete "134,168,000" and insert "134,668,000" and delete "133,992,000" and insert "134,492,000" and delete "268,160,000" and insert "269,160,000"

Page 2, line 26, delete "183,650,000" and insert "184,150,000" and delete "182,624,000" and insert "183,124,000" and delete "366,274,000" and insert "367,274,000"

Page 3, line 1, delete "65,064,000" and insert "65,564,000" and delete "64,214,000" and insert "64,714,000"

Page 3, line 4, delete "39,185,000" and insert "39,685,000" and delete "39,185,000" and insert "39,685,000"

Page 3, line 12, delete "8,015,000" and insert "8,515,000" and delete "8,015,000" and insert "8,515,000"

Page 3, line 14, delete "6,926,000" and insert "7,426,000" and delete "6,926,000" and insert "7,426,000"

Page 6, line 22, delete "general" and insert "workforce development"

Page 108, line 11, before "Notwithstanding" insert "(a)"

Page 108, line 12, after "from" insert "knowingly"

Page 108, line 18, before "Preference" insert "(b)"

Page 108, after line 25, insert:

"(c) Notwithstanding paragraph (a), a public employer may purchase or acquire, furnish, or require an employee to purchase or acquire items listed in paragraph (a) manufactured outside of the United States if similar items are not manufactured or available for purchase in the United States."

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

#### FISCAL CALENDAR ANNOUNCEMENT

Pursuant to rule 1.22, Solberg announced his intention to place H. F. No. 1309 on the Fiscal Calendar for Friday, April 24, 2009.

#### **FISCAL CALENDAR, Continued**

Hornstein and Rukavina moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 66, after line 34, insert:

"Sec. 10. [268.088] BENEFITS PAID DURING CERTAIN VOLUNTARY UNEMPLOYMENT.

(a) An applicant who elects to become temporarily unemployed in order to avoid the layoff of another employee with the applicant's employer due to lack of work is not ineligible for benefits under the leave of absence provisions of section 268.085, subdivision 13a, nor ineligible under the quit provisions of section 268.095, if:

(1) the election is authorized under a collective bargaining agreement or written employer policy;

(2) the employer has accepted the applicant's election;

(3) the employer provides a written certification that is provided to the department that the applicant's election prevented another employee with the employer from being laid off due to lack of work; and

(4) both the applicant and the employer, at the time of the election, expect the applicant's unemployment from the employer to be temporary.

(b) In addition to the requirements of paragraph (a), for unemployment benefits to be payable, an applicant must meet all the other benefit eligibility requirements under this chapter, including being available for suitable employment with a different employer."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

#### POINT OF ORDER

Buesgens raised a point of order pursuant to rule 3.21 that the Hornstein and Rukavina amendment was not in order. Speaker pro tempore Juhnke ruled the point of order not well taken and the Hornstein and Rukavina amendment in order.

The question recurred on the Hornstein and Rukavina amendment to S. F. No. 2081, the unofficial engrossment, as amended. The motion prevailed and the amendment was adopted.

Pelowski was excused between the hours of 3:35 p.m. and 4:05 p.m.

Gardner moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 158, line 29, before "assessment" insert "\$12" and delete "with" and insert "as a lump sum or as"

Page 158, line 31, delete "1" and insert "6"

The motion prevailed and the amendment was adopted.

Seifert moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 24, after line 27, insert:

"The money appropriated under this section must be spent only in Minnesota."

A roll call was requested and properly seconded.



The question was taken on the Seifert amendment and the roll was called. There were 58 yeas and 69 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Demmer	Garofalo	Kohls	Obermueller	Severson
Anderson, P.	Dettmer	Gottwalt	Lanning	Olin	Shimanski
Anderson, S.	Dittrich	Hackbarth	Loon	Peppin	Smith
Beard	Doepke	Hamilton	Mack	Peterson	Swails
Bigham	Downey	Holberg	Magnus	Poppe	Torkelson
Brod	Drazkowski	Howes	McFarlane	Rosenthal	Welti
Buesgens	Eastlund	Kalin	McNamara	Sanders	Westrom
Bunn	Emmer	Kath	Murdock	Scalze	Zellers
Davids	Falk	Kelly	Newton	Scott	
Dean	Faust	Kiffmeyer	Nornes	Seifert	

