Bill Summary

H.F. 2128

As introduced

Subject	Health Care and Licensing/Background Studies
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Overview

This bill contains the governor's budget recommendations related to health care programs administered by the Department of Human Services, licensing and background studies, Minnesota Department of Health initiatives, and the health licensing boards.

Article 1: Health Care

This article makes changes related to DHS health care programs. These changes include, but are not limited to: extending the time period for hospitals to appeal rate information; modifying calculation of the asset limit for Medicare savings programs; expanding the use of telemedicine services; allowing coverage of a 90-day supply of certain drugs; providing monthly transit passes to NEMT recipients; allowing contracting for EPSDT outreach services; expanding the scope of a grant program for high-risk pregnant women; and modifying MinnesotaCare eligibility procedures.

Section	Description - Article 1: Health Care
1	**Appeals.** Amends § 256.9695, subd. 1. Extends from 12 to 18 months the time period, after the last day of the calendar year that is the base year, during which hospitals can appeal base year information used to set inpatient hospital payment rates.
2	**Qualified Medicare beneficiaries.** Amends § 256B.057, subd. 3. Sets the asset limit for eligibility for Medicare savings programs (programs that assist low-income Medicare beneficiaries with Medicare premiums and cost-sharing) at the current level -- $10,000 for one and $18,000 for two or more individuals, or at the asset level for the Medicare Part D extra help low income subsidy (LIS), once this indexed asset level exceeds the current asset limits. States that this section is effective the day following final enactment.

Section	Description - Article 1: Health Care

3 **Assertive community treatment team staff requirements and roles.**

Amends § 256B.0622, subd. 7a. Allows the psychiatric care provider of an assertive community treatment team (ACT) to provide services by telemedicine when necessary to ensure the availability of services and maintain statutory requirements for staffing levels.

4 **Telemedicine services.**

Amends § 256B.0625, subd. 3b. Expands telemedicine services under MA and MinnesotaCare.

The amendment to paragraph (a) removes the three visit per enrollee per week limit (the language striking paragraph (f) of current law is a conforming change).

The amendment to paragraph (d) includes the delivery of services to a patient in the patient's home in the definition of telemedicine services.

The amendment to paragraph (e) adds the following to the list of licensed health care providers who can provide telemedicine services – mental health certified peer specialists, mental health certified family peer specialists, mental health rehabilitation workers, mental health behavioral aides, alcohol and drug counselors, treatment coordinators, and recovery peers. Also removes the requirement that mental health practitioners work under the general supervision of a mental health professional when providing telemedicine services.

A new paragraph (f) states that telemedicine visits can be used to satisfy the face-to-face requirement for reimbursement for federally qualified health centers, rural health clinics, Indian health services, 638 tribal clinics, and certified community behavioral health clinics, if the services would otherwise qualify for payment if performed in person.

States that this section is effective upon federal approval.

5 **Drugs.**

Amends § 256B.0625, subd. 13. Allows a 90-day supply of a prescription drug to be dispensed under MA, if the drug appears on the 90-day supply list published by the commissioner. Requires the list to be published on the DHS website. Allows the commissioner to modify the list after providing public notice and a 15-day comment period. Provides that the list may include cost-effective generic drugs, but shall not include controlled substances.

Section	Description - Article 1: Health Care
6	**Payment rates.** Amends § 256B.0625, subd. 13e. Reduces the MA dispensing fee from $10.48 to $9.91 per prescription.
7	**Public transit or taxicab transportation.** Amends § 256B.0625, subd. 18. Allows the commissioner to provide a monthly public transit pass for the nonemergency medical transportation needs of MA recipients who are well-served by public transit. Provides that recipients are eligible for a transit pass if they are eligible for one public transit trip for a covered service during a month. These recipients are then not eligible for other modes of transportation, unless an unexpected need arises that cannot be accessed through public transit. Prohibits the commissioner from requiring recipients to select a transit pass, if their transportation needs cannot be served by public transit. States that this section is effective January 1, 2022.
8	**Early and periodic screening, diagnosis, and treatment services.** Amends § 256B.0625, subd. 58. Allows the commissioner to contract for required EPSDT outreach services, including but not limited to children enrolled in or attributed to an integrated health partnership (IHP) demonstration project. Requires IHPs that choose to provide EPSDT outreach services to receive compensation from the commissioner on a per-member, per-month basis for each child. Specifies related requirements. States that this section is effective January 1, 2022.
9	**Service standards.** Amends § 256B.0947, subd. 6. Allows the services and responsibilities of the psychiatric provider of intensive nonresidential rehabilitative mental health services to be provided through telemedicine, when necessary to prevent disruption in services or to maintain the required staffing level.
10	**Covered services.** Amends § 256B.0949, subd. 13. Eliminates the requirement that certain early intensive developmental and behavioral intervention (EIDBI) services be provided face-to-face to a person with autism spectrum disorder or a related condition.
11	**Hospital outpatient reimbursement.** Amends § 256B.75. Directs the commissioner, when implementing prospective payment methodologies for outpatient hospital services, to use general methods and rate calculation parameters similar to the applicable Medicare prospective payment systems for outpatient hospital and ambulatory surgical center settings, unless other payment methodologies are specified in state MA law.

