

**Subject** Establishing the crime of illegal remuneration

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## Overview

Under federal law, certain payments qualify as illegal remuneration when payment is made in exchange for certain behaviors related to federal healthcare programs. Those payments, often known as kickbacks, relate to an incentive to refer individuals to a particular provider, use a particular product, or provide a particular service. Kickbacks can involve funds received through a federal healthcare program, such as Medicaid, but may also involve benefits that are not tied directly to that money.

This bill establishes a Minnesota anti-kickback statute that mirrors the federal law and also applies to behavioral health programs and child care assistance programs. It also establishes an anti-kickback provision related to grant programs. That provision makes it illegal to solicit or receive something of value in exchange for awarding a grant or facilitating the award of a grant, and makes it illegal to offer or provide something of value to induce another to award a grant or facilitate the award of a grant.

## Summary

Section	Description
1	<p><b>Legal representation.</b></p> <p>Makes a conforming change authorizing the attorney general or a county attorney to prosecute the new offense of illegal remunerations.</p>
2	<p><b>Illegal remunerations.</b></p> <p><b>Subd. 1. Definition.</b> Defines the terms “grant” and “political subdivision” for purposes of this section. Also defines the term “federal health care program” by reference to federal law.</p> <p><b>Subd. 2. Human services program; unauthorized remuneration.</b> Establishes the crime of illegal remuneration related to certain financial arrangements related to federal health care programs, behavioral health programs, and child care</p>

Section	Description
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	assistance programs. Specifies that it is a crime to solicit, receive, offer, or make a payment or provide any other thing of value when related to a referral for a service, use of a particular product or good, or applying for benefits.
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**Subd. 3. Grants; unauthorized remuneration.** Establishes the crime of illegal remuneration related to grant programs. Specifies that it is a crime to solicit or receive a payment or any other thing of value in exchange for awarding a grant or facilitating the award of a grant. Also specifies that it is a crime to offer or provide a payment or any other thing of value in exchange for awarding a grant or facilitating such an award.

**Subd. 3. Exceptions.** Establishes exceptions consistent with the exceptions in the federal anti-kickback law. Also establishes exceptions related to authorized incentives and other payments in the child care assistance program.

**Subd. 4. Penalties.** Establishes felony penalties for a violation of this section that are consistent with the penalties for the theft of public funds. If the value of the illegal remuneration exceeds \$35,000, the maximum sentence of imprisonment is 20 years. If the value is over \$5,000 but not more than \$35,000, the penalty is ten years. If the value is \$5,000 or less, the maximum sentence is five years.

**Subd. 5. Aggregation.** Allows the value of any money or other item solicited, received, offered, or paid in a six-month period to be consolidated into a single charge.

**Subd. 6. False claims.** Specifies that, in addition to the penalties under this section, a claim that includes items or services resulting from a violation of this section constitutes a false claim or a criminal offense relating to a state grant agreement.



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