Those who voted in the negative were:

Abeler	Eken	Hosch	Lillie	Norton	Solberg
Anzelc	Fritz	Huntley	Loeffler	Otremba	Sterner
Benson	Gardner	Jackson	Mahoney	Paymar	Thao
Bly	Greiling	Johnson	Mariani	Persell	Thissen
Brown	Hansen	Juhnke	Marquart	Reinert	Tillberry
Brynaert	Hausman	Kahn	Masin	Rukavina	Urdahl
Carlson	Haws	Knuth	Morgan	Ruud	Ward
Champion	Hayden	Koenen	Morrow	Sailer	Winkler
Clark	Hilstrom	Laine	Mullery	Sertich	Spk. Kelliher
Davnie	Hilty	Lenczewski	Murphy, E.	Simon	
Dill	Hornstein	Liebling	Murphy, M.	Slawik	
Doty	Hortman	Lieder	Nelson	Slocum	

The motion did not prevail and the amendment was not adopted.

Severson moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Pages 160 to 167, delete sections 5 to 19

Page 170, delete section 21

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Severson amendment and the roll was called. There were 47 yeas and 81 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, S.	Buesgens	Demmer	Downey	Emmer
Anderson, B.	Beard	Davids	Dettmer	Drazkowski	Garofalo
Anderson, P.	Brod	Dean	Doepke	Eastlund	Gottwalt

Gunther	Kelly	Mack	Nornes	Seifert	Torkelson
Hackbarth	Kiffmeyer	Magnus	Peppin	Severson	Urdahl
Hamilton	Kohls	McFarlane	Peterson	Shimanski	Westrom
Holberg	Lanning	McNamara	Sanders	Smith	Zellers
Howes	Loon	Murdock	Scott	Sterner	

Those who voted in the negative were:

Anzelc	Eken	Hosch	Lillie	Obermueller	Slawik
Benson	Falk	Huntley	Loeffler	Olin	Slocum
Bigham	Faust	Jackson	Mahoney	Otremba	Solberg
Bly	Fritz	Johnson	Mariani	Paymar	Swails
Brown	Gardner	Juhnke	Marquart	Persell	Thao
Brynaert	Greiling	Kahn	Masin	Poppe	Thissen
Bunn	Hansen	Kalin	Morgan	Reinert	Tillberry
Carlson	Hausman	Kath	Morrow	Rosenthal	Ward
Champion	Haws	Knuth	Mullery	Rukavina	Welti
Clark	Hayden	Koenen	Murphy, E.	Ruud	Winkler
Davnie	Hilstrom	Laine	Murphy, M.	Sailer	Spk. Kelliher
Dill	Hilty	Lenczewski	Nelson	Scalze	
Dittrich	Hornstein	Liebling	Newton	Sertich	
Doty	Hortman	Lieder	Norton	Simon	

The motion did not prevail and the amendment was not adopted.

Nelson moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 137, delete section 21

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Emmer was excused between the hours of 4:00 p.m. and 4:40 p.m.

Anderson, S., moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 108, delete section 9

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Anderson, S., amendment and the roll was called. There were 42 yeas and 86 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Davids	Eastlund	Kelly	McNamara	Severson
Anderson, P.	Dean	Garofalo	Kohls	Murdock	Shimanski
Anderson, S.	Demmer	Gottwalt	Lanning	Nornes	Smith
Beard	Dettmer	Gunther	Loon	Peppin	Torkelson
Brod	Doepke	Hackbarth	Mack	Sanders	Urdahl
Buesgens	Downey	Hamilton	Magnus	Scott	Westrom
Bunn	Drazkowski	Holberg	McFarlane	Seifert	Zellers

Those who voted in the negative were:

Abeler	Falk	Huntley	Loeffler	Otremba	Slocum
Anzelc	Faust	Jackson	Mahoney	Paymar	Solberg
Benson	Fritz	Johnson	Mariani	Pelowski	Sterner
Bigham	Gardner	Juhnke	Marquart	Persell	Swails
Bly	Greiling	Kahn	Masin	Peterson	Thao
Brown	Hansen	Kalin	Morgan	Poppe	Thissen
Brynaert	Hausman	Kath	Morrow	Reinert	Tillberry
Carlson	Haws	Kiffmeyer	Mullery	Rosenthal	Ward
Champion	Hayden	Knuth	Murphy, E.	Rukavina	Welti
Clark	Hilstrom	Koenen	Murphy, M.	Ruud	Winkler
Davnie	Hilty	Laine	Nelson	Sailer	Spk. Kelliher
Dill	Hornstein	Lenczewski	Newton	Scalze	
Dittrich	Hortman	Liebling	Norton	Sertich	
Doty	Hosch	Lieder	Obermueller	Simon	
Eken	Howes	Lillie	Olin	Slawik	

The motion did not prevail and the amendment was not adopted.

Welti moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 12, line 18, after "fund" insert "and \$95,000 each year from the general fund"

Page 24, line 12, delete "\$125,000" and insert "\$30,000" and delete "\$125,000" and insert "\$30,000"

Page 24, delete lines 13 and 14 and insert:

"This is a onetime appropriation. The Combative Sports Commission expires on July 1, 2011, unless the commissioner of management and budget determines that the commission's projected expenditures for the fiscal biennium ending June 30, 2013, will not exceed the commission's projected revenues for the fiscal biennium ending June 30, 2013, from fees and penalties authorized in Minnesota Statutes 2008, Chapter 341."

Correct the internal references

Adjust amounts accordingly

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Urdahl moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 172, after line 29, insert:

"Sec. 7. **LEGISLATIVE PROGRAMMING.**

Any company distributing television programming in Minnesota via satellite shall include coverage of Minnesota legislative proceedings in its programming to the full extent that the legislative proceedings are available free of charge to the satellite television company."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Dettmer moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 59, line 30, after the period, insert "Of the six members of the house of representatives appointed by the speaker, three members must be from the majority party and three members must be from the minority party. Of the six members of the senate appointed by the subcommittee on committees, three members must be from the majority party and three members must be from the minority party."

A roll call was requested and properly seconded.

The question was taken on the Dettmer amendment and the roll was called. There were 49 yeas and 79 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Gunther	Lanning	Peppin	Urdahl
Anderson, B.	Demmer	Hackbarth	Loon	Sanders	Welti
Anderson, P.	Dettmer	Hamilton	Mack	Scott	Westrom
Anderson, S.	Doepke	Holberg	Magnus	Seifert	Zellers
Beard	Downey	Howes	McFarlane	Severson	
Brod	Drazkowski	Kath	McNamara	Shimanski	
Brown	Eastlund	Kelly	Murdock	Slawik	
Buesgens	Garofalo	Kiffmeyer	Newton	Smith	
Davids	Gottwalt	Kohls	Nornes	Torkelson	

Those who voted in the negative were:

Anzelc	Clark	Fritz	Hilty	Kahn	Lillie
Benson	Davnie	Gardner	Hornstein	Kalin	Loeffler
Bigham	Dill	Greiling	Hortman	Knuth	Mahoney
Bly	Dittrich	Hansen	Hosch	Koenen	Mariani
Brynaert	Doty	Hausman	Huntley	Laine	Marquart
Bunn	Eken	Haws	Jackson	Lenczewski	Masin
Carlson	Falk	Hayden	Johnson	Liebling	Morgan
Champion	Faust	Hilstrom	Juhnke	Lieder	Morrow

Mullery	Olin	Poppe	Scalze	Swails	Spk. Kelliher
Murphy, E.	Otremba	Reinert	Sertich	Thao	
Murphy, M.	Paymar	Rosenthal	Simon	Thissen	
Nelson	Pelowski	Rukavina	Slocum	Tillberry	
Norton	Persell	Ruud	Solberg	Ward	
Obermueller	Peterson	Sailer	Sterner	Winkler	

The motion did not prevail and the amendment was not adopted.

Anderson, S., moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 46, line 17, delete "and"

Page 46, line 19, delete the period and insert "; and"

Page 46, after line 19, insert:

"(8) the dollar amount and percentage of the total grant used for administrative expenses."