Section	Description - Article 1: Health Care
12	**Definitions.** Amends § 256B.79, subd. 1. Modifies the definition of "targeted populations" for the integrated care for high-risk pregnant women grant program, to refer to pregnant MA enrollees residing in "communities" rather than "geographic areas."
13	**Grant awards.** Amends § 256B.79, subd. 3. Strikes language that requires integrated perinatal care collaboratives that received grants prior to January 1, 2019, to be given priority when determining subsequent grants.
14	**Income.** Amends § 256L.01, subd. 5. Defines "income" under MinnesotaCare as projected annual income for the applicable tax year, and strikes references to current income and income during the 12-month eligibility period. Provides that the section is effective the day following final enactment. (The changes in this section and the two sections that immediately follow reflect the failure of the Centers for Medicare and Medicaid Services to approve Minnesota eligibility determination changes passed in 2016 and reflected in current law.)
15	**Annual income limits adjustment.** Amends § 256L.04, subd. 7b. Requires the commissioner to adjust MinnesotaCare income limits annually on January 1, rather than each July 1. Provides that the section is effective the day following final enactment.
16	**Redetermination of eligibility.** Amends § 256L.05, subd. 3a. Specifies that the period of MinnesotaCare eligibility is the calendar year, and that eligibility redeterminations shall occur during the open enrollment period for qualified health plans. Strikes language that defined the period of eligibility as the 12-month period beginning the month of application, with renewals being implemented throughout the year. Provides that the section is effective the day following final enactment.

Article 2: Licensing and Background Studies

This article adds individuals and entities required to undergo human services background studies, modifies background study requirements for certain individuals and providers, establishes "alternative background studies" that apply to specified individuals and providers, adds definitions to chapter 245C (human services background studies chapter), makes clarifying and procedural changes throughout the chapter, and requires the commissioner of human services to annually publish a background study fee schedule, based on the actual costs of conducting and administering background studies.

Section	Description - Article 2: Licensing and Background Studies

1 **Background study required.**

Amends § 62V.05 by adding subd. 4a. Requires the Board of Directors of MNsure to initiate human services background studies of navigators, in-person assisters, and certified application counselors; prohibits any individual from providing services until the board receives notice that the individual is not disqualified, or if a disqualification was set aside. Requires the board or a delegate to review reconsideration requests.

2 **Background studies.**

Amends § 122A.18, subd. 8. Modifies terminology for the Professional Educator Licensing and Standards Board (PELSB) and the Board of School Administrators background studies.

3 **License or certification fee for certain programs.**

Amends § 245A.10, subd. 4. Modifies terminology to clarify detoxification and withdrawal management program licensure fees.

4 **Alternative background study.**

Amends § 245C.02 by adding subd. 5b. Adds definition of "alternative background study" to the human services background studies chapter.

5 **Entity.**

Amends § 245C.02 by adding subd. 11c. Adds definition of "entity" to the human services background studies chapter.

6 **Results.**

Amends § 245C.02 by adding subd. 16a. Adds definition of "results" to the human services background studies chapter.

7 **Background study; individuals to be studied.**

Amends § 245C.03. Adds and modifies the subdivisions below.

Subd. 1a. Procedure. Clarifies procedural requirements for background studies.

Subd. 3a. Exception to personal care assistant; requirements. Allows a personal care assistant for a recipient to enroll with a different provider agency upon initiation of a new background study, under specified circumstances.

Subd. 3b. Personal care assistance provider agency; background studies. Establishes background study requirements for personal care assistance provider agencies enrolled to provide personal care assistance services under medical assistance; requires some owners, all managing employees, and all qualified professionals to undergo a background study.

Section Description - Article 2: Licensing and Background Studies

Subd. 5a. Facilities serving children or adults licensed or regulated by the Department of Health. Requires the commissioner of health to contract with DHS to conduct background studies for individuals providing direct contact services in a range of entities licensed by the Department of Health, and other employees in certain types of licensed entities facilities. Specifies that if a program is jointly licensed, DHS is solely responsible for the background studies.

Subd. 5b. Facilities serving children or youth licensed by the Department of Corrections. Requires DHS to conduct background studies of individuals providing direct contact services in residential and detention facilities, and requires specified individuals and entities to provide DHS with all available criminal conviction data related to individuals to be studied under this subdivision. Requires DHS to notify an individual and the facility of a disqualification, and of the right to request reconsideration through the Department of Corrections. Specifies reconsideration procedures.