The motion prevailed and the amendment was adopted.

Buesgens moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 108, delete section 1

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Buesgens amendment and the roll was called.

Pursuant to rule 2.05, Hosch was excused from voting on the Buesgens amendment to S. F. No. 2081, the unofficial engrossment, as amended.

There were 64 yeas and 62 nays as follows:

Those who voted in the affirmative were:

Abeler	Buesgens	Downey	Hamilton	Kohls	Nornes
Anderson, B.	Bunn	Drazkowski	Hansen	Lanning	Norton
Anderson, P.	Dauids	Eastlund	Holberg	Loon	Obermueller
Anderson, S.	Dean	Falk	Howes	Mack	Paymar
Beard	Demmer	Garofalo	Kalin	Magnus	Peppin
Bigham	Dettmer	Gottwalt	Kath	McFarlane	Peterson
Bly	Dittrich	Gunther	Kelly	McNamara	Rosenthal
Brod	Doepke	Hackbarth	Kiffmeyer	Murdock	Ruud

Sanders	Seifert	Slawik	Sterner	Torkelson	Zellers
Scalze	Severson	Slocum	Swails	Urdahl	
Scott	Shimanski	Smith	Thao	Westrom	

Those who voted in the negative were:

Anzelc	Fritz	Jackson	Loeffler	Newton	Solberg
Benson	Gardner	Johnson	Mahoney	Olin	Thissen
Brown	Greiling	Juhnke	Mariani	Otremba	Tillberry
Brynaert	Hausman	Kahn	Marquart	Pelowski	Ward
Carlson	Haws	Knuth	Masin	Persell	Welti
Champion	Hayden	Koenen	Morgan	Poppe	Winkler
Clark	Hilstrom	Laine	Morrow	Reinert	Spk. Kelliher
Davnie	Hilty	Lenczewski	Mullery	Rukavina	
Doty	Hornstein	Liebling	Murphy, E.	Sailer	
Eken	Hortman	Lieder	Murphy, M.	Sertich	
Faust	Huntley	Lillie	Nelson	Simon	

The motion prevailed and the amendment was adopted.

Downey moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 47, delete section 23

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Downey amendment and the roll was called. There were 58 yeas and 70 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Gardner	Kohls	Obermueller	Slawik
Anderson, B.	Demmer	Garofalo	Lanning	Olin	Smith
Anderson, P.	Dettmer	Gottwalt	Loon	Peppin	Sterner
Anderson, S.	Dittrich	Hackbarth	Mack	Peterson	Swails
Beard	Doepke	Hamilton	Magnus	Rosenthal	Torkelson
Benson	Downey	Holberg	McFarlane	Sanders	Urdahl
Brod	Drazkowski	Howes	McNamara	Scott	Westrom
Buesgens	Eastlund	Kath	Morgan	Seifert	Zellers
Bunn	Emmer	Kelly	Murdock	Severson	
Davids	Faust	Kiffmeyer	Nornes	Shimanski	

Those who voted in the negative were:

Anzelc	Brown	Champion	Dill	Falk	Hansen
Bigham	Brynaert	Clark	Doty	Fritz	Hausman
Bly	Carlson	Davnie	Eken	Greiling	Haws

Hayden	Juhnke	Lillie	Murphy, M.	Reinert	Thao
Hilstrom	Kahn	Loeffler	Nelson	Rukavina	Thissen
Hilty	Kalin	Mahoney	Newton	Ruud	Tillberry
Hornstein	Knuth	Mariani	Norton	Sailer	Ward
Hortman	Koenen	Marquart	Otremba	Scalze	Welti
Hosch	Laine	Masin	Paymar	Sertich	Winkler
Huntley	Lenczewski	Morrow	Pelowski	Simon	Spk. Kelliher
Jackson	Liebling	Mullery	Persell	Slocum	
Johnson	Lieder	Murphy, E.	Poppe	Solberg	

The motion did not prevail and the amendment was not adopted.