Subd. 6. Legal nonlicensed and certified child care programs. Makes clarifying changes; specifies that DHS background studies are required for each individual who applies for child care program certification, each member of a provider's household age 13 or older, and a member of a provider's household who is aged 10 to 13, if reasonable cause exists.

Subd. 7. Children's therapeutic services and supports providers. Clarifies that all direct service providers and volunteers for children's therapeutic services and supports providers are subject to background studies.

Subd. 9. Community first services and supports organizations. Establishes background study requirements for individuals affiliated with Community First Services and Supports (CFSS) agency-providers and Financial Management Services (FMS) providers enrolled to provide CFSS services under medical assistance.

Subd. 9a. Exception to support worker requirements for continuity of services. Allows a support worker for a participant to enroll with a different CFSS agency-provider or FMS provider upon initiation, rather than completion, of a new background study under specified circumstances.

Subd. 10. Providers of group residential housing or supplementary services. Clarifies who must undergo a background study related to providers of group residential housing or supplementary services; requires compliance with all background study requirements.

Subd. 11. Strikes subdivision relating to child protection workers.

Section	Description - Article 2: Licensing and Background Studies

Subd. 12. Providers of special transportation service. Clarifies which individuals providing special transportation services must undergo a background study. Allows a local or contracted agency authorizing a nonemergency medical transportation service ride by a volunteer driver to initiate a background study under certain circumstances.

Subd. 13. Providers of housing support services. Makes clarifying changes.

Subd. 14. Tribal nursing facilities. Requires the commissioner to obtain state and national criminal history data for individuals affiliated with a tribally licensed nursing facility.

8 **Early intensive developmental and behavioral intervention providers.**

Amends § 245C.03 by adding subd. 15. Requires the commissioner to conduct a background study when initiated by an early intensive developmental and behavioral intervention provider.

Makes this section effective the day following final enactment.

9 **Background study; alternative background studies.**

Proposes coding for § 245C.031.

Subd. 1. Alternative background studies. Requires the commissioner to conduct an alternative background study of individuals listed in this section; establishes required procedures for studies and data destruction.

Subd. 2. Access to information. Requires each entity that submits an alternative background study to enter into an agreement with the commissioner to comply with state and federal law.

Subd. 3. Child protection workers or social services staff having responsibility for child protective duties. Requires an alternative background study for these individuals.

Subd. 4. Applicants, licensees, and other occupations regulated by the commissioner of health. Requires alternative background studies for applicants for audiologist or speech-language pathologist licenses or renewals or applicants for hearing instrument dispenser initial certification or certification before January 1, 2018. Establishes alternative background study requirements for these individuals.

Subd. 5. Guardians and conservators. Requires alternative background studies for court-appointed guardians and conservators, with certain exceptions, to be completed prior to the appointment of the guardian or conservator, unless the

Section	Description - Article 2: Licensing and Background Studies

best interests of the ward or protected person requires appointment before the study is completed.

Subd. 6. Required checks. Specifies data to be checked for guardian and conservator alternative background studies.

Subd. 7. State licensing data. Requires the commissioner to provide the court with licensing agency data, within 25 working days, for licenses directly related to the responsibilities of a professional fiduciary, if the study subject is or has been affiliated with a listed professional licensing entity. Requires an agreement by each entity to provide the commissioner with electronic access to relevant licensing data and quarterly lists of new sanctions. Establishes additional procedures for providing licensing data to the court for guardian and conservator background studies.

Subd. 8. Guardians ad litem. Requires alternative background studies for guardians ad litem once every three years.

Subd. 9. Required checks. Specifies data to be checked and required procedures for alternative background studies for guardians ad litem.

Subd. 10. First-time applicants for educator licenses with the Professional Educator Licensing and Standards Board. Requires PELSB to make eligibility determinations for alternative background studies. Permits alternative background studies for all first-time applicants for educator licenses; specifies what the studies must include.

Subd. 11. First-time applicants for administrator licenses with the Board of School Administrators. Requires the Board of School Administrators to make eligibility determinations for alternative background studies. Permits alternative background studies for all first-time applicants for administrator licenses; specifies what the studies must include.

Subd. 12. MNsure. Requires the commissioner to conduct a background study of any individual required to have a background study under section 62V.05.

10 **Individual studied.**

Amends § 245C.05, subd. 1. Clarifies language; requires a background study subject to submit a completed criminal and maltreatment history records check consent form for applicable record checks.

11 **Applicant, license holder, or other entity.**

Amends § 245C.05, subd. 2. Makes clarifying change.