Brod and Morrow moved to amend S. F. No. 2081, the unofficial engrossment, as amended, as follows:

Page 6, line 6, delete "500,000" and insert "564,000"

Page 6, line 12, before the period, insert "and \$64,000 is for the city of Green Isle for reimbursement of fire relief efforts and other expenses incurred as a result of the fire in the city of Green Isle"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

The Speaker resumed the Chair.

Gottwalt offered an amendment to S. F. No. 2081, the unofficial engrossment, as amended.

#### POINT OF ORDER

Sertich raised a point of order pursuant to rule 3.21 that the Gottwalt amendment was not in order. The Speaker ruled the point of order well taken and the Gottwalt amendment out of order.

S. F. No. 2081, A bill for an act relating to economic development and housing; establishing and modifying certain programs; providing for regulation of certain activities and practices; amending certain unemployment insurance provisions; providing for accounts, assessments, and fees; changing codes and licensing provisions; amending Iron Range resources provisions; regulating debt management and debt settlement services; increasing certain occupation license fees; making technical changes; providing penalties; appropriating money; amending Minnesota Statutes 2008, sections 15.75, subdivision 5; 16B.54, subdivision 2; 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 84.94, subdivision 3; 115C.08, subdivision 4; 116J.035, subdivisions 1, 6; 116J.401, subdivision 2; 116J.424; 116J.435, subdivisions 2, 3; 116J.68, subdivision 2;

116J.8731, subdivisions 2, 3; 116L.03, subdivision 5; 116L.05, subdivision 5; 116L.871, subdivision 1; 116L.96; 123A.08, subdivision 1; 124D.49, subdivision 3; 129D.13, subdivisions 1, 2, 3; 129D.14, subdivisions 4, 5, 6; 129D.155; 154.44, subdivision 1; 160.16, by adding a subdivision; 160.276, subdivision 8; 241.27, subdivision 1; 248.061, subdivision 3; 248.07, subdivisions 7, 8; 256J.626, subdivision 4; 256J.66, subdivision 1; 268.031; 268.035, subdivisions 2, 17, by adding subdivisions; 268.042, subdivision 3; 268.043; 268.044, subdivision 2; 268.047, subdivisions 1, 2; 268.051, subdivisions 1, 4; 268.052, subdivision 2; 268.053, subdivision 1; 268.057, subdivisions 4, 5; 268.0625, subdivision 1; 268.066; 268.067; 268.069, subdivision 1; 268.07, subdivisions 1, 2, 3, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 15; 268.095, subdivisions 1, 2, 4, 10, 11; 268.101, subdivisions 1, 2; 268.103, subdivision 1, by adding a subdivision; 268.105, subdivisions 1, 2, 3a, 4; 268.115, subdivision 5; 268.125, subdivision 5; 268.135, subdivision 4; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 4a; 268.186; 268.196, subdivisions 1, 2; 268.199; 268.211; 268A.06, subdivision 1; 270.97; 298.22, subdivisions 2, 5a, 6, 7, 8, 10, 11; 298.221; 298.2211, subdivision 3; 298.2213, subdivision 4; 298.2214, by adding a subdivision; 298.223; 298.227; 298.28, subdivision 9d; 298.292, subdivision 2; 298.294; 298.296, subdivision 2; 298.2961; 325E.115, subdivision 1; 325E.1151, subdivisions 1, 3, 4; 325E.311, subdivision 6; 326B.33, subdivisions 13, 19; 326B.46, subdivision 4; 326B.475, subdivisions 4, 7; 326B.49, subdivision 1; 326B.56, subdivision 4; 326B.58; 326B.815, subdivision 1; 326B.821, subdivision 2; 326B.86, subdivision 1; 326B.885, subdivision 2; 326B.89, subdivisions 3, 16; 326B.94, subdivision 4; 326B.972; 326B.986, subdivisions 2, 5, 8; 327B.04, subdivisions 7, 8, by adding a subdivision; 327C.03, by adding a subdivision; 327C.095, subdivision 12; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding subdivisions; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; 469.169, subdivision 3; Laws 1998, chapter 404, section 23, subdivision 6, as amended; proposing coding for new law in Minnesota Statutes, chapters 1; 116J; 137; 161; 268; 298; 326B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 116J.402; 116J.413; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.656; 116L.16; 116L.88; 116U.65; 129D.13, subdivision 4; 176.135, subdivision 1b; 268.085, subdivision 14; 268.086; Minnesota Rules, part 1350.8300.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 78 yeas and 50 nays as follows:

Those who voted in the affirmative were:

Anzenc	Eken	Hosch	Loeffler	Obermueller	Scalze
Benson	Falk	Huntley	Mahoney	Olin	Sertich
Bigham	Faust	Jackson	Mariani	Otremba	Simon
Bly	Fritz	Johnson	Marquart	Paymar	Slawik
Brown	Gardner	Juhnke	Masin	Pelowski	Slocum
Brynaert	Hansen	Kahn	Morgan	Persell	Solberg
Carlson	Hausman	Kalin	Morrow	Peterson	Sterner
Champion	Haws	Knuth	Mullery	Poppe	Thao
Clark	Hayden	Koenen	Murphy, E.	Reinert	Tillberry
Davnie	Hilstrom	Laine	Murphy, M.	Rosenthal	Ward
Dill	Hilty	Lenczewski	Nelson	Rukavina	Welti
Dittrich	Hornstein	Lieder	Newton	Ruud	Winkler
Doty	Hortman	Lillie	Norton	Sailer	Spk. Kelliher

Those who voted in the negative were:

Abeler	Brod	Demmer	Eastlund	Gunther	Kath
Anderson, B.	Buesgens	Dettmer	Emmer	Hackbarth	Kelly
Anderson, P.	Bunn	Doepke	Garofalo	Hamilton	Kiffmeyer
Anderson, S.	Davids	Downey	Gottwalt	Holberg	Kohls
Beard	Dean	Draskowski	Greiling	Howes	Lanning



Loon	McNamara	Sanders	Shimanski	Torkelson
Mack	Murdock	Scott	Smith	Urdahl
Magnus	Nornes	Seifert	Swails	Westrom
McFarlane	Peppin	Severson	Thissen	Zellers

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

There being no objection, the order of business reverted to Messages from the Senate.

### MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

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

H. F. No. 486, A bill for an act relating to transportation; highways; removing routes on the trunk highway system.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2, A bill for an act relating to education; providing for policy and funding for family, adult, and prekindergarten through grade 12 education including general education, education excellence, special programs, facilities and technology, libraries, nutrition, accounting, self-sufficiency and lifelong learning, state agencies, pupil transportation, school finance system changes, forecast adjustments, and technical corrections; providing for advisory groups; requiring reports; appropriating money; amending Minnesota Statutes 2008, sections 6.74; 13.32, by adding a subdivision; 16A.06, subdivision 11; 120A.22, subdivision 7; 120A.40; 120B.02; 120B.021, subdivision 1; 120B.022, subdivision 1; 120B.023, subdivision 2; 120B.11, subdivision 5; 120B.13; 120B.132; 120B.30; 120B.31; 120B.35; 120B.36; 121A.15, subdivision 8; 121A.41, subdivisions 7, 10; 121A.43; 122A.07, subdivisions 2, 3; 122A.18, subdivision 4; 122A.31, subdivision 4; 122A.40, subdivisions 6, 8; 122A.41, subdivisions 3, 5; 122A.413, subdivision 2; 122A.414, subdivisions 2, 2b; 122A.60, subdivisions 1a, 2; 122A.61, subdivision 1; 123A.05; 123A.06; 123A.08; 123B.02, subdivision 21; 123B.03, subdivisions 1, 1a; 123B.10, subdivision 1; 123B.14, subdivision 7; 123B.143, subdivision 1; 123B.36, subdivision 1; 123B.49, subdivision 4; 123B.51, by adding a subdivision; 123B.53, subdivision 5; 123B.57, subdivision 1; 123B.59, subdivisions 2, 3, 3a; 123B.70, subdivision 1; 123B.71, subdivisions 8, 9, 12; 123B.75, subdivision 5; 123B.76, subdivision 3; 123B.77, subdivision 3; 123B.79, subdivision 7; 123B.81, subdivisions 3, 4, 5; 123B.83, subdivision 3; 123B.92, subdivisions 1, 5; 124D.095, subdivisions 2, 3, 4, 7, 10; 124D.10; 124D.11, subdivisions 4, 9; 124D.111, subdivision 3; 124D.128, subdivisions 2, 3; 124D.42, subdivision 6, by adding a subdivision; 124D.4531; 124D.59, subdivision 2; 124D.65, subdivision 5; 124D.68, subdivisions 2, 3, 4, 5; 124D.83, subdivision 4; 124D.86, subdivisions 1, 1a, 1b; 125A.02; 125A.07; 125A.08; 125A.091; 125A.11, subdivision 1; 125A.15; 125A.28; 125A.51; 125A.56; 125A.57,