Section	Description - Article 2: Licensing and Background Studies
12	**County or private agency.** Amends § 245C.05, subd. 2a. Makes clarifying change.
13	**County agency to collect and forward information to commissioner.** Amends § 245C.05, subd. 2b. Makes clarifying changes.
14	**Electronic transmission.** Amends § 245C.05, subd. 4. Makes clarifying changes; specifies that information obtained applies to state and tribal agencies, for alternative background studies.
15	**Authorized recipient.** Amends § 245C.08 by adding subd. 5. Specifies that the commissioner is the authorized recipient of background study information and records received.
16	**Bureau of Criminal Apprehension background check crimes.** Amends § 245C.08 by adding subd. 6. Specifies that compliance with BCA background check statutes is required for all DHS background studies.
17	**Guardians and conservators.** Amends § 245C.10, subd. 15. Modifies requirements for fees to be paid for conducting an alternative background study for appointment of a guardian or conservator.
18	**Early intensive developmental and behavioral intervention providers.** Amends § 245C.10 by adding subd. 17. Establishes fee of no more than $20 for a background study for the purposes of early intensive developmental and behavioral intervention. Makes this section effective the day following final enactment.
19	**Applicants, licensees, and other occupations regulated by commissioner of health.** Amends § 245C.10 by adding subd. 18. Specifies that the applicant or license holder is responsible for paying all fees associated with background studies.
20	**Guardians ad litem.** Amends § 245C.10 by adding subd. 19. Specifies that the Minnesota Supreme Court must pay the fee for an alternative background study for a guardian ad litem.
21	**Occupations regulated by MNsure.** Amends § 245C.10 by adding subd. 20. Requires the commissioner to set fees to recover background study costs for MNsure-related studies, through an interagency

Section	Description - Article 2: Licensing and Background Studies

agreement; specifies that fees will be deposited in the special revenue fund for the purpose of conducting background studies.

22 **Professional Educators Licensing Standards Board.**

Amends § 245C.10 by adding subd. 21. Establishes fee of no more than $51 per study for studies initiated by PELSB.

23 **Board of School Administrators.**

Amends § 245C.10 by adding subd. 22. Establishes fee of no more than $51 per study for studies initiated by the Board of School Administrators.

24 **Background studies fee schedule.**

Amends § 245C.10 by adding subd. 23. Requires the commissioner to publish a background study fee schedule by March 1 of each year, to be effective from July 1 to June 30 each year. Specifies that fees will be based on actual costs of background study administration; specifies how the fees must be published and how fees are appropriated.

Makes this section effective July 1, 2021; requires the commissioner to publish the initial fee schedule on July 1, 2021, which will be effective September 1, 2021.

25 **Activities pending completion of background study.**

Amends § 245C.13, subd. 2. Adds personal care assistant services to list of activities prohibited prior to receipt of background study notices.

26 **Disqualification from working in licensed child care centers or certified license-exempt child care centers.**

Amends § 245C.14 by adding subd. 4. Specifies that a disqualified individual must be disqualified from working in any position in a licensed child care center or certified license-exempt child care center, until the commissioner issues a notice that: (1) the individual is not disqualified; (2) a disqualification has been set aside; or (3) a variance has been granted.

27 **Determining immediate risk of harm.**

Amends § 245C.16, subd. 1. Allows the commissioner to order immediate removal of an individual from any position allowing direct contact with or access to persons receiving services, or from any position in a licensed child care center or certified license-exempt child care center, if the individual has a disqualification that is a permanent bar or the individual is a child care background study subject with a felony drug-related offense in the past five years.

Section	Description - Article 2: Licensing and Background Studies
28	**Findings.** Amends § 245C.16, subd. 2. Prohibits the commissioner from making a finding that an individual requires direct, continuous supervision while providing direct contact services during the disqualification reconsideration request period, for a licensed child care center or certified license-exempt child care center.
29	**Time frame for notice of study results and auditing system access.** Amends § 245C.17, subd. 1. Adds a child care center or certified license-exempt child care center to the list of facilities in which an individual must be immediately removed from direct contact or access, when notice is issued that more time is needed to complete a study.
30	**Disqualification notice to child care centers or certified license-exempt child care centers.** Amends § 245C.17 by adding subd. 8. Requires an immediate removal notice to also include an order for a license holder to immediately remove the individual from working in any position in a child care center or certified license-exempt child care center.
31	**Obligation to remove disqualified individual from direct contact and from working in a program, facility, setting, or center.** Amends § 245C.18. Requires a child care center or certified license-exempt child care center license holder to remove a disqualified individual from working in any position in a licensed child care center or certified license-exempt child care center, until the commissioner issues a notice that: (1) the individual is not disqualified; (2) a disqualification has been set aside; or (3) a variance has been granted.
32	**Background studies.** Amends § 256B.0949 by adding subd. 16a. Specifies that early intensive developmental and behavioral intervention background study requirements must be met through a background study under specified sections of chapter 245C. Makes this section effective the day following final enactment.
33	**Revisor instruction.** Instructs the revisor of statutes to renumber subdivisions in the definitions section alphabetically and correct any cross-references.
34	**Repealer.** Repeals subdivisions of 245C.10 relating to specific background study fees.