subdivision 2; 125A.62, subdivision 8; 125A.63, subdivisions 2, 4; 125A.76, subdivisions 1, 5; 125A.79, subdivision 7; 125B.26; 126C.01, by adding subdivisions; 126C.05, subdivisions 1, 2, 3, 5, 6, 8, 15, 16, 17, 20; 126C.10, subdivisions 1, 2, 2a, 3, 4, 6, 13, 14, 18, 24, 34, by adding subdivisions; 126C.13, subdivisions 4, 5; 126C.15, subdivisions 2, 4; 126C.17, subdivisions 1, 5, 6, 9; 126C.20; 126C.40, subdivisions 1, 6; 126C.41, subdivision 2; 126C.44; 127A.08, by adding a subdivision; 127A.441; 127A.45, subdivisions 2, 3, 13, by adding a subdivision; 127A.47, subdivisions 5, 7; 127A.51; 134.31, subdivision 4a, by adding a subdivision; 169.011, subdivision 71; 169.443, subdivision 9; 169.4501, subdivision 1; 169.4503, subdivision 20, by adding a subdivision; 169.454, subdivision 13; 169A.03, subdivision 23; 171.01, subdivision 22; 171.02, subdivisions 2, 2a, 2b; 171.05, subdivision 2; 171.17, subdivision 1; 171.22, subdivision 1; 171.321, subdivisions 1, 4, 5; 181A.05, subdivision 1; 275.065, subdivisions 3, 6; 299A.297; 471.975; 475.58, subdivision 1; Laws 2007, chapter 146, article 1, section 24, subdivisions 2, as amended, 6, as amended, 8, as amended; article 2, section 46, subdivision 6, as amended; article 3, section 24, subdivision 4, as amended; article 4, section 16, subdivisions 2, as amended, 6, as amended; article 5, section 13, subdivisions 2, as amended, 3, as amended; article 9, section 17, subdivisions 2, as amended, 13, as amended; Laws 2008, chapter 363, article 2, section 46, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 120B; 123B; 125A; 126C; 127A; repealing Minnesota Statutes 2008, sections 120B.362; 120B.39; 121A.27; 121A.66; 121A.67, subdivision 1; 122A.628; 122A.75; 123B.54; 123B.57, subdivisions 3, 4, 5; 123B.591; 124D.091; 125A.03; 125A.05; 125A.18; 125A.76, subdivision 4; 125A.79, subdivision 6; 126C.10, subdivisions 2b, 13a, 13b, 24, 25, 26, 27, 28, 29, 30, 31, 31a, 31b, 32, 33, 34, 35, 36; 126C.12; 126C.126; 127A.50; 275.065, subdivisions 5a, 6b, 6c, 8, 9, 10; Minnesota Rules, parts 3525.0210, subparts 5, 6, 9, 13, 17, 29, 30, 34, 43, 46, 47; 3525.0400; 3525.1100, subpart 2, item F; 3525.2445; 3525.2900, subpart 5; 3525.4220.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Greiling moved that the House refuse to concur in the Senate amendments to H. F. No. 2, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Madam Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1301, A bill for an act relating to public safety; providing for public safety, courts, and corrections including requirements for predatory offenders regarding registration, computer access, electronic solicitation, and special license plates; crime victims of criminal sexual conduct and domestic abuse; domestic fatality review teams; public defenders eligibility for representation, appointment, and reimbursement; courts regarding judges' evidence from recording equipment in a law enforcement vehicle; driver's license reinstatement diversion pilot program; driver's license records; corrections regarding probation, pretrial release, and correctional officers, sentencing, and evidence-based practices for community supervision; sentencing guidelines; emergency response team; controlled substances; financial crimes; unsafe recalled toys; animal fighting; public employer consideration of criminal records in hiring; peace officer and public safety dispatcher employment; assault on public utility workers; trespass in police cordoned-off areas; peace officer education; communications regarding criminal history, background checks, warrant information, CIBRS data, criminal justice data, and Statewide Radio Board; authorizing requests for proposals to replace alcohol concentration breath testing devices; providing for boards, task forces, and programs; providing for reports; providing for penalties; amending Minnesota Statutes 2008, sections 12.03, by adding a subdivision; 13.87, subdivision 1; 122A.18, subdivision 8; 123B.03, subdivision 1; 152.02, subdivisions 6, 12; 152.027, by adding a subdivision; 169.71, subdivision 1; 243.166, subdivisions 1a, 4, 4b, 6; 244.05, subdivision 6; 244.052, subdivision 1; 246.13, subdivision 2; 253B.141, subdivision 1; 299A.681; 299C.115; 299C.17; 299C.21; 299C.40, subdivisions 1, 2; 299C.46, subdivision 1; 299C.52, subdivisions 1, 3, 4; 299C.53, subdivision 1; 299C.62,