Article 3: Blue Ribbon Commission

This article contains provisions to implement recommendations of the Blue Ribbon Commission on Health and Human Services. These provisions relate to the administration of nonemergency medical transportation services, the administration of dental services, coverage of outpatient drugs, and reimbursement for durable medical equipment, supplies, prosthetics, and orthotics.

Section	Description - Article 3: Blue Ribbon Commission
1	**Other standards; wheelchair securement; protected transport.** Amends § 174.30, subd. 3. Makes a conforming change in a cross-reference to MA nonemergency medical transportation coverage.
2	**Fraud prevention investigations.** Amends § 256.983. Specifically includes tribal agencies as recipients of fraud prevention investigation grant funding, and requires tribal agencies to comply with the same requirements that apply to county grant recipients.
3	**Administration of dental services.** Adds § 256B.0371. (a) Effective January 1, 2023, requires the commissioner to contract with up to two dental administrators to administer dental services for MA and MinnesotaCare enrollees, including those persons enrolled in managed care under § 256B.69. (b) States that the administrative services include, but are not limited to: provider recruitment, contracting, and assistance; recipient outreach and assistance; utilization management and review for medical necessity; claims processing; service coordination; management of fraud and abuse; monitoring access to services; performance measurement; quality improvement and evaluation requirements; and management of third-party liability requirements. (c) Sets payment rates at the MA rate as specified in § 256B.76. Specifies a January 1, 2023, effective date.
4	**Limitation on services.** Amends § 256B.04, subd. 12. Strikes outdated language related to service delivery and reimbursement for emergency and nonemergency transportation providers, and other providers.
5	**Competitive bidding.** Amends § 256B.04, subd. 14. Allows the commissioner to use volume purchase through competitive bidding for nonemergency medical transportation generally (current law limits this to level of need determinations, disbursement of public transportation passes and tokens, and volunteer and recipient mileage and parking

Section	Description - Article 3: Blue Ribbon Commission

reimbursement). Also eliminates the specific prohibition on the use of volume purchase through competitive bidding for special transportation services.

6 **Dental services.**

Amends § 256B.0625, subd. 9. Requires the commissioner to contract with a dental administrator for the administration of dental services, including the administration of dental services for persons enrolled in managed care under § 256B.69. Makes conforming changes. Provides a January 1, 2023, effective date.

7 **Transportation costs.**

Amends § 256B.0625, subd. 17. Makes various changes to MA coverage of NEMT services, including changes related to the use of an administrator. These changes include:

- striking references to the Nonemergency Medical Transportation Advisory Committee (this committee is repealed elsewhere in the article);
- striking references to the single administrative structure;
- replacing a reference to "local agency" with a reference to the "administrator" and striking a provision designating the local agency as the single administrative agency; and
- striking the existing language on NEMT reimbursement for the various modes of service.

8 **Documentation required.**

Amends § 256B.0625, subd. 17b. Allows funds paid for NEMT transportation that is not documented to be recovered by the NEMT vendor, as well as the department.

9 **Administration of nonemergency medical transportation.**

Amends § 256B.0625, subd. 18b. Requires the commissioner to contract, either statewide or regionally, for the administration of the NEMT program. Specifies that the contract must also include administration of all covered modes of NEMT services for those enrolled in managed care under § 256B.69. Also strikes language that limited the use of a broker or coordinator for NEMT services to establishing the level of service.

10 **Prescription drugs.**

Amends § 256B.69, subd. 6d. Allows the commissioner to exclude coverage for outpatient drugs dispensed by a pharmacy from prepaid managed care contracts under MA. Also allows the commissioner to include, exclude, or modify coverage in prepaid managed care contracts for outpatient prescription drugs dispensed by a pharmacy to a MinnesotaCare enrollee, and coverage for prescription drugs

Section	Description - Article 3: Blue Ribbon Commission

administered to MA and MinnesotaCare enrollees. Makes related changes. Provides a January 1, 2023, effective date.

11 **Dental reimbursement.**

Amend § 256B.76, subd. 2. The amendments to paragraphs (l) and (m) provide that the 9.65 percent rate increase for dental services provided outside of the seven-county metropolitan area and the 23.8 percent rate increase for dental services provided to children remain in effect only through December 31, 2022 (these increases are ongoing under current law).

A new paragraph (n) increases dental payment rates by 54 percent, for services provided on or after January 1, 2023. States that the increase does not apply to state-operated dental clinics, federally qualified health centers, rural health centers, or Indian health centers.

12 **Critical access dental providers.**

Amends § 256B.76, subd. 4. Provides that MA critical access dental payments are in effect only through December 31, 2022 (these payments are ongoing under current law).

13 **Reimbursement for basic care services.**

Amends § 256B.766. Makes various changes to reimbursement methods for durable medical equipment, medical supplies, prosthetics, and orthotics.

The amendment to paragraph (i) terminates, after June 30, 2021, individual pricing for certain medical supplies and durable medical equipment and a prohibition on any MA rate reductions to durable medical equipment as a result of Medicare competitive bidding.

The amendment to paragraph (j) terminates, after June 30, 2021, various rate increases for durable medical equipment, prosthetics, orthotics, or supplies.

The amendment to paragraph (k) terminates, after June 30, 2021, certain payment rate provisions for ventilators.

A new paragraph (m) provides that effective July 1, 2021, payment rates for all durable medical equipment, prosthetics, orthotics, or supplies shall be at the lesser of submitted charges or the Medicare fee schedule amount, without any increases or decreases in paragraphs (a) to (k) applied.

A new paragraph (n) sets payment rates, effective July 1, 2021, for items for which Medicare has not established a payment amount at the lesser of submitted charges or an alternate payment methodology rate, without any increases or decreases in

Section	Description - Article 3: Blue Ribbon Commission
	paragraphs (a) to (k) applied. Specifies criteria for the alternate payment methodology rate. A new paragraph (o) sets the payment at the provider's actual acquisition cost plus 20 percent, until sufficient data is available to calculate the alternate payment methodology. A new paragraph (p) provides that notwithstanding paragraph (n), durable medical equipment and supplies billed using miscellaneous codes, for which no Medicare rate is available, shall be paid at the provider's acquisition cost plus ten percent.
14	**Medicare payment limit.** Amends § 256B.767. Strikes the exemption of durable medical equipment, prosthetics, orthotics, and supplies from a general provision providing that the MA payment rate not exceed the Medicare payment rate.
15	**Critical access dental providers.** Amends § 256L.11, subd. 7. Provides that the MinnesotaCare critical access dental payment rate is in effect only through December 31, 2022 (these payments are ongoing under current law).
16	**Repealer.** Repeals § 256B.0625, subd. 18c (nonemergency medical transportation advisory committee), 18d (advisory committee members), 18e (single administrative structure and delivery system for NEMT), and 18h (NEMT provisions applicable to managed care and county-based purchasing plans); and § 256L.11, subd. 6a (54 percent rate increase for MinnesotaCare dental providers). Provides a January 1, 2023, effective date.

Article 4: Health and Health Board Appropriations

This article appropriates money in fiscal years 2022 and 2023 from the specified funds to the commissioner of health, health-related licensing boards, the Emergency Medical Services Regulatory Board, the Council on Disability, the ombudsman for mental health and developmental disabilities, and the ombudspersons for families. It also reduces fiscal year 2021 appropriations from the state government special revenue fund to the commissioner of health.

Article 5: Health Policy

This article makes changes that have a fiscal impact on Department of Health programs and activities. These changes include modifying the commissioner's reporting, certification, and coordination duties related to electronic health records systems and health information technology; modifying license fees related to radioactive material or source or special nuclear material; modifying fees for testing under the newborn screening program; authorizing the commissioner to conduct maternal morbidity studies and fetal and infant death studies; and modifying licensing, certification, and permit fees for asbestos-related work and expanding the settings in which statutory requirements apply to asbestos abatement work.

Section	Description - Article 5: Health Policy
1	**Implementation.** Amends § 62J.495, subd. 1. Eliminates language requiring the commissioner of health to provide an update to the legislature on the development of uniform standards for interoperable electronic health records systems, as part of an annual report to the legislature.
2	**E-Health Advisory Committee.** Amends § 62J.495, subd. 2. Eliminates a requirement for the commissioner of health to issue an annual report outlining progress in implementing a statewide health information infrastructure and providing recommendations to promote adoption and effective use of health information technology.
3	**Interoperable electronic health record requirements.** Amends § 62J.495, subd. 3. Strikes a requirement that a health data intermediary to which an electronic health record system must be connected, must be state-certified. (State certification of health data intermediaries is being eliminated in another section.)
4	**Coordination with national HIT activities.** Amends § 62J.495, subd. 4. Eliminates a reference to a specific federal HIT strategic plan with which the statewide interoperable health information infrastructure plan must be consistent and instead requires the plan to be consistent with updated federal plans. Eliminates duties of the commissioner to help develop and support health information technology regional extension centers, to provide supplemental information on best practices gathered by regional centers, and to monitor and respond to development of quality measures. Also strikes a reference to a report to the legislature being eliminated in another subdivision.
5	**Health information exchange.** Amends § 62J.498. Eliminates certain definitions and establishes an additional duty for the commissioner of health regarding health information exchange oversight.

Section	Description - Article 5: Health Policy

Subd. 1. Definitions. Eliminates the following definitions for sections governing health information exchanges, certificates of authority to provide HIE services, and enforcement authority: HITECH Act, meaningful use, and state-certified health data intermediary.

Subd. 2. Health information exchange oversight. In a subdivision establishing duties of the commissioner to protect the public interest regarding health information exchange matters, adds a duty of requiring health information exchange service providers to provide information to meet statutory requirements.

6 **Certificate of authority to provide health information exchange services.**

Amends § 62J.4981. Eliminates a requirement that health data intermediaries must be certified by the commissioner, and makes conforming changes.

Subd. 1. Authority to require organizations to apply. Eliminates a requirement for health data intermediaries to apply to the commissioner for certificates of authority.

Subd. 2. Certificate of authority for health data intermediaries. Strikes a subdivision requiring health data intermediaries to be certified by the commissioner in order to operate as a health data intermediary in the state and establishing criteria to obtain a certificate of authority.

Subd. 3. Certificate of authority for health information organizations. Strikes references to state-certified health data intermediaries to conform with subdivision 2.

Subd. 4. Application for certificate of authority for health information organizations. Modifies terms used, eliminates unnecessary language, and modifies cross-references to conform with the elimination of a requirement for health data intermediaries to be certified.

Subd. 5. Reciprocal agreements between health information organizations. Strikes language requiring reciprocal agreements between health information organizations and health data intermediaries to meet the requirements in this subdivision. Strikes a reference to state-certified health data intermediary to conform with elimination of a requirement for health data intermediaries to be certified. Also strikes references to meaningful use.

7 **Enforcement authority; compliance.**

Amends § 62J.4982. In a section governing enforcement and compliance for health information organizations, makes changes to conform with elimination of a requirement that health data intermediaries must be certified by the commissioner,

Section	Description - Article 5: Health Policy
	including modifying terms used and eliminating application and annual certificate fees for health data intermediaries.
8	**Initial and annual fee.** Amends § 144.1205, subd. 2. A new paragraph (a) requires an entity obtaining a license for radioactive material or source or special nuclear material, to pay an initial feel upon issuance of the initial license. Paragraph (b) consolidates fee categories, establishes additional fee categories for facilities with multiple locations, modifies the names of fee categories, and modifies annual fee amounts for licensure for radioactive material or source or special nuclear material.
9	**Initial and renewal application fee.** Amends § 144.1205, subd. 4. Specifies that the application fees due under this subdivision are for initial applications for licensure and to renew applications for licensure. Consolidates fee categories, deletes certain fee categories, and modifies application fees for licensure for radioactive material or source or special nuclear material.
10	**Reciprocity fee.** Amends § 144.1205, subd. 8. Changes the application fee for reciprocal recognition of a radioactive materials license issued by another state or the federal Nuclear Regulatory Commission, from $1,200 to $2,400.
11	**Fees for license agreements.** Amends § 144.1205, subd. 9. Changes the fee to amend a license for radioactive material, from $300 to $600.
12	**Fees for general license registrations.** Adds subd. 10 to § 144.1205. Establishes an annual registration fee of $450 for the registration of generally licensed devices (devices that contain radioactive material and that are designed to detect, measure, or control thickness, density, level, interface location, radiation, leakage, or chemical composition, or designed to produce light or an ionizing atmosphere).
13	**Duty to perform testing.** Amends § 144.125, subd. 1. Increases the per-specimen fee for testing under the newborn screening program from $135 to $177. (The newborn screening program tests newborns soon after birth for rare disorders of metabolism, hormones, the immune system, blood, breathing, digestion, hearing, or the heart.)

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14 **Maternal morbidity and death studies.**

Amends § 145.901. Current law authorizes the commissioner of health to conduct maternal death studies. This section expands this authority to also allow the commissioner to conduct maternal morbidity studies.

Subd. 1. Purpose. Allows the commissioner to conduct maternal morbidity studies, in addition to current authority to conduct maternal death studies, to reduce the numbers of preventable adverse maternal outcomes.

Subd. 2. Access to data. Paragraph (a) allows the commissioner to access the medical data and health records of a woman who has experienced morbidities during a pregnancy or within 12 months of a fetal death, live birth, or other termination of pregnancy, without the consent of the data subject or the other listed individuals. Specifies that this access includes access to the names of providers, clinics, and other health services where care was received before, during, or related to the pregnancy or death. Allows the commissioner to access records maintained by a medical examiner, coroner, or hospital and to access hospital discharge data to obtain the name and location of care received by the subject of the data up to one year after the end of the pregnancy. Allows the data subject and certain others to voluntarily participate in an interview related to the maternal experience, and allows the commissioner to compensate interviewees for their time and other expenses.

Paragraph (c) adds the subject of the data to the list of individuals the commissioner must make a good-faith effort to notify, before collecting the data.

Paragraphs (e), (f), and (g) allow the commissioner to request and receive certain information from a coroner or medical examiner; to access Department of Human Services data to identify sources of care and services to assist with evaluation of welfare systems to reduce preventable maternal deaths; and to request and receive law enforcement reports or incident reports related to the data subject.

Subd. 3. Management of records. After the commissioner collects all data about a maternal morbidity subject needed to perform a study, requires the commissioner to transfer the data, other than data identifying the subject, from the source records to a separate record, and to destroy the source records. (This requirement currently applies to data about a subject of a maternal death study.)

Subd. 4. Classification of data. Classifies data held by the commissioner to carry out maternal morbidity studies the same as data held by the commissioner to carry out maternal death studies (confidential data on individuals or confidential data on decedents). Makes public, summary data on maternal morbidity studies created by the commissioner. Requires data provided by the commissioner of

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human services to maintain the same data classification that the data had when held by the commissioner of human services.

15 **Fetal and infant death studies.**

Adds § 145.9011. Authorizes the commissioner of health to conduct fetal and infant death studies, permits the commissioner to access certain data and health records, provides for records management, classifies data held by the commissioner, and requires the commissioner to convene case review committees and community action committees.

Subd. 1. Purpose. Allows the commissioner to conduct fetal and infant death studies to help with the planning, implementation, and evaluation of medical, health, and welfare service systems and to reduce the number of preventable fetal and infant deaths in the state.

Subd. 2. Access to data. Paragraph (a) authorizes the commissioner to access medical data, medical examiner data, and health records of a live-born infant who died within the first year of life, regarding a fetal death of 20 or more weeks' gestation, and of the biological mother of such an infant or fetus. Allows access to this data and these records without the consent of the subject of the data or of the subject's parent, guardian, or legal representative. Limits access to data and records for fetal and infant deaths occurring after July 1, 2000.

Paragraph (b) requires providers and other responsible authorities to provide requested data to the commissioner and allows providers and responsible authorities to charge a fee for providing the data.

Paragraph (c) requires the commissioner to make a good faith, reasonable effort to notify the parent, spouse, guardian, or legal representative of the data subject before collecting data on the subject.

Paragraphs (d) and (e) prohibit the commissioner from having access to coroner or medical examiner data that are part of an active investigation but allow the commissioner to request from the coroner or medical examiner the names of health care providers that provided health services to the data subject and to the data subject's biological mother.

Paragraph (f) allows the commissioner to access Department of Human Services data to identify sources of care and services.

Subd. 3. Management of records. Requires the commissioner to transfer data obtained under this section, other than data identifying the subject, from source

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records to separate records maintained by the commissioner, and then requires the commissioner to destroy the source records held by the commissioner.

Subd. 4. Classification of data. Classifies data provided to the commissioner from source records and data transferred from source records to separate records, as confidential data on individuals or confidential data on decedents. Provides that this data shall not be discoverable or subject to introduction into evidence in a legal proceeding, but provides that the information is not immune from discovery or barred from introduction into evidence if it is otherwise available from an original source. Classifies as public, summary data on fetal and infant death studies that does not identify individual data subjects or individual providers. States that data provided by the commissioner of human services to the commissioner of health maintains its data classification.

Subd. 5. Fetal and infant mortality reviews. Requires the commissioner to convene case review committees to conduct death study reviews, make recommendations, and share summary information. Lists representatives who may be included in case review committees and requires committees to review data from source records, other than data identifying the subject or provider. Requires case review committees to report findings and recommendations every three years to the Maternal and Child Health Advisory Task Force and the commissioner.

Subd. 6. Community action committees. Requires the commissioner to convene community action committees to implement priority recommendations from case review committees and specifies who may be included as members of community action committees.

16 **Asbestos-related work.**

Amends § 326.71, subd. 4. Amends a definition of asbestos-related work for sections governing asbestos abatement, to remove an exception to the asbestos abatement requirements for work on asbestos-containing floor tiles and sheeting, roofing materials, siding, and ceilings in single family homes and buildings with four or fewer dwelling units.

17 **Licensing fee.**

Amends § 326.75, subd. 1. Increases the licensing fee to perform asbestos-related work from $100 to $105.

18 **Certification fee.**

Amends § 326.75, subd. 2. Increases the fee for certification as an asbestos worker or asbestos site supervisor from $50 to $52.50. Establishes in statute a $105 fee for certification as an asbestos inspector, asbestos management planner, or asbestos

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	project designer (current fees are established in Minnesota Rules, chapter 4620, and are $100 per certification), and removes authority for the commissioner to establish these certification fees by rule.
19	**Permit fee.** Amends § 326.75, subd. 3. Increases the project permit fee that must be paid to the commissioner for asbestos-related work from one percent to two percent of the total costs of the asbestos-related work.

Article 6: Appropriations

This article appropriates money to the commissioner of human services for fiscal years 2022 and 2023 for various initiatives. The article also requires any funds not used for the Minnesota premium security plan to be transferred to the commissioner of commerce for deposit into the general fund, rather than the health care access fund as under current law.