subdivision 1; 299C.65, subdivisions 1, 5; 299C.68, subdivision 2; 343.31, subdivision 1; 357.021, subdivision 6; 388.24, subdivision 4; 401.025, subdivision 1; 401.065, subdivision 3a; 403.36, subdivision 2, by adding a subdivision; 471.59, by adding subdivisions; 480.23; 484.91, subdivision 1; 491A.03, subdivision 1; 518.165, subdivision 5; 518B.01, subdivisions 2, 20; 524.5-118, subdivision 2; 609.131, subdivision 1; 609.2231, by adding a subdivision; 609.352, subdivision 2a; 609.605, subdivision 1; 611.17; 611.18; 611.20, subdivision 3; 611.21; 611.272; 611A.0315, subdivision 1; 626.843, subdivisions 1, 3; 626.845, subdivision 1; 626.863; 628.69, subdivision 6; 629.34, subdivision 1; 629.341, subdivision 1; Laws 1999, chapter 216, article 2, section 27, subdivisions 1, as amended, 3c, as added, 4; proposing coding for new law in Minnesota Statutes, chapters 12; 168; 169A; 244; 260B; 325F; 364; 634; repealing Minnesota Statutes 2008, sections 260B.199, subdivision 2; 260B.201, subdivision 3; 299C.61, subdivision 8; 299C.67, subdivision 3; 383B.65, subdivision 2; 403.36, subdivision 1f; Laws 2002, chapter 266, section 1, as amended.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Hilstrom moved that the House refuse to concur in the Senate amendments to H. F. No. 1301, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

#### ANNOUNCEMENTS BY THE SPEAKER

The speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1122:

Juhnke, Otremba, Eken, Faust and Shimanski.

The speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1301:

Hilstrom, Bigham, Paymar, Jackson and Kelly.

#### CALENDAR FOR THE DAY

Sertich moved that the Calendar for the Day be continued. The motion prevailed.

#### MOTIONS AND RESOLUTIONS

Morgan moved that the name of Scalze be added as an author on H. F. No. 1113. The motion prevailed.

Atkins moved that the name of Sertich be added as an author on H. F. No. 1512. The motion prevailed.

Kahn moved that the name of Clark be added as an author on H. F. No. 2345. The motion prevailed.

Lanning moved that the name of McNamara be added as an author on H. F. No. 2347. The motion prevailed.

## FISCAL CALENDAR ANNOUNCEMENT

Pursuant to rule 1.22, Solberg announced his intention to place H. F. Nos. 1309 and 2323 on the Fiscal Calendar for Saturday, April 25, 2009.

## ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 11:00 a.m., Saturday, April 25, 2009. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 11:00 a.m., Saturday, April 25, 2009.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives