

## ONE HUNDRED FIFTEENTH DAY

St. Paul, Minnesota, Sunday, May 22, 2022

The Senate met at 11:00 a.m. and was called to order by the President.

**CALL OF THE SENATE**

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

The members of the Senate paused for a moment of silent prayer and reflection.

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

The roll was called, and the following Senators were present:

Abeler	Draheim	Ingebrigtsen	Marty	Rest
Anderson	Duckworth	Isaacson	Mathews	Rosen
Bakk	Dziedzic	Jasinski	McEwen	Ruud
Benson	Eaton	Johnson	Miller	Senjem
Bigham	Eichorn	Johnson Stewart	Murphy	Tomassoni
Carlson	Eken	Kent	Nelson	Torres Ray
Chamberlain	Fateh	Kiffmeyer	Newman	Utke
Champion	Frentz	Klein	Newton	Weber
Clausen	Gazelka	Koran	Osmek	Westrom
Coleman	Goggin	Kunesh	Pappas	Wiger
Cwodzinski	Hawj	Lang	Port	Wiklund
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	

Pursuant to Rule 14.1, the President announced the following members intend to vote under Rule 40.7: Anderson, Carlson, Chamberlain, Dahms, Dziedzic, Eken, Goggin, Housley, Howe, Ingebrigtsen, Kent, Newton, Tomassoni, and Wiklund.

The President declared a quorum present.

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

**INTRODUCTION AND FIRST READING OF SENATE BILLS**

The following bill was read the first time.

**Senators Utke and Draheim introduced--**

**S.F. No. 4610:** A bill for an act relating to insurance; requiring health plans to provide coverage for biomarker testing; amending Minnesota Statutes 2020, section 256B.0625, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62Q.

Referred to the Committee on Commerce and Consumer Protection Finance and Policy.

**MOTIONS AND RESOLUTIONS**

Senator Rarick moved that the name of Senator Torres Ray be added as a co-author to S.F. No. 4580. The motion prevailed.

Senator Utke moved that the name of Senator Mathews be added as a co-author to S.F. No. 4608. The motion prevailed.

**Senator Johnson introduced --**

**Senate Resolution No. 146:** A Senate resolution honoring the 99th Infantry Battalion.

Referred to the Committee on Rules and Administration.

**Senator Jasinski introduced --**

**Senate Resolution No. 147:** A Senate resolution congratulating Owen Carlin of Faribault, Minnesota, for earning the rank of Eagle Scout.

Referred to the Committee on Rules and Administration.

**Senators Miller and López Franzen introduced --**

**Senate Resolution No. 148:** A Senate resolution relating to conduct of Senate business during the interim between Sessions.

BE IT RESOLVED, by the Senate of the State of Minnesota:

The powers, duties, and procedures set forth in this resolution apply during the interim between the adjournment sine die of the 92nd Legislature, 2022 Session, and the convening of the 93rd Legislature, 2023 Session.

The Committee on Rules and Administration may, from time to time, assign to the various committees and subcommittees of the Senate, in the interim, matters brought to its attention by any member of the Senate for study and investigation. The standing committees and subcommittees may study and investigate all subjects that come within their usual jurisdiction, as provided by Minnesota Statutes, Section 3.921. A committee shall carry on its work by subcommittee or by committee

action as the committee from time to time determines. Any study undertaken by any of the standing committees, or any subcommittee thereof, shall be coordinated to the greatest extent possible with other standing committees or subcommittees of the Senate and House of Representatives, and may, if the committee or subcommittee so determines, be carried on jointly with another committee or subcommittee of the Senate or House of Representatives.

The Subcommittee on Committees of the Committee on Rules and Administration shall appoint persons as necessary to fill any vacancies that may occur in committees, commissions, and other bodies whose members are to be appointed by the Senate as authorized by rule, statute, resolution, or otherwise. The Subcommittee on Committees may appoint members of the Senate to assist in the work of any committee.

The Committee on Rules and Administration shall establish positions, set compensation and benefits, appoint employees, and authorize expense reimbursement as it deems proper to carry out the work of the Senate.

The Committee on Rules and Administration may authorize members of the Senate and personnel employed by the Senate to travel and to attend courses of instruction or conferences for the purpose of improving and making more efficient Senate operation and may reimburse these persons for the costs thereof out of monies appropriated to the Senate.

All members of activated standing committees or subcommittees of the Senate, and staff, shall be reimbursed for all expenses actually and necessarily incurred in the performance of their duties during the interim in the manner provided by law. Payment shall be made by the Secretary of the Senate out of monies appropriated to the Senate for the standing committees. The Committee on Rules and Administration shall determine the amount and manner of reimbursement for living and other expenses of each member of the Senate incurred in the performance of Senate duties when the Legislature is not in regular session.

The Secretary of the Senate shall continue to perform his duties during the interim. During the interim, but not including time which may be spent in any special session, the Secretary of the Senate shall be paid for services rendered the Senate at the rate established for his position for the 2022 regular session, unless otherwise directed by the Committee on Rules and Administration, plus travel and subsistence expense incurred incidental to his Senate duties, including salary and travel expense incurred in attending meetings of the National Conference of State Legislatures.

Should a vacancy occur in the position of Secretary of the Senate, by resignation or other causes, the Committee on Rules and Administration shall appoint an acting Secretary of the Senate who shall serve in that capacity during the remainder of the interim under the provisions herein specified.

The Secretary of the Senate is authorized to employ after the close of the session the employees necessary to finish the business of the Senate at the salaries paid under the rules of the Senate for the 2022 regular session. The Secretary of the Senate is authorized to employ the necessary employees to prepare for the 2023 session at the salaries in effect at that time.

The Secretary of the Senate shall classify as eligible for benefits under Minnesota Statutes, Sections 3.095 and 43A.24, those Senate employees heretofore or hereafter certified as eligible for benefits by the Committee on Rules and Administration.

The Secretary of the Senate, as authorized and directed by the Committee on Rules and Administration, shall furnish each member of the Senate with postage and supplies, and upon proper verification of the expenses incurred, shall reimburse each member for expenses as authorized from time to time by the Committee on Rules and Administration.

The Secretary of the Senate shall correct and approve the Journal of the Senate for those days that have not been corrected and approved by the Senate, and shall correct printing errors found in the Journal of the Senate for the 92nd Legislature. The Secretary of the Senate may include in the Senate Journal proceedings of the last day, appointments by the Subcommittee on Committees to interim commissions created by legislative action, permanent commissions or committees established by statute, standing committees, official communications and other matters of record received on or after adjournment sine die.

The Secretary of the Senate may pay election and litigation costs as authorized by the Committee on Rules and Administration.

The Secretary of the Senate, with the approval of the Committee on Rules and Administration, shall secure bids and enter into contracts for the printing of the bills and binding of the permanent Senate Journal, shall secure bids and enter into contracts for remodeling, improvement and furnishing of Senate office space, conference rooms and the Senate Chamber and shall purchase all supplies, equipment and other goods and services necessary to carry out the work of the Senate. Any contracts in excess of \$10,000 shall be approved by the Chair of the Committee on Rules and Administration and another member designated by the chair.

The Secretary of the Senate shall draw warrants from the legislative expense fund in payment of the accounts herein referred to.

All Senate records, including committee books, are subject to the direction of the Committee on Rules and Administration.

The Senate Chamber, retiring room, committee rooms, all conference rooms, storage rooms, Secretary of the Senate's office, Rules and Administration office, and any and all other space assigned to the Senate shall be reserved for use by the Senate and its standing committees only and shall not be released or used for any other purpose except upon authorization of the Secretary of the Senate with the approval of the Committee on Rules and Administration, or the Chair thereof.

The commissioner of administration shall continue to provide parking space through the Secretary of the Senate for members and staff of the Minnesota State Senate. The Secretary of the Senate may deduct from the check of any legislator or legislative employee a sum adequate to cover the exercise of the parking privilege herein defined in conformity with the practice of the Department of Administration.

Senator Miller moved the adoption of the foregoing resolution.

The question was taken on the adoption of the resolution.

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

Those who voted in the affirmative were:

Abeler	Draheim	Ingebrigtsen	Marty	Rest
Anderson	Duckworth	Isaacson	Mathews	Rosen
Bakk	Dziedzic	Jasinski	McEwen	Ruud
Benson	Eaton	Johnson	Miller	Senjem
Bigham	Eichorn	Johnson Stewart	Murphy	Tomassoni
Carlson	Eken	Kent	Nelson	Torres Ray
Chamberlain	Fateh	Kiffmeyer	Newman	Utke
Champion	Frentz	Klein	Newton	Weber
Clausen	Gazelka	Koran	Osmek	Westrom
Coleman	Goggin	Kunesh	Pappas	Wiger
Cwodzinski	Hawj	Lang	Port	Wiklund
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Benson, Chamberlain, Dahms, Goggin, Housley, Howe, Ingebrigtsen, Johnson, Pratt, Senjem, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Carlson, Dziedzic, Eken, Kent, López Franzen, Newton, Pappas, Torres Ray, and Wiklund.

The motion prevailed. So the resolution was adopted.

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

Senator McEwen moved that S.F. No. 3633 be withdrawn from the Committee on Environment and Natural Resources Policy and Legacy Finance, given a second reading, and placed on General Orders.

#### **CALL OF THE SENATE**

Senator McEwen imposed a call of the Senate for the balance of the proceedings on S.F. No. 3633. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the McEwen motion.

The roll was called, and there were yeas 34 and nays 33, as follows:

Those who voted in the affirmative were:

Abeler	Dziedzic	Isaacson	López Franzen	Port
Bigham	Eaton	Johnson Stewart	Marty	Putnam
Carlson	Eken	Kent	McEwen	Rest
Champion	Fateh	Klein	Murphy	Torres Ray
Clausen	Frentz	Kunesh	Nelson	Wiger
Cwodzinski	Hawj	Latz	Newton	Wiklund
Dibble	Hoffman	Limmer	Pappas	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senator: Nelson.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Carlson, Dziedzic, Eken, Kent, López Franzen, Newton, Pappas, Torres Ray, and Wiklund.

Those who voted in the negative were:

Anderson	Draheim	Ingebrigtsen	Miller	Senjem
Bakk	Duckworth	Jasinski	Newman	Tomassoni
Benson	Eichorn	Johnson	Osmek	Utke
Chamberlain	Gazelka	Kiffmeyer	Pratt	Weber
Coleman	Goggin	Koran	Rarick	Westrom
Dahms	Housley	Lang	Rosen	
Dornink	Howe	Mathews	Ruud	

Pursuant to Rule 40, Senator Jasinski cast the negative vote on behalf of the following Senators: Anderson, Benson, Chamberlain, Dahms, Goggin, Housley, Howe, Ingebrigtsen, Johnson, Senjem, and Tomassoni.

The motion did not prevail.

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

**S.F. No. 4476:** A bill for an act relating to redistricting; adjusting the house of representatives district boundaries within Senate Districts 15, 16, and 58; proposing coding for new law in Minnesota Statutes, chapter 2.

There has been appointed as such committee on the part of the House:

Murphy, Klevorn and Torkelson.

Senate File No. 4476 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 22, 2022

### RECESS

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

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

**CALL OF THE SENATE**

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

**MOTIONS AND RESOLUTIONS - CONTINUED****SPECIAL ORDERS**

Pursuant to Rule 26, Senator Miller, Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

S.F. Nos. 181, 3266, H.F. Nos. 3255 and 3775.

**SPECIAL ORDER**

**S.F. No. 181:** A bill for an act relating to the State Building Code; clarifying exemptions from inspections for load control allowed for electrical utilities; amending Minnesota Statutes 2020, section 326B.36, subdivision 7, by adding a subdivision.

Senator Rarick moved to amend S.F. No. 181 as follows:

Page 2, after line 18, insert:

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

Page 2, delete section 2 and insert:

"Sec. 2. Minnesota Statutes 2020, section 326B.36, is amended by adding a subdivision to read:

**Subd. 8. Electric utility exemptions; additional requirements. For exemptions to inspections exclusively for load control allowed for electrical utilities under subdivision 7, clause (2), item (i), the exempted work must be:**

**(1) performed by a class A electrical contractor licensed under section 326B.33;**

**(2) for replacement or repair of existing equipment for an electric utility other than a public utility as defined in section 216B.02, subdivision 4, only; and**

**(3) completed on or before December 31, 2030.**

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

The motion prevailed. So the amendment was adopted.

S.F. No. 181 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Abeler	Draheim	Isaacson	Mathews	Rosen
Anderson	Duckworth	Jasinski	McEwen	Ruud
Bakk	Dziedzic	Johnson	Miller	Senjem
Benson	Eaton	Johnson Stewart	Murphy	Tomassoni
Bigham	Eichorn	Kent	Nelson	Torres Ray
Carlson	Eken	Kiffmeyer	Newman	Utke
Chamberlain	Fateh	Klein	Newton	Weber
Champion	Frentz	Koran	Osmeck	Westrom
Clausen	Gazelka	Kunesh	Pappas	Wiger
Coleman	Goggin	Lang	Port	Wiklund
Cwodzinski	Hoffman	Latz	Pratt	
Dahms	Housley	Limmer	Putnam	
Dibble	Howe	López Franzen	Rarick	
Dornink	Ingebrigtsen	Marty	Rest	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Dahms, Goggin, Housley, Howe, Ingebrigtsen, Limmer, Mathews, and Westrom.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Carlson, Dziedzic, Johnson Stewart, Kent, Newton, and Wiklund.

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

### RECESS

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

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

### SPECIAL ORDER

**S.F. No. 3266:** A bill for an act relating to state government finance; adjusting the calculation for the stadium general reserve account; requiring the commissioner of management and budget to notify the legislature before making changes to the stadium general reserve account; establishing a stadium refinance fund; transferring money; requiring the stadium refinance fund balance be used to redeem or defease the stadium appropriation bonds; proposing coding for new law in Minnesota Statutes, chapter 16A.

Senator Rosen moved to amend S.F. No. 3266 as follows:

Page 1, line 20, delete "1" and insert "15"

Page 1, line 22, delete everything after "(a)"

Page 1, line 23, delete "16A.695 become callable,"

Page 1, line 24, after "16A.965" insert ", in connection with any refinancing of the stadium appropriation bonds"

Page 2, line 2, delete "Notwithstanding sections 16A.66 and 16A.965," and delete "after"



Page 2, line 3, delete "redeeming outstanding debt"

Page 2, delete subdivision 5

The motion prevailed. So the amendment was adopted.

Senator Dibble moved to amend S.F. No. 3266 as follows:

Page 2, after line 21, insert:

"Subd. 6. **Prohibition on financial benefit.** No direct or indirect financial benefit may accrue to the NFL team, as defined in section 473J.03, subdivision 7, due to the use of the stadium refinance fund."

Page 2, after line 22, insert:

"Sec. 2. Minnesota Statutes 2020, section 297A.994, subdivision 4, is amended to read:

Subd. 4. **General fund allocations.** The commissioner must retain and deposit to the general fund the following amounts, as required by subdivision 3, clause (3):

(1) for state bond debt service support beginning in calendar year 2021, and for each calendar year thereafter through calendar year 2046, periodic amounts so that not later than December 31, 2046, an aggregate amount equal to a present value of \$150,000,000 has been deposited in the general fund. To determine aggregate present value, the commissioner must consult with the commissioner of management and budget regarding the present value dates, discount rate or rates, and schedules of annual amounts. The present value date or dates must be based on the date or dates bonds are sold under section 16A.965, or the date or dates other state funds, if any, are deposited into the construction fund. The discount rate or rates must be based on the true interest cost of the bonds issued under section 16A.965, or an equivalent 30-year bond index, as determined by the commissioner of management and budget. The schedule of annual amounts must be certified to the commissioner by the commissioner of management and budget and the finance officer of the city. In the event that the commissioner of management and budget refunds bonds issued under section 16A.965, the commissioner of management and budget and finance officer of the city must agree to an amended schedule of amounts by adjusting the discount rate so that the city receives a benefit relative to any savings realized by the refunding transaction;

(2) for the capital improvement reserve appropriation to the Minnesota Sports Facilities Authority beginning in calendar year 2021, and for each calendar year thereafter through calendar year 2046, an aggregate annual amount equal to the amount paid by the state for this purpose in that calendar year under section 473J.13, subdivision 4;

(3) for the operating expense appropriation to the Minnesota Sports Facilities Authority beginning in calendar year 2021, and for each calendar year thereafter through calendar year 2046, an aggregate annual amount equal to the amount paid by the state for this purpose in that calendar year under section 473J.13, subdivision 2; and

~~(4) for recapture of state advances for capital improvements and operating expenses for calendar years 2016 through 2020 beginning in calendar year 2021, and for each calendar year thereafter~~

~~until all amounts under this clause have been paid, proportionate amounts periodically until an aggregate amount equal to the present value of all amounts paid by the state have been deposited in the general fund. To determine the present value of the amounts paid by the state to the authority and the present value of amounts deposited to the general fund under this clause, the commissioner shall consult with the commissioner of management and budget regarding the present value dates, discount rate or rates, and schedule of annual amounts. The present value dates must be based on the dates state funds are paid to the authority, or the dates the commissioner of revenue deposits taxes for purposes of this clause to the general fund. The discount rates must be based on the reasonably equivalent cost of state funds as determined by the commissioner of management and budget. The schedule of annual amounts must be revised to reflect amounts paid under section 473J.13, subdivision 2, paragraph (b), for 2016 to 2020, and subdivision 4, paragraph (c), for 2016 to 2020, and taxes deposited to the general fund from time to time under this clause, and the schedule and revised schedules must be certified to the commissioner by the commissioner of management and budget and the finance officer of the city, and are transferred as accrued from the general fund for repayment of advances made by the state to the authority; and~~

(5) to capture increases in taxes imposed under the special law, for the benefit of the Minnesota Sports Facilities Authority, beginning in calendar year 2013 and for each calendar year thereafter through 2046, there shall be deposited to the general fund in proportionate periodic payments in the following year, an amount equal to the following:

(i) 50 percent of the difference, if any, by which the amount of the net annual taxes for the previous year exceeds the sum of the net actual taxes in calendar year 2011 plus \$1,000,000, inflated at two percent per year since 2011, minus

(ii) 25 percent of the difference, if any, by which the amount of the net annual taxes for the preceding year exceeds the sum of the net actual taxes in calendar year 2011 plus \$3,000,000, inflated at two percent per year since 2011.

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

Sec. 3. Minnesota Statutes 2020, section 297E.021, subdivision 3, is amended to read:

Subd. 3. **Available revenues.** For purposes of this section, "available revenues" equals the amount determined under subdivision 2, plus up to \$20,000,000 each fiscal year from the taxes imposed under section 290.06, subdivision 1:

(1) reduced by the following amounts paid for the fiscal year under:

(i) the appropriation to principal and interest on appropriation bonds under section 16A.965, subdivision 8;

(ii) the appropriation from the general fund to make operating expense payments under section 473J.13, subdivision 2, paragraph (b);

(iii) the appropriation for contributions to the capital reserve fund under section 473J.13, subdivision 4, paragraph (c);

(iv) the appropriations under Laws 2012, chapter 299, article 4, for administration and any successor appropriation;

(v) the reduction in revenues resulting from the sales tax exemptions under section 297A.71, subdivision 43;

(vi) reimbursements authorized by section 473J.15, subdivision 2, paragraph (d);

(vii) the compulsive gambling appropriations under section 297E.02, subdivision 3, paragraph (c), and any successor appropriation; ~~and~~

(viii) the appropriation for the city of St. Paul under section 16A.726, paragraph (c); and

(ix) reduced by \$2,541,922.44 annually until fiscal year 2046 and reduced by \$1,270,961.22 in fiscal year 2047; and

(2) increased by the revenue deposited in the general fund under section 297A.994, subdivision 4, clauses (1) to (3), for the fiscal 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

Senator Rosen moved that S.F. No. 3266 be laid on the table. The motion prevailed.

### RECESS

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

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

### CALL OF THE SENATE

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

President Osmek called Senator López Franzen to preside.

### SPECIAL ORDER

**H.F. No. 3255:** A bill for an act relating to commerce; making technical changes to various provisions administered by the Department of Commerce; updating references to federal law; amending Minnesota Statutes 2020, sections 47.08; 47.16, subdivisions 1, 2; 47.172, subdivision 2; 47.28, subdivision 3; 47.30, subdivision 5; 55.10, subdivision 1; 65B.84, subdivision 2; 80A.61; 80C.05, subdivision 2; 239.761, subdivisions 3, 4; 239.791, subdivision 2a; 296A.01, subdivision 23.

Senator Dahms moved to amend H.F. No. 3255, as amended pursuant to Rule 45, adopted by the Senate May 20, 2022, as follows:

(The text of the amended House File is identical to S.F. No. 3243.)

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**SUPPLEMENTAL APPROPRIATIONS**

Section 1. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium" is fiscal years 2022 and 2023. If an appropriation in this act is enacted more than once in the 2022 legislative session, the appropriation must be given effect only once. Appropriations for the fiscal year ending June 30, 2022, are effective the day following final enactment. The appropriations made under this article supplement, and do not supersede or replace, the appropriations made under Laws 2021, First Special Session chapter 4, article 1.

**APPROPRIATIONS**  
**Available for the Year**  
**Ending June 30**  
**2022**                      **2023**

Sec. 2. **DEPARTMENT OF COMMERCE**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>-0-</u></b>	<b><u>\$</u></b>	<b><u>\$1,347,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<b><u>Subd. 2. Administrative Services</u></b>		<b><u>-0-</u></b>		<b><u>-0-</u></b>
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\$19,000 in fiscal year 2024 and \$23,000 in fiscal year 2025 are base amounts for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035.

<b><u>Subd. 3. Financial Services</u></b>		<b><u>-0-</u></b>		<b><u>300,000</u></b>
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\$300,000 in fiscal year 2023 is for additional securities staff.

Subd. 4. <b><u>Insurance</u></b>	<u>-0-</u>	<u>525,000</u>
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\$525,000 in fiscal year 2023 is for additional staff in the insurance and enforcement divisions. The additional staff must focus on property- and casualty-related insurance products and market conduct examinations.

Subd. 5. <b><u>Enforcement and Examinations</u></b>	<u>-0-</u>	<u>522,000</u>
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\$522,000 in fiscal year 2023 is for the auto theft prevention library under Minnesota Statutes, section 65B.84, subdivision 1, paragraph (d). This is a onetime appropriation.

Sec. 3. <b><u>BOARD OF ACCOUNTANCY</u></b>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>-0-</u>
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**Licensing Disqualifications; Preliminary Applications.**

\$6,000 in fiscal year 2024 is the base amount to the Board of Accountancy for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035. This is a onetime appropriation.

Sec. 4. <b><u>ATTORNEY GENERAL</u></b>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>-0-</u>
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**Licensing Disqualifications; Preliminary Applications.**

\$24,000 in fiscal year 2024 and \$24,000 in fiscal year 2025 are base amounts to the attorney general for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035.

Sec. 5. <b><u>DEPARTMENT OF REVENUE</u></b>	<u>\$</u>	<u>-0-</u>	<u>\$</u>	<u>-0-</u>
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**Licensing Disqualifications; Preliminary Applications.**

\$19,000 in fiscal year 2024 and \$3,000 in fiscal year 2025 are base amounts to the Department of Revenue for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035.

Sec. 6. **GAMBLING CONTROL BOARD**                    \$                    -0- \$                    -0-

**Licensing Disqualifications; Preliminary Applications.**

\$3,000 in fiscal year 2024 and \$3,000 in fiscal year 2025 are base amounts from the lawful gambling regulation account in the special revenue fund to the Gambling Control Board for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035.

Sec. 7. **DEPARTMENT OF EDUCATION**                    \$                    -0- \$                    -0-

**Licensing Disqualifications; Preliminary Applications.**

\$22,000 in fiscal year 2024 and \$22,000 in fiscal year 2025 are base amounts to the Department of Education for the licensing disqualification and preliminary application requirements under Minnesota Statutes, section 214.035.

Sec. 8. **COMMERCE FRAUD BUREAU; TRANSFER.**

\$870,000 in fiscal year 2023 is transferred from the general fund to the insurance fraud prevention account for five additional peace officers in the Commerce Fraud Bureau. The base for this transfer is \$811,000 in fiscal year 2024 and \$811,000 in fiscal year 2025.

## ARTICLE 2

### COMMERCE POLICY

Section 1. Minnesota Statutes 2020, section 45.0135, subdivision 2a, is amended to read:

Subd. 2a. **Authorization.** (a) The commissioner may appoint peace officers, as defined in section 626.84, subdivision 1, paragraph (c), and establish a law enforcement agency, as defined in section 626.84, subdivision 1, paragraph (f), known as the Commerce Fraud Bureau, to conduct investigations, and to make arrests under sections 629.30 and 629.34. The primary jurisdiction of the law enforcement

agency is limited to offenses ~~related to insurance fraud~~ with a nexus to insurance-related crimes or financial crimes.

(b) Upon request and at the commissioner's discretion, the Commerce Fraud Bureau may respond to a law enforcement agency's request to exercise law enforcement duties in cooperation with the law enforcement agency that has jurisdiction over the particular matter.

(c) The Commerce Fraud Bureau must allocate at least 70 percent of its work to insurance fraud, as defined in sections 60A.951, subdivision 4, and 609.611.

Sec. 2. Minnesota Statutes 2020, section 45.0135, subdivision 2b, is amended to read:

Subd. 2b. **Duties.** The Commerce Fraud Bureau shall:

(1) review notices and reports ~~of insurance fraud~~ within the Commerce Fraud Bureau's primary jurisdiction submitted by authorized insurers, their employees, and agents or producers;

(2) respond to notifications or complaints ~~of suspected insurance fraud~~ within the Commerce Fraud Bureau's primary jurisdiction generated by other law enforcement agencies, state or federal governmental units, or any other person;

(3) initiate inquiries and conduct investigations when the bureau has reason to believe that ~~insurance fraud~~ an offense within the Commerce Fraud Bureau's primary jurisdiction has been or is being committed; and

(4) report ~~incidents of alleged insurance fraud crimes~~ disclosed by its the Commerce Fraud Bureau's investigations to appropriate law enforcement agencies, including, but not limited to, the attorney general, county attorneys, or any other appropriate law enforcement or regulatory agency, and shall assemble evidence, prepare charges, and otherwise assist any law enforcement authority having jurisdiction.

Sec. 3. Minnesota Statutes 2020, section 46.131, subdivision 2, is amended to read:

Subd. 2. **Assessment authority.** ~~Each bank, trust company, savings bank, savings association, regulated lender, industrial loan and thrift company, credit union, motor vehicle sales finance company, debt management services provider, debt settlement services provider, insurance premium finance company, and residential PACE administrator, as defined in section 216C.435, subdivision 10a,~~ financial institution governed by chapters 46 to 59A, 216C, and 332 to 332B that is organized under the laws of this state or required to be administered by the commissioner of commerce shall pay into the state treasury its proportionate share of the cost of maintaining the Department of Commerce. This subdivision does not apply to student loan servicers or collection agencies.

Sec. 4. Minnesota Statutes 2020, section 46.131, subdivision 4, is amended to read:

Subd. 4. **General assessment basis.** (a) Assessments shall be made by the commissioner against each institution within the industry on an equitable basis, according to the total assets or business volume of each institution as of the end of the previous calendar year.

(b) Assessments against residential PACE administrators, as defined in section 216C.435, subdivision 10a, must be made by the commissioner according to the total business volume as of the end of the previous calendar year.

Sec. 5. Minnesota Statutes 2020, section 46.131, subdivision 11, is amended to read:

Subd. 11. **Financial institutions account; appropriation.** (a) The financial institutions account is created as a separate account in the special revenue fund. Earnings, including interest, dividends, and any other earnings arising from account assets, must be credited to the account.

(b) The account consists of funds received from assessments under subdivision 7, examination fees under subdivision 8, and funds received pursuant to subdivision 10 and the following provisions: sections 46.04; 46.041; 46.048, subdivision 1; 47.101; 47.54, subdivision 1; 47.60, subdivision 3; 47.62, subdivision 4; 48.61, subdivision 7, paragraph (b); 49.36, subdivision 1; 52.203; 53B.09; 53B.11, subdivision 1; 53C.02; 56.02; 58.10; 58A.045, subdivision 2; and 59A.03; 216C.437, subdivision 12; 332A.04; and 332B.04.

(c) Funds in the account are annually appropriated to the commissioner of commerce for activities under this section.

Sec. 6. Minnesota Statutes 2020, section 47.08, is amended to read:

#### **47.08 ARTICLES OF INCORPORATION FILED WITH COMMISSIONER.**

All persons proposing to incorporate and organize any financial institution, whether defined or described as such by the laws of the state, shall, before doing any business in the state as a corporation, ~~and before filing their articles of incorporation with the secretary of state or with any other officer with whom the law requires such articles to be filed or recorded,~~ file a copy of such the proposed articles of incorporation with the commissioner of commerce.

Sec. 7. Minnesota Statutes 2020, section 47.16, subdivision 1, is amended to read:

Subdivision 1. **Filing.** The certificate of a corporation must be filed for record with the ~~secretary of state~~ commissioner of commerce. If the ~~secretary of state~~ commissioner of commerce finds that it conforms to law and that the required fee has been paid, the ~~secretary of state~~ commissioner of commerce must record it and certify that fact on it. ~~The secretary of state may not accept a certificate for filing unless the certificate also contains the endorsement of the commissioner of commerce.~~

Sec. 8. Minnesota Statutes 2020, section 47.16, subdivision 2, is amended to read:

Subd. 2. **Certificate of authority.** If the commissioner of commerce is satisfied that the corporation has been organized for legitimate purposes, and under such conditions as to merit and have public confidence, and that all provisions of law applicable to every branch of business in which, by the terms of its certificate, it is authorized to engage, have been complied with, the commissioner shall so certify. When the original ~~certificate and the certificate of incorporation from the secretary of state~~ is filed with the commissioner of commerce, the commissioner shall, within 60 days thereafter, execute and deliver to it a certificate of authority.

Sec. 9. Minnesota Statutes 2020, section 47.172, subdivision 2, is amended to read:



Subd. 2. **Effect.** The certificate to be filed to accomplish a restated certificate of incorporation must be entitled "restated certificate of incorporation of (name of financial corporation)" and must contain a statement that the restated certificate supersedes and takes the place of the existing certificate of incorporation and all amendments to it. The restated certificate of incorporation when executed, filed and recorded in the manner prescribed for certificate of amendment supersedes and takes the place of an existing certificate of incorporation and amendments to it. ~~The secretary of state upon request must certify the restated certificate of incorporation.~~

Sec. 10. Minnesota Statutes 2020, section 47.28, subdivision 3, is amended to read:

Subd. 3. **Recording.** Upon receipt of the fees required for filing and recording amended articles of incorporation of savings banks, the ~~secretary of state~~ commissioner of commerce shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings bank into a savings association shall become final and complete and thereafter said corporation shall have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings associations.

Sec. 11. Minnesota Statutes 2020, section 47.30, subdivision 5, is amended to read:

Subd. 5. **Recording.** Upon receipt of the fees required for filing and recording amended articles of incorporation of savings associations, the ~~secretary of state~~ commissioner of commerce shall record the amended articles of incorporation and certify that fact thereon, whereupon the conversion of such savings association into a savings bank shall become final and complete and thereafter the signers of said amended articles and their successors shall be a corporation, and have the powers and be subject to the duties and obligations prescribed by the laws of this state applicable to savings banks.

Sec. 12. Minnesota Statutes 2020, section 48A.15, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** (a) A trust company organized under the laws of this state or a state bank and trust may, after completing the notification procedure required by this subdivision, establish and maintain a trust service office at any office in this state or of any other state or national bank. A state bank may, after completing the notification procedure required by this subdivision, permit a trust company organized under the laws of this state or a state bank and trust or a national bank in this state that is authorized to exercise trust powers to establish and maintain a trust service office at any of its banking offices.

(b) The trust company or state bank and trust and a state bank at which a trust service office is to be established according to this section shall jointly file, on forms provided by the commissioner, a notification of intent to establish a trust service office. The notification must be accompanied by a filing fee of \$100 payable to the commissioner, to be deposited in the ~~general fund of the state~~ financial institutions account under section 46.131, subdivision 11. No trust service office shall be established according to this section if disallowed by order of the commissioner within 30 days of the filing of a complete and acceptable notification of intent to establish a trust service office. An order of the commissioner to disallow the establishment of a trust service office under this section is subject to judicial review under sections 14.63 to 14.69.

Sec. 13. Minnesota Statutes 2020, section 53.03, subdivision 1, is amended to read:

Subdivision 1. **Application, fee, notice.** Any corporation hereafter organized as an industrial loan and thrift company, shall, after compliance with the requirements set forth in sections 53.01 and 53.02, file a written application with the Department of Commerce for a certificate of authorization. A corporation that will not sell or issue thrift certificates for investment as permitted by this chapter need not comply with subdivision 2b. The application must be in the form prescribed by the Department of Commerce. The application must be made in the name of the corporation, executed and acknowledged by an officer designated by the board of directors of the corporation, requesting a certificate authorizing the corporation to transact business as an industrial loan and thrift company, at the place and in the name stated in the application. At the time of filing the application the applicant shall pay \$1,500 filing fee if the corporation will not sell or issue thrift certificates for investment, and a filing fee of \$8,000 if the corporation will sell or issue thrift certificates for investment. ~~The fees must be turned over by the commissioner to the commissioner of management and budget and credited to the general fund collected by the commissioner and deposited in the financial institutions account under section 46.131, subdivision 11.~~ The applicant shall also submit a copy of the bylaws of the corporation, its articles of incorporation and all amendments thereto at that time. An application for powers under subdivision 2b must also require that a notice of the filing of the application must be published once within 30 days of the receipt of the form prescribed by the Department of Commerce, at the expense of the applicant, in a qualified newspaper published in the municipality in which the proposed industrial loan and thrift company is to be located, or, if there be none, in a qualified newspaper likely to give notice in the municipality in which the company is proposed to be located. If the Department of Commerce receives a written objection to the application from any person within 15 days of the notice having been fully published, the commissioner shall proceed in the same manner as required under section 46.041, subdivisions 3 and 4, relating to state banks.

Sec. 14. Minnesota Statutes 2020, section 53.03, subdivision 5, is amended to read:

Subd. 5. **Place of business.** Not more than one place of business may be maintained under any certificate of authorization issued subsequent to the enactment of Laws 1943, chapter 67, pursuant to the provisions of this chapter, but the Department of Commerce may issue more than one certificate of authorization to the same corporation upon compliance with all the provisions of this chapter governing an original issuance of a certificate of authorization. To the extent that previously filed applicable information remains unchanged, the applicant need not refile this information, unless requested. The filing fee for a branch application shall be \$500 and the investigation fee \$250. An industrial loan and thrift corporation with deposit liabilities may change one or more of its locations upon the written approval of the commissioner of commerce. A fee of \$100 must accompany each application to the commissioner for approval to change the location of an established office. An industrial loan and thrift corporation that does not sell and issue thrift certificates for investment may change one or more locations by giving 30 days' written notice to the Department of Commerce which shall promptly amend the certificate of authorization accordingly. No change in place of business of a company to a location outside of its current trade area or more than 25 miles from its present location, whichever distance is greater, shall be permitted under the same certificate unless all of the applicable requirements of this section have been met. All money collected by the commissioner under this chapter must be deposited into the financial institutions account under section 46.131, subdivision 11.

Sec. 15. Minnesota Statutes 2020, section 53C.02, is amended to read:

**53C.02 SALES FINANCE COMPANY; LICENSE, FEES, REFUND.**

(a) No person shall engage in the business of a sales finance company in this state without a license therefor as provided in sections 53C.01 to 53C.14 provided, however, that no bank, trust company, savings bank, savings association, or credit union, whether state or federally chartered, industrial loan and thrift company, or licensee under the Minnesota Regulated Loan Act authorized to do business in this state shall be required to obtain a license under sections 53C.01 to 53C.14.

(b) The application for a license shall be in writing, under oath and in the form prescribed by the commissioner. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners, or, if a corporation or association, of the directors, trustees and principal officers, and other pertinent information the commissioner requires.

(c) The licensee fee for the fiscal year beginning July 1 and ending June 30 of the following year, or any part thereof shall be the sum of \$250 for the principal place of business of the licensee, and the sum of \$125 for each branch of the licensee. Any licensee who proves to the satisfaction of the commissioner, by affidavit or other proof satisfactory to the commissioner, that during the 12 calendar months of the immediately preceding fiscal year, for which the license has been paid that the licensee has not held retail installment contracts exceeding \$15,000 in amount, shall be entitled to a refund of that portion of each license fee paid in excess of \$25. The commissioner shall certify ~~to the commissioner of management and budget~~ that the licensee is entitled to a refund, and payment thereof of the refund shall be made by the commissioner ~~of management and budget~~. The amount necessary to pay for the refundment of the license fee is appropriated ~~out of the general fund from the financial institutions account under section 46.131, subdivision 11~~. All license fees received by the commissioner under sections 53C.01 to 53C.14 shall be deposited with the commissioner of management and budget.

(d) Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case the location be changed, the commissioner shall endorse the change of location on the license.

(e) Upon the filing of such application, and the payment of the fee, the commissioner shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with the provisions of sections 53C.01 to 53C.14 for a period which shall expire the last day of June next following the date of its issuance. The license shall not be transferable or assignable. No licensee shall transact any business provided for by sections 53C.01 to 53C.14 under any other name.

(f) Section 58A.04, subdivisions 2 and 3, apply to this section.

Sec. 16. Minnesota Statutes 2020, section 55.10, subdivision 1, is amended to read:

Subdivision 1. **Permitting access, removal, or delivery.** When a safe deposit box shall have been hired from any licensed safe deposit company in the name of two or more persons, including ~~husband and wife~~ a married couple, with the right of access being given to either, or with access to either or the survivor or survivors of the person, or property is held for safekeeping by any licensed safe deposit company for two or more persons, including ~~husband and wife~~ a married couple, with the right of delivery being given to either, or with the right of delivery to either of the survivor or

survivors of these persons, any one or more of these persons, whether the other or others be living or not, shall have the right of access to the safe deposit box and the right to remove all, or any part, of the contents thereof, or to have delivered to all or any one of them, or any part of the valuable personal property so held for safekeeping; and, in case of this access, removal, or delivery, the safe deposit company shall be exempt from any liability for permitting the access, removal, or delivery.

Sec. 17. Minnesota Statutes 2020, section 56.02, is amended to read:

**56.02 APPLICATION FEE.**

(a) Application for license shall be in writing, under oath, and in the form prescribed by the commissioner, and contain the name and the address, both of the residence and place of business, of the applicant and, if the applicant is a copartnership or association, of every member thereof, and if a corporation, of each officer and director thereof; also the county and municipality, with street and number, if any, where the business is to be conducted, and such further information as the commissioner may require. The applicant at the time of making application, shall pay to the commissioner the sum of \$500 as a fee for investigating the application, and the additional sum of \$250 as an annual license fee for a period terminating on the last day of the current calendar year. In addition to the annual license fee, every licensee hereunder shall pay to the commissioner the actual costs of each examination, as provided for in section 56.10. All ~~moneys~~ money collected by the commissioner under this chapter shall be ~~turned over to the commissioner of management and budget and credited by the commissioner of management and budget to the general fund of the state deposited in the financial institutions account under section 46.131, subdivision 11.~~

(b) Every applicant shall also prove, in form satisfactory to the commissioner, that the applicant has available for the operation of the business at the location specified in the application, liquid assets of at least \$50,000.

(c) Section 58A.04, subdivisions 2 and 3, apply to this section.

Sec. 18. Minnesota Statutes 2020, section 60A.031, subdivision 6, is amended to read:

Subd. 6. **Penalty.** (a) Notwithstanding section 72A.05, any person who violates or aids and abets any violation of a written order issued pursuant to this section may be fined not more than \$10,000 for each day the violation continues for each violation of the order and the money so recovered shall be paid into the general fund.

(b) For conduct prohibited under chapters 60A to 79, multiple violations of an identical or substantially similar law, rule, or order shall be considered a single violation under this section and section 45.027. This paragraph does not apply to willful violations by the insurer. This paragraph does not apply to violations that the insurer has not taken corrective action for and that:

- (1) cause financial harm to the policyholder;
- (2) constitute an unfair method of competition; or
- (3) constitute an unfair or deceptive act or practice.

(c) For any applicable penalty imposed by the commissioner under this section, the commissioner must consider whether corrective action for the consumer was taken promptly after a violation was discovered or the violation was not part of a pattern or practice, and shall reduce or eliminate the penalty accordingly.

(d) This subdivision does not apply if a different penalty is specified under law.

Sec. 19. Minnesota Statutes 2020, section 60A.031, is amended by adding a subdivision to read:

Subd. 10. **Limitation of enforcement actions or administrative proceedings.** An enforcement action or administrative proceeding brought by the commissioner against a licensee who violates any law, rule, or order related to the duties and responsibilities entrusted to the commissioner in chapters 60A to 79, including without limitation the issuance of an order pursuant to chapters 60A to 79, must be commenced within nine years of the date the violation occurs unless the violation arises out of a contract that remains in force, in which case the action or administrative proceeding must be commenced within two years of the date of the discovery of the violation. If the licensee attempts to conceal a violation, an enforcement action or administrative proceeding must be brought by the commissioner within nine years of discovery of the violation by the commissioner.

Sec. 20. Minnesota Statutes 2020, section 60A.031, is amended by adding a subdivision to read:

Subd. 11. **Multistate examinations.** If the commissioner elects to participate in an examination of a licensee that involves multiple states, the commissioner is prohibited from commencing, undertaking, or continuing an examination under this section against the subject examinee related to the same alleged conduct, including without limitation incurring or charging any examination costs, unless and until the multistate examination is complete or Minnesota has formally withdrawn from that examination. With respect to any completed multistate examination that Minnesota elected to participate in, the commissioner is prohibited from taking separate action against a licensee that was subject to the multistate examination unless the commissioner follows the procedures set forth in this section and section 60A.033, as applicable.

**EFFECTIVE DATE.** This section is effective August 1, 2022, and applies to examinations and investigations initiated on or after that date.

Sec. 21. Minnesota Statutes 2020, section 60A.033, subdivision 8, is amended to read:

Subd. 8. **Costs.** All bills for examination costs being charged to an insurance company pursuant to subdivision 5 or section 60A.031, subdivision 3, paragraph (c), must:

(1) be itemized and, with respect to examiner billings, contain activity detail on a quarterly hourly basis by an individual examiner and disclose the applicable hourly billing rates, together with per-charge detail for related travel or other expenses; and

(2) provide a due date no less than ~~30~~ 60 days from receipt of the bill.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 22. Minnesota Statutes 2020, section 60A.033, subdivision 9, is amended to read:

Subd. 9. **Completion of examination.** An examination under section 60A.031 must not exceed 18 months from the date the commissioner receives the insurance company's first submission pursuant to a scheduling order, unless:

(1) the commissioner determines that there has been a material lack of cooperation by the insurance company and advises the company in writing of the specific instances demonstrating a lack of cooperation;

(2) the examination is a multistate examination; or

(3) the commissioner determines that additional time is necessary to complete the examination and the commissioner notifies the insurance company in writing of the reasons why the examination requires additional time.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 23. Minnesota Statutes 2020, section 60A.033, is amended by adding a subdivision to read:

Subd. 11. **Informal disposition.** (a) The commissioner must make an attempt to informally resolve any alleged violations of law identified during the examination or investigation. An attempt to informally resolve a violation may consist of a consent order, nonpublic letter of reprimand, or other informal resolution or disposition.

(b) The terms of a consent order or other informal disposition that prescribes compliance requirements must be consistent with the requirements of Minnesota law.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 24. Minnesota Statutes 2020, section 60A.033, is amended by adding a subdivision to read:

Subd. 12. **Report to the legislature.** Each year by February 1, the commissioner must report the following information to the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over commerce:

(1) a listing of the number of pending market conduct exams and the year the exams were commenced;

(2) the number of exams closed during the prior year and the current total of costs charged to the companies for each exam;

(3) whether the exam is being conducted, in whole or in part, by third-party examiners; and

(4) other information that the chairs or ranking minority members may reasonably request, subject to the limitations of section 60A.031, subdivision 4, paragraph (f).

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 25. Minnesota Statutes 2020, section 60A.954, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** An insurer shall institute, implement, and maintain an antifraud plan. For the purpose of this section, the term insurer does not include reinsurers, the Workers' Compensation Reinsurance Association, self-insurers, and excess insurers. Within 30 days after instituting or materially modifying an antifraud plan, the insurer shall notify the commissioner in writing. The notice must include the name of the person responsible for administering the plan. An antifraud plan shall establish procedures to:

- (1) prevent insurance fraud, including: internal fraud involving the insurer's officers, employees, or agents; fraud resulting from misrepresentations on applications for insurance; and claims fraud;
- (2) report insurance fraud to appropriate law enforcement authorities; and
- (3) cooperate with the prosecution of insurance fraud cases.

**Sec. 26. [60B.335] FEDERAL HOME LOAN BANK RIGHTS; COLLATERAL PLEDGED BY INSURER-MEMBERS.**

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

(b) "Federal home loan bank" means a federal home loan bank established under the federal Home Loan Bank Act, United States Code, title 12, section 1421 et seq.

(c) "Insurer-member" means an insurer that is a member of a federal home loan bank.

Subd. 2. **Certain rights provided.** (a) Notwithstanding any law to the contrary, after the seventh day following the filing of a delinquency proceeding, a federal home loan bank must not be stayed or prohibited from exercising the federal home loan bank's rights regarding collateral pledged by an insurer-member.

(b) If a federal home loan bank exercises rights regarding collateral pledged by an insurer-member subject to a delinquency proceeding, the federal home loan bank must repurchase any outstanding capital stock that is in excess of the amount of federal home loan bank stock that the insurer-member is required to hold as a minimum investment, to the extent the federal home loan bank determines in good faith that the repurchase is (1) permissible under applicable laws, regulations, regulatory obligations, and the federal home loan bank's capital plan; and (2) consistent with the federal home loan bank's current capital stock practices applicable to the federal home loan bank's entire membership.

Subd. 3. **Process and timeline required.** Following the appointment of a receiver for an insurer-member, the federal home loan bank must, within ten business days after the date a request is received from the receiver, provide a process and establish a timeline for:

(1) release of collateral that exceeds the amount required to support secured obligations remaining after any repayment of loans, as determined in accordance with the applicable agreements between the federal home loan bank and the insurer-member;

(2) release of any of the insurer-member's collateral remaining in the federal home loan bank's possession following repayment in full of the insurer-member's outstanding secured obligations;

(3) payment of fees owed by the insurer-member and the operation of the insurer-member's deposits and other accounts with the federal home loan bank; and

(4) possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer-member is required to own.

Subd. 4. **Options; renew or restructure.** Upon request from a receiver, the federal home loan bank must provide the options available for an insurer-member subject to a delinquency proceeding to renew or restructure a loan to defer associated prepayment fees, subject to (1) market conditions, (2) the terms of any loans outstanding to the insurer-member, (3) the federal home loan bank's applicable policies, and (4) the federal home loan bank's compliance with federal laws and regulations.

Subd. 5. **Void transfers prohibited.** (a) Notwithstanding any law to the contrary, the receiver for an insurer-member is prohibited from voiding any transfer of, or any obligation to transfer, money or any other property arising under or in connection with: (1) any federal home loan bank security agreement; (2) any pledge, security, collateral, or guarantee agreement; or (3) any other similar arrangement or credit enhancement relating to a federal home loan bank security agreement made in the ordinary course of business and in compliance with the applicable federal home loan bank agreement.

(b) A transfer may be voided under this section if the transfer was made with intent to hinder, delay, or defraud the insurer-member, the receiver for the insurer-member, or existing or future creditors.

(c) This section does not affect a receiver's rights regarding advances to an insurer-member in delinquency proceedings pursuant to Code of Federal Regulations, title 12, part 1266.4.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to delinquency proceedings filed on or after that date.

Sec. 27. Minnesota Statutes 2020, section 65B.84, subdivision 1, is amended to read:

Subdivision 1. **Program described; commissioner's duties; appropriation.** (a) The commissioner of commerce shall:

(1) develop and sponsor the implementation of statewide plans, programs, and strategies to combat automobile theft, improve the administration of the automobile theft laws, and provide a forum for identification of critical problems for those persons dealing with automobile theft;

(2) coordinate the development, adoption, and implementation of plans, programs, and strategies relating to interagency and intergovernmental cooperation with respect to automobile theft enforcement;

(3) annually audit the plans and programs that have been funded in whole or in part to evaluate the effectiveness of the plans and programs and withdraw funding should the commissioner determine that a plan or program is ineffective or is no longer in need of further financial support from the fund;

(4) develop a plan of operation including:



(i) an assessment of the scope of the problem of automobile theft, including areas of the state where the problem is greatest;

(ii) an analysis of various methods of combating the problem of automobile theft;

(iii) a plan for providing financial support to combat automobile theft;

(iv) a plan for eliminating car hijacking; and

(v) an estimate of the funds required to implement the plan; and

(5) distribute money, in consultation with the commissioner of public safety, pursuant to subdivision 3 from the automobile theft prevention special revenue account for automobile theft prevention activities, including:

(i) paying the administrative costs of the program;

(ii) providing financial support to the State Patrol and local law enforcement agencies for automobile theft enforcement teams;

(iii) providing financial support to state or local law enforcement agencies for programs designed to reduce the incidence of automobile theft and for improved equipment and techniques for responding to automobile thefts;

(iv) providing financial support to local prosecutors for programs designed to reduce the incidence of automobile theft;

(v) providing financial support to judicial agencies for programs designed to reduce the incidence of automobile theft;

(vi) providing financial support for neighborhood or community organizations or business organizations for programs designed to reduce the incidence of automobile theft and to educate people about the common methods of automobile theft, the models of automobiles most likely to be stolen, and the times and places automobile theft is most likely to occur; and

(vii) providing financial support for automobile theft educational and training programs for state and local law enforcement officials, driver and vehicle services exam and inspections staff, and members of the judiciary.

(b) The commissioner may not spend in any fiscal year more than ten percent of the money in the fund for the program's administrative and operating costs. The commissioner is annually appropriated and must distribute the amount of the proceeds credited to the automobile theft prevention special revenue account each year, less the transfer of \$1,300,000 each year to the insurance fraud prevention account described in section 297I.11, subdivision 2.

(c) At the end of each fiscal year, the commissioner may transfer any unobligated balances in the auto theft prevention account to the insurance fraud prevention account under section 45.0135, subdivision 6.

(d) The commissioner must establish a library of equipment to combat automobile-related theft offenses. The equipment must be available to all law enforcement agencies upon request to support law enforcement agency efforts to combat automobile theft.

Sec. 28. Minnesota Statutes 2020, section 65B.84, subdivision 2, is amended to read:

Subd. 2. **Annual report.** By ~~January 15~~ of September 30 each year, the commissioner shall report to the governor and the chairs and ranking minority members of the house of representatives and senate committees having jurisdiction over the Departments of Commerce and Public Safety on the activities and expenditures in the preceding year.

Sec. 29. [72A.071] REBATES.

Subdivision 1. **Prohibition.** Notwithstanding any law to the contrary, insurers and producers are prohibited from knowingly permitting or offering to make or making any life insurance policy or annuity, or policy of accident and sickness insurance, or health plan or other insurance, or agreement as to such contract other than as plainly expressed in the policy issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such policy, any rebate of premiums payable on the policy, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the policy; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such policy or annuity or in connection therewith, any stocks, bonds or other securities of any company or other corporation, association or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the policy.

Subd. 2. **Practices not considered discrimination or rebates.** (a) Nothing in subdivision 1, section 72A.20, subdivisions 8 or 9, or section 72A.12, subdivisions 3 or 4, shall be construed as including within the definition of discrimination or rebates any of the following practices:

(1) in the case of life insurance policies or annuities, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders;

(2) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount that fairly represents the saving in collection expenses;

(3) readjusting the rate of premium for a group insurance policy based on the loss or expense thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year;

(4) engaging in an arrangement that would not violate United States Code 1972, title 12, section 106, as interpreted by the Board of Governors of the Federal Reserve System, or United States Code, title 12, section 1464(q); or

(5) the offer or provision by insurers or producers, by or through employees, affiliates, or third-party representatives, of value-added products or services at no or reduced cost when such

products or services are not specified in the policy of insurance if the product or service relates to the insurance coverage and is designed to satisfy one or more of the following:

(i) provide loss mitigation or loss control;

(ii) reduce claim costs or claim settlement costs;

(iii) provide education about liability risks or risk of loss to persons or property;

(iv) monitor or assess risk, identify sources of risk, or develop strategies for eliminating or reducing risk;

(v) enhance health;

(vi) enhance financial wellness through items such as education or financial planning services;

(vii) provide post-loss services;

(viii) incent behavioral changes to improve the health or reduce the risk of death or disability of a customer, a policyholder, potential policyholder, certificate holder, potential certificate holder, insured, potential insured, or applicant; or

(ix) assist in the administration of the employee or retiree benefit insurance coverage.

(b) The cost to the insurer or producer offering the product or service to a customer must be reasonable in comparison to that customer's premiums or insurance coverage for the policy class.

(c) If the insurer or producer is providing the product or service offered, the insurer or producer must ensure that upon request the customer is provided with contact information to assist the customer with questions regarding the product or service.

(d) The availability of the value-added product or service must be based on documented objective criteria and offered in a manner that is not unfairly discriminatory. The documented criteria must be maintained by the insurer or producer and produced upon request of the commissioner.

(e) If an insurer or producer does not have sufficient evidence but has a good-faith belief that the product or service meets the criteria of paragraph (a), clause (5), items (i) through (ix), the insurer or producer may provide the product or service in a manner that is not unfairly discriminatory as part of a pilot or testing program for no more than one year. An insurer or producer must notify the commissioner of such a pilot or testing program offered to consumers in this state prior to launching and may proceed with the program unless the commissioner objects within 45 days of notice.

Subd. 3. **Exceptions.** (a) An insurer or producer may:

(1) offer or give noncash gifts, items, or services, including meals to or charitable donations on behalf of a customer, in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost does not exceed the lesser of five percent of the current or projected policyholder premium or \$250 per policy year per term. The offer must be made in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service;

(2) offer or give noncash gifts, items, or services including meals to or charitable donations on behalf of a customer, to commercial or institutional customers in connection with the marketing, sale, purchase, or retention of contracts of insurance, as long as the cost is reasonable in comparison to the premium or proposed premium and the cost of the gift or service is not included in any amounts charged to another person or entity. The offer must be made in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service; and

(3) conduct raffles or drawings to the extent permitted by state law, as long as there is no financial cost to entrants to participate, the drawing or raffle does not obligate participants to purchase insurance, the prizes do not exceed the lesser of five percent of the current or projected policyholder premium or \$500, and the drawing or raffle is open to the public. The raffle or drawing must be offered in a manner that is not unfairly discriminatory. The customer may not be required to purchase, continue to purchase, or renew a policy in exchange for the gift, item, or service.

(b) An insurer, producer, or representative of either may not offer or provide insurance at no cost as an inducement to the purchase of another policy.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 30. Minnesota Statutes 2020, section 72A.12, subdivision 4, is amended to read:

Subd. 4. **Discrimination; rebates.** ~~(a) No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between insureds of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereon; nor shall any such company or any officer, agent, solicitor, or representative thereof pay, allow or give, or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon or any paid employment or contract for services of any kind, or any valuable consideration or inducement whatever not specified in the policy contract of insurance.~~

Any violation of the provisions of this subdivision shall be a misdemeanor and punishable as such.

~~(b) A promotional advertising item of \$25 or less or a gift of \$25 or less per year is not a rebate if the receipt of the item or gift is not conditioned upon purchase of an insurance policy or product.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 31. Minnesota Statutes 2020, section 72A.20, subdivision 11, is amended to read:

Subd. 11. **Application to certain sections.** Violating any provision of the following sections of this chapter not set forth in this section shall constitute an unfair method of competition and an unfair and deceptive act or practice: sections 72A.12, subdivisions 2, 3, and 4, 72A.16, subdivision

2, 72A.03 and 72A.04, ~~72A.08, subdivision 1, as modified by sections 72A.08, subdivision 4, 72A.071, 72A.201, and sections 72A.49 to 72A.505.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 32. Minnesota Statutes 2020, section 72A.328, subdivision 1, is amended to read:

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

(b) "Affinity program" means a an organization or group formed around a common interest or specified purpose, or a group of individuals who are members of an entity that offers individuals benefits based on their membership in that entity. Affinity program does not include an entity that obtains group insurance, as defined in section 60A.02, subdivision 28, or risk retention groups as defined in section 60E.02, subdivision 12.

(c) "Policy" means an individually underwritten policy of private passenger vehicle insurance, as defined in section 65B.001, subdivision 2, an individually underwritten policy of homeowner's insurance, as defined in section 65A.27, subdivision 4, or an individually underwritten policy issued under section 60A.06, subdivision 1, clause (10).

Sec. 33. Minnesota Statutes 2020, section 72A.328, subdivision 2, is amended to read:

Subd. 2. **Discount.** An insurance company may offer an individual a discount or other benefit relating to a policy based on the individual's membership in an affinity program if:

(1) the benefit or discount is ~~based on an actuarial justification~~ calculated in accordance with section 70A.04; and

(2) ~~the insurance company offers the benefit or discount to~~ all members of the affinity program are eligible for the discount or benefit.

Sec. 34. Minnesota Statutes 2020, section 80A.61, is amended to read:

**80A.61 SECTION 406; REGISTRATION BY BROKER-DEALER, AGENT, FUNDING PORTAL, INVESTMENT ADVISER, AND INVESTMENT ADVISER REPRESENTATIVE.**

(a) **Application for initial registration by broker-dealer, agent, investment adviser, or investment adviser representative.** A person shall register as a broker-dealer, agent, investment adviser, or investment adviser representative by filing an application and a consent to service of process complying with section 80A.88, and paying the fee specified in section 80A.65 and any reasonable fees charged by the designee of the administrator for processing the filing. The application must contain:

(1) the information or record required for the filing of a uniform application; and

(2) upon request by the administrator, any other financial or other information or record that the administrator determines is appropriate.

(b) **Amendment.** If the information or record contained in an application filed under subsection (a) is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment.

(c) **Effectiveness of registration.** If an order is not in effect and a proceeding is not pending under section 80A.67, registration becomes effective at noon on the 45th day after a completed application is filed, unless the registration is denied. A rule adopted or order issued under this chapter may set an earlier effective date or may defer the effective date until noon on the 45th day after the filing of any amendment completing the application.

(d) **Registration renewal.** A registration is effective until midnight on December 31 of the year for which the application for registration is filed. Unless an order is in effect under section 80A.67, a registration may be automatically renewed each year by filing such records as are required by rule adopted or order issued under this chapter, by paying the fee specified in section 80A.65, and by paying costs charged by the designee of the administrator for processing the filings.

(e) **Additional conditions or waivers.** A rule adopted or order issued under this chapter may impose such other conditions, not inconsistent with the National Securities Markets Improvement Act of 1996. An order issued under this chapter may waive, in whole or in part, specific requirements in connection with registration as are in the public interest and for the protection of investors.

(f) **Funding portal registration.** A funding portal that has its principal place of business in the state of Minnesota shall register with the state of Minnesota by filing with the administrator a copy of the information or record required for the filing of an application for registration as a funding portal in the manner established by the Securities and Exchange Commission and/or the Financial Institutions Regulatory Authority (FINRA), along with any rule adopted or order issued, and any amendments thereto.

**(g) Application for investment adviser representative registration.**

(1) The application for initial registration as an investment adviser representative pursuant to section 80A.58 is made by completing Form U-4 (Uniform Application for Securities Industry Registration or Transfer) in accordance with the form instructions and by filing the form U-4 with the IARD. The application for initial registration must also include the following:

(i) proof of compliance by the investment adviser representative with the examination requirements of:

(A) the Uniform Investment Adviser Law Examination (Series 65); or

(B) ~~the General Securities Representative Examination (Series 7) and the Uniform Combined State Law Examination (Series 66);~~

(ii) any other information the administrator may reasonably require.

(2) The application for the annual renewal registration as an investment adviser representative shall be filed with the IARD.

(3)(i) The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur;

(ii) An investment adviser representative and the investment adviser must file promptly with the IARD any amendments to the representative's Form U-4; and

(iii) An amendment will be considered to be filed promptly if the amendment is filed within 30 days of the event that requires the filing of the amendment.

(4) An application for initial or renewal of registration is not considered filed for purposes of section 80A.58 until the required fee and all required submissions have been received by the administrator.

(5) The application for withdrawal of registration as an investment adviser representative pursuant to section 80A.58 shall be completed by following the instructions on Form U-5 (Uniform Termination Notice for Securities Industry Registration) and filed upon Form U-5 with the IARD.

Sec. 35. Minnesota Statutes 2020, section 80C.05, subdivision 2, is amended to read:

Subd. 2. **Commissioner's powers.** The commissioner shall have power to place such conditions, limitations, and restrictions on any registration as may be necessary to carry out the purposes of sections 80C.01 to 80C.22. Upon compliance with the provisions of sections 80C.01 to 80C.22 and other requirements of the commissioner, and if the commissioner finds no ground for denial of the registration, the commissioner shall register the franchise. Registration ~~shall be by entry in a book called Register of Franchises, which entry~~ shall show the franchise registered and for whom registered, and shall specify the conditions, limitations, and restrictions upon such registration, if any, or shall make proper reference to a formal order of the commissioner on file showing such conditions, limitations, and restrictions. The registration shall become effective upon issuance by the commissioner of an order for registration.

Sec. 36. Minnesota Statutes 2020, section 80E.13, is amended to read:

**80E.13 UNFAIR PRACTICES BY MANUFACTURERS, DISTRIBUTORS, FACTORY BRANCHES.**

It is unlawful and an unfair practice for a manufacturer, distributor, or factory branch to engage in any of the following practices directly or through an entity that it controls or is controlled by:

(a) delay, refuse, or fail to deliver new motor vehicles or new motor vehicle parts or accessories in reasonable time and in reasonable quantity relative to the new motor vehicle dealer's facilities and sales potential in the dealer's relevant market area, after having accepted an order from a new motor vehicle dealer having a franchise for the retail sale of any new motor vehicle sold or distributed by the manufacturer or distributor, if the new motor vehicle or new motor vehicle parts or accessories are publicly advertised as being available for delivery or actually being delivered. This clause is not violated, however, if the failure is caused by acts or causes beyond the control of the manufacturer;

(b) refuse to disclose to any new motor vehicle dealer handling the same line make, the manner and mode of distribution of that line make within the relevant market area;

(c) obtain money, goods, service, or any other benefit from any other person with whom the dealer does business, on account of, or in relation to, the transaction between the dealer and the other person, other than for compensation for services rendered, unless the benefit is promptly accounted for, and transmitted to, the new motor vehicle dealer;

(d) increase prices of new motor vehicles which the new motor vehicle dealer had ordered for private retail consumers prior to the dealer's receiving the written official price increase notification. A sales contract signed by a private retail consumer shall constitute evidence of each order if the vehicle is in fact delivered to that customer. In the event of manufacturer price reductions, the amount of any reduction received by a dealer shall be passed on to the private retail consumer by the dealer if the retail price was negotiated on the basis of the previous higher price to the dealer;

(e) offer any refunds or other types of inducements to any new motor vehicle dealer for the purchase of new motor vehicles of a certain line make without making the same offer to all other new motor vehicle dealers in the same line make within geographic areas reasonably determined by the manufacturer;

(f) release to any outside party, except under subpoena or in an administrative or judicial proceeding involving the manufacturer or dealer, any business, financial, or personal information which may be provided by the dealer to the manufacturer, without the express written consent of the dealer or unless pertinent to judicial or governmental administrative proceedings or to arbitration proceedings of any kind;

(g) deny any new motor vehicle dealer the right of free association with any other new motor vehicle dealer for any lawful purpose;

(h) unfairly discriminate among its new motor vehicle dealers with respect to warranty reimbursement or authority granted its new vehicle dealers to make warranty adjustments with retail customers;

(i) compete with a new motor vehicle dealer in the same line make operating under an agreement or franchise from the same manufacturer, distributor, or factory branch. A manufacturer, distributor, or factory branch is considered to be competing when it has an ownership interest, other than a passive interest held for investment purposes, in a dealership of its line make ~~located within the~~ in this state, or in a dealership of a competing line make in this state. A manufacturer, distributor, or factory branch shall not, however, be deemed to be competing when operating a dealership, either temporarily or for a reasonable period, which is for sale to any qualified independent person at a fair and reasonable price, or when involved in a bona fide relationship in which an independent person has made a significant investment subject to loss in the dealership and can reasonably expect to acquire full ownership and full management and operational control of the dealership within a reasonable time on reasonable terms and conditions;

(j) prevent a new motor vehicle dealer from transferring or assigning a new motor vehicle dealership to a qualified transferee. There shall be no transfer, assignment of the franchise, or major change in the executive management of the dealership, except as is otherwise provided in sections 80E.01 to 80E.17, without consent of the manufacturer, which shall not be withheld without good cause. In determining whether good cause exists for withholding consent to a transfer or assignment, the manufacturer, distributor, factory branch, or importer has the burden of proving that the transferee



is a person who is not of good moral character or does not meet the franchisor's existing and reasonable capital standards and, considering the volume of sales and service of the new motor vehicle dealer, reasonable business experience standards in the market area. Denial of the request must be in writing and delivered to the new motor vehicle dealer within 60 days after the manufacturer receives the completed application customarily used by the manufacturer, distributor, factory branch, or importer for dealer appointments. If a denial is not sent within this period, the manufacturer shall be deemed to have given its consent to the proposed transfer or change. In the event of a proposed sale or transfer of a franchise, the manufacturer, distributor, factory branch, or importer shall be permitted to exercise a right of first refusal to acquire the franchisee's assets or ownership if:

(1) the franchise agreement permits the manufacturer, distributor, factory branch, or importer to exercise a right of first refusal to acquire the franchisee's assets or ownership in the event of a proposed sale or transfer;

(2) the proposed transfer of the dealership or its assets is of more than 50 percent of the ownership or assets;

(3) the manufacturer, distributor, factory branch, or importer notifies the dealer in writing within 60 days of its receipt of the complete written proposal for the proposed sale or transfer on forms generally utilized by the manufacturer, distributor, factory branch, or importer for such purposes and containing the information required therein and all documents and agreements relating to the proposed sale or transfer;

(4) the exercise of the right of first refusal will result in the dealer and dealer's owners receiving the same or greater consideration with equivalent terms of sale as is provided in the documents and agreements submitted to the manufacturer, distributor, factory branch, or importer under clause (3);

(5) the proposed change of 50 percent or more of the ownership or of the dealership assets does not involve the transfer or sale of assets or the transfer or issuance of stock by the dealer or one or more dealer owners to a family member, including a spouse, child, stepchild, grandchild, spouse of a child or grandchild, brother, sister, or parent of the dealer owner; to a manager who has been employed in the dealership for at least four years and is otherwise qualified as a dealer operator; or to a partnership or corporation owned and controlled by one or more of such persons; and

(6) the manufacturer, distributor, factory branch, or importer agrees to pay the reasonable expenses, including reasonable attorney fees, which do not exceed the usual customary and reasonable fees charged for similar work done for other clients incurred by the proposed new owner and transferee before the manufacturer, distributor, factory branch, or importer exercises its right of first refusal, in negotiating and implementing the contract for the proposed change of ownership or transfer of dealership assets. However, payment of such expenses and attorney fees shall not be required if the dealer has not submitted or caused to be submitted an accounting of those expenses within 20 days after the dealer's receipt of the manufacturer, distributor, factory branch, or importer's written request for such an accounting. The manufacturer, distributor, factory branch, or importer may request such an accounting before exercising its right of first refusal. The obligation created under this clause is enforceable by the transferee;

(k) threaten to modify or replace or modify or replace a franchise with a succeeding franchise that would adversely alter the rights or obligations of a new motor vehicle dealer under an existing

franchise or that substantially impairs the sales or service obligations or investments of the motor vehicle dealer;

(l) unreasonably deny the right to acquire factory program vehicles to any dealer holding a valid franchise from the manufacturer to sell the same line make of vehicles, provided that the manufacturer may impose reasonable restrictions and limitations on the purchase or resale of program vehicles to be applied equitably to all of its franchised dealers. For the purposes of this paragraph, "factory program vehicle" has the meaning given the term in section 80E.06, subdivision 2;

(m) except as provided in paragraph (n), fail or refuse to offer to its same line make franchised dealers all models manufactured for that line make, ~~other than~~ including alternative fuel vehicles as defined in section 216C.01, subdivision 1b. Failure to offer a model is not a violation of this section if the failure is not arbitrary and is due to a lack of manufacturing capacity, a strike, labor difficulty, or other cause over which the manufacturer, distributor, or factory branch has no control;

(n) require a dealer to pay an extra fee, or remodel, renovate, or recondition the dealer's existing facilities, or purchase unreasonable advertising displays, training, tools, or other materials, or to require the dealer to establish exclusive facilities or dedicated personnel as a prerequisite to receiving a model or a series of vehicles. A manufacturer, distributor, or factory branch may require a dealer to comply with reasonable requirements for the sale and service of an alternative fuel vehicle or to serve an alternative fuel vehicle customer;

(o) require a dealer by program, incentive provision, or otherwise to adhere to performance standards that are not applied uniformly to other similarly situated dealers.

A performance standard, sales objective, or program for measuring dealership performance that may have a material effect on a dealer, including the dealer's right to payment under any incentive or reimbursement program, and the application of the standard or program by a manufacturer, distributor, or factory branch must be fair, reasonable, equitable, and based on accurate information. Upon written request by any of its franchised dealers located within Minnesota, a manufacturer, distributor, or factory branch must provide the method or formula used by the manufacturer in establishing the sales volumes for receiving a rebate or incentive and the specific calculations for determining the required sales volumes of the inquiring dealer and any of the manufacturer's other Minnesota-franchised new motor vehicle dealers of the same line-make located within 75 miles of the inquiring dealer. Nothing contained in this section requires a manufacturer, distributor, or factory branch to disclose confidential business information of any of its franchised dealers or the required numerical sales volumes that any of its franchised dealers must attain to receive a rebate or incentive. An inquiring dealer may file a civil action as provided in section 80E.17 without a showing of injury if a manufacturer, distributor, or factory branch fails to make the disclosure required by this section.

A manufacturer, distributor, or factory branch has the burden of proving that the performance standard, sales objective, or program for measuring dealership performance is fair, reasonable, and uniformly applied under this section;

(p) assign or change a dealer's area of sales effectiveness arbitrarily or without due regard to the present pattern of motor vehicle sales and registrations within the dealer's market. The manufacturer, distributor, or factory branch must provide at least 90 days' notice of the proposed change. The change may not take effect if the dealer commences a civil action within the 90 days'

notice period to determine whether the manufacturer, distributor, or factory branch met its obligations under this section. The burden of proof in such an action shall be on the manufacturer or distributor. In determining at the evidentiary hearing whether a manufacturer, distributor, or factory branch has assigned or changed the dealer's area of sales effectiveness or is proposing to assign or change the dealer's area of sales effectiveness arbitrarily or without due regard to the present pattern of motor vehicle sales and registrations within the dealer's market, the court may take into consideration the relevant circumstances, including, but not limited to:

(1) the traffic patterns between consumers and the same line-make franchised dealers of the affected manufacturer, distributor, or factory branch who are located within the market;

(2) the pattern of new vehicle sales and registrations of the affected manufacturer, distributor, or factory branch within various portions of the area of sales effectiveness and within the market as a whole;

(3) the growth or decline in population, density of population, and new car registrations in the market;

(4) the presence or absence of natural geographical obstacles or boundaries, such as rivers;

(5) the proximity of census tracts or other geographic units used by the affected manufacturer, factory branch, distributor, or distributor branch in determining the same line-make dealers' respective areas of sales effectiveness; and

(6) the reasonableness of the change or proposed change to the dealer's area of sales effectiveness, considering the benefits and harm to the petitioning dealer, other same line-make dealers, and the manufacturer, distributor, or factory branch;

(q) to charge back, withhold payment, deny vehicle allocation, or take any other adverse action against a dealer when a new vehicle sold by the dealer has been exported to a foreign country, unless the manufacturer, distributor, or factory branch can show that at the time of sale, the customer's information was listed on a known or suspected exporter list made available to the dealer, or the dealer knew or reasonably should have known of the purchaser's intention to export or resell the motor vehicle in violation of the manufacturer's export policy. There is a rebuttable presumption that the dealer did not know or should not have reasonably known that the vehicle would be exported or resold in violation of the manufacturer's export policy if the vehicle is titled and registered in any state of the United States;

(r) to implement a charge back or withhold payment to a dealer that is solely due to an unreasonable delay by the registrar, as defined in section 168.002, subdivision 29, in the transfer or registration of a new motor vehicle. The dealer must give the manufacturer notice of the state's delay in writing. Within 30 days of any notice of a charge back, withholding of payments, or denial of a claim, the dealer must transmit to the manufacturer: (1) documentation to demonstrate the vehicle sale and delivery as reported; and (2) a written attestation signed by the dealer operator or general manager stating that the delay is attributable to the state. This clause expires on June 30, 2022; or

(s) to require a dealer or prospective dealer by program, incentive provision, or otherwise to construct improvements to its or a predecessor's facilities or to install new signs or other franchisor image elements that replace or substantially alter improvements, signs, or franchisor image elements

completed within the preceding ten years that were required and approved by the manufacturer, distributor, or factory branch, including any such improvements, signs, or franchisor image elements that were required as a condition of the dealer or predecessor dealer receiving an incentive or other compensation from the manufacturer, distributor, or factory branch.

This paragraph shall not apply to a program or agreement that provides lump sum payments to assist dealers in making facility improvements or to pay for signs or franchisor image elements when such payments are not dependent on the dealer selling or purchasing specific numbers of new vehicles and shall not apply to a program that is in effect with more than one Minnesota dealer on August 1, 2018, nor to any renewal of such program, nor to a modification that is not a substantial modification of a material term or condition of such program.

Sec. 37. [214.035] LICENSING DISQUALIFICATIONS; PRELIMINARY APPLICATIONS; REPORTS.

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

(b) "Conviction" has the meaning given in section 609.02, subdivision 5.

(c) "Criminal record" means a record of an arrest, prosecution, criminal proceeding, or conviction.

(d) "State licensor" or "licensor" means a state agency or examining and licensing board that issues an occupational or professional license, registration, or certificate and considers before issuing the license, registration, or certificate any criminal record or conviction of an applicant that may make an applicant ineligible to receive the license, registration, or certificate.

Subd. 2. Scope. (a) This section does not apply to a license, registration, or certificate issued by a state licensor if the license, registration, or certificate does not require an applicant to report to the state licensor as part of the application process the applicant's criminal record or does not require an applicant to obtain a criminal background check or study as part of the application process to obtain the license, registration, or certificate.

(b) This section does not apply to a license, registration, or certificate issued by the Professional Educator Licensing and Standards Board, the Department of Health, Department of Human Services, or any health-related licensing board, as defined in section 214.01, subdivision 2.

(c) The preliminary application process described under this section may only be utilized by an individual who has a criminal record.

Subd. 3. Preliminary applications. (a) Notwithstanding any law to the contrary, all state licensors shall permit an individual to submit a preliminary application for a determination pursuant to this section as to whether a criminal record or conviction that may be considered by the state licensor under state law would make the individual ineligible to receive an occupational or professional license, registration, or certificate issued by the state licensor.

(b) An applicant shall submit a preliminary application and any other supporting documents to the appropriate state licensor in a form and manner approved by the licensor. The state licensor may

require that the applicant provide information about the applicant's criminal record in the form and manner approved by the licensor.

(c) A state licensor may charge a fee to cover any expenses incurred in connection with processing a preliminary application, provided the fee does not exceed the actual cost to the state licensor of processing the application or the initial fee for the applicable license, registration, or certificate. If the applicant subsequently applies for the license, registration, or certificate, the amount of the preliminary application fee paid by the applicant must be credited toward the applicant's initial fee for the license, registration, or certificate. An applicant may request a waiver of this fee. A fee collected under this paragraph for the expenses incurred by the state licensor shall be deposited in the fund in the state treasury in which the state licensor deposits fees collected for issuing occupational or professional licenses, registrations, or certificates. If the state licensor does not collect a fee for issuing occupational or professional licenses, registrations, or certificates, any fee collected under this paragraph shall be deposited pursuant to section 214.06, subdivision 1.

(d) Upon receipt of a completed preliminary application and any necessary supporting documents, the state licensor must determine under state law whether a criminal record or conviction that may be considered under state law would make the applicant ineligible to receive a professional or occupational license, registration, or certificate from the licensor. The state licensor must issue a written decision within 60 days of receiving a completed preliminary application. If the state licensor determines that a criminal record or conviction would make the applicant ineligible to receive a professional or occupational license, registration, or certificate, the written decision must:

(1) state all reasons the professional or occupational license, registration, or certificate would be denied, including the standard used to make the decision; and

(2) inform the applicant of any action or additional steps the applicant could take to qualify for a professional or occupational license, registration, or certificate.

(e) If a state licensor determines that no criminal records or convictions would make the applicant ineligible to receive a professional or occupational license, registration, or certificate, that decision is binding on the licensor unless the decision is clearly erroneous under state law or:

(1) the applicant is convicted of a crime or commits any other disqualifying act that may be considered by the state licensor under state law after submission of the preliminary application;

(2) the applicant provided incomplete information in the preliminary application;

(3) the applicant provided inaccurate or fraudulent information in the preliminary application;  
or

(4) changes to state law were enacted after the date the decision was issued, making the applicant ineligible under state law to receive a license, registration, or certificate.

(f) Nothing in this section precludes a licensor from issuing a license, registration, or certificate to an applicant that includes limitations or conditions on the license, registration, or certificate based on a criminal conviction or alleged misconduct of the applicant.

(g) By August 1 of each year, each state licensor shall submit to the commissioner of management and budget the number of applicants who submitted preliminary applications to the licensor in accordance with this section and the number of applicants who subsequently applied for a license, registration, or certificate for the previous fiscal year. The state licensor shall also submit the total amount of initial application fees that were not paid by these applicants pursuant to paragraph (c), or, if the licensor does not collect a fee for issuing a license, registration, or certificate, the cost of processing the preliminary application fee that was not covered pursuant to paragraph (c). Each fiscal year, an amount necessary to pay each state licensor the rest of each initial application fee or the rest of the cost of processing each preliminary application if an initial application fee was not collected by the licensor is appropriated from the general fund to the appropriate state licensor.

Subd. 4. **Reports.** (a) By January 15 of each year, every state licensor shall report to the Department of Employment and Economic Development on:

(1) the number of individuals who applied for a professional or occupational license, registration, or certificate from the licensor;

(2) the number of individuals described in clause (1) who were found to be ineligible due to a criminal record or conviction;

(3) the number of individuals who submitted a preliminary application under this section; and

(4) the number of individuals described in clause (3) who were found to be ineligible due to a criminal record or conviction.

(b) On or before February 15 of each year, the commissioner of employment and economic development shall compile the reports received under paragraph (a) and provide the compiled reports to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over employment. The commissioner of employment and economic development must make the report readily available on the department's public website.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 38. Minnesota Statutes 2020, section 239.761, subdivision 3, is amended to read:

Subd. 3. **Gasoline.** (a) Gasoline that is not blended with biofuel must not be contaminated with water or other impurities and must comply with ASTM specification D4814-11b. Gasoline that is not blended with biofuel must also comply with the volatility requirements in Code of Federal Regulations, title 40, part ~~80~~ 1090.

(b) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol as provided in subdivision 4;

(2) shall not blend the gasoline with any oxygenate other than biofuel;

(3) shall not blend the gasoline with other petroleum products that are not gasoline or biofuel;

(4) shall not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

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

Sec. 39. Minnesota Statutes 2020, section 239.761, subdivision 4, is amended to read:

Subd. 4. **Gasoline blended with ethanol; general.** (a) Gasoline may be blended with agriculturally derived, denatured ethanol that complies with the requirements of subdivision 5.

(b) A gasoline-ethanol blend must:

(1) comply with the volatility requirements in Code of Federal Regulations, title 40, part ~~80~~ 1090;

(2) comply with ASTM specification D4814-11b, or the gasoline base stock from which a gasoline-ethanol blend was produced must comply with ASTM specification D4814-11b; and

(3) not be blended with casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline after the gasoline-ethanol blend has been sold, transferred, or otherwise removed from a refinery or terminal.

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

Sec. 40. Minnesota Statutes 2020, section 239.791, subdivision 2a, is amended to read:

Subd. 2a. **Federal Clean Air Act waivers; conditions.** (a) Before a waiver granted by the United States Environmental Protection Agency under United States Code, title 42, section 7545, may alter the minimum content level required by subdivision 1, paragraph (a), clause (1), item (ii), the waiver must:

(1) apply to all gasoline-powered motor vehicles irrespective of model year; and

(2) allow for special regulatory treatment of Reid vapor pressure under Code of Federal Regulations, title 40, ~~section 80.27~~ part 1090.215, paragraph ~~(d)~~ (b), for blends of gasoline and ethanol up to the maximum percent of denatured ethanol by volume authorized under the waiver.

(b) The minimum biofuel requirement in subdivision 1, paragraph (a), clause (1), item (ii), shall, upon the grant of the federal waiver, be effective the day after the commissioner of commerce publishes notice in the State Register. In making this determination, the commissioner shall consider the amount of time required by refiners, retailers, pipeline and distribution terminal companies, and other fuel suppliers, acting expeditiously, to make the operational and logistical changes required to supply fuel in compliance with the minimum biofuel requirement.

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

Sec. 41. Minnesota Statutes 2020, section 296A.01, subdivision 23, is amended to read:

Subd. 23. **Gasoline.** (a) "Gasoline" means:

(1) all products commonly or commercially known or sold as gasoline regardless of their classification or uses, except casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline that under the requirements of section 239.761, subdivision 3, must not be blended with gasoline that has been sold, transferred, or otherwise removed from a refinery or terminal; and

(2) any liquid prepared, advertised, offered for sale or sold for use as, or commonly and commercially used as, a fuel in spark-ignition, internal combustion engines, and that when tested by the Weights and Measures Division meets the specifications in ASTM specification D4814-11b.

(b) Gasoline that is not blended with ethanol must not be contaminated with water or other impurities and must comply with both ASTM specification D4814-11b and the volatility requirements in Code of Federal Regulations, title 40, part ~~80~~ 1090.

(c) After gasoline is sold, transferred, or otherwise removed from a refinery or terminal, a person responsible for the product:

(1) may blend the gasoline with agriculturally derived ethanol, as provided in subdivision 24;

(2) must not blend the gasoline with any oxygenate other than denatured, agriculturally derived ethanol;

(3) must not blend the gasoline with other petroleum products that are not gasoline or denatured, agriculturally derived ethanol;

(4) must not blend the gasoline with products commonly and commercially known as casinghead gasoline, absorption gasoline, condensation gasoline, drip gasoline, or natural gasoline; and

(5) may blend the gasoline with a detergent additive, an antiknock additive, or an additive designed to replace tetra-ethyl lead, that is registered by the EPA.

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

Sec. 42. Minnesota Statutes 2020, section 325E.21, subdivision 4, is amended to read:

Subd. 4. **Registration required.** (a) Every scrap metal dealer shall register annually with the commissioner of public safety.

(b) The scrap metal dealer shall pay to the commissioner of public safety a \$50 annual fee.

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

Sec. 43. **REPEALER.**

(a) Minnesota Statutes 2020, sections 72A.08; and 72A.20, subdivisions 10 and 15, are repealed effective January 1, 2023.

(b) Minnesota Statutes 2020, section 60A.033, subdivision 3, is repealed."



Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 3255 was read the third time, as amended, and placed on its final passage.

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

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

Those who voted in the affirmative were:

Abeler	Draheim	Ingebrigtsen	Marty	Rest
Anderson	Duckworth	Isaacson	Mathews	Rosen
Bakk	Dziedzic	Jasinski	McEwen	Ruud
Benson	Eaton	Johnson	Miller	Senjem
Bigham	Eichorn	Johnson Stewart	Murphy	Tomassoni
Carlson	Eken	Kent	Nelson	Torres Ray
Chamberlain	Fatch	Kiffmeyer	Newman	Utke
Champion	Frentz	Klein	Newton	Weber
Clausen	Gazelka	Koran	Osmek	Westrom
Coleman	Goggin	Kunesh	Pappas	Wiger
Cwodzinski	Hawj	Lang	Port	Wiklund
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Goggin, Housley, Ingebrigtsen, Mathews, Newman, Rarick, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Dibble, Dziedzic, Kent, Klein, Marty, Newton, and Wiklund.

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

### SPECIAL ORDER

**H.F. No. 3775:** A bill for an act relating to commerce; modifying registration filing for franchises; amending Minnesota Statutes 2020, section 80C.08, subdivision 1.

Senator Dahms moved that the amendment made to H.F. No. 3775 by the Committee on Rules and Administration in the report adopted May 21, 2022, pursuant to Rule 45, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 3775 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

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

Those who voted in the affirmative were:

Abeler	Bigham	Clausen	Dibble	Dziedzic
Anderson	Carlson	Coleman	Dornink	Eaton
Bakk	Chamberlain	Cwodzinski	Draheim	Eichorn
Benson	Champion	Dahms	Duckworth	Eken

Fateh	Jasinski	Limmer	Osmek	Tomassoni
Frentz	Johnson	López Franzen	Pappas	Torres Ray
Gazelka	Johnson Stewart	Marty	Port	Utke
Goggin	Kent	Mathews	Pratt	Weber
Hawj	Kiffmeyer	McEwen	Putnam	Westrom
Hoffman	Klein	Miller	Rarick	Wiger
Housley	Koran	Murphy	Rest	Wiklund
Howe	Kunesh	Nelson	Rosen	
Ingebrigtsen	Lang	Newman	Ruud	
Isaacson	Latz	Newton	Senjem	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Goggin, Housley, Ingebrigtsen, Limmer, Newman, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Dibble, Dziedzic, Fateh, Kent, Klein, Newton, and Wiklund.

So the bill passed and its title was agreed to.

President Osmek resumed the Chair.

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

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

#### **MESSAGES FROM THE HOUSE**

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3420, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3420 is herewith transmitted to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 21, 2022

#### **CONFERENCE COMMITTEE REPORT ON H. F. No. 3420**

A bill for an act relating to drought relief; modifying the disaster recovery loan program; increasing funding for agricultural drought relief loans; appropriating money for drought relief grants and other financial assistance for eligible farmers; providing financial assistance to municipalities, townships, and Tribal governments for increasing water efficiency in public water supplies; providing grants for planting shade trees and purchasing tree-watering equipment; providing financial assistance to replace drought-killed seedlings; appropriating money; amending Minnesota Statutes 2020, section 41B.047, subdivision 3.

May 20, 2022

The Honorable Melissa Hortman  
Speaker of the House of Representatives

The Honorable David J. Osmek  
President of the Senate

We, the undersigned conferees for H. F. No. 3420 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 3420 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**AGRICULTURE APPROPRIATIONS**

Section 1. Laws 2021, First Special Session chapter 3, article 1, section 2, is amended to read:

**Sec. 2. DEPARTMENT OF AGRICULTURE**

Subdivision 1. <b>Total Appropriation</b>		\$	<del>59,303,000</del>	\$	<del>59,410,000</del>
			<u>60,803,000</u>		<u>65,410,000</u>
	Appropriations by Fund				
	2022		2023		
	<del>58,904,000</del>		<del>59,011,000</del>		
General	<u>60,404,000</u>		<u>65,011,000</u>		
Remediation	399,000		399,000		

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

**Subd. 2. Protection Services**

	Appropriations by Fund	
	2022	2023
		<del>19,610,000</del>
General	19,384,000	<u>20,110,000</u>
Remediation	399,000	399,000

(a) \$399,000 the first year and \$399,000 the second year are from the remediation fund for administrative funding for the voluntary cleanup program.

(b) \$175,000 the first year and \$175,000 the second year are for compensation for destroyed or crippled livestock under Minnesota Statutes, section 3.737. The first year appropriation may be spent to compensate for livestock that were destroyed or crippled during fiscal year 2021. If the amount in the first year is insufficient, the amount in the second year is available in the first year. The commissioner may use up to \$5,000 each year to reimburse expenses incurred by university extension educators to provide fair market values of destroyed or crippled livestock. If the commissioner receives federal dollars to pay claims for destroyed or crippled livestock, an equivalent amount of this appropriation may be used to reimburse nonlethal prevention methods performed by federal wildlife services staff.

(c) \$155,000 the first year and \$155,000 the second year are for compensation for crop damage under Minnesota Statutes, section 3.7371. If the amount in the first year is insufficient, the amount in the second year is available in the first year. The commissioner may use up to \$10,000 of the appropriation each year to reimburse expenses incurred by the commissioner or the commissioner's approved agent to investigate and resolve claims, as well as for costs associated with training for approved agents. The commissioner may use up to \$20,000 of the appropriation each year to make grants to producers for measures to protect stored crops from elk damage.

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

(d) \$225,000 the first year and \$225,000 the second year are for additional funding for the noxious weed and invasive plant program.

(e) \$50,000 the first year is for additional funding for the industrial hemp program for IT development. This is a onetime appropriation and is available until June 30, 2023.

(f) \$110,000 the first year and \$110,000 the second year are for additional meat and poultry inspection services. The commissioner is encouraged to seek inspection waivers, matching federal dollars, and offer more online inspections for the purposes under this paragraph.

(g) \$825,000 the first year and \$825,000 the second year are to replace capital equipment in the Department of Agriculture's analytical laboratory.

(h) \$274,000 the first year and \$550,000 the second year are to maintain the current level of service delivery.

(i) \$630,000 is added to the base of fiscal year 2024 and each year thereafter for grants to the Board of Regents of the University of Minnesota to fund the Forever Green Initiative and protect the state's natural resources while increasing the efficiency, profitability, and productivity of Minnesota farmers by incorporating perennial and winter-annual crops into existing agricultural practices. Eligible uses include but are not limited to (1) equipment and physical infrastructure to support breeding and agronomic activities necessary to develop perennial and winter-annual crops, and (2) to develop enterprises, supply chains, and markets for continuous living cover crops and cropping systems in the early stage of commercial development, Kernza perennial grain, winter camelina, hybrid hazelnuts, and elderberry.

(j) \$500,000 the second year is for the soil health financial assistance pilot program. This is a onetime appropriation and is available until June 30, 2024.

		4,205,000
<b>Subd. 3. Agricultural Marketing and Development</b>	4,200,000	<u>4,215,000</u>

(a) \$186,000 the first year and \$186,000 the second year are for transfer to the Minnesota grown account and may be used as grants for Minnesota grown promotion under Minnesota Statutes, section 17.102. Grants may be made for one year. Notwithstanding Minnesota Statutes, section 16A.28, the appropriations encumbered under contract on or before June 30, 2023, for Minnesota grown grants in this paragraph are available until June 30, 2025.

(b) \$50,000 the first year is to expand international marketing opportunities for farmers and value-added processors, including in-market representation in Taiwan. This is a onetime appropriation and is available until June 30, 2023.

(c) \$634,000 the first year and \$634,000 the second year are for continuation of the dairy development and profitability enhancement programs including dairy profitability teams and dairy business planning grants under Minnesota Statutes, section 32D.30.

(d) \$50,000 the first year and \$50,000 the second year are for additional funding for mental health outreach and support to farmers and others in the agricultural community, including a 24-hour hotline, stigma reduction, and educational offerings. These are onetime appropriations.

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

(f) \$100,000 the first year and \$100,000 the second year are for the farm safety grant and outreach programs under Minnesota Statutes, section 17.1195. Notwithstanding Minnesota Statutes, section 16A.28, any unencumbered balance does not cancel at the end of the first year and is available in the second year. These are onetime appropriations.

(g) \$54,000 the first year and \$109,000 the second year are to maintain the current level of service delivery.

(h) \$10,000 the second year is to provide an interim report on the Statewide Cooperative Partnership for Local and Regional Markets, including recommendations for strengthening local and regional food systems. No later than February 1, 2023, the commissioner must submit the report to the legislative committees with jurisdiction over agriculture policy and finance. This is a onetime appropriation.

**Subd. 4. Agriculture, Bioenergy, and Bioproduct Advancement**

	25,343,000	<u>25,357,000</u>
		<u>27,257,000</u>

(a) \$9,300,000 the first year and \$9,300,000 the second year are for transfer to the agriculture research, education, extension, and technology transfer account under Minnesota Statutes, section 41A.14, subdivision 3. Of these amounts: at least \$600,000 the first year and \$600,000 the second year are for the Minnesota Agricultural Experiment Station's agriculture rapid response fund under Minnesota Statutes, section 41A.14, subdivision 1, clause (2); \$2,000,000 the first year and \$2,000,000 the second year are for grants to the Minnesota Agriculture Education Leadership Council to enhance agricultural education with priority given to Farm Business Management challenge grants; \$350,000 the first year and \$350,000 the second year are for potato breeding; and \$450,000 the first year and \$450,000 the second year are for the cultivated wild rice

breeding project at the North Central Research and Outreach Center to include a tenure track/research associate plant breeder. The commissioner shall transfer the remaining funds in this appropriation each year to the Board of Regents of the University of Minnesota for purposes of Minnesota Statutes, section 41A.14. Of the amount transferred to the Board of Regents, up to \$1,000,000 each year is for research on avian influenza, salmonella, and other turkey-related diseases. By January 15, 2023, entities receiving grants for potato breeding and wild rice breeding are requested to report to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture and higher education regarding the use of the grant money and to provide an update on the status of research and related accomplishments.

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

(b) \$16,028,000 the first year and ~~\$16,028,000~~ \$17,928,000 the second year are for the agricultural growth, research, and innovation program under Minnesota Statutes, section 41A.12. Except as provided below, the commissioner may allocate the appropriation each year among the following areas: facilitating the start-up, modernization, improvement, or expansion of livestock operations including beginning and transitioning livestock operations with preference given to robotic dairy-milking equipment; providing funding not to exceed \$800,000 each year to develop and enhance farm-to-school markets for Minnesota farmers by providing more fruits, vegetables, meat, grain, and dairy for Minnesota children in school and child care settings including,



at the commissioner's discretion, reimbursing schools for purchases from local farmers; assisting value-added agricultural businesses to begin or expand, to access new markets, or to diversify, including aquaponics systems; providing funding not to exceed \$600,000 each year for urban youth agricultural education or urban agriculture community development of which \$10,000 each year is for transfer to the emerging farmer account under Minnesota Statutes, section 17.055, subdivision 1a; providing funding not to exceed \$450,000 each year for the good food access program under Minnesota Statutes, section 17.1017; facilitating the start-up, modernization, or expansion of other beginning and transitioning farms including by providing loans under Minnesota Statutes, section 41B.056; sustainable agriculture on-farm research and demonstration; development or expansion of food hubs and other alternative community-based food distribution systems; enhancing renewable energy infrastructure and use; crop research; Farm Business Management tuition assistance; and good agricultural practices and good handling practices certification assistance. The commissioner may use up to 6.5 percent of this appropriation for costs incurred to administer the program.

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

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

(2) ~~\$4,500,000~~ the first year and ~~\$4,500,000~~ \$5,750,000 the second year are for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, 41A.18, and 41A.20. Notwithstanding Minnesota Statutes, section 16A.28, the first year appropriation is available until June 30, 2023, and the second

year appropriation is available until June 30, 2024. If this appropriation exceeds the total amount for which all producers are eligible in a fiscal year, the balance of the appropriation is available for other purposes under this paragraph. The base appropriation under this clause is \$5,750,000 in fiscal year 2024 and thereafter;

(3) \$3,000,000 the first year and \$3,000,000 the second year are for grants that enable retail petroleum dispensers, fuel storage tanks, and other equipment to dispense biofuels to the public in accordance with the biofuel replacement goals established under Minnesota Statutes, section 239.7911. A retail petroleum dispenser selling petroleum for use in spark ignition engines for vehicle model years after 2000 is eligible for grant money under this clause if the retail petroleum dispenser has no more than 10 retail petroleum dispensing sites and each site is located in Minnesota. The grant money must be used to replace or upgrade equipment that does not have the ability to be certified for E25. A grant award must not exceed 65 percent of the cost of the appropriate technology. A grant award must not exceed \$200,000 per station. The commissioner must cooperate with biofuel stakeholders in the implementation of the grant program. The commissioner, in cooperation with any economic or community development financial institution and any other entity with which it contracts, must submit a report on the biofuels infrastructure financial assistance program by January 15 of each year to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture policy and finance. The annual report must include but not be limited to a summary of the following metrics: (i) the number and types of projects financed; (ii) the amount of dollars leveraged or matched per project; (iii) the geographic distribution of financed projects; (iv) any

market expansion associated with upgraded infrastructure; (v) the demographics of the areas served; (vi) the costs of the program; and (vii) the number of grants to minority-owned or female-owned businesses;

(4) ~~\$750,000~~ the first year and ~~\$750,000~~ \$1,400,000 the second year are for grants to facilitate the start-up, modernization, or expansion of meat, poultry, egg, and milk processing facilities. A grant award under this clause must not exceed \$200,000. Any unencumbered balance at the end of the second year does not cancel until June 30, 2024, and may be used for other purposes under this paragraph. ~~The appropriations under this clause are onetime~~ The base appropriation under this clause is \$250,000 in fiscal year 2024 and thereafter; and

(5) \$1,400,000 the first year and \$1,400,000 the second year are for livestock investment grants under Minnesota Statutes, section 17.118. Any unencumbered balance at the end of the second year does not cancel until June 30, 2024, and may be used for other purposes under this paragraph. The appropriations under this clause are onetime.

Notwithstanding Minnesota Statutes, section 16A.28, any unencumbered balance does not cancel at the end of the first year and is available for the second year, and appropriations encumbered under contract on or before June 30, 2023, for agricultural growth, research, and innovation grants are available until June 30, 2026.

The base amount for the agricultural growth, research, and innovation program is ~~\$16,053,000~~ \$17,553,000 in fiscal year 2024 and ~~\$16,053,000~~ \$17,553,000 in fiscal year 2025, and includes funding for incentive payments under Minnesota Statutes, sections 41A.16, 41A.17, 41A.18, and 41A.20.

(c) \$15,000 the first year and \$29,000 the second year are to maintain the current level of service delivery.

	9,977,000	9,839,000
Subd. 5. <b>Administration and Financial Assistance</b>	<u>11,477,000</u>	<u>13,429,000</u>

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

(b) \$387,000 the first year and \$337,000 the second year are for farm advocate services. Of these amounts, \$100,000 the first year and \$50,000 the second year are for a pilot program creating farmland access teams to provide technical assistance to potential beginning farmers. The farmland access teams must assist existing farmers and beginning farmers on transitioning farm ownership and operation. Services provided by teams may include but are not limited to providing mediation assistance, designing contracts, financial planning, tax preparation, estate planning, and housing assistance. Of this amount for farm transitions, up to \$50,000 the first year may be used to upgrade the Minnesota FarmLink web application that connects farmers looking for land with farmers looking to transition their land.

(c) \$47,000 the first year and \$47,000 the second year are for grants to the Northern Crops Institute that may be used to purchase equipment. These are onetime appropriations.

(d) \$238,000 the first year and ~~\$238,000~~ \$260,000 the second year are for ~~transfer to the Board of Trustees of the Minnesota State Colleges and Universities for statewide mental health counseling support to farm~~

~~families and business operators through the Minnesota State Agricultural Centers of Excellence. South Central College and Central Lakes College shall serve as the fiscal agents.~~ a pass-through grant to Region Five Development Commission to provide, in collaboration with Farm Business Management, statewide mental health counseling support to Minnesota farm operators, families, and employees, and individuals who work with Minnesota farmers in a professional capacity. Region Five Development Commission may use up to 6.5 percent of the grant awarded under this paragraph for administration. The base for this appropriation is \$260,000 in fiscal year 2024 and later.

(e) \$1,700,000 the first year and \$1,700,000 the second year are for grants to Second Harvest Heartland on behalf of Minnesota's six Feeding America food banks for the following:

(1) to purchase milk for distribution to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Milk purchased under the grants must be acquired from Minnesota milk processors and based on low-cost bids. The milk must be allocated to each Feeding America food bank serving Minnesota according to the formula used in the distribution of United States Department of Agriculture commodities under The Emergency Food Assistance Program. Second Harvest Heartland may enter into contracts or agreements with food banks for shared funding or reimbursement of the direct purchase of milk. Each food bank that receives funding under this clause may use up to two percent for administrative expenses;

(2) to compensate agricultural producers and processors for costs incurred to harvest and package for transfer surplus fruits, vegetables, and other agricultural

commodities that would otherwise go unharvested, be discarded, or sold in a secondary market. Surplus commodities must be distributed statewide to food shelves and other charitable organizations that are eligible to receive food from the food banks. Surplus food acquired under this clause must be from Minnesota producers and processors. Second Harvest Heartland may use up to 15 percent of each grant awarded under this clause for administrative and transportation expenses; and

(3) to purchase and distribute protein products, including but not limited to pork, poultry, beef, dry legumes, cheese, and eggs to Minnesota's food shelves and other charitable organizations that are eligible to receive food from the food banks. Second Harvest Heartland may use up to two percent of each grant awarded under this clause for administrative expenses. Protein products purchased under the grants must be acquired from Minnesota processors and producers.

Of the amount appropriated under this paragraph, at least \$600,000 each year must be allocated under clause (1). Notwithstanding Minnesota Statutes, section 16A.28, any unencumbered balance the first year does not cancel and is available in the second year. Second Harvest Heartland must submit quarterly reports to the commissioner and the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture finance in the form prescribed by the commissioner. The reports must include but are not limited to information on the expenditure of funds, the amount of milk or other commodities purchased, and the organizations to which this food was distributed.

(f) \$250,000 the first year and \$250,000 the second year are for grants to the Minnesota Agricultural Education and Leadership Council for programs of the council under Minnesota Statutes, chapter 41D.

(g) \$1,437,000 the first year and \$1,437,000 the second year are for transfer to the agricultural and environmental revolving loan account established under Minnesota Statutes, section 17.117, subdivision 5a, for low-interest loans under Minnesota Statutes, section 17.117. The base for appropriations under this paragraph in fiscal year 2024 and thereafter is \$1,425,000. The commissioner must examine how the department could use up to one-third of the amount transferred to the agricultural and environmental revolving loan account under this paragraph to award grants to rural landowners to replace septic systems that inadequately protect groundwater. No later than February 1, 2022, the commissioner must report to the legislative committees with jurisdiction over agriculture finance and environment finance on the results of the examination required under this paragraph. The commissioner's report may include other funding sources for septic system replacement that are available to rural landowners.

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

(i) \$150,000 the first year is to provide grants to Central Lakes College for the purposes of designing, building, and offering credentials in the area of meat cutting and butchery that align with industry needs as advised by local industry advisory councils. Notwithstanding Minnesota Statutes, section 16A.28, any unencumbered balance does not cancel at the end of the first year and is available for the second year. The commissioner may only award a grant under this paragraph if the grant is matched by a like amount from another funding source. The commissioner must seek matching dollars from Minnesota State Colleges and Universities or other entities. The appropriation is onetime and is available until June 30, 2024. Any money

remaining on June 30, 2024, must be transferred to the agricultural growth, research, and innovation program under Minnesota Statutes, section 41A.12, and is available until June 30, 2025. Grants may be used for costs including but not limited to:

- (1) facility renovation to accommodate meat cutting;
- (2) curriculum design and approval from the Higher Learning Commission;
- (3) program operational start-up costs;
- (4) equipment required for a meat cutting program; and
- (5) meat handling start-up costs in regard to meat access and market channel building.

No later than January 15, 2023, Central Lakes College must submit a report outlining the use of grant money to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture and higher education.

(j) \$2,000 the first year is for grants to the Minnesota State Poultry Association. This is a onetime appropriation. Notwithstanding Minnesota Statutes, section 16A.28, any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(k) \$17,000 the first year and \$17,000 the second year are for grants to the Minnesota State Horticultural Society. These are onetime appropriations.

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

(m) The commissioner shall continue to increase connections with ethnic minority and immigrant farmers to farming



opportunities and farming programs throughout the state.

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

(o) \$75,000 the first year and \$75,000 the second year are for grants to Greater Mankato Growth, Inc., for assistance to agriculture-related businesses to promote jobs, innovation, and synergy development. These are onetime appropriations.

(p) \$75,000 the first year and \$75,000 the second year are for grants to the Minnesota Turf Seed Council for basic and applied research. The Minnesota Turf Seed Council may subcontract with a qualified third party for some or all of the basic or applied research. No later than January 15, 2023, the Minnesota Turf Seed Council must submit a report outlining the use of the grant money and related accomplishments to the chairs and ranking minority members of the legislative committees with jurisdiction over agriculture. These are onetime appropriations. Any unencumbered balance does not cancel at the end of the first year and is available for the second year.

(q) \$150,000 the first year and \$150,000 the second year are to establish an emerging farmer office and hire a full-time emerging farmer outreach coordinator. The emerging farmer outreach coordinator must engage and support emerging farmers regarding resources and opportunities available throughout the Department of Agriculture and the state. For purposes of this paragraph, "emerging farmer" has the meaning provided in Minnesota Statutes, section 17.055, subdivision 1. Of the amount appropriated

each year, \$25,000 is for translation services for farmers and cottage food producers.

(r) \$222,000 the first year and \$286,000 the second year are to maintain the current level of service delivery.

(s) \$827,000 the second year is to award and administer grants to:

(1) organizations to provide technical and culturally appropriate services to emerging farmers and related businesses;

(2) organizations to help emerging farmers pay for up to 65 percent of premium expenses each year up to two years under the federal micro farm insurance program; and

(3) The Good Acre for the Local Emergency Assistance Farmer Fund (LEAFF) program to compensate emerging farmers for crops donated to hunger relief organizations in Minnesota.

This is a onetime appropriation and is available until June 30, 2024.

(t) \$750,000 the second year is to support the IT modernization efforts, including laying the technology foundations needed for improving customer interactions with the department for licensing and payments. The base for this appropriation is \$584,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(u) \$1,500,000 the first year is for transfer to the agricultural emergency account established under Minnesota Statutes, section 17.041. This is a onetime transfer. This transfer is in addition to the appropriations made in Laws 2022, chapter 47, section 2.

Notwithstanding Minnesota Statutes, section 17.041, the commissioner may use the amount to be transferred for the purposes identified under Laws 2022, chapter 47, section 2, paragraph (b). This paragraph expires on December 31, 2022.

(v) \$250,000 in the second year is for a grant to the Board of Regents of the University of Minnesota to purchase equipment for the Veterinary Diagnostic Laboratory to test for chronic wasting disease, African swine fever, avian influenza, and other animal diseases. The Veterinary Diagnostic Laboratory must report expenditures under this paragraph to the legislative committees with jurisdiction over agriculture finance and higher education with initial reports completed by January 3, 2023, and January 3, 2024, and a final report by September 1, 2025. The reports must include a list of equipment purchased, including the cost of each item. The base for this appropriation is \$250,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(w) \$141,000 the second year is for additional funding to administer the beginning farmer tax credit. The base for this appropriation is \$56,000 in fiscal year 2024 and later.

(x) \$750,000 the second year is for a grant to the Ag Innovation Campus to continue construction of a soybean processing and research facility. This is a onetime appropriation.

The commissioner shall submit a report on the utilization of the grants to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture policy and finance by February 1, 2024.

(y) \$50,000 is added to the base for fiscal year 2024 and \$0 for fiscal year 2025 to provide technical assistance and leadership in the development of a comprehensive and well-documented state aquaculture plan. The commissioner must provide the state aquaculture plan to the legislative committees with jurisdiction over agriculture finance and policy by February 15, 2025.

(z) \$500,000 the second year is to award and administer down payment assistance grants under Minnesota Statutes, section 17.133. The base for this appropriation is \$750,000 in fiscal year 2024 and thereafter.

(aa) \$350,000 the second year is to provide grants to secondary career and technical education programs for the purpose of offering instruction in meat cutting and butchery. By January 15, 2023, the commissioner must report to the chairs and ranking minority members of the committees with jurisdiction over agriculture finance and education finance by listing the grants made under this paragraph by county and noting the number and amount of grant requests not fulfilled. The report may include additional information as determined by the commissioner, including but not limited to information regarding the outcomes produced by these grants. If additional grants are awarded under this paragraph that were not covered in the report due by January 15, 2023, the commissioner must submit an additional report to the chairs and ranking minority members of the committees with jurisdiction over agriculture finance and education finance regarding all grants issued under this paragraph by November 1, 2023. This is a onetime appropriation. Grants may be used for costs, including but not limited to:

(1) equipment required for a meat cutting program;

(2) facility renovation to accommodate meat cutting; and

(3) training faculty to teach the fundamentals of meat processing.

A grant recipient may be awarded a grant of up to \$70,000 and may use up to ten percent of the grant for faculty training.

Priority may be given to applicants who are coordinating with meat cutting and butchery programs at Minnesota State Colleges and Universities system and local industry partners.

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

Sec. 2. Laws 2021, First Special Session chapter 3, article 1, section 4, is amended to read:

**Sec. 4. AGRICULTURAL UTILIZATION RESEARCH INSTITUTE**

**\$ 4,543,000 \$ 4,043,000**

(a) \$150,000 the first year and \$150,000 the second year are for a meat scientist.

(b) \$500,000 the first year is for grants to organizations to acquire, host, and operate a mobile slaughter unit. The mobile unit must coordinate with Minnesota state two-year colleges that have meat cutting programs to accommodate training as it relates to animal slaughter. The mobile unit may coordinate with livestock producers who desire to provide value-added meat products by utilizing the mobile slaughter unit. The mobile unit may be used for research, training outside of the two-year colleges, and other activities that align with industry needs. The Agricultural Utilization Research Institute may only award a grant under this paragraph if the grant amount is matched by a like amount from another funding source. The Agricultural Utilization Research Institute must seek matching dollars from Minnesota State Colleges and Universities or other entities for purposes of this paragraph. The appropriation under this paragraph is onetime and is available until June 30, 2024. Any money remaining on June 30, 2024, must be transferred to the commissioner of agriculture for the agricultural growth, research, and innovation program under Minnesota Statutes, section 41A.12, and is available until June 30, 2025. By January 15, 2023, the institute must report to the chairs and ranking minority members of the legislative committees with jurisdiction

over agriculture regarding the status of the project, including the status of the use of any state or matching dollars to complete the project.

(c) \$300,000 is added to the base in fiscal year 2024 and \$0 in fiscal year 2025 for equipment upgrades, equipment replacement, installation expenses, and laboratory infrastructure at the Agricultural Utilization Research Institute's laboratories in Crookston, Marshall, and Waseca.

(d) \$200,000 is added to the base for fiscal year 2024 and thereafter to maintain the current level of service delivery.

## ARTICLE 2

### AGRICULTURE POLICY

Section 1. Minnesota Statutes 2020, section 17.041, subdivision 1, is amended to read:

Subdivision 1. **Establishment; appropriation.** An agricultural emergency account is established in the agricultural fund. Money in the account, including interest, is appropriated to the commissioner for emergency preparedness and response activities for agricultural emergencies affecting producers of livestock, poultry, crops, or other agricultural products. Eligible emergency response uses include agency costs directly attributed to responding to agricultural emergencies and purchasing necessary equipment and reimbursing costs incurred by local units of government that are not eligible for reimbursement from other sources. Eligible emergency preparedness uses are limited to training and the procurement of equipment and supplies.

Sec. 2. [17.1016] COOPERATIVE GRANTS.

Subdivision 1. **Definitions.** For purposes of this section:

(1) "agricultural commodity" and "agricultural product processing facility" have the meanings given in section 17.101, subdivision 5; and

(2) "agricultural service" means an action made under the direction of a farmer that provides value to another entity. Agricultural service includes grazing to manage vegetation.

Subd. 2. **Grant program.** (a) The commissioner may establish and implement a grant program to help farmers finance new cooperatives that organize for purposes of operating an agricultural product processing facility or marketing an agricultural product or agricultural service.

(b) To be eligible for this program, a grantee must:

(1) be a cooperative organized under chapter 308A;

(2) certify that all control and equity in the cooperative is from farmers, family farm partnerships, family farm limited liability companies, or family farm corporations as defined in section 500.24, subdivision 2, who are actively engaged in agricultural commodity production;

(3) be operated primarily to process agricultural commodities or market agricultural products or services produced in Minnesota; and

(4) receive agricultural commodities produced primarily by shareholders or members of the cooperative.

(c) The commissioner may receive applications and make grants up to \$50,000 to eligible grantees for feasibility, marketing analysis, assistance with organizational development, financing and managing new cooperatives, product development, development of business and marketing plans, and predesign of facilities, including site analysis, the development of bid specifications, preliminary blueprints and schematics, and the completion of purchase agreements and other necessary legal documents.

(d) Grants must be matched dollar-for-dollar with other money or in-kind contributions.

Sec. 3. Minnesota Statutes 2020, section 17.117, subdivision 9, is amended to read:

Subd. 9. **Allocation rescission.** (a) Continued availability of allocations granted to a local government unit is contingent upon the commissioner's approval of the local government unit's annual report. The commissioner shall review this annual report to ensure that the past and future uses of the funds are consistent with the comprehensive water management plan, other local planning documents, the requirements of the funding source, and compliance to program requirements. If the commissioner concludes the past or intended uses of the money are not consistent with these requirements, the commissioner shall rescind all or part of the allocation awarded to a local government unit.

(b) The commissioner may rescind funds allocated to the local government unit that are not designated to committed projects or disbursed within one year from the date of the allocation agreement.

~~(c) An additional year to use the undisbursed portion of an allocation may be granted by the commissioner under extenuating circumstances~~ The commissioner may rescind uncommitted allocations.

Sec. 4. Minnesota Statutes 2020, section 17.117, subdivision 9a, is amended to read:

Subd. 9a. **Authority and responsibilities of local government units.** (a) A local government unit that enters into an allocation agreement with the commissioner:

(1) is responsible for the local administration and implementation of the program in accordance with this section;

(2) may submit applications for allocations to the commissioner;

(3) shall identify, develop, determine eligibility, define and approve projects, designate maximum loan amounts for projects, and certify completion of projects implemented under this program. In

areas where no local government unit has applied for funds under this program, the commissioner may appoint a local government unit to review and certify projects or the commissioner may assume the authority and responsibility of the local government unit;

(4) shall certify as eligible only projects that are within its geographic jurisdiction or within the geographic area identified in its local comprehensive water management plans or other local planning documents;

(5) may require withholding by the local lender of all or a portion of the loan to the borrower until satisfactory completion of all required components of a certified project;

~~(6) must identify which account is used to finance an approved project if the local government unit has allocations from multiple accounts in the agricultural and environmental revolving accounts;~~

~~(7)~~ (6) shall report to the commissioner annually the past and intended uses of allocations awarded; and

~~(8)~~ (7) may request additional funds in excess of their allocation when funds are available in the agricultural and environmental revolving accounts, as long as all other allocation awards to the local government unit have been used or committed.

(b) If a local government unit withdraws from participation in this program, the local government unit, or the commissioner in accordance with the priorities established under subdivision 6a, may designate another local government unit that is eligible under subdivision 6 as the new local government unit responsible for local administration of this program. This designated local government unit may accept responsibility and administration of allocations awarded to the former responsible local government unit.

Sec. 5. Minnesota Statutes 2020, section 17.117, subdivision 10, is amended to read:

Subd. 10. **Authority and responsibilities of local lenders.** (a) Local lenders may enter into lender agreements with the commissioner.

(b) Local lenders may enter into loan agreements with borrowers to finance eligible projects under this section.

~~(c) The local lender shall notify the local government unit of the loan amount issued to the borrower after the closing of each loan.~~

~~(d)~~ (c) Local lenders with local revolving loan accounts created before July 1, 2001, may continue to retain and use those accounts in accordance with their lending agreements for the full term of those agreements.

~~(e)~~ (d) Local lenders, including local government units designating themselves as the local lender, may enter into participation agreements with other lenders.

~~(f)~~ (e) Local lenders may enter into contracts with other lenders for the limited purposes of loan review, processing and servicing, or to enter into loan agreements with borrowers to finance projects under this section. Other lenders entering into contracts with local lenders under this section must



meet the definition of local lender in subdivision 4, must comply with all provisions of the lender agreement and this section, and must guarantee repayment of the loan funds to the local lender.

~~(g)~~ (f) When required by the local government unit, a local lender must withhold all or a portion of the loan disbursement for a project until notified by the local government unit that the project has been satisfactorily completed.

~~(h)~~ (g) The local lender is responsible for repaying all funds provided by the commissioner to the local lender.

~~(i)~~ (h) The local lender is responsible for collecting repayments from borrowers. If a borrower defaults on a loan issued by the local lender, it is the responsibility of the local lender to obtain repayment from the borrower. Default on the part of borrowers shall have no effect on the local lender's responsibility to repay its obligations to the commissioner whether or not the local lender fully recovers defaulted amounts from borrowers.

~~(j)~~ (i) The local lender shall provide sufficient collateral or protection to the commissioner for the funds provided to the local lender. The commissioner must approve the collateral or protection provided.

Sec. 6. Minnesota Statutes 2020, section 17.117, subdivision 11, is amended to read:

Subd. 11. **Loans issued to borrower.** (a) Local lenders may issue loans only for projects that are approved and certified by the local government unit as meeting priority needs identified in a comprehensive water management plan or other local planning documents, are in compliance with accepted practices, standards, specifications, or criteria, and are eligible for financing under Environmental Protection Agency or other applicable guidelines.

(b) The local lender may use any additional criteria considered necessary to determine the eligibility of borrowers for loans.

(c) Local lenders shall set the terms and conditions of loans to borrowers, except that:

~~(1) no loan to a borrower may exceed \$200,000; and~~

~~(2) no borrower shall, at any time, have multiple loans from this program with a total outstanding loan balance of more than \$200,000.~~

(d) The maximum term length for projects in this paragraph is ten years.

(e) Fees charged at the time of closing must:

(1) be in compliance with normal and customary practices of the local lender;

(2) be in accordance with published fee schedules issued by the local lender;

(3) not be based on participation program; and

(4) be consistent with fees charged other similar types of loans offered by the local lender.

(f) The interest rate assessed to an outstanding loan balance by the local lender must not exceed three percent per year.

Sec. 7. Minnesota Statutes 2020, section 17.117, subdivision 11a, is amended to read:

Subd. 11a. **Eligible projects.** (a) All projects that remediate or mitigate adverse environmental impacts are eligible if the project is eligible under an allocation agreement.

(b) A manure management project is eligible if the project remediates or mitigates impacts from facilities with less than 1,000 animal units as defined in Minnesota Rules, chapter 7020, and otherwise meets the requirements of this section.

(c) A drinking water project is eligible if the project:

(1) remediates ~~the~~ or mitigates the inadequate flow, adverse environmental impacts or presence of contaminants in private well privately owned water supplies that are used for drinking water by people or livestock, privately owned water service lines, or privately owned plumbing and fixtures;

(2) implements best management practices that are intended to achieve drinking water standards or adequate flow; and

(3) otherwise meets the requirements of this section.

Sec. 8. Minnesota Statutes 2020, section 17.118, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** The commissioner may award a livestock investment grant to a person who raises livestock in this state equal to ten percent of the first \$500,000 of qualifying expenditures, provided the person makes qualifying expenditures of at least \$4,000. The commissioner may award multiple livestock investment grants to a person over the life of the program as long as the cumulative amount does not exceed \$50,000 and shall give preference to applicants who have not previously received a grant under this section.

Sec. 9. Minnesota Statutes 2020, section 17.118, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** ~~(a)~~ To be eligible for a livestock investment grant, a person must:

(1) be a resident of Minnesota or an entity specifically defined in section 500.24, subdivision 2, that is eligible to own farmland and operate a farm in this state under section 500.24;

(2) be the principal operator of the farm;

(3) hold a feedlot registration, if required; and

(4) apply to the commissioner on forms prescribed by the commissioner including a statement of the qualifying expenditures made during the qualifying period along with any proof or other documentation the commissioner may require.

~~(b) The \$50,000 maximum grant applies at the entity level for partnerships, S corporations, C corporations, trusts, and estates as well as at the individual level. In the case of married individuals, the grant is limited to \$50,000 for a married couple.~~

Sec. 10. **[17.133] FARM DOWN PAYMENT ASSISTANCE GRANTS.**

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

(b) "Eligible farmer" means an individual who at the time that the grant is awarded:

(1) is a resident of Minnesota who intends to acquire farmland located within the state and provide the majority of the day-to-day physical labor and management of the farm;

(2) grosses no more than \$250,000 per year from the sale of farm products; and

(3) has not, and whose spouse has not, at any time had a direct or indirect ownership interest in farmland.

(c) "Farm down payment" means an initial, partial payment required by a lender or seller to purchase farmland.

Subd. 2. **Grants.** The commissioner must award farm down payment assistance grants of up to \$15,000 per eligible farmer. An eligible farmer must match the grant with at least an equivalent amount of other funding. An eligible farmer must commit to own and farm the land purchased with assistance provided under this section for at least five years. For each year that a grant recipient does not own and farm the land during the five-year period, the grant recipient must pay a penalty to the commissioner equal to 20 percent of the grant amount.

Subd. 3. **Report to legislature.** No later than December 1, 2023, and annually thereafter, the commissioner must provide a report to the chairs and ranking minority members of the legislative committees having jurisdiction over agriculture and rural development, in compliance with sections 3.195 and 3.197, on the farm down payment assistance grants under this section. The report must include:

(1) background information on beginning farmers in Minnesota and any other information that the commissioner and authority find relevant to evaluating the effect of the grants on increasing opportunities for and the number of beginning farmers;

(2) the number and amount of grants;

(3) the geographic distribution of grants by county;

(4) the number of grant recipients who are emerging farmers;

(5) the number of farmers who cease to own land and are subject to payment of a penalty, along with the reasons for the land ownership cessation; and

(6) the number and amount of grant applications that exceeded the allocation available in each year.

Sec. 11. Minnesota Statutes 2020, section 18B.051, is amended to read:

**18B.051 POLLINATOR HABITAT AND RESEARCH ACCOUNT.**

Subdivision 1. **Account established.** A pollinator ~~habitat and~~ research account is established in the agricultural fund. Money in the account, including interest, is appropriated to the Board of Regents of the University of Minnesota for pollinator research and outreach including, but not limited to, science-based best practices and the identification and establishment of habitat beneficial to pollinators.

Subd. 2. **Expiration.** This section expires July 1, ~~2022~~ 2025.

Sec. 12. Minnesota Statutes 2020, section 18E.03, subdivision 3, is amended to read:

Subd. 3. **Determination of response and reimbursement fee.** (a) The commissioner shall determine the amount of the response and reimbursement fee under subdivision 4 after a public hearing based on:

(1) the amount needed to maintain an unencumbered balance in the account of ~~\$1,000,000~~ \$2,000,000;

(2) the amount estimated to be needed for responses to incidents as provided in subdivision 2, clauses (1) and (2); and

(3) the amount needed for payment and reimbursement under section 18E.04.

(b) The commissioner shall determine the response and reimbursement fee so that the total balance in the account does not exceed ~~\$5,000,000~~ \$6,500,000.

(c) Money from the response and reimbursement fee shall be deposited in the treasury and credited to the agricultural chemical response and reimbursement account.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 13. Minnesota Statutes 2020, section 18E.04, subdivision 3, is amended to read:

Subd. 3. **Partial reimbursement.** (a) If the unencumbered balance of the account drops below ~~\$2,000,000~~ \$3,000,000, the board may only pay or reimburse an eligible person up to \$100,000 within the same fiscal year.

(b) If the board determines that an incident was caused by a violation of chapter 18B, 18C, or 18D, the board may reimburse or pay a portion of the corrective action costs of the eligible person based on the culpability of the eligible person and the percentage of the costs not attributable to the violation.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 14. Minnesota Statutes 2020, section 18E.04, subdivision 4, is amended to read:

Subd. 4. **Reimbursement payments.** (a) The board shall pay a person that is eligible for reimbursement or payment under subdivisions 1, 2, and 3 from the agricultural chemical response and reimbursement account for 80 percent of the total reasonable and necessary corrective action costs greater than \$1,000 and less than or equal to ~~\$350,000~~ \$550,000.

(b) A reimbursement or payment may not be made until the board has determined that the costs are reasonable and are for a reimbursement of the costs that were actually incurred.

(c) The board may make periodic payments or reimbursements as corrective action costs are incurred upon receipt of invoices for the corrective action costs.

(d) Money in the agricultural chemical response and reimbursement account is appropriated to the commissioner to make payments and reimbursements directed by the board under this subdivision.

(e) The board may not make reimbursement greater than the maximum allowed under paragraph (a) for all incidents on a single site which:

(1) were not reported at the time of release but were discovered and reported after July 1, 1989; and

(2) may have occurred prior to July 1, 1989, as determined by the commissioner.

(f) The board may only reimburse an eligible person for separate incidents within a single site if the commissioner determines that each incident is completely separate and distinct in respect of location within the single site or time of occurrence.

(g) Except for an emergency incident, the board may not reimburse or pay for more than 60 percent of the corrective action costs of an eligible person or for an incident within five years of a previous incident at a single site resulting from a site recontamination.

(h) The deduction of \$1,000 and 20 percent from the ~~\$350,000~~ \$550,000 remuneration may be waived by the board if the incident took place on or after August 18, 2007, and was caused by flooding associated with Presidential Declaration of Major Disaster DR-1717.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 15. Minnesota Statutes 2020, section 28A.21, subdivision 2, is amended to read:

Subd. 2. **Membership.** (a) The Food Safety and Defense Task Force consists of:

(1) the commissioner of agriculture or the commissioner's designee;

(2) the commissioner of health or the commissioner's designee;

(3) a representative of the United States Food and Drug Administration;

(4) a representative of the United States Department of Agriculture;

(5) a representative of the Agricultural Utilization Research Institute;

(6) one member of the Minnesota Grocers Association;

(7) one member from the University of Minnesota knowledgeable in food and food safety issues; and

(8) ~~nine~~ ten members appointed by the governor who are interested in food and food safety, of whom:

(i) two persons are health or food professionals;

(ii) one person represents a statewide general farm organization;

(iii) one person represents a local food inspection agency;

(iv) one person represents a food-oriented consumer group; ~~and~~

(v) one person represents a Minnesota-based manufacturer of microbial detection equipment and remediation products; and

(vi) one person is knowledgeable in cybersecurity.

(b) Members shall serve without compensation. Members appointed by the governor shall serve four-year terms.

Sec. 16. Minnesota Statutes 2020, section 35.05, is amended to read:

**35.05 AUTHORITY OF STATE BOARD.**

(a) The state board may quarantine or kill any domestic animal infected with, or which has been exposed to, a contagious or infectious dangerous disease if it is necessary to protect the health of the domestic animals of the state.

(b) The board may regulate or prohibit the arrival in and departure from the state of infected or exposed animals and, in case of violation of any rule or prohibition, may detain any animal at its owner's expense. The board may regulate or prohibit the importation of domestic animals which, in its opinion, may injure the health of Minnesota livestock.

(c) When the governor declares an emergency under section 35.0661, the board, through its executive director, may assume control of such resources within the University of Minnesota's Veterinary Diagnostic Laboratory as necessary to effectively address the disease outbreak. The director of the laboratory and other laboratory personnel must cooperate fully in performing necessary functions related to the outbreak or threatened outbreak.

(d) The board may test or require tests of any bovine or cervidae in the state when the board deems it necessary to achieve or maintain bovine tuberculosis accredited free state or zone status under the regulations and laws administered by the United States Department of Agriculture.

(e) Notwithstanding section 3.3005, subdivision 2, the board may apply for, receive, and disburse federal money made available to the state for animal disease response. All federal money received by the board for this purpose must be deposited in the state treasury and, except as provided in section 35.156, subdivision 2, is appropriated to the board for the purposes for which it was received. By January 15 each year, the board must report to the senate Committee on Finance, the house of representatives Committee on Ways and Means, and the legislative committees with jurisdiction over the board's operating budget regarding the amount of federal money received and spent in the previous fiscal year under this paragraph and the board's use of these funds.

Sec. 17. Minnesota Statutes 2020, section 40A.18, subdivision 2, is amended to read:

Subd. 2. **Allowed commercial and industrial operations.** (a) Commercial and industrial operations are not allowed on land within an agricultural preserve except:

(1) small on-farm commercial or industrial operations normally associated with and important to farming in the agricultural preserve area;

(2) storage use of existing farm buildings that does not disrupt the integrity of the agricultural preserve;

(3) small commercial use of existing farm buildings for trades not disruptive to the integrity of the agricultural preserve such as a carpentry shop, small scale mechanics shop, and similar activities that a farm operator might conduct; ~~and~~

(4) wireless communication installments and related equipment and structure capable of providing technology potentially beneficial to farming activities. A property owner who installs wireless communication equipment does not violate a covenant made prior to January 1, 2018, under section 40A.10, subdivision 1-; and

(5) solar energy generating systems with an output capacity of one megawatt or less.

(b) For purposes of paragraph (a), clauses (2) and (3), "existing" means existing on August 1, 1989.

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

Sec. 18. Minnesota Statutes 2020, section 41A.16, subdivision 1, is amended to read:

Subdivision 1. **Eligibility for participants on or before April 1, 2023.** (a) A facility eligible for payment under this section must source from Minnesota at least 80 percent of the biomass used to produce an advanced biofuel, except that, if a facility is sited 50 miles or less from the state border, biomass used to produce an advanced biofuel may be sourced from outside of Minnesota, but only if at least 80 percent of the biomass is sourced from within a 100-mile radius of the facility or from within Minnesota. The facility must be located in Minnesota, must begin production at a specific location ~~by June 30, 2025~~ on or before April 1, 2023, and must not begin operating above 23,750 MMBtu of quarterly advanced biofuel production before July 1, 2015. Eligible facilities include existing companies and facilities that are adding advanced biofuel production capacity, or retrofitting existing capacity, as well as new companies and facilities. Production of conventional corn ethanol and conventional biodiesel is not eligible. Eligible advanced biofuel facilities must produce at least 1,500 MMBtu of advanced biofuel quarterly.

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

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

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

(e) Renewable chemical production for which payment has been received under section 41A.17, and biomass thermal production for which payment has been received under section 41A.18, are not eligible for payment under this section.

(f) Biobutanol is eligible under this section.

Sec. 19. Minnesota Statutes 2020, section 41A.16, is amended by adding a subdivision to read:

Subd. 7. **Eligibility for participants after April 1, 2023.** (a) A facility eligible for payment under this section must source at least 80 percent raw materials from Minnesota. If a facility is sited 50 miles or less from the state border, raw materials may be sourced from within a 100-mile radius. Raw materials must be from agricultural or forestry sources or from solid waste. The facility must be located in Minnesota, must begin production at a specific location after April 1, 2023, and before June 30, 2025, and must not begin operating above 23,750 MMbtu of quarterly biofuel production before July 1, 2015. Eligible facilities include existing companies and facilities that are adding advanced biofuel production capacity, or retrofitting existing capacity, as well as new companies and facilities. Production of conventional corn ethanol and conventional biodiesel is not eligible. Eligible advanced biofuel facilities must produce at least 23,750 MMbtu of biofuel quarterly.

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

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

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

(e) Renewable chemical production for which payment has been received under section 41A.17, and biomass thermal production for which payment has been received under section 41A.18, are not eligible for payment under this section.

(f) Biobutanol is eligible under this section.

Sec. 20. Minnesota Statutes 2020, section 41A.17, subdivision 1, is amended to read:

Subdivision 1. **Eligibility for participants on or before April 1, 2023.** (a) A facility eligible for payment under this section must source from Minnesota at least 80 percent of the biomass used to produce a renewable chemical, except that, if a facility is sited 50 miles or less from the state border, biomass used to produce a renewable chemical may be sourced from outside of Minnesota, but only if at least 80 percent of the biomass is sourced from within a 100-mile radius of the facility or from within Minnesota. The facility must be located in Minnesota, must begin production at a specific location ~~by June 30, 2025~~ on or before April 1, 2023, and must not begin production of 250,000 pounds of chemicals quarterly before January 1, 2015. Eligible facilities include existing companies and facilities that are adding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible renewable chemical facilities must produce at least 250,000 pounds of renewable chemicals quarterly. Renewable chemicals produced through processes that are fully commercial before January 1, 2000, are not eligible.



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

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

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

(e) Advanced biofuel production for which payment has been received under section 41A.16, and biomass thermal production for which payment has been received under section 41A.18, are not eligible for payment under this section.

Sec. 21. Minnesota Statutes 2020, section 41A.17, is amended by adding a subdivision to read:

**Subd. 6. Eligibility for participants after April 1, 2023.** (a) A facility eligible for payment under this program must source at least 80 percent biobased content from Minnesota. For the purposes of this subdivision, "biobased content" means a chemical, polymer, monomer, or plastic that is not sold primarily for use as food, feed, or fuel and that has a biobased percentage of at least 51 percent as determined by testing representative samples using American Society for Testing and Materials specification D6866. If a facility is sited 50 miles or less from the state border, biobased content must be sourced from within a 100-mile radius. Biobased content must be from agricultural or forestry sources or from solid waste. The facility must be located in Minnesota, must begin production at a specific location after April 1, 2023, and before June 30, 2025, and must not begin production of 750,000 pounds or more of chemicals quarterly before January 1, 2015. Eligible facilities include existing companies and facilities that are adding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible renewable chemical facilities must produce at least 750,000 pounds of renewable chemicals quarterly. Renewable chemicals produced through processes that are fully commercial before January 1, 2000, are not eligible.

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

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

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

(e) Advanced biofuel production for which payment has been received under section 41A.16, and biomass thermal production for which payment has been received under section 41A.18, are not eligible for payment under this section.

Sec. 22. Minnesota Statutes 2020, section 41A.18, subdivision 1, is amended to read:

**Subdivision 1. Eligibility for participants on or before April 1, 2023.** (a) A facility eligible for payment under this section must source from Minnesota at least 80 percent of the biomass used for biomass thermal production, except that, if a facility is sited 50 miles or less from the state border, biomass used for biomass thermal production may be sourced from outside of Minnesota, but only

if at least 80 percent of the biomass is sourced from within a 100-mile radius of the facility, or from within Minnesota. Biomass must be from agricultural or forestry sources. The facility must be located in Minnesota, must have begun production at a specific location ~~by June 30, 2025~~ on or before April 1, 2023, and must not begin before July 1, 2015. Eligible facilities include existing companies and facilities that are adding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible biomass thermal production facilities must produce at least 250 MMbtu of biomass thermal quarterly.

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

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

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

(e) Biofuel production for which payment has been received under section 41A.16, and renewable chemical production for which payment has been received under section 41A.17, are not eligible for payment under this section.

Sec. 23. Minnesota Statutes 2020, section 41A.18, is amended by adding a subdivision to read:

Subd. 6. **Eligibility for participants after April 1, 2023.** (a) A facility eligible for payment under this section must source at least 80 percent raw materials from Minnesota. If a facility is sited 50 miles or less from the state border, raw materials should be sourced from within a 100-mile radius. Raw materials must be from agricultural or forestry sources. The facility must be located in Minnesota, must have begun production at a specific location after April 1, 2023, and before June 30, 2025, and must not begin before July 1, 2015. Eligible facilities include existing companies and facilities that are adding production capacity, or retrofitting existing capacity, as well as new companies and facilities. Eligible biomass thermal production facilities must produce at least 250 MMbtu of biomass thermal quarterly.

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

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

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

(e) Biofuel production for which payment has been received under section 41A.16, and renewable chemical production for which payment has been received under section 41A.17, are not eligible for payment under this section.

Sec. 24. Minnesota Statutes 2021 Supplement, section 41A.21, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** (a) A facility eligible for payment under this section must source at least 80 percent of its forest resources raw materials from Minnesota. The facility must be located in Minnesota; must begin construction activities by December 31, ~~2022~~ 2023, for a specific location; must ~~begin production~~ have produced at least one OSB square foot on a 3/8-inch nominal basis at a specific location by June 30, ~~2025~~ 2026; and must not begin operating before January 1, 2022. Eligible facilities must be new OSB construction sites with total capital investment in excess of \$250,000,000. Eligible OSB production facilities must produce at least ~~200,000,000~~ 50,000,000 OSB square feet on a 3/8-inch nominal basis of OSB each ~~year~~ quarter. At least one product produced at the facility should be a wood-based wall or roof structural sheathing panel that has an integrated, cellulose-based paper overlay that serves as a water resistive barrier.

(b) No payments shall be made for OSB production that occurs after June 30, 2036, for those eligible producers under paragraph (a).

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

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

Sec. 25. Minnesota Statutes 2020, section 41B.025, is amended by adding a subdivision to read:

Subd. 10. **Timely decisions.** When feasible, the authority must make a decision on a completed loan application submitted by a borrower or eligible agricultural lender within ten business days.

Sec. 26. Minnesota Statutes 2020, section 223.17, subdivision 4, is amended to read:

Subd. 4. **Bond.** (a) Except as provided in paragraphs (c) to (e), before a grain buyer's license is issued, the applicant for the license must file with the commissioner a bond in a penal sum prescribed by the commissioner but not less than the following amounts:

- (1) \$10,000 for grain buyers whose gross annual purchases are \$100,000 or less;
- (2) \$20,000 for grain buyers whose gross annual purchases are more than \$100,000 but not more than \$750,000;
- (3) \$30,000 for grain buyers whose gross annual purchases are more than \$750,000 but not more than \$1,500,000;
- (4) \$40,000 for grain buyers whose gross annual purchases are more than \$1,500,000 but not more than \$3,000,000;
- (5) \$50,000 for grain buyers whose gross annual purchases are more than \$3,000,000 but not more than \$6,000,000;
- (6) \$70,000 for grain buyers whose gross annual purchases are more than \$6,000,000 but not more than \$12,000,000;
- (7) \$125,000 for grain buyers whose gross annual purchases are more than \$12,000,000 but not more than \$24,000,000; and

(8) \$150,000 for grain buyers whose gross annual purchases exceed \$24,000,000.

(b) The amount of the bond shall be based on the most recent gross annual grain purchase report of the grain buyer.

(c) A first-time applicant for a grain buyer's license shall file a \$50,000 bond with the commissioner. This bond shall remain in effect for the first year of the license. Thereafter, the licensee shall comply with the applicable bonding requirements contained in paragraph (a), clauses (1) to (8).

(d) In lieu of the bond required by this subdivision the applicant may deposit with the commissioner of management and budget an irrevocable bank letter of credit as defined in section 336.5-102, in the same amount as would be required for a bond.

(e) A grain buyer who purchases grain immediately upon delivery solely with cash; a certified check; a cashier's check; or a postal, bank, or express money order is exempt from this subdivision if the grain buyer's gross annual purchases are ~~\$100,000~~ \$1,000,000 or less.

(f) Bonds must be continuous until canceled. To cancel a bond, a surety must provide 90 days' written notice of the bond's termination date to the licensee and the commissioner.

Sec. 27. Minnesota Statutes 2020, section 223.17, subdivision 6, is amended to read:

Subd. 6. **Financial statements.** (a) Except as allowed in paragraph (c), a grain buyer licensed under this chapter must annually submit to the commissioner a financial statement prepared in accordance with generally accepted accounting principles. The annual financial statement required under this subdivision must also:

(1) include, but not be limited to the following:

(i) a balance sheet;

(ii) a statement of income (profit and loss);

(iii) a statement of retained earnings;

(iv) a statement of changes in financial position; and

(v) a statement of the dollar amount of grain purchased in the previous fiscal year of the grain buyer;

(2) be accompanied by a compilation report of the financial statement that is prepared by a grain commission firm or a management firm approved by the commissioner or by an independent public accountant, in accordance with standards established by the American Institute of Certified Public Accountants;

(3) be accompanied by a certification by the chief executive officer or the chief executive officer's designee of the licensee, and where applicable, all members of the governing board of directors under penalty of perjury, that the financial statement accurately reflects the financial condition of the licensee for the period specified in the statement;

(4) for grain buyers purchasing under ~~\$5,000,000~~ \$7,500,000 of grain annually, be reviewed by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants, and must show that the financial statements are free from material misstatements; and

(5) for grain buyers purchasing ~~\$5,000,000~~ \$7,500,000 or more of grain annually, be audited by a certified public accountant in accordance with standards established by the American Institute of Certified Public Accountants and must include an opinion statement from the certified public accountant.

(b) Only one financial statement must be filed for a chain of warehouses owned or operated as a single business entity, unless otherwise required by the commissioner. All financial statements filed with the commissioner are private or nonpublic data as provided in section 13.02.

(c) A grain buyer who purchases grain immediately upon delivery solely with cash; a certified check; a cashier's check; or a postal, bank, or express money order is exempt from this subdivision if the grain buyer's gross annual purchases are ~~\$100,000~~ \$1,000,000 or less.

(d) The commissioner shall annually provide information on a person's fiduciary duties to each licensee. To the extent practicable, the commissioner must direct each licensee to provide this information to all persons required to certify the licensee's financial statement under paragraph (a), clause (3).

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

Sec. 28. Minnesota Statutes 2020, section 346.155, subdivision 7, is amended to read:

Subd. 7. **Exemptions.** This section does not apply to:

(1) institutions accredited by the American Zoo and Aquarium Association;

(2) a wildlife sanctuary;

(3) fur-bearing animals, as defined in section 97A.015, possessed by a game farm that is licensed under section 97A.105, or bears possessed by a game farm that is licensed under section 97A.105;

(4) the Department of Natural Resources, or a person authorized by permit issued by the commissioner of natural resources pursuant to section 97A.401, subdivision 3;

(5) a licensed or accredited research or medical institution; ~~or~~

(6) a United States Department of Agriculture licensed exhibitor of regulated animals while transporting or as part of a circus, carnival, rodeo, or fair; or

(7) a zoo that: (i) is a United States Department of Agriculture-licensed exhibitor of regulated animals; (ii) houses animals owned by institutions accredited by the American Zoo and Aquarium Association; and (iii) participates in the American Zoo and Aquarium Association Species Survival Plan.

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

Sec. 29. **SOIL HEALTH FINANCIAL ASSISTANCE PILOT PROGRAM.**

Subdivision 1. **Establishment.** The commissioner of agriculture must establish and administer a pilot program to support healthy soil management practices in accordance with this section.

Subd. 2. **State healthy soil management plan.** The commissioner must develop a healthy soil management plan in consultation with the University of Minnesota, the United States Department of Agriculture Natural Resources Conservation Service, the Board of Water and Soil Resources, the Minnesota Pollution Control Agency, and nongovernmental environmental and agricultural organizations. By December 31, 2023, and December 31, 2024, the commissioner must report the plan to the governor and to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over agriculture, the environment, and natural resources. The plan must include all of the following:

- (1) an assessment of the current state of healthy soil management practices statewide;
- (2) a statewide five- and ten-year goal for healthy soil management practice implementation, denominated in acres;
- (3) an explanation of how the commissioner will make grant award decisions based on the eligibility categories described in subdivision 3;
- (4) an explanation of how the commissioner will ensure a geographically fair distribution of funding across a broad group of crop types, soil management practices, and farm sizes;
- (5) a strategy for leveraging other public and private sources of money to expand healthy soil management practices in the state;
- (6) a summary of the operations of the program, including a summary of state, federal, and private money spent, the total number of projects and acres, and an estimate of carbon sequestered or carbon emissions reduced during that period; and
- (7) any other matter that the commissioner deems relevant.

Subd. 3. **Eligible projects.** The commissioner may award a grant under this section for any project on agricultural land in Minnesota that will:

- (1) increase the quantity of organic carbon in soil through practices, including but not limited to reduced tillage, cover cropping, manure management, precision agriculture, crop rotations, and changes in grazing management;
- (2) integrate perennial vegetation into the management of agricultural lands;
- (3) reduce nitrous oxide and methane emissions through changes to livestock, soil management, or nutrient optimization;
- (4) increase the usage of precision agricultural practices;
- (5) enable the development of site-specific management plans; or

(6) enable the purchase of equipment, parts and materials, technology, subscriptions, technical assistance, seeds, seedlings, or amendments that will further any of the purposes in clauses (1) to (5).

Subd. 4. **Grant eligibility.** Any owner or lessee of farmland may apply for a grant under this section. Local government units, including cities, towns, counties, soil and water conservation districts, Tribal nations, and joint powers boards, are also eligible for a grant. A local government unit that receives a grant for equipment or technology must make those purchases available for use by the public.

Subd. 5. **Funding limitations.** Every appropriation for the soil health financial assistance pilot program is subject to the following limitations:

(1) the commissioner may award no more than ten percent of the appropriation to a single recipient; and

(2) the commissioner may use no more than five percent of the appropriation to cover the costs of administering the program.

Subd. 6. **Expiration.** This section expires June 30, 2024.

Sec. 30. **REPORT REQUIRED; GRAIN ADVISORY GROUP.**

The commissioner of agriculture may convene members of the Grain Advisory Group and develop recommendations to improve the grain licensing program, including changes to protect farmers who sell grain, and report back to the legislative committees with jurisdiction over agriculture by February 15, 2023. Participating stakeholders must be given an opportunity to include written testimony to the legislative committees in the commissioner's report.

### ARTICLE 3

#### DISASTER RELIEF

Section 1. Minnesota Statutes 2020, section 41B.047, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** To be eligible for this program, a borrower must:

(1) meet the requirements of section 41B.03, subdivision 1;

(2) certify that the damage or loss was (i) sustained within a county that was the subject of a state or federal disaster declaration; (ii) due to the confirmed presence of a highly contagious animal disease in Minnesota; (iii) due to an infectious human disease for which the governor has declared a peacetime emergency; or (iv) due to an emergency as determined by the authority;

(3) demonstrate an ability to repay the loan; and

(4) have received at least ~~50~~ 25 percent of ~~average~~ annual gross income from farming ~~for~~ in the past ~~three years~~ year.

Sec. 2. **DROUGHT RELIEF GRANTS; APPROPRIATION.**

Subdivision 1. **Appropriation.** \$8,100,000 in fiscal year 2022 is appropriated from the general fund to the commissioner of agriculture to award grants and other forms of financial assistance to livestock farmers and specialty crop producers impacted by drought during 2021. For the purposes of this section, "specialty crop" means an eligible crop under the United States Department of Agriculture's specialty crop block grant program. The commissioner may use up to 6.5 percent of this appropriation to administer this section. This appropriation is available until June 30, 2024.

Subd. 2. **Eligibility.** (a) To be eligible under this section, a farmer or producer must:

(1) be located in a county designated by the United States Department of Agriculture as a primary natural disaster area after July 19, 2021, and before January 1, 2022, or in a county contiguous to a designated county; and

(2) provide to the commissioner an inventory of expenses incurred by the farmer or producer and attest that the farmer or producer incurred these expenses in response to the drought.

(b) Eligible expenses under paragraph (a), clause (2), include but are not limited to costs incurred by a livestock farmer to transport feed or feed ingredients up to 25 miles to and from the farm if the farmer is not compensated for the same expenses through the United States Department of Agriculture's Emergency Assistance for Livestock, Honey Bees, and Farm-raised Fish program.

Subd. 3. **Payment amount.** The commissioner may award an eligible farmer or producer a grant or other form of financial assistance equal to the total amount attested to under subdivision 2, paragraph (a), clause (2), or \$7,500, whichever is less.

Subd. 4. **Application process.** (a) The commissioner must accept applications under this section for at least ten business days and may accept any additional applications postmarked during this same period.

(b) If total eligible applications received during the initial application period exceed the amount appropriated under subdivision 1, the commissioner must award grants or other forms of financial assistance to eligible applicants on a pro rata basis.

(c) If total eligible applications received during the initial application period do not exceed the amount appropriated under subdivision 1, the commissioner must solicit and accept additional applications until any remaining amount is exhausted or cancels to the general fund.

Subd. 5. **Report.** Beginning January 10, 2023, and annually thereafter until January 10, 2025, the commissioner must report on expenditures and activities under this section to the legislative committees and divisions with jurisdiction over agriculture finance. The reports must include a breakdown of grants by type of farm, either livestock or specialty crop, and by county.

### Sec. 3. **TRANSFER; RURAL FINANCE AUTHORITY.**

\$2,500,000 in fiscal year 2022 is transferred from the general fund to the Rural Finance Authority Revolving Loan account established under Minnesota Statutes, section 41B.06, with priority given to drought relief loans under Minnesota Statutes, section 41B.047. Beginning January 10, 2023, and annually thereafter until January 10, 2025, the commissioner of agriculture must report expenditures



and activities under this section to the legislative committees and divisions with jurisdiction over agriculture finance.

Sec. 4. **APPROPRIATION; VETERINARY DISEASE TESTING EQUIPMENT.**

\$1,000,000 in fiscal year 2022 is appropriated from the general fund to the commissioner of agriculture for a grant to the Board of Regents of the University of Minnesota to purchase equipment for the Veterinary Diagnostic Laboratory to test for chronic wasting disease, African swine fever, avian influenza, and other animal diseases. The Veterinary Diagnostic Laboratory must include expenditures and activities under this section in the reports required by article 1, section 1, subdivision 5, paragraph (v). This appropriation is available until June 30, 2023.

Sec. 5. **TRANSFER; AGRICULTURAL EMERGENCY ACCOUNT.**

(a) \$1,500,000 in fiscal year 2022 is transferred from the general fund to the agricultural emergency account established under Minnesota Statutes, section 17.041. This transfer is in addition to the transfer under Laws 2022, chapter 47, section 2.

(b) Notwithstanding Minnesota Statutes, section 17.041, the commissioner may use the amount transferred under this section for the purposes identified in Laws 2022, chapter 47, section 2. This paragraph expires on December 31, 2022.

Sec. 6. **APPROPRIATIONS; DROUGHT RELIEF.**

(a) \$300,000 in fiscal year 2022 is appropriated from the general fund to the commissioner of natural resources for costs associated with resolving well interferences confirmed by the Department of Natural Resources that occurred after April 30, 2021, and before December 31, 2021. This appropriation is available until June 30, 2026.

(b) \$5,000,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of natural resources to replace drought-killed seedlings on lands managed by the Department of Natural Resources and to administer grants to Tribal, county, and private forestland owners to replace drought-killed seedlings on their land. Seedling replacement includes site prep, replanting, and tending seedlings. This is a onetime appropriation and is available until June 30, 2027.

Sec. 7. **EFFECTIVE DATE.**

This article is effective the day following final enactment.

## ARTICLE 4

### BROADBAND APPROPRIATIONS

Section 1. Laws 2021, First Special Session chapter 10, article 1, section 7, is amended to read:

Sec. 7. **BROADBAND DEVELOPMENT; APPLICATION FOR FEDERAL FUNDING; APPROPRIATION.**

(a) The commissioner of employment and economic development must prepare and submit an application to the United States Department of the Treasury requesting that \$70,000,000 of

Minnesota's capital projects fund allocation under Public Law 117-2 be awarded to the state. The commissioner must submit the application required under this paragraph by the later of September 30, 2021, or 90 days after the date on which the United States Department of the Treasury begins accepting capital projects fund applications. The commissioner must specify in the application that the award will be used for grants ~~and~~ that satisfy the purposes specified under Minnesota Statutes, section 116J.395.

(b) Of the amount awarded to the state of Minnesota pursuant to the application required in paragraph (a), notwithstanding Minnesota Statutes, sections 3.3005 and 4.07, 50 percent in fiscal year 2022 and 50 percent in fiscal year 2023 are appropriated to the commissioner of employment and economic development. This is a onetime appropriation and must be used for grants ~~and~~ that satisfy the purposes specified under Minnesota Statutes, section 116J.395. All money awarded under this section must be spent by December 31, 2026.

(c) The commissioner of employment and economic development may temporarily modify program standards under Minnesota Statutes, section 116J.395, to the degree necessary to comply with federal standards for funding received under this section.

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

## **Sec. 2. LOWER POPULATION DENSITY PILOT PROGRAM.**

(a) The commissioner of employment and economic development must establish a pilot program to provide broadband service to unserved and underserved areas, as defined in Minnesota Statutes, section 116J.394, of the state where a 50 percent match formula is not adequate to make a business case for the extension of broadband facilities. Grants awarded under this section shall adhere to all other requirements of Minnesota Statutes, section 116J.395, subdivisions 1 to 6, and may fund up to 75 percent of the total cost of a project, notwithstanding Minnesota Statutes section 116J.395, subdivision 7. Grants awarded to a single project under this section may not exceed \$10,000,000.

(b) The commissioner of employment and economic development may use up to \$30,000,000 from the appropriations in sections 3 and 4 for the lower population density pilot program under paragraph (a).

(c) No later than December 31, 2023, the Office of Broadband Development must submit a report to the chairs and ranking minority members of the senate and house of representatives committees with primary jurisdiction over broadband policy and finance analyzing the impacts of this section on the number and amounts of grants awarded under Minnesota Statutes, section 116J.395.

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

## **Sec. 3. BROADBAND DEVELOPMENT; APPLICATION FOR FEDERAL FUNDING; APPROPRIATION.**

(a) The commissioner of employment and economic development must prepare and submit a grant plan application to the United States Department of the Treasury requesting that \$60,703,000 of Minnesota's capital projects fund allocation under Public Law 117-2 be used for grants that satisfy the purposes specified under Minnesota Statutes, section 116J.395, and sections 2, 5, and 6 of this

article. The commissioner must submit the application required under this paragraph by September 24, 2022.

(b) Notwithstanding Minnesota Statutes, sections 3.3005 and 4.07, the amount awarded to Minnesota pursuant to the application required in paragraph (a) is appropriated to the commissioner of employment and economic development. This appropriation (1) must be used only for grants that satisfy the purposes specified under Minnesota Statutes, section 116J.395, and sections 2, 5, and 6 of this article, and (2) is available until December 31, 2026.

(c) The commissioner of employment and economic development may temporarily modify program standards under Minnesota Statutes, section 116J.395, and sections 2, 5, and 6 of this article to the extent necessary to comply with federal standards that apply to funding received under this section.

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

**Sec. 4. BROADBAND DEVELOPMENT; APPROPRIATION.**

(a) Notwithstanding Minnesota Statutes, sections 3.3005 and 4.07, if Minnesota receives federal money for broadband development under Public Law 117-58, the Infrastructure Investment and Jobs Act, the money is appropriated to the commissioner of employment and economic development for grants that satisfy the purposes specified under Minnesota Statutes, section 116J.395, and sections 2 and 6 of this article.

(b) The commissioner of employment and economic development may temporarily modify program standards under Minnesota Statutes, section 116J.395, and sections 2 and 6 of this article to the extent necessary to comply with federal standards that apply to funding received under this section.

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

**Sec. 5. BROADBAND LINE EXTENSION PROGRAM; APPROPRIATION.**

The commissioner of employment and economic development may use up to \$15,000,000 from the appropriations in section 3 for the broadband line extension program in Minnesota Statutes, section 116J.3951.

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

**Sec. 6. BROADBAND; MAPPING.**

The commissioner of employment and economic development may use up to \$15,000,000 from the appropriations in sections 3 and 4 for comprehensive statewide mapping if the commissioner determines that comprehensive statewide mapping is an eligible expense under federal law.

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

**Sec. 7. TRANSFER.**

\$25,000,000 in fiscal year 2023 is transferred from the general fund to the border-to-border broadband fund account established in Minnesota Statutes, section 116J.396. The base for this transfer is \$25,000,000 in fiscal year 2024 and \$0 in fiscal year 2025 and later.

## ARTICLE 5

### BROADBAND POLICY

#### Section 1. [116J.3951] BROADBAND LINE EXTENSION PROGRAM.

Subdivision 1. **Program established.** A broadband line extension grant program is established in the Department of Employment and Economic Development. The purpose of the broadband line extension grant program is to award grants to eligible applicants in order to extend existing broadband infrastructure to unserved locations.

Subd. 2. **Portal.** No later than November 1, 2022, the department must develop and implement a portal on the department's website that allows a person to report (1) that broadband service is unavailable at the physical address of the person's residence or business, and (2) any additional information that the department deems necessary to ensure that the broadband line extension grant program functions effectively. The department must develop a form that allows the information identified in this subdivision to be submitted on paper.

Subd. 3. **Data sharing.** (a) Beginning no later than six months after the date that the portal is implemented and every six months thereafter, the department must send to each broadband service provider serving Minnesota customers: (1) a list of addresses submitted to the portal under subdivision 2 during the previous six months; and (2) any additional information that the department deems necessary to ensure that the broadband line extension grant program functions effectively. The department must send the information required under this section via e-mail.

(b) No later than ten days after the date that the list in paragraph (a) is provided, a broadband service provider may notify the department of any posted address at which the broadband service provider's broadband service is available. The department must provide persons residing or doing business at those addresses with contact information for:

(1) the broadband service provider with broadband service available at that address; and

(2) programs administered by government agencies, nonprofit organizations, or the applicable broadband service provider that reduce the cost of broadband service and for which the persons may be eligible.

Subd. 4. **Reverse auction process.** (a) No later than ten days after the date that the notice requirement in subdivision 3, paragraph (b), expires, the department must notify each broadband service provider that the broadband service provider may participate in the reverse auction process under this subdivision. Within 60 days of the date that the notification is received, a broadband service provider may submit a bid to the department to extend the broadband service provider's existing broadband infrastructure to a location where broadband service is currently unavailable.

(b) A bid submitted under this subdivision must include:

(1) a proposal to extend broadband infrastructure to one or more of the addresses on the list sent by the department to the broadband service provider under subdivision 3, paragraph (a), at which broadband service is unavailable;

(2) the amount of the broadband infrastructure extension's total cost that the broadband service provider proposes to pay;

(3) the amount of the broadband infrastructure extension's total cost that the broadband service provider proposes that the department is responsible for paying; and

(4) any additional information required by the department.

(c) Financial assistance that the department provides under this section must be in the form of a grant issued to the broadband service provider. A grant issued under this section must not exceed \$25,000 per line extension.

(d) Within 60 days of the date that the bidding period closes, the department must review the bids submitted and select the broadband service provider bids that request the least amount of financial support from the state, provided that the department determines that the selected bids represent a cost-effective expenditure of state resources.

Subd. 5. **Line extension agreement.** The department must enter into a line extension agreement with each winning bidder identified under subdivision 4, except that the department may not enter into a line extension agreement to serve any customer located within an area that will be served by a grant already awarded by the department under section 116J.395.

Subd. 6. **Contents of agreement.** A line extension agreement under subdivision 5 must contain the following terms:

(1) the broadband service provider agrees to extend broadband infrastructure to support broadband service scalable to speeds of at least 100 megabits per second download and 100 megabits per second upload to each address included in the broadband service provider's winning bid;

(2) the department agrees to pay the state's portion of the line extension cost in a grant issued to the broadband service provider upon the completion of the broadband infrastructure extension to each address in the broadband service provider's winning bid; and

(3) the winning bidder has an exclusive right to apply the grant to the cost of the broadband infrastructure extension for a period of one year after the date that the agreement is executed.

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

Sec. 2. Minnesota Statutes 2020, section 116J.396, subdivision 2, is amended to read:

Subd. 2. **Expenditures.** Money in the account may be used only:

(1) for grant awards made under ~~section~~ sections 116J.395 and 116J.3951, including costs incurred by the Department of Employment and Economic Development to administer that section;

(2) to supplement revenues raised by bonds sold by local units of government for broadband infrastructure development; or

(3) to contract for the collection of broadband deployment data from providers and the creation of maps showing the availability of broadband service.

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

Sec. 3. **[116J.399] BROADBAND EASEMENTS.**

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

(1) "broadband infrastructure" has the meaning given in section 116J.394, paragraph (c);

(2) "broadband service" has the meaning given in section 116J.394, paragraph (b); and

(3) "provider" means a broadband service provider, but does not include an electric cooperative association organized under chapter 308A that provides broadband service.

**Subd. 2. Use of existing easements for broadband services.** (a) A provider, provider's affiliate, or another entity that has entered into an agreement with a provider, may use the provider, affiliate, or entity's existing or subsequently acquired easements to install broadband infrastructure and provide broadband service, which may include an agreement to lease fiber capacity.

(b) Before exercising rights granted under this subdivision, a provider must provide notice to the property owner on which the easement is located, as described in subdivision 3.

(c) Use of an easement to install broadband infrastructure and provide broadband service vests and runs with the land beginning six months after the first notice is provided under subdivision 3, unless a court action challenging the use of the easement has been filed before that time by the property owner as provided under subdivision 4. The provider must also file copies of the notices with the county recorder.

**Subd. 3. Notice to property owner.** (a) A provider must send two written notices to impacted property owners declaring that the provider intends to use the easements to install broadband infrastructure and provide broadband service. The notices must be sent at least two months apart and must be sent by first class mail to the last known address of the owner of the property on which the easement is located or, if the property owner is an existing customer of the provider, by separate printed insertion in the property owner's monthly invoice or included as a separate page on a property owner's electronic invoice.

(b) The notice must include:

(1) the provider's name and mailing address;

(2) a narrative describing the nature and purpose of the intended easement use;

(3) a description of any trenching or other underground work expected to result from the intended use, and the anticipated time frame for the work;

(4) a phone number for an employee of the provider that the property owner may contact regarding the easement; and

(5) the following statement, in bold red lettering: "It is important to make any challenge by the deadline to preserve any legal rights you may have."

(c) The provider must file copies of the notices with the county recorder.

Subd. 4. **Action for damages.** (a) Notwithstanding any other law to the contrary, this subdivision governs an action under this section and is the exclusive means to bring a claim for compensation with respect to a notice of intent to use a provider's existing easement to install broadband infrastructure and provide broadband service.

(b) Within six months after the date notice is received under subdivision 3, a property owner may file an action seeking to recover damages for a provider's use of an existing easement to install broadband infrastructure and provide broadband service. Claims for damages under \$15,000 may be brought in conciliation court.

(c) To initiate an action under this subdivision, a property owner must serve a complaint upon the provider in the same manner as in a civil action and must file the complaint with the district court for the county in which the easement is located. The complaint must state whether the property owner:

(1) challenges the provider's right to use the easement for broadband services or infrastructure as provided under subdivision 5, paragraph (a);

(2) seeks damages as provided under subdivision 5, paragraph (b); or

(3) seeks to proceed under both clauses (1) and (2).

Subd. 5. **Deposit and hearing required.** (a) If a property owner files a complaint challenging a provider's right to use an easement to install broadband infrastructure and provide broadband service, after the provider answers the complaint, the district court must promptly hold a hearing on the complaint. If the district court denies the property owner's complaint, the provider may proceed to use the easement to install broadband infrastructure and provide broadband service, unless the complaint also seeks damages. If the complaint seeks damages, the provider may proceed under paragraph (b).

(b) If a property owner files a claim for damages, a provider may, after answering the complaint, deposit with the court administrator an amount equal to the provider's estimate of damages. A provider's estimate of damages must be no less than \$1. After the estimated damages are deposited, the provider may use the existing easement to install broadband infrastructure and provide broadband service, conditioned on an obligation, filed with the court administrator, to pay the amount of damages determined by the court.

Subd. 6. **Calculation of damages; burden of proof.** (a) In an action under this section involving a property owner's claim for damages:

(1) the property owner has the burden to prove the existence and amount of any net reduction in the fair market value of the property, considering the existence, installation, construction, maintenance, modification, operation, repair, replacement, or removal of broadband infrastructure in the easement, adjusted to reflect any increase in the property's fair market value resulting from access to broadband service;

(2) a court is prohibited from awarding consequential or special damages; and

(3) evidence of estimated revenue, profits, fees, income, or similar benefits accruing to the provider, the provider's affiliate, or a third party as a result of use of the easement is inadmissible.

(b) Any fees or costs incurred as a result of an action under this subdivision must be paid by the party that incurred the fees or costs, except that a provider is responsible for a property owner's attorney fees if the final judgment or award of damages by the court exceeds 140 percent of the provider's damage deposit made under subdivision 5, if applicable.

Subd. 7. **No limits on existing easement.** Nothing in this section limits in any way a provider's existing easement rights.

Subd. 8. **Local governmental right-of-way management preserved.** The placement of broadband infrastructure to provide broadband service under subdivisions 2 to 7 is subject to local government permitting and right-of-way management authority under section 237.163, and must be coordinated with the relevant local government unit in order to minimize potential future relocations. The provider must notify a local government unit prior to placing infrastructure for broadband service in an easement that is in or adjacent to the local government unit's public right-of-way.

Subd. 9. **Railroad rights-of-way crossing.** The placement of broadband infrastructure for use to provide broadband service under subdivisions 1 to 7 or section 308A.201, subdivision 12, in any portion of an existing easement located in a railroad right-of-way is subject to sections 237.04 and 237.045.

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

Delete the title and insert:

"A bill for an act relating to state government; appropriating money for drought relief; establishing cooperative grants for farmers; establishing farm down payment assistance grants; establishing a soil health financial assistance pilot program; making policy and technical changes to agricultural provisions; modifying previous appropriations; establishing the broadband line extension program; establishing the lower population density pilot program; requiring reports; appropriating money; amending Minnesota Statutes 2020, sections 17.041, subdivision 1; 17.117, subdivisions 9, 9a, 10, 11, 11a; 17.118, subdivisions 1, 3; 18B.051; 18E.03, subdivision 3; 18E.04, subdivisions 3, 4; 28A.21, subdivision 2; 35.05; 40A.18, subdivision 2; 41A.16, subdivision 1, by adding a subdivision; 41A.17, subdivision 1, by adding a subdivision; 41A.18, subdivision 1, by adding a subdivision; 41B.025, by adding a subdivision; 41B.047, subdivision 3; 116J.396, subdivision 2; 223.17, subdivisions 4, 6; 346.155, subdivision 7; Minnesota Statutes 2021 Supplement, section 41A.21, subdivision 2; Laws 2021, First Special Session chapter 3, article 1, sections 2; 4; Laws 2021, First



Special Session chapter 10, article 1, section 7; proposing coding for new law in Minnesota Statutes, chapters 17; 116J."

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

House Conferees: Mike Sundin, Samantha Vang, Rick Hansen, Rob Ecklund, Paul Anderson

Senate Conferees: Torrey Westrom, Bill Weber, Andrew Lang, Gary Dahms, Kent Eken

Senator Westrom moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3420 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 3420 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

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

Those who voted in the affirmative were:

Abeler	Draheim	Isaacson	Mathews	Rosen
Anderson	Duckworth	Jasinski	McEwen	Ruud
Bakk	Dziedzic	Johnson	Miller	Senjem
Benson	Eaton	Johnson Stewart	Murphy	Tomassoni
Bigham	Eken	Kent	Nelson	Torres Ray
Carlson	Fateh	Kiffmeyer	Newman	Utke
Chamberlain	Frentz	Klein	Newton	Weber
Champion	Gazelka	Koran	Osmek	Westrom
Clausen	Goggin	Kunesh	Pappas	Wiger
Coleman	Hawj	Lang	Port	Wiklund
Cwodzinski	Hoffman	Latz	Pratt	
Dahms	Housley	Limmer	Putnam	
Dibble	Howe	López Franzen	Rarick	
Dornink	Ingebrigtsen	Marty	Rest	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Goggin, Housley, Ingebrigtsen, Limmer, Newman, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Dibble, Dziedzic, Fateh, Kent, Klein, Newton, and Wiklund.

Those who voted in the negative were:

Eichorn

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

**MESSAGES FROM THE HOUSE - CONTINUED**

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3765, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3765 is herewith transmitted to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 21, 2022

**CONFERENCE COMMITTEE REPORT ON H. F. No. 3765**

A bill for an act relating to natural resources; appropriating money from environment and natural resources trust fund; providing extensions.

May 21, 2022

The Honorable Melissa Hortman  
Speaker of the House of Representatives

The Honorable David J. Osmek  
President of the Senate

We, the undersigned conferees for H. F. No. 3765 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 3765 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this act. The appropriations are from the environment and natural resources trust fund and are available for the fiscal years indicated for each purpose. The figures "2022" and "2023" used in this act mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium" is fiscal years 2022 and 2023. Any unencumbered balance remaining in the first year does not cancel and is available for the second year or until the end of the appropriation. These are onetime appropriations.

**APPROPRIATIONS**  
**Available for the Year**

<u>Ending June 30</u>	
<u>2022</u>	<u>2023</u>

Sec. 2. **MINNESOTA RESOURCES**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>-0-</u></b>	<b><u>\$</u></b>	<b><u>70,881,000</u></b>
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This appropriation is from the environment and natural resources trust fund. The amounts that may be spent for each purpose are specified in the following subdivisions.

**Subd. 2. Definition**

"Trust fund" means the Minnesota environment and natural resources trust fund established under the Minnesota Constitution, article XI, section 14.

**Subd. 3. Foundational Natural Resource Data and Information**

	<u>-0-</u>	<u>\$</u>	<u>9,004,000</u>
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**(a) Improving Golden-Winged Warbler Conservation and Habitat Restoration**

\$197,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the Natural Resources Research Institute in Duluth to develop restoration and habitat management guidelines for protecting the imperiled golden-winged warbler by assessing habitat use and behavior of this species.

**(b) Enhancing Natural Resource Conservation Through Species Distribution Modeling**

\$200,000 the second year is from the trust fund to the commissioner of natural resources to create distribution models for rare species in Minnesota to provide new tools for natural areas conservation.

**(c) Modernizing Minnesota's Digital Lake Inventory**

\$787,000 the second year is from the trust fund to the commissioner of natural resources to conduct a comprehensive update of Minnesota's lake and pond GIS data to enhance lake conservation planning by state

and local partners while also creating efficiencies for ongoing data maintenance.

**(d) How Do Prescribed Fires Affect Native Prairie Bees?**

\$500,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Negaunee Institute for Plant Conservation Science and Action at the Chicago Horticultural Society to investigate how prescribed fire in Minnesota's tallgrass prairies affects the nesting habitat, food resources, and diversity of ground-nesting bees.

**(e) Status of Minnesota Blueberries and Related Berry Species**

\$191,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota, Duluth, to assess how land management practices impact the genetic health and reproduction of several native edible blueberry and related berry species of Minnesota. This appropriation is available until June 30, 2026, by which time the project must be completed and final products delivered.

**(f) Distribution and Movements of Fishers in Southern Minnesota**

\$340,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the Natural Resources Research Institute in Duluth to determine the distribution, status, and habitat use of fishers in southern Minnesota to inform fisher management.

**(g) Offal Wildlife Watching: How Do Hunters' Provisions Impact Scavengers?**

\$473,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to recruit hunters statewide and use remote cameras at field-dressed deer gut piles to study the

impacts of these offal resources on scavengers and other wildlife.

**(h) Land-Use and Climate Impacts on Minnesota's Whitewater River**

\$199,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the St. Anthony Falls Laboratory to augment, digitize, and disseminate unique and historic topographical survey data showing changes in the Whitewater River valley to inform future land and water management.

**(i) Protecting Minnesota's Spruce-Fir Forests from Tree-Killing Budworm**

\$189,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to evaluate conditions contributing to Minnesota's uniquely high population of the native and lethal spruce budworm to provide better management options for protecting the state's spruce-balsam fir forests.

**(j) Restoration of Eastern Hemlock, Minnesota's Endangered Tree Species**

\$199,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to develop guidelines for restoring eastern hemlock, Minnesota's only endangered tree species, by testing methods and seed sources at different sites across northern Minnesota.

**(k) Establishing a Center for Prion Research and Outreach**

\$3,877,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to form a multidisciplinary center to perform coordinated research on the detection, prevention, and treatment of chronic wasting and other prion diseases threatening wildlife across Minnesota. Money appropriated in this paragraph may also be spent on a

strategic plan, capital equipment, and staff as approved in the work plan required under Minnesota Statutes, section 116P.05. Money appropriated in this paragraph may not be spent on activities unless they are directly related to and necessary for the purposes of this paragraph. Money appropriated in this paragraph must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for the purposes of this paragraph. This appropriation is subject to Minnesota Statutes, section 116P.10. This is a onetime appropriation and is available until June 30, 2026.

**(l) Sweetening the Crop: Perennial Flax for Ecosystem Benefits**

\$490,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to produce, select, and evaluate how perennial flax provides pollinator and other ecosystem services while enhancing yield for oilseed, fiber, and honey production.

**(m) Beavers, Trees, and Climate - Increasing Floodplain Forest Resilience**

\$430,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the National Park Service, Mississippi National River and Recreation Area, to identify solutions for saving floodplain wildlife habitat from beaver herbivory, changes in climate, and emerald ash borer.

**(n) Chronic Wasting Disease Prion Soil Research**

\$732,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to study chronic wasting disease prions in soils, including the assessment of sites where carcasses with chronic wasting disease have been disposed.

**(o) Strategic Framework to Guide Local Water Storage Implementation**

\$200,000 the second year is from the trust fund to the Board of Water and Soil Resources to create a framework for prioritizing water storage projects throughout the state. The framework will use existing data and local stakeholder input, be scalable, and emphasize projects that provide multiple benefits, including for water quality, flood control, and habitat.

**Subd. 4. Water Resources**

-0-

5,783,000

**(a) Methods to Destroy PFAS in Landfill Leachates**

\$200,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to develop and examine methods for destruction of per- and polyfluoroalkyl substances (PFAS) in landfill leachate. This appropriation is subject to Minnesota Statutes, section 116P.10.

**(b) High Temperature Anaerobic Digestion of Sewage Sludge**

\$208,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to demonstrate that high temperature anaerobic digestion is effective at treating sewage sludge and preventing disease-causing microorganisms and antibiotic resistance genes from being released into the environment.

**(c) Mitigating Cyanobacterial Blooms and Toxins Using Clay-Algae Flocculation**

\$326,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for St. Anthony Falls Laboratory to develop and test a clay-algae flocculation method to mitigate cyanobacterial blooms that can contaminate drinking water and cause mass fish mortality. This appropriation is subject to Minnesota Statutes, section 116P.10.

**(d) Changing Winters and Game Fish in Minnesota Lakes**

\$238,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the Large Lakes Observatory in Duluth to determine how changing winter conditions such as ice cover, snowfall patterns, and water quality affect Minnesota's game fish populations.

**(e) Rainy River Drivers of Lake of the Woods Algal Blooms**

\$608,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the United States Geological Survey, Upper Midwest Water Science Center, to guide the reduction of phosphorus inputs to Lake of the Woods by examining sources, mobility, and storage of sediment-bound phosphorus in the Rainy River. This appropriation is available until June 30, 2026, by which time the project must be completed and final products delivered.

**(f) Water and Climate Information to Enhance Community Resilience**

\$564,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to provide information on potential future water resources to communities and individuals to guide adaptation planning.

**(g) Catch and Reveal: Discovering Unknown Fish Contamination Threats**

\$246,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the Natural Resources Research Institute in Duluth to identify contaminants present in Minnesota water bodies using passive sampling and discovery-based chemical analysis and rank the contaminants' potential threat to Minnesota's fisheries. This appropriation is available until June 30, 2026, by which time the project must be completed and final products delivered.



**(h) Increased Intense Rain and Flooding in Minnesota's Watersheds**

\$192,000 the second year is from the trust fund to the Science Museum of Minnesota for the St. Croix Watershed Research Station to partner with local communities to determine the causes of increased flooding and the most cost-effective solutions for reducing flood risk in the Cottonwood River watershed and other agricultural watersheds in southern Minnesota.

**(i) Is the Tire Chemical 6PPDq Killing Minnesota's Fish?**

\$437,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to optimize detection methods, determine environmental occurrence, and evaluate risk to Minnesota's fish populations of the toxic tire-derived chemical 6PPDq.

**(j) Mitigation Strategies for Agroplastic PFAS and Microplastic Contamination**

\$169,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the West Central Research and Outreach Center, Morris, to study plastic use in the agricultural supply chain and to research and communicate strategies to reduce impacts of this plastic use, including water and land contamination from microplastics, PFAS, and related compounds.

**(k) Innovative Technology for PFAS Destruction in Drinking Water**

\$445,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the Southern Research and Outreach Center to develop and demonstrate a treatment process based on continuous liquid-phase plasma discharge technology to destroy per- and polyfluoroalkyl substances (PFAS) in

drinking water. This appropriation is subject to Minnesota Statutes, section 116P.10.

**(l) Salt Threatens Minnesota Water Quality and Fisheries**

\$1,228,000 the second year is from the trust fund to the Science Museum of Minnesota for the St. Croix Watershed Research Station to determine chloride tipping points that lead to water-quality and food-web degradations, measure how and when lakes are salinized, identify lake and food-web resilience to chloride, and test impacts of deicing alternatives.

**(m) PFAS Contaminant Mitigation Using Hybrid Engineered Wetlands**

\$446,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with St. Louis County to design, implement, and evaluate an innovative method for protecting water resources through mitigation of per- and polyfluoroalkyl substances (PFAS) from landfill leachate using engineered wetland treatment systems.

**(n) Scaling a Market-Driven Water-Quality Solution for Row-Crop Farming**

\$476,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to work with farmers to accelerate adoption of grain-camelina rotations in targeted watersheds as a scalable and market-driven way to enhance stewardship of soil, water, and wildlife.

**Subd. 5. Environmental Education**

-0-

4,269,000

**(a) Teacher Field School: Stewardship through Nature-Based Education**

\$500,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Hamline University to create an immersive, research-backed field

school for teachers to use nature-based education to benefit student well-being and academic outcomes while increasing stewardship habits.

**(b) Increasing K-12 Student Learning to Develop Environmental Awareness, Appreciation, and Interest**

\$1,602,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Osprey Wilds Environmental Learning Center to partner with Minnesota's five other accredited residential environmental learning centers to provide needs-based scholarships to at least 25,000 K-12 students statewide for immersive multiday environmental learning experiences.

**(c) Expanding Access to Wildlife Learning Bird by Bird**

\$276,000 the second year is from the trust fund to the commissioner of natural resources to engage young people from diverse communities in wildlife conservation through bird-watching in schools, outdoor leadership training, and participating in neighborhood bird walks.

**(d) Engaging a Diverse Public in Environmental Stewardship**

\$300,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Great River Greening to increase participation in natural resources restoration efforts through volunteer, internship, and youth engagement activities that target diverse audiences more accurately reflecting local demographic and socioeconomic conditions in Minnesota.

**(e) Bugs Below Zero: Engaging Citizens in Winter Research**

\$198,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to raise awareness

about the winter life of bugs, inspire learning about stream food webs, and engage citizen scientists in research and environmental stewardship.

**(f) ESTEP: Earth Science Teacher Education Project**

\$495,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the Minnesota Science Teachers Association to provide professional development for Minnesota science teachers in environmental and earth science to strengthen environmental education in schools.

**(g) YES! Students Take Action to Complete Eco Projects**

\$199,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Prairie Woods Environmental Learning Center, in partnership with Ney Nature Center and Laurentian Environmental Center, to empower Minnesota youth to connect with natural resource experts, identify ecological challenges, and take action to complete innovative projects in their communities.

**(h) Increasing Diversity in Environmental Careers**

\$500,000 the second year is from the trust fund to the commissioner of natural resources, in cooperation with Conservation Corps Minnesota and Iowa, to encourage a diversity of students to pursue careers in the environment and natural resources through internships, mentorships, and fellowships with the Department of Natural Resources, the Board of Water and Soil Resources, and the Pollution Control Agency.

**(i) Diversity and Access to Wildlife-Related Opportunities**

\$199,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to broaden the state's conservation constituency by researching

diverse communities' values about nature and wildlife experiences and identifying barriers to engagement.

Subd. 6. **Aquatic and Terrestrial Invasive Species** -0- 6,404,000

**(a) Minnesota Invasive Terrestrial Plants and Pests Center**

\$6,230,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to support the Minnesota Invasive Terrestrial Plants and Pests Center to fund high-priority research projects to better manage invasive plants, pathogens, and pests on Minnesota's natural and agricultural lands. This appropriation is subject to Minnesota Statutes, section 116P.10. This appropriation is available until June 30, 2027, by which time the project must be completed and final products delivered.

**(b) Purple Loosestrife Biocontrol Citizen Science Program**

\$174,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the Wild Rivers Conservancy to protect and restore native ecosystems by identifying purple loosestrife in priority management areas and engaging, educating, and empowering citizens to use an approved purple loosestrife biocontrol in Minnesota's St. Croix River watershed.

Subd. 7. **Air Quality and Renewable Energy** -0- 843,000

**(a) Green Solar Cells from a Minnesota Natural Resource**

\$673,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to develop an efficient, low cost, and nontoxic pyrite solar cell and conduct a feasibility study for using Iron Range resources to manufacture this product. This appropriation is subject to Minnesota Statutes, section 116P.10.

**(b) Morris GHG Emissions Inventory and Mitigation Strategies**

\$170,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Morris to conserve natural resources by conducting a greenhouse gas (GHG) emissions inventory of city and county operations as part of the Morris Model partnership, implementing policy to achieve targeted reductions, and disseminating findings. This appropriation is available until June 30, 2026, by which time the project must be completed and final products delivered.

**Subd. 8. Methods to Protect, Restore, and Enhance Land, Water, and Habitat**

-0-

11,294,000

**(a) Minnesota's Volunteer Rare Plant Conservation Corps**

\$859,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota for the Minnesota Landscape Arboretum to partner with the Department of Natural Resources and the Minnesota Native Plant Society to establish and train a volunteer corps to survey, monitor, and bank seed from Minnesota's rare plant populations and enhance the effectiveness and efficiencies of conservation efforts.

**(b) Conservation Corps Veterans Service Corps Program**

\$1,339,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Conservation Corps Minnesota to create a Veterans Service Corps program to accelerate natural resource restorations in Minnesota while providing workforce development opportunities for the state's veterans.

**(c) Creating Seed Sources of Early-Blooming Plants for Pollinators**

\$200,000 the second year is from the trust fund to the commissioner of natural resources to establish new populations of early-season flowers by hand-harvesting and propagating species that are currently lacking in prairie restorations and that are essential to pollinator health. This appropriation is available until June 30, 2026, by which time the project must be completed and final products delivered.

**(d) Hastings Lake Rebecca Park Area**

\$1,000,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Hastings to develop an ecological-based master plan for Lake Rebecca Park and to enhance habitat quality and construct passive recreational facilities consistent with the master plan. No funds for implementation may be spent until the master plan is complete.

**(e) Pollinator Plantings and the Redistribution of Soil Toxins**

\$610,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to map urban and suburban soil toxins of concern, such as heavy metals and microplastics, and to test whether pollinator plantings can redistribute these toxins in the soil of yards, parks, and community gardens and reduce exposure to humans and wildlife.

**(f) PFAS Fungal-Wood Chip Filtering System**

\$189,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to identify, develop, and field-test various types of waste wood chips and fungi to sequester and degrade PFAS leachate from contaminated waste sites. This appropriation is subject to Minnesota Statutes, section 116P.10.

**(g) Phytoremediation for Extracting Deicing Salt**

\$451,000 the second year is from the trust fund to the Board of Regents of the University of Minnesota to protect lands and waters from contamination by collaborating with the Department of Transportation to develop methods for using native plants to remediate roadside deicing salt.

**(h) Mustinka River Fish and Wildlife Habitat Corridor Rehabilitation**

\$2,692,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the Bois de Sioux Watershed District to permanently rehabilitate a straightened reach of the Mustinka River to a naturally functioning stream channel and floodplain corridor for water, fish, and wildlife benefits.

**(i) Bohemian Flats Savanna Restoration**

\$286,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Minneapolis Park and Recreation Board to restore an area of compacted urban turf within Bohemian Flats Park and adjacent to the Mississippi River to an oak savanna ecosystem.

**(j) Watershed and Forest Restoration: What a Match!**

\$3,318,000 the second year is from the trust fund to the Board of Water and Soil Resources, in cooperation with soil and water conservation districts, the Mille Lacs Band of Ojibwe, and the Department of Natural Resources, to accelerate tree planting on privately owned, protected lands for water-quality protection and carbon sequestration.

**(k) River Habitat Restoration and Recreation in Melrose**

\$350,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Melrose to conduct habitat restoration and create fishing,



canoeing, and camping opportunities along a segment of the Sauk River within the city of Melrose and to provide public education about stream restoration, fish habitat, and the importance of natural areas.

**Subd. 9. Habitat and Recreation**

-0-

26,179,000

**(a) Mesabi Trail: Wahlsten Road (CR 26) to Tower**

\$1,307,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the St. Louis and Lake Counties Regional Railroad Authority to acquire easements, engineer, and construct a segment of the Mesabi Trail beginning at the intersection of Wahlsten Road (CR 26) and Benson Road in Embarrass and extending to Tower.

**(b) Environmental Learning Classroom with Trails**

\$82,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Mountain Iron-Buhl Public Schools to build an outdoor classroom pavilion, accessible trails, and a footbridge within the Mountain Iron-Buhl School Forest to conduct environmental education that cultivates a lasting conservation ethic.

**(c) Local Parks, Trails, and Natural Areas Grant Programs**

\$3,560,000 the second year is from the trust fund to the commissioner of natural resources to solicit, rank, and fund competitive matching grants for local parks, trail connections, and natural and scenic areas under Minnesota Statutes, section 85.019. This appropriation is for local nature-based recreation, connections to regional and state natural areas, and recreation facilities and may not be used for athletic facilities such as sport fields, courts, and playgrounds.

**(d) St. Louis River Re-Connect**

\$500,000 the second year is from the trust fund to the commissioner of natural resources

for an agreement with the city of Duluth to expand recreational access along the St. Louis River and estuary by implementing the St. Louis River National Water Trail outreach plan, designing and constructing upgrades and extensions to the Waabizheshikana Trail, and installing interpretive features that describe the cultural and ecological significance of the area.

**(e) Native Prairie Stewardship and Prairie Bank Easement Acquisition**

\$1,353,000 the second year is from the trust fund to the commissioner of natural resources to provide technical stewardship assistance to private landowners, restore and enhance native prairie protected by easements in the native prairie bank, and acquire easements for the native prairie bank in accordance with Minnesota Statutes, section 84.96, including preparing initial baseline property assessments. Up to \$60,000 of this appropriation may be deposited in the natural resources conservation easement stewardship account created under Minnesota Statutes, section 84.69, proportional to the number of easements acquired.

**(f) Minnesota State Parks and State Trails Maintenance and Development**

\$1,600,000 the second year is from the trust fund to the commissioner of natural resources for maintenance and development at state parks, recreation areas, and trails to protect Minnesota's natural heritage, enhance outdoor recreation, and improve the efficiency of public land management.

**(g) Minnesota State Trails Development**

\$7,387,000 the second year is from the trust fund to the commissioner of natural resources to expand recreational opportunities on Minnesota state trails by rehabilitating and enhancing existing state trails and replacing or repairing existing state trail bridges.

**(h) SNA Habitat Restoration and Public Engagement**

\$5,000,000 the second year is from the trust fund to the commissioner of natural resources for the scientific and natural areas (SNA) program to restore and enhance exceptional habitat on SNAs and increase public involvement and outreach.

**(i) The Missing Link: Gull Lake Trail, Fairview Township**

\$1,394,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with Fairview Township to complete the Gull Lake Trail by engineering and constructing the trail's final segment through Fairview Township in the Brainerd Lakes area.

**(j) Silver Bay Multimodal Trailhead Project**

\$1,000,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Silver Bay to develop a multimodal trailhead center to provide safe access to the Superior, Gitchi-Gami, and C.J. Ramstad/North Shore trails; Black Beach Park; and other recreational destinations.

**(k) Brookston Campground, Boat Launch, and Outdoor Recreational Facility**

\$453,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Brookston to build a campground, boat launch, and outdoor recreation area on the banks of the St. Louis River in northeastern Minnesota. Before any trust fund dollars are spent, the city must demonstrate that all funds to complete the project are secured and a fiscal agent must be approved in the work plan.

**(l) Silver Lake Trail Connection**

\$727,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Virginia to design, engineer, and construct a multiuse trail that will connect Silver Lake Trail to a

new Miners Entertainment and Convention Center and provide lighting on Bailey Lake Trail.

**(m) Floodwood Campground Improvement Project**

\$816,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Floodwood to upgrade the Floodwood Campground and connecting trails to provide high-quality nature and recreation experience for people of all ages.

**(n) Ranier Safe Harbor/Transient Dock - Phase 2**

\$1,000,000 the second year is from the trust fund to the commissioner of natural resources for an agreement with the city of Ranier to construct a safe harbor and transient dock to accommodate watercraft of many sizes to improve public access for boat recreation on Rainy Lake. Before trust fund dollars are spent, a fiscal agent must be approved in the work plan. Before any trust fund dollars are spent, the city must demonstrate that all funds to complete the project are secured. Any revenue generated from selling products or assets developed or acquired with this appropriation must be repaid to the trust fund unless a plan is approved for reinvestment of income in the project as provided under Minnesota Statutes, section 116P.10.

**Subd. 10. Other Projects**

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6,973,000

**(a) Aggregate Resource Mapping**

\$500,000 the second year is from the trust fund to the commissioner of natural resources for continued mapping of the aggregate resource potential in the state of Minnesota and to make the information available in print and electronic format to local units of government for use in planning and zoning.

**(b) Leaded Gasoline Contamination Analysis**

\$200,000 the second year is from the trust fund to the commissioner of administration

for a grant to the city of Paynesville to procure an analysis of the extent of leaded gasoline contamination in or near the cities of Paynesville, Foley, Alexandria, and Blaine, and of the threat posed by the contamination to each city's drinking water supply. The vendor selected to perform the analysis must use the same methodology to conduct the analysis for each city and must produce findings that are comparable between cities. The cities must work cooperatively to select a vendor. By January 15, 2024, the city administrator of the city of Paynesville must report the results of the analysis to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources.

**(c) Living Snow Fence Program**

\$200,000 the second year is from the trust fund to the commissioner of transportation for contracts to build and improve living snow fences consisting of trees, shrubs, native grasses, and wildflowers. Money appropriated in this paragraph may only be used to acquire and plant trees native to Minnesota. This appropriation is available until June 30, 2026.

**(d) Forest Data Inventory**

\$500,000 the second year is from the trust fund to the commissioner of natural resources for an enhanced forest inventory on county and private lands.

**(e) Conservation Reserve Program State Incentives**

\$750,000 the second year is from the trust fund to the Board of Water and Soil Resources to provide onetime state incentive payments to enrollees in the federal Conservation Reserve Program (CRP) during the continuous enrollment period and to enroll land in conservation easements consistent with Minnesota Statutes, section

103F.515. The board may establish payment rates based on land valuation and on environmental benefit criteria, including but not limited to surface water or groundwater pollution reduction, drinking water protection, soil health, pollinator and wildlife habitat, and other conservation enhancements. The board may use state funds to implement the program and to provide technical assistance to landowners or their agents to fulfill enrollment and contract provisions. The board must consult with the commissioners of agriculture, health, natural resources, and the Pollution Control Agency and the United States Department of Agriculture in establishing program criteria. This appropriation is available until June 30, 2026.

**(f) Groundwater Storage and Recovery Database**

\$400,000 the second year is from the trust fund to the commissioner of natural resources to complete a centralized aquifer property database to provide needed data for site characterization.

**(g) Rural and Farmstead Ring Levees**

\$360,000 the second year is from the trust fund to the commissioner of natural resources for grants to assist in constructing rural and farmstead ring levees for flood protection in the Red River watershed. A grant may not exceed 50 percent of the cost of the project.

**(h) Replacing Failing Septic Systems to Protect Groundwater**

\$2,000,000 the second year is from the trust fund to the commissioner of the Pollution Control Agency to counties for grants to low-income landowners to address septic systems that pose an imminent threat to public health or safety or fail to protect groundwater. The issuance of a loan under Minnesota Statutes, section 17.117, for the purpose of replacing a failed septic system, shall not preclude a rural landowner from

obtaining a grant under this paragraph or vice versa. This appropriation is available until June 30, 2025.

**(i) Forever Green**

\$763,000 the second year is from the trust fund to the commissioner of agriculture for grants to the Board of Regents of the University of Minnesota to fund the Forever Green Agriculture Initiative and protect the state's natural resources while increasing the efficiency, profitability, and productivity of Minnesota farmers by incorporating perennial and winter-annual crops into existing agricultural practices.

**(j) Pig's Eye Landfill Task Force**

\$800,000 the second year is from the trust fund to the commissioner of the Pollution Control Agency to establish a Pig's Eye Landfill Task Force to coordinate efforts to remediate and restore the Pig's Eye Landfill Superfund site and address perfluoroalkyl and polyfluoroalkyl substances (PFAS) contamination of Battle Creek, Pig's Eye Lake, and nearby groundwater. The task force must be made up of at least the commissioner of the Pollution Control Agency, the commissioner of natural resources, the commissioner of health, a representative from the Metropolitan Council, a representative from the city of St. Paul, a representative from the city of South St. Paul, a representative from the city of Newport, a representative from Ramsey County, a representative from Dakota County, a representative from Washington County, and representatives from relevant federal agencies. The task force is subject to Minnesota Statutes, section 15.059, subdivision 6. The task force must submit an annual report to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over the environment and natural resources on the status of the task force's work. The

final report is due February 15, 2026. The task force expires June 30, 2026. This appropriation is available until June 30, 2026.

**(k) Developing Markets for Continuous Living Cover Crops**

\$500,000 the second year is from the trust fund to the commissioner of agriculture for grants to organizations in Minnesota to develop enterprises, supply chains, and markets for continuous living cover crops and cropping systems in the early stage of commercial development, including but not limited to regenerative poultry silvopasture systems, Kernza perennial grain, winter camelina, and elderberry.

Subd. 11. **Administrative**

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132,000

\$132,000 the second year is from the trust fund to the commissioner of natural resources, at the direction of the Legislative-Citizen Commission on Minnesota Resources, for expenses incurred in preparing and administering contracts, including for the agreements specified in this section.

Subd. 12. **Availability of Appropriations**

Money appropriated in this section may not be spent on activities unless they are directly related to and necessary for a specific appropriation and are specified in the work plan approved by the Legislative-Citizen Commission on Minnesota Resources. Money appropriated in this section must not be spent on indirect costs or other institutional overhead charges that are not directly related to and necessary for a specific appropriation. Costs that are directly related to and necessary for an appropriation, including financial services, human resources, information services, rent, and utilities, are eligible only if the costs can be clearly justified and individually documented specific to the appropriation's purpose and would not be generated by the recipient but



for receipt of the appropriation. No broad allocations for costs in either dollars or percentages are allowed. Unless otherwise provided, the amounts in this section are available for three years beginning July 1, 2022, and ending June 30, 2025, when projects must be completed and final products delivered. For acquisition of real property, the appropriations in this section are available for an additional fiscal year if a binding contract for acquisition of the real property is entered into before the expiration date of the appropriation. If a project receives a federal award, the period of the appropriation is extended to equal the federal award period to a maximum trust fund appropriation length of six years.

**Subd. 13. Data Availability Requirements Data**

Data collected by the projects funded under this section must conform to guidelines and standards adopted by Minnesota IT Services. Spatial data must also conform to additional guidelines and standards designed to support data coordination and distribution that have been published by the Minnesota Geospatial Information Office. Descriptions of spatial data must be prepared as specified in the state's geographic metadata guideline and must be submitted to the Minnesota Geospatial Information Office. All data must be accessible and free to the public unless made private under the Data Practices Act, Minnesota Statutes, chapter 13. To the extent practicable, summary data and results of projects funded under this section should be readily accessible on the Internet and identified as having received funding from the environment and natural resources trust fund.

**Subd. 14. Project Requirements**

(a) As a condition of accepting an appropriation under this section, an agency or entity receiving an appropriation or a party to an agreement from an appropriation must

comply with paragraphs (b) to (l) and Minnesota Statutes, chapter 116P, and must submit a work plan and annual or semiannual progress reports in the form determined by the Legislative-Citizen Commission on Minnesota Resources for any project funded in whole or in part with funds from the appropriation. Modifications to the approved work plan and budget expenditures must be made through the amendment process established by the Legislative-Citizen Commission on Minnesota Resources.

(b) A recipient of money appropriated in this section that conducts a restoration using funds appropriated in this section must use native plant species according to the Board of Water and Soil Resources' native vegetation establishment and enhancement guidelines and include an appropriate diversity of native species selected to provide habitat for pollinators throughout the growing season as required under Minnesota Statutes, section 84.973.

(c) For all restorations conducted with money appropriated under this section, a recipient must prepare an ecological restoration and management plan that, to the degree practicable, is consistent with the highest-quality conservation and ecological goals for the restoration site. Consideration should be given to soil, geology, topography, and other relevant factors that would provide the best chance for long-term success and durability of the restoration project. The plan must include the proposed timetable for implementing the restoration, including site preparation, establishment of diverse plant species, maintenance, and additional enhancement to establish the restoration; identify long-term maintenance and management needs of the restoration and how the maintenance, management, and enhancement will be financed; and take advantage of the best-available science and

include innovative techniques to achieve the best restoration.

(d) An entity receiving an appropriation in this section for restoration activities must provide an initial restoration evaluation at the completion of the appropriation and an evaluation three years after the completion of the expenditure. Restorations must be evaluated relative to the stated goals and standards in the restoration plan, current science, and, when applicable, the Board of Water and Soil Resources' native vegetation establishment and enhancement guidelines. The evaluation must determine whether the restorations are meeting planned goals, identify any problems with implementing the restorations, and, if necessary, give recommendations on improving restorations. The evaluation must be focused on improving future restorations.

(e) All restoration and enhancement projects funded with money appropriated in this section must be on land permanently protected by a conservation easement or public ownership.

(f) A recipient of money from an appropriation under this section must give consideration to contracting with Conservation Corps Minnesota for contract restoration and enhancement services.

(g) All conservation easements acquired with money appropriated under this section must:

(1) be permanent;

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

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

(4) be sent to the Legislative-Citizen Commission on Minnesota Resources in an electronic format at least ten business days before closing;

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

(6) include requirements in the easement document to protect the quantity and quality of groundwater and surface water through specific activities such as keeping water on the landscape, reducing nutrient and contaminant loading, and not permitting artificial hydrological modifications.

(h) For any acquisition of lands or interest in lands, a recipient of money appropriated under this section must not agree to pay more than 100 percent of the appraised value for a parcel of land using this money to complete the purchase, in part or in whole, except that up to ten percent above the appraised value may be allowed to complete the purchase, in part or in whole, using this money if permission is received in advance of the purchase from the Legislative-Citizen Commission on Minnesota Resources.

(i) For any acquisition of land or interest in land, a recipient of money appropriated under this section must give priority to high-quality natural resources or conservation lands that provide natural buffers to water resources.

(j) For new lands acquired with money appropriated under this section, a recipient must prepare an ecological restoration and management plan in compliance with paragraph (c), including sufficient funding for implementation unless the work plan addresses why a portion of the money is not necessary to achieve a high-quality restoration.

(k) To ensure public accountability for using public funds, a recipient of money appropriated under this section must, within 60 days of the transaction, provide to the Legislative-Citizen Commission on Minnesota Resources documentation of the selection process used to identify parcels

acquired and provide documentation of all related transaction costs, including but not limited to appraisals, legal fees, recording fees, commissions, other similar costs, and donations. This information must be provided for all parties involved in the transaction. The recipient must also report to the Legislative-Citizen Commission on Minnesota Resources any difference between the acquisition amount paid to the seller and the state-certified or state-reviewed appraisal, if a state-certified or state-reviewed appraisal was conducted.

(l) A recipient of an appropriation from the trust fund under this section must acknowledge financial support from the environment and natural resources trust fund in project publications, signage, and other public communications and outreach related to work completed using the appropriation. Acknowledgment may occur, as appropriate, through use of the trust fund logo or inclusion of language attributing support from the trust fund. Each direct recipient of money appropriated in this section, as well as each recipient of a grant awarded pursuant to this section, must satisfy all reporting and other requirements incumbent upon constitutionally dedicated funding recipients as provided in Minnesota Statutes, section 3.303, subdivision 10, and chapter 116P.

(m) A recipient of an appropriation from the trust fund under this section that is receiving funding to conduct children's services, as defined in Minnesota Statutes, section 299C.61, subdivision 7, must certify to the Legislative-Citizen Commission on Minnesota Resources, as part of the required work plan, that criminal background checks for background check crimes, as defined in Minnesota Statutes, section 299C.61, subdivision 2, are performed on all employees, contractors, and volunteers that have or may have access to a child to whom

the recipient provides children's services using the appropriation.

**Subd. 15. Payment Conditions and Capital Equipment Expenditures**

(a) All agreements, grants, or contracts referred to in this section must be administered on a reimbursement basis unless otherwise provided in this section. Notwithstanding Minnesota Statutes, section 16A.41, expenditures made on or after July 1, 2022, or the date the work plan is approved, whichever is later, are eligible for reimbursement unless otherwise provided in this section. Periodic payments must be made upon receiving documentation that the deliverable items articulated in the approved work plan have been achieved, including partial achievements as evidenced by approved progress reports. Reasonable amounts may be advanced to projects to accommodate cash-flow needs or match federal money. The advances must be approved as part of the work plan. No expenditures for capital equipment are allowed unless expressly authorized in the project work plan.

(b) Single-source contracts as specified in the approved work plan are allowed.

**Subd. 16. Purchasing Recycled and Recyclable Materials**

A political subdivision, public or private corporation, or other entity that receives an appropriation under this section must use the appropriation in compliance with Minnesota Statutes, section 16C.0725, regarding purchasing recycled, repairable, and durable materials, and Minnesota Statutes, section 16C.073, regarding purchasing and using paper stock and printing.

**Subd. 17. Energy Conservation and Sustainable Building Guidelines**

A recipient to whom an appropriation is made under this section for a capital improvement project must ensure that the project complies with the applicable energy conservation and sustainable building guidelines and standards contained in law, including Minnesota Statutes, sections 16B.325, 216C.19, and 216C.20, and rules adopted under those sections. The recipient may use the energy planning, advocacy, and State Energy Office units of the Department of Commerce to obtain information and technical assistance on energy conservation and alternative-energy development relating to planning and constructing the capital improvement project.

**Subd. 18. Accessibility**

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

**Subd. 19. Carryforward; Extensions**

(a) The availability of the appropriations for the following projects is extended to June 30, 2024:

(1) Laws 2019, First Special Session chapter 4, article 2, section 2, subdivision 8, paragraph (a), Saving Endangered Pollinators through Data-Driven Prairie Restoration; and

(2) Laws 2019, First Special Session chapter 4, article 2, section 2, subdivision 9, paragraph (e), National Loon Center.

(b) The availability of the transfers for the following projects is extended to June 30, 2024:

(1) Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 20, paragraph (a), clause (1), for the

Unprecedented Change Threatens  
Minnesota's Pristine Lakes project;

(2) Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 20, paragraph (a), clause (2), for the Wastewater Pond Optimization project;

(3) Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 20, paragraph (a), clause (3), for the Applied Research in State Mineral and Water Resources project;

(4) Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 20, paragraph (a), clause (4), for the Chloride Pollution Reduction project;

(5) Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 20, paragraph (a), clause (5), for the CWD Prion Research in Soils project;

(6) Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 20, paragraph (b), clauses (1) and (2), Lawns to Legumes;

(7) Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 20, paragraph (c), clauses (1) to (8), Emerging Issues Account; and

(8) Laws 2021, First Special Session chapter 6, article 6, section 2, subdivision 19, paragraph (a), clauses (1) to (4), for the Forest Health Research, Development and Demonstration project at the Natural Resources Research Institute.

(c) Notwithstanding Minnesota Statutes, section 16A.28, or any other law to the contrary, the availability of any appropriation or grant of money from the environment and natural resources trust fund that would otherwise cancel, lapse, or expire on June 30, 2022, is extended to June 30, 2023, if the recipient or grantee:



(1) by June 15, 2022, notifies the Legislative-Citizen Commission on Minnesota Resources in the manner specified by the commission that the recipient or grantee intends to avail itself of the extension available under this subdivision; and

(2) modifies the applicable work plan where required by Minnesota Statutes, section 116P.05, subdivision 2, in accordance with the work plan amendment procedures adopted under that section.

(d) The commission must notify the commissioner of management and budget and the commissioner of natural resources of any extension granted under paragraph (c).

**Subd. 20. Transfers**

(a) The following amounts, estimated to be \$2,183,000, are transferred to the commissioner of natural resources for maintenance and development at state parks, recreation areas, and trails to protect Minnesota's natural heritage, enhance outdoor recreation, and improve the efficiency of public land management:

(1) the unencumbered amount, estimated to be \$925,000, in Laws 2017, chapter 96, section 2, subdivision 7, paragraph (d), District Heating with Renewable Biomass at Camp Ripley Training Center;

(2) the unencumbered amount, estimated to be \$910,000, in Laws 2017, chapter 96, section 2, subdivision 9, paragraph (e), as amended by Laws 2019, First Special Session chapter 4, article 2, section 4, Native Prairie Stewardship and Prairie Bank Easement Acquisition; and

(3) \$348,000 of the unencumbered amount, estimated to be \$550,000, in Laws 2018, chapter 214, section 2, subdivision 9, paragraph (d), Mississippi Blufflands State

Trail - Red Wing Barn Bluff to Colvill Park Segment.

(b) The remainder of the unencumbered amount in Laws 2018, chapter 214, section 2, subdivision 9, paragraph (d), not transferred under paragraph (a), clause (3), estimated to be \$202,000, is transferred to an emerging issues account authorized in Minnesota Statutes, section 116P.08, subdivision 4, paragraph (d).

(c) \$78,000 is transferred from the amount appropriated under Laws 2021, First Special Session chapter 6, article 5, section 2, subdivision 4, paragraph (b), to the appropriation in subdivision 11. The commissioner must provide documentation to the Legislative-Citizen Commission on Minnesota Resources on the expenditure of these funds.

(d) The amounts transferred under this subdivision are available until June 30, 2025.

**EFFECTIVE DATE.** Subdivision 19 is effective the day following final enactment. Subdivision 20 is effective June 29, 2022.

Sec. 3. Minnesota Statutes 2020, section 116P.08, subdivision 2, is amended to read:

Subd. 2. **Exceptions.** Money from the trust fund may not be spent for:

(1) purposes of environmental compensation and liability under chapter 115B and response actions under chapter 115C;

(2) purposes of municipal water pollution control in municipalities with a population of 5,000 or more under the authority of chapters 115 and 116;

(3) costs associated with the decommissioning of nuclear power plants;

(4) hazardous waste disposal facilities;

(5) solid waste disposal facilities; ~~or~~

(6) projects or purposes inconsistent with the strategic plan; or

(7) acquiring property by eminent domain, unless the owner requests that the owner's property be acquired by eminent domain.

Sec. 4. **INFORMATION SUBMITTED WITH CAPITAL PROJECT PROPOSALS.**

The Legislative Citizen Commission on Minnesota Resources must consider whether statutorily requiring additional information to accompany proposals for capital projects would help the commission better evaluate those proposals. By October 15, 2022, the commission must submit its report and recommendations, along with any proposed statutory changes, to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over environment and natural resources."

Delete the title and insert:

"A bill for an act relating to natural resources; appropriating money from environment and natural resources trust fund; providing for extensions and transfers; modifying requirements for expending trust fund money; requiring a report; amending Minnesota Statutes 2020, section 116P.08, subdivision 2."

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

House Conferees: Rick Hansen, Patty Acomb, Josh Heintzeman

Senate Conferees: Torrey Westrom, Bill Ingebrigtsen, Foug Hawj

Senator Westrom moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3765 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 3765 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

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

Those who voted in the affirmative were:

Abeler	Draheim	Ingebrigtsen	Marty	Rest
Anderson	Duckworth	Isaacson	Mathews	Rosen
Bakk	Dziedzic	Jasinski	McEwen	Ruud
Benson	Eaton	Johnson	Miller	Senjem
Bigham	Eichorn	Johnson Stewart	Murphy	Tomassoni
Carlson	Eken	Kent	Nelson	Torres Ray
Chamberlain	Fateh	Kiffmeyer	Newman	Utke
Champion	Frentz	Klein	Newton	Weber
Clausen	Gazelka	Koran	Osmek	Westrom
Coleman	Goggin	Kunesh	Pappas	Wiger
Cwodzinski	Hawj	Lang	Port	Wiklund
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Goggin, Housley, Ingebrigtsen, Limmer, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Dibble, Dziedzic, Fateh, Kent, Klein, Newton, and Wiklund.

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

### RECESS

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

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

### CALL OF THE SENATE

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 3872, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 3872 is herewith transmitted to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 20, 2022

### CONFERENCE COMMITTEE REPORT ON H. F. No. 3872

A bill for an act relating to higher education; providing for funding and policy changes for the Office of Higher Education, the University of Minnesota, and the Minnesota State Colleges and Universities system; creating and modifying certain student aid programs; creating and modifying certain grants to institutions; modifying certain institutional licensure provisions; creating the Inclusive Higher Education Technical Assistance Center; modifying Board of Regents provisions; requiring reports; appropriating money; amending Minnesota Statutes 2020, sections 135A.15, subdivision 8, by adding a subdivision; 136A.121, subdivisions 5, 18; 136A.1701, subdivision 11; 136A.833; 137.023; 137.024; 137.0245, subdivisions 2, 3; 137.0246; Minnesota Statutes 2021 Supplement, sections 135A.137, subdivision 3; 136A.126, subdivisions 1, 4; 136A.1791, subdivision 5; 136A.91, subdivisions 1, 2; 136F.20, subdivision 4; 136F.202, subdivision 1; Laws 2021, First Special Session chapter 2, article 1, section 2, subdivisions 35, 36; article 2, section 45, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 135A; 136A; 137; repealing Minnesota Rules, part 4880.2500.

May 19, 2022

The Honorable Melissa Hortman  
Speaker of the House of Representatives

The Honorable David J. Osmek  
President of the Senate

We, the undersigned conferees for H. F. No. 3872 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 3872 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1  
APPROPRIATIONS**

Section 1. **HIGHER EDUCATION APPROPRIATIONS.**

The sums shown in the columns marked "Appropriations" are added to the appropriations in Laws 2021, First Special Session chapter 2, article 1, unless otherwise specified, 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 "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium" is fiscal years 2022 and 2023.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2022</u></b>	<b><u>2023</u></b>

Sec. 2. **MINNESOTA OFFICE OF HIGHER EDUCATION**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>-0-</u></b>	<b><u>\$</u></b>	<b><u>8,825,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivisions.

<b><u>Subd. 2. Student Parent Support Initiative</u></b>		<b><u>-0-</u></b>		<b><u>750,000</u></b>
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(a) For the student-parent support initiative under Minnesota Statutes, section 136A.1251. The commissioner may use the

appropriation for grants, outreach, and administration.

(b) The base for this appropriation is \$750,000 in fiscal year 2024 and later.

**Subd. 3. Operating Expenses of Tribal Colleges**

-0-

3,000,000

(a) For a grant to Leech Lake Tribal College, White Earth Tribal College, and Red Lake Nation Tribal College, to be used for the Tribal colleges' general operations and maintenance expenses. The commissioner shall apportion the funds equally among the Tribal colleges.

(b) The base for this appropriation is \$3,000,000 in fiscal year 2024 and later.

(c) By September 30, 2023, each Tribal college receiving a grant under this subdivision must submit a report to the commissioner of the Office of Higher Education and to the chairs and ranking minority members of the legislative committees with jurisdiction over higher education finance and policy. The report must include an accurate and detailed account of how the funds were spent, and a copy of the college's most recent audit report.

**Subd. 4. State Grants**

-0-

-0-

(a) \$2,414,000 is added to this program's base appropriation in fiscal years 2024 and later. The base for this appropriation is therefore \$212,451,000 in fiscal year 2024 and later.

(b) If the amount appropriated for this program is determined by the office to be more than sufficient to fund projected grant demand in the second year of the biennium, the office may reduce the assigned student responsibility in the second year of the biennium by up to an amount that retains sufficient appropriations to fund the projected grant demand. The adjustment may be made one or more times. In making the determination that there are more than

sufficient funds, the office shall balance the need for sufficient resources to meet the projected demand for grants with the goal of fully allocating the appropriation for state grants. A reduction in the assigned student responsibility under this subdivision does not carry forward into a subsequent biennium. This paragraph is only effective for fiscal year 2023.

**Subd. 5. Grants to Underrepresented Student Teachers**

-0-

500,000

(a) The commissioner may use no more than three percent of this appropriation to administer the program.

(b) \$500,000 is added to this program's base appropriation in fiscal year 2024 and later specified in Laws 2021, First Special Session chapter 2, article 1, section 2, subdivision 26.

**Subd. 6. Hunger-Free Campus Grants**

-0-

75,000

(a) This appropriation is in addition to the amount appropriated in Laws 2021, First Special Session chapter 2, article 1, section 2, subdivision 35, as amended by this act.

(b) The base for this appropriation is increased by \$75,000 in fiscal year 2024 and later.

**Subd. 7. Inclusive Higher Education**

-0-

500,000

(a) Of this amount, \$330,000 is for transfer to the inclusive higher education grant account under Minnesota Statutes, section 135A.162, subdivision 4, and \$170,000 is to enter into a contract establishing the Inclusive Higher Education Technical Assistance Center under Minnesota Statutes, section 135A.161.

(b) The base for this appropriation is \$500,000 beginning in fiscal year 2024 and each year thereafter through fiscal year 2027. The base for this appropriation is \$0 for fiscal year 2028 and later.

**Subd. 8. Owatonna Learn to Earn Coalition; Office of Higher Education**

-0-

980,000

This appropriation is for a grant to the Owatonna Learn to Earn Coalition to help the Owatonna and Steele County region grow and retain a talented workforce. This is a onetime appropriation and is available until June 30, 2024. Of this amount:

(1) \$900,000 is to develop educational learning spaces with state-of-the-art equipment and student support services in high-demand career pathway programs. Of this amount, \$306,000 is to equip the new Owatonna High School's Industrial Technology classrooms with state-of-the-art equipment to introduce students to high-skill, high-wage, technical careers, and \$594,000 is to equip the Owatonna Riverland Community College Campus with state-of-the-art instructional equipment to offer credit and noncredit technical programs in automation robotics engineering technology and information technology; and

(2) \$80,000 is to create learn to earn opportunities for students and employers by engaging employers in the Owatonna community to offer tuition reimbursement or scholarships and part-time work and school schedules to employees who agree to continue their education while working for them.

**Subd. 9. Owatonna Learn to Earn Coalition; Department of Employment and Economic Development**

-0-

20,000

For transfer to the commissioner of employment and economic development for a grant to the Owatonna Learn to Earn Coalition to conduct a comprehensive local needs assessment to examine current and future workforce needs in the region. The coalition shall retain a consultant and utilize state demographer resources to involve education, business, and community



stakeholders to guide the high school's career pathways, the college's programs of study, and the business's support of work-based learning programs that help them recruit, develop, and retain a vibrant workforce to keep the regional economy strong. This is a onetime appropriation and is available until June 30, 2024.

**Subd. 10. Certified Nursing Assistant Program** -0- 3,000,000

(a) For the Office of Higher Education, in partnership with Minnesota State's HealthForce Minnesota, to administer a program for the recruitment and training of students to become certified nursing assistants. The program shall include a model for covering student costs, including but not limited to tuition and fees, necessary materials, and testing. The program shall also include marketing and outreach across the state. Additionally, the program may cover cost for Nursing Assistant Test-Out (NATO) retraining and retesting and refresher courses.

(b) No more than \$200,000 per year is available for the coordination and implementation of this program.

(c) This is a onetime appropriation.

**Sec. 3. BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES**

**Subdivision 1. Total Appropriation** \$ -0- \$ 8,175,000

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

**Subd. 2. Operations and Maintenance** -0- 8,175,000

(a) \$3,125,000 in fiscal year 2023 is to maintain campus operations that deliver excellent, affordable, accessible education that is responsive to changes in the state's educational needs. This is a onetime appropriation.

(b) \$5,050,000 in fiscal year 2023 is in addition to the workforce development scholarships amount appropriated in Laws 2021, First Special Session chapter 2, article 1, section 3, subdivision 3, paragraph (e). Of this appropriation, up to \$200,000 is available in each year to administer the program. Of this appropriation, \$800,000 in fiscal year 2023 is for scholarships to students enrolled in their first term in an allied health technician program, which is a category under the workforce development scholarship health care services. A student may receive the allied health technician scholarship only once. The \$800,000 is available until June 30, 2025, and of this amount, \$24,000 is available for administering the allied health technician scholarships. The base for this appropriation is increased by \$3,750,000 in fiscal year 2024 and later.

(c) \$1,011,000 is added to the base appropriation for operations and maintenance in fiscal year 2024 and later established in Laws 2021, First Special Session chapter 2, article 1, section 3, subdivision 3, paragraph (l).

**Sec. 4. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>-0-</u></b>	<b><u>\$</u></b>	<b><u>3,000,000</u></b>
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The amounts that may be spent for each purpose are specified in the following subdivision.

<b><u>Subd. 2. Operations and Maintenance</u></b>		<b><u>-0-</u></b>		<b><u>3,000,000</u></b>
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(a) \$1,000,000 is to expand the University of Minnesota's systemwide Promise Program to support students with financial need, including historically underrepresented students. The base for this appropriation is \$1,000,000 in fiscal year 2024 and later which is added to the base appropriation for operations and maintenance in fiscal year 2024 and later established in Laws 2021,

First Special Session chapter 2, article 1, section 4, subdivision 2, paragraph (f).

(b) \$2,000,000 in fiscal year 2023 is in addition to the Natural Resources Research Institute (NRRI) amount appropriated in Laws 2021, First Special Session chapter 2, article 1, section 4, subdivision 4, paragraph (d). This is a onetime increase.

Sec. 5. Laws 2021, First Special Session chapter 2, article 1, section 2, subdivision 35, is amended to read:

Subd. 35. <b>Hunger-Free Campus Grants</b>	205,000	102,000
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For the Office of Higher Education to provide initial and sustaining grants to Minnesota public postsecondary institutions, nonprofit private postsecondary institutions, and Tribal colleges under Minnesota Statutes, section ~~136F.245~~ 135A.137, subdivision 4 3, to meet and maintain the criteria in that same section to address food insecurity on campus.

Sec. 6. Laws 2021, First Special Session chapter 2, article 1, section 2, subdivision 36, is amended to read:

Subd. 36. <b>Fostering Independence Higher Education Grants</b>	238,000	3,759,000
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(a) For grants to eligible students under Minnesota Statutes, section 136A.1241. Of this amount, \$238,000 in the first year is for administration costs. The base for fiscal year 2024 and later is \$3,761,000.

(b) Beginning in fiscal year 2023, the commissioner of the Office of Higher Education may use no more than three percent of the appropriation to administer the grants under Minnesota Statutes, section 136A.1241.

**ARTICLE 2****HIGHER EDUCATION POLICY**

Section 1. Minnesota Statutes 2021 Supplement, section 135A.137, subdivision 3, is amended to read:

Subd. 3. **Competitive grant.** (a) Institutions eligible for a grant under this subdivision include public postsecondary institutions, nonprofit private postsecondary institutions, and Tribal colleges.

(b) The commissioner shall establish a competitive grant program to distribute grants to eligible institutions to meet and maintain the requirements under subdivision 1, paragraph (a). Initial grants shall be made to institutions that have not earned the designation and demonstrate a need for funding to meet the hunger-free campus designation requirements. Sustaining grants shall be made to institutions that have earned the designation and demonstrate both a partnership with a local food bank or organization that provides regular, on-campus food distributions and a need for funds to maintain the requirements under subdivision 1, paragraph (a).

(c) The commissioner shall give preference to applications for initial grants and to applications from institutions with the highest number of federal Pell Grant eligible students enrolled. The commissioner shall consider the head count at the institution when awarding grants. The maximum grant award for an initial institution designation is \$8,000. The maximum grant award for sustaining an institution designation is \$5,000.

(d) The commissioner, in collaboration with student associations representing eligible institutions, shall create an application process and establish selection criteria for awarding the grants.

Sec. 2. Minnesota Statutes 2020, section 135A.15, is amended by adding a subdivision to read:

Subd. 3a. **Affirmative consent.** (a) The policy required under subdivision 1 shall include a provision that establishes an affirmative consent standard. An institution's affirmative consent standard, at a minimum, must incorporate the following elements:

(1) all parties to sexual activity must affirmatively express their consent to the activity;

(2) affirmative consent is freely and affirmatively communicated words or actions given by an individual that a reasonable person under the circumstances would believe communicate a willingness to participate in the sexual activity;

(3) affirmative consent must be knowing and voluntary and not the result of force, coercion, or intimidation;

(4) silence, lack of protest, or failure to resist, without active indications of consent, is not consent;

(5) consent to any one form of sexual activity does not by itself imply consent to any other forms of sexual activity;

(6) consent may be withdrawn at any time;

(7) a previous relationship or prior consent does not by itself imply consent to future sexual acts; and

(8) a person is deemed incapable of consenting when that person is:

(i) unable to communicate or understand the nature or extent of a sexual situation due to mental or physical incapacitation or impairment; or

(ii) physically helpless, either due to the effects of drugs or alcohol, or because the person is asleep.

(b) The affirmative consent standard must at least incorporate all elements of consent as defined in section 609.341, but is not limited to the standard of consent as defined in that section.

Sec. 3. Minnesota Statutes 2020, section 135A.15, subdivision 8, is amended to read:

Subd. 8. **Comprehensive training.** (a) A postsecondary institution must provide campus security officers and campus administrators responsible for investigating or adjudicating complaints of sexual assault with comprehensive training on preventing and responding to sexual assault in collaboration with the Bureau of Criminal Apprehension or another law enforcement agency with expertise in criminal sexual conduct. The training for campus security officers shall include a presentation on the dynamics of sexual assault, neurobiological responses to trauma, and best practices for preventing, responding to, and investigating sexual assault. The training for campus administrators responsible for investigating or adjudicating complaints on sexual assault shall include presentations on preventing sexual assault, responding to incidents of sexual assault, the dynamics of sexual assault, neurobiological responses to trauma, and compliance with state and federal laws on sexual assault.

(b) The following categories of students who attend, or will attend, one or more courses on campus or will participate in on-campus activities must be provided sexual assault training:

- (1) students pursuing a degree or certificate;
- (2) students who are taking courses through the Postsecondary Enrollment Options Act; and
- (3) any other categories of students determined by the institution.

Students must complete such training no later than ten business days after the start of a student's first semester of classes. Once a student completes the training, institutions must document the student's completion of the training and provide proof of training completion to a student at the student's request. Students enrolled at more than one institution within the same system at the same time are only required to complete the training once.

The training shall include information about topics including but not limited to sexual assault as defined in subdivision 1a; consent as defined in section 609.341, subdivision 4; the affirmative consent standard defined in subdivision 3a; preventing and reducing the prevalence of sexual assault; procedures for reporting campus sexual assault; and campus resources on sexual assault, including organizations that support victims of sexual assault.

(c) A postsecondary institution shall annually train individuals responsible for responding to reports of sexual assault. This training shall include information about best practices for interacting

with victims of sexual assault, including how to reduce the emotional distress resulting from the reporting, investigatory, and disciplinary process.

Sec. 4. **[135A.161] INCLUSIVE HIGHER EDUCATION TECHNICAL ASSISTANCE CENTER.**

Subdivision 1. Definitions. (a) For purposes of this section and section 135A.162, the following terms have the meanings given.

(b) "Center" means the Inclusive Higher Education Technical Assistance Center.

(c) "Commissioner" means the commissioner of the Office of Higher Education.

(d) "Comprehensive transition and postsecondary program for students with intellectual disabilities" means a degree, certificate, or nondegree program that is offered by an institute of higher education for students with intellectual disabilities and approved by the United States Department of Education.

(e) "Director" means the director of the Inclusive Higher Education Technical Assistance Center.

(f) "Inclusive higher education" means institution-approved access to higher education for students with an intellectual disability that allows for the same rights, privileges, experiences, benefits, and outcomes that result from a college experience the same as a matriculating student, resulting in a meaningful credential conferred by the institution of higher education. Inclusive higher education includes:

- (1) academic access and inclusive instruction;
- (2) person-centered planning;
- (3) career development;
- (4) campus engagement;
- (5) self-determination;
- (6) paid internships and employment;
- (7) on- or off-campus living, when available to other students;
- (8) campus community clubs, events, and activity participation;
- (9) peer mentors and support; and
- (10) a degree, certificate, or nondegree credential.

(g) "National Coordinating Center" means the federally funded National Coordinating Center providing support, coordination, training, and evaluation services for Transition and Postsecondary Education Programs for Students with Intellectual Disabilities and other inclusive higher education initiatives for students with intellectual disability nationwide.

(h) "Office" means the Office of Higher Education.

(i) "Student with an intellectual disability" means a student with an intellectual disability as defined in Code of Federal Regulations, title 34, section 668.231.

Subd. 2. **Establishment.** The commissioner must contract with the Institute on Community Integration at the University of Minnesota to establish the Inclusive Higher Education Technical Assistance Center. The purpose of the center is to increase access to self-sustaining postsecondary education options across Minnesota for students with an intellectual disability to earn meaningful credentials through degree, certificate, and nondegree initiatives leading to competitive integrated employment, genuine community membership, and more independent living. The center must:

(1) coordinate and facilitate the statewide initiative to expand and enhance inclusive higher education opportunities;

(2) provide expertise in inclusive higher education for students with an intellectual disability;

(3) provide technical assistance:

(i) to Minnesota institutions of higher education;

(ii) to local education agencies; and

(iii) as requested by the commissioner; and

(4) provide information to students with intellectual disabilities and their families.

Subd. 3. **Director; advisory committee.** (a) The center must name a director.

(b) The director must appoint an advisory committee and seek the committee's review and recommendations on broad programmatic direction. The advisory committee must be composed of 50 percent students with an intellectual disability. The remaining positions must be filled by family members, key stakeholders, and allies. The director must convene the advisory committee at least quarterly. The advisory committee shall:

(1) review and recommend inclusive higher education offerings;

(2) review and recommend updates to state policy and practice;

(3) document existing and potential funding sources; and

(4) identify obstacles and barriers to students with an intellectual disability to access inclusive higher education opportunities.

Subd. 4. **Responsibilities.** (a) The center must advise all Minnesota institutions of higher education planning or that have an inclusive higher education initiative to follow and maintain the accreditation standards and guiding principles for inclusive higher education as established by the National Coordinating Center, as identified in the United States Code, title 20, section 1140q. The center must offer technical assistance to Minnesota inclusive higher education initiatives to remain

in or achieve alignment with federal requirements and with the standards, quality indicators, and benchmarks identified by the National Coordinating Center.

(b) The center must monitor federal and state law related to inclusive higher education and notify the governor, the legislature, and the Office of Higher Education of any change in law which may impact inclusive higher education.

(c) The center must provide technical assistance to institutions of higher education, administrators, faculty, and staff by:

(1) offering institution faculty and staff training and professional development to start, operate, or enhance their inclusive higher education initiative;

(2) providing faculty and staff with information, training, and consultation on the comprehensive transition and postsecondary program requirements, accreditation standards, and guiding principles;

(3) organizing and offering learning community events, an annual inclusive higher education conference and community of practice events to share best practices, provide access to national experts, and address challenges and concerns;

(4) assisting institutions of higher education with identifying existing or potential funding sources for the institution of higher education, student financial aid, and funding for students with an intellectual disability; and

(5) advising faculty and staff with an inclusive higher education option of specific grant applications and funding opportunities.

(d) The center must disseminate information to students with an intellectual disability, their parents, and local education agencies, including but not limited to information about:

(1) postsecondary education options, services, and resources that are available at inclusive institutions of higher education;

(2) technical assistance and training provided by the center, the National Coordinating Center, and key stakeholder organizations and agencies; and

(3) mentoring, networking, and employment opportunities.

Subd. 5. **Expiration.** This section expires October 1, 2027.

**Sec. 5. [135A.162] INCLUSIVE HIGHER EDUCATION GRANTS.**

Subdivision 1. **Establishment.** (a) The commissioner of the Office of Higher Education in collaboration with the director of the Inclusive Higher Education Technical Assistance Center must establish a competitive grant program for Minnesota institutions of higher education to develop new or enhance existing inclusive higher education initiatives to enroll or increase enrollment of students with an intellectual disability. The commissioner and director must collaborate to establish the grant program framework, including:

(1) minimum grant requirements;



- (2) application format;
- (3) criteria for evaluating applications;
- (4) grant selection process;
- (5) milestones and accountability; and
- (6) reporting.

(b) The commissioner must send a description of the competitive grants, including materials describing the grant purpose and goals, an application, compliance requirements, and available funding to each institution of higher education that meets the requirements of subdivision 2, clauses (1) and (2).

Subd. 2. **Eligible grantees.** A public postsecondary two-year or four-year institution is eligible to apply for a grant under this section if the institution:

- (1) is accredited by the Higher Learning Commission; and
- (2) meets the eligibility requirements under section 136A.103.

Subd. 3. **Application.** (a) Applications must be made to the commissioner on a form developed and provided by the commissioner. The commissioner must, to the greatest extent possible, make the application form as short and simple to complete as is reasonably possible. The commissioner must establish a schedule for applications and grants. The application must include without limitation a written plan to develop or enhance a sustainable inclusive higher education initiative that:

(1) offers the necessary supports to students with an intellectual disability to access the same rights, privileges, experiences, benefits, and outcomes of a typically matriculating student;

(2) includes the development of a meaningful credential for students with an intellectual disability to attain upon successful completion of the student's postsecondary education;

(3) adopts admission standards that do not require a student with an intellectual disability to complete a curriculum-based, achievement college entrance exam that is administered nationwide;

(4) ensures that students with an intellectual disability:

(i) have access and choice in a wide array of academic courses to enroll in for credit or audit that align with the student's interest areas and are attended by students without disabilities;

(ii) have the option to live on or off campus in housing that is available to typically matriculating students;

(iii) have access and support for genuine membership in campus life, including events, social activities and organizations, institution facilities, and technology; and

(iv) are able to access and utilize campus resources available to typical matriculating students;

(5) provides students with an intellectual disability with the supports and experiences necessary to seek and sustain competitive integrated employment;

(6) develops and promotes the self-determination skills of students with an intellectual disability;

(7) utilizes peer mentors who support enrolled students with an intellectual disability in academic, campus engagement, residence life, employment, and campus clubs and organizations;

(8) provides professional development and resources for university professors and instructors to utilize universal design for learning and differentiated instruction that supports and benefits all students; and

(9) presents a ten-year plan including student enrollment projections for sustainability of an initiative that is financially accessible and equitable for all interested students with an intellectual disability.

(b) Eligible institutions of higher education may apply for funding in subsequent years for up to a total of ten years of funding.

Subd. 4. **Grant account.** An inclusive higher education grant account is created in the special revenue fund for depositing money appropriated to or received by the commissioner for the program. Money deposited in the account is appropriated to the commissioner, does not cancel, and is continuously available for grants under this section. The commissioner may use up to five percent of the amount deposited into the account for the administration of this section.

Subd. 5. **Grant awards.** (a) The commissioner must award grants to eligible institutions of higher education on a competitive basis using criteria established in collaboration with the center. The commissioner must consider and prioritize applicants that have submitted for or received a comprehensive transition and postsecondary program designation, or applicants with documented progress or intent toward submitting for federal approval. An eligible institution of higher education may apply annually for and receive up to \$200,000 per year for four years and \$100,000 in subsequent years pending performance and the funding limitation in subdivision 3, paragraph (b).

(b) A grant recipient must:

(1) adopt the inclusive higher education national accreditation standards and guiding principles as established by the National Coordinating Center;

(2) provide a 25 percent match for the grant funds, either monetary or in-kind; and

(3) collaborate with the Office of Higher Education, the center, and key stakeholders in the development of the inclusive higher education initiative.

Subd. 6. **Grantee reporting.** By August 1 and January 1 following a fiscal year in which a grant was received and for five years thereafter, the grantee must submit a report to the director that includes the status and outcomes of the initiative funded. The report must include performance indicators and information deemed relevant by the director and commissioner. The report must include the following performance indicators:

(1) student recruitment and number of students enrolled;

(2) student retainment effort and retention rate;

(3) initiative goals and outcomes;

(4) student attainment rate;

(5) graduated student employment rates and salary levels at year one and year five after completion; and

(6) additional performance indicators or information established under subdivision 1, paragraph (a), clauses (5) and (6).

Subd. 7. **Reporting.** The director must evaluate the development and implementation of the Minnesota inclusive higher education initiatives receiving a grant under this section. The director must submit an annual report by October 1 on the progress to expand Minnesota inclusive higher education options for students with intellectual disabilities to the commissioner and chairs and ranking minority members of the legislative committees with jurisdiction over higher education policy and finance. The report must include statutory and budget recommendations.

Subd. 8. **Expiration.** This section expires October 1, 2027.

**EFFECTIVE DATE.** This section is effective June 30, 2022, except that the reporting requirements under subdivision 7 are effective June 30, 2023.

Sec. 6. Minnesota Statutes 2021 Supplement, section 136A.121, subdivision 6, is amended to read:

Subd. 6. **Cost of attendance.** (a) The recognized cost of attendance consists of: (1) an allowance specified in law for living and miscellaneous expenses, and (2) an allowance for tuition and fees equal to the lesser of the average tuition and fees charged by the institution, or a tuition and fee maximum if one is established in law. If no living and miscellaneous expense allowance is established in law, the allowance is equal to ~~409~~ 110 percent of the federal poverty guidelines for a one person household in Minnesota for nine months. If no tuition and fee maximum is established in law, the allowance for tuition and fees is equal to the lesser of: (1) the average tuition and fees charged by the institution, and (2) for two-year programs, an amount equal to the highest tuition and fees charged at a public two-year institution, or for four-year programs, an amount equal to the highest tuition and fees charged at a public university.

(b) For a student registering for less than full time, the office shall prorate the cost of attendance to the actual number of credits for which the student is enrolled.

(c) The recognized cost of attendance for a student who is confined to a Minnesota correctional institution shall consist of the tuition and fee component in paragraph (a), with no allowance for living and miscellaneous expenses.

(d) For the purpose of this subdivision, "fees" include only those fees that are mandatory and charged to full-time resident students attending the institution. Fees do not include charges for tools, equipment, computers, or other similar materials where the student retains ownership. Fees include

charges for these materials if the institution retains ownership. Fees do not include optional or punitive fees.

Sec. 7. Minnesota Statutes 2020, section 136A.121, subdivision 18, is amended to read:

Subd. 18. **Data.** (a) An eligible institution whose students are eligible to receive funding under sections 136A.095 to 136A.246 must provide to the office data on student enrollment and federal and state financial aid.

(b) An institution or its agent must provide to the office aggregate and distributional financial or other data as determined by the commissioner that is directly related to the responsibilities of the office under this chapter. The commissioner may only request aggregate and distributional data after establishing and consulting with a data advisory task force to determine the need, content, and detail of the information. Data provided by nonpublic institutions under this paragraph is considered nonpublic data under chapter 13.

Sec. 8. **[136A.1251] STUDENT-PARENT SUPPORT INITIATIVE.**

Subdivision 1. **Grants.** (a) To address the needs and support the educational goals of expectant and parenting college students across Minnesota, the commissioner shall award grants and provide support services to institutions and partnering entities that assist parents of young children and expectant parents. Grants shall be awarded to postsecondary institutions, professional organizations, community-based organizations, or other applicants deemed appropriate by the commissioner. Grants must be used to offer services to support the academic goals, health, and well-being of student parents. Services and costs eligible for grant funding include but are not limited to:

- (1) program development costs;
- (2) costs related to the start-up of on-campus child care;
- (3) evaluation and data collection; and
- (4) direct assistance to student parents including:
  - (i) scholarships;
  - (ii) basic needs support; and
  - (iii) expenses related to child care.

(b) Postsecondary institutions may act as the fiscal agents in partnership with a local nongovernmental agency, child care center, or other organization that serves student parents.

Subd. 2. **Application process.** The commissioner shall develop a grant application process. The commissioner shall support projects in a manner that attempts to ensure eligible students throughout the state have access to program services.

Subd. 3. **Health-related supports.** The commissioner, in partnership with the Department of Health, shall provide health-related supports. Activities for health-related supports include:

(1) ensuring programs, services, and materials are medically accurate, age appropriate, culturally and linguistically appropriate, and inclusive of all populations;

(2) working with community health care providers and other service support organizations that serve the target population for this program; and

(3) providing technical assistance and training for institutional parent support center staff on how to conduct screenings and referrals for the health concerns of student parents, including alcohol misuse, substance use disorders, depression, anxiety, intimate partner violence, tobacco and nicotine, and other health concerns.

Subd. 4. **Report and evaluation.** By August 1 of each odd-numbered year, the commissioner shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over higher education finance regarding the grant recipients and their activities. The report shall include information about the students served, the organizations providing services, program activities, program goals, and outcomes.

Sec. 9. Minnesota Statutes 2020, section 136A.1701, subdivision 11, is amended to read:

Subd. 11. **Data.** (a) An eligible institution whose students are eligible to receive funding under sections 136A.15 to 136A.1795 and licensed or registered under sections 136A.61 to 136A.834 must provide to the office data on student enrollment and federal and state financial aid.

(b) An institution or its agent must provide to the office aggregate and distributional financial or other data as determined by the commissioner that is directly related to the responsibilities of the office under this chapter. The commissioner may only request aggregate and distributional data after establishing and consulting with a data advisory task force to determine the need, content, and detail of the information. Data provided by nonpublic institutions under this paragraph is considered nonpublic data under chapter 13.

Sec. 10. Minnesota Statutes 2020, section 136A.833, is amended to read:

#### **136A.833 EXEMPTIONS.**

Subdivision 1. **Application for exemptions.** A school that seeks an exemption from the provisions of sections 136A.822 to 136A.834 for the school and all of its programs or some of its programs must apply to the office to establish that the school or program meets the requirements of an exemption. An exemption for the school or program expires two years from the date of approval or when a school adds a new program or makes a modification equal to or greater than 25 percent to an existing educational program. If a school is reapplying for an exemption, the application must be submitted to the office 90 days before the current exemption expires. This exemption shall not extend to any school that uses any publication or advertisement that is not truthful and gives any false, fraudulent, deceptive, inaccurate, or misleading impressions about the school or its personnel, programs, services, or occupational opportunities for its graduates for promotion and student recruitment. ~~Exemptions denied under this section are subject to appeal under section 136A.65, subdivision 8, paragraph (e)~~ If an exemption is denied, the office shall provide notice of the right to appeal under chapter 14. If an appeal is initiated, the denial of the exemption is not effective until the final determination of the appeal, unless immediate effect is ordered by the court.

Subd. 2. **Exemption reasons.** Sections 136A.821 to 136A.832 shall not apply to the following:

(1) public postsecondary institutions;

(2) postsecondary institutions registered under sections 136A.61 to 136A.71;

(3) postsecondary institutions exempt from registration under sections 136A.653, subdivisions 2, 3, and 3a; 136A.657; and 136A.658;

~~(3)~~ (4) private career schools of nursing accredited by the state Board of Nursing or an equivalent public board of another state or foreign country;

~~(4)~~ (5) private schools complying with the requirements of section 120A.22, subdivision 4;

~~(5)~~ (6) courses taught to students in ~~a valid~~ an apprenticeship program registered by the United States Department of Labor or Minnesota Department of Labor and taught by or required by a trade union;

~~(6)~~ (7) private career schools exclusively engaged in training physically or mentally disabled persons for the state of Minnesota;

~~(7)~~ (8) private career schools licensed by boards authorized under Minnesota law to issue licenses for training programs except private career schools required to obtain a private career school license due to the use of "academy," "institute," "college," or "university" in their names;

~~(8)~~ (9) private career schools and educational programs, or training programs, contracted for by persons, firms, corporations, government agencies, or associations, for the training of their own employees, for which no fee is charged the employee;

~~(9)~~ (10) private career schools engaged exclusively in the teaching of purely avocational, recreational, or remedial subjects, including adult basic education, as determined by the office except private career schools required to obtain a private career school license due to the use of "academy," "institute," "college," or "university" in their names unless the private career school used "academy" or "institute" in its name prior to August 1, 2008;

~~(10)~~ (11) classes, courses, or programs conducted by a bona fide trade, professional, or fraternal organization, solely for that organization's membership;

~~(11)~~ (12) programs in the fine arts provided by organizations exempt from taxation under section 290.05 and registered with the attorney general under chapter 309. For the purposes of this clause, "fine arts" means activities resulting in artistic creation or artistic performance of works of the imagination which are engaged in for the primary purpose of creative expression rather than commercial sale or employment. In making this determination the office may seek the advice and recommendation of the Minnesota Board of the Arts;

~~(12)~~ (13) classes, courses, or programs intended to fulfill the continuing education requirements for licensure or certification in a profession, that have been approved by a legislatively or judicially established board or agency responsible for regulating the practice of the profession or by an industry-specific certification entity, and that are offered exclusively to ~~an individual practicing the profession~~ individuals with the professional licensure or certification;

~~(13)~~ (14) classes, courses, or programs intended to prepare students to sit for undergraduate, graduate, postgraduate, or occupational licensing ~~and occupational~~, certification, or entrance examinations;

~~(14)~~ (15) classes, courses, or programs providing 16 or fewer clock hours of instruction ~~that are not part of the curriculum for an occupation or entry level employment except private career schools required to obtain a private career school license due to the use of "academy," "institute," "college," or "university" in their names;~~

~~(15)~~ (16) classes, courses, or programs providing instruction in personal development, modeling, or acting;

~~(16) training or instructional programs, in which one instructor teaches an individual student, that are not part of the curriculum for an occupation or are not intended to prepare a person for entry level employment;~~

(17) private career schools with no physical presence in Minnesota, as determined by the office, engaged exclusively in offering distance instruction that are located in and regulated by other states or jurisdictions if the distance education instruction does not include internships, externships, field placements, or clinical placements for residents of Minnesota; and

(18) private career schools providing exclusively training, instructional programs, or courses where tuition, fees, and any other charges for a student to participate do not exceed \$100.

Sec. 11. Minnesota Statutes 2021 Supplement, section 136A.91, subdivision 1, is amended to read:

Subdivision 1. **Grants.** (a) The Office of Higher Education must establish a competitive grant program for postsecondary institutions to expand concurrent enrollment opportunities. To the extent that there are qualified applicants, the commissioner of the Office of Higher Education shall distribute grant funds to ensure:

- (1) eligible students throughout the state have access to concurrent enrollment programs; and
- (2) preference for grants that expand programs is given to programs already at capacity.

(b) The commissioner may award grants under this section to postsecondary institutions for any of the following purposes:

(1) to develop new concurrent enrollment courses under section 124D.09, subdivision 10, that satisfy the elective standard for career and technical education; or

(2) to expand the existing concurrent enrollment programs already offered by the postsecondary institution by:

- (i) creating new sections within the same high school;
- (ii) offering the existing course in new high schools; ~~or~~ and

(iii) supporting the preparation, recruitment, and success of students who are underrepresented in concurrent enrollment classrooms.

Sec. 12. Minnesota Statutes 2020, section 136F.02, subdivision 1, is amended to read:

Subdivision 1. **Membership.** The board consists of 15 members appointed by the governor, including three members who are students who have attended an institution for at least one year and are enrolled at the time of appointment at least half time in a degree, diploma, or certificate program in an institution governed by the board. The student members shall include one member from a community college, one member from a state university, and one member from a technical college. One member representing labor must be appointed after considering the recommendations made under section 136F.045. The governor is not bound by the recommendations. Appointments to the board are with the advice and consent of the senate. At least one member of the board must be a resident of each congressional district. All other members must be appointed to represent the state at large. In selecting appointees, the governor must consider the needs of the board and the balance of the board membership with respect to labor and business representation ~~and~~; racial, gender, geographic, and ethnic composition; and occupation and experience. In selecting appointees, the governor must consider the needs of the board for skills relevant to the governance of the Minnesota State Colleges and Universities and the candidate's ability to discharge the responsibilities of the board.

A commissioner of a state agency may not serve as a member of the board.

Sec. 13. Minnesota Statutes 2020, section 136F.302, subdivision 1, is amended to read:

Subdivision 1. **ACT or SAT college ready score; Minnesota Comprehensive Assessment career and college ready benchmarks.** (a) A state college or university must not require an individual to take a ~~remedial~~ developmental, noncredit course in a subject area if the individual has received a college ready ACT or SAT score or met a career and college ready Minnesota Comprehensive Assessment benchmark in that subject area. Only the ACT and SAT scores an individual received and the Minnesota Comprehensive Assessment benchmarks an individual met in the previous five years are valid for purposes of this section. Each state college and university must post notice of the exemption from ~~remedial~~ developmental course taking on its website explaining student course placement requirements. Prior to enrolling an individual in a developmental course, a college or university must (1) determine if the individual's performance on the ACT, SAT, or Minnesota Comprehensive Assessments exempts the individual from the developmental course under this paragraph, and (2) inform the individual if a developmental course is required.

(b) When deciding if an individual is admitted to or if an individual may enroll in a state college or university, the state college or university must consider the individual's scores on the high school Minnesota Comprehensive Assessments, in addition to other factors determined relevant by the college or university.

Sec. 14. Minnesota Statutes 2020, section 136F.302, subdivision 2, is amended to read:

Subd. 2. **~~Testing Process for determining if remediating developmental education is necessary.~~** (a) A college or university must not place an individual in a developmental, noncredit course based solely on a testing process. A state college or university may use multiple measures



to make a holistic determination on whether to place an individual in a developmental course. Multiple measures may include:

(1) testing under paragraph (b);

(2) the individual's scores on the high school Minnesota Comprehensive Assessments, the ACT, or the SAT;

(3) high school grade point average;

(4) teacher recommendations; and

(5) other factors determined relevant by the college or university.

(b) A college or university testing process used to determine whether an individual is placed in a ~~remedial~~ developmental, noncredit course must comply with this subdivision. Prior to taking a test, an individual must be given reasonable time and opportunity to review materials provided by the college or university covering the material to be tested which must include a sample test. An individual who is required to take a ~~remedial~~ developmental, noncredit course as a result of a test given by a college or university must be given an opportunity to retake the test at the earliest time determined by the individual when testing is otherwise offered. The college or university must provide an individual with study materials for the purpose of retaking and passing the test.

Sec. 15. Minnesota Statutes 2021 Supplement, section 136F.38, subdivision 3, is amended to read:

Subd. 3. **Program eligibility.** (a) Scholarships shall be awarded only to a student eligible for resident tuition, as defined in section 135A.043, who is enrolled in any of the following programs of study or certification: (1) advanced manufacturing; (2) agriculture; (3) health care services; (4) information technology; (5) early childhood; (6) transportation; ~~or~~ (7) construction; (8) social work; (9) law enforcement; or (10) a program of study under paragraph (b).

(b) Each institution may add one additional area of study or certification, based on a workforce shortage for full-time employment requiring postsecondary education that is unique to the institution's specific region, as reported in the most recent Department of Employment and Economic Development job vacancy survey data for the economic development region in which the institution is located. A workforce shortage area is one in which the job vacancy rate for full-time employment in a specific occupation in a region is higher than the state average vacancy rate for that same occupation. The institution may change the area of study or certification based on new data once every two years.

(c) The student must be enrolled for at least nine credits in a two-year college in the Minnesota State Colleges and Universities system to be eligible for first- and second-year scholarships.

(d) The student is eligible for a one-year transfer scholarship if the student transfers from a two-year college after two or more terms, and the student is enrolled for at least nine credits in a four-year university in the Minnesota State Colleges and Universities system.

Sec. 16. Minnesota Statutes 2020, section 137.022, subdivision 4, is amended to read:

Subd. 4. **Mineral research; scholarships.** (a) All income credited after July 1, 1992, to the permanent university fund from royalties for mining under state mineral leases from and after July 1, 1991, must be allocated as provided in this subdivision.

(b)(1) Beginning January 1, 2013, 50 percent of the income must be allocated according to this paragraph. One-half of the income under this paragraph, up to ~~\$50,000,000~~ \$100,000,000, must be credited to the mineral research account of the fund to be allocated for the Natural Resources Research Institute-Duluth and Coleraine facilities, for mineral and mineral-related research including mineral-related environmental research. The other one-half of the income under this paragraph, up to \$25,000,000, is credited to an endowment for the costs of operating a mining, ~~metallurgical~~ mineral, mineral-related, or related engineering science, technology, engineering, and mathematics (STEM) degree program programs offered through the University of Minnesota at Mesabi Range Community and Technical College and the Swenson College of Science and Engineering at Duluth to support workforce development and collaborations benefiting regional academics, industry, and natural resources on the Iron Range in northeast Minnesota and for scholarships for Minnesota students to attend the mining, metallurgical, or related engineering program mineral, mineral-related, or STEM programs. The maximum scholarship awarded to attend the ~~mining, metallurgical, or related engineering degree program programs~~ mining, metallurgical, or related engineering degree program programs funded under this paragraph cannot exceed \$6,500 75 percent of current in-state tuition rates per academic year and may be awarded a maximum of four academic years.

(2) The remainder of the income under paragraph (a) plus the amount of any income under clause (1) after ~~\$50,000,000~~ \$100,000,000 has been credited to the mineral research account for the Natural Resources Research Institute and the amount of any income over the \$25,000,000 for the ~~engineering program programming~~ in clause (1) must be credited to the endowed scholarship account of the fund for distribution annually for scholastic achievement as provided by the Board of Regents to undergraduates enrolled at the University of Minnesota who are resident students as defined in section 136A.101, subdivision 8.

(c) The annual distribution from the endowed scholarship account must be allocated to the various campuses of the University of Minnesota in proportion to the number of undergraduate resident students enrolled on each campus.

(d) The Board of Regents must report to the education committees of the legislature biennially at the time of the submission of its budget request on the disbursement of money from the endowed scholarship account and to the environment and natural resources committees on the use of the mineral research account.

(e) Capital gains and losses and portfolio income of the permanent university fund must be credited to its three accounts in proportion to the market value of each account.

(f) The endowment support from the income and capital gains of the endowed mineral research and endowed scholarship accounts of the fund must not total more than six percent per year of the 36-month trailing average market value of the account from which the support is derived.

Sec. 17. Minnesota Statutes 2020, section 137.024, is amended to read:

**137.024 CONGRESSIONAL DISTRICTS REPRESENTED ON BOARD OF REGENTS.**

(a) At least one member of the Board of Regents of the university shall be a resident of each congressional district.

(b) If legislative redistricting changes the boundaries of the state's congressional districts, sitting regents representing specific congressional districts may fulfill their elected terms on the Board of Regents. When a seat designated for a congressional district first becomes vacant after redistricting, the legislature shall apply current district boundaries in order to comply with paragraph (a).

(c) If, due to congressional apportionment, the state loses a congressional district, the regent seat designated for that district shall represent the state at large. If the state gains a congressional district, the next vacant at-large seat that is not reserved pursuant to section 137.023 must be assigned to the new district.

Sec. 18. Minnesota Statutes 2020, section 137.0245, subdivision 2, is amended to read:

Subd. 2. **Membership.** (a) The Regent Candidate Advisory Council shall consist of ~~24~~ 20 members.

~~Twelve~~ (b) Five members shall be appointed by the Subcommittee on Committees of the Committee on Rules and Administration of the senate. ~~Twelve~~ Five members shall be appointed by the speaker of the house. ~~Each appointing authority must appoint one member who is a student enrolled in a degree program at the University of Minnesota at the time of appointment.~~ No more than ~~one-third~~ two of the members appointed by each appointing authority may be current or former legislators. No more than ~~two-thirds~~ three of the members appointed by each appointing authority may belong to the same political party; however, political activity or affiliation is not required for the appointment of any member. Geographical representation must be taken into consideration when making appointments.

(c) Additional members of the council shall include:

(1) one current faculty member from each of the five University of Minnesota system campuses, each of whom shall be appointed by the faculty senate of that faculty member's campus, or, if no campus-specific faculty senate exists, by the university system's faculty senate; and

(2) the current student body president of each of the five University of Minnesota system campuses, or student designees thereof.

(d) Section 15.0575 shall govern the advisory council, except that:

~~(1)~~ (1) the members, except for a student body president or student designee thereof, shall be appointed to six-year terms ~~with one-third appointed each even-numbered year;~~ and

~~(2)~~ (2) ~~student members are appointed to two-year terms with two students appointed each even-numbered year.~~

(e) A member may not serve more than two full terms.

**EFFECTIVE DATE.** This section is effective the day following final enactment. By September 1, 2022, the house and senate shall appoint one member to a term that expires January 2024, two members to terms that expire January 2026, and two members to full terms that expire January 2028.

Members of the Regent Candidate Advisory Council at the time of enactment may be reappointed, but remain subject to the two-term limit imposed by this section.

Sec. 19. Minnesota Statutes 2020, section 137.0246, is amended to read:

**137.0246 REGENT NOMINATION AND ELECTION.**

Subd. 2. **Regent nomination joint committee.** (a) The joint legislative committee consists of the members of the higher education budget and policy divisions in each house of the legislature. The chairs of the divisions from each body shall be cochairs of the joint legislative committee. A majority of the members from each house is a quorum of the joint committee.

(b) By February 28 of each odd-numbered year, or at a date agreed to by concurrent resolution, the joint legislative committee shall meet to consider the advisory council's recommendations for regent of the University of Minnesota for possible presentation to a joint convention of the legislature.

(c) The joint committee may recommend to the joint convention candidates recommended by the advisory council and the other candidates nominated by the joint committee. A candidate other than those recommended by the advisory council may be nominated for consideration by the joint committee only if the nomination receives the support of at least three house of representatives members of the committee and two senate members of the committee. A candidate must receive a majority vote of members from the house of representatives and from the senate on the joint committee to be recommended to the joint convention. The joint committee may recommend ~~no more than one candidate~~ up to two candidates for each vacancy. In recommending nominees, the joint committee must consider the needs of the board of regents and the balance of the board membership with respect to gender, racial, and ethnic composition.

Sec. 20. **OWATONNA LEARN TO EARN COALITION GRANT FUNDS REPORT.**

By February 1, 2026, the Owatonna Learn to Earn Coalition must report to the commissioner of the Office of Higher Education and to the chairs and ranking minority members of the committees with jurisdiction over higher education on activities funded under article 1, section 2, subdivisions 8 and 9. The report must include but is not limited to information regarding:

(1) the impact of the grant funds on high school and technical college student enrollment in technical education courses receiving equipment funded through the grant;

(2) the number of grant-related degrees awarded by Owatonna Riverland Community College;

(3) the results of the Department of Employment and Economic Development grant to conduct a needs assessment examining current and future workforce needs in the region; and

(4) employment impacted in the area associated with the grant, including recruitment and retention.

Sec. 21. **REQUEST TO THE BOARD OF REGENTS.**

The Board of Regents of the University of Minnesota is requested to amend its policies to permit a regent to serve as a compensated university employee.

Sec. 22. **REVISOR INSTRUCTION.**

The revisor of statutes shall substitute the term "developmental" for "remedial" wherever the term refers to remedial education courses at a postsecondary institution. The revisor shall also make grammatical changes related to the changes in terms to preserve the meaning of the text.

Sec. 23. **REPEALER.**

(a) Minnesota Statutes 2020, section 136F.03, is repealed.

(b) Minnesota Rules, part 4880.2500, is repealed.

### ARTICLE 3

#### MINNESOTA HEALTH AND EDUCATION FACILITIES AUTHORITY

Section 1. Minnesota Statutes 2020, section 136A.25, is amended to read:

**136A.25 CREATION.**

A state agency known as the Minnesota ~~Higher~~ Health and Education Facilities Authority is hereby created.

Sec. 2. Minnesota Statutes 2020, section 136A.26, is amended to read:

**136A.26 MEMBERSHIPS; OFFICERS; COMPENSATION; REMOVAL.**

Subdivision 1. **Membership.** The Minnesota ~~Higher~~ Health and Education Facilities Authority shall consist of ~~eight~~ nine members appointed by the governor with the advice and consent of the senate, and a representative of the ~~office~~ Office of Higher Education.

All members to be appointed by the governor shall be residents of the state. At least two members must reside outside the metropolitan area as defined in section 473.121, subdivision 2. At least one of the members shall be a person having a favorable reputation for skill, knowledge, and experience in the field of state and municipal finance; ~~and~~ at least one shall be a person having a favorable reputation for skill, knowledge, and experience in the building construction field; ~~and~~ at least one of the members shall be a trustee, director, officer, or employee of an institution of higher education; and at least one of the members shall be a trustee, director, officer, or employee of a health care organization.

Subd. 1a. **Private College Council member.** The president of the Minnesota Private College Council, or the president's designee, shall serve without compensation as an advisory, nonvoting member of the authority.

Subd. 1b. **Nonprofit health care association member.** The chief executive officer of a Minnesota nonprofit membership association whose members are primarily nonprofit health care organizations, or the chief executive officer's designee, shall serve without compensation as an advisory, nonvoting member of the authority. The identity of the Minnesota nonprofit membership association shall be determined and may be changed from time to time by the members of the authority in accordance with and as shall be provided in the bylaws of the authority.

Subd. 2. **Term; compensation; removal.** The membership terms, compensation, removal of members, and filling of vacancies for authority members other than the representative of the office, ~~and the president of the Private College Council, or the chief executive officer of the Minnesota nonprofit membership association described in subdivision 1b~~ shall be as provided in section 15.0575.

Sec. 3. Minnesota Statutes 2020, section 136A.27, is amended to read:

**136A.27 POLICY.**

It is hereby declared that for the benefit of the people of the state, the increase of their commerce, welfare and prosperity and the improvement of their health and living conditions it is essential that health care organizations within the state be provided with appropriate additional means to establish, acquire, construct, improve, and expand health care facilities in furtherance of their purposes; that this and future generations of youth be given the fullest opportunity to learn and to develop their intellectual and mental capacities; that it is essential that institutions of higher education within the state be provided with appropriate additional means to assist such youth in achieving the required levels of learning and development of their intellectual and mental capacities; and that health care organizations and institutions of higher education be enabled to refinance outstanding indebtedness incurred to provide existing facilities used for such purposes in order to preserve and enhance the utilization of facilities for purposes of health care and higher education, to extend or adjust maturities in relation to the resources available for their payment, and to save interest costs and thereby reduce health care costs or higher education tuition, fees, and charges; and. It is hereby further declared that it is the purpose of sections 136A.25 to 136A.42 to provide a measure of assistance and an alternative method to enable health care organizations and institutions of higher education in the state to provide the facilities and structures which are sorely needed to accomplish the purposes of sections 136A.25 to 136A.42, all to the public benefit and good, to the extent and manner provided herein.

Sec. 4. Minnesota Statutes 2020, section 136A.28, is amended to read:

**136A.28 DEFINITIONS.**

Subdivision 1. **Scope.** In sections 136A.25 to 136A.42, the following words and terms shall, unless the context otherwise requires, have the meanings ascribed to them.

Subd. 1a. **Affiliate.** "Affiliate" means an entity that directly or indirectly controls, is controlled by, or is under common control with, another entity. For the purposes of this subdivision, "control" means either the power to elect a majority of the members of the governing body of an entity or the power, whether by contract or otherwise, to direct the management and policies of the entity. Affiliate also means an entity whose business or substantially all of whose property is operated under a lease, management agreement, or operating agreement by another entity, or an entity who operates the business or substantially all of the property of another entity under a lease, management agreement, or operating agreement.

Subd. 2. **Authority.** "Authority" means the Higher Health and Education Facilities Authority created by sections 136A.25 to 136A.42.

Subd. 3. **Project.** "Project" means ~~a structure or structures available for use as a dormitory or other student housing facility, a dining hall, student union, administration building, academic building,~~

~~library, laboratory, research facility, classroom, athletic facility, health care facility, child care facility, and maintenance, storage, or utility facility and other structures or facilities related thereto or required or useful for the instruction of students or the conducting of research or the operation of an institution of higher education, whether proposed, under construction, or completed, including parking and other facilities or structures essential or convenient for the orderly conduct of such institution for higher education, and shall also include landscaping, site preparation, furniture, equipment and machinery, and other similar items necessary or convenient for the operation of a particular facility or structure in the manner for which its use is intended but shall not include such items as books, fuel, supplies, or other items the costs of which are customarily deemed to result in a current operating charge, and shall~~ a health care facility or an education facility whether proposed, under construction, or completed, and includes land or interests in land, appurtenances, site preparation, landscaping, buildings and structures, systems, fixtures, furniture, machinery, equipment, and parking. Project also includes other structures, facilities, improvements, machinery, equipment, and means of transport of a capital nature that are necessary or convenient for the operation of the facility. Project does not include: (1) any facility used or to be used for sectarian instruction or as a place of religious worship nor; (2) any facility which is used or to be used primarily in connection with any part of the program of a school or department of divinity for any religious denomination; nor (3) any books, supplies, medicine, medical supplies, fuel, or other items, the cost of which are customarily deemed to result in a current operating charge.

Subd. 4. **Cost.** "Cost," as applied to a project or any portion thereof financed under the provisions of sections 136A.25 to 136A.42, means all or any part of the cost of construction, acquisition, alteration, enlargement, reconstruction and remodeling of a project including all lands, structures, real or personal property, rights, rights-of-way, franchises, easements and interests acquired or used for or in connection with a project, the cost of demolishing or removing any buildings or structures on land so acquired, including the cost of acquiring any lands to which ~~such~~ buildings or structures may be moved, the cost of all machinery and equipment, financing charges, interest prior to, during and for a period after completion of such construction and acquisition, provisions for reserves for principal and interest and for extensions, enlargements, additions and improvements, the cost of architectural, engineering, financial and legal services, plans, specifications, studies, surveys, estimates of cost and of revenues, administrative expenses, expenses necessary or incident to determining the feasibility or practicability of constructing the project and such other expenses as may be necessary or incident to the construction and acquisition of the project, the financing of such construction and acquisition and the placing of the project in operation.

Subd. 5. **Bonds.** "Bonds," or "revenue bonds" means revenue bonds of the authority issued under the provisions of sections 136A.25 to 136A.42, including revenue refunding bonds, notwithstanding that the same may be secured by mortgage or the full faith and credit of a participating institution ~~for higher education~~ or any other lawfully pledged security of a participating institution ~~for higher education~~.

Subd. 6. **Institution of higher education.** "Institution of higher education" means a nonprofit educational institution within the state authorized to provide a program of education beyond the high school level.

Subd. 6a. **Health care organization.** (a) "Health care organization" means a nonprofit organization located within the state and authorized by law to operate a nonprofit health care facility in the state. Health care organization also means a nonprofit affiliate of a health care organization

as defined under this paragraph, provided the affiliate is located within the state or within a state that is geographically contiguous to Minnesota.

(b) Health care organization also means a nonprofit organization located within another state that is geographically contiguous to Minnesota and authorized by law to operate a nonprofit health care facility in that state, provided that the nonprofit organization located within the contiguous state is an affiliate of a health care organization located within the state.

Subd. 6b. **Education facility.** "Education facility" means a structure or structures available for use as a dormitory or other student housing facility, dining hall, student union, administration building, academic building, library, laboratory, research facility, classroom, athletic facility, student health care facility, or child care facility, and includes other facilities or structures related thereto essential or convenient for the orderly conduct of an institution of higher education.

Subd. 6c. **Health care facility.** (a) "Health care facility" means a structure or structures available for use within this state as a hospital, clinic, psychiatric residential treatment facility, birth center, outpatient surgical center, comprehensive outpatient rehabilitation facility, outpatient physical therapy or speech pathology facility, end-stage renal dialysis facility, medical laboratory, pharmacy, radiation therapy facility, diagnostic imaging facility, medical office building, residence for nurses or interns, nursing home, boarding care home, assisted living facility, residential hospice, intermediate care facility for persons with developmental disabilities, supervised living facility, housing with services establishment, board and lodging establishment with special services, adult day care center, day services facility, prescribed pediatric extended care facility, community residential setting, adult foster home, or other facility related to medical or health care research, or the delivery or administration of health care services, and includes other structures or facilities related thereto essential or convenient for the orderly conduct of a health care organization.

(b) Health care facility also means a facility in a state that is geographically contiguous to Minnesota operated by a health care organization that corresponds by purpose, function, or use with a facility listed in paragraph (a).

Subd. 7. **Participating institution of higher education.** "Participating institution of higher education" means a health care organization or an institution of higher education that, under the provisions of sections 136A.25 to 136A.42, undertakes the financing and construction or acquisition of a project or undertakes the refunding or refinancing of obligations or of a mortgage or of advances as provided in sections 136A.25 to 136A.42. Community colleges and technical colleges may be considered participating institutions of higher education for the purpose of financing and constructing child care facilities and parking facilities.

Sec. 5. Minnesota Statutes 2020, section 136A.29, subdivision 1, is amended to read:

Subdivision 1. **Purpose.** The purpose of the authority shall be to assist health care organizations and institutions of higher education in the construction, financing, and refinancing of projects. The exercise by the authority of the powers conferred by sections 136A.25 to 136A.42, shall be deemed and held to be the performance of an essential public function. For the purpose of sections 136A.25 to 136A.42, the authority shall have the powers and duties set forth in subdivisions 2 to 23.

Sec. 6. Minnesota Statutes 2020, section 136A.29, subdivision 3, is amended to read:



Subd. 3. **Employees.** The authority is authorized and empowered to appoint and employ employees as it may deem necessary to carry out its duties, determine the title of the employees so employed, and fix the salary of ~~said~~ its employees. Employees of the authority shall participate in retirement and other benefits in the same manner that employees in the ~~unclassified service of the office~~ managerial plan under section 43A.18, subdivision 3, participate.

Sec. 7. Minnesota Statutes 2020, section 136A.29, subdivision 6, is amended to read:

Subd. 6. **Projects; generally.** (a) The authority is authorized and empowered to determine the location and character of any project to be financed under the provisions of sections 136A.25 to 136A.42, and to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, to enter into contracts for any or all of such purposes, to enter into contracts for the management and operation of a project, and to designate a participating institution of ~~higher education~~ as its agent to determine the location and character of a project undertaken by such participating institution of ~~higher education~~ under the provisions of sections 136A.25 to 136A.42 and as the agent of the authority, to construct, reconstruct, remodel, maintain, manage, enlarge, alter, add to, repair, operate, lease, as lessee or lessor, and regulate the same, and as the agent of the authority, to enter into contracts for any or all of such purposes, including contracts for the management and operation of such project.

(b) Notwithstanding paragraph (a), a project involving a health care facility within the state financed under sections 136A.25 to 136A.42, must comply with all applicable requirements in state law related to authorizing construction of or modifications to a health care facility, including the requirements of sections 144.5509, 144.551, 144A.071, and 252.291.

(c) Contracts of the authority or of a participating institution of ~~higher education~~ to acquire or to construct, reconstruct, remodel, maintain, enlarge, alter, add to, or repair projects shall not be subject to the provisions of chapter 16C or section 574.26, or any other public contract or competitive bid law.

Sec. 8. Minnesota Statutes 2020, section 136A.29, subdivision 9, is amended to read:

Subd. 9. **Revenue bonds; limit.** (a) The authority is authorized and empowered to issue revenue bonds whose aggregate principal amount at any time shall not exceed ~~\$1,300,000,000~~ \$4,000,000,000 and to issue notes, bond anticipation notes, and revenue refunding bonds of the authority under the provisions of sections 136A.25 to 136A.42, to provide funds for acquiring, constructing, reconstructing, enlarging, remodeling, renovating, improving, furnishing, or equipping one or more projects or parts thereof.

(b) Of the \$4,000,000,000 limit in paragraph (a), the aggregate principal amount used to fund education facilities may not exceed \$1,750,000,000 at any time, and the aggregate principal amount used to fund health care facilities may not exceed \$2,250,000,000 at any time.

Sec. 9. Minnesota Statutes 2020, section 136A.29, subdivision 10, is amended to read:

Subd. 10. **Revenue bonds; issuance, purpose, conditions.** The authority is authorized and empowered to issue revenue bonds to acquire projects from or to make loans to participating institutions of ~~higher education~~ and thereby refinance outstanding indebtedness incurred by participating institutions of ~~higher education~~ to provide funds for the acquisition, construction or

improvement of a facility before or after the enactment of sections 136A.25 to 136A.42, but otherwise eligible to be and being a project thereunder, whenever the authority finds that such refinancing will enhance or preserve such participating institutions and such facilities or utilization thereof for health care or educational purposes or extend or adjust maturities to correspond to the resources available for their payment, or reduce charges or fees imposed on patients or occupants, or the tuition, charges, or fees imposed on students for the use or occupancy of the facilities of such participating institutions of higher education or costs met by federal or state public funds, or enhance or preserve health care or educational programs and research or the acquisition or improvement of other facilities eligible to be a project or part thereof by the participating institution of higher education. The amount of revenue bonds to be issued to refinance outstanding indebtedness of a participating institution of ~~higher education~~ shall not exceed the lesser of (a) the fair value of the project to be acquired by the authority from the institution or mortgaged to the authority by the institution or (b) the amount of the outstanding indebtedness including any premium thereon and any interest accrued or to accrue to the date of redemption and any legal, fiscal and related costs in connection with such refinancing and reasonable reserves, as determined by the authority. The provisions of this subdivision do not prohibit the authority from issuing revenue bonds within and charged against the limitations provided in subdivision 9 to provide funds for improvements, alteration, renovation, or extension of the project refinanced.

Sec. 10. Minnesota Statutes 2020, section 136A.29, subdivision 14, is amended to read:

Subd. 14. **Rules for use of projects.** The authority is authorized and empowered to establish rules for the use of a project or any portion thereof and to designate a participating institution of ~~higher education~~ as its agent to establish rules for the use of a project undertaken for such participating institution of ~~higher education~~.

Sec. 11. Minnesota Statutes 2020, section 136A.29, subdivision 19, is amended to read:

Subd. 19. **Surety.** Before the issuance of any revenue bonds under the provisions of sections 136A.25 to 136A.42, any member or officer of the authority authorized by resolution of the authority to handle funds or sign checks of the authority shall be covered under a surety or fidelity bond in an amount to be determined by the authority. Each such bond shall be conditioned upon the faithful performance of the duties of the office of the member or officer, and shall be executed by a surety company authorized to transact business in the state of Minnesota as surety. The cost of each such bond shall be paid by the authority.

Sec. 12. Minnesota Statutes 2020, section 136A.29, subdivision 20, is amended to read:

Subd. 20. **Sale, lease, and disposal of property.** The authority is authorized and empowered to sell, lease, release, or otherwise dispose of real and personal property or interests therein, or a combination thereof, acquired by the authority under authority of sections 136A.25 to 136A.42 and no longer needed for the purposes of ~~such this~~ chapter or of the authority, and grant such easements and other rights in, over, under, or across a project as will not interfere with its use of ~~such the~~ property. ~~Such~~ The sale, lease, release, disposition, or grant may be made without competitive bidding and in ~~such the~~ manner and for such consideration as the authority in its judgment deems appropriate.

Sec. 13. Minnesota Statutes 2020, section 136A.29, subdivision 21, is amended to read:

Subd. 21. **Loans.** The authority is authorized and empowered to make loans to any participating institution ~~of higher education~~ for the cost of a project in accordance with an agreement between the authority and the participating institution ~~of higher education~~; provided that no such loan shall exceed the total cost of the project as determined by the participating institution ~~of higher education~~ and approved by the authority.

Sec. 14. Minnesota Statutes 2020, section 136A.29, subdivision 22, is amended to read:

Subd. 22. **Costs, expenses, and other charges.** The authority is authorized and empowered to charge to and apportion among participating institutions ~~of higher education~~ its administrative costs and expenses incurred in the exercise of the powers and duties conferred by sections 136A.25 to 136A.42 in the manner as the authority in its judgment deems appropriate.

Sec. 15. Minnesota Statutes 2020, section 136A.29, is amended by adding a subdivision to read:

Subd. 24. **Determination of affiliate status.** The authority is authorized and empowered to determine whether an entity is an affiliate as defined in section 136A.28, subdivision 1a. A determination by the authority of affiliate status shall be deemed conclusive for the purposes of sections 136A.25 to 136A.42.

Sec. 16. Minnesota Statutes 2020, section 136A.32, subdivision 1, is amended to read:

Subdivision 1. **Bonds; generally.** (a) The authority may from time to time issue revenue bonds for purposes of sections 136A.25 to 136A.42, and all such revenue bonds, notes, bond anticipation notes or other obligations of the authority issued pursuant to sections 136A.25 to 136A.42 shall be and are hereby declared to be negotiable for all purposes notwithstanding their payment from a limited source and without regard to any other law or laws. In anticipation of the sale of such revenue bonds, the authority may issue negotiable bond anticipation notes and may renew the same from time to time, but the maximum maturity of any such note, including renewals thereof, shall not exceed five years from the date of issue of the original note. Such notes shall be paid from any revenues of the authority available therefor and not otherwise pledged, or from the proceeds of sale of the revenue bonds of the authority in anticipation of which they were issued. The notes shall be issued in the same manner as the revenue bonds. Such notes and the resolution or resolutions authorizing the same may contain any provisions, conditions or limitations which a bond resolution or the authority may contain.

(b) Before issuing revenue bonds, notes, or other obligations under paragraph (a) on behalf of a health care organization to finance health care facilities, the authority must obtain consent by resolution from each city or town in which the project is located, except that consent need not be obtained in the case of a city or town with a population of less than 100,000. The consent by resolution requirement does not apply to financing under paragraph (a) on behalf of a participating institution which is primarily an institution of higher education.

Sec. 17. Minnesota Statutes 2020, section 136A.32, subdivision 4, is amended to read:

Subd. 4. **Provisions of resolution authorizing bonds.** Any resolution or resolutions authorizing any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the revenue bonds to be authorized, as to:

(1) pledging all or any part of the revenues of a project or projects, any revenue producing contract or contracts made by the authority with ~~any individual partnership, corporation or association or other body~~ one or more partnerships, corporations or associations, or other bodies, public or private, to secure the payment of the revenue bonds or of any particular issue of revenue bonds, subject to such agreements with bondholders as may then exist;

(2) the rentals, fees and other charges to be charged, and the amounts to be raised in each year thereby, and the use and disposition of the revenues;

(3) the setting aside of reserves or sinking funds, and the regulation and disposition thereof;

(4) limitations on the right of the authority or its agent to restrict and regulate the use of the project;

(5) limitations on the purpose to which the proceeds of sale of any issue of revenue bonds then or thereafter to be issued may be applied and pledging such proceeds to secure the payment of the revenue bonds or any issue of the revenue bonds;

(6) limitations on the issuance of additional bonds, the terms upon which additional bonds may be issued and secured and the refunding of outstanding bonds;

(7) the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent thereto, and the manner in which such consent may be given;

(8) limitations on the amount of moneys derived from the project to be expended for operating, administrative or other expenses of the authority;

(9) defining the acts or omissions to act which shall constitute a default in the duties of the authority to holders of its obligations and providing the rights and remedies of such holders in the event of a default; or

(10) the mortgaging of a project and the site thereof for the purpose of securing the bondholders.

Sec. 18. Minnesota Statutes 2020, section 136A.33, is amended to read:

**136A.33 TRUST AGREEMENT.**

In the discretion of the authority any revenue bonds issued under the provisions of sections 136A.25 to 136A.42, may be secured by a trust agreement by and between the authority and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within the state. ~~Such~~ The trust agreement or the resolution providing for the issuance of ~~such~~ revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged and may convey or mortgage the project or any portion thereof. ~~Such~~ The trust agreement or resolution providing for the issuance of ~~such~~ revenue bonds may contain such provisions for protecting and enforcing the rights and remedies of the bondholders as may be reasonable and proper and not in violation of laws, including particularly such provisions as have hereinabove been specifically authorized to be included in any resolution or resolutions of the authority authorizing revenue bonds thereof. Any bank or trust company incorporated under the laws of the state ~~which~~

that may act as depository of the proceeds of bonds or of revenues or other moneys may furnish ~~such~~ indemnifying bonds or ~~pledges~~ ~~such~~ pledge securities as may be required by the authority. Any ~~such~~ trust agreement may set forth the rights and remedies of the bondholders and of the trustee or trustees and may restrict the individual right of action by bondholders. In addition to the foregoing, any ~~such~~ trust agreement or resolution may contain ~~such~~ other provisions as the authority may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of ~~such~~ the trust agreement or resolution may be treated as a part of the cost of the operation of a project.

Sec. 19. Minnesota Statutes 2020, section 136A.34, subdivision 3, is amended to read:

Subd. 3. **Investment.** Any ~~such~~ escrowed proceeds, pending such use, may be invested and reinvested in direct obligations of the United States of America, or in certificates of deposit or time deposits secured by direct obligations of the United States of America, or in shares or units in any money market mutual fund whose investment portfolio consists solely of direct obligations of the United States of America, maturing at such time or times as shall be appropriate to assure the prompt payment, as to principal, interest and redemption premium, if any, of the outstanding revenue bonds to be so refunded. The interest, income and profits, if any, earned or realized on any such investment may also be applied to the payment of the outstanding revenue bonds to be so refunded. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, income and profits, if any, earned or realized on the investments thereof may be returned to the authority for use by it in any lawful manner.

Sec. 20. Minnesota Statutes 2020, section 136A.34, subdivision 4, is amended to read:

Subd. 4. **Additional purpose; improvements.** The portion of the proceeds of any ~~such~~ revenue bonds issued for the additional purpose of paying all or any part of the cost of constructing and acquiring additions, improvements, extensions or enlargements of a project may be invested or deposited ~~in time deposits~~ as provided in section 136A.32, subdivision 7.

Sec. 21. Minnesota Statutes 2020, section 136A.36, is amended to read:

### **136A.36 REVENUES.**

The authority may fix, revise, charge and collect rates, rents, fees and charges for the use of and for the services furnished or to be furnished by each project and ~~to~~ may contract with any person, partnership, association or corporation, or other body, public or private, in respect thereof. ~~Such~~ The rates, rents, fees, and charges may vary between projects involving an education facility and projects involving a health care facility and shall be fixed and adjusted in respect of the aggregate of rates, rents, fees, and charges from ~~such~~ the project so as to provide funds sufficient with other revenues, if any:

(1) to pay the cost of maintaining, repairing and operating the project and each and every portion thereof, to the extent that the payment of such cost has not otherwise been adequately provided for;

(2) to pay the principal of and the interest on outstanding revenue bonds of the authority issued in respect of such project as the same shall become due and payable; and

(3) to create and maintain reserves required or provided for in any resolution authorizing, or trust agreement securing, ~~such~~ revenue bonds of the authority. ~~Such~~ The rates, rents, fees and charges shall not be subject to supervision or regulation by any department, commission, board, body, bureau or agency of this state other than the authority. A sufficient amount of the revenues derived in respect of a project, except ~~such~~ part of ~~such~~ the revenues as may be necessary to pay the cost of maintenance, repair and operation and to provide reserves and for renewals, replacements, extensions, enlargements and improvements as may be provided for in the resolution authorizing the issuance of any revenue bonds of the authority or in the trust agreement securing the same, shall be set aside at such regular intervals as may be provided in ~~such~~ the resolution or trust agreement in a sinking or other similar fund ~~which~~ that is hereby pledged to, and charged with, the payment of the principal of and the interest on ~~such~~ revenue bonds as the same shall become due, and the redemption price or the purchase price of bonds retired by call or purchase as therein provided. ~~Such~~ The pledge shall be valid and binding from the time when the pledge is made; the rates, rents, fees and charges and other revenues or other moneys so pledged and thereafter received by the authority shall immediately be subject to the lien of ~~such~~ the pledge without physical delivery thereof or further act, and the lien of any such pledge shall be valid and binding as against all parties having claims of any kind against the authority, irrespective of whether such parties have notice thereof. Neither the resolution nor any trust agreement by which a pledge is created need be filed or recorded except in the records of the authority. The use and disposition of moneys to the credit of such sinking or other similar fund shall be subject to the provisions of the resolution authorizing the issuance of such bonds or of such trust agreement. Except as may otherwise be provided in ~~such~~ the resolution or ~~such~~ trust agreement, ~~such~~ the sinking or other similar fund shall be a fund for all ~~such~~ revenue bonds issued to finance a project or projects at one or more participating institutions of higher education without distinction or priority of one over another; provided the authority in any such resolution or trust agreement may provide that such sinking or other similar fund shall be the fund for a particular project at ~~an~~ a participating institution of higher education and for the revenue bonds issued to finance a particular project and may, additionally, permit and provide for the issuance of revenue bonds having a subordinate lien in respect of the security herein authorized to other revenue bonds of the authority and, in such case, the authority may create separate or other similar funds in respect of ~~such~~ the subordinate lien bonds.

Sec. 22. Minnesota Statutes 2020, section 136A.38, is amended to read:

**136A.38 BONDS ELIGIBLE FOR INVESTMENT.**

Bonds issued by the authority under the provisions of sections 136A.25 to 136A.42, are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them; it being the purpose of this section to authorize the investment in such bonds of all sinking, insurance, retirement, compensation, pension and trust funds, whether owned or controlled by private or public persons or officers; provided, however, that nothing contained in this section may be construed as relieving any person, firm, or corporation from any duty of exercising due care in selecting securities for purchase or investment; and provide further, that in no event shall assets of pension funds of public employees of the state of Minnesota or any of its agencies, boards or subdivisions, whether publicly or privately administered, be invested in bonds issued under the provisions of sections 136A.25 to 136A.42. Such bonds are hereby constituted "authorized securities" within the meaning and for the purposes of Minnesota Statutes 1969, section

50.14. ~~Such~~ The bonds are hereby made securities ~~which~~ that may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state now or may hereafter be authorized by law.

Sec. 23. Minnesota Statutes 2020, section 136A.41, is amended to read:

**136A.41 CONFLICT OF INTEREST.**

Notwithstanding any other law to the contrary it shall not be or constitute a conflict of interest for a trustee, director, officer or employee of any participating institution ~~of higher education~~, financial institution, investment banking firm, brokerage firm, commercial bank or trust company, architecture firm, insurance company, construction company, or any other firm, person or corporation to serve as a member of the authority, provided such trustee, director, officer or employee shall abstain from deliberation, action and vote by the authority in each instance where the business affiliation of any such trustee, director, officer or employee is involved.

Sec. 24. Minnesota Statutes 2020, section 136A.42, is amended to read:

**136A.42 ANNUAL REPORT.**

The authority shall keep an accurate account of all of its activities and all of its receipts and expenditures ~~and shall annually report to the office.~~ Each year, the authority shall submit to the Minnesota Historical Society and the Legislative Reference Library a report of the authority's activities in the previous year, including all financial activities.

Sec. 25. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber the law establishing and governing the Minnesota Higher Education Facilities Authority, renamed the Minnesota Health and Education Facilities Authority in this act, as Minnesota Statutes, chapter 16F, coded in Minnesota Statutes 2020, sections 136A.25 to 136A.42, as amended or repealed in this act. The revisor of statutes shall also duplicate any required definitions from Minnesota Statutes, chapter 136A, revise any statutory cross-references consistent with the recoding, and report the history in Minnesota Statutes, chapter 16F. The revisor of statutes shall change "Minnesota Health and Education Facilities Authority" to "Minnesota Health and Higher Education Facilities Authority" where it appears in Minnesota Statutes.

Sec. 26. **REPEALER.**

Minnesota Statutes 2020, section 136A.29, subdivision 4, is repealed.

**ARTICLE 4**

**MINNESOTA HEALTH AND EDUCATION FACILITIES AUTHORITY CONFORMING AMENDMENTS**

Section 1. Minnesota Statutes 2020, section 3.732, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** As used in this section and section 3.736 the terms defined in this section have the meanings given them.

(1) "State" includes each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the state of Minnesota and includes but is not limited to the Housing Finance Agency, the Minnesota Office of Higher Education, the ~~Higher~~ Health and Education Facilities Authority, the Health Technology Advisory Committee, the Armory Building Commission, the Zoological Board, the Department of Iron Range Resources and Rehabilitation, the Minnesota Historical Society, the State Agricultural Society, the University of Minnesota, the Minnesota State Colleges and Universities, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors, or employees of the state, members of the Minnesota National Guard, members of a bomb disposal unit approved by the commissioner of public safety and employed by a municipality defined in section 466.01 when engaged in the disposal or neutralization of bombs or other similar hazardous explosives, as defined in section 299C.063, outside the jurisdiction of the municipality but within the state, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation. It does not include either an independent contractor except, for purposes of this section and section 3.736 only, a guardian ad litem acting under court appointment, or members of the Minnesota National Guard while engaged in training or duty under United States Code, title 10, or title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983. Notwithstanding sections 43A.02 and 611.263, for purposes of this section and section 3.736 only, "employee of the state" includes a district public defender or assistant district public defender in the Second or Fourth Judicial District, a member of the Health Technology Advisory Committee, and any officer, agent, or employee of the state of Wisconsin performing work for the state of Minnesota pursuant to a joint state initiative.

(3) "Scope of office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority.

(4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

Sec. 2. Minnesota Statutes 2021 Supplement, section 10A.01, subdivision 35, is amended to read:

Subd. 35. **Public official.** "Public official" means any:

(1) member of the legislature;

(2) individual employed by the legislature as secretary of the senate, legislative auditor, director of the Legislative Budget Office, chief clerk of the house of representatives, revisor of statutes, or researcher, legislative analyst, fiscal analyst, or attorney in the Office of Senate Counsel, Research and Fiscal Analysis, House Research, or the House Fiscal Analysis Department;

(3) constitutional officer in the executive branch and the officer's chief administrative deputy;

(4) solicitor general or deputy, assistant, or special assistant attorney general;



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

(6) member, chief administrative officer, or deputy chief administrative officer of a state board or commission that has either the power to adopt, amend, or repeal rules under chapter 14, or the power to adjudicate contested cases or appeals under chapter 14;

(7) individual employed in the executive branch who is authorized to adopt, amend, or repeal rules under chapter 14 or adjudicate contested cases under chapter 14;

(8) executive director of the State Board of Investment;

(9) deputy of any official listed in clauses (7) and (8);

(10) judge of the Workers' Compensation Court of Appeals;

(11) administrative law judge or compensation judge in the State Office of Administrative Hearings or unemployment law judge in the Department of Employment and Economic Development;

(12) member, regional administrator, division director, general counsel, or operations manager of the Metropolitan Council;

(13) member or chief administrator of a metropolitan agency;

(14) director of the Division of Alcohol and Gambling Enforcement in the Department of Public Safety;

(15) member or executive director of the ~~Higher~~ Health and Education Facilities Authority;

(16) member of the board of directors or president of Enterprise Minnesota, Inc.;

(17) member of the board of directors or executive director of the Minnesota State High School League;

(18) member of the Minnesota Ballpark Authority established in section 473.755;

(19) citizen member of the Legislative-Citizen Commission on Minnesota Resources;

(20) manager of a watershed district, or member of a watershed management organization as defined under section 103B.205, subdivision 13;

(21) supervisor of a soil and water conservation district;

(22) director of Explore Minnesota Tourism;

(23) citizen member of the Lessard-Sams Outdoor Heritage Council established in section 97A.056;

(24) citizen member of the Clean Water Council established in section 114D.30;

(25) member or chief executive of the Minnesota Sports Facilities Authority established in section 473J.07;

(26) district court judge, appeals court judge, or supreme court justice;

(27) county commissioner;

(28) member of the Greater Minnesota Regional Parks and Trails Commission;

(29) member of the Destination Medical Center Corporation established in section 469.41; or

(30) chancellor or member of the Board of Trustees of the Minnesota State Colleges and Universities.

Sec. 3. Minnesota Statutes 2020, section 136F.67, subdivision 1, is amended to read:

Subdivision 1. **Authorization.** A technical college or a community college must not seek financing for child care facilities or parking facilities through the ~~Higher~~ Health and Education Facilities Authority, as provided in section 136A.28, subdivision 7, without the explicit authorization of the board.

Sec. 4. Minnesota Statutes 2020, section 354B.20, subdivision 7, is amended to read:

Subd. 7. **Employing unit.** "Employing unit," if the agency employs any persons covered by the individual retirement account plan under section 354B.211, means:

(1) the board;

(2) the Minnesota Office of Higher Education; and

(3) the ~~Higher~~ Health and Education Facilities Authority."

Delete the title and insert:

"A bill for an act relating to higher education; providing for supplemental funding and modifying policies for the Office of Higher Education, Minnesota State Colleges and Universities, and the University of Minnesota; creating and modifying certain student aid programs; creating and modifying certain grants to institutions; modifying certain institutional licensure provisions; creating the Inclusive Higher Education Technical Assistance Center; modifying Board of Regents provisions; expanding and renaming the Minnesota Higher Education Facilities Authority as the Minnesota Health and Higher Education Facilities Authority; requiring reports; appropriating money; amending Minnesota Statutes 2020, sections 3.732, subdivision 1; 135A.15, subdivision 8, by adding a subdivision; 136A.121, subdivision 18; 136A.1701, subdivision 11; 136A.25; 136A.26; 136A.27; 136A.28; 136A.29, subdivisions 1, 3, 6, 9, 10, 14, 19, 20, 21, 22, by adding a subdivision; 136A.32, subdivisions 1, 4; 136A.33; 136A.34, subdivisions 3, 4; 136A.36; 136A.38; 136A.41; 136A.42; 136A.833; 136F.02, subdivision 1; 136F.302, subdivisions 1, 2; 136F.67, subdivision 1; 137.022, subdivision 4; 137.024; 137.0245, subdivision 2; 137.0246; 354B.20, subdivision 7; Minnesota Statutes 2021 Supplement, sections 10A.01, subdivision 35; 135A.137, subdivision 3; 136A.121, subdivision 6; 136A.91, subdivision 1; 136F.38, subdivision 3; Laws 2021, First Special Session chapter 2, article 1, section 2, subdivisions 35, 36; proposing coding for new law in Minnesota

Statutes, chapters 135A; 136A; repealing Minnesota Statutes 2020, sections 136A.29, subdivision 4; 136F.03; Minnesota Rules, part 4880.2500."

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

House Conferees: Connie Bernardy, Michelle (Shelly) Christensen, Ginny Klevorn, Heather Keeler

Senate Conferees: David Tomassoni, Jason Rarick, John Jasinski, Gregory Clausen

Senator Rarick, for Senator Tomassoni, moved that the foregoing recommendations and Conference Committee Report on H.F. No. 3872 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 3872 was read the third time, as amended by the Conference Committee.

Senator Rarick moved that H.F. No. 3872 be laid on the table. The motion prevailed.

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

S.F. No. 4091 and the Conference Committee Report thereon were reported to the Senate.

### **CONFERENCE COMMITTEE REPORT ON S.F. No. 4091**

A bill for an act relating to state government; appropriating money for commerce, jobs, and economic growth; making policy and technical changes; authorizing frontline worker premium payments; requiring reports; appropriating money; amending Minnesota Statutes 2020, sections 116C.779, subdivision 1; 116J.035, by adding a subdivision; 116J.55, subdivisions 1, 5, 6; 116J.552, subdivision 6; 116J.8747, subdivisions 2, 3, 4; 116J.993, subdivision 3; 116L.04, subdivision 1a; 116L.17, subdivision 1; 116L.98, subdivisions 2, 3; 181.032; 181.101; 216B.096, subdivision 11; 216B.24, by adding a subdivision; 216B.243, subdivision 3b; 216B.50, subdivision 1; 216C.435, subdivision 8; 216C.436, subdivision 2, by adding a subdivision; 237.55; 268.18, by adding a subdivision; 326B.106, subdivision 4; 326B.163, subdivision 5, by adding a subdivision; 326B.164, subdivision 13; 326B.36, subdivision 7, by adding a subdivision; 326B.42, subdivisions 1b, 1c; 326B.437; 326B.46, subdivision 2; Minnesota Statutes 2021 Supplement, sections 116C.7792; 216C.376, subdivision 5; 326B.153, subdivision 1; Laws 2020, chapter 118, section 5, subdivision 1; Laws 2021, First Special Session chapter 4, article 2, section 3, subdivision 1; Laws 2021, First Special Session chapter 10, article 1, sections 2, subdivision 2; 5; article 2, section 24, subdivisions 1, 3, 4, 5, 7; article 3, section 14, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 116L; 216B; 216H; 465; repealing Laws 2005, chapter 97, article 10, section 3, as amended; Laws 2021, First Special Session chapter 4, article 2, section 3, subdivision 3.

May 21, 2022

The Honorable David J. Osmek  
President of the Senate

The Honorable Melissa Hortman  
 Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 4091 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S.F. No. 4091 be further amended as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1**

**ECONOMIC DEVELOPMENT APPROPRIATIONS**

Section 1. **APPROPRIATIONS.**

The sums shown in the columns under "Appropriations" are added to the appropriations in Laws 2021, First Special Session chapter 10, or other law to the specified agencies. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. Appropriations for the fiscal year ending June 30, 2022, are effective the day following final enactment. If an appropriation in this act is enacted more than once during the 2022 regular session, the appropriation is to be given effect only once.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2022</u></b>	<b><u>2023</u></b>

Sec. 2. **DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>-0-</u></b>	<b><u>\$</u></b>	<b><u>22,181,000</u></b>
<b><u>Appropriations by Fund</u></b>				
	<b><u>2022</u></b>		<b><u>2023</u></b>	
<b><u>General</u></b>	<b><u>-0-</u></b>		<b><u>10,431,000</u></b>	
<b><u>Workforce Development</u></b>	<b><u>-0-</u></b>		<b><u>11,750,000</u></b>	

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

**Subd. 2. Business and Community Development** -0- 8,231,000

<u>Appropriations by Fund</u>		
<u>General</u>	<u>-0-</u>	<u>6,231,000</u>
<u>Workforce Development</u>	<u>-0-</u>	<u>2,000,000</u>

(a) \$4,000,000 in fiscal year 2023 is for the main street economic revitalization program under Minnesota Statutes, section 116J.8749. Priority for the amounts appropriated under this paragraph shall be given to applicants from partner organizations and regions not previously awarded funds under the program. In fiscal year 2024, the base amount is \$3,000,000. Beginning in fiscal year 2025, the base amount is \$0.

(b) \$2,000,000 in fiscal year 2023 is for the Canadian border counties economic relief program. This is a onetime appropriation.

(c) \$231,000 in fiscal year 2023 is for the Join Us Minnesota campaign to market the state of Minnesota to businesses and potential workers. This appropriation is available until June 30, 2024. Of this amount, up to five percent is for administration and monitoring of the program. Beginning in fiscal year 2024, the base amount is \$780,000. In fiscal year 2026, the base amount is \$0.

(d) \$500,000 in fiscal year 2023 is from the workforce development fund for a grant to Local Initiatives Support Corporation Twin Cities for the developers of color capacity-building initiative. Grant funds may not be used for the purchase of real property, equipment, or hard assets. By February 15, 2025, the commissioner shall submit a report to the chairs of the legislative committees with jurisdiction over economic development on the use of grant funds and program outcomes. This is a onetime appropriation, and funds are available until June 30, 2024, when any unspent funds will cancel to the workforce development fund.

(e) \$500,000 in fiscal year 2023 is from the workforce development fund for a grant to Enterprise Minnesota, Inc., for the small business growth acceleration program under Minnesota Statutes, section 116O.115. This is a onetime appropriation.

(f) \$1,000,000 in fiscal year 2023 is from the workforce development fund for grants to the Neighborhood Development Center for small business incubators outside the seven-county metropolitan area, as defined in Minnesota Statutes, section 473.121, subdivision 2. This is a onetime appropriation.

<b>Subd. 3. <u>Employment and Training Programs</u></b>	<b><u>-0-</u></b>	<b><u>10,450,000</u></b>
	<u>Appropriations by Fund</u>	
<u>General</u>	<u>-0-</u>	<u>700,000</u>
<u>Workforce Development</u>	<u>-0-</u>	<u>9,750,000</u>

(a) \$1,000,000 in fiscal year 2023 is from the workforce development fund for a grant to Women's Foundation of Minnesota to invest in economic structures that educate, mobilize, and equip Black women with the necessary tools to build, retain, and strengthen the capacity to build generational wealth. This is a onetime appropriation.

(b) Beginning in fiscal year 2024, the base amount is \$350,000 for activities associated with immigrant and refugee affairs under Minnesota Statutes, section 116J.4231.

(c) \$700,000 in fiscal year 2023 is for a grant to the Southwest Minnesota Initiative Foundation for a workforce partnership scholarship pilot program designed to increase the skilled labor force within the Southwest Minnesota Initiative Foundation's service area. The Southwest Minnesota Initiative Foundation shall define the pilot program, subject to approval by the commissioner, within the following parameters:

(1) to qualify for a scholarship, students must:

(i) obtain a scholarship from a local employer to supplement the amount of the scholarship under this pilot program; and

(ii) pursue a post-secondary credential in a high-demand occupation as determined by the applicable regional workforce development board;

(2) scholarship recipients under the pilot shall agree to work in a high-demand career in the Southwest Minnesota Initiative Foundation's service area after the scholarship recipient completes their credential, in a manner, time period, and reporting cadence developed and monitored by the Southwest Minnesota Initiative Foundation;

(3) the Southwest Minnesota Initiative Foundation's shall submit an annual report by December 31 of each year, beginning in 2023 and ending in 2028, to the commissioner and the chairs and ranking minority members of the legislative committees with jurisdiction over employment and economic development policy, which must include:

(i) the number of students receiving scholarships;

(ii) the total dollar amount of scholarships issued;

(iii) the graduation rate and employment outcomes of scholarship recipients; and

(iv) any additional information about the program requested by the recipients of the report.

This is a onetime appropriation and is available until June 30, 2027.

(d) \$400,000 in fiscal year 2023 is from the workforce development fund for a grant to

the Minneapolis Park and Recreation Board's Teen Teamworks youth employment and training programs. This is a onetime appropriation and is available until June 30, 2025.

(e) \$2,000,000 in fiscal year 2023 is from the workforce development fund for a youth technology competitive training grant program to prepare people, primarily those who are Black, Indigenous, people of color, or women to meet the growing labor needs in Minnesota's technology industry. This is a onetime appropriation and money is available until June 30, 2024. Of this amount, up to five percent is for administration and monitoring of the program. Grant money shall be used to:

(1) provide career education, wraparound support services, and job skills training for high-school-aged youth in the technology industry;

(2) increase the number of summer internship opportunities in the technology industry;

(3) support outreach activities to businesses and create pathways for employment and internships for youth in the technology industry; and

(4) increase the number of young adults employed in the technology industry and ensure that they reflect Minnesota's diverse workforce.

Programs and services supported by grant money must give priority to individuals and groups that are economically disadvantaged or historically underrepresented in the technology industry, including but not limited to women, veterans, and members of minority and immigrant groups.

(f) \$700,000 in fiscal year 2023 is from the workforce development fund for an adult technology competitive training grant



program to prepare people, primarily those who are Black, Indigenous, people of color, and women to meet the growing labor needs in Minnesota's technology industry. Fifty percent of grant money must go to communities located outside the seven-county metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. This is a onetime appropriation and money is available until June 30, 2024. Of this amount, up to five percent is for administration and monitoring of the program. Grant money must be used to:

(1) provide jobs skills, wraparound support services, and training for adults in the technology industry;

(2) support outreach activities to businesses to create pathways for employment for participants in the technology industry; and

(3) increase the number of adults employed in the technology industry and ensure that they reflect Minnesota's diverse workforce.

Programs and services supported by grant money must give priority to individuals and groups that are economically disadvantaged or historically underrepresented in the technology industry, including but not limited to women, veterans, and members of minority and immigrant groups.

(g) \$1,000,000 in fiscal year 2023 is from the workforce development fund for a workforce modernization project to improve the workforce development digital system to provide greater customer service to job seekers and employers looking to hire. Money must be used for predevelopment and development costs of software, digital infrastructure, and implementation as well as associated staffing costs to develop these systems. This is a onetime appropriation and money is available until June 30, 2030.

(h) \$400,000 in fiscal year 2023 is from the workforce development fund for a performance grant under Minnesota Statutes, section 116J.8747, to Hire to expand their career pathway job training and placement program that connects lower-skilled job seekers to entry-level and gateway jobs in high-growth sectors. This is a onetime appropriation.

(i) \$250,000 in fiscal year 2023 is from the workforce development fund for a grant to the University of Minnesota Tourism Center for the creation and operation of an online hospitality training program in partnership with Explore Minnesota Tourism. This training program must be made available at no cost to Minnesota residents in an effort to address critical workforce shortages and assist in career development. Of this amount, \$25,000 is for maintenance and management of the training website and online training program. This is a onetime appropriation.

(j)(1) \$500,000 in fiscal year 2023 is from the workforce development fund for a grant to East Side Neighborhood Services. This is a onetime appropriation.

(2) Of the amount appropriated:

(i) \$250,000 is for the senior community service employment program, which provides work readiness training to low-income adults 55 and older, to provide ongoing support and mentoring needs to the program participants as well as the transition period from subsidized wages to unsubsidized wages; and

(ii) \$250,000 is for the nursing assistant plus program to serve the increased need for growth of medical talent pipelines through expansion of the existing program and development of in-house training.

(k) \$500,000 in fiscal year 2023 is from the workforce development fund for a grant to the Boys & Girls Club of the Northland to

implement after school and summer programming at the Hibbing site. Programming will include academic success and career exploration opportunities. This is a onetime appropriation.

(l) \$500,000 in fiscal year 2023 is from the workforce development fund for a grant to Minnesota Diversified Industries, Inc., to assist individuals with disabilities through mobile, on-demand, and virtual reality career skills programming statewide. Minnesota Diversified Industries shall submit a report on the number and demographics of individuals served, hours of career skills programming delivered, outreach to employers, and recommendations for future career skills delivery methods to the chairs and ranking minority members of the legislative committees with jurisdiction over labor and workforce development policy and finance by January 15, 2023. This is a onetime appropriation.

(m) \$200,000 in fiscal year 2023 is from the workforce development fund for a grant to Ka Joog to provide, in partnership with Pathway Career Training Center, phlebotomy training and certification for adults statewide. This is a onetime appropriation.

(n) \$450,000 in fiscal year 2023 is from the workforce development fund for a grant to Mind the G.A.P.P. (Gaining Assistance to Prosperity Program) to improve the quality of life of unemployed and underemployed individuals by improving their employment outcomes and developing individual earnings potential. This is a onetime appropriation.

(o) \$600,000 in fiscal year 2023 is from the workforce development fund for grants to organizations providing support services to new Americans in order to facilitate successful community integration and entry into the workforce. Services may include case management, job training and

employment services, education programs, and legal services. Of this amount:

(1) \$200,000 is for a grant to the International Institute of Minnesota;

(2) \$200,000 is for a grant to the Minnesota Council of Churches;

(3) \$100,000 is for a grant to Arrive Ministries; and

(4) \$100,000 is for a grant to Catholic Charities of the Diocese of Winona, Inc.

This is a onetime appropriation.

(p) \$950,000 in fiscal year 2023 is from the workforce development fund for a grant to Summit Academy OIC to expand and establish a new statewide in-person and virtual network for Summit Academy OIC's employment placement and STEM program. This is a onetime appropriation.

(q) \$300,000 in fiscal year 2023 is from the workforce development fund for a grant to Urban League Twin Cities for training and recruitment of individuals for potential careers in public safety. This is a onetime appropriation.

Sec. 3. Laws 2021, First Special Session chapter 10, article 1, section 2, subdivision 2, is amended to read:

		44,741,000
Subd. 2. <b>Business and Community Development</b>	208,015,000	<u>48,241,000</u>
Appropriations by Fund		
		41,941,000
General	205,215,000	<u>45,441,000</u>
Remediation	700,000	700,000
Workforce Development	2,100,000	2,100,000

(a) \$1,787,000 each year is for the greater Minnesota business development public infrastructure grant program under Minnesota

Statutes, section 116J.431. This appropriation is available until June 30, 2025.

(b) \$8,425,000 in the first year and ~~\$1,425,000~~ \$2,425,000 in the second year are for the small business partnership grant program formerly known as the business development competitive grant program. Of this amount, up to five percent is for administration and monitoring of the ~~business development competitive grant~~ program and ~~\$7,000,000 in the first year is~~ and \$1,000,000 in the second year are for technical assistance to small businesses. Funding for technical assistance to small businesses in the second year shall be divided proportionately between program grantees from the first year. Except for awards for technical assistance for small businesses, all grant awards shall be for two consecutive years. ~~Grants~~ and shall be awarded in the first year. The small business partnership grant program shall also provide business development assistance and services to commercial cooperatives, employee-owned businesses, and commercial land trusts. Beginning in fiscal year 2024, the base amount is \$2,605,000.

(c) \$1,772,000 each year is for contaminated site cleanup and development grants under Minnesota Statutes, sections 116J.551 to 116J.558. This appropriation is available until expended.

(d) \$700,000 each year is from the remediation fund for contaminated site cleanup and development grants under Minnesota Statutes, sections 116J.551 to 116J.558. This appropriation is available until expended.

(e) \$139,000 each year is for the Center for Rural Policy and Development.

(f) \$25,000 each year is for the administration of state aid for the Destination Medical Center under Minnesota Statutes, sections 469.40 to 469.47.

(g) \$875,000 each year is for the host community economic development program established in Minnesota Statutes, section 116J.548.

(h)(1) \$2,500,000 each year is for grants to local communities to increase the number of quality child care providers to support economic development. This appropriation is available through June 30, 2023. Fifty percent of grant funds must go to communities located outside the seven-county metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2. In fiscal year 2024 and beyond, the base amount is \$1,500,000.

(2) Grant recipients must obtain a 50 percent nonstate match to grant funds in either cash or in-kind contribution, unless the commissioner waives the requirement. Grant funds available under this subdivision must be used to implement projects to reduce the child care shortage in the state, including but not limited to funding for child care business start-ups or expansion, training, facility modifications, direct subsidies or incentives to retain employees, or improvements required for licensing, and assistance with licensing and other regulatory requirements. In awarding grants, the commissioner must give priority to communities that have demonstrated a shortage of child care providers.

(3) Within one year of receiving grant funds, grant recipients must report to the commissioner on the outcomes of the grant program, including but not limited to the number of new providers, the number of additional child care provider jobs created, the number of additional child care slots, and the amount of cash and in-kind local funds invested. Within one month of all grant recipients reporting on program outcomes, the commissioner must report the grant recipients' outcomes to the chairs and ranking members of the legislative committees with

jurisdiction over early learning and child care and economic development.

(i) \$1,500,000 each year is for a grant to the Minnesota Initiative Foundations. This appropriation is available until June 30, 2025. In fiscal year 2024 and beyond, the base amount is \$1,000,000. The Minnesota Initiative Foundations must use grant funds under this section to:

(1) facilitate planning processes for rural communities resulting in a community solution action plan that guides decision making to sustain and increase the supply of quality child care in the region to support economic development;

(2) engage the private sector to invest local resources to support the community solution action plan and ensure quality child care is a vital component of additional regional economic development planning processes;

(3) provide locally based training and technical assistance to rural child care business owners individually or through a learning cohort. Access to financial and business development assistance must prepare child care businesses for quality engagement and improvement by stabilizing operations, leveraging funding from other sources, and fostering business acumen that allows child care businesses to plan for and afford the cost of providing quality child care; and

(4) recruit child care programs to participate in quality rating and improvement measurement programs. The Minnesota Initiative Foundations must work with local partners to provide low-cost training, professional development opportunities, and continuing education curricula. The Minnesota Initiative Foundations must fund, through local partners, an enhanced level of coaching to rural child care providers to

obtain a quality rating through measurement programs.

The Minnesota Initiative Foundations are authorized to subgrant their allocation to partner organizations who are assisting in their child care work.

(j) \$8,000,000 each year is for the Minnesota job creation fund under Minnesota Statutes, section 116J.8748. Of this amount, the commissioner of employment and economic development may use up to three percent for administrative expenses. This appropriation is available until expended.

(k) \$10,029,000 the first year and \$10,028,000 the second year are for the Minnesota investment fund under Minnesota Statutes, section 116J.8731. Of this amount, the commissioner of employment and economic development may use up to three percent for administration and monitoring of the program. In fiscal year 2024 and beyond, the base amount is \$12,370,000. This appropriation is available until expended. Notwithstanding Minnesota Statutes, section 116J.8731, money appropriated to the commissioner for the Minnesota investment fund may be used for the redevelopment program under Minnesota Statutes, sections 116J.575 and 116J.5761, at the discretion of the commissioner. Grants under this paragraph are not subject to the grant amount limitation under Minnesota Statutes, section 116J.8731.

(l) ~~\$0 each~~ \$1,500,000 in the second year is for the redevelopment program under Minnesota Statutes, sections ~~116J.575~~ 116J.571 and 116J.5761. Notwithstanding Minnesota Statutes, section 116J.571, this appropriation is available until June 30, 2027. In fiscal year 2024 and beyond, the base amount is ~~\$2,246,000~~ \$3,496,000.

(m) \$1,000,000 each year is for the Minnesota emerging entrepreneur loan



program under Minnesota Statutes, section 116M.18. Funds available under this paragraph are for transfer into the emerging entrepreneur program special revenue fund account created under Minnesota Statutes, chapter 116M, and are available until expended. Of this amount, up to four percent is for administration and monitoring of the program.

(n) \$325,000 each year is for the Minnesota Film and TV Board. The appropriation in each year is available only upon receipt by the board of \$1 in matching contributions of money or in-kind contributions from nonstate sources for every \$3 provided by this appropriation, except that each year up to \$50,000 is available on July 1 even if the required matching contribution has not been received by that date.

(o) \$12,000 each year is for a grant to the Upper Minnesota Film Office.

(p) \$500,000 each year is for a grant to the Minnesota Film and TV Board for the film production jobs program under Minnesota Statutes, section 116U.26. This appropriation is available until June 30, 2025.

(q) \$4,195,000 each year is for the Minnesota job skills partnership program under Minnesota Statutes, sections 116L.01 to 116L.17. If the appropriation for either year is insufficient, the appropriation for the other year is available. This appropriation is available until expended.

(r) \$1,350,000 each year from the workforce development fund is for jobs training grants under Minnesota Statutes, section 116L.41.

(s) \$2,500,000 each year is in the first year and \$3,500,000 in the second year are for Launch Minnesota. This appropriation is available until June 30, 2025. Beginning in fiscal year 2024, the base amount is

\$3,500,000. The base in fiscal year 2026 is \$0. Of this amount:

(1) \$1,500,000 each year is for innovation grants to eligible Minnesota entrepreneurs or start-up businesses to assist with their operating needs;

(2) \$500,000 each year is for administration of Launch Minnesota; and

(3) \$500,000 each year is for grantee activities at Launch Minnesota.

(t) \$1,148,000 the first year is for a grant to the Northeast Entrepreneur Fund, a small business administration microlender and community development financial institution operating in northern Minnesota. Grant funds must be used as capital for accessing additional federal lending for small businesses impacted by COVID-19 and must be returned to the commissioner for deposit in the general fund if the Northeast Entrepreneur Fund fails to secure such federal funds before January 1, 2022.

(u) \$80,000,000 the first year is for the Main Street Economic Revitalization Loan Program. Of this amount, up to \$300,000 is for the commissioner's administration and monitoring of the program. This appropriation is available until June 30, 2025.

(v) \$70,000,000 the first year is for the Main Street COVID-19 Relief Grant Program. Of this amount, up to:

(1) \$34,950,000 is for grants to the Minnesota Initiative Foundations to serve businesses outside of the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2;

(2) \$34,950,000 is for grants to partner organizations to serve businesses inside the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2; and

(3) \$100,000 is for the commissioner's administration and monitoring of the program.

(w) \$250,000 each year is for the publication, dissemination, and use of labor market information under Minnesota Statutes, section 116J.401.

(x) \$500,000 each year is for the airport infrastructure renewal (AIR) grant program under Minnesota Statutes, section 116J.439. In awarding grants with this appropriation, the commissioner must prioritize eligible applicants that did not receive a grant pursuant to the appropriation in Laws 2019, First Special Session chapter 7, article 1, section 2, subdivision 2, paragraph (q).

(y) \$750,000 each year is from the workforce development fund for grants to the Neighborhood Development Center for small business programs, including:

- (1) training, lending, and business services;
- (2) model outreach and training in greater Minnesota; and
- (3) development of new business incubators.

This is a onetime appropriation.

(z) \$5,000,000 in the first year is for a grant to Lake of the Woods County for the forgivable loan program for remote recreational businesses. This appropriation is available until April 1, ~~2022~~ 2023.

**EFFECTIVE DATE.** This section is effective retroactively from March 31, 2022.

Sec. 4. Laws 2021, First Special Session chapter 14, article 11, section 42, is amended to read:

Sec. 42. **APPROPRIATION; MEAT PROCESSING BUSINESSES IN REDEVELOPMENT AREA.**

Of an appropriation in fiscal year 2022 for the targeted community capital project grant program under Minnesota Statutes, section 116J.9924, the commissioner of employment and economic development must grant \$6,000,000 to the city of South St. Paul for ~~one or more grants to any a~~

grant to a business engaged in the meat processing industry and currently conducting operations in a building or buildings constructed on or before January 1, 1947, and located in a city of the second class that was designated as a redevelopment area by the United States Department of Commerce under the Public Works and Economic Development Act of 1965, Public Law 89-136, title IV, section 401(a)(4). This appropriation includes: the city of South St. Paul. Grant proceeds may be used for site acquisition costs; relocation costs; predesign; design; sewer, water, and stormwater infrastructure; site preparation; engineering; and the cost of improvements to real property locally zoned to allow a meat processing land use that are incurred by any qualified business under this section. A grantee under this section must work in consultation with a local government unit with jurisdiction over the area where the property is located on activities funded by the grant. This is a onetime appropriation. A grant issued under this section is not subject to the grant requirements under Minnesota Statutes, section 116J.9924.

**Sec. 5. CANCELLATION.**

All unspent money, estimated to be \$889,000, appropriated under Laws 2015, First Special Session chapter 1, article 1, section 2, subdivision 2, paragraphs (k) and (l), is canceled to the general fund.

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

**ARTICLE 2**

**LABOR AND INDUSTRY APPROPRIATIONS**

**Section 1. APPROPRIATIONS.**

The sums shown in the columns under "Appropriations" are added to the appropriations in Laws 2021, First Special Session chapter 10, or other law to the specified agencies. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal year ending June 30, 2022, or June 30, 2023, respectively. Appropriations for the fiscal year ending June 30, 2022, are effective the day following final enactment. If an appropriation in this act is enacted more than once during the 2022 regular session, the appropriation is to be given effect only once.

<b><u>APPROPRIATIONS</u></b>	
<b><u>Available for the Year</u></b>	
<b><u>Ending June 30</u></b>	
<b><u>2022</u></b>	<b><u>2023</u></b>

**Sec. 2. DEPARTMENT OF LABOR AND INDUSTRY**

<b><u>Subdivision 1. Total Appropriation</u></b>	<b><u>\$</u></b>	<b><u>-0-</u></b>	<b><u>\$</u></b>	<b><u>2,208,000</u></b>
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<u>Appropriations by Fund</u>		
	<u>2022</u>	<u>2023</u>
<u>General</u>	<u>-0-</u>	<u>1,458,000</u>
<u>Workforce</u>		
<u>Development</u>	<u>-0-</u>	<u>750,000</u>
<b>Subd. 2. <u>Labor Standards and Apprenticeship</u></b>	<b><u>-0-</u></b>	<b><u>1,200,000</u></b>

<u>Appropriations by Fund</u>		
	<u>2022</u>	<u>2023</u>
<u>General</u>	<u>-0-</u>	<u>700,000</u>
<u>Workforce</u>		
<u>Development</u>	<u>-0-</u>	<u>500,000</u>

(a) \$500,000 in fiscal year 2023 is for the loggers safety grant program under Laws 2021, First Special Session chapter 10, article 3, section 21. This is a onetime appropriation.

(b) \$200,000 in fiscal year 2023 is to establish a Veterans Liaison Coordinator position in the Division of Labor Standards and Apprenticeship. The position is responsible for collaborating with Minnesota stakeholders and state and federal agencies to: promote and increase veterans in the trades; support initiatives for veterans seeking a living wage and sustainable employment; and increase awareness of registered apprenticeship opportunities in Minnesota. Of this amount, up to \$150,000 is for salary and benefits for the position, and \$50,000 is for administrative support services, marketing, and paid communications. The base for the appropriation is \$180,000 in fiscal year 2024 and \$160,000 in fiscal year 2025.

(c) \$500,000 in fiscal year 2023 is from the workforce development fund for labor education and advancement program grants under Minnesota Statutes, section 178.11, to expand and promote training for people of color, Indigenous people, and women. This is a onetime appropriation. Of this amount:

(1) \$50,000 is available for program administration; and

(2) at least \$250,000 must be awarded to community-based organizations.

**Subd. 3. Workforce Development Initiatives**

-0-

858,000

<u>Appropriations by Fund</u>		
<u>General</u>	<u>-0-</u>	<u>608,000</u>
<u>Workforce Development</u>	<u>-0-</u>	<u>250,000</u>

(a) \$500,000 in fiscal year 2023 is for youth skills training grants under Minnesota Statutes, section 175.46.

(b) \$108,000 in fiscal year 2023 is for administration of the youth skills training grants under Minnesota Statutes, section 175.46. In fiscal year 2024, the base for this appropriation is \$116,000. In fiscal year 2025, the base for this appropriation is \$124,000.

(c)(1) \$250,000 in fiscal year 2023 is appropriated from the workforce development fund to the commissioner of labor and industry for a grant to Abijah's on the Backside to provide equine experiential mental health therapy to first responders suffering from job-related trauma and post-traumatic stress disorder. This is a onetime appropriation.

(2) For purposes of this section, a "first responder" is a peace officer as defined in Minnesota Statutes, section 626.84, subdivision 1, paragraph (c); a full-time firefighter as defined in Minnesota Statutes, section 299N.03, subdivision 5; or a volunteer firefighter as defined in Minnesota Statutes, section 299N.03, subdivision 7.

(3) Abijah's on the Backside must report to the commissioner of labor and industry and the chairs and ranking minority members of the house of representatives and senate committees overseeing labor and industry policy and finance on the equine experiential mental health therapy provided to first responders under this section. The report

must include an overview of the program's budget, a detailed explanation of program expenditures, the number of first responders served by the program, and a list and explanation of the services provided to and benefits received by program participants. An initial report is due by January 15, 2023, and a final report is due by January 15, 2024.

Subd. 4. **Combative Sports** -0- 150,000

Sec. 3. **WORKERS' COMPENSATION COURT OF APPEALS** \$ -0- \$ 300,000

(a) This appropriation is from the workers' compensation fund. Of this amount, \$100,000 is for rulemaking. This appropriation is onetime.

(b) In fiscal years 2024 and 2025, \$200,000 is added to the agency's base.

Sec. 4. Laws 2021, First Special Session chapter 10, article 1, section 5, is amended to read:

**Sec. 5. BUREAU OF MEDIATION SERVICES** **\$ 2,370,000** **\$ 2,415,000**

(a) \$125,000 each year is for purposes of the Public Employment Relations Board under Minnesota Statutes, section 179A.041. This is a onetime appropriation.

~~(b) \$68,000 each year is for grants to area labor management committees. Grants may be awarded for a 12-month period beginning July 1 each year. Any unencumbered balance remaining at the end of the first year does not cancel but is available for the second year.~~

~~(c)~~ (b) \$47,000 each year is for rulemaking, staffing, and other costs associated with peace officer grievance procedures.

**ARTICLE 3**

**ECONOMIC DEVELOPMENT POLICY**

**Section 1. [116J.015] REVIEW OF REPORT MANDATES.**

The commissioner of employment and economic development shall annually create a list of reports that were mandated by law at least three years prior to the date of the list and that no longer serve a useful purpose. This list, along with an explanation of why the reports should be eliminated and suggested legislation for eliminating the listed reports, shall be submitted no later than January 15 each year, beginning in 2023, to the chairs of relevant legislative committees.

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

Sec. 2. Minnesota Statutes 2020, section 116J.035, is amended by adding a subdivision to read:

Subd. 7a. **Competitive grants.** The commissioner shall, when awarding competitive grants to organizations for the purpose of providing job training, give priority to programs or organizations that focus job training in high-wage, high-demand careers. For purposes of this subdivision, "high-wage, high-demand" has the meaning given in section 116L.99.

Sec. 3. **[116J.4231] IMMIGRANT AND REFUGEE AFFAIRS.**

Subdivision 1. **Effort established; purpose.** (a) Immigrant and refugee affairs is an effort established within the Department of Employment and Economic Development to assist in carrying out the duties under subdivision 2.

(b) The purpose of the effort is to serve immigrants and refugees in Minnesota by:

(1) addressing challenges that face immigrants and refugees in Minnesota and creating access in economic development and workforce programs and services;

(2) providing interstate agency coordination, policy reviews, and guidance that assist in creating access to immigrants and refugees.

Subd. 2. **Duties.** (a) The effort has the duty to:

(1) create and implement a statewide strategy to support immigrant and refugee integration into Minnesota communities;

(2) address the state's workforce needs by connecting employers and job seekers within the immigrant and refugee community;

(3) identify strategies to reduce employment barriers for immigrants and refugees;

(4) ensure equitable opportunities and access to services within state government for immigrants and refugees;

(5) work with state agencies and community and foundation partners to undertake studies and research and analyze economic and demographic trends to better understand and serve the state's immigrant and refugee communities;

(6) coordinate best practices for language access initiatives to all state agencies;

(7) convene stakeholders and make policy recommendations to the governor on issues impacting immigrants and refugees; and



(8) provide an annual report as required by subdivision 3.

Subd. 3. **Reporting.** (a) Beginning January 15, 2024, and each year thereafter, immigrant and refugee affairs shall report to the legislative committees with jurisdiction over the effort's activities during the previous year.

(b) The report shall contain at a minimum:

(1) a summary of the effort's activities;

(2) immigrant and refugee employment and job training outcomes;

(3) suggested policies, incentives, and legislation designed to accelerate the achievement of the duties under subdivision 2;

(4) the amount and types of grants awarded under subdivision 6; and

(5) any other information deemed necessary and requested by the legislative committees with jurisdiction over the effort.

(c) The report may be submitted electronically and is subject to section 3.195, subdivision 1.

Subd. 4. **Interdepartmental Coordinating Council on Immigrant and Refugee Affairs.** (a) An interdepartmental Coordinating Council on Immigrant and Refugee Affairs is established to identify ways in which state departments and agencies can work together to deliver state programs and services effectively and efficiently to Minnesota's immigrant and refugee populations.

(b) The council shall implement policies, procedures, and programs requested by the governor through the state departments and efforts.

(c) The council shall be chaired by a representative from immigrant and refugee affairs and shall be comprised of the commissioners, department directors, or designees, from the following state departments, efforts, and offices:

(1) the governor's office;

(2) the Department of Administration;

(3) the Department of Employment and Economic Development;

(4) the Department of Human Services;

(5) the Department of Human Services Resettlement Program Office;

(6) the Department of Labor and Industry;

(7) the Department of Health;

(8) the Department of Education;

(9) the Office of Higher Education;

(10) the Department of Public Safety;

(11) the Department of Corrections; and

(12) the immigrant and refugee affairs effort.

(d) Each department or office serving as a member of the council shall designate one staff member as an immigrant and refugee services liaison. The liaisons' responsibilities shall include:

(1) preparation and dissemination of information and services available to immigrants and refugees;

(2) interfacing with the immigrant and refugee affairs effort on issues that impact immigrants and refugees and their communities; and

(3) where applicable, serving as the point of contact for immigrants and refugees accessing resources both within the department and with boards charged with oversight of a profession.

Subd. 5. **No right of action.** Nothing in this section shall be construed to create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the state; its departments, agencies, or entities; its officers, employees, or agents; or any other person.

Subd. 6. **Grants.** Within the limits of available appropriations, the immigrant and refugee affairs effort may apply for grants for interested state agencies, community partners, and stakeholders under this section to carry out the duties under subdivision 2.

Sec. 4. Minnesota Statutes 2020, section 116J.55, subdivision 6, is amended to read:

Subd. 6. **Eligible expenditures.** (a) Money in the account established in subdivision 3 must be used only to:

(1) award grants to eligible communities under this section; and

(2) reimburse the department's reasonable costs to administer this section, up to a maximum of five percent of the appropriation made to the commissioner under this section. The commissioner may transfer part of the allowable administrative portion of this appropriation to the Environmental Quality Board to assist communities with regulatory coordination, and dedicated technical assistance on conversion for these communities.

(b) An eligible community awarded a grant under this section may use the grant to plan for or address the economic and social impacts on the eligible community of the electric generating plant's cessation of operations, including but not limited to land use studies, economic planning, researching, planning, and implementing activities and impact studies and other planning activities enabling communities to become shovel-ready and support the transition from power plants to other economic activities to minimize the negative impacts of power plant closures on tax revenues and jobs designed to:

(1) assist workers at the plant find new employment, including worker retraining and developing small business start-up skills;

(2) increase the eligible community's property tax base; and

(3) develop alternative economic development strategies to attract new employers to the eligible community.

Sec. 5. Minnesota Statutes 2020, section 116J.552, subdivision 6, is amended to read:

Subd. 6. **Municipality.** "Municipality" means the statutory or home rule charter city, town, federally recognized Tribe, or, in the case of unorganized territory, the county in which the site is located.

Sec. 6. Minnesota Statutes 2020, section 116J.8747, subdivision 2, is amended to read:

Subd. 2. **Qualified job training program.** To qualify for grants under this section, a job training program must satisfy the following requirements:

(1) the program must be operated by a nonprofit corporation that qualifies under section 501(c)(3) of the Internal Revenue Code;

(2) the program may spend up to \$5,500 in total training per participant;

(3) the program must provide education and training in:

(i) basic skills, such as reading, writing, financial literacy, digital literacy, mathematics, and communications;

(ii) long-term plans for success including participant coaching for two years after placement;

(iii) soft skills, including skills critical to success on the job; and

(iv) access to internships, technology training, personal and emotional intelligence skill development, and other support services;

(4) the program may provide ~~income supplements not to exceed \$2,000 per participant~~ support services, when needed, to participants for housing, counseling, tuition, and other basic needs;

(5) individuals served by the program must be 18 years of age or older as of the date of enrollment, and have household income in the six months immediately before entering the program that is 200 percent or less of the federal poverty guideline for Minnesota, based on family size; and

(6) the program must be certified by the commissioner of employment and economic development as meeting the requirements of this subdivision.

Sec. 7. Minnesota Statutes 2020, section 116J.8747, subdivision 3, is amended to read:

Subd. 3. **Graduation and retention grant requirements.** (a) For purposes of a placement grant under this section, a qualified graduate is a graduate of a job training program qualifying under subdivision 2 who is placed in a job in Minnesota averaging at least 32 hours per week that pays at least the current state minimum wage. To qualify for a retention grant under this section for a

retention fee, a job in which the graduate is retained must pay at least the current state minimum wage.

(b) Programs are limited to one placement and one retention payment for a qualified graduate in a performance program. The payment must be made within two years, subject to the requirements under sections 16A.15 and 16C.05.

Sec. 8. Minnesota Statutes 2020, section 116J.8747, subdivision 4, is amended to read:

Subd. 4. **Duties of program.** (a) A program certified by the commissioner under subdivision 2 must comply with the requirements of this subdivision.

(b) A program must maintain and provide upon request records for each qualified graduate in compliance with state record retention requirements under section 15.17. The records must include information sufficient to verify the graduate's eligibility under this section, identify the employer, and describe the job including its compensation rate ~~and~~, benefits, and average hours per week.

(c) A program is subject to the reporting requirements under section 116L.98.

Sec. 9. Minnesota Statutes 2021 Supplement, section 116J.8749, subdivision 1, is amended to read:

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

(b) "Borrower" means an eligible recipient receiving a loan guaranteed under this section.

(c) "Commissioner" means the commissioner of employment and economic development.

(d) "Eligible project" means the development, redevelopment, demolition, site preparation, predesign, design, engineering, repair, or renovation of real property or capital improvements. Eligible projects must be designed to address the greatest economic development and redevelopment needs that have arisen in the community surrounding that real property since March 15, 2020. Eligible project includes but is not limited to the construction of buildings, infrastructure, and related site amenities, landscaping, or street-scaping. Eligible project does not include the purchase of real estate or business operations or business operating expenses, such as inventory, wages, or working capital.

(e) "Eligible recipient" means a:

(1) business;

(2) nonprofit organization; ~~or~~

(3) developer; or

(4) in a metropolitan county as defined in section 473.121, subdivision 4, excluding Hennepin or Ramsey County, the county economic development association that is seeking funding to complete an eligible project. Eligible recipient does not include a partner organization or a local unit of government, unless the eligible recipient meets the qualifications under clause (4) in this paragraph.

(f) "Guaranteed loan" means a loan guaranteed by the state for 80 percent of the loan amount for a maximum period of 15 years from the origination of the loan.

(g) "Leveraged grant" means a grant that is matched by the eligible recipient's commitment to the eligible project of nonstate funds at a level of 200 percent of the grant amount. The nonstate match may include but is not limited to funds contributed by a partner organization and insurance proceeds.

(h) "Loan guarantee trust fund" means a dedicated account established under this section for the purpose of compensation for defaulted loan guarantees.

(i) "Partner organizations" or "partners" means:

- (1) foundations engaged in economic development;
- (2) community development financial institutions; and
- (3) community development corporations.

(j) "Program" means the Main Street Economic Revitalization Program under this section.

(k) "Subordinated loan" means a loan secured by a lien that is lower in priority than one or more specified other liens.

Sec. 10. Minnesota Statutes 2021 Supplement, section 116J.8749, subdivision 3, is amended to read:

Subd. 3. **Grants to partner organizations.** (a) The commissioner shall make grants to partner organizations to provide leveraged grants and guaranteed loans to eligible recipients using criteria, forms, applications, and reporting requirements developed by the commissioner.

(b) To be eligible for a grant, a partner organization must:

(1) outline a plan to provide leveraged grants and guaranteed loans to eligible recipients for specific eligible projects that represent the greatest economic development and redevelopment needs in the surrounding community. This plan must include an analysis of the economic impact of the eligible projects the partner organization proposes to make these investments in;

(2) establish a process of ensuring there are no conflicts of interest in determining awards under the program; and

(3) demonstrate that the partner organization has raised funds for the specific purposes of this program to commit to the proposed eligible projects or will do so within the 15-month period following the encumbrance of funds. Existing assets and state or federal funds may not be used to meet this requirement.

(c) Grants shall be made ~~in up to three rounds~~ as follows:

(1) a first round with an application date before September 1, 2021, during which no more than 50 percent of available funds will be granted;

(2) a second round with an application date after September 1, 2021, but before March 1, 2022; and

~~(3) a third round with an application date after June 30, 2023, if any funds remain after the first two rounds.~~

(3) when funds are available for this program after March 1, 2022, the department shall make grants in rounds at least annually.

A partner may apply in multiple rounds for projects that were not funded in earlier rounds or for new projects.

(d) Up to four percent of a grant under this subdivision may be used by the partner organization for administration and monitoring of the program.

Sec. 11. Minnesota Statutes 2020, section 116J.993, subdivision 3, is amended to read:

Subd. 3. **Business subsidy.** "Business subsidy" or "subsidy" means a state or local government agency grant, contribution of personal property, real property, infrastructure, the principal amount of a loan at rates below those commercially available to the recipient, any reduction or deferral of any tax or any fee, any guarantee of any payment under any loan, lease, or other obligation, or any preferential use of government facilities given to a business.

The following forms of financial assistance are not a business subsidy:

(1) a business subsidy of less than \$150,000;

(2) assistance that is generally available to all businesses or to a general class of similar businesses, such as a line of business, size, location, or similar general criteria;

(3) public improvements to buildings or lands owned by the state or local government that serve a public purpose and do not principally benefit a single business or defined group of businesses at the time the improvements are made;

(4) redevelopment property polluted by contaminants as defined in section 116J.552, subdivision 3;

(5) assistance provided for the sole purpose of renovating old or decaying building stock or bringing it up to code and assistance provided for designated historic preservation districts, provided that the assistance is equal to or less than 50 percent of the total cost;

(6) assistance to provide job readiness and training services if the sole purpose of the assistance is to provide those services;

(7) assistance for housing;

(8) assistance for pollution control or abatement, including assistance for a tax increment financing hazardous substance subdistrict as defined under section 469.174, subdivision 23;

(9) assistance for energy conservation;

- (10) tax reductions resulting from conformity with federal tax law;
- (11) workers' compensation and unemployment insurance;
- (12) benefits derived from regulation;
- (13) indirect benefits derived from assistance to educational institutions;
- (14) funds from bonds allocated under chapter 474A, bonds issued to refund outstanding bonds, and bonds issued for the benefit of an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, as amended through December 31, 1999;
- (15) assistance for a collaboration between a Minnesota higher education institution and a business;
- (16) assistance for a tax increment financing soils condition district as defined under section 469.174, subdivision 19;
- (17) redevelopment when the recipient's investment in the purchase of the site and in site preparation is 70 percent or more of the assessor's current year's estimated market value;
- (18) general changes in tax increment financing law and other general tax law changes of a principally technical nature;
- (19) federal assistance until the assistance has been repaid to, and reinvested by, the state or local government agency;
- (20) funds from dock and wharf bonds issued by a seaway port authority;
- (21) business loans and loan guarantees of \$150,000 or less;
- (22) federal loan funds provided through the United States Department of Commerce, Economic Development Administration, Department of the Treasury; and
- (23) property tax abatements granted under section 469.1813 to property that is subject to valuation under Minnesota Rules, chapter 8100.

Sec. 12. Minnesota Statutes 2020, section 116L.04, subdivision 1a, is amended to read:

Subd. 1a. **Pathways program.** The pathways program may provide grants-in-aid for developing programs which assist in the transition of persons from welfare to work and assist individuals at or below 200 percent of the federal poverty guidelines. The program is to be operated by the board. The board shall consult and coordinate with program administrators at the Department of Employment and Economic Development to design and provide services for temporary assistance for needy families recipients.

Pathways grants-in-aid may be awarded to educational or other nonprofit training institutions or to workforce development intermediaries for education and training programs and services supporting education and training programs that serve eligible recipients.

Preference shall be given to projects that:

- (1) provide employment with benefits paid to employees;
- (2) provide employment where there are defined career paths for trainees;
- (3) pilot the development of an educational pathway that can be used on a continuing basis for transitioning persons from welfare to work; and
- (4) demonstrate the active participation of Department of Employment and Economic Development workforce centers, Minnesota State College and University institutions and other educational institutions, and local welfare agencies.

Pathways projects must demonstrate the active involvement and financial commitment of participating private ~~business~~ businesses, Tribal-owned businesses, and municipal and county hospitals. Pathways projects must be matched with cash or in-kind contributions on at least a one-half-to-one ratio by participating private ~~business~~ businesses, Tribal-owned businesses, and municipal or county hospitals.

A single grant to any one institution shall not exceed \$400,000. A portion of a grant may be used for preemployment training.

Sec. 13. Minnesota Statutes 2020, section 116L.17, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given them in this subdivision.

(b) "Commissioner" means the commissioner of employment and economic development.

(c) "Dislocated worker" means an individual who is a resident of Minnesota at the time employment ceased or was working in the state at the time employment ceased and:

(1) has been permanently separated or has received a notice of permanent separation from public or private sector employment and is eligible for or has exhausted entitlement to unemployment benefits, and is unlikely to return to the previous industry or occupation;

(2) has been long-term unemployed and has limited opportunities for employment or reemployment in the same or a similar occupation in the area in which the individual resides, including older individuals who may have substantial barriers to employment by reason of age;

(3) has been terminated or has received a notice of termination of employment as a result of a plant closing or a substantial layoff at a plant, facility, or enterprise;

(4) has been self-employed, including farmers and ranchers, and is unemployed as a result of general economic conditions in the community in which the individual resides or because of natural disasters;

(5) is a veteran as defined by section 197.447, has been discharged or released from active duty under honorable conditions within the last 36 months, and (i) is unemployed or (ii) is employed in a job verified to be below the skill level and earning capacity of the veteran;



(6) is an individual determined by the United States Department of Labor to be covered by trade adjustment assistance under United States Code, title 19, sections 2271 to 2331, as amended; or

(7) is a displaced homemaker. A "displaced homemaker" is an individual who has spent a substantial number of years in the home providing homemaking service and (i) has been dependent upon the financial support of another; and ~~now~~ due to divorce, separation, death, or disability of that person, must now find employment to self support; or (ii) derived the substantial share of support from public assistance on account of dependents in the home and no longer receives such support. To be eligible under this clause, the support must have ceased while the worker resided in Minnesota.

For the purposes of this section, "dislocated worker" does not include an individual who was an employee, at the time employment ceased, of a political committee, political fund, principal campaign committee, or party unit, as those terms are used in chapter 10A, or an organization required to file with the federal elections commission.

(d) "Eligible organization" means a state or local government unit, nonprofit organization, community action agency, business organization or association, or labor organization.

(e) "Plant closing" means the announced or actual permanent shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment.

(f) "Substantial layoff" means a permanent reduction in the workforce, which is not a result of a plant closing, and which results in an employment loss at a single site of employment during any 30-day period for at least 50 employees excluding those employees that work less than 20 hours per week.

Sec. 14. Minnesota Statutes 2020, section 116L.98, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Credential" means ~~postsecondary~~ degrees, diplomas, licenses, and certificates awarded in recognition of an individual's attainment of measurable technical or occupational skills necessary to obtain employment or advance with an occupation. This definition does not include ~~certificates awarded by workforce investment boards or~~ work-readiness certificates.

(c) "Exit" means to have not received service under a workforce program for 90 consecutive calendar days. The exit date is the last date of service.

(d) "Net impact" means the use of matched control groups and regression analysis to estimate the impacts attributable to program participation net of other factors, including observable personal characteristics and economic conditions.

(e) "Pre-enrollment" means the period of time before an individual was enrolled in a workforce program.

Sec. 15. Minnesota Statutes 2020, section 116L.98, subdivision 3, is amended to read:

Subd. 3. **Uniform outcome report card; reporting by commissioner.** (a) By December 31 of each even-numbered year, the commissioner must report to the chairs and ranking minority members

of the committees of the house of representatives and the senate having jurisdiction over economic development and workforce policy and finance the following information separately for each of the previous two fiscal or calendar years, for each program subject to the requirements of subdivision 1:

- (1) the total number of participants enrolled;
  - (2) the median pre-enrollment wages based on participant wages for the second through the fifth calendar quarters immediately preceding the quarter of enrollment excluding those with zero income;
  - (3) the total number of participants with zero income in the second through fifth calendar quarters immediately preceding the quarter of enrollment;
  - (4) the total number of participants enrolled in training;
  - (5) the total number of participants enrolled in training by occupational group;
  - (6) the total number of participants that exited the program and the average enrollment duration of participants that have exited the program during the year;
  - (7) the total number of exited participants who completed training;
  - (8) the total number of exited participants who attained a credential;
  - (9) the total number of participants employed during three consecutive quarters immediately following the quarter of exit, by industry;
  - (10) the median wages of participants employed during three consecutive quarters immediately following the quarter of exit;
  - (11) the total number of participants employed during eight consecutive quarters immediately following the quarter of exit, by industry;
  - (12) the median wages of participants employed during eight consecutive quarters immediately following the quarter of exit;
  - (13) the total cost of the program;
  - (14) the total cost of the program per participant;
  - (15) the cost per credential received by a participant; and
  - (16) the administrative cost of the program.
- (b) The report to the legislature must contain:
- (1) participant information by education level, race and ethnicity, gender, and geography, and a comparison of exited participants who completed training and those who did not; and

(2) a list of any grant recipients that did not satisfy all of the reporting requirements of this section for the applicable reporting period.

(c) The requirements of this section apply to programs administered directly by the commissioner or administered by other organizations under a grant made by the department.

Sec. 16. Minnesota Statutes 2020, section 268.18, is amended by adding a subdivision to read:

Subd. 7. **Overpayments; report to legislature.** (a) Beginning July 1, 2023, and each April 15 thereafter, the commissioner must report to the chairs and ranking minority members of the committees of the house of representatives and the senate having jurisdiction over unemployment insurance for the previous calendar year, to the extent that the following information is not classified as not public under chapter 13 or 268, information about unemployment insurance fraud and attempted fraud, including:

(1) misrepresentation or fraud by an authenticated applicant;

(2) attempted fraud through identity theft; or

(3) acts of attempted fraud by an unidentified imposter or hijacker.

(b) For each of paragraph (a), clauses (1) to (3), the report must detail the number of weeks held overpaid, and total dollar amount, source, and cause of benefits held overpaid.

(c) For each of paragraph (a), clauses (1) to (3), the report must detail the number of weeks and total dollar amount held overpaid as a ratio of total weeks paid and the total amount paid over the same period.

(d) Information provided must include available data regarding suspected fraud attempts for each of paragraph (a), clauses (1) to (3), that the department identified and stopped prior to issuing an overpayment, including progress made to enhance data collection related to such fraudulent attempts and the number of times the department referred fraudulent activity to law enforcement.

Sec. 17. Laws 2019, First Special Session chapter 7, article 2, section 8, subdivision 8, as amended by Laws 2021, First Special Session chapter 10, article 2, section 19, is amended to read:

Subd. 8. **Report.** (a) Launch Minnesota shall report by December 31, 2022, and again by December 31, 2023, to the chairs and ranking minority members of the committees of the house of representatives and senate having jurisdiction over economic development policy and finance. Each report shall include information on the work completed, including awards made by the department under this section and progress toward transferring the activities of Launch Minnesota to an entity outside of state government.

(b) By December 31, ~~2024~~ 2023, Launch Minnesota shall provide a comprehensive transition plan to the chairs and ranking minority members of the committees of the house of representatives and senate having jurisdiction over economic development policy and finance. The transition plan shall include: (1) a detailed strategy for the transfer of Launch Minnesota activities to an entity outside of state government; (2) the projected date of the transfer; and (3) the role of the state, if any, in ongoing activities of Launch Minnesota or its successor entity.

Sec. 18. Laws 2021, First Special Session chapter 10, article 2, section 24, subdivision 1, is amended to read:

Subdivision 1. **Establishment.** Lake of the Woods County shall establish a loan program to make forgivable loans to eligible remote recreational businesses that experienced a loss in revenue that is greater than 30 percent during the period between March 15, ~~2020~~ 2021, and March 15, ~~2021~~ 2022, as compared with ~~the previous year~~ March 15, 2019, and March 15, 2020.

**EFFECTIVE DATE.** This section is effective retroactively from March 31, 2022.

Sec. 19. Laws 2021, First Special Session chapter 10, article 2, section 24, subdivision 3, is amended to read:

Subd. 3. **Eligibility.** To be eligible for a forgivable loan, a remote recreational business must:

(1) have been in operation on March 15, ~~2020~~ 2021;

(2) show that the closure and ongoing COVID-19-related requirements of the United States and Canadian border restricted the ability of American customers to access the location of the remote recreational business; and

(3) not have received a grant under the Main Street COVID-19 relief grant program.

**EFFECTIVE DATE.** This section is effective retroactively from March 31, 2022.

Sec. 20. Laws 2021, First Special Session chapter 10, article 2, section 24, subdivision 4, is amended to read:

Subd. 4. **Application.** (a) Lake of the Woods County shall develop forms and procedures for soliciting and reviewing applications for loans under this section.

(b) Loans shall be made before ~~April 1, 2022~~ December 30, 2022. Any funds not spent by April 1, ~~2022~~ 2023, must be returned to the state general fund.

(c) If there are insufficient funds to fund all claims in full, the county shall distribute funds on a prorated basis.

**EFFECTIVE DATE.** This section is effective retroactively from March 31, 2022.

Sec. 21. Laws 2021, First Special Session chapter 10, article 2, section 24, subdivision 5, is amended to read:

Subd. 5. **Maximum loan amount.** The maximum loan amount shall be equal to 75 percent of the remote recreational business's gross annual receipts for fiscal ~~year~~ years 2020 and 2021, not to exceed \$500,000 per eligible remote recreational business.

**EFFECTIVE DATE.** This section is effective retroactively from March 31, 2022.

Sec. 22. Laws 2021, First Special Session chapter 10, article 2, section 24, subdivision 7, is amended to read:

Subd. 7. **Report to legislature.** By ~~January 15~~ April 30, 2023, Lake of the Woods County shall report to the legislative committees with jurisdiction over economic development policy and finance on the loans provided to remote recreational businesses under this section.

**EFFECTIVE DATE.** This section is effective retroactively from March 31, 2022.

Sec. 23. Laws 2022, chapter 50, article 1, section 1, is amended to read:

Section 1. **APPROPRIATION; UNEMPLOYMENT INSURANCE TRUST FUND LOAN REPAYMENT AND REPLENISHMENT.**

Subdivision 1. **Appropriation.** \$2,324,175,000 from the state fiscal recovery federal fund and \$405,825,000 from the general fund in fiscal year 2022 are appropriated to the commissioner of employment and economic development for the purposes of this ~~section~~ article.

Subd. 2. **Repayment.** Within ten days following enactment of this section, the commissioner must determine the sum of any outstanding loans and any interest accrued on the loans from the federal unemployment insurance trust fund, and issue payments to the federal unemployment trust fund equal to that sum.

Subd. 3. **Replenishment.** Following the full repayment of outstanding loans from the federal unemployment insurance trust fund, the commissioner must deposit into the unemployment insurance trust fund all the remaining money appropriated ~~in~~ for this section.

Sec. 24. Laws 2022, chapter 50, article 2, section 2, is amended by adding a subdivision to read:

**Subd. 13. Fraud prevention.** The commissioner of labor and industry, in cooperation with the commissioner of employment and economic development and the commissioner of revenue, must develop a fraud prevention plan and implement a process to identify fraudulent payments made under subdivision 5.

**EFFECTIVE DATE.** This section is effective retroactively from April 29, 2022.

Sec. 25. **CANADIAN BORDER COUNTIES ECONOMIC RELIEF PROGRAM.**

**Subdivision 1. Relief program established.** The Northland Foundation must develop and implement a Canadian border counties economic relief program to assist businesses adversely affected by the 2021 closure of the Boundary Waters Canoe Area Wilderness or the closures of the Canadian border since 2020.

**Subd. 2. Available relief.** (a) The economic relief program established under this section may include grants to the extent that funds are available. Before awarding grants to the Northland Foundation for the relief program under this section:

(1) the Northland Foundation must develop criteria, procedures, and requirements for:

(i) determining eligibility for assistance;

(ii) evaluating applications for assistance;

(iii) awarding assistance; and

(iv) administering the grant program authorized under this section;

(2) the Northland Foundation must submit criteria, procedures, and requirements developed under clause (1) to the commissioner of employment and economic development for review; and

(3) the commissioner must approve the criteria, procedures, and requirements submitted under clause (2).

(b) The maximum grant to a business under this section is \$50,000 per business.

Subd. 3. **Qualification requirements.** To qualify for assistance under this section, a business must:

(1) be located within Koochiching County or Cook County;

(2) document a reduction of at least 20 percent in gross receipts in 2021 compared to 2019; and

(3) provide a written explanation for how the 2021 closure of the Boundary Waters Canoe Area Wilderness or the closures of the Canadian border since 2020 resulted in the reduction in gross receipts documented under clause (2).

Subd. 4. **Monitoring.** (a) The Northland Foundation must establish performance measures, including but not limited to the following components:

(1) the number of grants awarded and award amounts for each grant;

(2) the number of jobs created or retained as a result of the assistance, including information on the wages and benefit levels, the status of the jobs as full-time or part-time, and the status of the jobs as temporary or permanent;

(3) the amount of business activity and changes in gross revenues of the grant recipient as a result of the assistance; and

(4) the new tax revenue generated as a result of the assistance.

(b) The commissioner of employment and economic development must monitor the Northland Foundation's compliance with this section and the performance measures developed under paragraph (a).

(c) The Northland Foundation must comply with all requests made by the commissioner under this section.

Subd. 5. **Business subsidy requirements.** Minnesota Statutes, sections 116J.993 to 116J.995, do not apply to assistance under this section. Businesses in receipt of assistance under this section must provide for job creation and retention goals and wage and benefit goals.

Subd. 6. **Administrative costs.** The commissioner of employment and economic development may use up to three percent of the appropriation made for this section for administrative expenses of the department.

**EFFECTIVE DATE.** This section is effective July 1, 2022, and expires June 30, 2023.

Sec. 26. **ENCUMBRANCE EXCEPTION.**

Notwithstanding Minnesota Statutes, section 16B.98, subdivision 5, paragraph (a), clause (2), or 16C.05, subdivision 2, paragraph (a), clause (3), the commissioner of employment and economic development may permit grant recipients of the Minnesota investment fund program under Minnesota Statutes, section 116J.8731; the job creation fund program under Minnesota Statutes, section 116J.8748; and the border-to-border broadband program under Minnesota Statutes, section 116J.395, to incur eligible expenses based on an agreed upon work plan and budget for up to 90 days prior to an encumbrance being established in the accounting system.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires on June 30, 2025.

Sec. 27. **MINNESOTA INVESTMENT FUND AND MINNESOTA JOB CREATION FUND REQUIREMENTS EXTENSIONS.**

Notwithstanding any other law to the contrary, a recipient of a Minnesota Investment Fund grant under Minnesota Statutes, section 116J.8731, or a recipient of a Minnesota Job Creation Fund grant under Minnesota Statutes, section 116J.8748, who is unable to meet the minimum capital investment requirements, wage, or minimum job creation goals or requirements provided in a business subsidy agreement, as applicable, during or within the 12-month period following a peacetime emergency related to the COVID-19 pandemic shall be granted an extension until December 31, 2023, to meet those capital investment, wage, or job creation goals or requirements before the grant must be repaid.

**EFFECTIVE DATE.** This section is effective retroactively from March 15, 2020.

## ARTICLE 4

### COMBATIVE SPORTS

Section 1. Minnesota Statutes 2020, section 341.21, subdivision 2a, is amended to read:

Subd. 2a. **Combatant.** "Combatant" means an individual who employs the act of attack and defense as a professional boxer, professional or amateur tough person, ~~martial artist,~~ or professional or amateur mixed martial artist while engaged in a combative sport.

Sec. 2. Minnesota Statutes 2020, section 341.21, subdivision 2c, is amended to read:

Subd. 2c. **Combative sports contest.** "Combative sports contest" means a professional boxing, a professional or amateur tough person, or a professional or amateur ~~martial art contest~~ or mixed martial arts contest, bout, competition, match, or exhibition.

Sec. 3. Minnesota Statutes 2020, section 341.21, subdivision 7, is amended to read:

Subd. 7. **Tough person contest.** "Tough person contest," including contests marketed as tough man or tough woman contests, means a ~~contest of two minute rounds consisting of not more than four rounds between two or more individuals who use their hands, or their feet, or both in any manner.~~ Tough person contest includes kickboxing and other recognized martial art contest, boxing match or similar contest where each combatant wears headgear and gloves that weigh at least 12 ounces.

Sec. 4. Minnesota Statutes 2020, section 341.221, is amended to read:

**341.221 ADVISORY COUNCIL.**

(a) The commissioner must appoint a Combative Sports Advisory Council to advise the commissioner on the administration of duties under this chapter.

(b) The council shall have ~~nine~~ five members appointed by the commissioner. ~~One member must be a retired judge of the Minnesota District Court, Minnesota Court of Appeals, Minnesota Supreme Court, the United States District Court for the District of Minnesota, or the Eighth Circuit Court of Appeals. At least four~~ All five members must have knowledge of the boxing combative sports industry. ~~At least four members must have knowledge of the mixed martial arts industry.~~ The commissioner shall make serious efforts to appoint qualified women to serve on the council.

~~(c) Council members shall serve terms of four years with the terms ending on the first Monday in January.~~

~~(d)~~ (c) The council shall annually elect from its membership a chair.

~~(e)~~ (d) Meetings shall be convened by the commissioner, or by the chair with the approval of the commissioner.

~~(f) The commissioner shall designate two of the members to serve until the first Monday in January 2013; two members to serve until the first Monday in January 2014; two members to serve until the first Monday in January 2015; and three members to serve until the first Monday in January 2016.~~

(e) Appointments to the council and the terms of council members shall be governed by sections 15.059 and 15.0597.

~~(g)~~ (f) Removal of members, filling of vacancies, and compensation of members shall be as provided in section 15.059.

(g) Meetings convened for the purpose of advising the commissioner on issues related to a challenge filed under section 341.345 are exempt from the open meeting requirements of chapter 13D.

Sec. 5. Minnesota Statutes 2020, section 341.25, is amended to read:

**341.25 RULES.**

(a) The commissioner may adopt rules that include standards for the physical examination and condition of combatants and referees.



(b) The commissioner may adopt other rules necessary to carry out the purposes of this chapter, including, but not limited to, the conduct of all combative sport contests and their manner, supervision, time, and place.

(c) The commissioner must adopt unified rules for mixed martial arts contests.

(d) The commissioner may adopt the rules of the Association of Boxing Commissions, with amendments.

(e) The most recent version of the Unified Rules of Mixed Martial Arts, as promulgated by the Association of Boxing Commissions ~~and amended August 2, 2016~~, are incorporated by reference and made a part of this chapter except as qualified by this chapter and Minnesota Rules, chapter 2202. In the event of a conflict between this chapter and the Unified Rules, this chapter must govern.

(f) The most recent version of the Unified Rules of Boxing, as promulgated by the Association of Boxing Commissions, are incorporated by reference and made a part of this chapter except as modified by this chapter and Minnesota Rules, chapter 2201. In the event of a conflict between this chapter and the Unified Rules, this chapter must govern.

Sec. 6. Minnesota Statutes 2020, section 341.28, is amended to read:

### **341.28 REGULATION OF COMBATIVE SPORT CONTESTS.**

Subdivision 1. **Regulatory authority; combative sports.** All combative sport contests within this state must be conducted according to the requirements of this chapter.

Subd. 1a. **Regulatory authority; professional boxing contests.** All professional boxing contests are subject to this chapter. Every combatant in a boxing contest shall wear padded gloves that weigh at least eight ounces. Officials at all boxing contests must be licensed under this chapter.

Subd. 2. **Regulatory authority; tough person contests.** All professional and amateur tough person contests are subject to this chapter. All tough person contests are subject to ~~Association of Boxing Commissions rules~~ the most recent version of the Unified Rules of Boxing, as promulgated by the Association of Boxing Commissions. Every contestant in a tough person contest shall have a physical examination prior to their bouts. Every contestant in a tough person contest shall wear headgear and padded gloves that weigh at least 12 ounces. ~~All tough person bouts are limited to two minute rounds and a maximum of four total rounds.~~ Officials at all tough person contests shall be licensed under this chapter.

Subd. 3. **Regulatory authority; mixed martial arts contests; similar sporting events.** All professional and amateur mixed martial arts contests, ~~martial arts contests except amateur contests regulated by the Minnesota State High School League (MSHSL), recognized martial arts studios and schools in Minnesota, and recognized national martial arts organizations holding contests between students, ultimate fight contests, and similar sporting events~~ are subject to this chapter and all officials at these events must be licensed under this chapter.

Subd. 4. **Regulatory authority; martial arts and amateur boxing.** (a) Unless this chapter specifically states otherwise, contests or exhibitions for martial arts and amateur boxing are exempt

from the requirements of this chapter and officials at these events are not required to be licensed under this chapter.

(b) All martial arts and amateur boxing contests must be regulated by the Thai Boxing Association, International Sports Karate Association, World Kickboxing Association, United States Muay Thai Association, United States Muay Thai Federation, World Association of Kickboxing Organizations, International Kickboxing Federation, USA Boxing, or an organization that governs interscholastic athletics under subdivision 5.

(c) Any regulatory body overseeing a martial arts or amateur boxing event must submit bout results to the commissioner within 72 hours after the event. If the regulatory body issues suspensions, it must submit to the commissioner, within 72 hours after the event, a list of any suspensions resulting from the event.

Subd. 5. **Regulatory authority; certain students.** Amateur martial arts and amateur boxing contests regulated by the Minnesota State High School League, National Collegiate Athletic Association, National Junior Collegiate Athletic Association, National Association of Intercollegiate Athletics, or any similar organization that governs interscholastic athletics are not subject to this chapter and officials at these events are not required to be licensed under this chapter.

Sec. 7. Minnesota Statutes 2020, section 341.30, subdivision 4, is amended to read:

Subd. 4. **Prelicensure requirements.** (a) Before the commissioner issues a promoter's license to an individual, corporation, or other business entity, the applicant shall, ~~a minimum of six weeks before the combative sport contest is scheduled to occur,~~ complete a licensing application on the Office of Combative Sports website or on forms ~~furnished or approved~~ prescribed by the commissioner and shall:

~~(1) provide the commissioner with a copy of any agreement between a combatant and the applicant that binds the applicant to pay the combatant a certain fixed fee or percentage of the gate receipts;~~

~~(2) (1) show on the licensing application the owner or owners of the applicant entity and the percentage of interest held by each owner holding a 25 percent or more interest in the applicant;~~

~~(3) (2) provide the commissioner with a copy of the latest financial statement of the applicant;~~

~~(4) provide the commissioner with a copy or other proof acceptable to the commissioner of the insurance contract or policy required by this chapter;~~

~~(5) (3) provide proof, where applicable, of authorization to do business in the state of Minnesota;~~  
and

~~(6) (4) deposit with the commissioner a cash bond or surety bond in an amount set by the commissioner, which must not be less than \$10,000. The bond shall be executed in favor of this state and shall be conditioned on the faithful performance by the promoter of the promoter's obligations under this chapter and the rules adopted under it.~~

(b) Before the commissioner issues a license to a combatant, the applicant shall:

~~(1) submit to the commissioner the results of a current medical examination examinations on forms furnished or approved prescribed by the commissioner. The medical examination must include an ophthalmological and neurological examination, and documentation of test results for HBV, HCV, and HIV, and any other blood test as the commissioner by rule may require. The ophthalmological examination must be designed to detect any retinal defects or other damage or condition of the eye that could be aggravated by combative sports. The neurological examination must include an electroencephalogram or medically superior test if the combatant has been knocked unconscious in a previous contest. The commissioner may also order an electroencephalogram or other appropriate neurological or physical examination before any contest if it determines that the examination is desirable to protect the health of the combatant. The commissioner shall not issue a license to an applicant submitting positive test results for HBV, HCV, or HIV; that state that the combatant is cleared to participate in a combative sport contest. The applicant must undergo and submit the results of the following medical examinations, which do not exempt a combatant from the requirements set forth in section 341.33:~~

(i) a physical examination performed by a licensed medical doctor, doctor of osteopathic medicine, advance practice nurse practitioner, or a physician assistant. Physical examinations are valid for one year from the date of the exam;

(ii) an ophthalmological examination performed by an ophthalmologist or optometrist that includes dilation designed to detect any retinal defects or other damage or a condition of the eye that could be aggravated by combative sports. Ophthalmological examinations are valid for one year from the date of the exam;

(iii) blood work results for HBsAg (Hepatitis B surface antigen), HCV (Hepatitis C antibody), and HIV. Blood work results are good for one year from the date blood was drawn. The commissioner shall not issue a license to an applicant submitting positive test results for HBsAg, HCV, or HIV; and

(iv) other appropriate neurological or physical examinations before any contest, if the commissioner determines that the examination is desirable to protect the health of the combatant.

(2) complete a licensing application on the Office of Combative Sports website or on forms furnished or approved by the commissioner; and

(3) provide proof that the applicant is 18 years of age. Acceptable proof is a photo driver's license, state photo identification card, passport, or birth certificate combined with additional photo identification.

(c) Before the commissioner issues a license to a referee, judge, or timekeeper, the applicant must submit proof of qualifications that may include certified training from the Association of Boxing Commissions, licensure with other regulatory bodies, three professional references, or a log of bouts worked.

(d) Before the commissioner issues a license to a ringside physician, the applicant must submit proof that they are licensed to practice medicine in the state of Minnesota and in good standing.

Sec. 8. Minnesota Statutes 2020, section 341.32, subdivision 2, is amended to read:

Subd. 2. **Expiration and application.** Licenses expire annually on ~~December 31~~ June 30. A license may be applied for each year by filing an application for licensure and satisfying all licensure requirements established in section 341.30, and submitting payment of the license fees established in section 341.321. An application for a license and renewal of a license must be on a form provided by the commissioner. Any license received or renewed in the year 2022 shall be valid until June 30, 2023.

Sec. 9. Minnesota Statutes 2020, section 341.321, is amended to read:

**341.321 FEE SCHEDULE.**

(a) The fee schedule for professional and amateur licenses issued by the commissioner is as follows:

- (1) referees, \$25;
- (2) promoters, \$700;
- (3) judges and knockdown judges, \$25;
- (4) trainers and seconds, \$80;
- (5) timekeepers, \$25;
- (6) professional combatants, \$70;
- (7) amateur combatants, \$50; and
- (8) ringside physicians, \$25.

~~License fees for promoters are due at least six weeks prior to the combative sport contest. All other~~ license fees shall be paid no later than the weigh-in prior to the contest. No license may be issued until all prelicensure requirements outlined in section 341.30 are satisfied and fees are paid.

~~(b) The commissioner shall establish a contest fee for each combative sport contest and shall consider the size and type of venue when establishing a contest fee. The~~ A promoter or event organizer of an event regulated by the Department of Labor and Industry must pay, per event, a combative sport contest fee is of \$1,500 per event or not more than four percent of the gross ticket sales, whichever is greater, as determined by the commissioner when the combative sport contest is scheduled. The fee must be paid as follows:

~~(c) A professional or amateur combative sport contest fee is nonrefundable and shall be paid as follows:~~

- (1) \$500 at the time is due when the combative sport contest is scheduled; ~~and~~
- (2) \$1,000 is due at the weigh-in prior to the contest;
- (3) if four percent of the gross ticket sales is greater than \$1,500, the balance is due to the commissioner within 14 days of the completed contest; and

(4) the face value of all complimentary tickets distributed for an event, to the extent they exceed 15 percent of total event attendance, count toward gross tickets sales for the purposes of determining a combative sport contest fee.

~~If four percent of the gross ticket sales is greater than \$1,500, the balance is due to the commissioner within seven days of the completed contest.~~

~~(d) The commissioner may establish the maximum number of complimentary tickets allowed for each event by rule.~~

~~(e) (c) All fees and penalties collected by the commissioner must be deposited in the commissioner account in the special revenue fund.~~

Sec. 10. **[341.322] PAYMENT SCHEDULE.**

The commissioner may establish a schedule of fees to be paid by a promoter to referees, judges and knockdown judges, timekeepers, and ringside physicians.

Sec. 11. **[341.323] EVENT APPROVAL.**

Subdivision 1. **Preapproval documentation.** Before the commissioner approves a combative sport contest, the promoter shall:

(1) provide the commissioner, at least six weeks before the combative sport contest is scheduled to occur, information about the time, date, and location of the contest;

(2) provide the commissioner, at least 72 hours before the combative sport contest is scheduled to occur, with a copy of any agreement between a combatant and the promoter that binds the promoter to pay the combatant a certain fixed fee or percentage of the gate receipts;

(3) provide the commissioner, at least 72 hours before the combative sport contest is scheduled to occur, with a copy or other proof acceptable to the commissioner of the insurance contract or policy required by this chapter; and

(4) provide the commissioner, at least 72 hours before the combative sport contest is scheduled to occur, proof acceptable to the commissioner that the promoter will provide, at the cost of the promoter, at least one uniformed security guard or uniformed off-duty member of law enforcement to provide security at any event regulated by the Department of Labor and Industry. The commissioner may require a promoter to take additional security measures to ensure the safety of participants and spectators at an event.

Subd. 2. **Proper licensure.** Before the commissioner approves a combative sport contest, the commissioner must ensure that the promoter is properly licensed under this chapter. The promoter must maintain proper licensure from the time the promoter schedules a combative sport contest through the date of the contest.

Subd. 3. **Discretion.** Nothing in this section limits the commissioner's discretion in deciding whether to approve a combative sport contest or event.

Sec. 12. **[341.324] AMBULANCE.**

A promoter must ensure, at the cost of the promoter, that an ambulance and two emergency medical technicians are on the premises during a combative sport contest.

Sec. 13. Minnesota Statutes 2020, section 341.33, is amended to read:

**341.33 PHYSICAL EXAMINATION REQUIRED; FEES.**

Subdivision 1. **Examination by physician.** All combatants must be examined by a physician licensed by this state within 36 hours before entering the ring, and the examining physician shall immediately file with the commissioner a written report of the examination. Each female combatant shall take and submit a negative pregnancy test as part of the examination. The physician's examination may report on the condition of the combatant's heart and general physical and general neurological condition. The physician's report may record the condition of the combatant's nervous system and brain as required by the commissioner. The physician may prohibit the combatant from entering the ring if, in the physician's professional opinion, it is in the best interest of the combatant's health. The cost of the examination is payable by the promoter conducting the contest or exhibition.

Subd. 2. **Attendance of physician.** A promoter holding or sponsoring a combative sport contest shall have in attendance a physician licensed by ~~this~~ the state of Minnesota. ~~The commissioner may establish a schedule of fees to be paid to each attending physician by the promoter holding or sponsoring the contest.~~

Sec. 14. **[341.345] CHALLENGING THE OUTCOME OF A COMBATIVE SPORT CONTEST.**

Subdivision 1. **Challenge.** (a) If a combatant disagrees with the outcome of a combative sport contest regulated by the Department of Labor and Industry in which the combatant participated, the combatant may challenge the outcome.

(b) If a third party makes a challenge on behalf of a combatant, the third party must provide written confirmation that they are authorized to make the challenge on behalf of the combatant. The written confirmation must contain the combatant's signature and must be submitted with the challenge.

Subd. 2. **Form.** A challenge must be submitted on a form prescribed by the commissioner, set forth all relevant facts and the basis for the challenge, and state what remedy is being sought. A combatant may submit photos, videos, documents, or any other evidence the combatant would like the commissioner to consider in connection to the challenge. A combatant may challenge the outcome of a contest only if it is alleged that:

(1) the referee made an incorrect call or missed a rule violation that directly affected the outcome of the contest;

(2) there was collusion amongst officials to affect the outcome of the contest; or

(3) scores were miscalculated.

Subd. 3. **Timing.** (a) A challenge must be submitted within ten days of the contest.

(b) For purposes of this subdivision, the day of the contest shall not count toward the ten-day period. If the tenth day falls on a Saturday, Sunday, or legal holiday, then a combatant shall have until the next day that is not a Saturday, Sunday, or legal holiday to submit a challenge.

(c) The challenge must be submitted to the commissioner at the address, fax number, or e-mail address designated on the commissioner's website. The date on which a challenge is submitted by mail shall be the postmark date on the envelope in which the challenge is mailed. If the challenge is faxed or e-mailed, it must be received by the commissioner by 4:30 p.m. central time on the day the challenge is due.

Subd. 4. **Opponent's response.** If the requirements of subdivisions 1 to 3 are met, the commissioner shall send a complete copy of the challenge documents, along with any supporting materials submitted, to the opposing combatant by mail, fax, or e-mail. The opposing combatant shall have 14 days from the date the commissioner sends the challenge and supporting materials to submit a response to the commissioner. Additional response time is not added when the commissioner sends the challenge to the opposing combatant by mail. The opposing combatant may submit photos, videos, documents, or any other evidence the opposing combatant would like the commissioner to consider in connection to the challenge. The response must be submitted to the commissioner at the address, fax number, or e-mail address designated on the commissioner's website. The date on which a response is submitted by mail shall be the postmark date on the envelope in which the response is mailed. If the response is faxed or e-mailed, it must be received by the commissioner by 4:30 p.m. central time on the day the response is due.

Subd. 5. **Licensed official review.** The commissioner may, if the commissioner determines it would be helpful in resolving the issues raised in the challenge, send a complete copy of the challenge or response, along with any supporting materials submitted, to any licensed official involved in the combative sport contest at issue by mail, fax, or e-mail and request their views on the issues raised in the challenge.

Subd. 6. **Order.** The commissioner shall issue an order on the challenge within 60 days after receiving the opposing combatant's response. If the opposing combatant does not submit a response, the commissioner shall issue an order on the challenge within 75 days after receiving the challenge.

Subd. 7. **Nonacceptance.** If the requirements of subdivisions 1 to 3 are not met, the commissioner must not accept the challenge and may send correspondence to the person who submitted the challenge stating the reasons for nonacceptance of the challenge. A combatant has no further appeal rights if the combatant's challenge is not accepted by the commissioner.

Subd. 8. **Administrative hearing.** After the commissioner issues an order under subdivision 6, each combatant, under section 326B.082, subdivision 8, has 30 days after service of the order to submit a request for hearing before an administrative law judge.

Sec. 15. Minnesota Statutes 2020, section 341.355, is amended to read:

#### **341.355 CIVIL PENALTIES.**

When the commissioner finds that a person has violated one or more provisions of any statute, rule, or order that the commissioner is empowered to regulate, enforce, or issue, the commissioner may impose, for each violation, a civil penalty of up to \$10,000 for each violation, or a civil penalty

that deprives the person of any economic advantage gained by the violation, or both. The commissioner may also impose these penalties against a person who has violated section 341.28, subdivision 4, paragraph (b) or (c).

## ARTICLE 5

### LABOR AND INDUSTRY POLICY AND TECHNICAL

Section 1. Minnesota Statutes 2020, section 178.11, is amended to read:

#### **178.11 LABOR EDUCATION ADVANCEMENT GRANT PROGRAM.**

The commissioner shall establish the labor education advancement grant program for the purpose of facilitating the participation or retention of ~~minorities~~ people of color, Indigenous people, and women in apprenticeable trades and occupations. The commissioner shall award grants to community-based and nonprofit organizations and Minnesota Tribal governments as defined in section 10.65, serving the targeted populations on a competitive request-for-proposal basis. Interested organizations shall apply for the grants in a form prescribed by the commissioner. As part of the application process, applicants must provide a statement of need for the grant, a description of the targeted population and apprenticeship opportunities, a description of activities to be funded by the grant, evidence supporting the ability to deliver services, information related to coordinating grant activities with other employment and learning programs, identification of matching funds, a budget, and performance objectives. Each submitted application shall be evaluated for completeness and effectiveness of the proposed grant activity.

Sec. 2. Minnesota Statutes 2020, section 326B.106, subdivision 4, is amended to read:

Subd. 4. **Special requirements.** (a) **Space for commuter vans.** The code must require that any parking ramp or other parking facility constructed in accordance with the code include an appropriate number of spaces suitable for the parking of motor vehicles having a capacity of seven to 16 persons and which are principally used to provide prearranged commuter transportation of employees to or from their place of employment or to or from a transit stop authorized by a local transit authority.

(b) **Smoke detection devices.** The code must require that all dwellings, lodging houses, apartment houses, and hotels as defined in section 299F.362 comply with the provisions of section 299F.362.

(c) **Doors in nursing homes and hospitals.** The State Building Code may not require that each door entering a sleeping or patient's room from a corridor in a nursing home or hospital with an approved complete standard automatic fire extinguishing system be constructed or maintained as self-closing or automatically closing.

(d) **Child care facilities in churches; ground level exit.** A licensed day care center serving fewer than 30 preschool age persons and which is located in a belowground space in a church building is exempt from the State Building Code requirement for a ground level exit when the center has more than two stairways to the ground level and its exit.

(e) **Family and group family day care.** Until the legislature enacts legislation specifying appropriate standards, the definition of dwellings constructed in accordance with the International Residential Code as adopted as part of the State Building Code applies to family and group family



day care homes licensed by the Department of Human Services under Minnesota Rules, chapter 9502.

(f) **Enclosed stairways.** No provision of the code or any appendix chapter of the code may require stairways of existing multiple dwelling buildings of two stories or less to be enclosed.

(g) **Double cylinder dead bolt locks.** No provision of the code or appendix chapter of the code may prohibit double cylinder dead bolt locks in existing single-family homes, townhouses, and first floor duplexes used exclusively as a residential dwelling. Any recommendation or promotion of double cylinder dead bolt locks must include a warning about their potential fire danger and procedures to minimize the danger.

(h) **Relocated residential buildings.** A residential building relocated within or into a political subdivision of the state need not comply with the State Energy Code or section 326B.439 provided that, where available, an energy audit is conducted on the relocated building.

(i) **Automatic garage door opening systems.** The code must require all residential buildings as defined in section 325F.82 to comply with the provisions of sections 325F.82 and 325F.83.

(j) **Exterior wood decks, patios, and balconies.** The code must permit the decking surface and upper portions of exterior wood decks, patios, and balconies to be constructed of (1) heartwood from species of wood having natural resistance to decay or termites, including redwood and cedars, (2) grades of lumber which contain sapwood from species of wood having natural resistance to decay or termites, including redwood and cedars, or (3) treated wood. The species and grades of wood products used to construct the decking surface and upper portions of exterior decks, patios, and balconies must be made available to the building official on request before final construction approval.

(k) **Bioprocess piping and equipment.** No permit fee for bioprocess piping may be imposed by municipalities under the State Building Code, except as required under section 326B.92 subdivision 1. Permits for bioprocess piping shall be according to section 326B.92 administered by the Department of Labor and Industry. All data regarding the material production processes, including the bioprocess system's structural design and layout, are nonpublic data as provided by section 13.7911.

(l) **Use of ungraded lumber.** The code must allow the use of ungraded lumber in geographic areas of the state where the code did not generally apply as of April 1, 2008, to the same extent that ungraded lumber could be used in that area before April 1, 2008.

(m) **Window cleaning safety.** ~~The code must require the installation of dedicated anchorages for the purpose of suspended window cleaning on (1) new buildings four stories or greater; and (2) buildings four stories or greater, only on those areas undergoing reconstruction, alteration, or repair that includes the exposure of primary structural components of the roof. The commissioner shall adopt rules, using the expedited rulemaking process in section 14.389 requiring window cleaning safety features that comply with a nationally recognized standard as part of the State Building Code. Window cleaning safety features shall be provided for all windows on:~~

(1) new buildings where determined by the code; and

(2) existing buildings undergoing alterations where both of the following conditions are met:

(i) the windows do not currently have safe window cleaning features; and

(ii) the proposed work area being altered can include provisions for safe window cleaning.

~~The commissioner may waive all or a portion of the requirements of this paragraph related to reconstruction, alteration, or repair, if the installation of dedicated anchorages would not result in significant safety improvements due to limits on the size of the project, or other factors as determined by the commissioner.~~

Sec. 3. Minnesota Statutes 2021 Supplement, section 326B.153, subdivision 1, is amended to read:

Subdivision 1. **Building permits.** (a) Fees for building permits submitted as required in section 326B.107 include:

(1) the fee as set forth in the fee schedule in paragraph (b) or as adopted by a municipality; and

(2) the surcharge required by section 326B.148.

(b) The total valuation and fee schedule is:

(1) \$1 to \$500, ~~\$29.50~~ \$21;

(2) \$501 to \$2,000, ~~\$28~~ \$21 for the first \$500 plus ~~\$3.70~~ \$2.75 for each additional \$100 or fraction thereof, to and including \$2,000;

(3) \$2,001 to \$25,000, ~~\$83.50~~ \$62.25 for the first \$2,000 plus ~~\$16.55~~ \$12.50 for each additional \$1,000 or fraction thereof, to and including \$25,000;

(4) \$25,001 to \$50,000, ~~\$464.15~~ \$349.75 for the first \$25,000 plus ~~\$12~~ \$9 for each additional \$1,000 or fraction thereof, to and including \$50,000;

(5) \$50,001 to \$100,000, ~~\$764.15~~ \$574.75 for the first \$50,000 plus ~~\$8.45~~ \$6.25 for each additional \$1,000 or fraction thereof, to and including \$100,000;

(6) \$100,001 to \$500,000, ~~\$1,186.65~~ \$887.25 for the first \$100,000 plus ~~\$6.75~~ \$5 for each additional \$1,000 or fraction thereof, to and including \$500,000;

(7) \$500,001 to \$1,000,000, ~~\$3,886.65~~ \$2,887.25 for the first \$500,000 plus ~~\$5.50~~ \$4.25 for each additional \$1,000 or fraction thereof, to and including \$1,000,000; and

(8) \$1,000,001 and up, ~~\$6,636.65~~ \$5,012.25 for the first \$1,000,000 plus ~~\$4.50~~ \$2.75 for each additional \$1,000 or fraction thereof.

(c) Other inspections and fees are:

(1) inspections outside of normal business hours (minimum charge two hours), \$63.25 per hour;

(2) reinspection fees, \$63.25 per hour;

(3) inspections for which no fee is specifically indicated (minimum charge one-half hour), \$63.25 per hour; and

(4) additional plan review required by changes, additions, or revisions to approved plans (minimum charge one-half hour), \$63.25 per hour.

(d) If the actual hourly cost to the jurisdiction under paragraph (c) is greater than \$63.25, then the greater rate shall be paid. Hourly cost includes supervision, overhead, equipment, hourly wages, and fringe benefits of the employees involved.

**EFFECTIVE DATE.** This section is effective retroactively from October 1, 2021, and the amendments to it expire October 1, 2023.

Sec. 4. Minnesota Statutes 2020, section 326B.163, subdivision 5, is amended to read:

Subd. 5. **Elevator.** As used in this chapter, "elevator" means moving walks and vertical transportation devices such as escalators, passenger elevators, freight elevators, dumbwaiters, hand-powered elevators, endless belt lifts, and wheelchair platform lifts. Elevator does not include external temporary material lifts or temporary construction personnel elevators at sites of construction of new or remodeled buildings.

Sec. 5. Minnesota Statutes 2020, section 326B.163, is amended by adding a subdivision to read:

Subd. 5a. **Platform lift.** As used in this chapter, "platform lift" means a powered hoisting and lowering device designed to transport mobility-impaired persons on a guided platform.

Sec. 6. Minnesota Statutes 2020, section 326B.164, subdivision 13, is amended to read:

Subd. 13. **Exemption from licensing.** (a) Employees of a licensed elevator contractor or licensed limited elevator contractor are not required to hold or obtain a license under this section or be provided with direct supervision by a licensed master elevator constructor, licensed limited master elevator constructor, licensed elevator constructor, or licensed limited elevator constructor to install, maintain, or repair platform lifts and stairway chairlifts. Unlicensed employees performing elevator work under this exemption must comply with subdivision 5. This exemption does not include the installation, maintenance, repair, or replacement of electrical wiring for elevator equipment.

(b) Contractors or individuals shall not be required to hold or obtain a license under this section when performing work on:

(1) conveyors, including vertical reciprocating conveyors;

(2) platform lifts not covered under section 326B.163, subdivision 5a; or

(3) dock levelers.

Sec. 7. Minnesota Statutes 2020, section 326B.36, subdivision 7, is amended to read:

Subd. 7. **Exemptions from inspections.** Installations, materials, or equipment shall not be subject to inspection under sections 326B.31 to 326B.399:

(1) when owned or leased, operated and maintained by any employer whose maintenance electricians are exempt from licensing under sections 326B.31 to 326B.399, while performing electrical maintenance work only as defined by rule;

(2) when owned or leased, and operated and maintained by any electrical, communications, or railway utility, cable communications company as defined in section 238.02, or telephone company as defined under section 237.01, in the exercise of its utility, antenna, or telephone function; and

(i) are used exclusively for the generations, transformation, distribution, transmission, load control, or metering of electric current, or the operation of railway signals, or the transmission of intelligence, and do not have as a principal function the consumption or use of electric current by or for the benefit of any person other than such utility, cable communications company, or telephone company; and

(ii) are generally accessible only to employees of such utility, cable communications company, or telephone company or persons acting under its control or direction; and

(iii) are not on the load side of the service point or point of entrance for communication systems;

(3) when used in the street lighting operations of an electrical utility;

(4) when used as outdoor area lights which are owned and operated by an electrical utility and which are connected directly to its distribution system and located upon the utility's distribution poles, and which are generally accessible only to employees of such utility or persons acting under its control or direction;

(5) when the installation, material, and equipment are in facilities subject to the jurisdiction of the federal Mine Safety and Health Act; or

(6) when the installation, material, and equipment is part of an elevator installation for which the elevator contractor, licensed under section 326B.164, is required to obtain a permit from the authority having jurisdiction as provided by section 326B.184, and the inspection has been or will be performed by an elevator inspector certified and licensed by the department. This exemption shall apply only to installations, material, and equipment permitted or required to be connected on the load side of the disconnecting means required for elevator equipment under National Electrical Code Article 620, and elevator communications and alarm systems within the machine room, car, hoistway, or elevator lobby.

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

Sec. 8. Minnesota Statutes 2020, section 326B.36, is amended by adding a subdivision to read:

**Subd. 8. Electric utility exemptions; additional requirements.** For exemptions to inspections exclusively for load control allowed for electrical utilities under subdivision 7, clause (2), item (i), the exempted work must be:

(1) performed by a class A electrical contractor licensed under section 326B.33;

(2) for replacement or repair of existing equipment for an electric utility other than a public utility as defined in section 216B.02, subdivision 4, only; and

(3) completed on or before December 31, 2030.

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

Sec. 9. **LAWS CHAPTER 32 EFFECTIVE DATE.**

Notwithstanding any other law to the contrary, Laws 2022, chapter 32, articles 1 and 2, sections 1 to 12, are effective the day following final enactment, and Laws 2022, chapter 32, article 1, section 1, applies to appointments made on or after that date.

## ARTICLE 6

### COMMERCE POLICY

Section 1. Minnesota Statutes 2021 Supplement, section 62J.26, subdivision 2, is amended to read:

Subd. 2. **Evaluation process and content.** (a) The commissioner, in consultation with the commissioners of health and management and budget, must evaluate all mandated health benefit proposals as provided under subdivision 3.

(b) The purpose of the evaluation is to provide the legislature with a complete and timely analysis of all ramifications of any mandated health benefit proposal. The evaluation must include, in addition to other relevant information, the following to the extent applicable:

(1) scientific and medical information on the mandated health benefit proposal, on the potential for harm or benefit to the patient, and on the comparative benefit or harm from alternative forms of treatment, and must include the results of at least one professionally accepted and controlled trial comparing the medical consequences of the proposed therapy, alternative therapy, and no therapy;

(2) public health, economic, and fiscal impacts of the mandated health benefit proposal on persons receiving health services in Minnesota, on the relative cost-effectiveness of the proposal, and on the health care system in general;

(3) the extent to which the treatment, service, equipment, or drug is generally utilized by a significant portion of the population;

(4) the extent to which insurance coverage for the mandated health benefit proposal is already generally available;

(5) the extent to which the mandated health benefit proposal, by health plan category, would apply to the benefits offered to the health plan's enrollees;

(6) the extent to which the mandated health benefit proposal will increase or decrease the cost of the treatment, service, equipment, or drug;

(7) the extent to which the mandated health benefit proposal may increase enrollee premiums;  
and

(8) if the proposal applies to a qualified health plan as defined in section 62A.011, subdivision 7, the cost to the state to defray the cost of the mandated health benefit proposal using commercial market reimbursement rates in accordance with Code of Federal Regulations, title 45, section 155.70.

(c) The commissioner shall consider actuarial analysis done by health plan companies and any other proponent or opponent of the mandated health benefit proposal in determining the cost of the proposal.

(d) The commissioner must summarize the nature and quality of available information on these issues, and, if possible, must provide preliminary information to the public. The commissioner may conduct research on these issues or may determine that existing research is sufficient to meet the informational needs of the legislature. The commissioner may seek the assistance and advice of researchers, community leaders, or other persons or organizations with relevant expertise. The commissioner must provide the public with at least 45 days' notice when requesting information pursuant to this section. The commissioner must notify the prospective authors or chief authors of a bill or amendment when a request for information is issued.

(e) Information submitted to the commissioner pursuant to this section that meets the definition of trade secret information, as defined under section 13.37, subdivision 1, paragraph (b), is nonpublic data.

Sec. 2. Minnesota Statutes 2020, section 62Q.735, subdivision 1, is amended to read:

Subdivision 1. **Contract disclosure.** (a) Before requiring a health care provider to sign a contract, a health plan company shall give to the provider a complete copy of the proposed contract, including:

(1) all attachments and exhibits;

(2) operating manuals;

(3) a general description of the health plan company's health service coding guidelines and requirement for procedures and diagnoses with modifiers, and multiple procedures; and

(4) all guidelines and treatment parameters incorporated or referenced in the contract.

(b) The health plan company shall make available to the provider the fee schedule or a method or process that allows the provider to determine the fee schedule for each health care service to be provided under the contract.

~~(c) Notwithstanding paragraph (b), a health plan company that is a dental plan organization, as defined in section 62Q.76, shall disclose information related to the individual contracted provider's expected reimbursement from the dental plan organization. Nothing in this section requires a dental plan organization to disclose the plan's aggregate maximum allowable fee table used to determine other providers' fees. The contracted provider must not release this information in any way that would violate any state or federal antitrust law.~~

Sec. 3. Minnesota Statutes 2020, section 62Q.735, subdivision 5, is amended to read:

Subd. 5. **Fee schedules.** ~~(a)~~ A health plan company shall provide, upon request, any additional fees or fee schedules relevant to the particular provider's practice beyond those provided with the

renewal documents for the next contract year to all participating providers, excluding claims paid under the pharmacy benefit. Health plan companies may fulfill the requirements of this section by making the full fee schedules available through a secure web portal for contracted providers.

~~(b) A dental organization may satisfy paragraph (a) by complying with section 62Q.735, subdivision 1, paragraph (c).~~

Sec. 4. Minnesota Statutes 2020, section 62Q.76, is amended by adding a subdivision to read:

Subd. 9. **Third party.** "Third party" means a person or entity that enters into a contract with a dental organization or with another third party to gain access to the dental care services or contractual discounts under a dental provider contract. Third party does not include an enrollee of a dental organization or an employer or other group for whom the dental organization provides administrative services.

**EFFECTIVE DATE.** This section is effective January 1, 2023, and applies to dental plans and dental provider agreements offered, issued, or renewed on or after that date.

Sec. 5. Minnesota Statutes 2020, section 62Q.78, is amended by adding a subdivision to read:

Subd. 7. **Network leasing.** (a) A dental organization may grant a third party access to a dental provider contract, or a provider's dental care services or contractual discounts provided pursuant to a dental provider contract, if at the time the dental provider contract is entered into or renewed the dental organization allows a dentist to choose not to participate in third-party access to the dental provider contract, without any penalty to the dentist. The third-party access provision of the dental provider contract must be clearly identified. A dental organization must not grant a third party access to the dental provider contract of any dentist who does not participate in third-party access to the dental provider contract.

(b) Notwithstanding paragraph (a), if a dental organization exists solely for the purpose of recruiting dentists for dental provider contracts that establish a network to be leased to third parties, the dentist waives the right to choose whether to participate in third-party access.

(c) A dental organization may grant a third party access to a dental provider contract, or a dentist's dental care services or contractual discounts under a dental provider contract, if the following requirements are met:

(1) the dental organization lists all third parties that may have access to the dental provider contract on the dental organization's website, which must be updated at least once every 90 days;

(2) the dental provider contract states that the dental organization may enter into an agreement with a third party that would allow the third party to obtain the dental organization's rights and responsibilities as if the third party were the dental organization, and the dentist chose to participate in third-party access at the time the dental provider contract was entered into; and

(3) the third party accessing the dental provider contract agrees to comply with all applicable terms of the dental provider contract.

(d) A dentist is not bound by and is not required to perform dental care services under a dental provider contract granted to a third party in violation of this section.

(e) This subdivision does not apply when:

(1) the dental provider contract is for dental services provided under a public health plan program, including but not limited to medical assistance, MinnesotaCare, Medicaid, or Medicare Advantage; or

(2) access to a dental provider contract is granted to a dental organization, an entity operating in accordance with the same brand licensee program as the dental organization or other entity, or to an entity that is an affiliate of the dental organization, provided the entity agrees to substantially similar terms and conditions of the originating dental provider contract between the dental organization and the dentist or dental clinic. A list of the dental organization's affiliates must be posted on the dental organization's website.

Sec. 6. Minnesota Statutes 2020, section 62Q.79, is amended by adding a subdivision to read:

Subd. 7. **Method of payments.** A dental provider contract must include a method of payment for dental care services in which no fees associated with the method of payment, including credit card fees and fees related to payment in the form of digital or virtual currency, are incurred by the dentist or dental clinic. Any fees that may be incurred from a payment must be disclosed to a dentist prior to entering into or renewing a dental provider contract. For purposes of this section, fees related to a provider's electronic claims processing vendor, financial institution, or other vendor used by a provider to facilitate the submission of claims are excluded.

Sec. 7. Minnesota Statutes 2020, section 515B.3-102, is amended to read:

#### **515B.3-102 POWERS OF UNIT OWNERS' ASSOCIATION.**

(a) Except as provided in subsections (b), (c), (d), ~~and~~ (e), (f), and (g), and subject to the provisions of the declaration or bylaws, the association shall have the power to:

(1) adopt, amend and revoke rules and regulations not inconsistent with the articles of incorporation, bylaws and declaration, as follows: (i) regulating the use of the common elements; (ii) regulating the use of the units, and conduct of unit occupants, which may jeopardize the health, safety or welfare of other occupants, which involves noise or other disturbing activity, or which may damage the common elements or other units; (iii) regulating or prohibiting animals; (iv) regulating changes in the appearance of the common elements and conduct which may damage the common interest community; (v) regulating the exterior appearance of the common interest community, including, for example, balconies and patios, window treatments, and signs and other displays, regardless of whether inside a unit; (vi) implementing the articles of incorporation, declaration and bylaws, and exercising the powers granted by this section; and (vii) otherwise facilitating the operation of the common interest community;

(2) adopt and amend budgets for revenues, expenditures and reserves, and levy and collect assessments for common expenses from unit owners;

(3) hire and discharge managing agents and other employees, agents, and independent contractors;



(4) institute, defend, or intervene in litigation or administrative proceedings (i) in its own name on behalf of itself or two or more unit owners on matters affecting the common elements or other matters affecting the common interest community or, (ii) with the consent of the owners of the affected units on matters affecting only those units;

(5) make contracts and incur liabilities;

(6) regulate the use, maintenance, repair, replacement, and modification of the common elements and the units;

(7) cause improvements to be made as a part of the common elements, and, in the case of a cooperative, the units;

(8) acquire, hold, encumber, and convey in its own name any right, title, or interest to real estate or personal property, but (i) common elements in a condominium or planned community may be conveyed or subjected to a security interest only pursuant to section 515B.3-112, or (ii) part of a cooperative may be conveyed, or all or part of a cooperative may be subjected to a security interest, only pursuant to section 515B.3-112;

(9) grant or amend easements for public utilities, public rights-of-way or other public purposes, and cable television or other communications, through, over or under the common elements; grant or amend easements, leases, or licenses to unit owners for purposes authorized by the declaration; and, subject to approval by a vote of unit owners other than declarant or its affiliates, grant or amend other easements, leases, and licenses through, over or under the common elements;

(10) impose and receive any payments, fees, or charges for the use, rental, or operation of the common elements, other than limited common elements, and for services provided to unit owners;

(11) impose interest and late charges for late payment of assessments and, after notice and an opportunity to be heard before the board or a committee appointed by it, levy reasonable fines for violations of the declaration, bylaws, and rules and regulations of the association;

(12) impose reasonable charges for the review, preparation and recordation of amendments to the declaration, resale certificates required by section 515B.4-107, statements of unpaid assessments, or furnishing copies of association records;

(13) provide for the indemnification of its officers and directors, and maintain directors' and officers' liability insurance;

(14) provide for reasonable procedures governing the conduct of meetings and election of directors;

(15) exercise any other powers conferred by law, or by the declaration, articles of incorporation or bylaws; and

(16) exercise any other powers necessary and proper for the governance and operation of the association.

(b) Notwithstanding subsection (a) the declaration or bylaws may not impose limitations on the power of the association to deal with the declarant which are more restrictive than the limitations imposed on the power of the association to deal with other persons.

(c) An association levying a fine pursuant to subsection (a)(11), or an assessment pursuant to section 515B.3-115(g) or 515B.3-1151(g), must provide written notice to a unit owner that:

(1) indicates the amount, date, and reason for the levy;

(2) identifies the violation for which a fine is being levied and the specific section of the declaration, bylaws, or rules and regulations allegedly violated;

(3) states that all unpaid fines and assessments are liens which, if not satisfied, could lead to foreclosure of the unit;

(4) describes the right of the unit owner to be heard by the board or a committee appointed by the board;

(5) states that if the assessment or fine is not paid, the amount owed may increase as a result of the imposition of attorney fees and other costs of collection; and

(6) informs the unit owner that homeownership assistance is available from, and includes the contact information for, the Minnesota Homeownership Center.

(d) No attorney fees are chargeable or may be collected from a unit owner who disputes the levy or assessment and prevails at a hearing held by the board or a committee appointed by the board.

~~(e)~~ (e) Notwithstanding subsection (a), powers exercised under this section must comply with section 500.215.

~~(f)~~ (f) Notwithstanding subsection (a)(4) or any other provision of this chapter, the association, before instituting litigation or arbitration involving construction defect claims against a development party, shall:

(1) mail or deliver written notice of the anticipated commencement of the action to each unit owner at the addresses, if any, established for notices to owners in the declaration and, if the declaration does not state how notices are to be given to owners, to the owner's last known address. The notice shall specify the nature of the construction defect claims to be alleged, the relief sought, and the manner in which the association proposes to fund the cost of pursuing the construction defect claims; and

(2) obtain the approval of owners of units to which a majority of the total votes in the association are allocated. Votes allocated to units owned by the declarant, an affiliate of the declarant, or a mortgagee who obtained ownership of the unit through a foreclosure sale are excluded. The association may obtain the required approval by a vote at an annual or special meeting of the members or, if authorized by the statute under which the association is created and taken in compliance with that statute, by a vote of the members taken by electronic means or mailed ballots. If the association holds a meeting and voting by electronic means or mailed ballots is authorized by that statute, the

association shall also provide for voting by those methods. Section 515B.3-110(c) applies to votes taken by electronic means or mailed ballots, except that the votes must be used in combination with the vote taken at a meeting and are not in lieu of holding a meeting, if a meeting is held, and are considered for purposes of determining whether a quorum was present. Proxies may not be used for a vote taken under this paragraph unless the unit owner executes the proxy after receipt of the notice required under subsection ~~(d)~~ (f)(1) and the proxy expressly references this notice.

~~(e)~~ (g) The association may intervene in a litigation or arbitration involving a construction defect claim or assert a construction defect claim as a counterclaim, crossclaim, or third-party claim before complying with subsections ~~(d)~~ (f)(1) and ~~(d)~~ (f)(2) but the association's complaint in an intervention, counterclaim, crossclaim, or third-party claim shall be dismissed without prejudice unless the association has complied with the requirements of subsection ~~(d)~~ (f) within 90 days of the association's commencement of the complaint in an intervention or the assertion of the counterclaim, crossclaim, or third-party claim.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

## ARTICLE 7

### ENERGY POLICY AND FINANCE

Section 1. Minnesota Statutes 2021 Supplement, section 116C.7792, is amended to read:

#### **116C.7792 SOLAR ENERGY PRODUCTION INCENTIVE PROGRAM.**

(a) The utility subject to section 116C.779 shall operate a program to provide solar energy production incentives for solar energy systems of no more than a total aggregate nameplate capacity of 40 kilowatts alternating current per premise. The owner of a solar energy system installed before June 1, 2018, is eligible to receive a production incentive under this section for any additional solar energy systems constructed at the same customer location, provided that the aggregate capacity of all systems at the customer location does not exceed 40 kilowatts.

(b) The program is funded by money withheld from transfer to the renewable development account under section 116C.779, subdivision 1, paragraphs (b) and (e). Program funds must be placed in a separate account for the purpose of the solar energy production incentive program operated by the utility and not for any other program or purpose.

(c) Funds allocated to the solar energy production incentive program in 2019 and 2020 remain available to the solar energy production incentive program.

(d) The following amounts are allocated to the solar energy production incentive program:

(1) \$10,000,000 in 2021;

(2) \$10,000,000 in 2022;

(3) ~~\$5,000,000~~ \$10,000,000 in 2023; ~~and~~

(4) ~~\$5,000,000~~ \$10,000,000 in 2024; ~~and~~

(5) \$10,000,000 in 2025.

(e) Funds allocated to the solar energy production incentive program that have not been committed to a specific project at the end of a program year remain available to the solar energy production incentive program.

(f) Any unspent amount remaining on January 1, ~~2025~~ 2027, must be transferred to the renewable development account.

(g) A solar energy system receiving a production incentive under this section must be sized to less than 120 percent of the customer's on-site annual energy consumption when combined with other distributed generation resources and subscriptions provided under section 216B.1641 associated with the premise. The production incentive must be paid for ten years commencing with the commissioning of the system.

(h) The utility must file a plan to operate the program with the commissioner of commerce. The utility may not operate the program until it is approved by the commissioner. A change to the program to include projects up to a nameplate capacity of 40 kilowatts or less does not require the utility to file a plan with the commissioner. Any plan approved by the commissioner of commerce must not provide an increased incentive scale over prior years unless the commissioner demonstrates that changes in the market for solar energy facilities require an increase.

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

Sec. 2. **[116C.7793] SOLAR ENERGY; CONTINGENCY ACCOUNT.**

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

**(b) "Agency" means the Pollution Control Agency.**

**(c) "Area C" means the site located west of Mississippi River Boulevard in St. Paul that served as an industrial waste dump for the former Ford Twin Cities Assembly Plant.**

**(d) "Commissioner" means the commissioner of commerce.**

**(e) "Corrective action determination" means a decision by the agency regarding actions to be taken to remediate contaminated soil and groundwater at Area C.**

**(f) "Owner" means the owner of a solar energy generating system planned to be deployed at Area C.**

**(g) "Solar energy generating system" has the meaning given in section 216E.01, subdivision 9a.**

**Subd. 2. Account established.** The Area C contingency account is established as a separate account in the special revenue fund in the state treasury. Transfers and appropriations to the account, and any earnings or dividends accruing to assets in the account, must be credited to the account. The commissioner must serve as fiscal agent and must manage the account.

Subd. 3. **Distribution of funds; conditions.** Money from the account may be distributed by the commissioner to the owner of a solar energy generating system planned to be deployed on Area C under the following conditions:

(1) the agency issues a corrective action determination after the owner has begun to design or construct the project, and the commissioner determines that implementation of the corrective action results in a need for the project to be redesigned or construction to be interrupted or altered; or

(2) the agency issues a corrective action determination whose work plan results in the temporary cessation or the partial or complete removal of the solar energy generating system after the solar energy generating system has become operational.

Subd. 4. **Distribution of funds; process.** (a) The owner may file a request for distribution of money from the commissioner if either condition in subdivision 3 occurs. The filing must describe (1) the nature of the impact of the agency's work plan that results in economic losses to the owner, and (2) a reasonable estimate of the amount of the economic losses.

(b) The owner must provide the commissioner with information the commissioner determines is necessary to assist in reviewing the filing required under this subdivision.

(c) The commissioner must review the owner's filing within 60 days of submission and must approve a request the commissioner determines is reasonable.

Subd. 5. **Expenditures.** Money distributed by the commissioner to the owner under this section may be used by the owner only to pay for:

(1) removal, storage, and transportation costs incurred for equipment removed, and any costs to reinstall equipment;

(2) costs of redesign or new equipment made necessary by the activities under the agency's work plan;

(3) lost revenues resulting from the inability of the solar energy generating system to generate sufficient electricity to fulfill the terms of the power purchase agreement between the owner and the purchaser of electricity generated by the solar energy generating system;

(4) other damages incurred under the power purchase agreement resulting from the cessation of operations made necessary by the activities of the agency's work plan; and

(5) the cost of energy required to replace the energy that would have been generated by the solar energy generating system and purchased under the power purchase agreement.

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

Sec. 3. Minnesota Statutes 2020, section 116J.55, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** For the purposes of this section, "eligible community" means a county, municipality, or tribal government located in Minnesota in which an electric generating plant owned by a public utility, as defined in section 216B.02, that is powered by coal, nuclear energy, or natural gas:

(1) is currently operating and (i) is scheduled to cease operations ~~or~~, (ii) whose cessation of operations has been proposed in an integrated resource plan filed with the commission under section 216B.2422~~;~~, or (iii) whose current operating license expires within 15 years of the effective date of this section; or

(2) ceased operations or was removed from the local property tax base no earlier than five years before the date an application is made for a grant under this section.

Sec. 4. Minnesota Statutes 2020, section 116J.55, subdivision 5, is amended to read:

Subd. 5. **Grant awards; limitations.** ~~(a) The commissioner must award grants under this section to eligible communities through a competitive grant process.~~

~~(b)~~ (a) A grant awarded to an eligible community under this section must not exceed \$500,000 in any calendar year. The commissioner may accept grant applications on an ongoing or rolling basis.

~~(c)~~ (b) Grants funded with revenues from the renewable development account established in section 116C.779 must be awarded to an eligible community located within the retail electric service territory of the public utility that is subject to section 116C.779 or to an eligible community in which an electric generating plant owned by that public utility is located.

Sec. 5. Minnesota Statutes 2020, section 216B.096, subdivision 11, is amended to read:

Subd. 11. **Reporting.** Annually on ~~November 1~~ October 15, a utility must electronically file with the commission a report, in a format specified by the commission, specifying the number of utility heating service customers whose service is disconnected or remains disconnected for nonpayment as of September 15 and October 1 ~~and October 15~~. If customers remain disconnected on ~~October 15~~ 1, a utility must file a report each week between ~~November 1~~ October 15 and the end of the cold weather period specifying:

(1) the number of utility heating service customers that are or remain disconnected from service for nonpayment; and

(2) the number of utility heating service customers that are reconnected to service each week. The utility may discontinue weekly reporting if the number of utility heating service customers that are or remain disconnected reaches zero before the end of the cold weather period.

The data reported under this subdivision are presumed to be accurate upon submission and must be made available through the commission's electronic filing system.

Sec. 6. **[216B.491] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 216B.491 to 216B.499, the terms defined in this subdivision have the meanings given.

Subd. 2. **Ancillary agreement.** "Ancillary agreement" means any bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, liquidity or credit support arrangement, or other financial arrangement entered into in connection with extraordinary

event bonds that is designed to promote the credit quality and marketability of extraordinary event bonds or to mitigate the risk of an increase in interest rates.

Subd. 3. **Assignee.** "Assignee" means any person to which an interest in extraordinary event property is sold, assigned, transferred, or conveyed, other than as security, and any successor to or subsequent assignee of the person.

Subd. 4. **Bondholder.** "Bondholder" means any holder or owner of extraordinary event bonds.

Subd. 5. **Customer.** "Customer" means a person who takes natural gas service from a natural gas utility in Minnesota to consume the natural gas in Minnesota. Customer does not include a person who: (1) is a customer of a utility in Minnesota that serves fewer than 350,000 customers in Minnesota; and (2) does not purchase natural gas from a utility in Minnesota.

Subd. 6. **Extraordinary event.** (a) "Extraordinary event" means an event arising from unforeseen circumstances and of sufficient magnitude, as determined by the commission:

(1) to impose significant costs on customers; and

(2) for which the issuance of extraordinary event bonds in response to the event meets the conditions of section 216B.492, subdivision 2, as determined by the commission.

(b) Extraordinary event includes but is not limited to a storm event or other natural disaster, an act of God, war, terrorism, sabotage or vandalism, a cybersecurity attack, or a temporary significant increase in the wholesale price of natural gas.

Subd. 7. **Extraordinary event activity.** "Extraordinary event activity" means an activity undertaken by or on behalf of a utility to restore or maintain the utility's ability to provide natural gas service following one or more extraordinary events, including but not limited to (1) activities related to the mobilization, staging, construction, reconstruction, replacement, or repair of natural gas transmission, distribution, storage, or general facilities, or (2) the purchase, transportation, and storage of natural gas supplies.

Subd. 8. **Extraordinary event bonds.** "Extraordinary event bonds" means low-cost corporate securities, including but not limited to senior secured bonds, debentures, notes, certificates of participation, certificates of beneficial interest, certificates of ownership, or other evidences of indebtedness or ownership that have a scheduled maturity of no longer than 30 years and a final legal maturity date that is not later than 32 years from the issue date, that are rated AA or Aa2 or better by a major independent credit rating agency at the time of issuance, and that are issued by a utility or an assignee under a financing order.

Subd. 9. **Extraordinary event charge.** "Extraordinary event charge" means a nonbypassable charge that:

(1) is imposed on all customer bills by a utility that is the subject of a financing order or the utility's successors or assignees;

(2) is separate from the utility's base rates; and

(3) provides a source of revenue solely to repay, finance, or refinance financing costs resulting from an extraordinary event.

Subd. 10. **Extraordinary event costs.** "Extraordinary event costs":

(1) means all incremental costs of extraordinary event activities that are approved by the commission in a financing order issued under section 216B.492 as being:

(i) necessary to enable the utility to restore or maintain natural gas service to customers after the utility experiences an extraordinary event; and

(ii) prudent and reasonable;

(2) includes costs to repurchase equity or retire any indebtedness relating to extraordinary event activities;

(3) shall be net of applicable insurance proceeds, tax benefits, and any other amounts intended to reimburse the utility for extraordinary event activities, including government grants or aid of any kind;

(4) do not include any monetary penalty, fine, or forfeiture assessed against a utility by a government agency or court under a federal or state environmental statute, rule, or regulation; and

(5) must be adjusted to reflect:

(i) the difference, as determined by the commission, between extraordinary event costs that the utility expects to incur and actual, reasonable, and prudent costs incurred; or

(ii) a more fair or reasonable allocation of extraordinary event costs to customers over time, as expressed in a commission order.

Subd. 11. **Extraordinary event property.** "Extraordinary event property" means:

(1) all rights and interests of a utility or the utility's successor or assignee under a financing order for the right to impose, bill, collect, receive, and obtain periodic adjustments to extraordinary event charges authorized under a financing order issued by the commission; and

(2) all revenue, collections, claims, rights to payments, payments, money, or proceeds arising from the rights and interests specified in clause (1), regardless of whether any are commingled with other revenue, collections, rights to payment, payments, money, or proceeds.

Subd. 12. **Extraordinary event revenue.** "Extraordinary event revenue" means revenue, receipts, collections, payments, money, claims, or other proceeds arising from extraordinary event property.

Subd. 13. **Financing costs.** "Financing costs" means:

(1) principal, interest, and redemption premiums that are payable on extraordinary event bonds;



(2) payments required under an ancillary agreement and amounts required to fund or replenish a reserve account or other accounts established under the terms of any indenture, ancillary agreement, or other financing document pertaining to the bonds;

(3) other demonstrable costs related to issuing, supporting, repaying, refunding, and servicing the bonds, including but not limited to servicing fees, accounting and auditing fees, trustee fees, legal fees, consulting fees, financial adviser fees, administrative fees, placement and underwriting fees, capitalized interest, rating agency fees, stock exchange listing and compliance fees, security registration fees, filing fees, information technology programming costs, and any other demonstrable costs necessary to otherwise ensure and guarantee the timely payment of the bonds or other amounts or charges payable in connection with the bonds;

(4) taxes and license fees imposed on the revenue generated from collecting an extraordinary event charge;

(5) state and local taxes, including franchise, sales and use, and other taxes or similar charges, including but not limited to regulatory assessment fees, whether paid, payable, or accrued; and

(6) costs incurred by the commission to hire and compensate additional temporary staff needed to perform the commission's responsibilities under this section and, in accordance with section 216B.494, to engage specialized counsel and expert consultants experienced in securitized utility ratepayer-backed bond financing similar to extraordinary event bonds.

Subd. 14. **Financing order.** "Financing order" means an order issued by the commission under section 216B.492 that authorizes an applicant to:

- (1) issue extraordinary event bonds in one or more series;
- (2) impose, charge, and collect extraordinary event charges; and
- (3) create extraordinary event property.

Subd. 15. **Financing party.** "Financing party" means a holder of extraordinary event bonds and a trustee, a collateral agent, a party under an ancillary agreement, or any other person acting for the benefit of extraordinary event bondholders.

Subd. 16. **Natural gas facility.** "Natural gas facility" means natural gas pipelines, including distribution lines, underground storage areas, liquefied natural gas facilities, propane storage tanks, and other facilities the commission determines are used and useful to provide natural gas service to retail and transportation customers in Minnesota.

Subd. 17. **Nonbypassable.** "Nonbypassable" means that the payment of an extraordinary event charge required to repay bonds and related costs may not be avoided by any retail customer located within a utility service area.

Subd. 18. **Pretax costs.** "Pretax costs" means costs incurred by a utility and approved by the commission, including but not limited to:

- (1) unrecovered capitalized costs of replaced natural gas facilities damaged or destroyed by a storm event;

(2) costs to decommission and restore the site of a natural gas facility damaged or destroyed by an extraordinary event;

(3) other applicable capital and operating costs, accrued carrying charges, deferred expenses, reductions for applicable insurance, and salvage proceeds; and

(4) costs to retire any existing indebtedness, fees, costs, and expenses to modify existing debt agreements, or for waivers or consents related to existing debt agreements.

Subd. 19. **Storm event.** "Storm event" means a tornado, derecho, ice or snow storm, flood, earthquake, or other significant weather or natural disaster that causes substantial damage to a utility's infrastructure.

Subd. 20. **Successor.** "Successor" means a legal entity that succeeds to the rights and obligations of another legal entity as a result of bankruptcy, reorganization, restructuring, other insolvency proceeding, merger, acquisition, consolidation, or transfer of assets by operation of law, sale, or otherwise.

Subd. 21. **Utility.** "Utility" means a public utility, as defined in section 216B.02, subdivision 4, that provides natural gas service to Minnesota customers. Utility includes the utility's successors or assignees.

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

Sec. 7. **[216B.492] FINANCING ORDER.**

Subdivision 1. **Application.** (a) A utility, at its sole discretion, may file an application with the commission for the issuance of a financing order to enable the utility to recover extraordinary event costs through the issuance of extraordinary event bonds under this section.

(b) The application must include the following information, as applicable:

(1) a description of each natural gas facility to be repaired or replaced;

(2) the undepreciated value remaining in the natural gas facility whose repair or replacement is proposed to be financed through the issuance of bonds under sections 216B.491 to 216B.499, and the method used to calculate the amount;

(3) the estimated amount of costs imposed on customers resulting from an extraordinary event that involves no physical damage to natural gas facilities;

(4) the estimated savings or estimated mitigation of rate impacts to utility customers if the financing order is issued as requested in the application, calculated, as appropriate, by:

(i) comparing the costs to customers that are expected to result from implementing the financing order and the estimated costs associated with implementing traditional utility financing mechanisms with respect to the same undepreciated balance, expressed in net present value terms; or

(ii) when the extraordinary event is a temporary significant increase in the wholesale price of natural gas;

(A) estimating the mitigation of rate impacts to customers realized by extending the period over which financing costs are to be amortized beyond the period that would otherwise be practical or feasible for the utility; or

(B) calculating savings to customers realized by implementing the financing order compared with financing the same costs at the utility's weighted average cost of capital as determined by the commission in the utility's most recent general rate case, expressed in net present value terms;

(5) a description of (i) the nonbypassable extraordinary event charge utility customers would be required to pay in order to fully recover financing costs, and (ii) the method and assumptions used to calculate the amount;

(6) a proposed methodology to allocate the revenue requirement for the extraordinary event charge among the utility's customer classes;

(7) a description of a proposed adjustment mechanism to be implemented when necessary to correct any overcollection or undercollection of extraordinary event charges, in order to complete payment of scheduled principal and interest on extraordinary event bonds and other financing costs in a timely fashion;

(8) a memorandum with supporting exhibits, from a securities firm that is experienced in the marketing of bonds and that is approved by the commissioner of management and budget, indicating the proposed issuance satisfies the current published AA or Aa2 or higher rating or equivalent rating criteria of at least one nationally recognized securities rating organization for issuances similar to the proposed extraordinary event bonds;

(9) an estimate of the timing of the issuance and the term of the extraordinary event bonds, or series of bonds, provided that the scheduled final maturity for each bond issuance does not exceed 30 years;

(10) identification of plans to sell, assign, transfer, or convey, other than as a security, interest in extraordinary event property, including identification of an assignee, and demonstration that the assignee is a financing entity wholly owned, directly or indirectly, by the utility;

(11) identification of ancillary agreements that may be necessary or appropriate;

(12) one or more alternative financing scenarios in addition to the preferred scenario contained in the application;

(13) the extent of damage to the utility's infrastructure caused by an extraordinary event and the estimated costs to repair or replace the damaged infrastructure;

(14) a schedule of the proposed repairs to and replacement of damaged infrastructure;

(15) a description of the steps taken to provide customers interim natural gas service while the damaged infrastructure is being repaired or replaced; and

(16) a description of the impacts on the utility's current workforce resulting from implementing an infrastructure repair or replacement plan following an extraordinary event.

Subd. 2. Findings. After providing notice and holding a public hearing on an application filed under subdivision 1, the commission may issue a financing order if the commission finds that:

(1) the extraordinary event costs described in the application are reasonable;

(2) the proposed issuance of extraordinary event bonds and the imposition and collection of extraordinary event charges:

(i) are just and reasonable;

(ii) are consistent with the public interest;

(iii) constitute a prudent and reasonable mechanism to finance the extraordinary event costs; and

(iv) provide tangible and quantifiable benefits to customers that exceed the benefits that would have been achieved absent the issuance of extraordinary event bonds; and

(3) the proposed structuring, marketing, and pricing of the extraordinary event bonds:

(i) significantly lower overall costs to customers or significantly mitigate rate impacts to customers relative to traditional methods of financing; and

(ii) achieve significant customer savings or significant mitigation of rate impacts to customers, as determined by the commission in a financing order, consistent with market conditions at the time of sale and the terms of the financing order.

Subd. 3. Contents. (a) A financing order issued under this section must:

(1) determine the maximum amount of extraordinary event costs that may be financed from proceeds of extraordinary event bonds issued pursuant to the financing order;

(2) describe the proposed customer billing mechanism for extraordinary event charges and include a finding that the mechanism is just and reasonable;

(3) describe the financing costs that may be recovered through extraordinary event charges and the period over which the costs may be recovered, which must end no earlier than the date of final legal maturity of the extraordinary event bonds;

(4) describe the extraordinary event property that is created and that may be used to pay, and secure the payment of, the extraordinary event bonds and financing costs authorized in the financing order;

(5) authorize the utility to finance extraordinary event costs through the issuance of one or more series of extraordinary event bonds. A utility is not required to secure a separate financing order for each issuance of extraordinary event bonds or for each scheduled phase of the replacement of natural gas facilities approved in the financing order;

(6) include a formula-based mechanism that must be used to make expeditious periodic adjustments to the extraordinary event charge authorized by the financing order that are necessary

to correct for any overcollection or undercollection, or to otherwise guarantee the timely payment of extraordinary event bonds, financing costs, and other required amounts and charges payable in connection with extraordinary event bonds;

(7) specify the degree of flexibility afforded to the utility in establishing the terms and conditions of the extraordinary event bonds, including but not limited to repayment schedules, expected interest rates, and other financing costs;

(8) specify that the extraordinary event bonds must be issued as soon as feasible following issuance of the financing order;

(9) require the utility, at the same time as extraordinary event charges are initially collected and independent of the schedule to close and decommission any natural gas facility replaced as the result of an extraordinary event, to remove the natural gas facility from the utility's rate base and commensurately reduce the utility's base rates;

(10) specify a future ratemaking process to reconcile any difference between the projected pretax costs included in the amount financed by extraordinary event bonds and the final actual pretax costs incurred by the utility to retire or replace the natural gas facility;

(11) specify information regarding bond issuance and repayments, financing costs, energy transaction charges, extraordinary event property, and related matters that the natural gas utility is required to provide to the commission on a schedule determined by the commission;

(12) allow and may require the creation of a utility's extraordinary event property to be conditioned on, and occur simultaneously with, the sale or other transfer of the extraordinary event property to an assignee and the pledge of the extraordinary event property to secure the extraordinary event bonds;

(13) ensure that the structuring, marketing, and pricing of extraordinary event bonds result in reasonable securitization bond charges and significant customer savings or rate impact mitigation, consistent with market conditions and the terms of the financing order;

(14) specify that a utility financing the replacement of one or more natural gas facilities after the natural gas facilities subject to the finance order are removed from the utility's rate base is prohibited from:

(i) operating the natural gas facilities; or

(ii) selling the natural gas facilities to another entity to be operated as natural gas facilities; and

(15) permit a utility to file with the commission, at least annually, proposed adjustments to the extraordinary event charges approved in the financing order that are based on estimates of natural gas consumption by rate class and other quantitative factors contained in the financing order.

(b) A financing order issued under this section may:

(1) include conditions different from those requested in the application, including but not limited to establishing a minimum securities rating for extraordinary event bonds, that the commission determines are necessary to:

(i) promote the public interest; and

(ii) maximize the financial benefits or minimize the financial risks of the transaction to customers and to directly impacted Minnesota workers and communities;

(2) specify the selection of one or more underwriters of the extraordinary event bonds;

(3) require a utility to file with the commission the final terms of the extraordinary event bond issuance, including the pricing of the extraordinary event bonds, at a specified period of time prior to closing the bond issuance; and

(4) specify that the commission may, after reviewing the filing made under clause (3), prohibit the utility from issuing the extraordinary event bonds under the proposed terms.

Subd. 4. **Duration; irrevocability; subsequent order.** (a) A financing order remains in effect until the extraordinary event bonds issued under the financing order and all financing costs related to the bonds have been paid in full.

(b) A financing order remains in effect and unabated notwithstanding the bankruptcy, reorganization, or insolvency of the utility to which the financing order applies or any affiliate, successor, or assignee of the utility to which the financing order applies.

(c) Subject to judicial review under section 216B.52, a financing order is irrevocable and is not reviewable by a future commission. The commission may not reduce, impair, postpone, or terminate extraordinary event charges approved in a financing order, or impair extraordinary event property or the collection or recovery of extraordinary event revenue.

(d) Notwithstanding paragraph (c), the commission may, on the commission's own motion or at the request of a utility or any other person, commence a proceeding and issue a subsequent financing order that provides for refinancing, retiring, or refunding extraordinary event bonds issued under the original financing order if:

(1) the commission makes all of the findings specified in subdivision 2 with respect to the subsequent financing order; and

(2) the modification contained in the subsequent financing order does not in any way impair the covenants and terms of the extraordinary event bonds being refinanced, retired, or refunded.

Subd. 5. **Effect on commission jurisdiction.** (a) Except as provided in paragraph (b), the commission, in exercising the powers and carrying out the duties under this section, is prohibited from:

(1) considering extraordinary event bonds issued under this section to be debt of the utility other than for income tax purposes, unless it is necessary to consider the extraordinary event bonds to be debt in order to achieve consistency with prevailing utility debt rating methodologies;

(2) considering the extraordinary event charges paid under the financing order to be revenue of the utility;

(3) considering the extraordinary event or financing costs specified in the financing order to be the regulated costs or assets of the utility;

(4) determining that any prudent action taken by a utility that is consistent with the financing order is unjust or unreasonable; or

(5) adjusting the extraordinary event charge based on a utility's submission under subdivision 3, paragraph (a), clause (15), for any reason other than a computational or clerical error.

(b) Nothing in this subdivision:

(1) affects the authority of the commission to apply any billing mechanism designed to recover extraordinary event charges;

(2) prevents or precludes the commission from (i) investigating a utility's compliance with the terms and conditions of a financing order, and (ii) requiring compliance with the financing order; or

(3) prevents or precludes the commission from imposing regulatory sanctions against a utility for failure to comply with the terms and conditions of a financing order or the requirements of this section.

(c) The commission is prohibited from refusing to allow a utility to recover any costs associated with the replacement of natural gas facilities solely because the utility has elected to finance the natural gas facility replacement through a financing mechanism other than extraordinary event bonds.

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

**Sec. 8. [216B.493] POSTORDER COMMISSION DUTIES.**

Subdivision 1. **Financing cost review.** Within 120 days after the date extraordinary event bonds are issued, a utility subject to a financing order must file with the commission the actual initial and ongoing financing costs, the final structure and pricing of the extraordinary event bonds, and the actual extraordinary event charge.

Subd. 2. **Enforcement.** If the commission determines that a utility's actions under this section are not prudent or are inconsistent with the financing order, the commission may apply any remedies available, provided that any remedy applied may not directly or indirectly impair the security for the extraordinary event bonds.

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

**Sec. 9. [216B.494] USE OF OUTSIDE EXPERTS.**

(a) In carrying out the duties under sections 216B.492 to 216B.499, the commission may:

(1) contract with outside consultants and counsel experienced in securitized utility customer-backed bond financing similar to extraordinary event bonds; and

(2) hire and compensate additional temporary staff as needed.

Expenses incurred by the commission under this paragraph must be treated as financing costs and included in the extraordinary event charge. The costs incurred under clause (1) are not an obligation of the state and are assigned solely to the transaction.

(b) A utility presented with a written request from the commission for reimbursement of the commission's expenses incurred under paragraph (a), accompanied by a detailed account of those expenses, must remit full payment of the expenses to the commission within 30 days of receiving the request.

(c) If a utility's application for a financing order is denied or withdrawn for any reason and extraordinary event bonds are not issued, the commission's costs to retain expert consultants under this section must be paid by the applicant utility and are deemed to be prudent deferred expenses eligible for recovery in the utility's future rates.

(d) To facilitate participation in a commission proceeding associated with a utility filing made under section 216B.492, the department and the commission may contract with outside consultants and counsel experienced in securitized utility customer-backed bond financing similar to extraordinary event bonds. Expenses incurred by the department and the commission under this paragraph may be assessed under section 216B.62, subdivision 8.

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

Sec. 10. **[216B.495] EXTRAORDINARY EVENT CHARGE; BILLING TREATMENT.**

(a) A utility that obtains a financing order and causes extraordinary event bonds to be issued must:

(1) include on each customer's monthly natural gas bill:

(i) a statement that a portion of the charges represents extraordinary event charges approved in a financing order;

(ii) the amount and rate of the extraordinary event charge as a separate line item titled "extraordinary event charge"; and

(iii) if extraordinary event property has been transferred to an assignee, a statement that the assignee is the owner of the rights to extraordinary event charges and that the utility or other entity, if applicable, is acting as a collection agent or servicer for the assignee; and

(2) file annually with the commission:

(i) a calculation of the impact of financing the retirement or replacement of natural gas facilities on customer rates, itemized by customer class; and

(ii) evidence demonstrating that extraordinary event revenues are applied solely to the repayment of extraordinary event bonds and other financing costs.



(b) Extraordinary event charges are nonbypassable and must be paid by all existing and future customers receiving service from the utility or the utility's successors or assignees under commission-approved rate schedules or special contracts.

(c) A utility's failure to comply with this section does not invalidate, impair, or affect any financing order, extraordinary event property, extraordinary event charge, or extraordinary event bonds, but does subject the utility to penalties under applicable commission rules.

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

**Sec. 11. [216B.496] EXTRAORDINARY EVENT PROPERTY.**

Subdivision 1. **General.** (a) Extraordinary event property is an existing present property right or interest in a property right, even though the imposition and collection of extraordinary event charges depend on the utility collecting extraordinary event charges and on future natural gas consumption. The property right or interest exists regardless of whether the revenues or proceeds arising from the extraordinary event property have been billed, have accrued, or have been collected.

(b) Extraordinary event property exists until all extraordinary event bonds issued under a financing order are paid in full and all financing costs and other costs of the extraordinary event bonds have been recovered in full.

(c) All or any portion of extraordinary event property described in a financing order issued to a utility may be transferred, sold, conveyed, or assigned to a successor or assignee that is wholly owned, directly or indirectly, by the utility and is created for the limited purpose of acquiring, owning, or administering extraordinary event property or issuing extraordinary event bonds authorized by the financing order. All or any portion of extraordinary event property may be pledged to secure extraordinary event bonds issued under a financing order, amounts payable to financing parties and to counterparties under any ancillary agreements, and other financing costs. Each transfer, sale, conveyance, assignment, or pledge by a utility or an affiliate of extraordinary event property is a transaction in the ordinary course of business.

(d) If a utility defaults on any required payment of charges arising from extraordinary event property described in a financing order, a court, upon petition by an interested party and without limiting any other remedies available to the petitioner, must order the sequestration and payment of the revenues arising from the extraordinary event property to the financing parties.

(e) The interest of a transferee, purchaser, acquirer, assignee, or pledgee in extraordinary event property specified in a financing order issued to a utility, and in the revenue and collections arising from the property, is not subject to setoff, counterclaim, surcharge, or defense by the utility or any other person, or in connection with the reorganization, bankruptcy, or other insolvency of the utility or any other entity.

(f) A successor to a utility, whether resulting from a reorganization, bankruptcy, or other insolvency proceeding; merger or acquisition; sale; other business combination; transfer by operation of law; utility restructuring; or otherwise, must perform and satisfy all obligations of, and has the same duties and rights under, a financing order as the utility to which the financing order applies. A successor to a utility must perform the duties and exercise the rights in the same manner and to

the same extent as the utility, including collecting and paying to any person entitled to receive revenues, collections, payments, or proceeds of extraordinary event property.

Subd. 2. **Security interests in extraordinary event property.** (a) The creation, perfection, and enforcement of any security interest in extraordinary event property to secure the repayment of the principal and interest on extraordinary event bonds, amounts payable under any ancillary agreement, and other financing costs are governed solely by this section.

(b) A security interest in extraordinary event property is created, valid, and binding when:

(1) the financing order that describes the extraordinary event property is issued;

(2) a security agreement is executed and delivered; and

(3) value is received for the extraordinary event bonds.

(c) Once a security interest in extraordinary event property is created, the security interest attaches without any physical delivery of collateral or any other act. The lien of the security interest is valid, binding, and perfected against all parties having claims of any kind in tort, contract, or otherwise against the person granting the security interest, regardless of whether the parties have notice of the lien, upon the filing of a financing statement with the secretary of state.

(d) The description or indication of extraordinary event property in a transfer or security agreement and a financing statement is sufficient only if the description or indication refers to this section and the financing order creating the extraordinary event property.

(e) A security interest in extraordinary event property is a continuously perfected security interest and has priority over any other lien, created by operation of law or otherwise, which may subsequently attach to the extraordinary event property unless the holder of the security interest has agreed otherwise in writing.

(f) The priority of a security interest in extraordinary event property is not affected by the commingling of extraordinary event property or extraordinary event revenue with other money. An assignee, bondholder, or financing party has a perfected security interest in the amount of all extraordinary event property or extraordinary event revenue that is pledged to pay extraordinary event bonds, even if the extraordinary event property or extraordinary event revenue is deposited in a cash or deposit account of the utility in which the extraordinary event revenue is commingled with other money. Any other security interest that applies to the other money does not apply to the extraordinary event revenue.

(g) Neither a subsequent commission order amending a financing order under section 216B.492, subdivision 4, nor application of an adjustment mechanism authorized by a financing order under section 216B.492, subdivision 3, affects the validity, perfection, or priority of a security interest in or transfer of extraordinary event property.

(h) A valid and enforceable security interest in extraordinary event property is perfected only when the security interest has attached and when a financing order has been filed with the secretary of state in accordance with procedures established by the secretary of state. The financing order must name the pledgor of the extraordinary event property as debtor and identify the property.

Subd. 3. Sales of extraordinary event property. (a) A sale, assignment, or transfer of extraordinary event property is an absolute transfer and true sale of, and not a pledge of or secured transaction relating to, the seller's right, title, and interest in, to, and under the extraordinary event property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer. A transfer of an interest in extraordinary event property may be created when:

(1) the financing order creating and describing the extraordinary event property is effective;

(2) the documents evidencing the transfer of the extraordinary event property are executed and delivered to the assignee; and

(3) value is received.

(b) A transfer of an interest in extraordinary event property must be filed with the secretary of state against all third persons and perfected under sections 336.3-301 to 336.3-312, including any judicial lien or other lien creditors or any claims of the seller or creditors of the seller, other than creditors holding a prior security interest, ownership interest, or assignment in the extraordinary event property previously perfected under this subdivision or subdivision 2.

(c) The characterization of a sale, assignment, or transfer as an absolute transfer and true sale, and the corresponding characterization of the property interest of the assignee, is not affected or impaired by:

(1) commingling of extraordinary event revenue with other money;

(2) the retention by the seller of:

(i) a partial or residual interest, including an equity interest, in the extraordinary event property, whether direct or indirect, or whether subordinate or otherwise; or

(ii) the right to recover costs associated with taxes, franchise fees, or license fees imposed on the collection of extraordinary event revenue;

(3) any recourse that the purchaser may have against the seller;

(4) any indemnification rights, obligations, or repurchase rights made or provided by the seller;

(5) an obligation of the seller to collect extraordinary event revenues on behalf of an assignee;

(6) the treatment of the sale, assignment, or transfer for tax, financial reporting, or other purposes;

(7) any subsequent financing order amending a financing order under section 216B.492, subdivision 4, paragraph (d); or

(8) any application of an adjustment mechanism under section 216B.492, subdivision 3, paragraph (a), clause (6).

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

Sec. 12. [216B.497] EXTRAORDINARY EVENT BONDS.

(a) Banks, trust companies, savings and loan associations, insurance companies, executors, administrators, guardians, trustees, and other fiduciaries may legally invest any money within the individual's or entity's control in extraordinary event bonds.

(b) Extraordinary event bonds issued under a financing order are not debt of or a pledge of the faith and credit or taxing power of the state, any agency of the state, or any political subdivision. Holders of extraordinary event bonds may not have taxes levied by the state or a political subdivision in order to pay the principal or interest on extraordinary event bonds. The issuance of extraordinary event bonds does not directly, indirectly, or contingently obligate the state or a political subdivision to levy any tax or make any appropriation to pay principal or interest on the extraordinary event bonds.

(c) The state pledges to and agrees with holders of extraordinary event bonds, any assignee, and any financing parties that the state will not:

(1) take or permit any action that impairs the value of extraordinary event property; or

(2) reduce, alter, or impair extraordinary event charges that are imposed, collected, and remitted for the benefit of holders of extraordinary event bonds, any assignee, and any financing parties until any principal, interest, and redemption premium payable on extraordinary event bonds, all financing costs, and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid in full.

(d) A person who issues extraordinary event bonds may include the pledge specified in paragraph (c) in the extraordinary event bonds, ancillary agreements, and documentation related to the issuance and marketing of the extraordinary event bonds.

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

Sec. 13. [216B.498] ASSIGNEE OF FINANCING PARTY NOT SUBJECT TO COMMISSION REGULATION.

An assignee or financing party that is not already regulated by the commission does not become subject to commission regulation solely as a result of engaging in any transaction authorized by or described in sections 216B.491 to 216B.499.

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

Sec. 14. [216B.499] EFFECT ON OTHER LAWS.

(a) If any provision of sections 216B.491 to 216B.499 conflicts with any other law regarding the attachment, assignment, perfection, effect of perfection, or priority of any security interest in or transfer of extraordinary event property, sections 216B.491 to 216B.499 govern.

(b) Nothing in this section precludes a utility for which the commission has initially issued a financing order from applying to the commission for:

(1) a subsequent financing order amending the financing order under section 216B.492, subdivision 4, paragraph (d); or

(2) approval to issue extraordinary event bonds to refund all or a portion of an outstanding series of extraordinary event bonds.

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

Sec. 15. Minnesota Statutes 2020, section 216B.50, subdivision 1, is amended to read:

Subdivision 1. **Commission approval required.** No public utility shall sell, acquire, lease, or rent any plant as an operating unit or system in this state for a total consideration in excess of ~~\$100,000~~ \$1,000,000, or merge or consolidate with another public utility or transmission company operating in this state, without first being authorized so to do by the commission. Upon the filing of an application for the approval and consent of the commission, the commission shall investigate, with or without public hearing. The commission shall hold a public hearing, upon such notice as the commission may require. If the commission finds that the proposed action is consistent with the public interest, it shall give its consent and approval by order in writing. In reaching its determination, the commission shall take into consideration the reasonable value of the property, plant, or securities to be acquired or disposed of, or merged and consolidated.

This section does not apply to the purchase of property to replace or add to the plant of the public utility by construction.

Sec. 16. Minnesota Statutes 2020, section 216B.62, subdivision 8, is amended to read:

Subd. 8. **Audit investigation costs; account, appropriation.** The audit investigation account is created as a separate account in the special revenue fund in the state treasury. If the commission, in a proceeding upon its own motion, on complaint, or upon an application to it, determines that it is necessary, in order to carry out its duties imposed under this chapter or chapter 216, 216A, 216E, 216F, or 216G, to conduct an investigation or audit of any public utility operations, practices, or policies requiring specialized technical professional investigative services for the inquiry, the commission may seek or request the commissioner of commerce to seek authority from the commissioner of management and budget to incur costs reasonably attributable to the specialized services. If funding for the investigation or audit is approved by the commissioner of management and budget, the commission shall carry out the investigation or the commissioner of commerce shall carry out the investigation in the manner directed by the commission, and the commission or commissioner, as applicable, shall render separate bills to the public utility for the costs incurred for such technical professional investigative services. The bill constitutes notice of the assessment and demand for payment. The amount assessed must be paid by the public utility to the commissioner of commerce within 30 days after the date of assessment. Money received under this subdivision must be deposited in the state treasury and credited to the audit investigation account, and is appropriated to the commissioner of commerce or the commission, as applicable, for the purposes of this subdivision. An assessment made under this subdivision for activities conducted under section 216B.494 does not count toward the cap on assessments under this section.

Sec. 17. Minnesota Statutes 2020, section 216C.264, is amended by adding a subdivision to read:

Subd. 1a. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Low-income conservation program" means a utility program that offers energy conservation services to low-income households under sections 216B.2403, subdivision 5, and 216B.241, subdivision 7.

(c) "Preweatherization measure" has the meaning given in section 216B.2402, subdivision 20.

(d) "Weatherization assistance program" means the federal program described in Code of Federal Regulations, title 10, part 440 et seq., designed to assist low-income households reduce energy use in a cost-effective manner.

(e) "Weatherization assistance services" means the energy conservation measures installed in households under the weatherization assistance program.

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

Sec. 18. Minnesota Statutes 2020, section 216C.264, subdivision 5, is amended to read:

Subd. 5. **Grant allocation.** (a) The commissioner must distribute supplementary state grants in a manner consistent with the goal of producing the maximum number of weatherized units. Supplementary state grants ~~are provided primarily for the payment of~~ may be used:

(1) to address physical deficiencies in a residence that increase heat loss, including deficiencies that prohibit the residence from being eligible to receive federal weatherization assistance;

(2) to install eligible preweatherization measures established by the commissioner, as required under section 216B.241, subdivision 7, paragraph (g);

(3) to increase the number of weatherized residences;

(4) to conduct outreach activities to make income-eligible households aware of available weatherization services, to assist applicants in filling out applications for weatherization assistance, and to provide translation services where necessary;

(5) to enable projects in multifamily buildings to proceed even if the project cannot comply with the federal requirement that projects must be completed within the same federal fiscal year in which the project is begun;

(6) to expand weatherization training opportunities in existing and new training programs;

(7) to pay additional labor costs for the federal weatherization program; and

(8) as an incentive for the increased production of weatherized units.

(b) Criteria for the allocation of state grants to local agencies include existing local agency production levels, emergency needs, and the potential for maintaining or increasing acceptable levels of production in the area.

(c) An eligible local agency may receive advance funding for 90 days' production, but thereafter must receive grants solely on the basis of program criteria.

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

Sec. 19. Minnesota Statutes 2020, section 216C.264, is amended by adding a subdivision to read:

Subd. 7. **Supplemental weatherization assistance grants.** The commissioner must provide grants to weatherization service providers to address physical deficiencies and install weatherization and preweatherization measures in residential buildings occupied by eligible low-income households.

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

Sec. 20. Minnesota Statutes 2020, section 216C.264, is amended by adding a subdivision to read:

Subd. 8. **Training grants program.** (a) The commissioner must establish a weatherization training grant program to award grants through a competitive process to educational institutions, certified training centers, labor organizations, and nonprofits to assist with the costs associated with training and developing programs for careers in the weatherization industry.

(b) In order to receive grant funds, a written application must be submitted to the commissioner on a form developed by the commissioner.

(c) When awarding grants under this subdivision, the commissioner must prioritize applications that:

(1) provide the highest quality training to prepare for in-demand careers;

(2) train workers to provide weatherization services that meet federal Building Performance Institute certification requirements or Standard Work Specification requirements, as required by the program; and

(3) leverage nonstate funds or in-kind contributions.

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

Sec. 21. Minnesota Statutes 2021 Supplement, section 216C.375, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section and section 216C.376, the following terms have the meanings given them.

(b) "Developer" means an entity that installs a solar energy system on a school building that has been awarded a grant under this section.

(c) "Photovoltaic device" has the meaning given in section 216C.06, subdivision 16.

(d) "School" means: (1) a school that operates as part of an independent or special school district; (2) a Tribal contract school; or ~~(2)~~ (3) a state college or university that is under the jurisdiction of the Board of Trustees of the Minnesota State Colleges and Universities.

(e) "School district" means an independent or special school district.

(f) "Solar energy system" means photovoltaic or solar thermal devices.

(g) "Solar thermal" has the meaning given to "qualifying solar thermal project" in section 216B.2411, subdivision 2, paragraph (d).

(h) "State colleges and universities" has the meaning given in section 136F.01, subdivision 4.

Sec. 22. Minnesota Statutes 2021 Supplement, section 216C.376, subdivision 5, is amended to read:

Subd. 5. **Program funding.** (a) In 2022, the public utility subject to section 116C.779 must withhold \$8,000,000 from the transfer made under section 116C.779, subdivision 1, paragraph (e), to pay for assistance provided by the program under this section. In 2024, the amount that must be withheld is \$8,000,000. The money withheld under this paragraph must be used to pay for financial assistance awarded under this section and the costs to administer this section. Any money that remains unexpended on June 30, 2027, five years after the money is withheld cancels to the renewable development account.

(b) The renewable energy credits associated with the electricity generated by a solar energy system installed under this section are the property of the public utility that is subject to this section for the life of the system, regardless of the duration of the financial assistance provided by the public utility under this section.

Sec. 23. **[216C.391] STATE ENERGY COMPETITIVENESS ACCOUNT.**

Subdivision 1. **State energy competitiveness account.** The state energy competitiveness account is created in the special revenue fund of the state treasury. Money in the account is available until June 30, 2028, and is appropriated to the commissioner for the purposes specified in this section. The commissioner is the fiscal agent and must manage the account.

Subd. 2. **Use of funds; purpose.** Money in the state energy competitiveness account must be used only to:

(1) meet match requirements for federal funds provided to the state by the United States Department of Energy or other federal entity;

(2) meet match requirements to increase competitiveness to capture federally designated, energy-related formula or competitive funds; and

(3) award grants to eligible entities under subdivision 3.

Subd. 3. **Grants to eligible entities.** The commissioner may award state grants to eligible entities, as defined by the federal funding source, with priority given in the following order:



- (1) federal formula funds directed to the state that require a match;
- (2) federal formula funds directed to local units of government and Tribal governments that require a match;
- (3) federal formula funds directed to institutions of higher education that require a match;
- (4) federal formula or competitive funds for which state funds allow utilities or businesses to competitively pursue funding; and
- (5) all other competitive or formula grant opportunities for which state funds enhance or enable leveraging federal funds.

Subd. 4. **Administration.** The commissioner must develop applications and procedures to implement this section.

Subd. 5. **Legislative oversight.** (a) Within ten days after the commissioner begins a process to allocate funds for a grant application from the state energy competitiveness account under this section, the commissioner must notify the Legislative Advisory Commission established under section 3.30 that money has been allocated to a grant application. The notification must include the total amount of the allocation, the purpose of the proposed expenditure, the time period of the proposed expenditure, and the balance of unallocated money under this section remaining after the allocation specified in the notification.

(b) Once the commissioner of commerce has submitted the notification required under paragraph (a), the commissioner may allocate funds in the state energy competitiveness account for a grant application submitted under this section. For the purposes of federal review and evaluation criteria, allocated money is appropriated and committed to the uses specified in the notification submitted under paragraph (a). Once allocated, money under this section is unavailable for reallocation to other application match requirements unless the commissioner receives formal notice that an application is no longer under consideration or withdraws an application.

(c) Money in the state energy competitiveness account is only available to meet federal match requirements under subdivision 2 or 3 once the notice of allocation is submitted for review by the Legislative Advisory Commission and the provisions of section 3.3005, subdivision 2 or 6, have been satisfied.

(d) The requirements of paragraph (c) do not apply to federal funds that do not pass through the state treasury.

Subd. 6. **Report.** By February 15, beginning in 2023 and each year thereafter until 2028 or until all money in the state energy competitiveness account has been expended, the commissioner must submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over energy. The report must identify:

- (1) the number of grants and amounts awarded under this section during the previous year;
- (2) the unobligated balance of the state energy competitiveness account;

(3) programmatic changes recommended to enhance Minnesota's competitiveness in vying for federal funds;

(4) anticipated expenditures on additional funding opportunities or activities; and

(5) the amount and purpose of federal money received pursuant to the availability of matching money under this section.

**EFFECTIVE DATE.** This section is effective the day following final enactment and expires October 1, 2028.

Sec. 24. Minnesota Statutes 2020, section 216C.435, subdivision 8, is amended to read:

Subd. 8. **Qualifying commercial real property.** "Qualifying commercial real property" means a multifamily residential dwelling, ~~or~~ a commercial or industrial building, or farmland, as defined in section 216C.436, subdivision 1b, that the implementing entity has determined, after review of an energy audit ~~or~~, renewable energy system feasibility study, or agronomic assessment, as defined in section 216C.436, subdivision 1b, can ~~be benefited by~~ benefit from the installation of cost-effective energy improvements or land and water improvements, as defined in section 216C.436, subdivision 1b. Qualifying commercial real property includes new construction.

Sec. 25. Minnesota Statutes 2020, section 216C.436, is amended by adding a subdivision to read:

Subd. 1b. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Agronomic assessment" means a study by an independent third party that assesses the environmental impacts of proposed land and water improvements on farmland.

(c) "Farmland" means land classified as 2a, 2b, or 2c for property tax purposes under section 273.13, subdivision 23.

(d) "Land and water improvement" means:

(1) an improvement to farmland that:

(i) is permanent;

(ii) results in improved agricultural profitability or resiliency;

(iii) reduces the environmental impact of agricultural production; and

(iv) if the improvement affects drainage, complies with the most recent versions of the applicable following conservation practice standards issued by the United States Department of Agriculture's Natural Resources Conservation Service: Drainage Water Management (Code 554), Saturated Buffer (Code 604), Denitrifying Bioreactor (Code 605), and Constructed Wetland (Code 656); or

(2) water conservation and quality measures, which include permanently affixed equipment, appliances, or improvements that reduce a property's water consumption or that enable water to be managed more efficiently.

(e) "Resiliency" means the ability of farmland to maintain and enhance profitability, soil health, and water quality.

Sec. 26. Minnesota Statutes 2020, section 216C.436, subdivision 2, is amended to read:

Subd. 2. **Program requirements.** A commercial PACE loan program must:

- (1) impose requirements and conditions on financing arrangements to ensure timely repayment;
- (2) require an energy audit ~~or~~ renewable energy system feasibility study, or agronomic or soil health assessment to be conducted on the qualifying commercial real property and reviewed by the implementing entity prior to approval of the financing;
- (3) require the inspection of all installations and a performance verification of at least ten percent of the cost-effective energy improvements or land and water improvements financed by the program;
- (4) not prohibit the financing of all cost-effective energy improvements or land and water improvements not otherwise prohibited by this section;
- (5) require that all cost-effective energy improvements or land and water improvements be made to a qualifying commercial real property prior to, or in conjunction with, an applicant's repayment of financing for cost-effective energy improvements or land and water improvements for that property;
- (6) have cost-effective energy improvements or land and water improvements financed by the program performed by a licensed contractor as required by chapter 326B or other law or ordinance;
- (7) require disclosures in the loan document to borrowers by the implementing entity of: (i) the risks involved in borrowing, including the risk of foreclosure if a tax delinquency results from a default; and (ii) all the terms and conditions of the commercial PACE loan and the installation of cost-effective energy improvements or land and water improvements, including the interest rate being charged on the loan;
- (8) provide financing only to those who demonstrate an ability to repay;
- (9) not provide financing for a qualifying commercial real property in which the owner is not current on mortgage or real property tax payments;
- (10) require a petition to the implementing entity by all owners of the qualifying commercial real property requesting collections of repayments as a special assessment under section 429.101;
- (11) provide that payments and assessments are not accelerated due to a default and that a tax delinquency exists only for assessments not paid when due; ~~and~~
- (12) require that liability for special assessments related to the financing runs with the qualifying commercial real property; and

(13) prior to financing any improvements to or imposing any assessment upon qualifying commercial real property, require notice to and written consent from the mortgage lender of any mortgage encumbering or otherwise secured by the qualifying commercial real property.

Sec. 27. Minnesota Statutes 2020, section 237.55, is amended to read:

**237.55 ANNUAL REPORT ON TELECOMMUNICATIONS ACCESS.**

The commissioner of commerce must prepare a report for presentation to the Public Utilities Commission by ~~January~~ March 31 of each year. Each report must review the accessibility of telecommunications services to persons who have communication disabilities, describe services provided, account for annual revenues and expenditures for each aspect of the fund to date, and include predicted program future operation.

Sec. 28. **DECOMMISSIONING AND DEMOLITION PLAN FOR COAL-FIRED PLANT.**

(a) As a part of the next resource plan filing under Minnesota Statutes, section 216B.2422, subdivision 2, but no later than December 31, 2025, the public utility that owns an electric generation facility that is powered by coal, scheduled for retirement in 2028, and located within the St. Croix National Scenic Riverway must provide, to the extent known, the public utility's plan and a detailed timeline to decommission and demolish the electric generation facility and remediate pollution at the electric generation facility site.

(b) The public utility must also provide a copy of the plan and timeline to the governing body of the municipality where the electric generation facility is located on the same date the plan and timeline are submitted to the Public Utilities Commission.

(c) If a resource plan is not filed or required before December 31, 2025, the plan and timeline must be submitted to the Public Utilities Commission and the municipality as a separate filing by December 31, 2025.

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

Sec. 29. **TRIBAL ADVOCACY COUNCIL ON ENERGY; DEPARTMENT OF COMMERCE SUPPORT.**

(a) The Department of Commerce may provide technical support and subject matter expertise to assist and help facilitate any efforts taken by the 11 federally recognized Indian tribes in Minnesota to establish a tribal advocacy council on energy.

(b) When providing support to a tribal advocacy council on energy, the Department of Commerce may assist the council to:

(1) assess and evaluate common tribal energy issues, including (i) identifying and prioritizing energy issues, (ii) facilitating idea sharing between the tribes to generate solutions to energy issues, and (iii) assisting decision making with respect to resolving energy issues;

(2) develop new statewide energy policies or proposed legislation, including (i) organizing stakeholder meetings, (ii) gathering input and other relevant information, (iii) assisting with policy

proposal development, evaluation, and decision making, and (iv) helping facilitate actions taken to submit, and obtain approval for or have enacted, policies or legislation approved by the council;

(3) make efforts to raise awareness and provide educational opportunities with respect to tribal energy issues by (i) identifying information resources, (ii) gathering feedback on issues and topics the council identifies as areas of interest, and (iii) identifying topics for educational forums and helping facilitate the forum process; and

(4) identify, evaluate, and disseminate successful energy-related practices, and develop mechanisms or opportunities to implement the successful practices.

(c) Nothing in this section requires or otherwise obligates the 11 federally recognized Indian tribes in Minnesota to establish a tribal advocacy council on energy, nor does it require or obligate any one of the 11 federally recognized Indian tribes in Minnesota to participate in or implement a decision or support an effort made by an established tribal advocacy council on energy.

(d) Any support provided by the Department of Commerce to a tribal advocacy council on energy under this section may be provided only upon request of the council and is limited to issues and areas where the Department of Commerce's expertise and assistance is requested.

#### **Sec. 30. ENERGY APPROPRIATIONS; GENERAL FUND.**

Subdivision 1. **Solar for schools.** \$4,150,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of commerce for grants under the solar for schools program established under Minnesota Statutes, section 216C.375. This appropriation must be expended on schools located outside the electric service territory of the public utility that is subject to Minnesota Statutes, section 116C.779. This appropriation is available until June 30, 2025. The base amount for the appropriation under this subdivision in fiscal year 2024 is \$3,800,000. The base amount for the appropriation under this subdivision in fiscal year 2025 is \$0.

Subd. 2. **Supplemental state weatherization grants.** (a) \$2,350,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of commerce for supplemental state weatherization assistance grants under Minnesota Statutes, section 216C.264, subdivision 7. This appropriation is available until June 30, 2027. This is a onetime appropriation. The base for the appropriation under this subdivision in fiscal year 2024 is \$5,000,000. The base for the appropriation under this subdivision in fiscal year 2025 is \$9,000,000.

(b) Ten percent of the appropriation under paragraph (a) is allocated to training grants under Minnesota Statutes, section 216C.264, subdivision 8. Up to ten percent of the appropriation under paragraph (a) may be used to supplement utility spending on preweatherization measures as part of a low-income conservation program, as defined under Minnesota Statutes, section 216C.264, subdivision 1a. No more than one percent of the appropriation under paragraph (a) may be used for weatherization course development.

Subd. 3. **Infrastructure Investment and Jobs Act.** \$1,370,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of commerce for the following activities related to the state energy competitiveness account under Minnesota Statutes, section 216C.391, and Public Law 117-58, the Infrastructure Investment and Jobs Act (IIJA): (1) for reasonable costs incurred by the department of commerce to pursue and administer energy-related IIJA federal funds; (2) to assist

eligible entities, as defined under Minnesota Statutes, section 216C.391, subdivision 3, to access competitive IJA energy-related federal funds; and (3) to assist eligible grantees to pursue and manage energy-related IJA federal funds. This is a onetime appropriation.

Subd. 4. **State energy competitiveness account.** \$14,880,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of commerce for deposit in the state energy competitiveness account established under Minnesota Statutes, section 216C.391, subdivision 1. This appropriation is available until June 30, 2028. The base for the appropriation under this subdivision in fiscal year 2024 is \$4,500,000. The base for the appropriation under this subdivision in fiscal year 2025 is \$0.

**Sec. 31. ENERGY APPROPRIATIONS; RENEWABLE DEVELOPMENT ACCOUNT.**

Subdivision 1. **Granite Falls hydroelectric generating facility.** Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j), \$2,290,000 in fiscal year 2023 is appropriated from the renewable development account established under Minnesota Statutes, section 116C.779, subdivision 1, to the commissioner of commerce for a grant to the city of Granite Falls for repair and overage costs related to the city's existing hydroelectric generating facility. This is a onetime appropriation. Any amount of the appropriation under this subdivision that remains unexpended on June 30, 2024, must be returned to the renewable development account.

Subd. 2. **Community energy transition grants.** (a) Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j), \$3,500,000 in fiscal year 2023 is appropriated from the renewable development account established under Minnesota Statutes, section 116C.779, subdivision 1, to the commissioner of employment and economic development for community energy transition grants under Minnesota Statutes, section 116J.55. This appropriation is available only for grants to eligible communities located within the electric service territory of the public utility subject to Minnesota Statutes, section 116C.779. This is a onetime appropriation and is available until June 30, 2029.

(b) The base for the appropriation under this subdivision in fiscal year 2024 is \$1,500,000 from the general fund and is available only for grants to eligible communities located outside the electric service territory of the public utility subject to Minnesota Statutes, section 116C.779. The base for the appropriation under this subdivision in fiscal year 2025 is \$0.

Subd. 3. **Area C Contingency account.** Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j), \$3,000,000 in fiscal year 2023 is appropriated from the renewable development account established under Minnesota Statutes, section 116C.779, subdivision 1, for deposit in the Area C contingency account under Minnesota Statutes, section 116C.7793, subdivision 2, to disburse to the owner of a solar energy generating system installed on land on the former Ford Motor Company in St. Paul known as Area C for the uses identified under Minnesota Statutes, section 116C.7793. This is a onetime appropriation. This appropriation is available until five years after the Pollution Control Agency issues a corrective action determination regarding the remediation of Area C. Any unexpended money remaining in the account at the conclusion of the five-year period cancels to the renewable development account.

Subd. 4. **National Sports Center solar array.** Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j), \$3,500,000 in fiscal year 2023 is appropriated from the

renewable development account established under Minnesota Statutes, section 116C.779, subdivision 1, to the Minnesota Amateur Sports Commission to install solar arrays. This appropriation may be used to install solar arrays on an ice rink and a maintenance facility at the National Sports Center in Blaine. This is a onetime appropriation.

Subd. 5. **State energy competitiveness account.** Notwithstanding Minnesota Statutes, section 116C.779, subdivision 1, paragraph (j), \$5,750,000 in fiscal year 2023 is appropriated from the renewable development account established under Minnesota Statutes, section 116C.779, subdivision 1, to the commissioner of commerce for deposit in the state energy competitiveness account established under Minnesota Statutes, section 216C.391, subdivision 1. This appropriation is available until June 30, 2028. The appropriation under this subdivision must be used to obtain federal funds that benefit Minnesota ratepayers receiving electric service from the utility that owns a nuclear-powered electric generating plant in this state, the Prairie Island Indian community, of Prairie Island Indian community members. The base for the appropriation under this subdivision in fiscal year 2024 is \$0."

Delete the title and insert:

"A bill for an act relating to state government; adopting supplemental appropriations for labor and industry, combative sports, workers' compensation court of appeals, economic development, and energy; adopting policy and technical provisions relating to economic development, labor and industry, combative sports, commerce, and energy; authorizing rulemaking; modifying fees and penalties; requiring reports; amending Minnesota Statutes 2020, sections 62Q.735, subdivisions 1, 5; 62Q.76, by adding a subdivision; 62Q.78, by adding a subdivision; 62Q.79, by adding a subdivision; 116J.035, by adding a subdivision; 116J.55, subdivisions 1, 5, 6; 116J.552, subdivision 6; 116J.8747, subdivisions 2, 3, 4; 116J.993, subdivision 3; 116L.04, subdivision 1a; 116L.17, subdivision 1; 116L.98, subdivisions 2, 3; 178.11; 216B.096, subdivision 11; 216B.50, subdivision 1; 216B.62, subdivision 8; 216C.264, subdivision 5, by adding subdivisions; 216C.435, subdivision 8; 216C.436, subdivision 2, by adding a subdivision; 237.55; 268.18, by adding a subdivision; 326B.106, subdivision 4; 326B.163, subdivision 5, by adding a subdivision; 326B.164, subdivision 13; 326B.36, subdivision 7, by adding a subdivision; 341.21, subdivisions 2a, 2c, 7; 341.221; 341.25; 341.28; 341.30, subdivision 4; 341.32, subdivision 2; 341.321; 341.33; 341.355; 515B.3-102; Minnesota Statutes 2021 Supplement, sections 62J.26, subdivision 2; 116C.7792; 116J.8749, subdivisions 1, 3; 216C.375, subdivision 1; 216C.376, subdivision 5; 326B.153, subdivision 1; Laws 2019, First Special Session chapter 7, article 2, section 8, subdivision 8, as amended; Laws 2021, First Special Session chapter 10, article 1, sections 2, subdivision 2; 5; article 2, section 24, subdivisions 1, 3, 4, 5, 7; Laws 2021, First Special Session chapter 14, article 11, section 42; Laws 2022, chapter 50, article 1, section 1; article 2, section 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116C; 116J; 216B; 216C; 341."

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

Senate Conferees: Eric Pratt, Jason Rarick, Gary Dahms, David Senjem, Nick Frentz

House Conferees: Mohamud Noor, Rob Ecklund, Jamie Long, Zack Stephenson

Senator Pratt moved the foregoing recommendations and Conference Committee Report on S.F. No. 4091 be now adopted, and that the bill be repassed as amended by the Conference Committee.

The roll was called, and there were yeas 41 and nays 26, as follows:

Those who voted in the affirmative were:

Abeler	Draheim	Howe	Miller	Senjem
Anderson	Duckworth	Ingebrigtsen	Nelson	Tomassoni
Bakk	Eichorn	Jasinski	Newman	Utke
Benson	Eken	Johnson	Newton	Weber
Chamberlain	Frentz	Kiffmeyer	Osmek	Westrom
Champion	Gazelka	Koran	Pratt	
Coleman	Goggin	Lang	Rarick	
Dahms	Hoffman	Limmer	Rosen	
Dornink	Housley	Mathews	Ruud	

Pursuant to Rule 40, Senator Johnson cast the affirmative vote on behalf of the following Senators: Abeler, Anderson, Benson, Eichorn, Housley, Ingebrigtsen, Jasinski, Kiffmeyer, Rosen, Tomassoni, and Utke.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senator: Newton.

Those who voted in the negative were:

Bigham	Eaton	Klein	Murphy	Wiger
Carlson	Fatch	Kunesh	Pappas	Wiklund
Clausen	Hawj	Latz	Port	
Cwodzinski	Isaacson	López Franzen	Putnam	
Dibble	Johnson Stewart	Marty	Rest	
Dziedzic	Kent	McEwen	Torres Ray	

Pursuant to Rule 40, Senator Port cast the negative vote on behalf of the following Senators: Dziedzic, Fatch, Kent, Klein, McEwen, Pappas, Rest, and Wiklund.

The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 4091 was read the third time, as amended by the Conference Committee.

Senator Pratt moved that S.F. No. 4091 and the Conference Committee Report thereon be laid on the table.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 37 and nays 29, as follows:

Those who voted in the affirmative were:

Abeler	Draheim	Ingebrigtsen	Miller	Senjem
Anderson	Duckworth	Jasinski	Nelson	Tomassoni
Bakk	Eichorn	Johnson	Newman	Utke
Benson	Gazelka	Kiffmeyer	Newton	Weber
Chamberlain	Goggin	Koran	Osmek	Westrom
Coleman	Hoffman	Lang	Pratt	
Dahms	Housley	Limmer	Rarick	
Dornink	Howe	Mathews	Rosen	



Pursuant to Rule 40, Senator Johnson cast the affirmative vote on behalf of the following Senators: Anderson, Bakk, Benson, Eichorn, Housley, Howe, Ingebrigtsen, Jasinski, Kiffmeyer, Newman, Rosen, Tomassoni, and Utke.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senator: Newton.

Those who voted in the negative were:

Bigham	Dziedzic	Isaacson	López Franzen	Putnam
Carlson	Eaton	Johnson Stewart	Marty	Rest
Champion	Eken	Kent	McEwen	Torres Ray
Clausen	Fateh	Klein	Murphy	Wiger
Cwodzinski	Frentz	Kunesh	Pappas	Wiklund
Dibble	Hawj	Latz	Port	

Pursuant to Rule 40, Senator Port cast the negative vote on behalf of the following Senators: Dibble, Dziedzic, Fateh, Kent, Klein, McEwen, Pappas, Rest, and Wiklund.

The motion prevailed.

#### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Latz moved that H.F. No. 3872 and the Conference Committee Report thereon be taken from the table.

The question was taken on the adoption of the motion.

The roll was called, and there were yeas 31 and nays 35, as follows:

Those who voted in the affirmative were:

Bigham	Eaton	Johnson Stewart	McEwen	Torres Ray
Carlson	Eken	Kent	Murphy	Wiger
Champion	Fateh	Klein	Newton	Wiklund
Clausen	Frentz	Kunesh	Pappas	
Cwodzinski	Hawj	Latz	Port	
Dibble	Hoffman	López Franzen	Putnam	
Dziedzic	Isaacson	Marty	Rest	

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Dibble, Dziedzic, Fateh, Kent, Klein, McEwen, Newton, Pappas, Rest, and Wiklund.

Those who voted in the negative were:

Abeler	Dornik	Howe	Limmer	Rosen
Anderson	Draheim	Ingebrigtsen	Mathews	Ruud
Bakk	Duckworth	Jasinski	Miller	Senjem
Benson	Eichorn	Johnson	Newman	Tomassoni
Chamberlain	Gazelka	Kiffmeyer	Osmek	Utke
Coleman	Goggin	Koran	Pratt	Weber
Dahms	Housley	Lang	Rarick	Westrom

Pursuant to Rule 40, Senator Johnson cast the negative vote on behalf of the following Senators: Anderson, Bakk, Eichorn, Housley, Howe, Ingebrigtsen, Jasinski, Kiffmeyer, Newman, Rosen, and Tomassoni.

The motion did not prevail.

### MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 4476 and the Conference Committee Report thereon were reported to the Senate.

### CONFERENCE COMMITTEE REPORT ON S.F. No. 4476

A bill for an act relating to redistricting; adjusting the district boundaries of Senate Districts 15 and 16; adjusting the house of representatives district boundaries within Senate Districts 15, 16, and 58; proposing coding for new law in Minnesota Statutes, chapter 2.

May 22, 2022

The Honorable David J. Osmek  
President of the Senate

The Honorable Melissa Hortman  
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 4476 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendments.

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

Senate Conferees: Mark Johnson, Mary Kiffmeyer

House Conferees: Mary Murphy, Ginny Klevorn, Paul Torkelson

Senator Johnson moved that the foregoing recommendations and Conference Committee Report on S.F. No. 4476 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 4476 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

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

Those who voted in the affirmative were:

Abeler	Champion	Draheim	Frentz	Ingebrigtsen
Anderson	Clausen	Duckworth	Gazelka	Isaacson
Bakk	Coleman	Dziedzic	Goggin	Jasinski
Benson	Cwodzinski	Eaton	Hawj	Johnson
Bigham	Dahms	Eichorn	Hoffman	Johnson Stewart
Carlson	Dibble	Eken	Housley	Kent
Chamberlain	Dornink	Fatch	Howe	Kiffmeyer

Klein	Marty	Newton	Rest	Weber
Koran	Mathews	Osmek	Rosen	Westrom
Kunesh	McEwen	Pappas	Ruud	Wiger
Lang	Miller	Port	Senjem	Wiklund
Latz	Murphy	Pratt	Tomassoni	
Limmer	Nelson	Putnam	Torres Ray	
López Franzen	Newman	Rarick	Utke	

Pursuant to Rule 40, Senator Pratt cast the affirmative vote on behalf of the following Senators: Anderson, Bakk, Eichorn, Housley, Howe, Ingebrigtsen, Jasinski, Kiffmeyer, Limmer, Newman, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Dibble, Dziedzic, Fateh, Kent, Klein, McEwen, Newton, Pappas, Rest, and Wiklund.

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Senjem moved that his name be stricken as chief author, shown as a co-author, and the name of Senator Draheim be added as chief author to S.F. No. 3395. The motion prevailed.

Senator Draheim moved that the name of Senator Rosen be added as a co-author to S.F. No. 3395. The motion prevailed.

Senator Miller moved that H.F. No. 2725 be taken from the table. The motion prevailed.

Pursuant to Rule 26, Senator Miller, Chair of the Committee on Rules and Administration, designated H.F. No. 2725 a Special Order to be heard immediately.

### SPECIAL ORDER

**H.F. No. 2725:** A bill for an act relating to judiciary; establishing a statutory procedure to assess the competency of a defendant to stand trial; providing for contested hearings; establishing continuing supervision for certain defendants found incompetent to stand trial; establishing requirements to restore certain defendants to competency; providing for administration of medication; establishing forensic navigators; requiring forensic navigators to provide services to certain defendants; establishing dismissal plans for certain defendants found incompetent to stand trial; providing for jail-based competency restoration programs; establishing the State Competency Restoration Board and certification advisory committee; requiring a report; appropriating money; amending Minnesota Statutes 2020, sections 253B.07, subdivision 2a; 480.182; proposing coding for new law in Minnesota Statutes, chapter 611.

Senator Draheim moved to amend H.F. No. 2725 as follows:

Delete everything after the enacting clause and insert:

**"ARTICLE 1****MENTAL HEALTH POLICY**

Section 1. Minnesota Statutes 2020, section 144.55, subdivision 4, is amended to read:

Subd. 4. **Routine inspections; presumption.** Any hospital surveyed and accredited under the standards of the hospital accreditation program of an approved accrediting organization that submits to the commissioner within a reasonable time copies of (a) its currently valid accreditation certificate and accreditation letter, together with accompanying recommendations and comments and (b) any further recommendations, progress reports and correspondence directly related to the accreditation is presumed to comply with application requirements of subdivision 1 and the standards requirements of subdivision 3 and no further routine inspections or accreditation information shall be required by the commissioner to determine compliance. Notwithstanding the provisions of sections 144.54 and 144.653, subdivisions 2 and 4, hospitals shall be inspected only as provided in this section. The provisions of section 144.653 relating to the assessment and collection of fines shall not apply to any hospital. The commissioner of health shall annually conduct, with notice, validation inspections of a selected sample of the number of hospitals accredited by an approved accrediting organization, not to exceed ten percent of accredited hospitals, for the purpose of determining compliance with the provisions of subdivision 3. If a validation survey discloses a failure to comply with subdivision 3, the provisions of section 144.653 relating to correction orders, reinspections, and notices of noncompliance shall apply. The commissioner shall also conduct any inspection necessary to determine whether hospital construction, addition, or remodeling projects comply with standards for construction promulgated in rules pursuant to subdivision 3. The commissioner may also conduct inspections to determine whether a hospital or hospital corporate system continues to satisfy the conditions on which a hospital construction moratorium exception was granted under section 144.551, subdivision 1a. Pursuant to section 144.653, the commissioner shall inspect any hospital that does not have a currently valid hospital accreditation certificate from an approved accrediting organization. Nothing in this subdivision shall be construed to limit the investigative powers of the Office of Health Facility Complaints as established in sections 144A.51 to 144A.54.

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

Sec. 2. Minnesota Statutes 2020, section 144.55, subdivision 6, is amended to read:

Subd. 6. **Suspension, revocation, and refusal to renew.** (a) The commissioner may refuse to grant or renew, or may suspend or revoke, a license on any of the following grounds:

(1) violation of any of the provisions of sections 144.50 to 144.56 or the rules or standards issued pursuant thereto, or Minnesota Rules, chapters 4650 and 4675;

(2) permitting, aiding, or abetting the commission of any illegal act in the institution;

(3) conduct or practices detrimental to the welfare of the patient; or

(4) obtaining or attempting to obtain a license by fraud or misrepresentation; or

(5) with respect to hospitals and outpatient surgical centers, if the commissioner determines that there is a pattern of conduct that one or more physicians or advanced practice registered nurses who

have a "financial or economic interest," as defined in section 144.6521, subdivision 3, in the hospital or outpatient surgical center, have not provided the notice and disclosure of the financial or economic interest required by section 144.6521.

(b) The commissioner shall not renew a license for a boarding care bed in a resident room with more than four beds.

(c) The commissioner shall not renew licenses for hospital beds issued to a hospital or hospital corporate system pursuant to a hospital construction moratorium exception under section 144.551, subdivision 1a, if the commissioner determines the hospital or hospital corporate system is not satisfying the conditions on which the exception was granted.

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

Sec. 3. Minnesota Statutes 2021 Supplement, section 144.551, subdivision 1, is amended to read:

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number

of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; (iv) the relocation or redistribution does not involve the construction of a new hospital building; and (v) the transferred beds are used first to replace within the hospital corporate system the total number of beds previously used in the closed facility site or complex for mental health services and substance use disorder services. Only after the hospital corporate system has fulfilled the requirements of this item may the remainder of the available capacity of the closed facility site or complex be transferred for any other purpose;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27 beds, of which 12 serve mental health needs, may be transferred from Hennepin County Medical Center to Regions Hospital under this clause;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds in an existing hospital in Carver County serving the southwest suburban metropolitan area;

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County;

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

(19) a critical access hospital established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33, to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law;

(20) notwithstanding section 144.552, a project for the construction of a new hospital in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

(i) the project, including each hospital or health system that will own or control the entity that will hold the new hospital license, is approved by a resolution of the Maple Grove City Council as of March 1, 2006;

(ii) the entity that will hold the new hospital license will be owned or controlled by one or more not-for-profit hospitals or health systems that have previously submitted a plan or plans for a project in Maple Grove as required under section 144.552, and the plan or plans have been found to be in the public interest by the commissioner of health as of April 1, 2005;

(iii) the new hospital's initial inpatient services must include, but are not limited to, medical and surgical services, obstetrical and gynecological services, intensive care services, orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health services, and emergency room services;

(iv) the new hospital:

(A) will have the ability to provide and staff sufficient new beds to meet the growing needs of the Maple Grove service area and the surrounding communities currently being served by the hospital or health system that will own or control the entity that will hold the new hospital license;

(B) will provide uncompensated care;

(C) will provide mental health services, including inpatient beds;

(D) will be a site for workforce development for a broad spectrum of health-care-related occupations and have a commitment to providing clinical training programs for physicians and other health care providers;

(E) will demonstrate a commitment to quality care and patient safety;

(F) will have an electronic medical records system, including physician order entry;

(G) will provide a broad range of senior services;

(H) will provide emergency medical services that will coordinate care with regional providers of trauma services and licensed emergency ambulance services in order to enhance the continuity of care for emergency medical patients; and

(I) will be completed by December 31, 2009, unless delayed by circumstances beyond the control of the entity holding the new hospital license; and

(v) as of 30 days following submission of a written plan, the commissioner of health has not determined that the hospitals or health systems that will own or control the entity that will hold the new hospital license are unable to meet the criteria of this clause;

(21) a project approved under section 144.553;

(22) a project for the construction of a hospital with up to 25 beds in Cass County within a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder is approved by the Cass County Board;

(23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing a separately licensed 13-bed skilled nursing facility;

(24) notwithstanding section 144.552, a project for the construction and expansion of a specialty psychiatric hospital in Hennepin County for up to 50 beds, exclusively for patients who are under 21 years of age on the date of admission. The commissioner conducted a public interest review of the mental health needs of Minnesota and the Twin Cities metropolitan area in 2008. No further public interest review shall be conducted for the construction or expansion project under this clause;

(25) a project for a 16-bed psychiatric hospital in the city of Thief River Falls, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(26)(i) a project for a 20-bed psychiatric hospital, within an existing facility in the city of Maple Grove, exclusively for patients who are under 21 years of age on the date of admission, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(ii) this project shall serve patients in the continuing care benefit program under section 256.9693. The project may also serve patients not in the continuing care benefit program; and

(iii) if the project ceases to participate in the continuing care benefit program, the commissioner must complete a subsequent public interest review under section 144.552. If the project is found not to be in the public interest, the license must be terminated six months from the date of that finding. If the commissioner of human services terminates the contract without cause or reduces per diem payment rates for patients under the continuing care benefit program below the rates in



effect for services provided on December 31, 2015, the project may cease to participate in the continuing care benefit program and continue to operate without a subsequent public interest review;

(27) a project involving the addition of 21 new beds in an existing psychiatric hospital in Hennepin County that is exclusively for patients who are under 21 years of age on the date of admission;

(28) a project to add 55 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5, of which 15 beds are to be used for inpatient mental health and 40 are to be used for other services. In addition, five unlicensed observation mental health beds shall be added;

(29) upon submission of a plan to the commissioner for public interest review under section 144.552 and the addition of the 15 inpatient mental health beds specified in clause (28), to its bed capacity, a project to add 45 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5. Five of the 45 additional beds authorized under this clause must be designated for use for inpatient mental health and must be added to the hospital's bed capacity before the remaining 40 beds are added. Notwithstanding section 144.552, the hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552; ~~or~~

(30) upon submission of a plan to the commissioner for public interest review under section 144.552, a project to add up to 30 licensed beds in an existing psychiatric hospital in Hennepin County that exclusively provides care to patients who are under 21 years of age on the date of admission. Notwithstanding section 144.552, the psychiatric hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552; or

(31) a project for a 144-bed psychiatric hospital on the site of the former Bethesda hospital in the city of Saint Paul, Ramsey County, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete. Following the completion of the construction project, the commissioner of health shall monitor the hospital, including by assessing the hospital's case mix and payer mix, patient transfers, and patient diversions. The hospital must have an intake and assessment area. The hospital must accommodate patients with acute mental health needs, whether they walk up to the facility, are delivered by ambulances or law enforcement, or are transferred from other facilities. The hospital must comply with subdivision 1a, paragraph (b). The hospital must annually submit de-identified data to the department in the format and manner defined by the commissioner.

Sec. 4. Minnesota Statutes 2020, section 144.551, is amended by adding a subdivision to read:

Subd. 1a. **Exception for increased mental health bed capacity.** (a) From August 1, 2022, to July 31, 2027, subdivision 1, paragraph (a), and sections 144.552 and 144.553, do not apply to:

(1) those portions of any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increase the mental health bed capacity of a hospital; or

(2) the establishment of a new psychiatric hospital.

(b) Any hospital that increases its bed capacity or is established under this subdivision must:

(1) use all the newly licensed beds exclusively for mental health services;

(2) accept medical assistance and MinnesotaCare enrollees;

(3) abide by the terms of the Minnesota Attorney General Hospital Agreement;

(4) have an arrangement with a tertiary care facility or a sufficient number of medical specialists to determine and arrange appropriate treatment of medical conditions; and

(5) submit to the commissioner requested information the commissioner deems necessary for the commissioner to conduct the study of inpatient mental health access and quality described in paragraph (e).

(c) The commissioner shall monitor the implementation of exceptions under this subdivision. Each hospital or hospital corporate system granted an exception under this subdivision shall submit to the commissioner each year a report on how the hospital or hospital corporate system continues to satisfy the conditions on which the exception was granted.

(d) Any hospital found to be in violation of this subdivision is subject to sanction under section 144.55, subdivision 6, paragraph (c).

(e) By January 15, 2027, the commissioner of health shall submit to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over health a report containing the result of a study of inpatient mental health access and quality. The report must contain:

(1) the location of every hospital that has expanded its capacity or been established under this subdivision;

(2) summary data by location of the patient population served in the newly licensed beds, including age, duration of stay, and county of residence; and

(3) an analysis of the change in access and quality of inpatient mental health care in Minnesota resulting from the enactment of this subdivision.

A hospital that expands its capacity or is established under this subdivision must provide the information and data the commissioner requests to fulfill the requirements of this paragraph. For the purposes of section 144.55, subdivision 6, paragraph (c), a hospital's failure to provide data requested by the commissioner is a failure to satisfy the conditions on which an exception is granted under this subdivision.

(f) The commissioner may request from other hospitals information that the commissioner deems necessary to perform the analysis required under paragraph (e).

(g) No psychiatric hospital may be established on the site of the former Bethesda hospital in Saint Paul, Ramsey County, unless the commissioner determines that establishment of the hospital is in the public interest after completing a public interest review under section 144.552.

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

Sec. 5. **[245.096] CHANGES TO GRANT PROGRAMS.**

Prior to implementing any substantial changes to a grant funding formula disbursed through allocations administered by the commissioner, the commissioner must provide a report on the nature of the changes, the effect the changes will have, whether any funding will change, and other relevant information, to the chairs and ranking minority members of the legislative committees with jurisdiction over human services. The report must be provided prior to the start of a regular session and the proposed changes cannot be implemented until after the adjournment of that regular session.

Sec. 6. Minnesota Statutes 2020, section 245.4661, as amended by Laws 2021, chapter 30, article 17, section 21, is amended to read:

**245.4661 PILOT PROJECTS; ADULT MENTAL HEALTH INITIATIVE SERVICES.**

Subdivision 1. ~~Authorization for pilot projects~~ **Adult mental health initiative services.** ~~The commissioner of human services may approve pilot projects to provide alternatives to or enhance coordination of~~ Each county board, county boards acting jointly, or tribal government must provide or contract for sufficient infrastructure for the delivery of mental health services required under the Minnesota Comprehensive Adult Mental Health Act, sections 245.461 to 245.486.

Subd. 2. **Program design and implementation.** ~~The pilot projects~~ Adult mental health initiatives shall be established to design, plan, and improve the ~~responsible for designing, planning, improving, and maintaining a~~ mental health service delivery system for adults with serious and persistent mental illness that would:

(1) provide an expanded array of services from which clients can choose services appropriate to their needs;

(2) be based on purchasing strategies that improve access and coordinate services without cost shifting;

(3) prioritize evidence-based services and implement services that are promising practices or theory-based practices so that the service can be evaluated according to subdivision 5a;

~~(3)~~ (4) incorporate existing state facilities and resources into the community mental health infrastructure through creative partnerships with local vendors; and

~~(4)~~ (5) utilize existing categorical funding streams and reimbursement sources in combined and creative ways, except appropriations to regional treatment centers and all funds that are attributable to the operation of state-operated services are excluded unless appropriated specifically by the legislature for a purpose consistent with this section or section 246.0136, subdivision 1.

Subd. 3. ~~Program~~ **Adult mental health initiative evaluation.** Evaluation of each project adult mental health initiative will be based on outcome evaluation criteria negotiated with each project prior to implementation determined by the commissioners of human services and management and budget after consultation with stakeholders.

Subd. 4. **Notice of ~~project~~ adult mental health initiative discontinuation.** Each ~~project~~ adult mental health initiative may be discontinued for any reason by the ~~project's~~ managing entity or the commissioner of human services, after 90 days' written notice to the other party.

Subd. 5. **Planning for ~~pilot projects~~ adult mental health initiatives.** ~~(a) Each local plan for a pilot project, with the exception of the placement of a Minnesota specialty treatment facility as defined in paragraph (c),~~ adult mental health initiative services must be developed under the direction of the county board, or multiple county boards acting jointly, as the local mental health authority. The planning process for each ~~pilot~~ adult mental health initiative shall include, but not be limited to, mental health consumers, families, advocates, local mental health advisory councils, local and state providers, representatives of state and local public employee bargaining units, and the department of human services. As part of the planning process, the county board or boards shall designate a managing entity responsible for receipt of funds and management of the ~~pilot project~~ adult mental health initiatives.

~~(b) For Minnesota specialty treatment facilities, the commissioner shall issue a request for proposal for regions in which a need has been identified for services.~~

~~(c) For purposes of this section, "Minnesota specialty treatment facility" is defined as an intensive residential treatment service licensed under chapter 245I.~~

Subd. 5a. **Evaluations.** The commissioner of management and budget, in consultation with the commissioner of human services, and within available appropriations, shall create and maintain an inventory of adult mental health initiative services administered by the county boards, identifying evidence-based services and services that are theory-based or promising practices. The commissioner of management and budget, in consultation with the commissioner of human services, shall select adult mental health initiative services that are promising practices or theory-based activities for which the commissioner of management and budget shall conduct evaluations using experimental or quasi-experimental design. The commissioner of human services, in consultation with the commissioner of management and budget, shall encourage county boards to administer adult mental health initiative services to support experimental or quasi-experimental evaluation and shall require county boards to collect and report information that is needed to complete the inventory and evaluation for any adult mental health initiative service that is selected for an evaluation. The commissioner of management and budget, under section 15.08, may obtain additional relevant data to support the inventory and the experimental or quasi-experimental evaluation studies.

Subd. 6. **Duties of commissioner.** (a) For purposes of ~~the pilot projects~~ adult mental health initiatives, the commissioner shall facilitate integration of funds or other resources as needed and requested by each ~~project~~ adult mental health initiative. These resources may include:

(1) community support services funds administered under Minnesota Rules, parts 9535.1700 to 9535.1760;

(2) other mental health special project funds;

(3) medical assistance, MinnesotaCare, and housing support under chapter 256I if requested by the ~~project's~~ adult mental health initiative's managing entity, and if the commissioner determines this would be consistent with the state's overall health care reform efforts; and

(4) regional treatment center resources consistent with section 246.0136, subdivision 1.

(b) The commissioner shall consider the following criteria in awarding ~~start-up and implementation~~ grants for ~~the pilot projects~~ adult mental health initiatives:

(1) the ability of the ~~proposed projects~~ initiatives to accomplish the objectives described in subdivision 2;

(2) the size of the target population to be served; and

(3) geographical distribution.

(c) The commissioner shall review overall status of the ~~projects~~ initiatives at least every two years and recommend any legislative changes needed by January 15 of each odd-numbered year.

(d) The commissioner may waive administrative rule requirements ~~which that~~ are incompatible with the implementation of the ~~pilot project~~ adult mental health initiative.

(e) The commissioner may exempt the participating counties from fiscal sanctions for noncompliance with requirements in laws and rules ~~which that~~ are incompatible with the implementation of the ~~pilot project~~ adult mental health initiative.

(f) The commissioner may award grants to an entity designated by a county board or group of county boards to pay for start-up and implementation costs of the ~~pilot project~~ adult mental health initiative.

Subd. 7. **Duties of ~~county~~ adult mental health initiative board.** The ~~county~~ adult mental health initiative board, or other entity which is approved to administer a ~~pilot project~~ an adult mental health initiative, shall:

(1) administer the ~~project~~ initiative in a manner ~~which that~~ is consistent with the objectives described in subdivision 2 and the planning process described in subdivision 5;

(2) assure that no one is denied services ~~for which that~~ they would otherwise be eligible for; and

(3) provide the commissioner of human services with timely and pertinent information through the following methods:

(i) submission of mental health plans and plan amendments which are based on a format and timetable determined by the commissioner;

(ii) submission of social services expenditure and grant reconciliation reports, based on a coding format to be determined by mutual agreement between the ~~project's~~ initiative's managing entity and the commissioner; and

(iii) submission of data and participation in an evaluation of the ~~pilot projects~~ adult mental health initiatives, to be designed cooperatively by the commissioner and the ~~projects~~ initiatives.

Subd. 8. **Budget flexibility.** The commissioner may make budget transfers that do not increase the state share of costs to effectively implement the restructuring of adult mental health services.

Subd. 9. **Services and programs.** (a) The following three distinct grant programs are funded under this section:

- (1) mental health crisis services;
  - (2) housing with supports for adults with serious mental illness; and
  - (3) projects for assistance in transitioning from homelessness (PATH program).
- (b) In addition, the following are eligible for grant funds:
- (1) community education and prevention;
  - (2) client outreach;
  - (3) early identification and intervention;
  - (4) adult outpatient diagnostic assessment and psychological testing;
  - (5) peer support services;
  - (6) community support program services (CSP);
  - (7) adult residential crisis stabilization;
  - (8) supported employment;
  - (9) assertive community treatment (ACT);
  - (10) housing subsidies;
  - (11) basic living, social skills, and community intervention;
  - (12) emergency response services;
  - (13) adult outpatient psychotherapy;
  - (14) adult outpatient medication management;
  - (15) adult mobile crisis services;
  - (16) adult day treatment;
  - (17) partial hospitalization;
  - (18) adult residential treatment;
  - (19) adult mental health targeted case management;

- (20) intensive community rehabilitative services (ICRS); and
- (21) transportation.

Subd. 10. **Commissioner duty to report on use of grant funds biennially.** By November 1, 2016, and biennially thereafter, the commissioner of human services shall provide sufficient information to the members of the legislative committees having jurisdiction over mental health funding and policy issues to evaluate the use of funds appropriated under this section of law. The commissioner shall provide, at a minimum, the following information:

(1) the amount of funding to adult mental health initiatives, what programs and services were funded in the previous two years, gaps in services that each initiative brought to the attention of the commissioner, and outcome data for the programs and services that were funded; and

(2) the amount of funding for other targeted services and the location of services.

Subd. 11. **Adult mental health initiative funding.** When implementing the funding formula to distribute adult mental health initiative funds, the commissioner shall ensure that no adult mental health initiative region receives less than the amount the region received in fiscal year 2022 in combined adult mental health initiative funding.

Sec. 7. **[245.4663] MENTAL HEALTH PROVIDER SUPERVISION GRANT PROGRAM.**

Subdivision 1. **Grant program established.** The commissioner shall award grants to licensed or certified mental health providers who meet the criteria in subdivision 2 to fund supervision of interns and clinical trainees who are working toward becoming a mental health professional and to subsidize the costs of licensing applications and examination fees for clinical trainees.

Subd. 2. **Eligible providers.** In order to be eligible for a grant under this section, a mental health provider must:

(1) provide at least 25 percent of the provider's yearly patient encounters to state public program enrollees or patients receiving sliding fee schedule discounts through a formal sliding fee schedule meeting the standards established by the United States Department of Health and Human Services under Code of Federal Regulations, title 42, section 51c.303; or

(2) primarily serve underrepresented communities as defined in section 148E.010, subdivision 20.

Subd. 3. **Application; grant award.** A mental health provider seeking a grant under this section must apply to the commissioner at a time and in a manner specified by the commissioner. The commissioner shall review each application to determine if the application is complete, the mental health provider is eligible for a grant, and the proposed project is an allowable use of grant funds. The commissioner must determine the grant amount awarded to applicants that the commissioner determines will receive a grant.

Subd. 4. **Allowable uses of grant funds.** A mental health provider must use grant funds received under this section for one or more of the following:

(1) to pay for direct supervision hours for interns and clinical trainees, in an amount up to \$7,500 per intern or clinical trainee;

(2) to establish a program to provide supervision to multiple interns or clinical trainees; or

(3) to pay licensing application and examination fees for clinical trainees.

Subd. 5. **Program oversight.** During the grant period, the commissioner may require grant recipients to provide the commissioner with information necessary to evaluate the program.

Sec. 8. Minnesota Statutes 2020, section 245.4882, is amended by adding a subdivision to read:

Subd. 2a. **Assessment requirements.** (a) A residential treatment service provider must complete a diagnostic assessment of a child within ten calendar days of the child's admission. If a diagnostic 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.

(b) Notwithstanding the timeline requirements under Minnesota Rules, part 2960.0070, subpart 5, item C, subitems (1) and (2), the license holder must complete the screenings required by Minnesota Rules, part 2960.0070, subpart 5, item A, subitems (2), (3), (4), and (6), within ten calendar days. The license holder must complete the screenings required under Minnesota Rules, part 2960.0070, subpart 5, item A, subitems (1) and (5), according to the timelines in Minnesota Rules, part 2960.0070, subpart 5, item C, subitems (1) to (3).

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later.

Sec. 9. Minnesota Statutes 2020, section 245.4882, is amended by adding a subdivision to read:

Subd. 6. **Crisis admissions and stabilization.** (a) A child may be referred for residential treatment services under this section for the purpose of crisis stabilization by:

(1) a mental health professional as defined in section 245I.04, subdivision 2;

(2) a physician licensed under chapter 147 who is assessing a child in an emergency department;  
or

(3) a member of a mobile crisis team who meets the qualifications under section 256B.0624, subdivision 5.

(b) A provider making a referral under paragraph (a) must conduct an assessment of the child's mental health needs and make a determination that the child is experiencing a mental health crisis and is in need of residential treatment services under this section.

(c) A child may receive services under this subdivision for up to 30 days and must be subject to the screening and admissions criteria and processes under section 245.4885 thereafter.



**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2021 Supplement, section 245.4885, subdivision 1, is amended to read:

Subdivision 1. **Admission criteria.** (a) Prior to admission or placement, except in the case of an emergency, 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 county funds are used to pay for the child's services. An emergency includes when a child is in need of and has been referred for crisis stabilization services under section 245.4882, subdivision 6. A child who has been referred to residential treatment for crisis stabilization services in a residential treatment center is not required to undergo an assessment under this section.

(b) The county board shall determine the appropriate level of care for a child when county-controlled funds are used to pay for the child's residential treatment under this chapter, including residential treatment provided in a qualified residential treatment program as defined in section 260C.007, subdivision 26d. When a county board does not have responsibility for a child's placement and 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 for the child. When Indian Health Services funds or funds of a tribally owned facility funded under the Indian Self-Determination and Education Assistance Act, Public Law 93-638, are used for the child, the Indian Health Services or 638 tribal health facility must determine the appropriate level of care for the child. When more than one entity bears responsibility for a child's coverage, the entities shall coordinate level of care determination activities for the child to the extent possible.

(c) The child's 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 needs.

(d) When a level of care determination is conducted, the county board or other entity may not determine that a screening of a child, referral, or admission to a residential treatment facility 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 of a child that evaluates the child's 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 to the child. The validated tool must be approved by the commissioner of human services and may be the validated tool approved for the child's assessment under section 260C.704 if the juvenile treatment screening team recommended placement of the child in a qualified residential treatment program. If a diagnostic 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 these services are available and accessible to the child and the child's family. The child and the child's family must be invited to any meeting where the level of care determination is discussed and decisions regarding residential treatment are made. The child and the child's family may invite other relatives, friends, or advocates to attend these meetings.

(e) 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.

(f) The level of care determination, placement decision, and recommendations for mental health services must be documented in the child's record and made available to the child's family, as appropriate.

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. **[245.4905] FIRST EPISODE OF PSYCHOSIS GRANT PROGRAM.**

**Subdivision 1. Creation.** The first episode of psychosis grant program is established in the Department of Human Services to fund evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis and a public awareness campaign on the signs and symptoms of psychosis. First episode of psychosis services are eligible for children's mental health grants as specified in section 245.4889, subdivision 1, paragraph (b), clause (15).

**Subd. 2. Activities.** (a) All first episode of psychosis grant programs must:

(1) provide intensive treatment and support for adolescents and adults experiencing or at risk of experiencing a first psychotic episode. Intensive treatment and support includes medication management, psychoeducation for an individual and an individual's family, case management, employment support, education support, cognitive behavioral approaches, social skills training, peer support, crisis planning, and stress management;

(2) conduct outreach and provide training and guidance to mental health and health care professionals, including postsecondary health clinicians, on early psychosis symptoms, screening tools, and best practices;

(3) ensure access for individuals to first psychotic episode services under this section, including access for individuals who live in rural areas; and

(4) use all available funding streams.

(b) Grant money may also be used to pay for housing or travel expenses for individuals receiving services or to address other barriers preventing individuals and their families from participating in first psychotic episode services.

Subd. 3. **Eligibility.** Program activities must be provided to people 15 to 40 years old with early signs of psychosis.

Subd. 4. **Outcomes.** Evaluation of program activities must utilize evidence-based practices and must include the following outcome evaluation criteria:

- (1) whether individuals experience a reduction in psychotic symptoms;
- (2) whether individuals experience a decrease in inpatient mental health hospitalizations; and
- (3) whether individuals experience an increase in educational attainment.

Subd. 5. **Federal aid or grants.** The commissioner of human services must comply with all conditions and requirements necessary to receive federal aid or grants.

Sec. 12. **[245A.26] CHILDREN'S RESIDENTIAL FACILITY CRISIS STABILIZATION SERVICES.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Clinical trainee" means a staff person who is qualified under section 245I.04, subdivision 6.

(c) "License holder" means an individual, organization, or government entity that was issued a license by the commissioner of human services under this chapter for residential mental health treatment for children with emotional disturbance according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0580 to 2960.0700, or shelter care services according to Minnesota Rules, parts 2960.0010 to 2960.0120 and 2960.0510 to 2960.0530.

(d) "Mental health professional" means an individual who is qualified under section 245I.04, subdivision 2.

Subd. 2. **Scope and applicability.** (a) This section establishes additional licensing requirements for a children's residential facility to provide children's residential crisis stabilization services to a client who is experiencing a mental health crisis and is in need of residential treatment services.

(b) A children's residential facility may provide residential crisis stabilization services only if the facility is licensed to provide:

(1) residential mental health treatment for children with emotional disturbance according to Minnesota Rules, parts 2960.0010 to 2960.0220 and 2960.0580 to 2960.0700; or

(2) shelter care services according to Minnesota Rules, parts 2960.0010 to 2960.0120 and 2960.0510 to 2960.0530.

(c) If a client receives residential crisis stabilization services for 35 days or fewer in a facility licensed according to paragraph (b), clause (1), the facility is not required to complete a diagnostic assessment or treatment plan under Minnesota Rules, part 2960.0180, subpart 2, and part 2960.0600.

(d) If a client receives residential crisis stabilization services for 35 days or fewer in a facility licensed according to paragraph (b), clause (2), the facility is not required to develop a plan for meeting the client's immediate needs under Minnesota Rules, part 2960.0520, subpart 3.

Subd. 3. **Eligibility for services.** An individual is eligible for children's residential crisis stabilization services if the individual is under 21 years of age and meets the eligibility criteria for crisis services under section 256B.0624, subdivision 3.

Subd. 4. **Required services; providers.** (a) A license holder providing residential crisis stabilization services must continually follow a client's individual crisis treatment plan to improve the client's functioning.

(b) The license holder must offer and have the capacity to directly provide the following treatment services to a client:

(1) crisis stabilization services as described in section 256B.0624, subdivision 7;

(2) mental health services as specified in the client's individual crisis treatment plan, according to the client's treatment needs;

(3) health services and medication administration, if applicable; and

(4) referrals for the client to community-based treatment providers and support services for the client's transition from residential crisis stabilization to another treatment setting.

(c) Children's residential crisis stabilization services must be provided by a qualified staff person listed in section 256B.0624, subdivision 8, according to the scope of practice for the individual staff person's position.

Subd. 5. **Assessment and treatment planning.** (a) Within 12 hours of a client's admission for residential crisis stabilization, the license holder must assess the client and document the client's immediate needs, including the client's:

(1) health and safety, including the need for crisis assistance;

(2) need for connection to family and other natural supports;

(3) if applicable, housing and legal issues; and

(4) if applicable, responsibilities for children, family, and other natural supports, and employers.

(b) Within 24 hours of a client's admission for residential crisis stabilization, the license holder must complete a crisis treatment plan for the client, according to the requirements for a crisis treatment plan under section 256B.0624, subdivision 11. The license holder must base the client's crisis treatment plan on the client's referral information and the assessment of the client's immediate needs under paragraph (a). A mental health professional or a clinical trainee under the supervision of a

mental health professional must complete the crisis treatment plan. A crisis treatment plan completed by a clinical trainee must contain documentation of approval, as defined in section 245I.02, subdivision 2, by a mental health professional within five business days of initial completion by the clinical trainee.

(c) A mental health professional must review a client's crisis treatment plan each week and document the weekly reviews in the client's client file.

(d) For a client receiving children's residential crisis stabilization services who is 18 years of age or older, the license holder must complete an individual abuse prevention plan for the client, pursuant to section 245A.65, subdivision 2, as part of the client's crisis treatment plan.

Subd. 6. **Staffing requirements.** Staff members of facilities providing services under this section must have access to a mental health professional or clinical trainee within 30 minutes, either in person or by telephone. The license holder must maintain a current schedule of available mental health professionals or clinical trainees and include contact information for each mental health professional or clinical trainee. The schedule must be readily available to all staff members.

Sec. 13. Minnesota Statutes 2021 Supplement, section 245I.23, is amended by adding a subdivision to read:

Subd. 19a. **Additional requirements for locked program facility.** (a) A license holder that prohibits clients from leaving the facility by locking exit doors or other permissible methods must meet the additional requirements of this subdivision.

(b) The license holder must meet all applicable building and fire codes to operate a building with locked exit doors. The license holder must have the appropriate license from the Department of Health, as determined by the Department of Health, for operating a program with locked exit doors.

(c) The license holder's policies and procedures must clearly describe the types of court orders that authorize the license holder to prohibit clients from leaving the facility.

(d) For each client present in the facility under a court order, the license holder must maintain documentation of the court order authorizing the license holder to prohibit the client from leaving the facility.

(e) Upon a client's admission to a locked program facility, the license holder must document in the client file that the client was informed:

(1) that the client has the right to leave the facility according to the client's rights under section 144.651, subdivision 21, if the client is not subject to a court order authorizing the license holder to prohibit the client from leaving the facility; or

(2) that the client cannot leave the facility due to a court order authorizing the license holder to prohibit the client from leaving the facility.

(f) If the license holder prohibits a client from leaving the facility, the client's treatment plan must reflect this restriction.

Sec. 14. Minnesota Statutes 2020, section 253B.07, subdivision 2a, is amended to read:

Subd. 2a. **Petition originating from criminal proceedings.** (a) If criminal charges are pending against a defendant, the court shall order simultaneous competency and civil commitment examinations in accordance with Minnesota Rules of Criminal Procedure, rule 20.04, when the following conditions are met:

(1) the prosecutor or defense counsel doubts the defendant's competency and a motion is made challenging competency, or the court on its initiative raises the issue under section 611.42 or Minnesota Rules of Criminal Procedure, rule 20.01; and

(2) the prosecutor and defense counsel agree simultaneous examinations are appropriate.

No additional examination under subdivision 3 is required in a subsequent civil commitment proceeding unless a second examination is requested by defense counsel appointed following the filing of any petition for commitment.

(b) Only a court examiner may conduct an assessment as described in section 611.43 or Minnesota Rules of Criminal Procedure, rules 20.01, subdivision 4, and 20.02, subdivision 2.

(c) Where a county is ordered to consider civil commitment following a determination of incompetency under section 611.45 or Minnesota Rules of Criminal Procedure, rule 20.01, the county in which the criminal matter is pending is responsible to conduct prepetition screening and, if statutory conditions for commitment are satisfied, to file the commitment petition in that county. By agreement between county attorneys, prepetition screening and filing the petition may be handled in the county of financial responsibility or the county where the proposed patient is present.

(d) Following an acquittal of a person of a criminal charge under section 611.026, the petition shall be filed by the county attorney of the county in which the acquittal took place and the petition shall be filed with the court in which the acquittal took place, and that court shall be the committing court for purposes of this chapter. When a petition is filed pursuant to subdivision 2 with the court in which acquittal of a criminal charge took place, the court shall assign the judge before whom the acquittal took place to hear the commitment proceedings unless that judge is unavailable.

Sec. 15. Minnesota Statutes 2021 Supplement, section 254B.05, subdivision 1a, is amended to read:

Subd. 1a. **Room and board provider requirements.** (a) Effective January 1, 2000, vendors of room and board are eligible for behavioral health fund payment if the vendor:

(1) has rules prohibiting residents bringing chemicals into the facility or using chemicals while residing in the facility and provide consequences for infractions of those rules;

(2) is determined to meet applicable health and safety requirements;

(3) is not a jail or prison;

(4) is not concurrently receiving funds under chapter 256I for the recipient;

(5) admits individuals who are 18 years of age or older;

(6) is registered as a board and lodging or lodging establishment according to section 157.17;

(7) has awake staff on site 24 hours per day;

(8) has staff who are at least 18 years of age and meet the requirements of section 245G.11, subdivision 1, paragraph (b);

(9) has emergency behavioral procedures that meet the requirements of section 245G.16;

(10) meets the requirements of section 245G.08, subdivision 5, if administering medications to clients;

(11) meets the abuse prevention requirements of section 245A.65, including a policy on fraternization and the mandatory reporting requirements of section 626.557;

(12) documents coordination with the treatment provider to ensure compliance with section 254B.03, subdivision 2;

(13) protects client funds and ensures freedom from exploitation by meeting the provisions of section 245A.04, subdivision 13;

(14) has a grievance procedure that meets the requirements of section 245G.15, subdivision 2; and

(15) has sleeping and bathroom facilities for men and women separated by a door that is locked, has an alarm, or is supervised by awake staff.

(b) Programs licensed according to Minnesota Rules, chapter 2960, are exempt from paragraph (a), clauses (5) to (15).

(c) Programs providing children's mental health crisis admissions and stabilization under section 245.4882, subdivision 6, are eligible vendors of room and board.

~~(e)~~ (d) Licensed programs providing intensive residential treatment services or residential crisis stabilization services pursuant to section 256B.0622 or 256B.0624 are eligible vendors of room and board and are exempt from paragraph (a), clauses (6) to (15).

Sec. 16. Minnesota Statutes 2021 Supplement, section 256B.0625, subdivision 56a, is amended to read:

Subd. 56a. **Officer-involved community-based care coordination.** (a) Medical assistance covers officer-involved community-based care coordination for an individual who:

(1) has screened positive for benefiting from treatment for a mental illness or substance use disorder using a tool approved by the commissioner;

(2) does not require the security of a public detention facility and is not considered an inmate of a public institution as defined in Code of Federal Regulations, title 42, section 435.1010;

(3) meets the eligibility requirements in section 256B.056; and

(4) has agreed to participate in officer-involved community-based care coordination.

(b) Officer-involved community-based care coordination means navigating services to address a client's mental health, chemical health, social, economic, and housing needs, or any other activity targeted at reducing the incidence of jail utilization and connecting individuals with existing covered services available to them, including, but not limited to, targeted case management, waiver case management, or care coordination.

(c) Officer-involved community-based care coordination must be provided by an individual who is an employee of or is under contract with a county, or is an employee of or under contract with an Indian health service facility or facility owned and operated by a tribe or a tribal organization operating under Public Law 93-638 as a 638 facility to provide officer-involved community-based care coordination and is qualified under one of the following criteria:

(1) a mental health professional;

(2) a clinical trainee qualified according to section 245I.04, subdivision 6, working under the treatment supervision of a mental health professional according to section 245I.06;

(3) a mental health practitioner qualified according to section 245I.04, subdivision 4, working under the treatment supervision of a mental health professional according to section 245I.06;

(4) a mental health certified peer specialist qualified according to section 245I.04, subdivision 10, working under the treatment supervision of a mental health professional according to section 245I.06;

(5) an individual qualified as an alcohol and drug counselor under section 245G.11, subdivision 5; or

(6) a recovery peer qualified under section 245G.11, subdivision 8, working under the supervision of an individual qualified as an alcohol and drug counselor under section 245G.11, subdivision 5.

(d) Reimbursement is allowed for up to 60 days following the initial determination of eligibility.

(e) Providers of officer-involved community-based care coordination shall annually report to the commissioner on the number of individuals served, and number of the community-based services that were accessed by recipients. The commissioner shall ensure that services and payments provided under officer-involved community-based care coordination do not duplicate services or payments provided under section 256B.0625, subdivision 20, 256B.0753, 256B.0755, or 256B.0757.

~~(f) Notwithstanding section 256B.19, subdivision 1, the nonfederal share of cost for officer-involved community-based care coordination services shall be provided by the county providing the services, from sources other than federal funds or funds used to match other federal funds.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later.

Sec. 17. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 1, is amended to read:



Subdivision 1. **Required covered service components.** (a) Subject to federal approval, medical assistance covers medically necessary intensive behavioral health treatment services when the services are provided by a provider entity certified under and meeting the standards in this section. The provider entity must make reasonable and good faith efforts to report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner.

(b) Intensive behavioral health treatment services to children with mental illness residing in foster family settings or with legal guardians that comprise specific required service components provided in clauses (1) to (6) are reimbursed by medical assistance when they meet the following standards:

- (1) psychotherapy provided by a mental health professional or a clinical trainee;
- (2) crisis planning;
- (3) individual, family, and group psychoeducation services provided by a mental health professional or a clinical trainee;
- (4) clinical care consultation provided by a mental health professional or a clinical trainee;
- (5) individual treatment plan development as defined in Minnesota Rules, part 9505.0371, subpart 7; and
- (6) service delivery payment requirements as provided under subdivision 4.

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 18. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 1a, is amended to read:

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

(a) "At risk" means the child has experienced severe difficulty in managing mental health and behavior in multiple settings; has received a diagnosis of mental illness within the past 180 days; and meets one of the following criteria:

(1) has previously been in a residential or inpatient mental health treatment program, including a program licensed under Minnesota Rules, chapter 2960, for mental health issues within the past six months;

(2) has a history of threatening harm to self or others and has actively engaged in self-harming or threatening behavior in the past 30 days;

(3) has experienced interventions from mental health service programs, social services, mobile crisis programs, or law enforcement, or experienced the use of seclusion and restraints in school, to maintain safety in the child's home, community, or school within the past 60 days; or

(4) has a history of repeated intervention from mental health programs, social services, mobile crisis programs, or law enforcement to maintain safety in the child's home, community, or school within the past 60 days.

~~(a)~~ (b) "Clinical care consultation" means communication from a treating clinician to other providers working with the same client to inform, inquire, and instruct regarding the client's symptoms, strategies for effective engagement, care and intervention needs, and treatment expectations across service settings, including but not limited to the client's school, social services, day care, probation, home, primary care, medication prescribers, disabilities services, and other mental health providers and to direct and coordinate clinical service components provided to the client and family.

~~(b)~~ (c) "Clinical trainee" means a staff person who is qualified according to section 245I.04, subdivision 6.

~~(e)~~ (d) "Crisis planning" has the meaning given in section 245.4871, subdivision 9a.

~~(d)~~ (e) "Culturally appropriate" means providing mental health services in a manner that incorporates the child's cultural influences into interventions as a way to maximize resiliency factors and utilize cultural strengths and resources to promote overall wellness.

~~(e)~~ (f) "Culture" means the distinct ways of living and understanding the world that are used by a group of people and are transmitted from one generation to another or adopted by an individual.

~~(f)~~ (g) "Standard diagnostic assessment" means the assessment described in section 245I.10, subdivision 6.

~~(g)~~ (h) "Family" means a person who is identified by the client or the client's parent or guardian as being important to the client's mental health treatment. Family may include, but is not limited to, parents, foster parents, children, spouse, committed partners, former spouses, persons related by blood or adoption, persons who are a part of the client's permanency plan, or persons who are presently residing together as a family unit.

~~(h)~~ (i) "Foster care" has the meaning given in section 260C.007, subdivision 18.

~~(i)~~ (j) "Foster family setting" means the foster home in which the license holder resides.

~~(j)~~ (k) "Individual treatment plan" means the plan described in section 245I.10, subdivisions 7 and 8.

~~(k)~~ (l) "Mental health certified family peer specialist" means a staff person who is qualified according to section 245I.04, subdivision 12.

~~(l)~~ (m) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

~~(m)~~ (n) "Mental illness" has the meaning given in section 245I.02, subdivision 29.

~~(n)~~ (o) "Parent" has the meaning given in section 260C.007, subdivision 25.

(+) (p) "Psychoeducation services" means information or demonstration provided to an individual, family, or group to explain, educate, and support the individual, family, or group in understanding a child's symptoms of mental illness, the impact on the child's development, and needed components of treatment and skill development so that the individual, family, or group can help the child to prevent relapse, prevent the acquisition of comorbid disorders, and achieve optimal mental health and long-term resilience.

(+) (q) "Psychotherapy" means the treatment described in section 256B.0671, subdivision 11.

(+) (r) "Team consultation and treatment planning" means the coordination of treatment plans and consultation among providers in a group concerning the treatment needs of the child, including disseminating the child's treatment service schedule to all members of the service team. Team members must include all mental health professionals working with the child, a parent, the child unless the team lead or parent deem it clinically inappropriate, and at least two of the following: an individualized education program case manager; probation agent; children's mental health case manager; child welfare worker, including adoption or guardianship worker; primary care provider; foster parent; and any other member of the child's service team.

(+) (s) "Trauma" has the meaning given in section 245I.02, subdivision 38.

(+) (t) "Treatment supervision" means the supervision described under section 245I.06.

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 19. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 2, is amended to read:

Subd. 2. **Determination of client eligibility.** An eligible recipient is an individual, from birth through age 20, who is currently placed in a foster home licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or placed in a foster home licensed under the regulations established by a federally recognized Minnesota Tribe, or who is residing in the legal guardian's home and is at risk, and has received: (1) a standard diagnostic assessment within 180 days before the start of service that documents that intensive behavioral health treatment services are medically necessary ~~within a foster family setting~~ to ameliorate identified symptoms and functional impairments; and (2) a level of care assessment as defined in section 245I.02, subdivision 19, that demonstrates that the individual requires intensive intervention without 24-hour medical monitoring, and a functional assessment as defined in section 245I.02, subdivision 17. The level of care assessment and the functional assessment must include information gathered from the placing county, Tribe, or case manager.

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 20. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 3, is amended to read:

Subd. 3. **Eligible mental health services providers.** (a) Eligible providers for children's intensive behavioral health services ~~in a foster family setting~~ must be certified by the state ~~and have a service provision contract with a county board or a reservation tribal council~~ and must be able to demonstrate the ability to provide all of the services required in this section and meet the standards in chapter 245I, as required in section 245I.011, subdivision 5.

(b) For purposes of this section, a provider agency must be:

(1) a county-operated entity certified by the state;

(2) an Indian Health Services facility operated by a Tribe or Tribal organization under funding authorized by United States Code, title 25, sections 450f to 450n, or title 3 of the Indian Self-Determination Act, Public Law 93-638, section 638 (facilities or providers); or

(3) a noncounty entity.

(c) Certified providers that do not meet the service delivery standards required in this section shall be subject to a decertification process.

(d) For the purposes of this section, all services delivered to a client must be provided by a mental health professional or a clinical trainee.

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 21. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 4, is amended to read:

Subd. 4. **Service delivery payment requirements.** (a) To be eligible for payment under this section, a provider must develop and practice written policies and procedures for children's intensive treatment in foster care behavioral health services, consistent with subdivision 1, paragraph (b), and comply with the following requirements in paragraphs (b) to (n).

(b) Each previous and current mental health, school, and physical health treatment provider must be contacted to request documentation of treatment and assessments that the eligible client has received. This information must be reviewed and incorporated into the standard diagnostic assessment and team consultation and treatment planning review process.

(c) Each client receiving treatment must be assessed for a trauma history, and the client's treatment plan must document how the results of the assessment will be incorporated into treatment.

(d) The level of care assessment as defined in section 245I.02, subdivision 19, and functional assessment as defined in section 245I.02, subdivision 17, must be updated at least every 90 days or prior to discharge from the service, whichever comes first.

(e) Each client receiving treatment services must have an individual treatment plan that is reviewed, evaluated, and approved every 90 days using the team consultation and treatment planning process.

(f) Clinical care consultation must be provided in accordance with the client's individual treatment plan.

(g) Each client must have a crisis plan within ten days of initiating services and must have access to clinical phone support 24 hours per day, seven days per week, during the course of treatment. The crisis plan must demonstrate coordination with the local or regional mobile crisis intervention team.

(h) Services must be delivered and documented at least three days per week, equaling at least six hours of treatment per week. If the mental health professional, client, and family agree, service units may be temporarily reduced for a period of no more than 60 days in order to meet the needs of the client and family, or as part of transition or on a discharge plan to another service or level of care. The reasons for service reduction must be identified, documented, and included in the treatment plan. Billing and payment are prohibited for days on which no services are delivered and documented.

(i) Location of service delivery must be in the client's home, day care setting, school, or other community-based setting that is specified on the client's individualized treatment plan.

(j) Treatment must be developmentally and culturally appropriate for the client.

(k) Services must be delivered in continual collaboration and consultation with the client's medical providers and, in particular, with prescribers of psychotropic medications, including those prescribed on an off-label basis. Members of the service team must be aware of the medication regimen and potential side effects.

(l) Parents, siblings, foster parents, legal guardians, and members of the child's permanency plan must be involved in treatment and service delivery unless otherwise noted in the treatment plan.

(m) Transition planning for the child must be conducted starting with the first treatment plan and must be addressed throughout treatment to support the child's permanency plan and postdischarge mental health service needs.

(n) In order for a provider to receive the daily per-client encounter rate, at least one of the services listed in subdivision 1, paragraph (b), clauses (1) to (3), must be provided. The services listed in subdivision 1, paragraph (b), clauses (4) and (5), may be included as part of the daily per-client encounter rate.

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 22. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 6, is amended to read:

Subd. 6. **Excluded services.** (a) Services in clauses (1) to (7) are not covered under this section and are not eligible for medical assistance payment as components of children's intensive treatment in foster care behavioral health services, but may be billed separately:

- (1) inpatient psychiatric hospital treatment;
- (2) mental health targeted case management;
- (3) partial hospitalization;
- (4) medication management;
- (5) children's mental health day treatment services;
- (6) crisis response services under section 256B.0624;
- (7) transportation; and
- (8) mental health certified family peer specialist services under section 256B.0616.

(b) Children receiving intensive ~~treatment in foster care~~ behavioral health services are not eligible for medical assistance reimbursement for the following services while receiving children's intensive treatment in foster care behavioral health services:

- (1) psychotherapy and skills training components of children's therapeutic services and supports under section 256B.0943;
- (2) mental health behavioral aide services as defined in section 256B.0943, subdivision 1, paragraph (1);
- (3) home and community-based waiver services;
- (4) mental health residential treatment; and
- (5) room and board costs as defined in section 256I.03, subdivision 6.

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 23. Minnesota Statutes 2020, section 256B.0946, subdivision 7, is amended to read:

Subd. 7. **Medical assistance payment and rate setting.** The commissioner shall establish a single daily per-client encounter rate for children's intensive treatment in foster care behavioral health services. The rate must be constructed to cover only eligible services delivered to an eligible recipient by an eligible provider, as prescribed in subdivision 1, paragraph (b).

**EFFECTIVE DATE.** This section is effective July 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 24. Minnesota Statutes 2021 Supplement, section 256B.763, is amended to read:

**256B.763 CRITICAL ACCESS MENTAL HEALTH RATE INCREASE.**

(a) For services defined in paragraph (b) and rendered on or after July 1, 2007, payment rates shall be increased by 23.7 percent over the rates in effect on January 1, 2006, for:

(1) psychiatrists and advanced practice registered nurses with a psychiatric specialty;

(2) community mental health centers under section 256B.0625, subdivision 5; and

(3) mental health clinics certified under section 245I.20, or hospital outpatient psychiatric departments that are designated as essential community providers under section 62Q.19.

(b) This increase applies to group skills training when provided as a component of children's therapeutic services and support, psychotherapy, medication management, evaluation and management, diagnostic assessment, explanation of findings, psychological testing, neuropsychological services, direction of behavioral aides, and inpatient consultation.

(c) This increase does not apply to rates that are governed by section 256B.0625, subdivision 30, or 256B.761, paragraph (b), other cost-based rates, rates that are negotiated with the county, rates that are established by the federal government, or rates that increased between January 1, 2004, and January 1, 2005.

~~(d) The commissioner shall adjust rates paid to prepaid health plans under contract with the commissioner to reflect the rate increases provided in paragraphs (a), (e), and (f). The prepaid health plan must pass this rate increase to the providers identified in paragraphs (a), (e), (f), and (g).~~

~~(e)~~ Payment rates shall be increased by 23.7 percent over the rates in effect on December 31, 2007, for:

(1) medication education services provided on or after January 1, 2008, by adult rehabilitative mental health services providers certified under section 256B.0623; and

(2) mental health behavioral aide services provided on or after January 1, 2008, by children's therapeutic services and support providers certified under section 256B.0943.

~~(f)~~ (e) For services defined in paragraph (b) and rendered on or after January 1, 2008, by children's therapeutic services and support providers certified under section 256B.0943 and not already included in paragraph (a), payment rates shall be increased by 23.7 percent over the rates in effect on December 31, 2007.

~~(g)~~ (f) Payment rates shall be increased by 2.3 percent over the rates in effect on December 31, 2007, for individual and family skills training provided on or after January 1, 2008, by children's therapeutic services and support providers certified under section 256B.0943.

~~(h)~~ (g) For services described in paragraphs (b), ~~(e)~~ (d), and ~~(g)~~ (f) and rendered on or after July 1, 2017, payment rates for mental health clinics certified under section 245I.20 that are not designated as essential community providers under section 62Q.19 shall be equal to payment rates for mental health clinics certified under section 245I.20 that are designated as essential community providers under section 62Q.19. In order to receive increased payment rates under this paragraph, a provider must demonstrate a commitment to serve low-income and underserved populations by:

(1) charging for services on a sliding-fee schedule based on current poverty income guidelines; and

(2) not restricting access or services because of a client's financial limitation.

(i) For services identified under this section that are rendered by providers identified under this section, managed care plans and county-based purchasing plans shall reimburse the providers at a rate that is at least equal to the fee-for-service payment rate. The commissioner shall monitor the effect of this requirement on the rate of access to the services delivered by mental health providers.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 25. Minnesota Statutes 2020, section 480.182, is amended to read:

**480.182 STATE ASSUMPTION OF CERTAIN COURT COSTS.**

Notwithstanding any law to the contrary, the state courts will pay for the following court-related programs and costs:

(1) court interpreter program costs, including the costs of hiring court interpreters;

(2) guardian ad litem program and personnel costs;

(3) examination costs, not including hospitalization or treatment costs, for mental commitments and related proceedings under chapter 253B;

(4) examination costs under chapter 611 or rule 20 of the Rules of Criminal Procedure;

(5) in forma pauperis costs;

(6) costs for transcripts mandated by statute, except in appeal cases and postconviction cases handled by the Board of Public Defense;

(7) jury program costs; and

(8) witness fees and mileage fees specified in sections 253B.23, subdivision 1; 260B.152, subdivision 2; 260B.331, subdivision 3, clause (1); 260C.152, subdivision 2; 260C.331, subdivision 3, clause (1); 357.24; 357.32; and 627.02.

Sec. 26. **[611.40] APPLICABILITY.**

Notwithstanding Rules of Criminal Procedure, rule 20.01, sections 611.40 to 611.59 shall govern the proceedings for adults when competency to stand trial is at issue. This section does not apply to juvenile courts. A competency examination ordered under Rules of Criminal Procedure, rule 20.04, must follow the procedure in section 611.43.

Sec. 27. **[611.41] DEFINITIONS.**

Subdivision 1. **Definitions.** For the purposes of sections 611.40 to 611.58, the following terms have the meanings given.



Subd. 2. **Alternative program.** "Alternative program" means any mental health or substance use disorder treatment or program that is not a certified competency restoration program but may assist a defendant in attaining competency.

Subd. 3. **Cognitive impairment.** "Cognitive impairment" means a condition that impairs a person's memory, perception, communication, learning, or other ability to think. Cognitive impairment may be caused by any factor including traumatic, developmental, acquired, infectious, and degenerative processes.

Subd. 4. **Community-based treatment program.** "Community-based treatment program" means treatment and services provided at the community level, including but not limited to community support services programs as defined in section 245.462, subdivision 6; day treatment services as defined in section 245.462, subdivision 8; mental health crisis services as defined in section 245.462, subdivision 14c; outpatient services as defined in section 245.462, subdivision 21; residential treatment services as defined in section 245.462, subdivision 23; assertive community treatment services provided under section 256B.0622; adult rehabilitation mental health services provided under section 256B.0623; home and community-based waivers; and supportive housing. Community-based treatment program does not include services provided by a state-operated treatment program.

Subd. 5. **Competency restoration program.** "Competency restoration program" means a structured program of clinical and educational services that is certified and designed to identify and address barriers to a defendant's ability to understand the criminal proceedings, consult with counsel, and participate in the defense.

Subd. 6. **Competency restoration services.** "Competency restoration services" means education provided by certified individuals to defendants found incompetent to proceed. Educational services must use the curriculum certified by the State Competency Restoration Board as the foundation for delivering competency restoration education. Competency restoration services does not include housing assistance or programs, social services, or treatment that must be provided by a licensed professional including mental health treatment, substance use disorder treatment, or co-occurring disorders treatment.

Subd. 7. **Court examiner.** "Court examiner" means a person appointed to serve the court, and who is a physician or licensed psychologist who has a doctoral degree in psychology.

Subd. 8. **Forensic navigator.** "Forensic navigator" means a person who meets the certification and continuing education requirements under section 611.55, subdivision 4, and provides the services under section 611.55, subdivision 3.

Subd. 9. **Head of the program.** "Head of the program" means the head of the competency restoration program or the head of the facility or program where the defendant is being served.

Subd. 10. **Jail-based program.** "Jail-based program" means a competency restoration program that operates within a correctional facility licensed by the commissioner of corrections under section 241.021 that meets the capacity standards governing jail facilities. A jail-based program may not be granted a variance to exceed its operational capacity.

Subd. 11. **Locked treatment facility.** "Locked treatment facility" means a community-based treatment program, treatment facility, or state-operated treatment program that is locked and is licensed by the Department of Health or Department of Human Services.

Subd. 12. **Mental illness.** "Mental illness" means an organic disorder of the brain or a clinically significant disorder of thought, mood, perception, orientation, or memory, that grossly impairs judgment, behavior, capacity to recognize reality, or to reason or understand, that is manifested by instances of grossly disturbed behavior or faulty perceptions. Mental illness does not include disorders defined as cognitive impairments in subdivision 3; epilepsy; antisocial personality disorder; brief periods of intoxication caused by alcohol, drugs, or other mind-altering substances; or repetitive or problematic patterns of using any alcohol, drugs, or other mind-altering substances.

Subd. 13. **State-operated treatment program.** "State-operated treatment program" means any state-operated program, 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 control of the commissioner of human services, for a person who has a mental illness, developmental disability, or chemical dependency.

Subd. 14. **Suspend the criminal proceedings.** "Suspend the criminal proceedings" means nothing can be heard or decided on the merits of the criminal charges except that the court retains jurisdiction in all other matters, including but not limited to bail, conditions of release, probation conditions, no contact orders, and appointment of counsel.

Subd. 15. **Targeted misdemeanor.** "Targeted misdemeanor" has the meaning given in section 299C.10, subdivision 1, paragraph (e).

Subd. 16. **Treatment facility.** "Treatment facility" means a non-state-operated hospital, residential treatment provider, crisis residential withdrawal management center, or corporate foster care home qualified to provide care and treatment for persons who have a mental illness, developmental disability, or chemical dependency.

Sec. 28. **[611.42] COMPETENCY MOTION PROCEDURES.**

Subdivision 1. **Competency to stand trial.** A defendant is incompetent and shall not plead, be tried, or be sentenced if, due to a mental illness or cognitive impairment, the defendant lacks the ability to:

- (1) rationally consult with counsel;
- (2) understand the proceedings; or
- (3) participate in the defense.

Subd. 2. **Waiver of counsel in competency proceedings.** (a) A defendant must not be allowed to waive counsel if the defendant lacks ability to:

- (1) knowingly, voluntarily, and intelligently waive the right to counsel;
- (2) appreciate the consequences of proceeding without counsel;

- (3) comprehend the nature of the charge;
- (4) comprehend the nature of the proceedings;
- (5) comprehend the possible punishment; or
- (6) comprehend any other matters essential to understanding the case.

(b) The court must not proceed under this law before a lawyer consults with the defendant and has an opportunity to be heard.

Subd. 3. **Competency motion.** (a) At any time, the prosecutor or defense counsel may make a motion challenging the defendant's competency, or the court on its initiative may raise the issue. The defendant's consent is not required to bring a competency motion. The motion shall be supported by specific facts but shall not include communications between the defendant and defense counsel if disclosure would violate attorney-client privilege. By bringing the motion, the defendant does not waive attorney-client privilege.

(b) If competency is at issue, the court shall appoint a forensic navigator to provide the forensic navigator services described in section 611.55 for the defendant, including development of a specific plan to identify appropriate housing and services if the defendant is released from custody or any charges are dismissed.

(c) In felony, gross misdemeanor, and targeted misdemeanor cases, if the court determines there is a reasonable basis to doubt the defendant's competence and there is probable cause for the charge, the court must suspend the criminal proceedings and order an examination of the defendant under section 611.43.

(d) In misdemeanor cases, other than cases involving a targeted misdemeanor, if the court determines there is a reasonable basis to doubt the defendant's competence and there is probable cause for the charge, the court must suspend the criminal proceedings. The court may order an examination of the defendant under section 611.43 if the examination is in the public interest. For purposes of this paragraph, an examination is in the public interest when it is necessary to assess whether the defendant has a cognitive impairment or mental illness; determine whether a defendant has the ability to access housing, food, income, disability verification, medications, and treatment for medical conditions; or whether a defendant has the ability to otherwise address any basic needs. The court shall order the forensic navigator to complete a bridge plan as described in section 611.55, subdivision 4 and submit it to the court. The court may dismiss the charge upon receipt of the bridge plan without holding a hearing unless either party objects.

Subd. 4. **Dismissal, referrals for services, and collaboration.** (a) Except as provided in this subdivision, when the court determines there is a reasonable basis to doubt the defendant's competence and orders an examination of the defendant, a forensic navigator must complete a bridge plan with the defendant as described in section 611.55, subdivision 3, submit the bridge plan to the court, and provide a written copy to the defendant before the court or prosecutor dismisses any charges based on a belief or finding that the defendant is incompetent.

(b) If for any reason a forensic navigator has not been appointed, the court must make every reasonable effort to coordinate with any resources available to the court and refer the defendant for

possible assessment and social services, including but not limited to services for engagement under section 253B.041, before dismissing any charges based on a finding that the defendant is incompetent.

(c) If working with the forensic navigator or coordinating a referral to services would cause an unreasonable delay in the release of a defendant being held in custody, the court may release the defendant. If a defendant has not been engaged for assessment and referral before release, the court may coordinate with the forensic navigator or any resources available to the court to engage the defendant for up to 90 days after release.

(d) Courts may partner and collaborate with county social services, community-based programs, jails, and any other resource available to the court to provide referrals to services when a defendant's competency is at issue or a defendant has been found incompetent to proceed.

(e) Counsel for the defendant may bring a motion to dismiss the proceedings in the interest of justice at any stage of the proceedings.

Sec. 29. **[611.43] COMPETENCY EXAMINATION AND REPORT.**

Subdivision 1. **Competency examination.** (a) If the court orders an examination pursuant to section 611.42, subdivision 3, the court shall appoint a court examiner to examine the defendant and report to the court on the defendant's competency to proceed. A court examiner may obtain from court administration and review the report of any prior or subsequent examination under this section or under Minnesota Rules of Criminal Procedure, rule 20.

(b) If the defendant is not entitled to release, the court shall order the defendant to participate in an examination where the defendant is being held, or the court may order that the defendant be confined in a treatment facility, locked treatment facility, or a state-operated treatment facility until the examination is completed.

(c) If the defendant is entitled to release, the court shall order the defendant to appear for an examination. If the defendant fails to appear at an examination, the court may amend the conditions of release and bail pursuant to the Minnesota Rules of Criminal Procedure, rule 6.

(d) A competency examination ordered under Minnesota Rules of Criminal Procedure, rule 20.04, shall proceed under subdivision 2.

Subd. 2. **Report of examination.** (a) The court-appointed examiner's written report shall be filed with the court and served on the prosecutor and defense counsel by the court. The report shall be filed no more than 30 days after the order for examination of a defendant in custody unless extended by the court for good cause. If the defendant is out of custody or confined in a noncorrectional program or treatment facility, the report shall be filed no more than 60 days after the order for examination, unless extended by the court for good cause. The report shall not include opinions concerning the defendant's mental condition at the time of the alleged offense or any statements made by the defendant regarding the alleged criminal conduct, unless necessary to support the examiner's opinion regarding competence or incompetence.

(b) The report shall include an evaluation of the defendant's mental health, cognition, and the factual basis for opinions about:

- (1) any diagnoses made, and the results of any testing conducted with the defendant;
  - (2) the defendant's competency to stand trial;
  - (3) the level of care and education required for the defendant to attain, be restored to, or maintain competency;
  - (4) a recommendation of the least restrictive setting appropriate to meet the defendant's needs for restoration and immediate safety;
  - (5) the impact of any substance use disorder on the defendant, including the defendant's competency, and any recommendations for treatment;
  - (6) the likelihood the defendant will attain competency in the reasonably foreseeable future;
  - (7) whether the defendant poses a substantial likelihood of physical harm to self or others; and
  - (8) if the court examiner's opinion is that the defendant is incompetent to proceed, the report must include an opinion as to whether the defendant possesses capacity to make decisions regarding neuroleptic medication unless the examiner is unable to render an opinion on capacity. If the examiner is unable to render an opinion on capacity, the report must document the reasons why the examiner is unable to render that opinion.
- (c) If the court examiner determines that the defendant presents an imminent risk of serious danger to another, is imminently suicidal, or otherwise needs emergency intervention, the examiner must promptly notify the court, prosecutor, defense counsel, and those responsible for the care and custody of the defendant.
- (d) If the defendant appears for the examination but does not participate, the court examiner shall submit a report and, if sufficient information is available, may render an opinion on competency and an opinion as to whether the unwillingness to participate resulted from a mental illness, cognitive impairment, or other factors.
- (e) If the court examiner determines the defendant would benefit from services for engagement in mental health treatment under section 253B.041 or any other referral to social services, the court examiner may recommend referral of the defendant to services where available.

Subd. 3. **Additional examination.** If either the prosecutor or defense counsel intends to retain an independent examiner, the party shall provide notice to the court and opposing counsel no later than ten days after the date of receipt of the court-appointed examiner's report. If an independent examiner is retained, the independent examiner's report shall be filed no more than 30 days after the date a party files notice of intent to retain an independent examiner, unless extended by the court for good cause.

Subd. 4. **Admissibility of defendant's statements.** When a defendant is examined under this section, any statement made by the defendant for the purpose of the examination and any evidence derived from the examination is admissible in the competency proceedings, but not in the criminal proceedings.

Sec. 30. [611.44] **CONTESTED HEARING PROCEDURES.**

Subdivision 1. **Request for hearing.** (a) The prosecutor or defense counsel may request a hearing on the court-appointed examiner's competency report by filing a written objection no later than ten days after the report is filed.

(b) A hearing shall be held as soon as possible but no longer than 30 days after the request, unless extended by agreement of the prosecutor and defense counsel, or by the court for good cause.

(c) If an independent court examiner is retained, the hearing may be continued up to 14 days after the date the independent court examiner's report is filed. The court may continue the hearing for good cause.

Subd. 2. **Competency hearing.** (a) The court may admit all relevant and reliable evidence at the competency hearing. The court-appointed examiner is considered the court's witness and may be called and questioned by the court, prosecutor, or defense counsel. The report of the court-appointed examiner shall be admitted into evidence without further foundation.

(b) Defense counsel may testify, subject to the prosecutor's cross-examination, but shall not violate attorney-client privilege. Testifying does not automatically disqualify defense counsel from continuing to represent the defendant. The court may inquire of defense counsel regarding the attorney-client relationship and the defendant's ability to communicate with counsel. The court shall not require counsel to divulge communications protected by attorney-client privilege, and the prosecutor shall not cross-examine defense counsel concerning responses to the court's inquiry.

Subd. 3. **Determination without hearing.** If neither party files an objection, the court shall determine the defendant's competency based on the reports of all examiners.

Subd. 4. **Burden of proof and decision.** The defendant is presumed incompetent unless the court finds by a preponderance of the evidence that the defendant is competent.

Sec. 31. **[611.45] COMPETENCY FINDINGS.**

Subdivision 1. **Findings.** (a) The court must rule on the defendant's competency to stand trial no more than 14 days after the examiner's report is submitted to the court. If there is a contested hearing, the court must rule no more than 30 days after the date of the hearing.

(b) If the court finds the defendant competent, the court shall enter an order and the criminal proceedings shall resume.

(c) If the court finds the defendant incompetent, the court shall enter a written order and suspend the criminal proceedings. The matter shall proceed under section 611.46.

Subd. 2. **Appeal.** Appeals under this chapter are governed by Minnesota Rules of Criminal Procedure, rule 28. A verbatim record shall be made in all competency proceedings.

Subd. 3. **Dismissal of criminal charge.** (a) If the court finds the defendant incompetent, and the charge is a misdemeanor other than a targeted misdemeanor, the charge must be dismissed.

(b) In targeted misdemeanor and gross misdemeanor cases, the charges must be dismissed 30 days after the date of the finding of incompetence, unless the prosecutor, before the expiration of the 30-day period, files a written notice of intent to prosecute when the defendant regains competency.

If a notice has been filed and the charge is a targeted misdemeanor, charges must be dismissed within one year after the finding of incompetency. If a notice has been filed and the charge is a gross misdemeanor, charges must be dismissed within two years after the finding of incompetency.

(c) In felony cases, except as provided in paragraph (d), the charges must be dismissed three years after the date of the finding of incompetency, unless the prosecutor, before the expiration of the three-year period, files a written notice of intent to prosecute when the defendant regains competency. If a notice has been filed, charges must be dismissed within five years after the finding of incompetency or ten years if the maximum sentence for the crime with which the defendant is charged is ten years or more.

(d) The requirement that felony charges be dismissed under paragraph (c) does not apply if:

(1) the court orders continuing supervision pursuant to section 611.49, subdivision 3; or

(2) the defendant is charged with a violation of sections 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112 (criminal vehicular homicide); 609.2114, subdivision 1 (criminal vehicular operation, death to an unborn child); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); or 609.2665 (manslaughter of an unborn child in the second degree); or a crime of violence as defined in section 624.712, subdivision 5, except for a violation of chapter 152.

**Sec. 32. [611.46] INCOMPETENT TO STAND TRIAL AND CONTINUING SUPERVISION.**

Subdivision 1. **Order to competency restoration.** (a) If the court finds the defendant incompetent and the charges have not been dismissed, the court shall order the defendant to participate in a competency restoration program to restore the defendant's competence. The court may order participation in a competency restoration program provided outside of a jail, a jail-based competency restoration program, or an alternative program. The court must determine the least-restrictive program appropriate to meet the defendant's needs and public safety. In making this determination, the court must consult with the forensic navigator and consider any recommendations of the court examiner. The court shall not order a defendant to participate in a jail-based program or a state-operated treatment program if the highest criminal charge is a misdemeanor or targeted misdemeanor.

(b) The court may only order the defendant to participate in competency restoration at an inpatient or residential treatment program under this section if the head of the treatment program determines that admission to the program is clinically appropriate and consents to the defendant's admission. The court may only order the defendant to participate in competency restoration at a state-operated treatment facility under this section if the commissioner of human services or a designee determines that admission of the defendant is clinically appropriate and consents to the defendant's admission. The court may require a certified competency program that qualifies as a locked facility or a state-operated treatment program to notify the court in writing of the basis for refusing consent for admission of the defendant in order to ensure transparency and maintain an accurate record. The court may not require personal appearance of any representative of a certified competency program.

The court shall send a written request for notification to the locked facility or state-operated treatment program and the locked facility or state-operated treatment program shall provide a written response to the court within ten days of receipt of the court's request.

(c) If the defendant is confined in jail and has not received competency restoration services within 30 days of the finding of incompetency, the court shall review the case with input from the prosecutor and defense counsel and may:

(1) order the defendant to participate in an appropriate competency restoration program that takes place outside of a jail;

(2) conditionally release the defendant, including but not limited to conditions that the defendant participate in a competency restoration program when one becomes available and accessible;

(3) make a determination as to whether the defendant is likely to attain competency in the reasonably foreseeable future and proceed under section 611.49; or

(4) upon a motion, dismiss the charges in the interest of justice.

(d) Upon the order to a competency restoration program or alternative program, the court may order any hospital, treatment facility, or correctional facility that has provided care or supervision to the defendant in the previous two years to provide copies of the defendant's medical records to the competency restoration program or alternative program. This information shall be provided in a consistent and timely manner and pursuant to all applicable laws.

(e) If at any time the defendant refuses to participate in a competency restoration program or an alternative program, the head of the program shall notify the court and any entity responsible for supervision of the defendant.

(f) At any time, the head of the program may discharge the defendant from the program or facility. The head of the program must notify the court, prosecutor, defense counsel, and any entity responsible for the supervision of the defendant prior to any planned discharge. Absent emergency circumstances, this notification shall be made five days prior to the discharge if the defendant is not being discharged to jail or a correctional facility. Upon the receipt of notification of discharge or upon the request of either party in response to notification of discharge, the court may order that a defendant who is subject to bail or unmet conditions of release be returned to jail upon being discharged from the program or facility. If the court orders a defendant returned to jail, the court shall notify the parties and head of the program at least one day before the defendant's planned discharge, except in the event of an emergency discharge where one day notice is not possible. The court must hold a review hearing within seven days of the defendant's return to jail. The forensic navigator must be given notice of the hearing and be allowed to participate.

(g) If the defendant is discharged from the program or facility under emergency circumstances, notification of emergency discharge shall include a description of the emergency circumstances and may include a request for emergency transportation. The court shall make a determination on a request for emergency transportation within 24 hours. Nothing in this section prohibits a law enforcement agency from transporting a defendant pursuant to any other authority.



Subd. 2. **Supervision.** (a) Upon a finding of incompetency, if the defendant is entitled to release, the court must determine whether the defendant requires pretrial supervision. The court must weigh public safety risks against the defendant's interests in remaining free from supervision while presumed innocent in the criminal proceedings. The court may use a validated and equitable risk assessment tool to determine whether supervision is necessary.

(b) If the court determines that the defendant requires pretrial supervision, the court shall direct the forensic navigator to conduct pretrial supervision and report violations to the court. The forensic navigator shall be responsible for the supervision of the defendant until ordered otherwise by the court.

(c) Upon application by the prosecutor, the entity or its designee assigned to supervise the defendant, or court services alleging that the defendant violated a condition of release and is a risk to public safety, the court shall follow the procedures under Minnesota Rules of Criminal Procedure, rule 6. Any hearing on the alleged violation of release conditions shall be held no more than 15 days after the date of issuance of a summons or within 72 hours if the defendant is apprehended on a warrant.

(d) If the court finds a violation, the court may revise the conditions of release and bail as appropriate pursuant to the Minnesota Rules of Criminal Procedure, including but not limited to consideration of the defendant's need for ongoing access to a competency restoration program or alternative program under this section.

(e) The court must review conditions of release and bail on request of any party and may amend the conditions of release or make any other reasonable order upon receipt of information that the pretrial detention of a defendant has interfered with the defendant attaining competency.

Subd. 3. **Certified competency restoration programs; procedure.** (a) If the court orders a defendant to participate in a competency restoration program that takes place outside of a jail, or an alternative program that the court has determined is providing appropriate competency restoration services to the defendant, the court shall specify whether the program is a community-based treatment program or provided in a locked treatment facility.

(b) If the court finds that the defendant continues to be incompetent at a review hearing held after the initial determination of competency, the court must hold a review hearing pursuant to section 611.49 and consider any changes to the defendant's conditions of release or competency restoration programming to restore the defendant's competency in the least restrictive program appropriate.

(c) If the court orders the defendant to a locked treatment facility or jail-based program, the court must calculate the defendant's custody credit and cannot order the defendant to a locked treatment facility or jail-based program for a period that would cause the defendant's custody credit to exceed the maximum sentence for the underlying charge.

Subd. 4. **Jail-based competency restoration programs; procedure.** (a) A defendant is eligible to participate in a jail-based competency restoration program when the underlying charge is a gross misdemeanor or felony and either:

(1) the defendant has been found incompetent, the defendant has not met the conditions of release ordered pursuant to rule 6.02 of Minnesota Rules of Criminal Procedure, including posting bail, and either a court-appointed examiner has recommended jail-based competency restoration as the least restrictive setting to meet the person's needs, or the court finds that after a reasonable effort by the forensic navigator, there has not been consent by another secure setting to the defendant's placement; or

(2) the defendant is in custody and is ordered to a certified competency restoration program that takes place outside of a jail, a jail-based competency restoration program is available within a reasonable distance to the county where the defendant is being held, and the court ordered a time-limited placement in a jail-based program until transfer to a certified competency restoration program that takes place outside of a jail.

(b) A defendant may not be ordered to participate in a jail-based competency restoration program for more than 90 days without a review hearing. If after 90 days of the order to a jail-based program the defendant has not attained competency, the court must review the case with input from the prosecutor and defense counsel and may:

(1) order the defendant to participate in an appropriate certified competency restoration program that takes place outside of a locked facility; or

(2) determine whether, after a reasonable effort by the forensic navigator, there is consent to the defendant's placement by another locked facility. If court determines that a locked facility is the least restrictive program appropriate and no appropriate locked facility is available, it may order the defendant to the jail-based program for an additional 90 days.

(c) Nothing in this section prohibits the court from ordering the defendant transferred to a certified competency restoration program that takes place outside of a jail if the court determines that transition is appropriate, or the defendant satisfies the conditions of release or bail. Before the defendant is transitioned to a certified competency restoration program that takes place outside of a jail or an alternative program, the court shall notify the prosecutor and the defense counsel, and the provisions of subdivision 2 shall apply.

(d) The court may require a certified competency program that qualifies as a locked facility to notify the court in writing of the basis for refusing consent of the defendant in order to ensure transparency and maintain an accurate record. The court may not require personal appearance of any representative of a certified competency program.

Subd. 5. **Alternative programs; procedure.** (a) A defendant is eligible to participate in an alternative program if the defendant has been found incompetent, the defendant is entitled to release, and a certified competency restoration program outside of a jail is not available.

(b) As soon as the forensic navigator has reason to believe that no certified competency restoration program outside of a jail will be available within a reasonable time, the forensic navigator shall determine if there are available alternative programs that are likely to assist the defendant in attaining competency. Upon notification by the forensic navigator, the court may order the defendant to participate in an appropriate alternative program and notify the prosecutor and the defense counsel.

(c) If at any time while the defendant is participating in an alternative program, an appropriate certified competency restoration program that takes place outside of a jail becomes available, the forensic navigator must notify the court. The court must notify the prosecutor and the defense counsel and must order the defendant to participate in an appropriate certified competency restoration program, unless the court determines that the defendant is receiving appropriate competency restoration services in the alternative program. If appropriate and in the public interest, the court may order the defendant to participate in the certified competency restoration program and an alternative program.

(d) At any time, the head of the alternative program or the forensic navigator may notify the court that the defendant is receiving appropriate competency restoration services in the alternative program, and recommend that remaining in the alternative program is in the best interest of the defendant and the defendant's progress in attaining competency. The court may order the defendant to continue programming in the alternative program and proceed under subdivision 3.

(e) If after 90 days of the order to an alternative program the defendant has not attained competency and the defendant is not participating in a certified competency restoration program, the court must hold a review hearing pursuant to section 611.49.

Subd. 6. **Reporting to the court.** (a) The court examiner must provide an updated report to the court at least once every six months, unless the court and the parties agree to a longer period that is not more than 12 months, as to the defendant's competency and a description of the efforts made to restore the defendant to competency.

(b) At any time, the head of the program may notify the court and recommend that a court examiner provide an updated competency examination and report.

(c) The court shall furnish copies of the report to the prosecutor, defense counsel, and the facility or program where the defendant is being served.

(d) The report may make recommendations for continued services to ensure continued competency. If the defendant is found guilty, these recommendations may be considered by the court in imposing a sentence, including any conditions of probation.

Subd. 7. **Contested hearings.** The prosecutor or defense counsel may request a hearing on the court examiner's competency opinion by filing written objections to the competency report no later than ten days after receiving the report. All parties are entitled to notice before the hearing. If the hearing is held, it shall conform with the procedures of section 611.44.

Subd. 8. **Competency determination.** (a) The court must determine whether the defendant is competent based on the updated report from the court examiner no more than 14 days after receiving the report.

(b) If the court finds the defendant competent, the court must enter an order and the criminal proceedings shall resume.

(c) If the court finds the defendant incompetent, the court may order the defendant to continue participating in a program as provided in this section.

(d) Counsel for the defendant may bring a motion to dismiss the proceedings in the interest of justice at any stage of the proceedings.

Sec. 33. [611.47] ADMINISTRATION OF MEDICATION.

Subdivision 1. **Motion.** When a court finds that a defendant is incompetent or any time thereafter, upon the motion of the prosecutor or treating medical provider, the court shall hear and determine whether the defendant lacks capacity to make decisions regarding the administration of neuroleptic medication.

Subd. 2. **Certification report.** (a) If the defendant's treating medical practitioner is of the opinion that the defendant lacks capacity to make decisions regarding neuroleptic medication, the treating medical practitioner shall certify in a report that the lack of capacity exists and which conditions under subdivision 3 are applicable. The certification report shall contain an assessment of the current mental status of the defendant and the opinion of the treating medical practitioner that involuntary neuroleptic medication has become medically necessary and appropriate under subdivision 3, paragraph (b), clause (1) or (2), or in the patient's best medical interest under subdivision 3, paragraph (b), clause (3). The certification report shall be filed with the court when a motion for a hearing is made under this section.

(b) A certification report made pursuant to this section shall include a description of the neuroleptic medication proposed to be administered to the defendant and its likely effects and side effects, including effects on the defendant's condition or behavior that would affect the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner.

(c) Any defendant subject to an order under subdivision 3 of this section or the state may request review of that order.

(d) The court may appoint a court examiner to examine the defendant and report to the court and parties as to whether the defendant lacks capacity to make decisions regarding the administration of neuroleptic medication. If the patient refuses to participate in an examination, the court examiner may rely on the patient's clinically relevant medical records in reaching an opinion.

(e) The defendant is entitled to a second court examiner under this section, if requested by the defendant.

Subd. 3. **Determination.** (a) The court shall consider opinions in the reports prepared under subdivision 2 as applicable to the issue of whether the defendant lacks capacity to make decisions regarding the administration of neuroleptic medication and shall proceed under paragraph (b).

(b) The court shall hear and determine whether any of the following is true:

(1) the defendant lacks capacity to make decisions regarding neuroleptic medication, as defined in section 253B.092, subdivision 5, the defendant's mental illness requires medical treatment with neuroleptic medication, and, if the defendant's mental illness is not treated with neuroleptic medication, it is probable that serious harm to the physical or mental health of the patient will result. Probability of serious harm to the physical or mental health of the defendant requires evidence that the defendant is presently suffering adverse effects to the defendant's physical or mental health, or

the defendant has previously suffered these effects as a result of a mental illness and the defendant's condition is substantially deteriorating or likely to deteriorate without administration of neuroleptic medication. The fact that a defendant has a diagnosis of a mental illness does not alone establish probability of serious harm to the physical or mental health of the defendant;

(2) the defendant lacks capacity to make decisions regarding neuroleptic medication, as defined in section 253B.092, subdivision 5, neuroleptic medication is medically necessary, and the defendant is a danger to others, in that the defendant has inflicted, attempted to inflict, or made a serious threat of inflicting substantial bodily harm on another while in custody, or the defendant had inflicted, attempted to inflict, or made a serious threat of inflicting substantial bodily harm on another that resulted in being taken into custody, and the defendant presents, as a result of mental illness or cognitive impairment, a demonstrated danger of inflicting substantial bodily harm on others. Demonstrated danger may be based on an assessment of the defendant's present mental condition, including a consideration of past behavior of the defendant and other relevant information; or

(3) the defendant lacks capacity to make decisions regarding neuroleptic medication, as defined in section 253B.092, subdivision 5, and the state has shown by clear and convincing evidence that:

(i) the state has charged the defendant with a serious crime against the person or property;

(ii) involuntary administration of neuroleptic medication is substantially likely to render the defendant competent to stand trial;

(iii) the medication is unlikely to have side effects that interfere with the defendant's ability to understand the nature of the criminal proceedings or to assist counsel in the conduct of a defense in a reasonable manner;

(iv) less intrusive treatments are unlikely to have substantially the same results and involuntary medication is necessary; and

(v) neuroleptic medication is in the patient's best medical interest in light of the patient's medical condition.

(c) In ruling on a petition under this section, the court shall also take into consideration any evidence on:

(1) what the patient would choose to do in the situation if the patient had capacity, including evidence such as a durable power of attorney for health care under chapter 145C;

(2) the defendant's family, community, moral, religious, and social values;

(3) the medical risks, benefits, and alternatives to the proposed treatment;

(4) past efficacy and any extenuating circumstances of past use of neuroleptic medications; and

(5) any other relevant factors.

(d) In determining whether the defendant possesses capacity to consent to neuroleptic medications, the court:

(1) must apply a rebuttable presumption that a defendant has the capacity to make decisions regarding administration of neuroleptic medication;

(2) must find that a defendant has the capacity to make decisions regarding the administration of neuroleptic medication if the defendant:

(i) has an awareness of the nature of the defendant's situation and the possible consequences of refusing treatment with neuroleptic medications;

(ii) has an understanding of treatment with neuroleptic medications and the risks, benefits, and alternatives; and

(iii) communicates verbally or nonverbally a clear choice regarding treatment with neuroleptic medications that is a reasoned one not based on a symptom of the defendant's mental illness, even though it may not be in the defendant's best interests; and

(3) must not conclude that a defendant's decision is unreasonable based solely on a disagreement with the medical practitioner's recommendation.

(e) If consideration of the evidence presented on the factors in paragraph (c) weighs in favor of authorizing involuntary administration of neuroleptic medication, and the court finds any of the conditions described in paragraph (b) to be true, the court shall issue an order authorizing involuntary administration of neuroleptic medication to the defendant when and as prescribed by the defendant's medical practitioner, including administration by a treatment facility or correctional facility. The court order shall specify which medications are authorized and may limit the maximum dosage of neuroleptic medication that may be administered. The order shall be valid for no more than one year. An order may be renewed by filing another petition under this section and following the process in this section. The order shall terminate no later than the closure of the criminal case in which it is issued. The court shall not order involuntary administration of neuroleptic medication under paragraph (b), clause (3), unless the court has first found that the defendant does not meet the criteria for involuntary administration of neuroleptic medication under paragraph (b), clause (1), and does not meet the criteria under paragraph (b), clause (2).

(f) A copy of the order must be given to the defendant, the defendant's attorney, the county attorney, and the treatment facility or correctional facility where the defendant is being served. The treatment facility, correctional facility, or treating medical practitioner may not begin administration of the neuroleptic medication until it notifies the patient of the court's order authorizing the treatment.

Subd. 4. **Emergency administration.** A treating medical practitioner may administer neuroleptic medication to a defendant who does not have capacity to make a decision regarding administration of the medication if the defendant is in an emergency situation. Medication may be administered for so long as the emergency continues to exist, up to 14 days, if the treating medical practitioner determines that the medication is necessary to prevent serious, immediate physical harm to the patient or to others. If a request for authorization to administer medication is made to the court within the 14 days, the treating medical practitioner may continue the medication through the date of the first court hearing, if the emergency continues to exist. The treating medical practitioner shall document the emergency in the defendant's medical record in specific behavioral terms.

Subd. 5. **Administration without judicial review.** Neuroleptic medications may be administered without judicial review under this subdivision if:

(1) the defendant has been prescribed neuroleptic medication prior to admission to a facility or program, but lacks the present capacity to consent to the administration of that neuroleptic medication; continued administration of the medication is in the patient's best interest; and the defendant does not refuse administration of the medication. In this situation, the previously prescribed neuroleptic medication may be continued for up to 14 days while the treating medical practitioner is requesting a court order authorizing administering neuroleptic medication or an amendment to a current court order authorizing administration of neuroleptic medication. If the treating medical practitioner requests a court order under this section within 14 days, the treating medical practitioner may continue administering the medication to the patient through the hearing date or until the court otherwise issues an order; or

(2) the defendant does not have the present capacity to consent to the administration of neuroleptic medication, but prepared a health care power of attorney or a health care directive under chapter 145C requesting treatment or authorizing an agent or proxy to request treatment, and the agent or proxy has requested the treatment.

Subd. 6. **Defendants with capacity to make informed decision.** If the court finds that the defendant has the capacity to decide whether to take neuroleptic medication, a facility or program may not administer medication without the patient's informed written consent or without the declaration of an emergency, or until further review by the court.

Subd. 7. **Procedure when patient defendant refuses medication.** If physical force is required to administer the neuroleptic medication, the facility or program may only use injectable medications. If physical force is needed to administer the medication, medication may only be administered in a setting where the person's condition can be reassessed and medical personnel qualified to administer medication are available, including in the community or a correctional facility. The facility or program may not use a nasogastric tube to administer neuroleptic medication involuntarily.

Sec. 34. **[611.48] REVIEW HEARINGS.**

The prosecutor or defense counsel may apply to the court for a hearing to review the defendant's competency restoration programming. All parties are entitled to notice before the hearing. The hearing shall be held no later than 30 days after the date of the request, unless extended upon agreement of the prosecutor and defense counsel or by the court for good cause.

Sec. 35. **[611.49] LIKELIHOOD TO ATTAIN COMPETENCY.**

Subdivision 1. **Applicability.** (a) The court may hold a hearing on its own initiative or upon request of either party to determine whether the defendant is likely to attain competency in the foreseeable future when the most recent court examiner's report states that the defendant is unlikely to attain competency in the foreseeable future, and either:

(1) defendant has not been restored to competence after participating and cooperating with court ordered competency restoration programming for at least one year; or

(2) the defendant has not received timely competency restoration services under section 611.46 after one year.

(b) The court cannot find a defendant unlikely to attain competency based upon a defendant's refusal to cooperate with or remain at a certified competency program or cooperate with an examination.

(c) The parties are entitled to 30 days of notice prior to the hearing and, unless the parties agree to a longer time period, the court must determine within 30 days after the hearing whether there is a substantial probability that the defendant will attain competency within the foreseeable future.

Subd. 2. **Procedure.** (a) If the court finds that there is a substantial probability that the defendant will attain competency within the reasonably foreseeable future, the court shall find the defendant incompetent and proceed under section 611.46.

(b) If the court finds that there is not a substantial probability the defendant will attain competency within the reasonably foreseeable future, the court may not order the defendant to participate in or continue to participate in a competency restoration program in a locked treatment facility. The court must release the defendant from any custody holds pertaining to the underlying criminal case and require the forensic navigator to develop a bridge plan.

(c) If the court finds that there is not a substantial probability the defendant will attain competency within the foreseeable future, the court may issue an order to the designated agency in the county of financial responsibility or the county where the defendant is present to conduct a prepetition screening pursuant to section 253B.07.

(d) If a hearing is held under this subdivision and the criteria pursuant to subdivision 1, paragraphs (a) and (b) are satisfied, a party attempting to demonstrate that there is a substantial probability that the defendant will attain competency within the foreseeable future must prove by a preponderance of the evidence.

(e) If the court finds that there is not a substantial probability that the defendant will attain competency within the foreseeable future, the court must dismiss the case unless:

(1) the person is charged with a violation of section 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112 (criminal vehicular homicide); 609.2114, subdivision 1 (criminal vehicular operation, death to an unborn child); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); or 609.2665 (manslaughter of an unborn child in the second degree); or a crime of violence as defined in section 624.712, subdivision 5, except for a violation of chapter 152; or

(2) there is a showing of a danger to public safety if the matter is dismissed.

(f) If the court does not dismiss the charges, the court must order continued supervision under subdivision 3.



Subd. 3. **Continued supervision.** (a) If the court orders the continued supervision of a defendant, any party may request a hearing on the issue of continued supervision by filing a notice no more than ten days after the order for continued supervision.

(b) When continued supervision is ordered, the court must identify the supervisory agency responsible for the supervision of the defendant, including but not limited to directing a forensic navigator as the responsible entity.

(c) Notwithstanding the reporting requirements of section 611.46, subdivision 6, the court examiner must provide an updated report to the court one year after the initial order for continued supervision as to the defendant's competency and a description of the efforts made to restore the defendant to competency. The court shall hold a review hearing within 30 days of receipt of the report.

(d) If continued supervision is ordered at the review hearing under paragraph (c), the court must set a date for a review hearing no later than two years after the most recent order for continuing supervision. The court must order review of the defendant's status, including an updated competency examination and report by the court examiner. The court examiner must submit the updated report to the court. At the review hearing, the court must determine if the defendant has attained competency, whether there is a substantial probability that the defendant will attain competency within the foreseeable future, and whether the absence of continuing supervision of the defendant is a danger to public safety. Notwithstanding subdivision 2, paragraph (e), the court may hear any motions to dismiss pursuant to the interest of justice at the review hearing.

(e) The court may not order continued supervision for more than ten years unless the defendant is charged with a violation of section 609.185 (murder in the first degree); 609.19 (murder in the second degree); 609.195 (murder in the third degree); 609.20 (manslaughter in the first degree); 609.205 (manslaughter in the second degree); 609.2112 (criminal vehicular homicide); 609.2114, subdivision 1 (criminal vehicular operation, death to an unborn child); 609.2661 (murder of an unborn child in the first degree); 609.2662 (murder of an unborn child in the second degree); 609.2663 (murder of an unborn child in the third degree); 609.2664 (manslaughter of an unborn child in the first degree); or 609.2665 (manslaughter of an unborn child in the second degree); or a crime of violence as defined in section 624.712, subdivision 5, except for a violation of chapter 152.

(f) At any time, the head of the program may discharge the defendant from the program or facility. The head of the program must notify the court, prosecutor, defense counsel, forensic navigator, and any entity responsible for the supervision of the defendant prior to any planned discharge. Absent emergency circumstances, this notification shall be made five days prior to the discharge. If the defendant is discharged from the program or facility under emergency circumstances, notification of emergency discharge shall include a description of the emergency circumstances and may include a request for emergency transportation. The court shall make a determination on a request for emergency transportation within 24 hours. Nothing in this section prohibits a law enforcement agency from transporting a defendant pursuant to any other authority.

(g) The court may provide, partner, or contract for pretrial supervision services or continued supervision if the defendant is found incompetent and unlikely to attain competency in the foreseeable future.

Sec. 36. **[611.50] DEFENDANT'S PARTICIPATION AND CONDUCT OF HEARINGS.**

Subdivision 1. **Place of hearing.** Upon request of the prosecutor, defense counsel, or head of the treatment facility and approval by the court and the treatment facility, a hearing may be held at a treatment facility. A hearing may be conducted by interactive video conference consistent with the Rules of Criminal Procedure.

Subd. 2. **Absence permitted.** When a medical professional treating the defendant submits a written report stating that participating in a hearing under this statute is not in the best interest of the defendant and would be detrimental to the defendant's mental or physical health, the court shall notify the defense counsel and the defendant and allow the hearing to proceed without the defendant's participation.

Subd. 3. **Disruption of hearing.** At any hearing required under this section, the court, on its motion or on the motion of any party, may exclude or excuse a defendant who is seriously disruptive, refuses to participate, or who is incapable of comprehending and participating in the proceedings. In such instances, the court shall, with specificity on the record, state the behavior of the defendant or other circumstances which justify proceeding in the absence of the defendant.

Subd. 4. **Issues not requiring defendant's participation.** The defendant's incompetence does not preclude the defense counsel from making an objection or defense before trial that can be fairly determined without the defendant's participation.

Sec. 37. **[611.51] CREDIT FOR CONFINEMENT.**

If the defendant is convicted, any time spent confined in a secured setting while being assessed and restored to competency must be credited as time served.

Sec. 38. **[611.55] FORENSIC NAVIGATOR SERVICES.**

Subdivision 1. **Definition.** As used in this section, "board" means the State Competency Restoration Board established in section 611.56.

Subd. 2. **Availability of forensic navigator services.** The board must provide or contract for enough forensic navigator services to meet the needs of adult defendants in each judicial district who are found incompetent to proceed.

Subd. 3. **Duties.** (a) Forensic navigators shall be impartial in all legal matters relating to the criminal case. Nothing shall be construed to permit the forensic navigator to provide legal counsel as a representative of the court, prosecutor, or defense counsel. Forensic navigators shall be required to report compliance and noncompliance with pretrial supervision and any orders of the court.

(b) Forensic navigators shall provide services to assist defendants with mental illnesses and cognitive impairments. Services may include, but are not limited to:

- (1) developing bridge plans;
- (2) assisting defendants in participating in court-ordered examinations and hearings;
- (3) coordinating timely placement in court-ordered competency restoration programs;

(4) providing competency restoration education;

(5) reporting to the court on the progress of defendants found incompetent to stand trial;

(6) providing coordinating services to help defendants access needed mental health, medical, housing, financial, social, transportation, precharge and pretrial diversion, and other necessary services provided by other programs and community service providers;

(7) communicating with and offering supportive resources to defendants and family members of defendants; and

(8) providing consultation and education to court officials on emerging issues and innovations in serving defendants with mental illnesses in the court system.

(c) If a defendant's charges are dismissed, the appointed forensic navigator may continue assertive outreach with the individual for up to 90 days to assist in attaining stability in the community.

Subd. 4. **Bridge plans.** (a) The forensic navigator must prepare bridge plans with the defendant and submit them to the court. Bridge plans must be submitted before the time the court makes a competency finding pursuant to section 611.45. The bridge plan must include:

(1) a confirmed housing address the defendant will use upon release, including but not limited to emergency shelters;

(2) if possible, the dates, times, locations, and contact information for any appointments made to further coordinate support and assistance for the defendant in the community, including but not limited to mental health and substance use disorder treatment, or a list of referrals to services; and

(3) any other referrals, resources, or recommendations the forensic navigator or court deems necessary.

(b) Bridge plans and any supporting records or other data submitted with those plans are not accessible to the public.

#### Sec. 39. **[611.56] STATE COMPETENCY RESTORATION BOARD.**

Subdivision 1. **Establishment; membership.** (a) The State Competency Restoration Board is established in the judicial branch. The board is not subject to the administrative control of the judiciary. The board shall consist of seven members, including:

(1) three members appointed by the supreme court, at least one of whom must be a defense attorney, one a county attorney, and one public member; and

(2) four members appointed by the governor, at least one of whom must be a mental health professional with experience in competency restoration.

(b) The appointing authorities may not appoint an active judge to be a member of the board, but may appoint a retired judge.

(c) All members must demonstrate an interest in maintaining a high quality, independent forensic navigator program and a thorough process for certification of competency restoration programs. Members shall be familiar with the Minnesota Rules of Criminal Procedure, particularly rule 20; chapter 253B; and sections 611.40 to 611.59. Following the initial terms of appointment, at least one member appointed by the supreme court must have previous experience working as a forensic navigator. At least three members of the board shall live outside the First, Second, Fourth, and Tenth Judicial Districts. The terms, compensation, and removal of members shall be as provided in section 15.0575. The members shall elect the chair from among the membership for a term of two years.

Subd. 2. **Duties and responsibilities.** (a) The board shall create and administer a statewide, independent competency restoration system that certifies competency restoration programs and uses forensic navigators to promote prevention and diversion of people with mental illnesses and cognitive impairments from entering the legal system, support defendants with mental illness and cognitive impairments, support defendants in the competency process, and assist courts and partners in coordinating competency restoration services.

(b) The board shall:

(1) approve and recommend to the legislature a budget for the board and the forensic navigator program;

(2) establish procedures for distribution of funding under this section to the forensic navigator program;

(3) establish forensic navigator standards, administrative policies, procedures, and rules consistent with statute, rules of court, and laws that affect a forensic navigator's work;

(4) establish certification requirements for competency restoration programs; and

(5) carry out the programs under sections 611.57, 611.58, and 611.59.

(c) The board may:

(1) adopt standards, policies, or procedures necessary to ensure quality assistance for defendants found incompetent to stand trial and charged with a felony, gross misdemeanor, or targeted misdemeanor, or for defendants found incompetent to stand trial who have recurring incidents;

(2) establish district forensic navigator offices as provided in subdivision 4; and

(3) propose statutory changes to the legislature and rule changes to the supreme court that would facilitate the effective operation of the forensic navigator program.

Subd. 3. **Administrator.** The board shall appoint a program administrator who serves at the pleasure of the board. The program administrator shall attend all meetings of the board and the Certification Advisory Committee, but may not vote, and shall:

(1) carry out all administrative functions necessary for the efficient and effective operation of the board and the program, including but not limited to hiring, supervising, and disciplining program staff and forensic navigators;

(2) implement, as necessary, resolutions, standards, rules, regulations, and policies of the board;

(3) keep the board fully advised as to its financial condition, and prepare and submit to the board the annual program and budget and other financial information as requested by the board;

(4) recommend to the board the adoption of rules and regulations necessary for the efficient operation of the board and the program; and

(5) perform other duties prescribed by the board.

Subd. 4. **District offices.** The board may establish district forensic navigator offices in counties, judicial districts, or other areas where the number of defendants receiving competency restoration services requires more than one full-time forensic navigator and establishment of an office is fiscally responsible and in the best interest of defendants found to be incompetent.

Subd. 5. **Administration.** The board may contract with the Office of State Court Administrator for administrative support services for the fiscal years following fiscal year 2022.

Subd. 6. **Fees and costs; civil actions on contested case.** Sections 15.039 and 15.471 to 15.474 apply to the State Competency Restoration Board.

Subd. 7. **Access to records.** Access to records of the board is subject to the Rules of Public Access for Records of the Judicial Branch. The board may propose amendments for supreme court consideration.

Sec. 40. [611.57] **CERTIFICATION ADVISORY COMMITTEE.**

Subdivision 1. **Establishment.** The Certification Advisory Committee is established to provide the State Competency Restoration Board with advice and expertise related to the certification of competency restoration programs, including jail-based programs.

Subd. 2. **Membership.** (a) The Certification Advisory Committee consists of the following members:

(1) a mental health professional, as defined in section 245I.02, subdivision 27, with community behavioral health experience, appointed by the governor;

(2) a board-certified forensic psychiatrist with experience in competency evaluations, providing competency restoration services, or both, appointed by the governor;

(3) a board-certified forensic psychologist with experience in competency evaluations, providing competency restoration services, or both, appointed by the governor;

(4) the president of the Minnesota Corrections Association or a designee;

(5) the direct care and treatment deputy commissioner or a designee;

(6) the president of the Minnesota Association of County Social Service Administrators or a designee;

(7) the president of the Minnesota Association of Community Mental Health Providers or a designee;

(8) the president of the Minnesota Sheriffs' Association or a designee; and

(9) the executive director of the National Alliance on Mental Illness Minnesota or a designee.

(b) Members of the advisory committee serve without compensation and at the pleasure of the appointing authority. Vacancies shall be filled by the appointing authority consistent with the qualifications of the vacating member required by this subdivision.

Subd. 3. **Meetings.** At its first meeting, the advisory committee shall elect a chair and may elect a vice-chair. The advisory committee shall meet at least monthly or upon the call the chair. The advisory committee shall meet sufficiently enough to accomplish the tasks identified in this section.

Subd. 4. **Duties.** The Certification Advisory Committee shall consult with the Department of Human Services, the Department of Health, and the Department of Corrections; make recommendations to the State Competency Restoration Board regarding competency restoration curriculum, certification requirements for competency restoration programs including jail-based programs, and certification of individuals to provide competency restoration services; and provide information and recommendations on other issues relevant to competency restoration as requested by the board.

Sec. 41. **[611.58] COMPETENCY RESTORATION CURRICULUM AND CERTIFICATION.**

Subdivision 1. **Curriculum.** (a) By January 1, 2023, the board must recommend a competency restoration curriculum to educate and assist defendants found incompetent in attaining the ability to:

(1) rationally consult with counsel;

(2) understand the proceedings; and

(3) participate in the defense.

(b) The curriculum must be flexible enough to be delivered in community and correctional settings by individuals with various levels of education and qualifications, including but not limited to professionals in criminal justice, health care, mental health care, and social services. The board must review and update the curriculum as needed.

Subd. 2. **Certification and distribution.** By January 1, 2023, the board must develop a process for certifying individuals to deliver the competency restoration curriculum and make the curriculum available to every certified competency restoration program and forensic navigator in the state. Each competency restoration program in the state must use the competency restoration curriculum under this section as the foundation for delivering competency restoration education and must not substantially alter the content.

Sec. 42. **[611.59] COMPETENCY RESTORATION PROGRAMS.**

Subdivision 1. **Availability and certification.** The board must provide or contract for enough competency restoration services to meet the needs of adult defendants in each judicial district who are found incompetent to proceed and do not have access to competency restoration services as a part of any other programming in which they are ordered to participate. The board, in consultation with the Certification Advisory Committee, shall develop procedures to certify that the standards in this section are met, including procedures for regular recertification of competency restoration programs. The board shall maintain a list of certified competency restoration programs on the board's website to be updated at least once every year.

Subd. 2. **Competency restoration provider standards.** Except for jail-based programs, a competency restoration provider must:

(1) be able to provide the appropriate mental health or substance use disorder treatment ordered by the court, including but not limited to treatment in inpatient, residential, and home-based settings;

(2) ensure that competency restoration education certified by the board is provided to defendants and that regular assessments of defendants' progress in attaining competency are documented;

(3) designate a head of the program knowledgeable in the processes and requirements of the competency to stand trial procedures; and

(4) develop staff procedures or designate a person responsible to ensure timely communication with the court system.

Subd. 3. **Jail-based competency restoration standards.** Jail-based competency restoration programs must be housed in correctional facilities licensed by the Department of Corrections under section 241.021 and must:

(1) have a designated program director who meets minimum qualification standards set by the board, including understanding the requirements of competency to stand trial procedures;

(2) provide minimum mental health services including:

(i) multidisciplinary staff sufficient to monitor defendants and provide timely assessments, treatment, and referrals as needed, including at least one medical professional licensed to prescribe psychiatric medication;

(ii) prescribing, dispensing, and administering any medication deemed clinically appropriate by qualified medical professionals; and

(iii) policies and procedures for the administration of involuntary medication;

(3) ensure that competency restoration education certified by the board is provided to defendants and regular assessments of defendants' progress in attaining competency to stand trial are documented;

(4) develop staff procedures or designate a person responsible to ensure timely communication with the court system; and

(5) designate a space in the correctional facility for the program.

Subd. 2. **Program evaluations.** (a) The board shall collect the following data:

(1) the total number of competency examinations ordered in each judicial district separated by county;

(2) the age, race, and number of unique defendants and for whom at least one competency examination was ordered in each judicial district separated by county;

(3) the age, race, and number of unique defendants found incompetent at least once in each judicial district separated by county; and

(4) all available data on the level of charge and adjudication of cases with a defendant found incompetent and whether a forensic navigator was assigned to the case.

(b) By February 15 of each year, the board must report to the legislative committees and divisions with jurisdiction over human services, public safety, and the judiciary on the data collected under this subdivision and may include recommendations for statutory or funding changes related to competency restoration.

Sec. 43. Laws 2021, First Special Session chapter 7, article 17, section 12, is amended to read:

Sec. 12. ~~PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY AND CHILD AND ADOLESCENT ADULT AND CHILDREN'S MOBILE TRANSITION UNIT UNITS.~~

(a) This act includes \$2,500,000 in fiscal year 2022 and \$2,500,000 in fiscal year 2023 for the commissioner of human services to create adult and children's mental health transition and support teams to facilitate transition back to the community of children or to the least restrictive level of care from inpatient psychiatric settings, emergency departments, residential treatment facilities, and child and adolescent behavioral health hospitals. The general fund base included in this act for this purpose is \$1,875,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) Beginning April 1, 2024, counties may fund and continue conducting activities funded under this section.

(c) This section expires March 31, 2024.

Sec. 44. **MENTAL HEALTH URGENCY ROOM PILOT PROJECT.**

Subdivision 1. Establishment. (a) The commissioner of human services shall establish a pilot project that addresses emergency mental health needs by creating urgency rooms to be used as a first contact resource for youths under the age of 26 who are experiencing a mental health crisis.

(b) The commissioner shall provide Ramsey County with the first opportunity to operate the pilot project. If Ramsey County declines or fails to respond by January 1, 2023, the commissioner shall issue a request for proposals for the operation of the pilot project. Eligible applicants shall include counties, medical providers, and nonprofit organizations as specified in subdivision 2, paragraph (a). An applicant must have the capabilities specified in subdivision 2, paragraphs (b) through (d), and must provide the commissioner as part of the request for proposal process the information specified in subdivision 3.



Subd. 2. **Eligibility.** (a) To participate in the pilot project, the county or applicant may partner with:

(1) a medical provider, including hospitals or emergency rooms;

(2) a nonprofit organization that provides mental health services; or

(3) a nonprofit organization serving an underserved or rural community if applicable that will partner with an existing medical provider or nonprofit organization that provides mental health services.

(b) The partnering entity or entities must have the capability to:

(1) perform a medical evaluation and mental health evaluation upon a youth's admittance to an urgency room;

(2) accommodate a youth's stay for up to 14 days;

(3) conduct a substance use disorder screening;

(4) conduct a mental health crisis assessment;

(5) provide peer support services;

(6) provide crisis stabilization services;

(7) provide access to crisis psychiatry; and

(8) provide access to care planning and case management.

(c) The entity or entities must have staff who are licensed mental health professionals as defined under Minnesota Statutes, section 245I.02, subdivision 27, and must have a connection to inpatient and outpatient mental health services, including the ability to provide physical health screenings.

(d) The entity or entities must agree to accept patients regardless of their insurance status or their ability to pay.

Subd. 3. **Application.** (a) The county or applicant must provide the commissioner with the following:

(1) a detailed service plan, including the services that will be provided, and the staffing requirements needed for these services;

(2) an estimated cost of operating the project; and

(3) verification of financial sustainability by detailing sufficient funding sources and the capacity to obtain third-party payments for services provided, including private insurance and federal Medicaid and Medicare financial participation.

(b) The county or applicant and partnering entities must demonstrate an ability and willingness to build on existing resources in the community, and must agree to an evaluation of services and financial viability by the commissioner.

Subd. 4. **Grant activities.** Grant funds from the pilot project may be used for:

- (1) expanding current space to create an urgency room;
- (2) performing medical or mental health evaluations;
- (3) developing a care plan for the youth; and
- (4) providing recommendations for further care, either at an inpatient or outpatient facility.

Subd. 5. **Reporting.** (a) The county or grantee must submit a report to the commissioner in a manner and on a timeline specified by the commissioner on the following:

- (1) how grant funds were spent;
- (2) how many youths were served; and
- (3) how the county or grantee met the goal of the pilot project.

(b) The commissioner shall submit a report to the chairs and ranking minority members of the legislative committees with jurisdiction over human services regarding pilot project activities no later than January 15, 2026, on the results of the pilot project, including the information specified in paragraph (a).

**Sec. 45. ONLINE MUSIC INSTRUCTION GRANT PROGRAM.**

(a) The commissioner of health shall award a grant to a community music education and performance center to partner with schools and early childhood centers to provide online music instruction to students and children for the purpose of increasing student self-confidence, providing students with a sense of community, and reducing individual stress. In applying for the grant, an applicant must commit to providing at least a 30 percent match of any grant funds received. The applicant must also include in the application the measurable outcomes the applicant intends to accomplish with the grant funds.

(b) The grantee shall use grant funds to partner with schools or early childhood centers that are designated Title I schools or centers or are located in rural Minnesota, and may use the funds in consultation with the music or early childhood educators in each school or early childhood center to provide individual or small group music instruction, sectional ensembles, or other group music activities, music workshops, or early childhood music activities. At least half of the online music programs must be in partnership with schools or early childhood centers located in rural Minnesota. A grantee may use the funds awarded to supplement or enhance an existing online music program within a school or early childhood center that meets the criteria described in this paragraph.

(c) The grantee must contract with a third-party entity to evaluate the success of the online music program. The evaluation must include interviews with the music educators and students at the schools and early childhood centers where an online music program was established. The results of the

evaluation must be submitted to the commissioner of health and to the chairs and ranking minority members of the legislative committees with jurisdiction over mental health policy and finance by December 15, 2025.

Sec. 46. **MENTAL HEALTH GRANTS FOR HEALTH CARE PROFESSIONALS.**

Subdivision 1. **Grants authorized.** (a) The commissioner of health shall develop a grant program to award grants to health care entities, including but not limited to health care systems, hospitals, nursing facilities, community health clinics or consortium of clinics, federally qualified health centers, rural health clinics, or health professional associations for the purpose of establishing or expanding programs focused on improving the mental health of health care professionals.

(b) Grants shall be awarded for programs that are evidenced-based or evidenced-informed and are focused on addressing the mental health of health care professionals by:

(1) identifying and addressing the barriers to and stigma among health care professionals associated with seeking self-care, including mental health and substance use disorder services;

(2) encouraging health care professionals to seek support and care for mental health and substance use disorder concerns;

(3) identifying risk factors associated with suicide and other mental health conditions; or

(4) developing and making available resources to support health care professionals with self-care and resiliency.

Subd. 2. **Allocation of grants.** (a) To receive a grant, a health care entity must submit an application to the commissioner by the deadline established by the commissioner. An application must be on a form and contain information as specified by the commissioner and at a minimum must contain:

(1) a description of the purpose of the program for which the grant funds will be used;

(2) a description of the achievable objectives of the program and how these objectives will be met; and

(3) a process for documenting and evaluating the results of the program.

(b) The commissioner shall give priority to programs that involve peer-to-peer support.

Subd. 3. **Evaluation.** The commissioner shall evaluate the overall effectiveness of the grant program by conducting a periodic evaluation of the impact and outcomes of the grant program on health care professional burnout and retention. The commissioner shall submit the results of the evaluation and any recommendations for improving the grant program to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance by October 15, 2024.

Sec. 47. **DIRECTION TO COMMISSIONER.**

The commissioner must update the behavioral health fund room and board rate schedule to include programs providing children's mental health crisis admissions and stabilization under Minnesota Statutes, section 245.4882, subdivision 6. The commissioner must establish room and board rates commensurate with current room and board rates for adolescent programs licensed under Minnesota Statutes, section 245G.18.

Sec. 48. **REVISOR INSTRUCTION.**

The revisor of statutes shall change the term "intensive treatment in foster care" or similar terms to "children's intensive behavioral health services" wherever they appear in Minnesota Statutes and Minnesota Rules when referring to those providers and services regulated under Minnesota Statutes, section 256B.0946. The revisor shall make technical and grammatical changes related to the changes in terms.

Sec. 49. **REPEALER.**

Minnesota Statutes 2020, section 245.4661, subdivision 8, is repealed.

Sec. 50. **EFFECTIVE DATE.**

Section 23 to 34 are effective July 1, 2023, and apply to competency determinations initiated on or after that date.

## ARTICLE 2

### BOARD OF MEDICAL PRACTICE; TEMPORARY PERMITS

Section 1. Minnesota Statutes 2020, section 147.01, subdivision 7, is amended to read:

Subd. 7. **Physician application and license fees.** (a) The board may charge the following nonrefundable application and license fees processed pursuant to sections 147.02, 147.03, 147.037, 147.0375, and 147.38:

- (1) physician application fee, \$200;
- (2) physician annual registration renewal fee, \$192;
- (3) physician endorsement to other states, \$40;
- (4) physician emeritus license, \$50;
- ~~(5) physician temporary license, \$60;~~
- ~~(6)~~ (5) physician late fee, \$60;
- ~~(7)~~ (6) duplicate license fee, \$20;
- ~~(8)~~ (7) certification letter fee, \$25;
- ~~(9)~~ (8) education or training program approval fee, \$100;

~~(10)~~ (9) report creation and generation fee, \$60 per hour;

~~(11)~~ (10) examination administration fee (half day), \$50;

~~(12)~~ (11) examination administration fee (full day), \$80;

~~(13)~~ (12) fees developed by the Interstate Commission for determining physician qualification to register and participate in the interstate medical licensure compact, as established in rules authorized in and pursuant to section 147.38, not to exceed \$1,000; and

~~(14)~~ (13) verification fee, \$25.

(b) The board may prorate the initial annual license fee. All licensees are required to pay the full fee upon license renewal. The revenue generated from the fee must be deposited in an account in the state government special revenue fund.

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

Sec. 2. Minnesota Statutes 2020, section 147.03, subdivision 1, is amended to read:

Subdivision 1. **Endorsement; reciprocity.** (a) The board may issue a license to practice medicine to any person who satisfies the requirements in paragraphs (b) to (e).

(b) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (b), (d), (e), and (f), or section 147.037, subdivision 1, paragraphs (a) to (e).

(c) The applicant shall:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the National Board of Medical Examiners, or the United States Medical Licensing Examination (USMLE) program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2); the National Board of Osteopathic Medical Examiners; or the Medical Council of Canada; and

(2) have a current license from the equivalent licensing agency in another state or Canada and, if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association, the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada; or

(3) if the applicant fails to meet the requirement established in section 147.02, subdivision 1, paragraph (c), clause (2), because the applicant failed to pass each of steps one, two, and three of the USMLE within the required three attempts, the applicant may be granted a license provided the applicant:

(i) has passed each of steps one, two, and three with passing scores as recommended by the USMLE program within no more than four attempts for any of the three steps;

(ii) is currently licensed in another state; and

(iii) has current certification by a specialty board of the American Board of Medical Specialties, the American Osteopathic Association Bureau of Professional Education, the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada.

(d) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(e) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (d). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(f) Upon the request of an applicant, the board may conduct the final interview of the applicant by teleconference.

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

Sec. 3. Minnesota Statutes 2020, section 147.03, subdivision 2, is amended to read:

Subd. 2. **Temporary permit.** (a) An applicant for licensure under this section may request the board to issue a temporary permit in accordance with this subdivision. Upon receipt of the application for licensure, a request for a temporary permit, and a nonrefundable physician application fee specified under section 147.01, subdivision 7, the board may issue a temporary permit to practice medicine to as a physician eligible for licensure under this section only if the application for licensure is complete, all requirements in subdivision 1 have been met, and a nonrefundable fee set by the board has been paid if the applicant is:

(1) currently licensed in good standing to practice medicine as a physician in another state, territory, or Canadian province; and

(2) not the subject of a pending investigation or disciplinary action in any state, territory, or Canadian province.

~~The permit remains~~ (b) A temporary permit issued under this subdivision is nonrenewable and shall be valid only until the meeting of the board at which a decision is made on the physician's application for licensure or for 90 days, whichever occurs first.

(c) The board may revoke a temporary permit that has been issued under this subdivision if the physician is the subject of an investigation or disciplinary action, or is disqualified for licensure for any other reason.

(d) Notwithstanding section 13.41, subdivision 2, the board may release information regarding action taken by the board pursuant to this subdivision.

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

Sec. 4. Minnesota Statutes 2020, section 147.037, is amended to read:

**147.037 LICENSING OF FOREIGN MEDICAL SCHOOL GRADUATES; TEMPORARY PERMIT.**

Subdivision 1. **Requirements.** The board shall issue a license to practice medicine to any person who satisfies the requirements in paragraphs (a) to (g).

(a) The applicant shall satisfy all the requirements established in section 147.02, subdivision 1, paragraphs (a), (e), (f), (g), and (h).

(b) The applicant shall present evidence satisfactory to the board that the applicant is a graduate of a medical or osteopathic school approved by the board as equivalent to accredited United States or Canadian schools based upon its faculty, curriculum, facilities, accreditation, or other relevant data. If the applicant is a graduate of a medical or osteopathic program that is not accredited by the Liaison Committee for Medical Education or the American Osteopathic Association, the applicant may use the Federation of State Medical Boards' Federation Credentials Verification Service (FCVS) or its successor. If the applicant uses this service as allowed under this paragraph, the physician application fee may be less than \$200 but must not exceed the cost of administering this paragraph.

(c) The applicant shall present evidence satisfactory to the board that the applicant has been awarded a certificate by the Educational Council for Foreign Medical Graduates, and the applicant has a working ability in the English language sufficient to communicate with patients and physicians and to engage in the practice of medicine.

(d) The applicant shall present evidence satisfactory to the board of the completion of one year of graduate, clinical medical training in a program accredited by a national accrediting organization approved by the board or other graduate training approved in advance by the board as meeting standards similar to those of a national accrediting organization. This requirement does not apply:

(1) to an applicant who is admitted as a permanent immigrant to the United States on or before October 1, 1991, as a person of exceptional ability in the sciences according to Code of Federal Regulations, title 20, section 656.22(d); or

(2) to an applicant holding a valid license to practice medicine in another country and issued a permanent immigrant visa after October 1, 1991, as a person of extraordinary ability in the field of science or as an outstanding professor or researcher according to Code of Federal Regulations, title 8, section 204.5(h) and (i), or a temporary nonimmigrant visa as a person of extraordinary ability in the field of science according to Code of Federal Regulations, title 8, section 214.2(o),

provided that a person under clause (1) or (2) is admitted pursuant to rules of the United States Department of Labor.

(e) The applicant must:

(1) have passed an examination prepared and graded by the Federation of State Medical Boards, the United States Medical Licensing Examination program in accordance with section 147.02, subdivision 1, paragraph (c), clause (2), or the Medical Council of Canada; and

(2) if the examination in clause (1) was passed more than ten years ago, either:

(i) pass the Special Purpose Examination of the Federation of State Medical Boards with a score of 75 or better within three attempts; or

(ii) have a current certification by a specialty board of the American Board of Medical Specialties, of the American Osteopathic Association, of the Royal College of Physicians and Surgeons of Canada, or of the College of Family Physicians of Canada; or

(3) if the applicant fails to meet the requirement established in section 147.02, subdivision 1, paragraph (c), clause (2), because the applicant failed to pass each of steps one, two, and three of the USMLE within the required three attempts, the applicant may be granted a license provided the applicant:

(i) has passed each of steps one, two, and three with passing scores as recommended by the USMLE program within no more than four attempts for any of the three steps;

(ii) is currently licensed in another state; and

(iii) has current certification by a specialty board of the American Board of Medical Specialties, the American Osteopathic Association, the Royal College of Physicians and Surgeons of Canada, or the College of Family Physicians of Canada.

(f) The applicant must not be under license suspension or revocation by the licensing board of the state or jurisdiction in which the conduct that caused the suspension or revocation occurred.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee, or have been subject to disciplinary action other than as specified in paragraph (f). If an applicant does not satisfy the requirements stated in this paragraph, the board may issue a license only on the applicant's showing that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

~~Subd. 1a. **Temporary permit.** The board may issue a temporary permit to practice medicine to a physician eligible for licensure under this section only if the application for licensure is complete, all requirements in subdivision 1 have been met, and a nonrefundable fee set by the board has been paid. The permit remains valid only until the meeting of the board at which a decision is made on the physician's application for licensure.~~

Subd. 2. **Medical school review.** The board may contract with any qualified person or organization for the performance of a review or investigation, including site visits if necessary, of any medical or osteopathic school prior to approving the school under section 147.02, subdivision 1, paragraph (b), or subdivision 1, paragraph (b), of this section. To the extent possible, the board shall require the school being reviewed to pay the costs of the review or investigation.

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

Sec. 5. **[147A.025] TEMPORARY PERMIT.**

(a) An applicant for licensure under section 147A.02, may request the board to issue a temporary permit in accordance with this section. Upon receipt of the application for licensure, a request for a temporary permit, and a nonrefundable physician assistant application fee as specified under



section 147A.28, the board may issue a temporary permit to practice as a physician assistant if the applicant is:

(1) currently licensed in good standing to practice as a physician assistant in another state, territory, or Canadian province; and

(2) not subject to a pending investigation or disciplinary action in any state, territory, or Canadian province.

(b) A temporary permit issued under this section is nonrenewable and shall be valid until a decision is made on the physician assistant's application for licensure or for 90 days, whichever occurs first.

(c) The board may revoke the temporary permit that has been issued under this section if the applicant is the subject of an investigation or disciplinary action or is disqualified for licensure for any other reason.

(d) Notwithstanding section 13.41, subdivision 2, the board may release information regarding any action taken by the board pursuant to this section.

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

Sec. 6. Minnesota Statutes 2020, section 147A.28, is amended to read:

**147A.28 PHYSICIAN ASSISTANT APPLICATION AND LICENSE FEES.**

(a) The board may charge the following nonrefundable fees:

(1) physician assistant application fee, \$120;

~~(2) physician assistant annual registration renewal fee (prescribing authority), \$135;~~

~~(3)~~ (2) physician assistant annual ~~registration~~ license renewal fee ~~(no prescribing authority)~~, \$115;

~~(4) physician assistant temporary registration, \$115;~~

~~(5) physician assistant temporary permit, \$60;~~

~~(6)~~ (3) physician assistant locum tenens permit, \$25;

~~(7)~~ (4) physician assistant late fee, \$50;

~~(8)~~ (5) duplicate license fee, \$20;

~~(9)~~ (6) certification letter fee, \$25;

~~(10)~~ (7) education or training program approval fee, \$100;

~~(11)~~ (8) report creation and generation fee, \$60 per hour; and

~~(12)~~ (9) verification fee, \$25.

(b) The board may prorate the initial annual license fee. All licensees are required to pay the full fee upon license renewal. The revenue generated from the fees must be deposited in an account in the state government special revenue fund.

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

Sec. 7. Minnesota Statutes 2020, section 147C.40, subdivision 5, is amended to read:

Subd. 5. **Respiratory therapist application and license fees.** (a) The board may charge the following nonrefundable fees:

- (1) respiratory therapist application fee, \$100;
- (2) respiratory therapist annual registration renewal fee, \$90;
- (3) respiratory therapist inactive status fee, \$50;
- (4) respiratory therapist temporary registration fee, \$90;
- ~~(5)~~ respiratory therapist temporary permit, \$60;
- ~~(6)~~ (5) respiratory therapist late fee, \$50;
- ~~(7)~~ (6) duplicate license fee, \$20;
- ~~(8)~~ (7) certification letter fee, \$25;
- ~~(9)~~ (8) education or training program approval fee, \$100;
- ~~(10)~~ (9) report creation and generation fee, \$60 per hour; and
- ~~(11)~~ (10) verification fee, \$25.

(b) The board may prorate the initial annual license fee. All licensees are required to pay the full fee upon license renewal. The revenue generated from the fees must be deposited in an account in the state government special revenue fund.

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

Sec. 8. **REPEALER.**

Minnesota Statutes 2020, section 147.02, subdivision 2a, is repealed.

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

**ARTICLE 3****APPROPRIATIONS****Section 1. APPROPRIATION BASE ESTABLISHED; COMPETENCY RESTORATION.**

Subdivision 1. **Department of Corrections.** The general fund appropriation base for the commissioner of corrections is \$202,000 in fiscal year 2024 and \$202,000 in fiscal year 2025 for correctional facilities inspectors.

Subd. 2. **District courts.** The general fund appropriation base for the district courts is \$5,042,000 in fiscal year 2024 and \$5,042,000 in fiscal year 2025 for costs associated with additional competency examination costs.

Subd. 3. **State Competency Restoration Board.** The general fund appropriation base for the State Competency Restoration Board is \$11,350,000 in fiscal year 2024 and \$10,900,000 in fiscal year 2025 for staffing and other costs needed to establish and perform the duties of the State Competency Restoration Board, including providing educational services necessary to restore defendants to competency, or contracting or partnering with other organizations to provide those services.

**Sec. 2. APPROPRIATION; ADULT MENTAL HEALTH INITIATIVE GRANTS.**

(a) The general fund base for adult mental health initiative services under Minnesota Statutes, section 245.4661, is increased by \$10,233,000 in fiscal year 2025 and thereafter, and is increased by an additional \$10,140,000 in fiscal year 2026 and thereafter.

(b) The general fund base for administration of adult mental health initiative services grants is increased by \$135,000 in fiscal year 2025.

(c) \$400,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of management and budget to create and maintain an inventory of adult mental health initiative services and to conduct evaluations of adult mental health initiative services that are promising practices or theory-based activities under Minnesota Statutes, section 245.4661, subdivision 5a.

**Sec. 3. APPROPRIATION; AFRICAN AMERICAN COMMUNITY MENTAL HEALTH CENTER.**

(a) \$1,000,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for a grant to an African American mental health service provider that is a licensed community mental health center specializing in services for African American children and families. The mental health center must offer culturally specific, comprehensive, trauma-informed, practice- and evidence-based, person- and family-centered mental health and substance use disorder services; supervision and training; and care coordination to all ages, regardless of ability to pay or place of residence. Upon request, the commissioner shall make information regarding the use of this grant funding available to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services. This is a onetime appropriation and is available until June 30, 2025.

(b) The general fund base for this appropriation for administration of the grant in paragraph (a) is \$104,000 in fiscal year 2024, \$104,000 in fiscal year 2025, and \$0 in fiscal year 2026 and thereafter.

**Sec. 4. APPROPRIATION; CHILDREN'S FIRST EPISODE OF PSYCHOSIS.**

(a) \$6,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services to implement a children's first episode of psychosis grant under Minnesota Statutes, section 245.4905. The base for this appropriation is \$480,000 in fiscal year 2024 and \$480,000 in fiscal year 2025.

(b) Of this appropriation, \$6,000 in fiscal year 2023 is for grants for children's first episode of psychosis.

(c) The general fund base for administration is \$119,000 in fiscal year 2024 and \$119,000 in fiscal year 2025. The general fund base for grants for children's first episode of psychosis is \$361,000 in fiscal year 2024 and \$361,000 in fiscal year 2025.

**Sec. 5. APPROPRIATION; CHILDREN'S INTENSIVE BEHAVIORAL HEALTH TREATMENT SERVICES.**

(a) \$101,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for children's intensive behavioral health treatment services. The base for this appropriation is \$474,000 in fiscal year 2024 and \$3,204,000 in fiscal year 2025.

(b) Of this appropriation, \$101,000 in fiscal year 2023 is for administration.

(c) The general fund base for administration is \$228,000 in fiscal year 2024 and \$228,000 in fiscal year 2025. The general fund base for children's intensive behavioral health treatment services is \$246,000 in fiscal year 2024 and \$2,976,000 in fiscal year 2025.

**Sec. 6. APPROPRIATION; CHILDREN'S RESIDENTIAL FACILITY CRISIS STABILIZATION SERVICES.**

(a) \$203,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for children's residential facility crisis stabilization services under Minnesota Statutes, section 245A.26. The general fund base for this appropriation is \$495,000 in fiscal year 2024 and \$559,000 in fiscal year 2025.

(b) Of this appropriation, \$53,000 in fiscal year 2023 is for children's residential facility crisis stabilization services, \$105,000 in fiscal year 2023 is for administration, and \$45,000 in fiscal year 2023 is for systems costs.

(c) The general fund base for children's residential facility crisis stabilization services is \$367,000 in fiscal year 2024 and \$431,000 in fiscal year 2025. The general fund base for administration is \$119,000 in fiscal year 2024 and \$119,000 in fiscal year 2025. The general fund base for systems is \$9,000 in fiscal year 2024 and \$9,000 in fiscal year 2025.

**Sec. 7. APPROPRIATION; INTENSIVE RESIDENTIAL TREATMENT SERVICES.**

(a) \$2,914,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services to provide start-up funds to intensive residential treatment service providers to provide treatment in locked facilities for patients who have been transferred from a jail or who have been deemed incompetent to stand trial and a judge has determined that the patient needs to be in a secure facility. The base for this appropriation is \$180,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) Of this appropriation, \$115,000 in fiscal year 2023 is for administration and \$3,000 in fiscal year 2023 is for systems costs.

(c) The base for administration is \$179,000 in fiscal year 2024 and is available until June 30, 2025. The base for systems costs is \$1,000 in fiscal year 2024 and \$0 in fiscal year 2025.

**Sec. 8. APPROPRIATION; MANAGED CARE MINIMUM RATE FOR MENTAL HEALTH SERVICES.**

\$28,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services to monitor the mental health services rate paid to providers under Minnesota Statutes, section 256B.763. The general fund base for this appropriation is \$32,000 in fiscal year 2024 and \$32,000 in fiscal year 2025.

**Sec. 9. APPROPRIATION; MENTAL HEALTH GRANTS FOR HEALTH CARE PROFESSIONALS.**

\$1,000,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of health for the health care professionals mental health grant program. This is a onetime appropriation.

**Sec. 10. APPROPRIATION; MENTAL HEALTH PROFESSIONAL LOAN FORGIVENESS.**

Notwithstanding the priorities and distribution requirements under Minnesota Statutes, section 144.1501, \$1,600,000 is appropriated in fiscal year 2023 from the general fund to the commissioner of health for the health professional loan forgiveness program to be used for loan forgiveness only for individuals who are eligible mental health professionals under Minnesota Statutes, section 144.1501. Notwithstanding Minnesota Statutes, section 144.1501, subdivision 2, paragraph (b), if the commissioner of health does not receive enough qualified applicants within each biennium, the remaining funds shall be carried over to the next biennium and allocated proportionally among the other eligible professions in accordance with Minnesota Statutes, section 144.1501, subdivision 2.

**Sec. 11. APPROPRIATION; MENTAL HEALTH PROVIDER SUPERVISION GRANT PROGRAM.**

\$2,500,000 is appropriated in fiscal year 2023 from the general fund to the commissioner of human services for the mental health provider supervision grant program under Minnesota Statutes, section 245.4663.

**Sec. 12. APPROPRIATION; MENTAL HEALTH URGENCY ROOM PILOT PROJECT.**

(a) \$1,215,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for a mental health urgency room pilot project. The general fund base for this appropriation is \$247,000 in fiscal year 2024, \$247,000 in fiscal year 2025, and \$0 in fiscal year 2026 and thereafter.

(b) Of this appropriation, \$1,000,000 in fiscal year 2023 is for a grant for a mental health urgency room pilot project and \$215,000 in fiscal year 2023 is for administration.

(c) The general fund base for administration is \$247,000 in fiscal year 2024, \$247,000 in fiscal year 2025, and \$0 in fiscal year 2026 and thereafter.

(d) Any amount of this appropriation that is not encumbered on January 1, 2024, shall cancel and be added to the base amount in fiscal year 2024 for mobile crisis grants.

**Sec. 13. APPROPRIATION; MOBILE CRISIS SERVICES.**

The general fund base for grants for adult mobile crisis services under Minnesota Statutes, section 245.4661, subdivision 9, paragraph (b), clause (15), is increased by \$4,000,000 in fiscal year 2024 and increased by \$5,600,000 in fiscal year 2025.

**Sec. 14. APPROPRIATION; MOBILE TRANSITION UNITS AND PERSON CENTERED DISCHARGE PLANNING.**

(a) \$796,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for a person-centered discharge planning process for adults and children being discharged from psychiatric residential treatment facilities, child and adolescent behavioral health hospitals, and hospital settings. The base for this appropriation is \$1,010,000 in fiscal year 2024 and \$1,010,000 in fiscal year 2025.

(b) Of this appropriation, \$546,000 in fiscal year 2023 is for administration and \$250,000 is for grants to develop and support a person-centered discharge planning process for adults and children being discharged from psychiatric residential treatment facilities, child and adolescent behavioral health hospitals, and hospital settings.

(c) The general fund base for administration is \$760,000 in fiscal year 2024 and \$760,000 in fiscal year 2025. The general fund base is \$250,000 in fiscal year 2024 and \$250,000 in fiscal year 2025 for grants to develop and support a person-centered discharge planning process for adults and children being discharged from psychiatric residential treatment facilities, child and adolescent behavioral health hospitals, and hospital settings.

**Sec. 15. APPROPRIATION; MONITORING OF A PSYCHIATRIC HOSPITAL.**

\$15,000 in fiscal year 2023 is appropriated from the state government special revenue fund to the commissioner of health for collecting data and monitoring the 144-bed psychiatric hospital in the city of Saint Paul, Ramsey County, per Minnesota Statutes, described in section 144.551, subdivision 1, paragraph (b), clause (31).

**Sec. 16. APPROPRIATION; OFFICER-INVOLVED COMMUNITY-BASED CARE COORDINATION.**

\$11,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for medical assistance expenditures for officer-involved community-based care coordination. The general fund base for this appropriation is \$10,000 in fiscal year 2024 and \$15,000 in fiscal year 2025.

Sec. 17. **APPROPRIATION; ONLINE MUSIC INSTRUCTION GRANT.**

\$300,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of health for a grant for the online music instruction grant program. This is a onetime appropriation and is available until June 30, 2025.

Sec. 18. **APPROPRIATION; SCHOOL-LINKED BEHAVIORAL HEALTH GRANTS.**

\$2,000,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for school-linked behavioral health grants under Minnesota Statutes, section 245.4901.

Sec. 19. **APPROPRIATION; SHELTER-LINKED MENTAL HEALTH GRANTS.**

\$2,000,000 in fiscal year 2023 is appropriated from the general fund to the commissioner of human services for shelter-linked youth mental health grants under Minnesota Statutes, section 256K.46."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Senator Draheim moved to amend the first Draheim amendment to H.F. No. 2725, adopted by the Senate May 22, 2022, as follows:

Page 70, line 16, delete "Section 23 to 34" and insert "Sections 26 to 37"

The motion prevailed. So the amendment was adopted.

Senator Champion moved to amend the first Draheim amendment to H.F. No. 2725, adopted by the Senate May 22, 2022, as follows:

Page 15, line 11, after the period, insert "For purposes of this section, an intern may include an individual who is working toward an undergraduate degree in the behavioral sciences or related field at an accredited educational institution."

The motion prevailed. So the amendment was adopted.

H.F. No. 2725 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Abeler	Duckworth	Isaacson	Mathews	Rosen
Anderson	Dziedzic	Jasinski	McEwen	Ruud
Benson	Eaton	Johnson	Miller	Senjem
Bigham	Eichorn	Johnson Stewart	Murphy	Tomassoni
Carlson	Eken	Kent	Nelson	Torres Ray
Chamberlain	Fateh	Kiffmeyer	Newman	Utke
Champion	Frentz	Klein	Newton	Weber
Clausen	Gazelka	Koran	Osmek	Westrom
Coleman	Goggin	Kunesh	Pappas	Wiger
Cwodzinski	Hawj	Lang	Port	Wiklund
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	
Draheim	Ingebrigtsen	Marty	Rest	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Housley, Howe, Ingebrigtsen, Limmer, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Dziedzic, Fateh, Kent, Klein, McEwen, Newton, Rest, and Wiklund.

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

### RECESS

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

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

### CALL OF THE SENATE

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

### MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

### MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 4476, and repassed said bill in accordance with the report of the Committee, so adopted.

**S.F. No. 4476:** A bill for an act relating to redistricting; adjusting the district boundaries of Senate Districts 15 and 16; adjusting the house of representatives district boundaries within Senate Districts 15, 16, and 58; proposing coding for new law in Minnesota Statutes, chapter 2.



Senate File No. 4476 is herewith returned to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Returned May 22, 2022

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 1829, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1829 is herewith transmitted to the Senate.

Patrick D. Murphy, Chief Clerk, House of Representatives

Transmitted May 22, 2022

#### **CONFERENCE COMMITTEE REPORT ON H. F. No. 1829**

A bill for an act relating to commerce; prohibiting discrimination against organ or bone marrow donors by certain insurers; amending Minnesota Statutes 2020, section 72A.20, by adding a subdivision.

May 21, 2022

The Honorable Melissa Hortman  
Speaker of the House of Representatives

The Honorable David J. Osmek  
President of the Senate

We, the undersigned conferees for H. F. No. 1829 report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

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

House Conferees: Kaohly Vang Her, Patty Acomb, Debra Kiel

Senate Conferees: Paul Utke, Rich Draheim, Kari Dziedzic

Senator Utke moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1829 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 1829 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Abeler	Draheim	Ingebrigtsen	Marty	Rosen
Anderson	Duckworth	Isaacson	Mathews	Ruud
Bakk	Dziedzic	Jasinski	McEwen	Senjem
Benson	Eaton	Johnson	Miller	Tomassoni
Bigham	Eichorn	Johnson Stewart	Murphy	Torres Ray
Carlson	Eken	Kent	Nelson	Utke
Chamberlain	Fateh	Kiffmeyer	Newman	Weber
Champion	Frentz	Klein	Newton	Westrom
Clausen	Gazelka	Koran	Osmek	Wiger
Coleman	Goggin	Kunesh	Pappas	Wiklund
Cwodzinski	Hawj	Lang	Port	
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Housley, Ingebrigtsen, Pratt, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Champion, Dziedzic, Fateh, Kent, Klein, McEwen, Newton, and Wiklund.

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

## MOTIONS AND RESOLUTIONS - CONTINUED

### SPECIAL ORDERS

Pursuant to Rule 26, Senator Johnson, designee of the Chair of the Committee on Rules and Administration, designated the following bills a Special Orders Calendar to be heard immediately:

H.F. No. 4065, S.F. No. 4116, and H.F. No. 3400.

### SPECIAL ORDER

**H.F. No. 4065:** A bill for an act relating to human services; recodifying long-term care consultation services; amending Minnesota Statutes 2020, sections 144.0724, subdivision 11; 256.975, subdivisions 7a, 7b, 7c, 7d; 256B.051, subdivision 4; 256B.0646; 256B.0659, subdivision 3a; 256B.0911, subdivisions 1, 3c, 3d, 3e, by adding subdivisions; 256B.0913, subdivision 4; 256B.092, subdivisions 1a, 1b; 256B.0922, subdivision 1; 256B.49, subdivisions 12, 13; 256S.02, subdivisions 15, 20; 256S.06, subdivisions 1, 2; 256S.10, subdivision 2; Minnesota Statutes 2021 Supplement, sections 144.0724, subdivisions 4, 12; 256B.49, subdivision 14; 256B.85, subdivisions 2, 5; 256S.05, subdivision 2; repealing Minnesota Statutes 2020, section 256B.0911, subdivisions 2b, 2c, 3, 3b, 3g, 4d, 4e, 5, 6; Minnesota Statutes 2021 Supplement, section 256B.0911, subdivisions 1a, 3a, 3f.

Senator Hoffman moved to amend H.F. No. 4065, as amended pursuant to Rule 45, adopted by the Senate April 6, 2022, as follows:

(The text of the amended House File is identical to S.F. No. 3816.)

Delete everything after the enacting clause and insert:

## "ARTICLE 1

### DEPARTMENT OF HEALTH

Section 1. Minnesota Statutes 2020, section 144.057, subdivision 1, is amended to read:

Subdivision 1. **Background studies required.** (a) Except as specified in paragraph (b), the commissioner of health shall contract with the commissioner of human services to conduct background studies of:

(1) individuals providing services that have direct contact, as defined under section 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; assisted living facilities and assisted living facilities with dementia care licensed under chapter 144G; and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17;

(2) individuals specified in section 245C.03, subdivision 1, who perform direct contact services in a nursing home or a home care agency licensed under chapter 144A; an assisted living facility or assisted living facility with dementia care licensed under chapter 144G; or a boarding care home licensed under sections 144.50 to 144.58. If the individual under study resides outside Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the information is made available by that state, and must include a check of the National Crime Information Center database;

(3) all other employees in assisted living facilities or assisted living facilities with dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall disqualify the individual from positions allowing direct contact or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; ~~and~~

(5) controlling persons of a supplemental nursing services agency, as defined under section 144A.70; and

(6) license applicants, owners, managerial officials, and controlling individuals who are required under section 144A.476, subdivision 1, or 144G.13, subdivision 1, to undergo a background study under chapter 245C, regardless of the licensure status of the license applicant, owner, managerial official, or controlling individual.

(b) The commissioner of human services shall not conduct a background study on any individual identified in paragraph (a), clauses (1) to (5), if the individual has a valid license issued by a health-related licensing board as defined in section 214.01, subdivision 2, and has completed the criminal background check as required in section 214.075. An entity that is affiliated with individuals who meet the requirements of this paragraph must separate those individuals from the entity's roster for NETStudy 2.0.

(c) If a facility or program is licensed by the Department of Human Services and subject to the background study provisions of chapter 245C and is also licensed by the Department of Health, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed programs.

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

Sec. 2. Minnesota Statutes 2021 Supplement, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the federal database MDS assessments that conform with the assessment schedule defined by the Long Term Care Facility Resident Assessment Instrument User's Manual, version 3.0, or its successor issued by the Centers for Medicare and Medicaid Services. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments required under the Omnibus Budget Reconciliation Act of 1987 (OBRA) used to determine a case mix classification for reimbursement include ~~the following~~:

(1) a new admission comprehensive assessment, which must have an assessment reference date (ARD) within 14 calendar days after admission, excluding readmissions;

(2) an annual comprehensive assessment, which must have an ARD within 92 days of a previous quarterly review assessment or a previous comprehensive assessment, which must occur at least once every 366 days;

(3) a significant change in status comprehensive assessment, which must have an ARD within 14 days after the facility determines, or should have determined, that there has been a significant change in the resident's physical or mental condition, whether an improvement or a decline, and regardless of the amount of time since the last comprehensive assessment or quarterly review assessment;

(4) a quarterly review assessment must have an ARD within 92 days of the ARD of the previous quarterly review assessment or a previous comprehensive assessment;

(5) any significant correction to a prior comprehensive assessment, if the assessment being corrected is the current one being used for RUG classification;

(6) any significant correction to a prior quarterly review assessment, if the assessment being corrected is the current one being used for RUG classification;

(7) a required significant change in status assessment when:

(i) all speech, occupational, and physical therapies have ended. If the most recent OBRA comprehensive or quarterly assessment completed does not result in a rehabilitation case mix classification, then the significant change in status assessment is not required. The ARD of this assessment must be set on day eight after all therapy services have ended; and

(ii) isolation for an infectious disease has ended. If isolation was not coded on the most recent OBRA comprehensive or quarterly assessment completed, then the significant change in status assessment is not required. The ARD of this assessment must be set on day 15 after isolation has ended; and

(8) any modifications to the most recent assessments under clauses (1) to (7).

(c) In addition to the assessments listed in paragraph (b), the assessments used to determine nursing facility level of care include the following:

(1) preadmission screening completed under section 256.975, subdivisions 7a to 7c, by the Senior LinkAge Line or other organization under contract with the Minnesota Board on Aging; and

(2) a nursing facility level of care determination as provided for under section 256B.0911, subdivision 4e, as part of a face-to-face long-term care consultation assessment completed under section 256B.0911, by a county, tribe, or managed care organization under contract with the Department of Human Services.

Sec. 3. Minnesota Statutes 2020, section 144.1201, subdivision 2, is amended to read:

Subd. 2. ~~By-product nuclear~~ **Byproduct material.** ~~"By-product nuclear~~ Byproduct material" means ~~a radioactive material, other than special nuclear material, yielded in or made radioactive by exposure to radiation created incident to the process of producing or utilizing special nuclear material;~~

(1) any radioactive material, except special nuclear material, yielded in or made radioactive by exposure to the radiation incident to the process of producing or using special nuclear material;

(2) the tailings or wastes produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes. Underground ore bodies depleted by these solution extraction operations do not constitute byproduct material within this definition;

(3) any discrete source of radium-226 that is produced, extracted, or converted after extraction for commercial, medical, or research activity, or any material that:

(i) has been made radioactive by use of a particle accelerator; and

(ii) is produced, extracted, or converted after extraction for commercial, medical, or research activity; and

(4) any discrete source of naturally occurring radioactive material, other than source nuclear material, that:

(i) the United States Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency determines would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

(ii) is extracted or converted after extraction for use in a commercial, medical, or research activity.

Sec. 4. Minnesota Statutes 2020, section 144.1201, subdivision 4, is amended to read:

Subd. 4. **Radioactive material.** "Radioactive material" means a matter that emits radiation. Radioactive material includes special nuclear material, source nuclear material, and ~~by-product nuclear~~ byproduct material.

Sec. 5. Minnesota Statutes 2020, section 144.1503, is amended to read:

**144.1503 HOME AND COMMUNITY-BASED SERVICES EMPLOYEE SCHOLARSHIP AND LOAN FORGIVENESS PROGRAM.**

Subdivision 1. **Creation.** The home and community-based services employee scholarship grant and loan forgiveness program is established for the purpose purposes of assisting qualified provider applicants to fund employee scholarships for education in nursing and other health care fields; funding scholarships to individual home and community-based services workers for education in nursing and other health care fields; and repaying qualified educational loans secured by employees for education in nursing or other health care fields.

Subd. 1a. **Definition.** For purposes of this section, "qualified educational loan" means a government, commercial, or foundation loan secured by an employee of a qualified provider of home and community-based services for older adults for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the employee's graduate or undergraduate education.

Subd. 2. **Provision of grants; scholarships; loan forgiveness.** (a) The commissioner shall make grants available to qualified providers of ~~older adult~~ home and community-based services for older adults. Grants must be used by home and community-based service providers to recruit and train staff through the establishment of an employee scholarship fund.

(b) The commissioner may provide scholarships for qualified educational expenses to individual home and community-based services workers who are employed in the home and community-based services field.

(c) The commissioner may use up to one-third of the annual funding available for this section to establish a loan forgiveness program for eligible home and community-based services workers who provide home and community-based services to older adults and for whom an eligible provider employer submits their names to the commissioner for consideration. To the extent possible, the loan forgiveness program must meet the standards of the loan forgiveness program in section 144.1501.

Subd. 3. **Eligibility.** (a) Eligible providers must primarily provide services to individuals who are 65 years of age and older in home and community-based settings, including ~~housing with services establishments as defined in section 144D.01, subdivision 4~~ assisted living facilities as defined in section 144G.08, subdivision 7; adult day care as defined in section 245A.02, subdivision 2a; and home care services as defined in section 144A.43, subdivision 3.

(b) Under the scholarship program, qualifying providers must establish a home and community-based services employee scholarship program, as specified in subdivision 4. Providers that receive funding under this section must use the funds to provide educational programs or award scholarships to employees who: (1) are enrolled in a course of study that leads to career advancement with the provider or in the field of long-term care, including home care, care of persons with disabilities, nursing, or as a licensed assisted living director; and (2) work an average of at least ~~16~~ ten hours per week for the provider. Employees who receive a scholarship under this section must use the scholarship funds for eligible costs of enrolling in a course of study that leads to career advancement in the facility or in the field of long-term care, including home care, care of persons with disabilities, nursing, or as a licensed assisted living director.

(c) Under the loan forgiveness program, qualifying providers that provide employee names to the commissioner for consideration must be located in Minnesota. If necessary due to the volume of applications for loan forgiveness, the commissioner, in collaboration with home and community-based services stakeholders, shall determine priority areas for loan forgiveness. Employees eligible for loan forgiveness include employees working as a licensed assisted living director. Employees selected to receive loan forgiveness must agree to work a minimum average of 32 hours per week for a minimum of two years for a qualifying provider organization in order to maintain eligibility for loan forgiveness under this section.

Subd. 4. ~~Home and community-based services employee scholarship program~~ **Duties of participating qualifying providers.** (a) Each qualifying provider under this section must propose a home and community-based services employee scholarship program, propose to provide contracted programming from a qualified educational institution, or submit employee names for consideration for participation in the loan forgiveness program.

(b) For the scholarship program, providers must establish criteria by which funds are to be distributed among employees. At a minimum, the scholarship program must cover employee costs related to a course of study that is expected to lead to career advancement with the provider or in the field of long-term care, including home care, care of persons with disabilities, ~~or~~ nursing, or as a licensed assisted living director.

Subd. 5. ~~Participating providers~~ **Request for proposals.** The commissioner shall publish a request for proposals in the State Register, specifying qualifying provider eligibility requirements, criteria for a qualifying employee scholarship program, provider selection criteria, documentation required for program participation, maximum award amount, and methods of evaluation. The commissioner must publish additional requests for proposals each year in which funding is available for this purpose.

Subd. 6. **Application requirements.** (a) Eligible providers seeking a grant to provide scholarships and educational programming and eligible employees seeking a scholarship shall submit an application to the commissioner. Applications from eligible providers must contain a complete description of

the employee scholarship program being proposed by the applicant, including the need for the organization to enhance the education of its workforce, the process for determining which employees will be eligible for scholarships, any other sources of funding for scholarships, the expected degrees or credentials eligible for scholarships, the amount of funding sought for the scholarship program, a proposed budget detailing how funds will be spent, and plans for retaining eligible employees after completion of their scholarship.

(b) Eligible providers seeking loan forgiveness for employees shall submit to the commissioner the names of their employees to be considered for loan forgiveness. An employee whose name has been submitted to the commissioner and who wishes to apply for loan forgiveness must submit an application to the commissioner. The employee is responsible for securing the employee's qualified educational loans. The commissioner shall select employees for participation based on their suitability for practice as indicated by experience or training. The commissioner shall give preference to employees close to completing their training. For each year that an employee meets the service obligation required under subdivision 3, up to a maximum of four years, the commissioner shall make annual disbursements directly to the employee equivalent to 15 percent of the average educational debt for indebted graduates in their profession in the year closest to the employee's selection for which information is available, not to exceed the balance of the employee's qualified educational loans. Before receiving loan repayment disbursements and as requested, the employee must complete and return to the commissioner a confirmation of practice form provided by the commissioner verifying that the employee is practicing as required under subdivision 3. The employee must provide the commissioner with verification that the full amount of loan repayment disbursement received by the employee has been applied toward the designated loans. After each disbursement, verification must be received by the commissioner and approved before the next loan repayment disbursement is made. Employees who move to a different eligible provider remain eligible for loan repayment as long as they practice as required in subdivision 3. If an employee does not fulfill the required minimum service commitment according to subdivision 3, the commissioner shall collect from the employee the total amount paid to the employee under the loan forgiveness program, plus interest at a rate established according to section 270C.40. The commissioner shall deposit the money collected in an account in the special revenue fund and money in that account is annually appropriated to the commissioner for purposes of this section. The commissioner may allow waivers of all or part of the money owed to the commissioner as a result of a nonfulfillment penalty if emergency circumstances prevented fulfillment of the minimum service commitment.

Subd. 7. **Selection process.** The commissioner shall determine a maximum award for grants and loan forgiveness, and shall make grant selections based on the information provided in the grant application, including the demonstrated need for an applicant provider to enhance the education of its workforce, the proposed employee scholarship or loan forgiveness selection process, the applicant's proposed budget, and other criteria as determined by the commissioner. Notwithstanding any law or rule to the contrary, funds awarded to grantees in a grant agreement do not lapse until the grant agreement expires amounts appropriated for purposes of this section do not cancel and are available until expended, except that at the end of each biennium, any remaining amount that is not committed by contract and not needed to fulfill existing commitments shall cancel to the general fund.

Subd. 8. **Reporting requirements.** (a) Participating providers who receive a grant for employee scholarships shall submit an invoice for reimbursement and a report to the commissioner on a schedule determined by the commissioner and on a form supplied by the commissioner. The report shall include the amount spent on scholarships; the number of employees who received scholarships;



and, for each scholarship recipient, the name of the recipient, the current position of the recipient, the amount awarded, the educational institution attended, the nature of the educational program, and the expected or actual program completion date. During the grant period, the commissioner may require and collect from grant recipients other information necessary to evaluate the program.

(b) Employees who receive scholarships from the commissioner shall report information to the commissioner on a schedule determined by the commissioner and on a form supplied by the commissioner.

(c) Participating providers whose employees receive loan forgiveness shall submit a report to the commissioner on a schedule determined by the commissioner and on a form supplied by the commissioner. The report must include the number of employees receiving loan forgiveness, and for each employee receiving loan forgiveness, the employee's name, current position, and average number of hours worked per week. During the loan forgiveness period, the commissioner may require and collect from participating providers and employees receiving loan forgiveness other information necessary to evaluate the program and ensure ongoing eligibility.

Sec. 6. Minnesota Statutes 2020, section 144.1911, subdivision 4, is amended to read:

Subd. 4. **Career guidance and support services.** ~~(a)~~ The commissioner shall award grants to eligible nonprofit organizations and eligible postsecondary educational institutions, including the University of Minnesota, to provide career guidance and support services to immigrant international medical graduates seeking to enter the Minnesota health workforce. Eligible grant activities include the following:

(1) educational and career navigation, including information on training and licensing requirements for physician and nonphysician health care professions, and guidance in determining which pathway is best suited for an individual international medical graduate based on the graduate's skills, experience, resources, and interests;

(2) support in becoming proficient in medical English;

(3) support in becoming proficient in the use of information technology, including computer skills and use of electronic health record technology;

(4) support for increasing knowledge of and familiarity with the United States health care system;

(5) support for other foundational skills identified by the commissioner;

(6) support for immigrant international medical graduates in becoming certified by the Educational Commission on Foreign Medical Graduates, including help with preparation for required licensing examinations and financial assistance for fees; and

(7) assistance to international medical graduates in registering with the program's Minnesota international medical graduate roster.

~~(b) The commissioner shall award the initial grants under this subdivision by December 31, 2015.~~

Sec. 7. Minnesota Statutes 2020, section 144.292, subdivision 6, is amended to read:

Subd. 6. **Cost.** (a) When a patient requests a copy of the patient's record for purposes of reviewing current medical care, the provider must not charge a fee.

(b) When a provider or its representative makes copies of patient records upon a patient's request under this section, the provider or its representative may charge the patient or the patient's representative no more than 75 cents per page, plus \$10 for time spent retrieving and copying the records, unless other law or a rule or contract provide for a lower maximum charge. This limitation does not apply to x-rays. The provider may charge a patient no more than the actual cost of reproducing x-rays, plus no more than \$10 for the time spent retrieving and copying the x-rays.

(c) The respective maximum charges of 75 cents per page and \$10 for time provided in this subdivision are in effect for calendar year 1992 and may be adjusted annually each calendar year as provided in this subdivision. The permissible maximum charges shall change each year by an amount that reflects the change, as compared to the previous year, in the Consumer Price Index for all Urban Consumers, Minneapolis-St. Paul (CPI-U), published by the Department of Labor.

(d) A provider or its representative may charge the \$10 retrieval fee, but must not charge a per page fee to provide copies of records requested by a patient or the patient's authorized representative if the request for copies of records is for purposes of appealing a denial of Social Security disability income or Social Security disability benefits under title II or title XVI of the Social Security Act; except that no fee shall be charged to a ~~person~~ patient who is receiving public assistance, or to a patient who is represented by an attorney on behalf of a civil legal services program or a volunteer attorney program based on indigency. For the purpose of further appeals, a patient may receive no more than two medical record updates without charge, but only for medical record information previously not provided. For purposes of this paragraph, a patient's authorized representative does not include units of state government engaged in the adjudication of Social Security disability claims.

Sec. 8. Minnesota Statutes 2020, section 144.497, is amended to read:

**144.497 ST ELEVATION MYOCARDIAL INFARCTION.**

The commissioner of health shall assess and report on the quality of care provided in the state for ST elevation myocardial infarction response and treatment. The commissioner shall:

(1) utilize and analyze data provided by ST elevation myocardial infarction receiving centers to the ACTION Registry-Get with the guidelines or an equivalent data platform that does not identify individuals or associate specific ST elevation myocardial infarction heart attack events with an identifiable individual;

(2) ~~quarterly~~ annually post a summary report of the data in aggregate form on the Department of Health website; and

~~(3) annually inform the legislative committees with jurisdiction over public health of progress toward improving the quality of care and patient outcomes for ST elevation myocardial infarctions; and~~

~~(4)~~ (3) coordinate to the extent possible with national voluntary health organizations involved in ST elevation myocardial infarction heart attack quality improvement to encourage ST elevation myocardial infarction receiving centers to report data consistent with nationally recognized guidelines

on the treatment of individuals with confirmed ST elevation myocardial infarction heart attacks within the state and encourage sharing of information among health care providers on ways to improve the quality of care of ST elevation myocardial infarction patients in Minnesota.

Sec. 9. Minnesota Statutes 2021 Supplement, section 144.551, subdivision 1, is amended to read:

Subdivision 1. **Restricted construction or modification.** (a) The following construction or modification may not be commenced:

(1) any erection, building, alteration, reconstruction, modernization, improvement, extension, lease, or other acquisition by or on behalf of a hospital that increases the bed capacity of a hospital, relocates hospital beds from one physical facility, complex, or site to another, or otherwise results in an increase or redistribution of hospital beds within the state; and

(2) the establishment of a new hospital.

(b) This section does not apply to:

(1) construction or relocation within a county by a hospital, clinic, or other health care facility that is a national referral center engaged in substantial programs of patient care, medical research, and medical education meeting state and national needs that receives more than 40 percent of its patients from outside the state of Minnesota;

(2) a project for construction or modification for which a health care facility held an approved certificate of need on May 1, 1984, regardless of the date of expiration of the certificate;

(3) a project for which a certificate of need was denied before July 1, 1990, if a timely appeal results in an order reversing the denial;

(4) a project exempted from certificate of need requirements by Laws 1981, chapter 200, section 2;

(5) a project involving consolidation of pediatric specialty hospital services within the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the number of pediatric specialty hospital beds among the hospitals being consolidated;

(6) a project involving the temporary relocation of pediatric-orthopedic hospital beds to an existing licensed hospital that will allow for the reconstruction of a new philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a net increase in the number of hospital beds. Upon completion of the reconstruction, the licenses of both hospitals must be reinstated at the capacity that existed on each site before the relocation;

(7) the relocation or redistribution of hospital beds within a hospital building or identifiable complex of buildings provided the relocation or redistribution does not result in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds from one physical site or complex to another; or (iii) redistribution of hospital beds within the state or a region of the state;

(8) relocation or redistribution of hospital beds within a hospital corporate system that involves the transfer of beds from a closed facility site or complex to an existing site or complex provided

that: (i) no more than 50 percent of the capacity of the closed facility is transferred; (ii) the capacity of the site or complex to which the beds are transferred does not increase by more than 50 percent; (iii) the beds are not transferred outside of a federal health systems agency boundary in place on July 1, 1983; (iv) the relocation or redistribution does not involve the construction of a new hospital building; and (v) the transferred beds are used first to replace within the hospital corporate system the total number of beds previously used in the closed facility site or complex for mental health services and substance use disorder services. Only after the hospital corporate system has fulfilled the requirements of this item may the remainder of the available capacity of the closed facility site or complex be transferred for any other purpose;

(9) a construction project involving up to 35 new beds in a psychiatric hospital in Rice County that primarily serves adolescents and that receives more than 70 percent of its patients from outside the state of Minnesota;

(10) a project to replace a hospital or hospitals with a combined licensed capacity of 130 beds or less if: (i) the new hospital site is located within five miles of the current site; and (ii) the total licensed capacity of the replacement hospital, either at the time of construction of the initial building or as the result of future expansion, will not exceed 70 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is less;

(11) the relocation of licensed hospital beds from an existing state facility operated by the commissioner of human services to a new or existing facility, building, or complex operated by the commissioner of human services; from one regional treatment center site to another; or from one building or site to a new or existing building or site on the same campus;

(12) the construction or relocation of hospital beds operated by a hospital having a statutory obligation to provide hospital and medical services for the indigent that does not result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27 beds, of which 12 serve mental health needs, may be transferred from Hennepin County Medical Center to Regions Hospital under this clause;

(13) a construction project involving the addition of up to 31 new beds in an existing nonfederal hospital in Beltrami County;

(14) a construction project involving the addition of up to eight new beds in an existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

(15) a construction project involving the addition of 20 new hospital beds in an existing hospital in Carver County serving the southwest suburban metropolitan area;

(16) a project for the construction or relocation of up to 20 hospital beds for the operation of up to two psychiatric facilities or units for children provided that the operation of the facilities or units have received the approval of the commissioner of human services;

(17) a project involving the addition of 14 new hospital beds to be used for rehabilitation services in an existing hospital in Itasca County;

(18) a project to add 20 licensed beds in existing space at a hospital in Hennepin County that closed 20 rehabilitation beds in 2002, provided that the beds are used only for rehabilitation in the

hospital's current rehabilitation building. If the beds are used for another purpose or moved to another location, the hospital's licensed capacity is reduced by 20 beds;

(19) a critical access hospital established under section 144.1483, clause (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public Law 105-33, to the extent that the critical access hospital does not seek to exceed the maximum number of beds permitted such hospital under federal law;

(20) notwithstanding section 144.552, a project for the construction of a new hospital in the city of Maple Grove with a licensed capacity of up to 300 beds provided that:

(i) the project, including each hospital or health system that will own or control the entity that will hold the new hospital license, is approved by a resolution of the Maple Grove City Council as of March 1, 2006;

(ii) the entity that will hold the new hospital license will be owned or controlled by one or more not-for-profit hospitals or health systems that have previously submitted a plan or plans for a project in Maple Grove as required under section 144.552, and the plan or plans have been found to be in the public interest by the commissioner of health as of April 1, 2005;

(iii) the new hospital's initial inpatient services must include, but are not limited to, medical and surgical services, obstetrical and gynecological services, intensive care services, orthopedic services, pediatric services, noninvasive cardiac diagnostics, behavioral health services, and emergency room services;

(iv) the new hospital:

(A) will have the ability to provide and staff sufficient new beds to meet the growing needs of the Maple Grove service area and the surrounding communities currently being served by the hospital or health system that will own or control the entity that will hold the new hospital license;

(B) will provide uncompensated care;

(C) will provide mental health services, including inpatient beds;

(D) will be a site for workforce development for a broad spectrum of health-care-related occupations and have a commitment to providing clinical training programs for physicians and other health care providers;

(E) will demonstrate a commitment to quality care and patient safety;

(F) will have an electronic medical records system, including physician order entry;

(G) will provide a broad range of senior services;

(H) will provide emergency medical services that will coordinate care with regional providers of trauma services and licensed emergency ambulance services in order to enhance the continuity of care for emergency medical patients; and

(I) will be completed by December 31, 2009, unless delayed by circumstances beyond the control of the entity holding the new hospital license; and

(v) as of 30 days following submission of a written plan, the commissioner of health has not determined that the hospitals or health systems that will own or control the entity that will hold the new hospital license are unable to meet the criteria of this clause;

(21) a project approved under section 144.553;

(22) a project for the construction of a hospital with up to 25 beds in Cass County within a 20-mile radius of the state Ah-Gwah-Ching facility, provided the hospital's license holder is approved by the Cass County Board;

(23) a project for an acute care hospital in Fergus Falls that will increase the bed capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16 and closing a separately licensed 13-bed skilled nursing facility;

(24) notwithstanding section 144.552, a project for the construction and expansion of a specialty psychiatric hospital in Hennepin County for up to 50 beds, exclusively for patients who are under 21 years of age on the date of admission. The commissioner conducted a public interest review of the mental health needs of Minnesota and the Twin Cities metropolitan area in 2008. No further public interest review shall be conducted for the construction or expansion project under this clause;

(25) a project for a 16-bed psychiatric hospital in the city of Thief River Falls, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(26)(i) a project for a 20-bed psychiatric hospital, within an existing facility in the city of Maple Grove, exclusively for patients who are under 21 years of age on the date of admission, if the commissioner finds the project is in the public interest after the public interest review conducted under section 144.552 is complete;

(ii) this project shall serve patients in the continuing care benefit program under section 256.9693. The project may also serve patients not in the continuing care benefit program; and

(iii) if the project ceases to participate in the continuing care benefit program, the commissioner must complete a subsequent public interest review under section 144.552. If the project is found not to be in the public interest, the license must be terminated six months from the date of that finding. If the commissioner of human services terminates the contract without cause or reduces per diem payment rates for patients under the continuing care benefit program below the rates in effect for services provided on December 31, 2015, the project may cease to participate in the continuing care benefit program and continue to operate without a subsequent public interest review;

(27) a project involving the addition of 21 new beds in an existing psychiatric hospital in Hennepin County that is exclusively for patients who are under 21 years of age on the date of admission;

(28) a project to add 55 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5, of which 15 beds are to be

used for inpatient mental health and 40 are to be used for other services. In addition, five unlicensed observation mental health beds shall be added;

(29) upon submission of a plan to the commissioner for public interest review under section 144.552 and the addition of the 15 inpatient mental health beds specified in clause (28), to its bed capacity, a project to add 45 licensed beds in an existing safety net, level I trauma center hospital in Ramsey County as designated under section 383A.91, subdivision 5. Five of the 45 additional beds authorized under this clause must be designated for use for inpatient mental health and must be added to the hospital's bed capacity before the remaining 40 beds are added. Notwithstanding section 144.552, the hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552; ~~or~~

(30) upon submission of a plan to the commissioner for public interest review under section 144.552, a project to add up to 30 licensed beds in an existing psychiatric hospital in Hennepin County that exclusively provides care to patients who are under 21 years of age on the date of admission. Notwithstanding section 144.552, the psychiatric hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2021 deadline and adheres to the timelines for the public interest review described in section 144.552-;

(31) any project to add licensed beds in a hospital located in Cook County or Mahnomon County that: (i) is designated as a critical access hospital under section 144.1483, clause (9), and United States Code, title 42, section 1395i-4; (ii) has a licensed bed capacity of fewer than 25 beds; and (iii) has an attached nursing home, so long as the total number of licensed beds in the hospital after the bed addition does not exceed 25 beds. Notwithstanding section 144.552, a public interest review is not required for a project authorized under this clause; or

(32) upon submission of a plan to the commissioner for public interest review under section 144.552, a project to add 22 licensed beds at a Minnesota freestanding children's hospital in St. Paul that is part of an independent pediatric health system with freestanding inpatient hospitals located in Minneapolis and St. Paul. The beds shall be utilized for pediatric inpatient behavioral health services. Notwithstanding section 144.552, the hospital may add licensed beds under this clause prior to completion of the public interest review, provided the hospital submits its plan by the 2022 deadline and adheres to the timelines for the public interest review described in section 144.552.

Sec. 10. Minnesota Statutes 2020, section 144.565, subdivision 4, is amended to read:

Subd. 4. **Definitions.** (a) For purposes of this section, the following terms have the meanings given:

(b) "Diagnostic imaging facility" means a health care facility that is not a hospital or location licensed as a hospital which offers diagnostic imaging services in Minnesota, regardless of whether the equipment used to provide the service is owned or leased. For the purposes of this section, diagnostic imaging facility includes, but is not limited to, facilities such as a physician's office, clinic, mobile transport vehicle, outpatient imaging center, or surgical center. A dental clinic or office is not considered a diagnostic imaging facility for the purpose of this section when the clinic or office performs diagnostic imaging through dental cone beam computerized tomography.

(c) "Diagnostic imaging service" means the use of ionizing radiation or other imaging technique on a human patient including, but not limited to, magnetic resonance imaging (MRI) or computerized tomography (CT) other than dental cone beam computerized tomography, positron emission tomography (PET), or single photon emission computerized tomography (SPECT) scans using fixed, portable, or mobile equipment.

(d) "Financial or economic interest" means a direct or indirect:

(1) equity or debt security issued by an entity, including, but not limited to, shares of stock in a corporation, membership in a limited liability company, beneficial interest in a trust, units or other interests in a partnership, bonds, debentures, notes or other equity interests or debt instruments, or any contractual arrangements;

(2) membership, proprietary interest, or co-ownership with an individual, group, or organization to which patients, clients, or customers are referred to; or

(3) employer-employee or independent contractor relationship, including, but not limited to, those that may occur in a limited partnership, profit-sharing arrangement, or other similar arrangement with any facility to which patients are referred, including any compensation between a facility and a health care provider, the group practice of which the provider is a member or employee or a related party with respect to any of them.

(e) "Fixed equipment" means a stationary diagnostic imaging machine installed in a permanent location.

(f) "Mobile equipment" means a diagnostic imaging machine in a self-contained transport vehicle designed to be brought to a temporary ~~offsite~~ off-site location to perform diagnostic imaging services.

(g) "Portable equipment" means a diagnostic imaging machine designed to be temporarily transported within a permanent location to perform diagnostic imaging services.

(h) "Provider of diagnostic imaging services" means a diagnostic imaging facility or an entity that offers and bills for diagnostic imaging services at a facility owned or leased by the entity.

Sec. 11. Minnesota Statutes 2020, section 144.6502, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms defined in this subdivision have the meanings given.

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

(c) "Department" means the Department of Health.

(d) "Electronic monitoring" means the placement and use of an electronic monitoring device ~~by a resident~~ in the resident's room or private living unit in accordance with this section.

(e) "Electronic monitoring device" means a camera or other device that captures, records, or broadcasts audio, video, or both, that is placed in a resident's room or private living unit and is used to monitor the resident or activities in the room or private living unit.



(f) "Facility" means a facility that is:

(1) licensed as a nursing home under chapter 144A;

(2) licensed as a boarding care home under sections 144.50 to 144.56;

(3) until August 1, 2021, a housing with services establishment registered under chapter 144D that is either subject to chapter 144G or has a disclosed special unit under section 325F.72; or

(4) on or after August 1, 2021, an assisted living facility.

(g) "Resident" means a person 18 years of age or older residing in a facility.

(h) "Resident representative" means one of the following in the order of priority listed, to the extent the person may reasonably be identified and located:

(1) a court-appointed guardian;

(2) a health care agent as defined in section 145C.01, subdivision 2; or

(3) a person who is not an agent of a facility or of a home care provider designated in writing by the resident and maintained in the resident's records on file with the facility.

Sec. 12. Minnesota Statutes 2020, section 144A.01, is amended to read:

#### **144A.01 DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 144A.01 to 144A.27, the terms defined in this section have the meanings given them.

Subd. 2. **Commissioner of health.** "Commissioner of health" means the state commissioner of health established by section 144.011.

Subd. 3. **Board of Executives for Long Term Services and Supports.** "Board of Executives for Long Term Services and Supports" means the Board of Executives for Long Term Services and Supports established by section 144A.19.

Subd. 3a. **Certified.** "Certified" means certified for participation as a provider in the Medicare or Medicaid programs under title XVIII or XIX of the Social Security Act.

Subd. 4. **Controlling person.** (a) "Controlling person" means ~~any public body, governmental agency, business entity,~~ an owner and the following individuals and entities, if applicable:

(1) each officer of the organization, including the chief executive officer and the chief financial officer;

(2) the nursing home administrator, or director whose responsibilities include the direction of the management or policies of a nursing home; and

(3) any managerial official.

(b) "Controlling person" also means any entity or natural person who, directly or indirectly, beneficially owns any has any direct or indirect ownership interest in:

- (1) any corporation, partnership or other business association which is a controlling person;
- (2) the land on which a nursing home is located;
- (3) the structure in which a nursing home is located;

(4) any entity with at least a five percent mortgage, contract for deed, deed of trust, or other obligation secured in whole or part by security interest in the land or structure comprising a nursing home; or

- (5) any lease or sublease of the land, structure, or facilities comprising a nursing home.

~~(b)~~ (c) "Controlling person" does not include:

(1) a bank, savings bank, trust company, savings association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity directly or through a subsidiary operates a nursing home;

(2) government and government-sponsored entities such as the United States Department of Housing and Urban Development, Ginnie Mae, Fannie Mae, Freddie Mac, and the Minnesota Housing Finance Agency which provide loans, financing, and insurance products for housing sites;

~~(2)~~ (3) an individual who is a state or federal official or, a state or federal employee, or a member or employee of the governing body of a political subdivision of the state which or federal government that operates one or more nursing homes, unless the individual is also an officer or director of a, owner, or managerial official of the nursing home, receives any remuneration from a nursing home, or owns any of the beneficial interests who is a controlling person not otherwise excluded in this subdivision;

~~(3)~~ (4) a natural person who is a member of a tax-exempt organization under section 290.05, subdivision 2, unless the individual is also an officer or director of a nursing home, or owns any of the beneficial interests a controlling person not otherwise excluded in this subdivision; and

~~(4)~~ (5) a natural person who owns less than five percent of the outstanding common shares of a corporation:

- (i) whose securities are exempt by virtue of section 80A.45, clause (6); or
- (ii) whose transactions are exempt by virtue of section 80A.46, clause (7).

Subd. 4a. **Emergency.** "Emergency" means a situation or physical condition that creates or probably will create an immediate and serious threat to a resident's health or safety.

Subd. 5. **Nursing home.** "Nursing home" means a facility or that part of a facility which provides nursing care to five or more persons. "Nursing home" does not include a facility or that part of a facility which is a hospital, a hospital with approved swing beds as defined in section 144.562,

clinic, doctor's office, diagnostic or treatment center, or a residential program licensed pursuant to sections 245A.01 to 245A.16 or 252.28.

Subd. 6. **Nursing care.** "Nursing care" means health evaluation and treatment of patients and residents who are not in need of an acute care facility but who require nursing supervision on an inpatient basis. The commissioner of health may by rule establish levels of nursing care.

Subd. 7. **Uncorrected violation.** "Uncorrected violation" means a violation of a statute or rule or any other deficiency for which a notice of noncompliance has been issued and fine assessed and allowed to be recovered pursuant to section 144A.10, subdivision 8.

Subd. 8. **Managerial employee official.** "Managerial ~~employee official~~" means an ~~employee~~ of a individual who has the decision-making authority related to the operation of the nursing home ~~whose duties include~~ and the responsibility for either: (1) the ongoing management of the nursing home; or (2) the direction of ~~some or all of the management or policies, services, or employees~~ of the nursing home.

Subd. 9. **Nursing home administrator.** "Nursing home administrator" means a person who administers, manages, supervises, or is in general administrative charge of a nursing home, whether or not the individual has an ownership interest in the home, and whether or not the person's functions and duties are shared with one or more individuals, and who is licensed pursuant to section 144A.21.

Subd. 10. **Repeated violation.** "Repeated violation" means the issuance of two or more correction orders, within a 12-month period, for a violation of the same provision of a statute or rule.

Subd. 11. **Change of ownership.** "Change of ownership" means a change in the licensee.

Subd. 12. **Direct ownership interest.** "Direct ownership interest" means an individual or legal entity with the possession of at least five percent equity in capital, stock, or profits of the licensee or who is a member of a limited liability company of the licensee.

Subd. 13. **Indirect ownership interest.** "Indirect ownership interest" means an individual or legal entity with a direct ownership interest in an entity that has a direct or indirect ownership interest of at least five percent in an entity that is a licensee.

Subd. 14. **Licensee.** "Licensee" means a person or legal entity to whom the commissioner issues a license for a nursing home and who is responsible for the management, control, and operation of the nursing home.

Subd. 15. **Management agreement.** "Management agreement" means a written, executed agreement between a licensee and manager regarding the provision of certain services on behalf of the licensee.

Subd. 16. **Manager.** "Manager" means an individual or legal entity designated by the licensee through a management agreement to act on behalf of the licensee in the on-site management of the nursing home.

Subd. 17. **Owner.** "Owner" means: (1) an individual or legal entity that has a direct or indirect ownership interest of five percent or more in a licensee; and (2) for purposes of this chapter, owner

of a nonprofit corporation means the president and treasurer of the board of directors; and (3) for an entity owned by an employee stock ownership plan, owner means the president and treasurer of the entity. A government entity that is issued a license under this chapter shall be designated the owner.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 13. Minnesota Statutes 2020, section 144A.03, subdivision 1, is amended to read:

Subdivision 1. **Form; requirements.** (a) The commissioner of health by rule shall establish forms and procedures for the processing of nursing home license applications.

(b) An application for a nursing home license shall include ~~the following information:~~

(1) ~~the names business name and addresses of all controlling persons and managerial employees of the facility to be licensed~~ legal entity name of the licensee;

(2) the street address, mailing address, and legal property description of the facility;

(3) the names, e-mail addresses, telephone numbers, and mailing addresses of all owners, controlling persons, managerial officials, and the nursing home administrator;

(4) the name and e-mail address of the managing agent and manager, if applicable;

(5) the licensed bed capacity;

(6) the license fee in the amount specified in section 144.122;

(7) documentation of compliance with the background study requirements in section 144.057 for the owner, controlling persons, and managerial officials. Each application for a new license must include documentation for the applicant and for each individual with five percent or more direct or indirect ownership in the applicant;

~~(8)~~ (8) a copy of the architectural and engineering plans and specifications of the facility as prepared and certified by an architect or engineer registered to practice in this state; and

(9) a representative copy of the executed lease agreement between the landlord and the licensee, if applicable;

(10) a representative copy of the management agreement, if applicable;

(11) a representative copy of the operations transfer agreement or similar agreement, if applicable;

(12) an organizational chart that identifies all organizations and individuals with an ownership interest in the licensee of five percent or greater and that specifies their relationship with the licensee and with each other;

(13) whether the applicant, owner, controlling person, managerial official, or nursing home administrator of the facility has ever been convicted of:

(i) a crime or found civilly liable for a federal or state felony-level offense that was detrimental to the best interests of the facility and its residents within the last ten years preceding submission of the license application. Offenses include: (A) felony crimes against persons and other similar crimes for which the individual was convicted, including guilty pleas and adjudicated pretrial diversions; (B) financial crimes such as extortion, embezzlement, income tax evasion, insurance fraud, and other similar crimes for which the individual was convicted, including guilty pleas and adjudicated pretrial diversions; (C) any felonies involving malpractice that resulted in a conviction of criminal neglect or misconduct; and (D) any felonies that would result in a mandatory exclusion under section 1128(a) of the Social Security Act;

(ii) any misdemeanor under federal or state law related to the delivery of an item or service under Medicaid or a state health care program or the abuse or neglect of a patient in connection with the delivery of a health care item or service;

(iii) any misdemeanor under federal or state law related to theft, fraud, embezzlement, breach of fiduciary duty, or other financial misconduct in connection with the delivery of a health care item or service;

(iv) any felony or misdemeanor under federal or state law relating to the interference with or obstruction of any investigation into any criminal offense described in Code of Federal Regulations, title 42, section 1001.101 or 1001.201; or

(v) any felony or misdemeanor under federal or state law relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance;

(14) whether the applicant, owner, controlling person, managerial official, or nursing home administrator of the facility has had:

(i) any revocation or suspension of a license to provide health care by any state licensing authority. This includes the surrender of the license while a formal disciplinary proceeding was pending before a state licensing authority;

(ii) any revocation or suspension of accreditation; or

(iii) any suspension or exclusion from participation in, or any sanction imposed by, a federal or state health care program or any debarment from participation in any federal executive branch procurement or nonprocurement program;

(15) whether in the preceding three years the applicant or any owner, controlling person, managerial official, or nursing home administrator of the facility has a record of defaulting in the payment of money collected for others, including the discharge of debts through bankruptcy proceedings;

(16) the signature of the owner of the licensee or an authorized agent of the licensee;

(17) identification of all states where the applicant or individual having a five percent or more ownership currently or previously has been licensed as an owner or operator of a long-term care, community-based, or health care facility or agency where the applicant's or individual's license or federal certification has been denied, suspended, restricted, conditioned, refused, not renewed, or

revoked under a private or state-controlled receivership or where these same actions are pending under the laws of any state or federal authority; and

~~(4)~~ (18) any other relevant information which the commissioner of health by rule or otherwise may determine is necessary to properly evaluate an application for license.

(c) A controlling person which is a corporation shall submit copies of its articles of incorporation and bylaws and any amendments thereto as they occur, together with the names and addresses of its officers and directors. A controlling person which is a foreign corporation shall furnish the commissioner of health with a copy of its certificate of authority to do business in this state. ~~An application on behalf of a controlling person which is a corporation, association or a governmental unit or instrumentality shall be signed by at least two officers or managing agents of that entity.~~

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 14. Minnesota Statutes 2020, section 144A.04, subdivision 4, is amended to read:

Subd. 4. **Controlling person restrictions.** (a) The commissioner has discretion to bar any controlling persons of a nursing home ~~may not include any~~ if the person ~~who~~ was a controlling person of ~~another~~ any other nursing home ~~during any period of time~~, assisted living facility, long-term care or health care facility, or agency in the previous two-year period and:

(1) during ~~which~~ that period of time of control ~~that other nursing home~~ the facility or agency incurred the following number of uncorrected or repeated violations:

(i) ~~two or more uncorrected violations or one or more repeated violations which created an imminent risk to direct resident~~ or client care or safety; or

~~(ii) four or more uncorrected violations or two or more repeated violations of any nature for which the fines are in the four highest daily fine categories prescribed in rule; or~~

(2) ~~who~~ during that period of time, was convicted of a felony or gross misdemeanor that ~~relates~~ related to operation of the nursing home facility or agency or directly ~~affects~~ affected resident safety or care, ~~during that period.~~

(b) The provisions of this subdivision shall not apply to any controlling person who had no legal authority to affect or change decisions related to the operation of the nursing home which incurred the uncorrected violations.

(c) When the commissioner bars a controlling person under this subdivision, the controlling person has the right to appeal under chapter 14.

Sec. 15. Minnesota Statutes 2020, section 144A.04, subdivision 6, is amended to read:

Subd. 6. **Managerial ~~employee~~ official or licensed administrator; employment prohibitions.** A nursing home may not employ as a managerial employee official or as its licensed administrator any person who was a managerial employee official or the licensed administrator of another facility during any period of time in the previous two-year period:

(1) during which time of employment that other nursing home incurred the following number of uncorrected violations which were in the jurisdiction and control of the managerial ~~employee official~~ or the administrator:

(i) two or more uncorrected violations ~~or one or more repeated violations which created an imminent risk to direct resident care or safety;~~ or

(ii) four or more uncorrected violations or two or more repeated violations of any nature for which the fines are in the four highest daily fine categories prescribed in rule; or

(2) who was convicted of a felony or gross misdemeanor that relates to operation of the nursing home or directly affects resident safety or care, during that period.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 16. Minnesota Statutes 2020, section 144A.06, is amended to read:

**144A.06 TRANSFER OF INTERESTS LICENSE PROHIBITED.**

Subdivision 1. ~~Notice; expiration of license~~ **Transfers prohibited.** Any controlling person who makes any transfer of a beneficial interest in a nursing home shall notify the commissioner of health of the transfer within 14 days of its occurrence. The notification shall identify by name and address the transferor and transferee and shall specify the nature and amount of the transferred interest. On determining that the transferred beneficial interest exceeds ten percent of the total beneficial interest in the nursing home facility, the structure in which the facility is located, or the land upon which the structure is located, the commissioner may, and on determining that the transferred beneficial interest exceeds 50 percent of the total beneficial interest in the facility, the structure in which the facility is located, or the land upon which the structure is located, the commissioner shall require that the license of the nursing home expire 90 days after the date of transfer. The commissioner of health shall notify the nursing home by certified mail of the expiration of the license at least 60 days prior to the date of expiration. A nursing home license may not be transferred.

Subd. 2. ~~Relicensure~~ **New license required; change of ownership.** (a) The commissioner of health by rule shall prescribe procedures for ~~relicensure~~ licensure under this section. The commissioner of health shall relicense a nursing home if the facility satisfies the requirements for license renewal established by section 144A.05. A facility shall not be relicensed by the commissioner if at the time of transfer there are any uncorrected violations. The commissioner of health may temporarily waive correction of one or more violations if the commissioner determines that:

(1) temporary noncorrection of the violation will not create an imminent risk of harm to a nursing home resident; and

(2) a controlling person on behalf of all other controlling persons:

(i) has entered into a contract to obtain the materials or labor necessary to correct the violation, but the supplier or other contractor has failed to perform the terms of the contract and the inability of the nursing home to correct the violation is due solely to that failure; or

~~(ii) is otherwise making a diligent good faith effort to correct the violation.~~

(b) A new license is required and the prospective licensee must apply for a license prior to operating a currently licensed nursing home. The licensee must change whenever one of the following events occur:

(1) the form of the licensee's legal entity structure is converted or changed to a different type of legal entity structure;

(2) the licensee dissolves, consolidates, or merges with another legal organization and the licensee's legal organization does not survive;

(3) within the previous 24 months, 50 percent or more of the licensee's ownership interest is transferred, whether by a single transaction or multiple transactions to:

(i) a different person; or

(ii) a person who had less than a five percent ownership interest in the facility at the time of the first transaction; or

(4) any other event or combination of events that results in a substitution, elimination, or withdrawal of the licensee's responsibility for the facility.

Subd. 3. **Compliance.** The commissioner must consult with the commissioner of human services regarding the history of financial and cost reporting compliance of the prospective licensee and prospective licensee's financial operations in any nursing home that the prospective licensee or any controlling person listed in the license application has had an interest in.

Subd. 4. **Facility operation.** The current licensee remains responsible for the operation of the nursing home until the nursing home is licensed to the prospective licensee.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 17. **[144A.32] CONSIDERATION OF APPLICATIONS.**

(a) Before issuing a license or renewing an existing license, the commissioner shall consider an applicant's compliance history in providing care in a facility that provides care to children, the elderly, ill individuals, or individuals with disabilities.

(b) The applicant's compliance history shall include repeat violations, rule violations, and any license or certification involuntarily suspended or terminated during an enforcement process.

(c) The commissioner may deny, revoke, suspend, restrict, or refuse to renew the license or impose conditions if:

(1) the applicant fails to provide complete and accurate information on the application and the commissioner concludes that the missing or corrected information is needed to determine if a license is granted;



(2) the applicant, knowingly or with reason to know, made a false statement of a material fact in an application for the license or any data attached to the application or in any matter under investigation by the department;

(3) the applicant refused to allow agents of the commissioner to inspect the applicant's books, records, files related to the license application, or any portion of the premises;

(4) the applicant willfully prevented, interfered with, or attempted to impede in any way:

(i) the work of any authorized representative of the commissioner, the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities; or

(ii) the duties of the commissioner, local law enforcement, city or county attorneys, adult protection, county case managers, or other local government personnel;

(5) the applicant has a history of noncompliance with federal or state regulations that were detrimental to the health, welfare, or safety of a resident or a client; or

(6) the applicant violates any requirement in this chapter or chapter 256R.

(d) If a license is denied, the applicant has the reconsideration rights available under chapter 14.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 18. Minnesota Statutes 2020, section 144A.4799, subdivision 1, is amended to read:

Subdivision 1. **Membership.** The commissioner of health shall appoint ~~eight~~ 13 persons to a home care and assisted living program advisory council consisting of the following:

(1) ~~three~~ two public members as defined in section 214.02 who shall be persons who are currently receiving home care services, persons who have received home care services within five years of the application date, persons who have family members receiving home care services, or persons who have family members who have received home care services within five years of the application date;

(2) ~~three~~ two Minnesota home care licensees representing basic and comprehensive levels of licensure who may be a managerial official, an administrator, a supervising registered nurse, or an unlicensed personnel performing home care tasks;

(3) one member representing the Minnesota Board of Nursing;

(4) one member representing the Office of Ombudsman for Long-Term Care; ~~and~~

(5) one member representing the Office of Ombudsman for Mental Health and Developmental Disabilities;

~~(5)~~ (6) beginning July 1, 2021, one member of a county health and human services or county adult protection office;

(7) two Minnesota assisted living facility licensees representing assisted living facilities and assisted living facilities with dementia care levels of licensure who may be the facility's assisted living director, managerial official, or clinical nurse supervisor;

(8) one organization representing long-term care providers, home care providers, and assisted living providers in Minnesota; and

(9) two public members as defined in section 214.02. One public member shall be a person who either is or has been a resident in an assisted living facility and one public member shall be a person who has or had a family member living in an assisted living facility setting.

Sec. 19. Minnesota Statutes 2020, section 144A.4799, subdivision 3, is amended to read:

Subd. 3. **Duties.** (a) At the commissioner's request, the advisory council shall provide advice regarding regulations of Department of Health licensed assisted living and home care providers in this chapter, including advice on the following:

- (1) community standards for home care practices;
- (2) enforcement of licensing standards and whether certain disciplinary actions are appropriate;
- (3) ways of distributing information to licensees and consumers of home care and assisted living services defined under chapter 144G;
- (4) training standards;
- (5) identifying emerging issues and opportunities in home care and assisted living services defined under chapter 144G;
- (6) identifying the use of technology in home and telehealth capabilities;
- (7) allowable home care licensing modifications and exemptions, including a method for an integrated license with an existing license for rural licensed nursing homes to provide limited home care services in an adjacent independent living apartment building owned by the licensed nursing home; and
- (8) recommendations for studies using the data in section 62U.04, subdivision 4, including but not limited to studies concerning costs related to dementia and chronic disease among an elderly population over 60 and additional long-term care costs, as described in section 62U.10, subdivision 6.

(b) The advisory council shall perform other duties as directed by the commissioner.

(c) The advisory council shall annually make recommendations to the commissioner for the purposes in section 144A.474, subdivision 11, paragraph (i). The recommendations shall address ways the commissioner may improve protection of the public under existing statutes and laws and include but are not limited to projects that create and administer training of licensees and their employees to improve residents' lives, supporting ways that licensees can improve and enhance quality care and ways to provide technical assistance to licensees to improve compliance; information technology and data projects that analyze and communicate information about trends of violations

or lead to ways of improving client care; communications strategies to licensees and the public; and other projects or pilots that benefit clients, families, and the public.

Sec. 20. Minnesota Statutes 2020, section 144A.75, subdivision 12, is amended to read:

Subd. 12. **Palliative care.** "Palliative care" means ~~the total active care of patients whose disease is not responsive to curative treatment. Control of pain, of other symptoms, and of psychological, social, and spiritual problems is paramount~~ specialized medical care for individuals living with a serious illness or life-limiting condition. This type of care is focused on reducing the pain, symptoms, and stress of a serious illness or condition. Palliative care is a team-based approach to care, providing essential support at any age or stage of a serious illness or condition, and is often provided together with curative treatment. The goal of palliative care is the achievement of the best quality of life for patients and their families to improve quality of life for both the patient and the patient's family or care partner.

Sec. 21. Minnesota Statutes 2020, section 144G.08, is amended by adding a subdivision to read:

Subd. 6a. **Serious injury.** "Serious injury" has the meaning given in section 245.91, subdivision 6.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 22. Minnesota Statutes 2020, section 144G.15, is amended to read:

#### **144G.15 CONSIDERATION OF APPLICATIONS.**

(a) Before issuing a provisional license or license or renewing a license, the commissioner shall consider an applicant's compliance history in providing care in this state or any other state in a facility that provides care to children, the elderly, ill individuals, or individuals with disabilities.

(b) The applicant's compliance history shall include repeat violation, rule violations, and any license or certification involuntarily suspended or terminated during an enforcement process.

(c) The commissioner may deny, revoke, suspend, restrict, or refuse to renew the license or impose conditions if:

(1) the applicant fails to provide complete and accurate information on the application and the commissioner concludes that the missing or corrected information is needed to determine if a license shall be granted;

(2) the applicant, knowingly or with reason to know, made a false statement of a material fact in an application for the license or any data attached to the application or in any matter under investigation by the department;

(3) the applicant refused to allow agents of the commissioner to inspect its books, records, and files related to the license application, or any portion of the premises;

(4) the applicant willfully prevented, interfered with, or attempted to impede in any way: (i) the work of any authorized representative of the commissioner, the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities; or (ii) the duties of the

commissioner, local law enforcement, city or county attorneys, adult protection, county case managers, or other local government personnel;

(5) the applicant, owner, controlling individual, managerial official, or assisted living director for the facility has a history of noncompliance with federal or state regulations that were detrimental to the health, welfare, or safety of a resident or a client; or

(6) the applicant violates any requirement in this chapter.

(d) If a license is denied, the applicant has the reconsideration rights available under section 144G.16, subdivision 4.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 23. Minnesota Statutes 2020, section 144G.17, is amended to read:

**144G.17 LICENSE RENEWAL.**

A license that is not a provisional license may be renewed for a period of up to one year if the licensee:

(1) submits an application for renewal in the format provided by the commissioner at least 60 calendar days before expiration of the license;

(2) submits the renewal fee under section 144G.12, subdivision 3;

(3) submits the late fee under section 144G.12, subdivision 4, if the renewal application is received less than 30 days before the expiration date of the license or after the expiration of the license;

(4) provides information sufficient to show that the applicant meets the requirements of licensure, including items required under section 144G.12, subdivision 1; ~~and~~

(5) provides information sufficient to show the licensee provided assisted living services to at least one resident during the immediately preceding license year and at the assisted living facility listed on the license; and

~~(5)~~ (6) provides any other information deemed necessary by the commissioner.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 24. Minnesota Statutes 2020, section 144G.19, is amended by adding a subdivision to read:

Subd. 4. **Change of licensee.** Notwithstanding any other provision of law, a change of licensee under subdivision 2 does not require the facility to meet the design requirements of section 144G.45, subdivisions 4 to 6, or 144G.81, subdivision 3.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 25. Minnesota Statutes 2020, section 144G.20, subdivision 1, is amended to read:

Subdivision 1. **Conditions.** (a) The commissioner may refuse to grant a provisional license, refuse to grant a license as a result of a change in ownership, refuse to renew a license, suspend or revoke a license, or impose a conditional license if the owner, controlling individual, or employee of an assisted living facility:

(1) is in violation of, or during the term of the license has violated, any of the requirements in this chapter or adopted rules;

(2) permits, aids, or abets the commission of any illegal act in the provision of assisted living services;

(3) performs any act detrimental to the health, safety, and welfare of a resident;

(4) obtains the license by fraud or misrepresentation;

(5) knowingly makes a false statement of a material fact in the application for a license or in any other record or report required by this chapter;

(6) denies representatives of the department access to any part of the facility's books, records, files, or employees;

(7) interferes with or impedes a representative of the department in contacting the facility's residents;

(8) interferes with or impedes ombudsman access according to section 256.9742, subdivision 4, or interferes with or impedes access by the Office of Ombudsman for Mental Health and Developmental Disabilities according to section 245.94, subdivision 1;

(9) interferes with or impedes a representative of the department in the enforcement of this chapter or fails to fully cooperate with an inspection, survey, or investigation by the department;

(10) destroys or makes unavailable any records or other evidence relating to the assisted living facility's compliance with this chapter;

(11) refuses to initiate a background study under section 144.057 or 245A.04;

(12) fails to timely pay any fines assessed by the commissioner;

(13) violates any local, city, or township ordinance relating to housing or assisted living services;

(14) has repeated incidents of personnel performing services beyond their competency level;  
or

(15) has operated beyond the scope of the assisted living facility's license category.

(b) A violation by a contractor providing the assisted living services of the facility is a violation by the facility.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 26. Minnesota Statutes 2020, section 144G.20, subdivision 4, is amended to read:

Subd. 4. **Mandatory revocation.** Notwithstanding the provisions of subdivision 13, paragraph (a), the commissioner must revoke a license if a controlling individual of the facility is convicted of a felony or gross misdemeanor that relates to operation of the facility or directly affects resident safety or care. The commissioner shall notify the facility and the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities 30 calendar days in advance of the date of revocation.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 27. Minnesota Statutes 2020, section 144G.20, subdivision 5, is amended to read:

Subd. 5. **Owners and managerial officials; refusal to grant license.** (a) The owners and managerial officials of a facility whose Minnesota license has not been renewed or whose ~~Minnesota~~ license in this state or any other state has been revoked because of noncompliance with applicable laws or rules shall not be eligible to apply for nor will be granted an assisted living facility license under this chapter or a home care provider license under chapter 144A, or be given status as an enrolled personal care assistance provider agency or personal care assistant by the Department of Human Services under section 256B.0659, for five years following the effective date of the nonrenewal or revocation. If the owners or managerial officials already have enrollment status, the Department of Human Services shall terminate that enrollment.

(b) The commissioner shall not issue a license to a facility for five years following the effective date of license nonrenewal or revocation if the owners or managerial officials, including any individual who was an owner or managerial official of another licensed provider, had a ~~Minnesota~~ license in this state or any other state that was not renewed or was revoked as described in paragraph (a).

(c) Notwithstanding subdivision 1, the commissioner shall not renew, or shall suspend or revoke, the license of a facility that includes any individual as an owner or managerial official who was an owner or managerial official of a facility whose ~~Minnesota~~ license in this state or any other state was not renewed or was revoked as described in paragraph (a) for five years following the effective date of the nonrenewal or revocation.

(d) The commissioner shall notify the facility 30 calendar days in advance of the date of nonrenewal, suspension, or revocation of the license.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 28. Minnesota Statutes 2020, section 144G.20, subdivision 8, is amended to read:

Subd. 8. **Controlling individual restrictions.** (a) The commissioner has discretion to bar any controlling individual of a facility if the person was a controlling individual of any other nursing home, home care provider licensed under chapter 144A, or given status as an enrolled personal care assistance provider agency or personal care assistant by the Department of Human Services under section 256B.0659, or assisted living facility in the previous two-year period and:

(1) during that period of time the nursing home, home care provider licensed under chapter 144A, or given status as an enrolled personal care assistance provider agency or personal care

assistant by the Department of Human Services under section 256B.0659, or assisted living facility incurred the following number of uncorrected or repeated violations:

(i) two or more repeated violations that created an imminent risk to direct resident care or safety;  
or

(ii) four or more uncorrected violations that created an imminent risk to direct resident care or safety; or

(2) during that period of time, was convicted of a felony or gross misdemeanor that related to the operation of the nursing home, home care provider licensed under chapter 144A, or given status as an enrolled personal care assistance provider agency or personal care assistant by the Department of Human Services under section 256B.0659, or assisted living facility, or directly affected resident safety or care.

(b) When the commissioner bars a controlling individual under this subdivision, the controlling individual may appeal the commissioner's decision under chapter 14.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 29. Minnesota Statutes 2020, section 144G.20, subdivision 9, is amended to read:

Subd. 9. **Exception to controlling individual restrictions.** Subdivision 8 does not apply to any controlling individual of the facility who had no legal authority to affect or change decisions related to the operation of the nursing home ~~or~~<sub>2</sub> assisted living facility, or home care that incurred the uncorrected or repeated violations.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 30. Minnesota Statutes 2020, section 144G.20, subdivision 12, is amended to read:

Subd. 12. **Notice to residents.** (a) Within five business days after proceedings are initiated by the commissioner to revoke or suspend a facility's license, or a decision by the commissioner not to renew a living facility's license, the controlling individual of the facility or a designee must provide to the commissioner ~~and~~<sub>2</sub> the ombudsman for long-term care, and the Office of Ombudsman for Mental Health and Developmental Disabilities the names of residents and the names and addresses of the residents' designated representatives and legal representatives, and family or other contacts listed in the assisted living contract.

(b) The controlling individual or designees of the facility must provide updated information each month until the proceeding is concluded. If the controlling individual or designee of the facility fails to provide the information within this time, the facility is subject to the issuance of:

(1) a correction order; and

(2) a penalty assessment by the commissioner in rule.

(c) Notwithstanding subdivisions 21 and 22, any correction order issued under this subdivision must require that the 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 \$500 fine the

first day of noncompliance and an increase in the \$500 fine by \$100 increments for each day the noncompliance continues.

(d) Information provided under this subdivision may be used by the commissioner ~~or~~ the ombudsman for long-term care, or the Office of Ombudsman for Mental Health and Developmental Disabilities only for the purpose of providing affected consumers information about the status of the proceedings.

(e) Within ten business days after the commissioner initiates proceedings to revoke, suspend, or not renew a facility license, the commissioner must send a written notice of the action and the process involved to each resident of the facility, legal representatives and designated representatives, and at the commissioner's discretion, additional resident contacts.

(f) The commissioner shall provide the ombudsman for long-term care and the Office of Ombudsman for Mental Health and Developmental Disabilities with monthly information on the department's actions and the status of the proceedings.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 31. Minnesota Statutes 2020, section 144G.20, subdivision 15, is amended to read:

Subd. 15. **Plan required.** (a) The process of suspending, revoking, or refusing to renew a license must include a plan for transferring affected residents' cares to other providers by the facility. The commissioner shall monitor the transfer plan. Within three calendar days of being notified of the final revocation, refusal to renew, or suspension, the licensee shall provide the commissioner, the lead agencies as defined in section 256B.0911, county adult protection and case managers, ~~and~~ the ombudsman for long-term care, and the Office of Ombudsman for Mental Health and Developmental Disabilities with the following information:

- (1) a list of all residents, including full names and all contact information on file;
- (2) a list of the resident's legal representatives and designated representatives and family or other contacts listed in the assisted living contract, including full names and all contact information on file;
- (3) the location or current residence of each resident;
- (4) the ~~payer~~ payer sources for each resident, including ~~payer~~ payer source identification numbers; and
- (5) for each resident, a copy of the resident's service plan and a list of the types of services being provided.

(b) The revocation, refusal to renew, or suspension notification requirement is satisfied by mailing the notice to the address in the license record. The licensee shall cooperate with the commissioner and the lead agencies, county adult protection and case managers, ~~and~~ the ombudsman for long-term care, and the Office of Ombudsman for Mental Health and Developmental Disabilities during the process of transferring care of residents to qualified providers. Within three calendar days of being notified of the final revocation, refusal to renew, or suspension action, the facility



must notify and disclose to each of the residents, or the resident's legal and designated representatives or emergency contact persons, that the commissioner is taking action against the facility's license by providing a copy of the revocation, refusal to renew, or suspension notice issued by the commissioner. If the facility does not comply with the disclosure requirements in this section, the commissioner shall notify the residents, legal and designated representatives, or emergency contact persons about the actions being taken. Lead agencies, county adult protection and case managers, and the Office of Ombudsman for Long-Term Care may also provide this information. The revocation, refusal to renew, or suspension notice is public data except for any private data contained therein.

(c) A facility subject to this subdivision may continue operating while residents are being transferred to other service providers.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 32. Minnesota Statutes 2020, section 144G.30, subdivision 5, is amended to read:

Subd. 5. **Correction orders.** (a) A correction order may be issued whenever the commissioner finds upon survey or during a complaint investigation that a facility, a managerial official, an agent of the facility, or an employee of the facility is not in compliance with this chapter. The correction order shall cite the specific statute and document areas of noncompliance and the time allowed for correction.

(b) The commissioner shall mail or e-mail copies of any correction order to the facility within 30 calendar days after the survey exit date. A copy of each correction order and copies of any documentation supplied to the commissioner shall be kept on file by the facility and public documents shall be made available for viewing by any person upon request. Copies may be kept electronically.

(c) By the correction order date, the facility must document in the facility's records any action taken to comply with the correction order. The commissioner may request a copy of this documentation and the facility's action to respond to the correction order in future surveys, upon a complaint investigation, and as otherwise needed.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 33. Minnesota Statutes 2020, section 144G.31, subdivision 4, is amended to read:

Subd. 4. **Fine amounts.** (a) Fines and enforcement actions under this subdivision may be assessed based on the level and scope of the violations described in subdivisions 2 and 3 as follows and may be imposed immediately with no opportunity to correct the violation prior to imposition:

(1) Level 1, no fines or enforcement;

(2) Level 2, a fine of \$500 per violation, in addition to any enforcement mechanism authorized in section 144G.20 for widespread violations;

(3) Level 3, a fine of \$3,000 per violation ~~per incident~~, in addition to any enforcement mechanism authorized in section 144G.20;

(4) Level 4, a fine of \$5,000 per ~~incident~~ violation, in addition to any enforcement mechanism authorized in section 144G.20; and

(5) for maltreatment violations for which the licensee was determined to be responsible for the maltreatment under section 626.557, subdivision 9c, paragraph (c), a fine of \$1,000 per incident. A fine of \$5,000 per incident may be imposed if the commissioner determines the licensee is responsible for maltreatment consisting of sexual assault, death, or abuse resulting in serious injury.

(b) When a fine is assessed against a facility for substantiated maltreatment, the commissioner shall not also impose an immediate fine under this chapter for the same circumstance.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 34. Minnesota Statutes 2020, section 144G.31, subdivision 8, is amended to read:

Subd. 8. **Deposit of fines.** Fines collected under this section shall be deposited in a dedicated special revenue account. On an annual basis, the balance in the special revenue account shall be appropriated to the commissioner for special projects to improve home care resident quality of care and outcomes in assisted living facilities licensed under this chapter in Minnesota as recommended by the advisory council established in section 144A.4799.

**EFFECTIVE DATE.** This section is effective retroactively for fines collected on or after August 1, 2021.

Sec. 35. Minnesota Statutes 2020, section 144G.41, subdivision 7, is amended to read:

Subd. 7. **Resident grievances; reporting maltreatment.** All facilities must post in a conspicuous place information about the facilities' grievance procedure, and the name, telephone number, and e-mail contact information for the individuals who are responsible for handling resident grievances. The notice must also have the contact information for the ~~state and applicable regional~~ Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities, and must have information for reporting suspected maltreatment to the Minnesota Adult Abuse Reporting Center. The notice must also state that if an individual has a complaint about the facility or person providing services, the individual may contact the Office of Health Facility Complaints at the Minnesota Department of Health.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 36. Minnesota Statutes 2020, section 144G.41, subdivision 8, is amended to read:

Subd. 8. **Protecting resident rights.** All facilities shall ensure that every resident has access to consumer advocacy or legal services by:

(1) providing names and contact information, including telephone numbers and e-mail addresses of at least three organizations that provide advocacy or legal services to residents, one of which must include the designated protection and advocacy organization in Minnesota that provides advice and representation to individuals with disabilities;

(2) providing the name and contact information for the Minnesota Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities; ~~including both the state and regional contact information;~~

(3) assisting residents in obtaining information on whether Medicare or medical assistance under chapter 256B will pay for services;

(4) making reasonable accommodations for people who have communication disabilities and those who speak a language other than English; and

(5) providing all information and notices in plain language and in terms the residents can understand.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 37. Minnesota Statutes 2020, section 144G.42, subdivision 10, is amended to read:

Subd. 10. **Disaster planning and emergency preparedness plan.** (a) The facility must meet the following requirements:

(1) have a written emergency disaster plan that contains a plan for evacuation, addresses elements of sheltering in place, identifies temporary relocation sites, and details staff assignments in the event of a disaster or an emergency;

(2) post an emergency disaster plan prominently;

(3) provide building emergency exit diagrams to all residents;

(4) post emergency exit diagrams on each floor; and

(5) have a written policy and procedure regarding missing ~~tenant~~ residents.

(b) The facility must provide emergency and disaster training to all staff during the initial staff orientation and annually thereafter and must make emergency and disaster training annually available to all residents. Staff who have not received emergency and disaster training are allowed to work only when trained staff are also working on site.

(c) The facility must meet any additional requirements adopted in rule.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 38. Minnesota Statutes 2020, section 144G.45, subdivision 7, is amended to read:

Subd. 7. **Variance or waiver.** (a) A facility may request that the commissioner grant a variance or waiver from the provisions of this section or section 144G.81, subdivision 5. A request for a waiver must be submitted to the commissioner in writing. Each request must contain:

(1) the specific requirement for which the variance or waiver is requested;

(2) the reasons for the request;

(3) the alternative measures that will be taken if a variance or waiver is granted;

(4) the length of time for which the variance or waiver is requested; and

(5) other relevant information deemed necessary by the commissioner to properly evaluate the request for the waiver.

(b) The decision to grant or deny a variance or waiver must be based on the commissioner's evaluation of the following criteria:

(1) whether the waiver will adversely affect the health, treatment, comfort, safety, or well-being of a resident;

(2) whether the alternative measures to be taken, if any, are equivalent to or superior to those permitted under section 144G.81, subdivision 5; ~~and~~

(3) whether compliance with the requirements would impose an undue burden on the facility; and

(4) notwithstanding clause (1), for construction existing as of August 1, 2021, the commissioner's evaluation of a variance from the requirement to provide an option for a bath under subdivision 4, paragraph (a), must be based on clauses (2) and (3) and whether the variance will adversely affect the health, treatment, or safety of a resident.

(c) The commissioner must notify the facility in writing of the decision. If a variance or waiver is granted, the notification must specify the period of time for which the variance or waiver is effective and the alternative measures or conditions, if any, to be met by the facility.

(d) Alternative measures or conditions attached to a variance or waiver have the force and effect of this chapter and are subject to the issuance of correction orders and fines in accordance with sections 144G.30, subdivision 7, and 144G.31. The amount of fines for a violation of this subdivision is that specified for the specific requirement for which the variance or waiver was requested.

(e) A request for renewal of a variance or waiver must be submitted in writing at least 45 days before its expiration date. Renewal requests must contain the information specified in paragraph (b). A variance or waiver must be renewed by the commissioner if the facility continues to satisfy the criteria in paragraph (a) and demonstrates compliance with the alternative measures or conditions imposed at the time the original variance or waiver was granted.

(f) The commissioner must deny, revoke, or refuse to renew a variance or waiver if it is determined that the criteria in paragraph (a) are not met. The facility must be notified in writing of the reasons for the decision and informed of the right to appeal the decision.

(g) A facility may contest the denial, revocation, or refusal to renew a variance or waiver by requesting a contested case hearing under chapter 14. The facility must submit, within 15 days of the receipt of the commissioner's decision, a written request for a hearing. The request for hearing must set forth in detail the reasons why the facility contends the decision of the commissioner should be reversed or modified. At the hearing, the facility has the burden of proving by a preponderance of the evidence that the facility satisfied the criteria specified in paragraph (b), except in a proceeding challenging the revocation of a variance or waiver.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 39. Minnesota Statutes 2020, section 144G.50, subdivision 2, is amended to read:

Subd. 2. **Contract information.** (a) The contract must include in a conspicuous place and manner on the contract the legal name and the ~~license number~~ health facility identification of the facility.

(b) The contract must include the name, telephone number, and physical mailing address, which may not be a public or private post office box, of:

- (1) the facility and contracted service provider when applicable;
- (2) the licensee of the facility;
- (3) the managing agent of the facility, if applicable; and
- (4) the authorized agent for the facility.

(c) The contract must include:

(1) a disclosure of the category of assisted living facility license held by the facility and, if the facility is not an assisted living facility with dementia care, a disclosure that it does not hold an assisted living facility with dementia care license;

(2) a description of all the terms and conditions of the contract, including a description of and any limitations to the housing or assisted living services to be provided for the contracted amount;

(3) a delineation of the cost and nature of any other services to be provided for an additional fee;

(4) a delineation and description of any additional fees the resident may be required to pay if the resident's condition changes during the term of the contract;

(5) a delineation of the grounds under which the resident may be ~~discharged, evicted, or~~ transferred or have housing or services terminated or be subject to an emergency relocation;

(6) billing and payment procedures and requirements; and

(7) disclosure of the facility's ability to provide specialized diets.

(d) The contract must include a description of the facility's complaint resolution process available to residents, including the name and contact information of the person representing the facility who is designated to handle and resolve complaints.

(e) The contract must include a clear and conspicuous notice of:

(1) the right under section 144G.54 to appeal the termination of an assisted living contract;

(2) the facility's policy regarding transfer of residents within the facility, under what circumstances a transfer may occur, and the circumstances under which resident consent is required for a transfer;

(3) contact information for the Office of Ombudsman for Long-Term Care, the Ombudsman for Mental Health and Developmental Disabilities, and the Office of Health Facility Complaints;

(4) the resident's right to obtain services from an unaffiliated service provider;

(5) a description of the facility's policies related to medical assistance waivers under chapter 256S and section 256B.49 and the housing support program under chapter 256I, including:

(i) whether the facility is enrolled with the commissioner of human services to provide customized living services under medical assistance waivers;

(ii) whether the facility has an agreement to provide housing support under section 256I.04, subdivision 2, paragraph (b);

(iii) whether there is a limit on the number of people residing at the facility who can receive customized living services or participate in the housing support program at any point in time. If so, the limit must be provided;

(iv) whether the facility requires a resident to pay privately for a period of time prior to accepting payment under medical assistance waivers or the housing support program, and if so, the length of time that private payment is required;

(v) a statement that medical assistance waivers provide payment for services, but do not cover the cost of rent;

(vi) a statement that residents may be eligible for assistance with rent through the housing support program; and

(vii) a description of the rent requirements for people who are eligible for medical assistance waivers but who are not eligible for assistance through the housing support program;

(6) the contact information to obtain long-term care consulting services under section 256B.0911; and

(7) the toll-free phone number for the Minnesota Adult Abuse Reporting Center.

**EFFECTIVE DATE.** This section is effective August 1, 2022, and applies to assisted living contracts executed on or after that date.

Sec. 40. Minnesota Statutes 2020, section 144G.52, subdivision 2, is amended to read:

Subd. 2. **Prerequisite to termination of a contract.** (a) Before issuing a notice of termination of an assisted living contract, a facility must schedule and participate in a meeting with the resident and the resident's legal representative and designated representative. The purposes of the meeting are to:

(1) explain in detail the reasons for the proposed termination; and

(2) identify and offer reasonable accommodations or modifications, interventions, or alternatives to avoid the termination or enable the resident to remain in the facility, including but not limited to

securing services from another provider of the resident's choosing that may allow the resident to avoid the termination. A facility is not required to offer accommodations, modifications, interventions, or alternatives that fundamentally alter the nature of the operation of the facility.

(b) The meeting must be scheduled to take place at least seven days before a notice of termination is issued. The facility must make reasonable efforts to ensure that the resident, legal representative, and designated representative are able to attend the meeting.

(c) The facility must notify the resident that the resident may invite family members, relevant health professionals, a representative of the Office of Ombudsman for Long-Term Care, a representative of the Office of Ombudsman for Mental Health and Developmental Disabilities, or other persons of the resident's choosing to participate in the meeting. For residents who receive home and community-based waiver services under chapter 256S and section 256B.49, the facility must notify the resident's case manager of the meeting.

(d) In the event of an emergency relocation under subdivision 9, where the facility intends to issue a notice of termination and an in-person meeting is impractical or impossible, the facility ~~may attempt to schedule and participate in a meeting under this subdivision via~~ must use telephone, video, or other electronic means to conduct and participate in the meeting required under this subdivision and rules within Minnesota Rules, chapter 4659.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 41. Minnesota Statutes 2020, section 144G.52, subdivision 8, is amended to read:

Subd. 8. **Content of notice of termination.** The notice required under subdivision 7 must contain, at a minimum:

- (1) the effective date of the termination of the assisted living contract;
- (2) a detailed explanation of the basis for the termination, including the clinical or other supporting rationale;
- (3) a detailed explanation of the conditions under which a new or amended contract may be executed;
- (4) a statement that the resident has the right to appeal the termination by requesting a hearing, and information concerning the time frame within which the request must be submitted and the contact information for the agency to which the request must be submitted;
- (5) a statement that the facility must participate in a coordinated move to another provider or caregiver, as required under section 144G.55;
- (6) the name and contact information of the person employed by the facility with whom the resident may discuss the notice of termination;
- (7) information on how to contact the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities to request an advocate to assist regarding the termination;

(8) information on how to contact the Senior LinkAge Line under section 256.975, subdivision 7, and an explanation that the Senior LinkAge Line may provide information about other available housing or service options; and

(9) if the termination is only for services, a statement that the resident may remain in the facility and may secure any necessary services from another provider of the resident's choosing.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 42. Minnesota Statutes 2020, section 144G.52, subdivision 9, is amended to read:

Subd. 9. **Emergency relocation.** (a) A facility may remove a resident from the facility in an emergency if necessary due to a resident's urgent medical needs or an imminent risk the resident poses to the health or safety of another facility resident or facility staff member. An emergency relocation is not a termination.

(b) In the event of an emergency relocation, the facility must provide a written notice that contains, at a minimum:

(1) the reason for the relocation;

(2) the name and contact information for the location to which the resident has been relocated and any new service provider;

(3) contact information for the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities;

(4) if known and applicable, the approximate date or range of dates within which the resident is expected to return to the facility, or a statement that a return date is not currently known; and

(5) a statement that, if the facility refuses to provide housing or services after a relocation, the resident has the right to appeal under section 144G.54. The facility must provide contact information for the agency to which the resident may submit an appeal.

(c) The notice required under paragraph (b) must be delivered as soon as practicable to:

(1) the resident, legal representative, and designated representative;

(2) for residents who receive home and community-based waiver services under chapter 256S and section 256B.49, the resident's case manager; and

(3) the Office of Ombudsman for Long-Term Care if the resident has been relocated and has not returned to the facility within four days.

(d) Following an emergency relocation, a facility's refusal to provide housing or services constitutes a termination and triggers the termination process in this section.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 43. Minnesota Statutes 2020, section 144G.53, is amended to read:



**144G.53 NONRENEWAL OF HOUSING.**

(a) If a facility decides to not renew a resident's housing under a contract, the facility must either (1) provide the resident with 60 calendar days' notice of the nonrenewal and assistance with relocation planning, or (2) follow the termination procedure under section 144G.52.

(b) The notice must include the reason for the nonrenewal and contact information of the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities.

(c) A facility must:

(1) provide notice of the nonrenewal to the Office of Ombudsman for Long-Term Care;

(2) for residents who receive home and community-based waiver services under chapter 256S and section 256B.49, provide notice to the resident's case manager;

(3) ensure a coordinated move to a safe location, as defined in section 144G.55, subdivision 2, that is appropriate for the resident;

(4) ensure a coordinated move to an appropriate service provider identified by the facility, if services are still needed and desired by the resident;

(5) consult and cooperate with the resident, legal representative, designated representative, case manager for a resident who receives home and community-based waiver services under chapter 256S and section 256B.49, relevant health professionals, and any other persons of the resident's choosing to make arrangements to move the resident, including consideration of the resident's goals; and

(6) prepare a written plan to prepare for the move.

(d) A resident may decline to move to the location the facility identifies or to accept services from a service provider the facility identifies, and may instead choose to move to a location of the resident's choosing or receive services from a service provider of the resident's choosing within the timeline prescribed in the nonrenewal notice.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 44. Minnesota Statutes 2020, section 144G.55, subdivision 1, is amended to read:

Subdivision 1. **Duties of facility.** (a) If a facility terminates an assisted living contract, reduces services to the extent that a resident needs to move or obtain a new service provider or the facility has its license restricted under section 144G.20, or the facility conducts a planned closure under section 144G.57, the facility:

(1) must ensure, subject to paragraph (c), a coordinated move to a safe location that is appropriate for the resident and that is identified by the facility prior to any hearing under section 144G.54;

(2) must ensure a coordinated move of the resident to an appropriate service provider identified by the facility prior to any hearing under section 144G.54, provided services are still needed and desired by the resident; and

(3) must consult and cooperate with the resident, legal representative, designated representative, case manager for a resident who receives home and community-based waiver services under chapter 256S and section 256B.49, relevant health professionals, and any other persons of the resident's choosing to make arrangements to move the resident, including consideration of the resident's goals.

(b) A facility may satisfy the requirements of paragraph (a), clauses (1) and (2), by moving the resident to a different location within the same facility, if appropriate for the resident.

(c) A resident may decline to move to the location the facility identifies or to accept services from a service provider the facility identifies, and may choose instead to move to a location of the resident's choosing or receive services from a service provider of the resident's choosing within the timeline prescribed in the termination notice.

(d) Sixty days before the facility plans to reduce or eliminate one or more services for a particular resident, the facility must provide written notice of the reduction that includes:

(1) a detailed explanation of the reasons for the reduction and the date of the reduction;

(2) the contact information for the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, and the name and contact information of the person employed by the facility with whom the resident may discuss the reduction of services;

(3) a statement that if the services being reduced are still needed by the resident, the resident may remain in the facility and seek services from another provider; and

(4) a statement that if the reduction makes the resident need to move, the facility must participate in a coordinated move of the resident to another provider or caregiver, as required under this section.

(e) In the event of an unanticipated reduction in services caused by extraordinary circumstances, the facility must provide the notice required under paragraph (d) as soon as possible.

(f) If the facility, a resident, a legal representative, or a designated representative determines that a reduction in services will make a resident need to move to a new location, the facility must ensure a coordinated move in accordance with this section, and must provide notice to the Office of Ombudsman for Long-Term Care.

(g) Nothing in this section affects a resident's right to remain in the facility and seek services from another provider.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 45. Minnesota Statutes 2020, section 144G.55, subdivision 3, is amended to read:

Subd. 3. **Relocation plan required.** The facility must prepare a relocation plan to prepare for the move to ~~the~~ a new safe location or appropriate service provider, as required by this section.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 46. Minnesota Statutes 2020, section 144G.56, subdivision 3, is amended to read:

Subd. 3. **Notice required.** (a) A facility must provide at least 30 calendar days' advance written notice to the resident and the resident's legal and designated representative of a facility-initiated transfer. The notice must include:

(1) the effective date of the proposed transfer;

(2) the proposed transfer location;

(3) a statement that the resident may refuse the proposed transfer, and may discuss any consequences of a refusal with staff of the facility;

(4) the name and contact information of a person employed by the facility with whom the resident may discuss the notice of transfer; and

(5) contact information for the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities.

(b) Notwithstanding paragraph (a), a facility may conduct a facility-initiated transfer of a resident with less than 30 days' written notice if the transfer is necessary due to:

(1) conditions that render the resident's room or private living unit uninhabitable;

(2) the resident's urgent medical needs; or

(3) a risk to the health or safety of another resident of the facility.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 47. Minnesota Statutes 2020, section 144G.56, subdivision 5, is amended to read:

Subd. 5. **Changes in facility operations.** (a) In situations where there is a curtailment, reduction, or capital improvement within a facility necessitating transfers, the facility must:

(1) minimize the number of transfers it initiates to complete the project or change in operations;

(2) consider individual resident needs and preferences;

(3) provide reasonable accommodations for individual resident requests regarding the transfers; and

(4) in advance of any notice to any residents, legal representatives, or designated representatives, provide notice to the Office of Ombudsman for Long-Term Care and, ~~when appropriate,~~ the Office of Ombudsman for Mental Health and Developmental Disabilities of the curtailment, reduction, or capital improvement and the corresponding needed transfers.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 48. Minnesota Statutes 2020, section 144G.57, subdivision 1, is amended to read:

Subdivision 1. **Closure plan required.** In the event that an assisted living facility elects to voluntarily close the facility, the facility must notify the commissioner ~~and~~ the Office of Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental Health and Developmental Disabilities in writing by submitting a proposed closure plan.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 49. Minnesota Statutes 2020, section 144G.57, subdivision 3, is amended to read:

Subd. 3. **Commissioner's approval required prior to implementation.** (a) The plan shall be subject to the commissioner's approval and subdivision 6. The facility shall take no action to close the residence prior to the commissioner's approval of the plan. The commissioner shall approve or otherwise respond to the plan as soon as practicable.

(b) The commissioner may require the facility to work with a transitional team comprised of department staff, staff of the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, and other professionals the commissioner deems necessary to assist in the proper relocation of residents.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 50. Minnesota Statutes 2020, section 144G.57, subdivision 5, is amended to read:

Subd. 5. **Notice to residents.** After the commissioner has approved the relocation plan and at least 60 calendar days before closing, except as provided under subdivision 6, the facility must notify residents, designated representatives, and legal representatives of the closure, the proposed date of closure, the contact information of the ombudsman for long-term care and the ombudsman for mental health and developmental disabilities, and that the facility will follow the termination planning requirements under section 144G.55, and final accounting and return requirements under section 144G.42, subdivision 5. For residents who receive home and community-based waiver services under chapter 256S and section 256B.49, the facility must also provide this information to the resident's case manager.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 51. Minnesota Statutes 2020, section 144G.70, subdivision 2, is amended to read:

Subd. 2. **Initial reviews, assessments, and monitoring.** (a) Residents who are not receiving any assisted living services shall not be required to undergo an initial nursing assessment.

(b) An assisted living facility shall conduct a nursing assessment by a registered nurse of the physical and cognitive needs of the prospective resident and propose a temporary service plan prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier. If necessitated by either the geographic distance between the prospective resident and the facility, or urgent or unexpected circumstances, the assessment may be conducted using telecommunication methods based on practice standards that meet the resident's needs and reflect person-centered planning and care delivery.

(c) Resident reassessment and monitoring must be conducted no more than 14 calendar days after initiation of services. Ongoing resident reassessment and monitoring must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 calendar days from the last date of the assessment.

(d) For residents only receiving assisted living services specified in section 144G.08, subdivision 9, clauses (1) to (5), the facility shall complete an individualized initial review of the resident's needs and preferences. The initial review must be completed within 30 calendar days of the start of services. Resident monitoring and review must be conducted as needed based on changes in the needs of the resident and cannot exceed 90 calendar days from the date of the last review.

(e) A facility must inform the prospective resident of the availability of and contact information for long-term care consultation services under section 256B.0911, prior to the date on which a prospective resident executes a contract with a facility or the date on which a prospective resident moves in, whichever is earlier.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 52. Minnesota Statutes 2020, section 144G.70, subdivision 4, is amended to read:

Subd. 4. **Service plan, implementation, and revisions to service plan.** (a) No later than 14 calendar days after the date that services are first provided, an assisted living facility shall finalize a current written service plan.

(b) The service plan and any revisions must include a signature or other authentication by the facility and by the resident documenting agreement on the services to be provided. The service plan must be revised, if needed, based on resident reassessment under subdivision 2. The facility must provide information to the resident about changes to the facility's fee for services and how to contact the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities.

(c) The facility must implement and provide all services required by the current service plan.

(d) The service plan and the revised service plan must be entered into the resident record, including notice of a change in a resident's fees when applicable.

(e) Staff providing services must be informed of the current written service plan.

(f) The service plan must include:

(1) a description of the services to be provided, the fees for services, and the frequency of each service, according to the resident's current assessment and resident preferences;

(2) the identification of staff or categories of staff who will provide the services;

(3) the schedule and methods of monitoring assessments of the resident;

(4) the schedule and methods of monitoring staff providing services; and

(5) a contingency plan that includes:

(i) the action to be taken if the scheduled service cannot be provided;

(ii) information and a method to contact the facility;

(iii) the names and contact information of persons the resident wishes to have notified in an emergency or if there is a significant adverse change in the resident's condition, including identification of and information as to who has authority to sign for the resident in an emergency; and

(iv) the circumstances in which emergency medical services are not to be summoned consistent with chapters 145B and 145C, and declarations made by the resident under those chapters.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 53. Minnesota Statutes 2020, section 144G.80, subdivision 2, is amended to read:

Subd. 2. **Demonstrated capacity.** (a) An applicant for licensure as an assisted living facility with dementia care must have the ability to provide services in a manner that is consistent with the requirements in this section. The commissioner shall consider the following criteria, including, but not limited to:

(1) the experience of the ~~applicant in~~ applicant's assisted living director, managerial official, and clinical nurse supervisor managing residents with dementia or previous long-term care experience; and

(2) the compliance history of the applicant in the operation of any care facility licensed, certified, or registered under federal or state law.

(b) If the ~~applicant does~~ applicant's assisted living director and clinical nurse supervisor do not have experience in managing residents with dementia, the applicant must employ a consultant for at least the first six months of operation. The consultant must meet the requirements in paragraph (a), clause (1), and make recommendations on providing dementia care services consistent with the requirements of this chapter. The consultant must (1) have two years of work experience related to dementia, health care, gerontology, or a related field, and (2) have completed at least the minimum core training requirements in section 144G.64. The applicant must document an acceptable plan to address the consultant's identified concerns and must either implement the recommendations or document in the plan any consultant recommendations that the applicant chooses not to implement. The commissioner must review the applicant's plan upon request.

(c) The commissioner shall conduct an on-site inspection prior to the issuance of an assisted living facility with dementia care license to ensure compliance with the physical environment requirements.

(d) The label "Assisted Living Facility with Dementia Care" must be identified on the license.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 54. Minnesota Statutes 2020, section 144G.90, subdivision 1, is amended to read:

Subdivision 1. **Assisted living bill of rights; notification to resident.** (a) An assisted living facility must provide the resident a written notice of the rights under section 144G.91 before the initiation of services to that resident. The facility shall make all reasonable efforts to provide notice of the rights to the resident in a language the resident can understand.

(b) In addition to the text of the assisted living bill of rights in section 144G.91, the notice shall also contain the following statement describing how to file a complaint or report suspected abuse:

"If you want to report suspected abuse, neglect, or financial exploitation, you may contact the Minnesota Adult Abuse Reporting Center (MAARC). If you have a complaint about the facility or person providing your services, you may contact the Office of Health Facility Complaints, Minnesota Department of Health. If you would like to request advocacy services, you may also contact the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and Developmental Disabilities."

(c) The statement must include contact information for the Minnesota Adult Abuse Reporting Center and the telephone number, website address, e-mail address, mailing address, and street address of the Office of Health Facility Complaints at the Minnesota Department of Health, the Office of Ombudsman for Long-Term Care, and the Office of Ombudsman for Mental Health and Developmental Disabilities. The statement must include the facility's name, address, e-mail, telephone number, and name or title of the person at the facility to whom problems or complaints may be directed. It must also include a statement that the facility will not retaliate because of a complaint.

(d) A facility must obtain written acknowledgment from the resident of the resident's receipt of the assisted living bill of rights or shall document why an acknowledgment cannot be obtained. Acknowledgment of receipt shall be retained in the resident's record.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 55. Minnesota Statutes 2020, section 144G.90, is amended by adding a subdivision to read:

**Subd. 6. Notice to residents.** For any notice to a resident, legal representative, or designated representative provided under this chapter or under Minnesota Rules, chapter 4659, that is required to include information regarding the Office of Ombudsman for Long-Term Care and the Office of Ombudsman for Mental Health and Developmental Disabilities, the notice must contain the following language: "You may contact the Ombudsman for Long-Term Care for questions about your rights as an assisted living facility resident and to request advocacy services. As an assisted living facility resident, you may contact the Ombudsman for Mental Health and Developmental Disabilities to request advocacy regarding your rights, concerns, or questions on issues relating to services for mental health, developmental disabilities, or chemical dependency."

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 56. Minnesota Statutes 2020, section 144G.91, subdivision 13, is amended to read:

Subd. 13. **Personal and treatment privacy.** (a) Residents have the right to consideration of their privacy, individuality, and cultural identity as related to their social, religious, and psychological well-being. Staff must respect the privacy of a resident's space by knocking on the door and seeking

consent before entering, except in an emergency or ~~where clearly inadvisable~~ or unless otherwise documented in the resident's service plan.

(b) Residents have the right to have and use a lockable door to the resident's unit. The facility shall provide locks on the resident's unit. Only a staff member with a specific need to enter the unit shall have keys. This right may be restricted in certain circumstances if necessary for a resident's health and safety and documented in the resident's service plan.

(c) Residents have the right to respect and privacy regarding the resident's service plan. Case discussion, consultation, examination, and treatment are confidential and must be conducted discreetly. Privacy must be respected during toileting, bathing, and other activities of personal hygiene, except as needed for resident safety or assistance.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 57. Minnesota Statutes 2020, section 144G.91, subdivision 21, is amended to read:

Subd. 21. **Access to counsel and advocacy services.** Residents have the right to the immediate access by:

(1) the resident's legal counsel;

(2) any representative of the protection and advocacy system designated by the state under Code of Federal Regulations, title 45, section 1326.21; or

(3) any representative of the Office of Ombudsman for Long-Term Care or the Office of Ombudsman for Mental Health and Developmental Disabilities.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 58. Minnesota Statutes 2020, section 144G.92, subdivision 1, is amended to read:

Subdivision 1. **Retaliation prohibited.** A facility or agent of a facility may not retaliate against a resident or employee if the resident, employee, or any person acting on behalf of the resident:

(1) files a good faith complaint or grievance, makes a good faith inquiry, or asserts any right;

(2) indicates a good faith intention to file a complaint or grievance, make an inquiry, or assert any right;

(3) files, in good faith, or indicates an intention to file a maltreatment report, whether mandatory or voluntary, under section 626.557;

(4) seeks assistance from or reports a reasonable suspicion of a crime or systemic problems or concerns to the director or manager of the facility, the Office of Ombudsman for Long-Term Care, the Office of Ombudsman for Mental Health and Developmental Disabilities, a regulatory or other government agency, or a legal or advocacy organization;

(5) advocates or seeks advocacy assistance for necessary or improved care or services or enforcement of rights under this section or other law;



(6) takes or indicates an intention to take civil action;

(7) participates or indicates an intention to participate in any investigation or administrative or judicial proceeding;

(8) contracts or indicates an intention to contract to receive services from a service provider of the resident's choice other than the facility; or

(9) places or indicates an intention to place a camera or electronic monitoring device in the resident's private space as provided under section 144.6502.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 59. Minnesota Statutes 2020, section 144G.93, is amended to read:

**144G.93 CONSUMER ADVOCACY AND LEGAL SERVICES.**

Upon execution of an assisted living contract, every facility must provide the resident with the names and contact information, including telephone numbers and e-mail addresses, of:

(1) nonprofit organizations that provide advocacy or legal services to residents including but not limited to the designated protection and advocacy organization in Minnesota that provides advice and representation to individuals with disabilities; and

(2) the Office of Ombudsman for Long-Term Care, ~~including both the state and regional contact information~~ and the Office of Ombudsman for Mental Health and Developmental Disabilities.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 60. Minnesota Statutes 2020, section 144G.95, is amended to read:

**144G.95 OFFICE OF OMBUDSMAN FOR LONG-TERM CARE AND OFFICE OF OMBUDSMAN FOR MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES.**

Subdivision 1. **Immunity from liability.** (a) The Office of Ombudsman for Long-Term Care and representatives of the office are immune from liability for conduct described in section 256.9742, subdivision 2.

(b) The Office of Ombudsman for Mental Health and Developmental Disabilities and representatives of the office are immune from liability for conduct described in section 245.96.

Subd. 2. **Data classification.** (a) All forms and notices received by the Office of Ombudsman for Long-Term Care under this chapter are classified under section 256.9744.

(b) All data collected or received by the Office of Ombudsman for Mental Health and Developmental Disabilities are classified under section 245.94.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 61. **[145.267] FETAL ALCOHOL SPECTRUM DISORDERS PREVENTION GRANTS.**

(a) The commissioner of health shall award a grant to a statewide organization that focuses solely on prevention of and intervention with fetal alcohol spectrum disorders. The grant recipient must make subgrants to eligible regional collaboratives in rural and urban areas of the state for the purposes specified in paragraph (c).

(b) "Eligible regional collaboratives" means a partnership between at least one local government or Tribal government and at least one community-based organization and, where available, a family home visiting program. For purposes of this paragraph, a local government includes a county or a multicounty organization, a county-based purchasing entity, or a community health board.

(c) Eligible regional collaboratives must use subgrant funds to reduce the incidence of fetal alcohol spectrum disorders and other prenatal drug-related effects in children in Minnesota by identifying and serving pregnant women suspected of or known to use or abuse alcohol or other drugs. Eligible regional collaboratives must provide intensive services to chemically dependent women to increase positive birth outcomes.

(d) An eligible regional collaborative that receives a subgrant under this section must report to the grant recipient by January 15 of each year on the services and programs funded by the subgrant. The report must include measurable outcomes for the previous year, including the number of pregnant women served and the number of toxin-free babies born. The grant recipient must compile the information in the subgrant reports and submit a summary report to the commissioner of health by February 15 of each year.

**EFFECTIVE DATE.** This section is effective July 1, 2023.

Sec. 62. Minnesota Statutes 2021 Supplement, section 245C.03, subdivision 5a, is amended to read:

**Subd. 5a. Facilities serving children or adults licensed or regulated by the Department of Health.** (a) Except as specified in paragraph (b), the commissioner shall conduct background studies of:

(1) individuals providing services who have direct contact, as defined under section 245C.02, subdivision 11, with patients and residents in hospitals, boarding care homes, outpatient surgical centers licensed under sections 144.50 to 144.58; nursing homes and home care agencies licensed under chapter 144A; assisted living facilities and assisted living facilities with dementia care licensed under chapter 144G; and board and lodging establishments that are registered to provide supportive or health supervision services under section 157.17;

(2) individuals specified in subdivision 2 who provide direct contact services in a nursing home or a home care agency licensed under chapter 144A; an assisted living facility or assisted living facility with dementia care licensed under chapter 144G; or a boarding care home licensed under sections 144.50 to 144.58. If the individual undergoing a study resides outside of Minnesota, the study must include a check for substantiated findings of maltreatment of adults and children in the individual's state of residence when the state makes the information available;

(3) all other employees in assisted living facilities or assisted living facilities with dementia care licensed under chapter 144G, nursing homes licensed under chapter 144A, and boarding care homes licensed under sections 144.50 to 144.58. A disqualification of an individual in this section shall

disqualify the individual from positions allowing direct contact with or access to patients or residents receiving services. "Access" means physical access to a client or the client's personal property without continuous, direct supervision as defined in section 245C.02, subdivision 8, when the employee's employment responsibilities do not include providing direct contact services;

(4) individuals employed by a supplemental nursing services agency, as defined under section 144A.70, who are providing services in health care facilities; ~~and~~

(5) controlling persons of a supplemental nursing services agency, as defined by section 144A.70.;  
and

(6) license applicants, owners, managerial officials, and controlling individuals who are required under section 144A.476, subdivision 1, or 144G.13, subdivision 1, to undergo a background study under this chapter, regardless of the licensure status of the license applicant, owner, managerial official, or controlling individual.

(b) The commissioner of human services shall not conduct a background study on any individual identified in paragraph (a), clauses (1) to (5), if the individual has a valid license issued by a health-related licensing board as defined in section 214.01, subdivision 2, and has completed the criminal background check as required in section 214.075. An entity that is affiliated with individuals who meet the requirements of this paragraph must separate those individuals from the entity's roster for NETStudy 2.0.

(c) If a facility or program is licensed by the Department of Human Services and the Department of Health and is subject to the background study provisions of this chapter, the Department of Human Services is solely responsible for the background studies of individuals in the jointly licensed program.

~~(e)~~ (d) The commissioner of health shall review and make decisions regarding reconsideration requests, including whether to grant variances, according to the procedures and criteria in this chapter. The commissioner of health shall inform the requesting individual and the Department of Human Services of the commissioner of health's decision regarding the reconsideration. The commissioner of health's decision to grant or deny a reconsideration of a disqualification is a final administrative agency action.

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

Sec. 63. Minnesota Statutes 2020, section 245C.31, subdivision 1, is amended to read:

Subdivision 1. **Board determines disciplinary or corrective action.** ~~(a) When the subject of a background study is regulated by a health-related licensing board as defined in chapter 214, and the commissioner determines that the regulated individual is responsible for substantiated maltreatment under section 626.557 or chapter 260E, instead of the commissioner making a decision regarding disqualification, the board shall make a determination whether to impose disciplinary or corrective action under chapter 214~~ The commissioner shall notify a health-related licensing board as defined in section 214.01, subdivision 2, if the commissioner determines that an individual who is licensed by the health-related licensing board and who is included on the board's roster list provided in accordance with subdivision 3a is responsible for substantiated maltreatment under section 626.557 or chapter 260E, in accordance with subdivision 2. Upon receiving notification, the health-related

licensing board shall make a determination as to whether to impose disciplinary or corrective action under chapter 214.

(b) This section does not apply to a background study of an individual regulated by a health-related licensing board if the individual's study is related to child foster care, adult foster care, or family child care licensure.

**EFFECTIVE DATE.** This section is effective February 1, 2023.

Sec. 64. Minnesota Statutes 2020, section 245C.31, subdivision 2, is amended to read:

Subd. 2. **Commissioner's notice to board.** ~~(a)~~ The commissioner shall notify ~~the~~ a health-related licensing board:

(1) ~~upon completion of a background study that produces of~~ a record showing that the individual licensed by the board was determined to have been responsible for substantiated maltreatment;

(2) upon the commissioner's completion of an investigation that determined ~~the~~ an individual licensed by the board was responsible for substantiated maltreatment; or

(3) upon receipt from another agency of a finding of substantiated maltreatment for which ~~the~~ an individual licensed by the board was responsible.

~~(b) The commissioner's notice to the health-related licensing board shall indicate whether the commissioner would have disqualified the individual for the substantiated maltreatment if the individual were not regulated by the board.~~

~~(c) The commissioner shall concurrently send the notice under this subdivision to the individual who is the subject of the background study.~~

**EFFECTIVE DATE.** This section is effective February 1, 2023.

Sec. 65. Minnesota Statutes 2020, section 245C.31, is amended by adding a subdivision to read:

Subd. 3a. **Agreements with health-related licensing boards.** The commissioner and each health-related licensing board shall enter into an agreement in order for each board to provide the commissioner with a daily roster list of individuals who have a license issued by the board in active status. The list must include for each licensed individual the individual's name, aliases, date of birth, and license number; the date the license was issued; status of the license; and the last four digits of the individual's Social Security number.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 66. Minnesota Statutes 2020, section 245C.31, is amended by adding a subdivision to read:

Subd. 3b. **Maltreatment study; fees.** (a) The administrative service unit for the health-related licensing boards shall apportion between the health-related licensing boards that are required to submit a daily roster list in accordance with subdivision 3a an amount to be paid through an additional fee collected by each board in accordance with paragraph (b). The amount apportioned to each health-related licensing board must equal the board's share of the annual appropriation from the

state government special revenue fund to the commissioner of human services to conduct the maltreatment studies on licensees who are listed on the daily roster lists and to comply with the notification requirement under subdivision 2. Each board's apportioned share must be based on the number of licensees that each health-related licensing board licenses as a percentage of the total number of licensees licensed collectively by all health-related licensing boards.

(b) Each health-related licensing board may collect an additional fee from a licensee at the time the initial license fee is collected to compensate for the amount apportioned to each board by the administrative services unit. If an additional fee is collected by the health-related licensing board under this paragraph, the fee must be deposited in the state government special revenue fund.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 67. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 33, is amended to read:

**Subd. 33. Grant Programs; Chemical Dependency  
Treatment Support Grants**

	Appropriations by Fund	
General	4,273,000	4,274,000
Lottery Prize	1,733,000	1,733,000
Opiate Epidemic Response	500,000	500,000

(a) **Problem Gambling.** \$225,000 in fiscal year 2022 and \$225,000 in fiscal year 2023 are from the lottery prize fund for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education, training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research related to problem gambling.

(b) **Recovery Community Organization Grants.** \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 are from the general fund for grants to recovery community organizations, as defined in Minnesota Statutes, section 254B.01, subdivision 8, to provide for costs and community-based peer recovery support services that are not otherwise eligible for reimbursement under Minnesota Statutes, section 254B.05, as part of the continuum of

care for substance use disorders. The general fund base for this appropriation is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025

(c) **Base Level Adjustment.** The general fund base is ~~\$4,636,000~~ \$3,886,000 in fiscal year 2024 and ~~\$2,636,000~~ \$1,886,000 in fiscal year 2025. The opiate epidemic response fund base is \$500,000 in fiscal year 2024 and \$0 in fiscal year 2025.

Sec. 68. Laws 2021, First Special Session chapter 7, article 16, section 3, subdivision 2, is amended to read:

**Subd. 2. Health Improvement**

	Appropriations by Fund	
General	123,714,000	124,000,000
State Government		
Special Revenue	11,967,000	11,290,000
Health Care Access	37,512,000	36,832,000
Federal TANF	11,713,000	11,713,000

(a) **TANF Appropriations.** (1) \$3,579,000 in fiscal year 2022 and \$3,579,000 in fiscal year 2023 are from the TANF fund for home visiting and nutritional services listed under Minnesota Statutes, section 145.882, subdivision 7, clauses (6) and (7). Funds must be distributed to community health boards according to Minnesota Statutes, section 145A.131, subdivision 1;

(2) \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 are from the TANF fund for decreasing racial and ethnic disparities in infant mortality rates under Minnesota Statutes, section 145.928, subdivision 7;

(3) \$4,978,000 in fiscal year 2022 and \$4,978,000 in fiscal year 2023 are from the TANF fund for the family home visiting grant program according to Minnesota Statutes, section 145A.17. \$4,000,000 of the funding in each fiscal year must be distributed to community health boards according to Minnesota Statutes, section

145A.131, subdivision 1. \$978,000 of the funding in each fiscal year must be distributed to tribal governments according to Minnesota Statutes, section 145A.14, subdivision 2a;

(4) \$1,156,000 in fiscal year 2022 and \$1,156,000 in fiscal year 2023 are from the TANF fund for family planning grants under Minnesota Statutes, section 145.925; and

(5) the commissioner may use up to 6.23 percent of the funds appropriated from the TANF fund each fiscal year to conduct the ongoing evaluations required under Minnesota Statutes, section 145A.17, subdivision 7, and training and technical assistance as required under Minnesota Statutes, section 145A.17, subdivisions 4 and 5.

(b) **TANF Carryforward.** Any unexpended balance of the TANF appropriation in the first year of the biennium does not cancel but is available for the second year.

(c) **Tribal Public Health Grants.** \$500,000 in fiscal year 2022 and \$500,000 in fiscal year 2023 are from the general fund for Tribal public health grants under Minnesota Statutes, section 145A.14, for public health infrastructure projects as defined by the Tribal government.

(d) **Public Health Infrastructure Funds.** \$6,000,000 in fiscal year 2022 and \$6,000,000 in fiscal year 2023 are from the general fund for public health infrastructure funds to distribute to community health boards and Tribal governments to support their ability to meet national public health standards.

(e) **Public Health System Assessment and Oversight.** \$1,500,000 in fiscal year 2022 and \$1,500,000 in fiscal year 2023 are from the general fund for the commissioner to assess the capacity of the public health

system to meet national public health standards and oversee public health system improvement efforts.

**(f) Health Professional Education Loan Forgiveness.** Notwithstanding the priorities and distribution requirements under Minnesota Statutes, section 144.1501, \$3,000,000 in fiscal year 2022 and \$3,000,000 in fiscal year 2023 are from the general fund for loan forgiveness under article 3, section 43, for individuals who are eligible alcohol and drug counselors, eligible medical residents, or eligible mental health professionals, as defined in article 3, section 43. The general fund base for this appropriation is \$2,625,000 in fiscal year 2024 and \$0 in fiscal year 2025. The health care access fund base for this appropriation is \$875,000 in fiscal year 2024, \$3,500,000 in fiscal year 2025, and \$0 in fiscal year 2026. The general fund amounts in this paragraph are available until March 31, 2024. This paragraph expires on April 1, 2024.

**(g) Mental Health Cultural Community Continuing Education Grant Program.** \$500,000 in fiscal year 2022 and \$500,000 in fiscal year 2023 are from the general fund for the mental health cultural community continuing education grant program. This is a onetime appropriation

**(h) Birth Records; Homeless Youth.** \$72,000 in fiscal year 2022 and \$32,000 in fiscal year 2023 are from the state government special revenue fund for administration and issuance of certified birth records and statements of no vital record found to homeless youth under Minnesota Statutes, section 144.2255.

**(i) Supporting Healthy Development of Babies During Pregnancy and Postpartum.** \$260,000 in fiscal year 2022 and \$260,000 in fiscal year 2023 are from the general fund for a grant to the Amherst H. Wilder Foundation for the African American Babies



Coalition initiative for community-driven training and education on best practices to support healthy development of babies during pregnancy and postpartum. Grant funds must be used to build capacity in, train, educate, or improve practices among individuals, from youth to elders, serving families with members who are Black, indigenous, or people of color, during pregnancy and postpartum. This is a onetime appropriation and is available until June 30, 2023.

**(j) Dignity in Pregnancy and Childbirth.**

\$494,000 in fiscal year 2022 and \$200,000 in fiscal year 2023 are from the general fund for purposes of Minnesota Statutes, section 144.1461. Of this appropriation: (1) \$294,000 in fiscal year 2022 is for a grant to the University of Minnesota School of Public Health's Center for Antiracism Research for Health Equity, to develop a model curriculum on anti-racism and implicit bias for use by hospitals with obstetric care and birth centers to provide continuing education to staff caring for pregnant or postpartum women. The model curriculum must be evidence-based and must meet the criteria in Minnesota Statutes, section 144.1461, subdivision 2, paragraph (a); and (2) \$200,000 in fiscal year 2022 and \$200,000 in fiscal year 2023 are for purposes of Minnesota Statutes, section 144.1461, subdivision 3.

**(k) Congenital Cytomegalovirus (CMV).**

(1) \$196,000 in fiscal year 2022 and \$196,000 in fiscal year 2023 are from the general fund for outreach and education on congenital cytomegalovirus (CMV) under Minnesota Statutes, section 144.064.

(2) Contingent on the Advisory Committee on Heritable and Congenital Disorders recommending and the commissioner of health approving inclusion of CMV in the newborn screening panel in accordance with Minnesota Statutes, section 144.065, subdivision 3, paragraph (d), \$656,000 in

fiscal year 2023 is from the state government special revenue fund for follow-up services.

(l) **Nonnarcotic Pain Management and Wellness.** \$649,000 in fiscal year 2022 is from the general fund for nonnarcotic pain management and wellness in accordance with Laws 2019, chapter 63, article 3, section 1, paragraph (n).

(m) **Base Level Adjustments.** The general fund base is ~~\$120,451,000~~ \$121,201,000 in fiscal year 2024 and ~~\$115,594,000~~ \$116,344,000 in fiscal year 2025, of which \$750,000 in fiscal year 2024 and \$750,000 in fiscal year 2025 are for fetal alcohol spectrum disorders prevention grants under Minnesota Statutes, section 145.267. The health care access fund base is \$38,385,000 in fiscal year 2024 and \$40,644,000 in fiscal year 2025.

Sec. 69. **DIRECTION TO COMMISSIONER OF HEALTH; J-1 VISA WAIVER PROGRAM RECOMMENDATION.**

(a) For purposes of this section:

(1) "Department of Health recommendation" means a recommendation from the state Department of Health that a foreign medical graduate should be considered for a J-1 visa waiver under the J-1 visa waiver program; and

(2) "J-1 visa waiver program" means a program administered by the United States Department of State under United States Code, title 8, section 1184(l), in which a waiver is sought for the requirement that a foreign medical graduate with a J-1 visa must return to the graduate's home country for two years at the conclusion of the graduate's medical study before applying for employment authorization in the United States.

(b) In administering the program to issue Department of Health recommendations for purposes of the J-1 visa waiver program, the commissioner of health shall allow an applicant to submit to the commissioner evidence that the foreign medical graduate for whom the waiver is sought is licensed to practice medicine in Minnesota in place of evidence that the foreign medical graduate has passed steps 1, 2, and 3 of the United States Medical Licensing Examination.

Sec. 70. **APPROPRIATION; ELIMINATION OF DUPLICATIVE BACKGROUND STUDIES.**

\$522,000 in fiscal year 2023 is appropriated from the state government special revenue fund to the commissioner of human services to implement provisions to eliminate duplicative background studies. The state government special revenue fund base for this appropriation is \$334,000 in fiscal

year 2024, \$574,000 in fiscal year 2025, \$170,000 in fiscal year 2026, and \$170,000 in fiscal year 2027.

Sec. 71. **REVISOR INSTRUCTION.**

The revisor of statutes shall make any necessary cross-reference changes required as a result of the amendments in this article to Minnesota Statutes, sections 144A.01; 144A.03, subdivision 1; 144A.04, subdivisions 4 and 6; and 144A.06.

Sec. 72. **REPEALER.**

(a) Minnesota Statutes 2020, section 254A.21, is repealed effective July 1, 2023.

(b) Minnesota Statutes 2021 Supplement, section 144G.07, subdivision 6, is repealed.

## ARTICLE 2

### HEALTH CARE

Section 1. Minnesota Statutes 2020, section 62J.2930, subdivision 3, is amended to read:

Subd. 3. **Consumer information.** (a) The information clearinghouse or another entity designated by the commissioner shall provide consumer information to health plan company enrollees to:

(1) assist enrollees in understanding their rights;

(2) explain and assist in the use of all available complaint systems, including internal complaint systems within health carriers, community integrated service networks, and the Departments of Health and Commerce;

(3) provide information on coverage options in each region of the state;

(4) provide information on the availability of purchasing pools and enrollee subsidies; and

(5) help consumers use the health care system to obtain coverage.

(b) The information clearinghouse or other entity designated by the commissioner for the purposes of this subdivision shall not:

(1) provide legal services to consumers;

(2) represent a consumer or enrollee; or

(3) serve as an advocate for consumers in disputes with health plan companies.

(c) Nothing in this subdivision shall interfere with the ombudsman program established under section ~~256B.69, subdivision 20~~ 256B.6903, or other existing ombudsman programs.

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

Sec. 2. Minnesota Statutes 2020, section 152.125, is amended to read:

**152.125 INTRACTABLE PAIN.**

Subdivision 1. **Definition Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given.

(b) "Drug diversion" means the unlawful transfer of prescription drugs from their licit medical purpose to the illicit marketplace.

(c) "Intractable pain" means a pain state in which the cause of the pain cannot be removed or otherwise treated with the consent of the patient and in which, in the generally accepted course of medical practice, no relief or cure of the cause of the pain is possible, or none has been found after reasonable efforts. Conditions associated with intractable pain may include cancer and the recovery period, sickle cell disease, noncancer pain, rare diseases, orphan diseases, severe injuries, and health conditions requiring the provision of palliative care or hospice care. Reasonable efforts for relieving or curing the cause of the pain may be determined on the basis of, but are not limited to, the following:

(1) when treating a nonterminally ill patient for intractable pain, an evaluation conducted by the attending physician, advanced practice registered nurse, or physician assistant and one or more physicians, advanced practice registered nurses, or physician assistants specializing in pain medicine or the treatment of the area, system, or organ of the body confirmed or perceived as the source of the intractable pain; or

(2) when treating a terminally ill patient, an evaluation conducted by the attending physician, advanced practice registered nurse, or physician assistant who does so in accordance with the standard of care and the level of care, skill, and treatment that would be recognized by a reasonably prudent physician, advanced practice registered nurse, or physician assistant under similar conditions and circumstances.

(d) "Palliative care" has the meaning given in section 144A.75, subdivision 12.

(e) "Rare disease" means a disease, disorder, or condition that affects fewer than 200,000 individuals in the United States and is chronic, serious, life altering, or life threatening.

Subd. 1a. **Criteria for the evaluation and treatment of intractable pain.** The evaluation and treatment of intractable pain when treating a nonterminally ill patient is governed by the following criteria:

(1) a diagnosis of intractable pain by the treating physician, advanced practice registered nurse, or physician assistant and either by a physician, advanced practice registered nurse, or physician assistant specializing in pain medicine or a physician, advanced practice registered nurse, or physician assistant treating the area, system, or organ of the body that is the source of the pain is sufficient to meet the definition of intractable pain; and

(2) the cause of the diagnosis of intractable pain must not interfere with medically necessary treatment, including but not limited to prescribing or administering a controlled substance in Schedules II to V of section 152.02.

Subd. 2. **Prescription and administration of controlled substances for intractable pain.** (a) Notwithstanding any other provision of this chapter, a physician, advanced practice registered nurse,

or physician assistant may prescribe or administer a controlled substance in Schedules II to V of section 152.02 to an individual a patient in the course of the physician's, advanced practice registered nurse's, or physician assistant's treatment of the individual patient for a diagnosed condition causing intractable pain. No physician, advanced practice registered nurse, or physician assistant shall be subject to disciplinary action by the Board of Medical Practice or Board of Nursing for appropriately prescribing or administering a controlled substance in Schedules II to V of section 152.02 in the course of treatment of an individual a patient for intractable pain, provided the physician, advanced practice registered nurse, or physician assistant:

(1) keeps accurate records of the purpose, use, prescription, and disposal of controlled substances, writes accurate prescriptions, and prescribes medications in conformance with chapter 147- or 148 or in accordance with the current standard of care; and

(2) enters into a patient-provider agreement that meets the criteria in subdivision 5.

(b) No physician, advanced practice registered nurse, or physician assistant, acting in good faith and based on the needs of the patient, shall be subject to disenrollment or termination by the commissioner of health solely for prescribing a dosage that equates to an upward deviation from morphine milligram equivalent dosage recommendations or thresholds specified in state or federal opioid prescribing guidelines or policies, including but not limited to the Guideline for Prescribing Opioids for Chronic Pain issued by the Centers for Disease Control and Prevention and Minnesota opioid prescribing guidelines.

(c) A physician, advanced practice registered nurse, or physician assistant treating intractable pain by prescribing, dispensing, or administering a controlled substance in Schedules II to V of section 152.02 that includes but is not limited to opioid analgesics must not taper a patient's medication dosage solely to meet a predetermined morphine milligram equivalent dosage recommendation or threshold if the patient is stable and compliant with the treatment plan, is experiencing no serious harm from the level of medication currently being prescribed or previously prescribed, and is in compliance with the patient-provider agreement as described in subdivision 5.

(d) A physician's, advanced practice registered nurse's, or physician assistant's decision to taper a patient's medication dosage must be based on factors other than a morphine milligram equivalent recommendation or threshold.

(e) No pharmacist, health plan company, or pharmacy benefit manager shall refuse to fill a prescription for an opiate issued by a licensed practitioner with the authority to prescribe opiates solely based on the prescription exceeding a predetermined morphine milligram equivalent dosage recommendation or threshold. Health plan companies that participate in Minnesota health care programs under chapters 256B and 256L, and pharmacy benefit managers under contract with these health plan companies, must comply with section 1004 of the federal SUPPORT Act, Public Law 115-271, when providing services to medical assistance and MinnesotaCare enrollees.

Subd. 3. **Limits on applicability.** This section does not apply to:

(1) a physician's, advanced practice registered nurse's, or physician assistant's treatment of an individual a patient for chemical dependency resulting from the use of controlled substances in Schedules II to V of section 152.02;

(2) the prescription or administration of controlled substances in Schedules II to V of section 152.02 to ~~an individual~~ a patient whom the physician, advanced practice registered nurse, or physician assistant knows to be using the controlled substances for nontherapeutic or drug diversion purposes;

(3) the prescription or administration of controlled substances in Schedules II to V of section 152.02 for the purpose of terminating the life of ~~an individual~~ a patient having intractable pain; or

(4) the prescription or administration of a controlled substance in Schedules II to V of section 152.02 that is not a controlled substance approved by the United States Food and Drug Administration for pain relief.

Subd. 4. **Notice of risks.** Prior to treating ~~an individual~~ a patient for intractable pain in accordance with subdivision 2, a physician, advanced practice registered nurse, or physician assistant shall discuss with the ~~individual~~ patient or the patient's legal guardian, if applicable, the risks associated with the controlled substances in Schedules II to V of section 152.02 to be prescribed or administered in the course of the physician's, advanced practice registered nurse's, or physician assistant's treatment of ~~an individual~~ a patient, and document the discussion in the ~~individual's~~ patient's record as required in the patient-provider agreement described in subdivision 5.

Subd. 5. **Patient-provider agreement.** (a) Before treating a patient for intractable pain, a physician, advanced practice registered nurse, or physician assistant and the patient or the patient's legal guardian, if applicable, must mutually agree to the treatment and enter into a provider-patient agreement. The agreement must include a description of the prescriber's and the patient's expectations, responsibilities, and rights according to best practices and current standards of care.

(b) The agreement must be signed by the patient or the patient's legal guardian, if applicable, and the physician, advanced practice registered nurse, or physician assistant and included in the patient's medical records. A copy of the signed agreement must be provided to the patient.

(c) The agreement must be reviewed by the patient and the physician, advanced practice registered nurse, or physician assistant annually. If there is a change in the patient's treatment plan, the agreement must be updated and a revised agreement must be signed by the patient or the patient's legal guardian. A copy of the revised agreement must be included in the patient's medical record and a copy must be provided to the patient.

(d) Absent clear evidence of drug diversion, nonadherence with the agreement must not be used as the sole reason to stop a patient's treatment with scheduled drugs. If a patient experiences difficulty adhering to the agreement, the prescriber must evaluate the patient for other conditions, including but not limited to substance use disorder, and must ensure that the patient's course of treatment is appropriately adjusted to reflect any change in diagnosis.

(e) A patient-provider agreement is not required in an emergency or inpatient hospital setting.

Sec. 3. Minnesota Statutes 2021 Supplement, section 256B.0371, subdivision 4, as amended by Laws 2022, chapter 55, article 1, section 128, is amended to read:

Subd. 4. **Dental utilization report.** (a) The commissioner shall submit an annual report beginning March 15, 2022, and ending March 15, 2026, to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance that

includes the percentage for adults and children one through 20 years of age for the most recent complete calendar year receiving at least one dental visit for both fee-for-service and the prepaid medical assistance program. The report must include:

- (1) statewide utilization for both fee-for-service and for the prepaid medical assistance program;
  - (2) utilization by county;
  - (3) utilization by children receiving dental services through fee-for-service and through a managed care plan or county-based purchasing plan; and
  - (4) utilization by adults receiving dental services through fee-for-service and through a managed care plan or county-based purchasing plan.
- (b) The report must also include a description of any corrective action plans required to be submitted under subdivision 2.
- (c) The initial report due on March 15, 2022, must include the utilization metrics described in paragraph (a) for each of the following calendar years: 2017, 2018, 2019, and 2020.

(d) In the annual report due on March 15, 2023, and in each report due thereafter, the commissioner shall include the following:

(1) the number of dentists enrolled with the commissioner as a medical assistance dental provider and the congressional district or districts in which the dentist provides services;

(2) the number of enrolled dentists who provided fee-for-service dental services to medical assistance or MinnesotaCare patients within the previous calendar year in the following increments: one to nine patients, ten to 100 patients, and over 100 patients;

(3) the number of enrolled dentists who provided dental services to medical assistance or MinnesotaCare patients through a managed care plan or county-based purchasing plan within the previous calendar year in the following increments: one to nine patients, ten to 100 patients, and over 100 patients; and

(4) the number of dentists who provided dental services to a new patient who was enrolled in medical assistance or MinnesotaCare within the previous calendar year.

(e) The report due on March 15, 2023, must include the metrics described in paragraph (d) for each of the following years: 2017, 2018, 2019, 2020, and 2021.

Sec. 4. Minnesota Statutes 2020, section 256B.055, subdivision 2, is amended to read:

Subd. 2. **Subsidized foster children.** Medical assistance may be paid for a child eligible for or receiving foster care maintenance payments under Title IV-E of the Social Security Act, United States Code, title 42, sections 670 to 676, and for a child who is not eligible for Title IV-E of the Social Security Act but who is determined eligible for placed in foster care as determined by Minnesota Statutes or receiving kinship assistance under chapter 256N.

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

Sec. 5. Minnesota Statutes 2020, section 256B.056, subdivision 3b, is amended to read:

Subd. 3b. **Treatment of trusts.** (a) It is the public policy of this state that individuals use all available resources to pay for the cost of long-term care services, as defined in section 256B.0595, before turning to Minnesota health care program funds, and that trust instruments should not be permitted to shield available resources of an individual or an individual's spouse from such use.

~~(a)~~ (b) 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)~~ (c) Trusts established after August 10, 1993, are treated according to United States Code, title 42, section 1396p(d).

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

~~(d)~~ (e) 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, up to the amount of medical assistance benefits paid on behalf of the beneficiary, remaining in the beneficiary's trust account after a deduction for reasonable administrative fees and expenses, and an additional remainder amount. The retained remainder amount of the subaccount must not exceed ten percent of the account value at the time of the beneficiary's death or termination of the trust, and must only be used for the benefit of disabled individuals who have a beneficiary interest in the pooled trust.

~~(e)~~ (f) Trusts may be established on or after December 12, 2016, by a person who has been determined to be disabled, according to United States Code, title 42, section 1396p(d)(4)(A), as amended by section 5007 of the 21st Century Cures Act, Public Law 114-255.

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

Sec. 6. Minnesota Statutes 2020, section 256B.056, subdivision 3c, is amended to read:

Subd. 3c. **Asset limitations for families and children.** (a) 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;
- (3) one motor vehicle is excluded for each person of legal driving age who is employed or seeking employment;
- (4) assets designated as burial expenses are excluded to the same extent they are excluded by the Supplemental Security Income program;
- (5) court-ordered settlements up to \$10,000 are not considered;
- (6) individual retirement accounts and funds are not considered;
- (7) assets owned by children are not considered; and
- (8) ~~effective July 1, 2009~~, certain assets owned by American Indians are excluded as required by section 5006 of the American Recovery and Reinvestment Act of 2009, Public Law 111-5. For purposes of this clause, an American Indian is any person who meets the definition of Indian according to Code of Federal Regulations, title 42, section 447.50.

(b) ~~Beginning January 1, 2014, this subdivision~~ Paragraph (a) applies only to parents and caretaker relatives who qualify for medical assistance under subdivision 5.

(c) Eligibility for children under age 21 must be determined without regard to the asset limitations described in paragraphs (a) and (b) and subdivision 3.

Sec. 7. Minnesota Statutes 2020, section 256B.056, subdivision 11, is amended to read:

Subd. 11. **Treatment of annuities.** (a) Any person requesting medical assistance payment of long-term care services shall provide a complete description of any interest either the person or the person's spouse has in annuities on a form designated by the department. The form shall include a statement that the state becomes a preferred remainder beneficiary of annuities or similar financial instruments by virtue of the receipt of medical assistance payment of long-term care services. The person and the person's spouse shall furnish the agency responsible for determining eligibility with complete current copies of their annuities and related documents and complete the form designating the state as the preferred remainder beneficiary for each annuity in which the person or the person's spouse has an interest.

(b) The department shall provide notice to the issuer of the department's right under this section as a preferred remainder beneficiary under the annuity or similar financial instrument for medical assistance furnished to the person or the person's spouse, and provide notice of the issuer's responsibilities as provided in paragraph (c).

(c) An issuer of an annuity or similar financial instrument who receives notice of the state's right to be named a preferred remainder beneficiary as described in paragraph (b) shall provide confirmation to the requesting agency that the state has been made a preferred remainder beneficiary. The issuer shall also notify the county agency when a change in the amount of income or principal being withdrawn from the annuity or other similar financial instrument or a change in the state's preferred remainder beneficiary designation under the annuity or other similar financial instrument occurs. The county agency shall provide the issuer with the name, address, and telephone number of a unit within the department that the issuer can contact to comply with this paragraph.

(d) "Preferred remainder beneficiary" for purposes of this subdivision and sections 256B.0594 and 256B.0595 means the state is a remainder beneficiary in the first position in an amount equal to the amount of medical assistance paid on behalf of the institutionalized person, or is a remainder beneficiary in the second position if the institutionalized person designates and is survived by a remainder beneficiary who is (1) a spouse who does not reside in a medical institution, (2) a minor child, or (3) a child of any age who is blind or permanently and totally disabled as defined in the Supplemental Security Income program. Notwithstanding this paragraph, the state is the remainder beneficiary in the first position if the spouse or child disposes of the remainder for less than fair market value.

(e) For purposes of this subdivision, "institutionalized person" and "long-term care services" have the meanings given in section 256B.0595, subdivision 1, paragraph ~~(g)~~ (f).

(f) For purposes of this subdivision, "medical institution" means a skilled nursing facility, intermediate care facility, intermediate care facility for persons with developmental disabilities, nursing facility, or inpatient hospital.

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

Sec. 8. Minnesota Statutes 2020, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. **Prohibited transfers.** (a) 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.

(b) 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.

(c) 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~~ that 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.

~~(d) 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.~~

~~(e)~~ (d) 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.

~~(f)~~ (e) 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:

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

(2) purchased with proceeds from:

(i) an account or trust described in subsection (a), (c), or (p) of section 408 of the Internal Revenue Code;

(ii) a simplified employee pension within the meaning of section 408(k) of the Internal Revenue Code; or

(iii) a Roth IRA described in section 408A of the Internal Revenue Code; or

(3) 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.

~~(g)~~ (f) 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 chapter 256S and sections 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 chapter 256S and sections 256B.092 and 256B.49.

~~(h)~~ (g) 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.

(h) In the case of a promissory note, loan, or mortgage that does not meet an exception in paragraph (g), 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.

(i) 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.

(j) 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.

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

Sec. 9. Minnesota Statutes 2020, section 256B.0625, subdivision 64, is amended to read:

Subd. 64. **Investigational drugs, biological products, devices, and clinical trials.** Medical assistance and the early periodic screening, diagnosis, and treatment (EPSDT) program do not cover ~~the costs of any services that are incidental to, associated with, or resulting from the use of~~ investigational drugs, biological products, or devices as defined in section 151.375 or any other treatment that is part of an approved clinical trial as defined in section 62Q.526. Participation of an enrollee in an approved clinical trial does not preclude coverage of medically necessary services covered under this chapter that are not related to the approved clinical trial. Any items or services that are provided solely to satisfy data collection and analysis for a clinical trial, and not for direct clinical management of the enrollee, are not covered.

Sec. 10. Minnesota Statutes 2021 Supplement, section 256B.0638, subdivision 5, is amended to read:

Subd. 5. **Program implementation.** (a) The commissioner shall implement the programs within the Minnesota health care program to improve the health of and quality of care provided to Minnesota health care program enrollees. The commissioner shall annually collect and report to provider groups the sentinel measures of data showing individual opioid prescribers' opioid prescribing patterns compared to their anonymized peers. Provider groups shall distribute data to their affiliated, contracted, or employed opioid prescribers.

(b) The commissioner shall notify an opioid prescriber and all provider groups with which the opioid prescriber is employed or affiliated when the opioid prescriber's prescribing pattern exceeds the opioid quality improvement standard thresholds. An opioid prescriber and any provider group that receives a notice under this paragraph shall submit to the commissioner a quality improvement plan for review and approval by the commissioner with the goal of bringing the opioid prescriber's prescribing practices into alignment with community standards. A quality improvement plan must include:

(1) components of the program described in subdivision 4, paragraph (a);

(2) internal practice-based measures to review the prescribing practice of the opioid prescriber and, where appropriate, any other opioid prescribers employed by or affiliated with any of the provider groups with which the opioid prescriber is employed or affiliated; and

(3) appropriate use of the prescription monitoring program under section 152.126.

(c) If, after a year from the commissioner's notice under paragraph (b), the opioid prescriber's prescribing practices do not improve so that they are consistent with community standards, the commissioner shall take one or more of the following steps:

(1) monitor prescribing practices more frequently than annually;

(2) monitor more aspects of the opioid prescriber's prescribing practices than the sentinel measures; or

(3) require the opioid prescriber to participate in additional quality improvement efforts, including but not limited to mandatory use of the prescription monitoring program established under section 152.126.

(d) The commissioner shall terminate from Minnesota health care programs all opioid prescribers and provider groups whose prescribing practices fall within the applicable opioid disenrollment standards.

(e) No physician, advanced practice registered nurse, or physician assistant, acting in good faith based on the needs of the patient, may be disenrolled by the commissioner of human services solely for prescribing a dosage that equates to an upward deviation from morphine milligram equivalent dosage recommendations specified in state or federal opioid prescribing guidelines or policies, or quality improvement thresholds established under this section.

Sec. 11. Minnesota Statutes 2021 Supplement, section 256B.69, subdivision 9f, is amended to read:

Subd. 9f. **Annual report on provider reimbursement rates.** (a) The commissioner, by December 15 of each year, ~~beginning December 15, 2021,~~ shall submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance a report on managed care and county-based purchasing plan provider reimbursement rates.

(b) The report must include, for each managed care and county-based purchasing plan, the mean and median provider reimbursement rates by county for the calendar year preceding the reporting year, for the five most common billing codes statewide across all plans, in each of the following provider service categories if within the county there are more than three medical assistance enrolled providers providing the specific service within the specific category:

(1) physician prenatal services;

(2) physician preventive services;

(3) physician services other than prenatal or preventive;

(4) dental services;

- (5) inpatient hospital services;
- (6) outpatient hospital services; ~~and~~
- (7) mental health services; and
- (8) substance use disorder services.

(c) The commissioner shall also include in the report:

(1) the mean and median reimbursement rates across all plans by county for the calendar year preceding the reporting year for the billing codes and provider service categories described in paragraph (b); and

(2) the mean and median fee-for-service reimbursement rates by county for the calendar year preceding the reporting year for the billing codes and provider service categories described in paragraph (b).

Sec. 12. **[256B.6903] OMBUDSPERSON FOR MANAGED CARE.**

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

(b) "Adverse benefit determination" has the meaning provided in Code of Federal Regulations, title 42, section 438.400, subpart (b).

(c) "Appeal" means an oral or written request from an enrollee to the managed care organization for review of an adverse benefit determination.

(d) "Commissioner" means the commissioner of human services.

(e) "Complaint" means an enrollee's informal expression of dissatisfaction about any matter relating to the enrollee's prepaid health plan other than an adverse benefit determination.

(f) "Data analyst" means the person employed by the ombudsperson that uses research methodologies to conduct research on data collected from prepaid health plans, including but not limited to scientific theory; hypothesis testing; survey research techniques; data collection; data manipulation; and statistical analysis interpretation, including multiple regression techniques.

(g) "Enrollee" means a person enrolled in a prepaid health plan under section 256B.69. When applicable, an enrollee includes an enrollee's authorized representative.

(h) "External review" means the process described under Code of Federal Regulations, title 42, section 438.408, subpart (f); and section 62Q.73, subdivision 2.

(i) "Grievance" means an enrollee's expression of dissatisfaction about any matter relating to the enrollee's prepaid health plan other than an adverse benefit determination that follows the procedures outlined in Code of Federal Regulations, title 42, part 438, subpart (f). A grievance may include but is not limited to concerns relating to quality of care, services provided, or failure to respect an enrollee's rights under a prepaid health plan.

(j) "Managed care advocate" means a county or Tribal employee who works with managed care enrollees when the enrollee has service, billing, or access problems with the enrollee's prepaid health plan.

(k) "Prepaid health plan" means a plan under contract with the commissioner according to section 256B.69.

(l) "State fair hearing" means the appeals process mandated under section 256.045, subdivision 3a.

Subd. 2. **Ombudsperson.** The commissioner must designate an ombudsperson to advocate for enrollees. At the time of enrollment in a prepaid health plan, the local agency must inform enrollees about the ombudsperson.

Subd. 3. **Duties and cost.** (a) The ombudsperson must work to ensure enrollees receive covered services as described in the enrollee's prepaid health plan by:

(1) providing assistance and education to enrollees, when requested, regarding covered health care benefits or services; billing and access; or the grievance, appeal, or state fair hearing processes;

(2) with the enrollee's permission and within the ombudsperson's discretion, using an informal review process to assist an enrollee with a resolution involving the enrollee's prepaid health plan's benefits;

(3) assisting enrollees, when requested, with prepaid health plan grievances, appeals, or the state fair hearing process;

(4) overseeing, reviewing, and approving documents used by enrollees relating to prepaid health plans' grievances, appeals, and state fair hearings;

(5) reviewing all state fair hearings and requests by enrollees for external review; overseeing entities under contract to provide external reviews, processes, and payments for services; and utilizing aggregated results of external reviews to recommend health care benefits policy changes; and

(6) providing trainings to managed care advocates.

(b) The ombudsperson must not charge an enrollee for the ombudsperson's services.

Subd. 4. **Powers.** In exercising the ombudsperson's authority under this section, the ombudsperson may:

(1) gather information and evaluate any practice, policy, procedure, or action by a prepaid health plan, state human services agency, county, or Tribe; and

(2) prescribe the methods by which complaints are to be made, received, and acted upon. The ombudsperson's authority under this clause includes but is not limited to:

(i) determining the scope and manner of a complaint;



(ii) holding a prepaid health plan accountable to address a complaint in a timely manner as outlined in state and federal laws;

(iii) requiring a prepaid health plan to respond in a timely manner to a request for data, case details, and other information as needed to help resolve a complaint or to improve a prepaid health plan's policy; and

(iv) making recommendations for policy, administrative, or legislative changes regarding prepaid health plans to the proper partners.

Subd. 5. **Data.** (a) The data analyst must review and analyze prepaid health plan data on denial, termination, and reduction notices (DTRs), grievances, appeals, and state fair hearings by:

(1) analyzing, reviewing, and reporting on DTRs, grievances, appeals, and state fair hearings data collected from each prepaid health plan;

(2) collaborating with the commissioner's partners and the Department of Health for the Triennial Compliance Assessment under Code of Federal Regulations, title 42, section 438.358, subpart (b);

(3) reviewing state fair hearing decisions for policy or coverage issues that may affect enrollees; and

(4) providing data required under Code of Federal Regulations, title 42, section 438.66 (2016), to the Centers for Medicare and Medicaid Services.

(b) The data analyst must share the data analyst's data observations and trends under this subdivision with the ombudsperson, prepaid health plans, and commissioner's partners.

Subd. 6. **Collaboration and independence.** (a) The ombudsperson must work in collaboration with the commissioner and the commissioner's partners when the ombudsperson's collaboration does not otherwise interfere with the ombudsperson's duties under this section.

(b) The ombudsperson may act independently of the commissioner when:

(1) providing information or testimony to the legislature; and

(2) contacting and making reports to federal and state officials.

Subd. 7. **Civil actions.** The ombudsperson is not civilly liable for actions taken under this section if the action was taken in good faith, was within the scope of the ombudsperson's authority, and did not constitute willful or reckless misconduct.

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

Sec. 13. Minnesota Statutes 2020, section 256B.77, subdivision 13, is amended to read:

Subd. 13. **Ombudsman.** Enrollees shall have access to ombudsman services established in section ~~256B.69, subdivision 20~~ 256B.6903, and advocacy services provided by the ombudsman for mental health and developmental disabilities established in sections 245.91 to 245.97. The managed care ombudsman and the ombudsman for mental health and developmental disabilities

shall coordinate services provided to avoid duplication of services. For purposes of the demonstration project, the powers and responsibilities of the Office of Ombudsman for Mental Health and Developmental Disabilities, as provided in sections 245.91 to 245.97 are expanded to include all eligible individuals, health plan companies, agencies, and providers participating in the demonstration project.

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

Sec. 14. **DIRECTION TO THE COMMISSIONER OF HUMAN SERVICES; ENTERAL NUTRITION AND SUPPLIES.**

Notwithstanding Minnesota Statutes, section 256B.766, paragraph (i), but subject to Minnesota Statutes, section 256B.766, paragraph (l), effective for dates of service on or after the effective date of this section through June 30, 2023, the commissioner of human services shall not adjust rates paid for enteral nutrition and supplies.

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

Sec. 15. **TEMPORARY TELEPHONE-ONLY TELEHEALTH AUTHORIZATION.**

Beginning July 1, 2021, and until the COVID-19 federal public health emergency ends or July 1, 2023, whichever is earlier, telehealth visits, as described in Minnesota Statutes, section 256B.0625, subdivision 3b, provided through telephone may satisfy the face-to-face requirements for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 Tribal clinic, and certified community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.

**EFFECTIVE DATE.** This section is effective retroactively from July 1, 2021, and expires when the COVID-19 federal public health emergency ends or July 1, 2023, whichever is earlier. The commissioner of human services shall notify the revisor of statutes when this section expires.

Sec. 16. **REPEALER.**

(a) Minnesota Statutes 2020, section 256B.057, subdivision 7, is repealed on July 1, 2022.

(b) Minnesota Statutes 2020, sections 256B.69, subdivision 20; 501C.0408, subdivision 4; and 501C.1206, are repealed the day following final enactment.

### ARTICLE 3

#### HEALTH-RELATED LICENSING BOARDS

Section 1. Minnesota Statutes 2020, section 148B.33, is amended by adding a subdivision to read:

Subd. 1a. **Supervision requirement; postgraduate experience.** The board must allow an applicant to satisfy the requirement for supervised postgraduate experience in marriage and family therapy with all required hours of supervision provided through real-time, two-way interactive audio and visual communication.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to supervision requirements in effect on or after that date.

Sec. 2. Minnesota Statutes 2021 Supplement, section 148B.5301, subdivision 2, is amended to read:

Subd. 2. **Supervision.** (a) To qualify as a LPCC, an applicant must have completed 4,000 hours of post-master's degree supervised professional practice in the delivery of clinical services in the diagnosis and treatment of mental illnesses and disorders in both children and adults. The supervised practice shall be conducted according to the requirements in paragraphs (b) to (e).

(b) The supervision must have been received under a contract that defines clinical practice and supervision from a mental health professional who is qualified according to section 245I.04, subdivision 2, or by a board-approved supervisor, who has at least two years of postlicensure experience in the delivery of clinical services in the diagnosis and treatment of mental illnesses and disorders. All supervisors must meet the supervisor requirements in Minnesota Rules, part 2150.5010.

(c) The supervision must be obtained at the rate of two hours of supervision per 40 hours of professional practice. The supervision must be evenly distributed over the course of the supervised professional practice. At least 75 percent of the required supervision hours must be received in person or through real-time, two-way interactive audio and visual communication, and the board must allow an applicant to satisfy this supervision requirement with all required hours of supervision received through real-time, two-way interactive audio and visual communication. The remaining 25 percent of the required hours may be received by telephone or by audio or audiovisual electronic device. At least 50 percent of the required hours of supervision must be received on an individual basis. The remaining 50 percent may be received in a group setting.

(d) The supervised practice must include at least 1,800 hours of clinical client contact.

(e) The supervised practice must be clinical practice. Supervision includes the observation by the supervisor of the successful application of professional counseling knowledge, skills, and values in the differential diagnosis and treatment of psychosocial function, disability, or impairment, including addictions and emotional, mental, and behavioral disorders.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to supervision requirements in effect on or after that date.

Sec. 3. Minnesota Statutes 2020, section 148E.100, subdivision 3, is amended to read:

Subd. 3. **Types of supervision.** Of the 100 hours of supervision required under subdivision 1:

(1) 50 hours must be provided through one-on-one supervision, ~~including: (i) a minimum of 25 hours of in-person supervision, and (ii) no more than 25 hours of supervision.~~ The supervision must be provided either in person or via eye-to-eye electronic media, while maintaining visual contact. The board must allow a licensed social worker to satisfy the supervision requirement of this clause with all required hours of supervision provided via eye-to-eye electronic media, while maintaining visual contact; and

(2) 50 hours must be provided through: (i) one-on-one supervision, or (ii) group supervision. The supervision may be in person, by telephone, or via eye-to-eye electronic media, while maintaining visual contact. The supervision must not be provided by e-mail. Group supervision is limited to six supervisees.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to supervision requirements in effect on or after that date.

Sec. 4. Minnesota Statutes 2020, section 148E.105, subdivision 3, as amended by Laws 2022, chapter 55, article 1, section 42, is amended to read:

Subd. 3. **Types of supervision.** Of the 100 hours of supervision required under subdivision 1:

(1) 50 hours must be provided through one-on-one supervision, ~~including: (i) a minimum of 25 hours of in-person supervision, and (ii) no more than 25 hours of supervision.~~ The supervision must be provided either in person or via eye-to-eye electronic media, while maintaining visual contact. The board must allow a licensed graduate social worker to satisfy the supervision requirement of this clause with all required hours of supervision provided via eye-to-eye electronic media, while maintaining visual contact; and

(2) 50 hours must be provided through: (i) one-on-one supervision, or (ii) group supervision. The supervision may be in person, by telephone, or via eye-to-eye electronic media, while maintaining visual contact. The supervision must not be provided by e-mail. Group supervision is limited to six supervisees.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to supervision requirements in effect on or after that date.

Sec. 5. Minnesota Statutes 2020, section 148E.106, subdivision 3, is amended to read:

Subd. 3. **Types of supervision.** Of the 200 hours of supervision required under subdivision 1:

(1) 100 hours must be provided through one-on-one supervision, ~~including: (i) a minimum of 50 hours of in-person supervision, and (ii) no more than 50 hours of supervision.~~ The supervision must be provided either in person or via eye-to-eye electronic media, while maintaining visual contact. The board must allow a licensed graduate social worker to satisfy the supervision requirement of this clause with all required hours of supervision provided via eye-to-eye electronic media, while maintaining visual contact; and

(2) 100 hours must be provided through: (i) one-on-one supervision, or (ii) group supervision. The supervision may be in person, by telephone, or via eye-to-eye electronic media, while maintaining visual contact. The supervision must not be provided by e-mail. Group supervision is limited to six supervisees.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to supervision requirements in effect on or after that date.

Sec. 6. Minnesota Statutes 2020, section 148E.110, subdivision 7, is amended to read:

Subd. 7. **Supervision; clinical social work practice after licensure as licensed independent social worker.** Of the 200 hours of supervision required under subdivision 5:

(1) 100 hours must be provided through one-on-one supervision, including: The supervision must be provided either in person or via eye-to-eye electronic media, while maintaining visual contact. The board must allow a licensed independent social worker to satisfy the supervision requirement of this clause with all required hours of supervision provided via eye-to-eye electronic media, while maintaining visual contact; and

~~(i) a minimum of 50 hours of in-person supervision; and~~

~~(ii) no more than 50 hours of supervision via eye-to-eye electronic media, while maintaining visual contact; and~~

(2) 100 hours must be provided through:

(i) one-on-one supervision; or

(ii) group supervision.

The supervision may be in person, by telephone, or via eye-to-eye electronic media, while maintaining visual contact. The supervision must not be provided by e-mail. Group supervision is limited to six supervisees.

**EFFECTIVE DATE.** This section is effective the day following final enactment and applies to supervision requirements in effect on or after that date.

Sec. 7. Minnesota Statutes 2020, section 150A.06, subdivision 1c, is amended to read:

Subd. 1c. **Specialty dentists.** (a) The board may grant one or more specialty licenses in the specialty areas of dentistry that are recognized by the Commission on Dental Accreditation.

(b) An applicant for a specialty license shall:

(1) have successfully completed a postdoctoral specialty program accredited by the Commission on Dental Accreditation, or have announced a limitation of practice before 1967;

(2) have been certified by a specialty board approved by the Minnesota Board of Dentistry, or provide evidence of having passed a clinical examination for licensure required for practice in any state or Canadian province, or in the case of oral and maxillofacial surgeons only, have a Minnesota medical license in good standing;

(3) have been in active practice or a postdoctoral specialty education program or United States government service at least 2,000 hours in the 36 months prior to applying for a specialty license;

(4) if requested by the board, be interviewed by a committee of the board, which may include the assistance of specialists in the evaluation process, and satisfactorily respond to questions designed to determine the applicant's knowledge of dental subjects and ability to practice;

(5) if requested by the board, present complete records on a sample of patients treated by the applicant. The sample must be drawn from patients treated by the applicant during the 36 months preceding the date of application. The number of records shall be established by the board. The records shall be reasonably representative of the treatment typically provided by the applicant for each specialty area;

(6) at board discretion, pass a board-approved English proficiency test if English is not the applicant's primary language;

(7) pass all components of the National Board Dental Examinations;

(8) pass the Minnesota Board of Dentistry jurisprudence examination;

(9) abide by professional ethical conduct requirements; and

(10) meet all other requirements prescribed by the Board of Dentistry.

(c) The application must include:

(1) a completed application furnished by the board;

~~(2) at least two character references from two different dentists for each specialty area, one of whom must be a dentist practicing in the same specialty area, and the other from the director of each specialty program attended;~~

~~(3) a licensed physician's statement attesting to the applicant's physical and mental condition;~~

~~(4) a statement from a licensed ophthalmologist or optometrist attesting to the applicant's visual acuity;~~

~~(5) (2) a nonrefundable fee; and~~

~~(6) (3) a notarized, unmounted passport-type photograph, three inches by three inches, taken not more than six months before the date of application copy of the applicant's government issued photo identification card.~~

(d) A specialty dentist holding one or more specialty licenses is limited to practicing in the dentist's designated specialty area or areas. The scope of practice must be defined by each national specialty board recognized by the Commission on Dental Accreditation.

(e) A specialty dentist holding a general dental license is limited to practicing in the dentist's designated specialty area or areas if the dentist has announced a limitation of practice. The scope of practice must be defined by each national specialty board recognized by the Commission on Dental Accreditation.

(f) All specialty dentists who have fulfilled the specialty dentist requirements and who intend to limit their practice to a particular specialty area or areas may apply for one or more specialty licenses.

Sec. 8. Minnesota Statutes 2020, section 150A.06, subdivision 2c, is amended to read:

Subd. 2c. **Guest license.** (a) The board shall grant a guest license to practice as a dentist, dental hygienist, or licensed dental assistant if the following conditions are met:

(1) the dentist, dental hygienist, or dental assistant is currently licensed in good standing in another United States jurisdiction;

(2) the dentist, dental hygienist, or dental assistant is currently engaged in the practice of that person's respective profession in another United States jurisdiction;

(3) the dentist, dental hygienist, or dental assistant will limit that person's practice to a public health setting in Minnesota that (i) is approved by the board; (ii) was established by a nonprofit organization that is tax exempt under chapter 501(c)(3) of the Internal Revenue Code of 1986; and (iii) provides dental care to patients who have difficulty accessing dental care;

(4) the dentist, dental hygienist, or dental assistant agrees to treat indigent patients who meet the eligibility criteria established by the clinic; and

(5) the dentist, dental hygienist, or dental assistant has applied to the board for a guest license and has paid a nonrefundable license fee to the board ~~not to exceed \$75~~.

(b) A guest license must be renewed annually with the board and an annual renewal fee ~~not to exceed \$75~~ must be paid to the board. Guest licenses expire on December 31 of each year.

(c) A dentist, dental hygienist, or dental assistant practicing under a guest license under this subdivision shall have the same obligations as a dentist, dental hygienist, or dental assistant who is licensed in Minnesota and shall be subject to the laws and rules of Minnesota and the regulatory authority of the board. If the board suspends or revokes the guest license of, or otherwise disciplines, a dentist, dental hygienist, or dental assistant practicing under this subdivision, the board shall promptly report such disciplinary action to the dentist's, dental hygienist's, or dental assistant's regulatory board in the jurisdictions in which they are licensed.

(d) The board may grant a guest license to a dentist, dental hygienist, or dental assistant licensed in another United States jurisdiction to provide dental care to patients on a voluntary basis without compensation for a limited period of time. The board shall not assess a fee for the guest license for volunteer services issued under this paragraph.

(e) The board shall issue a guest license for volunteer services if:

(1) the board determines that the applicant's services will provide dental care to patients who have difficulty accessing dental care;

(2) the care will be provided without compensation; and

(3) the applicant provides adequate proof of the status of all licenses to practice in other jurisdictions. The board may require such proof on an application form developed by the board.

(f) The guest license for volunteer services shall limit the licensee to providing dental care services for a period of time not to exceed ten days in a calendar year. Guest licenses expire on December 31 of each year.

(g) The holder of a guest license for volunteer services shall be subject to state laws and rules regarding dentistry and the regulatory authority of the board. The board may revoke the license of a dentist, dental hygienist, or dental assistant practicing under this subdivision or take other regulatory action against the dentist, dental hygienist, or dental assistant. If an action is taken, the board shall report the action to the regulatory board of those jurisdictions where an active license is held by the dentist, dental hygienist, or dental assistant.

Sec. 9. Minnesota Statutes 2020, section 150A.06, subdivision 6, is amended to read:

Subd. 6. **Display of name and certificates.** (a) The renewal certificate of ~~every dentist, dental therapist, dental hygienist, or dental assistant~~ every licensee or registrant must be conspicuously displayed in plain sight of patients in every office in which that person practices. Duplicate renewal certificates may be obtained from the board.

(b) Near or on the entrance door to every office where dentistry is practiced, the name of each dentist practicing there, as inscribed on the current license certificate, must be displayed in plain sight.

(c) The board must allow the display of a mini-license for guest license holders performing volunteer dental services. There is no fee for the mini-license for guest volunteers.

Sec. 10. Minnesota Statutes 2020, section 150A.06, is amended by adding a subdivision to read:

Subd. 12. **Licensure by credentials for dental therapy.** (a) Any dental therapist may, upon application and payment of a fee established by the board, apply for licensure based on an evaluation of the applicant's education, experience, and performance record. The applicant may be interviewed by the board to determine if the applicant:

(1) graduated with a baccalaureate or master's degree from a dental therapy program accredited by the Commission on Dental Accreditation;

(2) provided evidence of successfully completing the board's jurisprudence examination;

(3) actively practiced at least 2,000 hours within 36 months of the application date or passed a board-approved reentry program within 36 months of the application date;

(4) either:

(i) is currently licensed in another state or Canadian province and not subject to any pending or final disciplinary action; or

(ii) was previously licensed in another state or Canadian province in good standing and not subject to any final or pending disciplinary action at the time of surrender;

(5) passed a board-approved English proficiency test if English is not the applicant's primary language required at the board's discretion; and

(6) met all curriculum equivalency requirements regarding dental therapy scope of practice in Minnesota.



(b) The 2,000 practice hours required by clause (3) may count toward the 2,000 practice hours required for consideration for advanced dental therapy certification, provided that all other requirements of section 150A.106, subdivision 1, are met.

(c) The board, at its discretion, may waive specific licensure requirements in paragraph (a).

(d) The board must license an applicant who fulfills the conditions of this subdivision and demonstrates the minimum knowledge in dental subjects required for licensure under subdivision 1d to practice the applicant's profession.

(e) The board must deny the application if the applicant does not demonstrate the minimum knowledge in dental subjects required for licensure under subdivision 1d. If licensure is denied, the board may notify the applicant of any specific remedy the applicant could take to qualify for licensure. A denial does not prohibit the applicant from applying for licensure under subdivision 1d.

(f) A candidate may appeal a denied application to the board according to subdivision 4a.

Sec. 11. Minnesota Statutes 2020, section 150A.09, is amended to read:

**150A.09 REGISTRATION OF LICENSES AND OR REGISTRATION CERTIFICATES.**

Subdivision 1. **Registration information and procedure.** On or before the license certificate expiration date every ~~licensed dentist, dental therapist, dental hygienist, and dental assistant~~ licensee or registrant shall ~~transmit to the executive secretary of the board, pertinent information~~ submit the renewal required by the board, together with the applicable fee established by the board under section 150A.091. At least 30 days before a license certificate expiration date, the board shall send a written notice stating the amount and due date of the fee ~~and the information to be provided to every licensed dentist, dental therapist, dental hygienist, and dental assistant.~~

Subd. 3. **Current address, change of address.** Every ~~dentist, dental therapist, dental hygienist, and dental assistant~~ licensee or registrant shall maintain with the board a correct and current mailing address and electronic mail address. For dentists engaged in the practice of dentistry, the postal address shall be that of the location of the primary dental practice. Within 30 days after changing postal or electronic mail addresses, every ~~dentist, dental therapist, dental hygienist, and dental assistant~~ licensee or registrant shall provide the board ~~written notice of the new address either personally or by first class mail.~~

Subd. 4. **Duplicate certificates.** Duplicate licenses or duplicate certificates of ~~license~~ renewal may be issued by the board upon satisfactory proof of the need for the duplicates and upon payment of the fee established by the board.

Subd. 5. **Late fee.** A late fee established by the board shall be paid if the ~~information and~~ fee required by subdivision 1 is not received by ~~the executive secretary of~~ the board on or before the registration or ~~license~~ renewal date.

Sec. 12. Minnesota Statutes 2020, section 150A.091, subdivision 2, is amended to read:

Subd. 2. **Application and initial license or registration fees.** Each applicant shall submit with a license, advanced dental therapist certificate, or permit application a nonrefundable fee in the following amounts in order to administratively process an application:

- (1) dentist, ~~\$140~~ \$308;
- (2) full faculty dentist, ~~\$140~~ \$308;
- (3) limited faculty dentist, \$140;
- (4) resident dentist or dental provider, \$55;
- (5) advanced dental therapist, \$100;
- (6) dental therapist, ~~\$100~~ \$220;
- (7) dental hygienist, ~~\$55~~ \$115;
- (8) licensed dental assistant, ~~\$55; and~~ \$115;
- (9) dental assistant with a ~~permit~~ registration as described in Minnesota Rules, part 3100.8500, subpart 3, ~~\$15;~~ \$27; and
- (10) guest license, \$50.

Sec. 13. Minnesota Statutes 2020, section 150A.091, subdivision 5, is amended to read:

Subd. 5. **Biennial license or ~~permit~~ registration renewal fees.** Each of the following applicants shall submit with a biennial license or permit renewal application a fee as established by the board, not to exceed the following amounts:

- (1) dentist or full faculty dentist, \$475;
- (2) dental therapist, \$300;
- (3) dental hygienist, \$200;
- (4) licensed dental assistant, \$150; and
- (5) dental assistant with a ~~permit~~ registration as described in Minnesota Rules, part 3100.8500, subpart 3, \$24.

Sec. 14. Minnesota Statutes 2020, section 150A.091, subdivision 8, is amended to read:

Subd. 8. **Duplicate license or certificate fee.** Each applicant shall submit, with a request for issuance of a duplicate of the original license, or of an annual or biennial renewal certificate for a license or permit, a fee in the following amounts:

- (1) original dentist, full faculty dentist, dental therapist, dental hygiene, or dental assistant license, \$35; and

(2) annual or biennial renewal certificates, \$10;~~and~~.

~~(3) wallet-sized license and renewal certificate, \$15.~~

Sec. 15. Minnesota Statutes 2020, section 150A.091, subdivision 9, is amended to read:

Subd. 9. **Licensure by credentials.** Each applicant for licensure as a dentist, dental hygienist, or dental assistant by credentials pursuant to section 150A.06, subdivisions 4 and 8, and Minnesota Rules, part 3100.1400, shall submit with the license application a fee in the following amounts:

(1) dentist, ~~\$725~~ \$893;

(2) dental hygienist, ~~\$175; and~~ \$235;

(3) dental assistant, ~~\$35-~~ \$71; and

(4) dental therapist, \$340.

Sec. 16. Minnesota Statutes 2020, section 150A.091, is amended by adding a subdivision to read:

Subd. 21. **Failure to practice with a current license.** (a) If a licensee practices without a current license and pursues reinstatement, the board may take the following administrative actions based on the length of time practicing without a current license:

(1) for under one month, the board may not assess a penalty fee;

(2) for one month to six months, the board may assess a penalty of \$250;

(3) for over six months, the board may assess a penalty of \$500; and

(4) for over 12 months, the board may assess a penalty of \$1,000.

(b) In addition to the penalty fee, the board shall initiate the complaint process against the licensee for failure to practice with a current license for over 12 months.

Sec. 17. Minnesota Statutes 2020, section 150A.091, is amended by adding a subdivision to read:

Subd. 22. **Delegating regulated procedures to an individual with a terminated license.** (a) If a dentist or dental therapist delegates regulated procedures to another dental professional who had their license terminated, the board may take the following administrative actions against the delegating dentist or dental therapist based on the length of time they delegated regulated procedures:

(1) for under one month, the board may not assess a penalty fee;

(2) for one month to six months, the board may assess a penalty of \$100;

(3) for over six months, the board may assess a penalty of \$250; and

(4) for over 12 months, the board may assess a penalty of \$500.

(b) In addition to the penalty fee, the board shall initiate the complaint process against a dentist or dental therapist who delegated regulated procedures to a dental professional with a terminated license for over 12 months.

Sec. 18. Minnesota Statutes 2020, section 150A.10, subdivision 1a, is amended to read:

**Subd. 1a. Collaborative practice authorization for dental hygienists in community settings.**

(a) Notwithstanding subdivision 1, a dental hygienist licensed under this chapter may be employed or retained by a health care facility, program, ~~or nonprofit organization~~, or licensed dentist to perform the dental hygiene services listed in Minnesota Rules, part 3100.8700, subpart 1, without the patient first being examined by a licensed dentist if the dental hygienist:

(1) has entered into a collaborative agreement with a licensed dentist that designates authorization for the services provided by the dental hygienist; and

(2) has documented completion of a course on medical emergencies within each continuing education cycle.

(b) A collaborating dentist must be licensed under this chapter and may enter into a collaborative agreement with no more than four dental hygienists unless otherwise authorized by the board. The board shall develop parameters and a process for obtaining authorization to collaborate with more than four dental hygienists. The collaborative agreement must include:

(1) consideration for medically compromised patients and medical conditions for which a dental evaluation and treatment plan must occur prior to the provision of dental hygiene services;

(2) age- and procedure-specific standard collaborative practice protocols, including recommended intervals for the performance of dental hygiene services and a period of time in which an examination by a dentist should occur;

(3) copies of consent to treatment form provided to the patient by the dental hygienist;

(4) specific protocols for the placement of pit and fissure sealants and requirements for follow-up care to ~~assure the~~ ensure efficacy ~~of the sealants after application~~; and

(5) the procedure for creating and maintaining dental records for patients who are treated by the dental hygienist under Minnesota Rules, part 3100.9600, including specifying where records will be located.

~~The collaborative agreement must be signed and maintained by the dentist, the dental hygienist, and the facility, program, or organization; must be reviewed annually by the collaborating dentist and dental hygienist and must be made available to the board upon request.~~

(c) The collaborative agreement must be:

(1) signed and maintained by the dentist; the dental hygienist; and the facility, program, or organization;

(2) reviewed annually by the collaborating dentist and the dental hygienist; and

(3) made available to the board upon request.

~~(e)~~ (d) Before performing any services authorized under this subdivision, a dental hygienist must provide the patient with a consent to treatment form which must include a statement advising the patient that the dental hygiene services provided are not a substitute for a dental examination by a licensed dentist. When the patient requires a referral for additional dental services, the dental hygienist shall complete a referral form and provide a copy to the patient, the facility, if applicable, the dentist to whom the patient is being referred, and the collaborating dentist, if specified in the collaborative agreement. A copy of the referral form shall be maintained in the patient's health care record. The patient does not become a new patient of record of the dentist to whom the patient was referred until the dentist accepts the patient for follow-up services after referral from the dental hygienist.

~~(d)~~ (e) For the purposes of this subdivision, a "health care facility, program, or nonprofit organization" includes a hospital; nursing home; home health agency; group home serving the elderly, disabled, or juveniles; state-operated facility licensed by the commissioner of human services or the commissioner of corrections; a state agency administered public health program or event; and federal, state, or local public health facility, community clinic, tribal clinic, school authority, Head Start program, or nonprofit organization that serves individuals who are uninsured or who are Minnesota health care public program recipients.

~~(e)~~ (f) For purposes of this subdivision, a "collaborative agreement" means a written agreement with a licensed dentist who authorizes and accepts responsibility for the services performed by the dental hygienist.

(g) A collaborative practice dental hygienist must be reimbursed for all services performed through a health care facility, program, nonprofit organization, or licensed dentist.

Sec. 19. Minnesota Statutes 2020, section 150A.105, subdivision 8, is amended to read:

Subd. 8. **Definitions.** (a) For the purposes of this section, the following definitions apply.

(b) "Practice settings that serve the low-income and underserved" mean:

(1) critical access dental provider settings as designated by the commissioner of human services under section 256B.76, subdivision 4;

(2) dental hygiene collaborative practice settings identified in section 150A.10, subdivision 1a, paragraph ~~(d)~~ (e), and including medical facilities, assisted living facilities, federally qualified health centers, and organizations eligible to receive a community clinic grant under section 145.9268, subdivision 1;

(3) military and veterans administration hospitals, clinics, and care settings;

(4) a patient's residence or home when the patient is home-bound or receiving or eligible to receive home care services or home and community-based waived services, regardless of the patient's income;

(5) oral health educational institutions; or

(6) any other clinic or practice setting, including mobile dental units, in which at least 50 percent of the total patient base of the dental therapist or advanced dental therapist consists of patients who:

(i) are enrolled in a Minnesota health care program;

(ii) have a medical disability or chronic condition that creates a significant barrier to receiving dental care;

(iii) do not have dental health coverage, either through a public health care program or private insurance, and have an annual gross family income equal to or less than 200 percent of the federal poverty guidelines; or

(iv) do not have dental health coverage, either through a state public health care program or private insurance, and whose family gross income is equal to or less than 200 percent of the federal poverty guidelines.

(c) "Dental health professional shortage area" means an area that meets the criteria established by the secretary of the United States Department of Health and Human Services and is designated as such under United States Code, title 42, section 254e.

Sec. 20. Minnesota Statutes 2020, section 151.01, subdivision 27, is amended to read:

Subd. 27. **Practice of pharmacy.** "Practice of pharmacy" means:

(1) interpretation and evaluation of prescription drug orders;

(2) compounding, labeling, and dispensing drugs and devices (except labeling by a manufacturer or packager of nonprescription drugs or commercially packaged legend drugs and devices);

(3) participation in clinical interpretations and monitoring of drug therapy for assurance of safe and effective use of drugs, including the performance of laboratory tests that are waived under the federal Clinical Laboratory Improvement Act of 1988, United States Code, title 42, section 263a et seq., provided that a pharmacist may interpret the results of laboratory tests but may modify drug therapy only pursuant to a protocol or collaborative practice agreement;

(4) participation in drug and therapeutic device selection; drug administration for first dosage and medical emergencies; intramuscular and subcutaneous drug administration used for the treatment of alcohol or opioid dependence under a prescription drug order; drug regimen reviews; and drug or drug-related research;

(5) drug administration, through intramuscular and subcutaneous administration used to treat mental illnesses as permitted under the following conditions:

(i) upon the order of a prescriber and the prescriber is notified after administration is complete; or

(ii) pursuant to a protocol or collaborative practice agreement as defined by section 151.01, subdivisions 27b and 27c, and participation in the initiation, management, modification, administration, and discontinuation of drug therapy is according to the protocol or collaborative practice agreement between the pharmacist and a dentist, optometrist, physician, podiatrist, or

veterinarian, or an advanced practice registered nurse authorized to prescribe, dispense, and administer under section 148.235. Any changes in drug therapy or medication administration made pursuant to a protocol or collaborative practice agreement must be documented by the pharmacist in the patient's medical record or reported by the pharmacist to a practitioner responsible for the patient's care;

(6) participation in administration of influenza vaccines and vaccines approved by the United States Food and Drug Administration related to COVID-19 or SARS-CoV-2 to all eligible individuals six years of age and older and all other vaccines to patients 13 years of age and older by written protocol with a physician licensed under chapter 147, a physician assistant authorized to prescribe drugs under chapter 147A, or an advanced practice registered nurse authorized to prescribe drugs under section 148.235, provided that:

(i) the protocol includes, at a minimum:

(A) the name, dose, and route of each vaccine that may be given;

(B) the patient population for whom the vaccine may be given;

(C) contraindications and precautions to the vaccine;

(D) the procedure for handling an adverse reaction;

(E) the name, signature, and address of the physician, physician assistant, or advanced practice registered nurse;

(F) a telephone number at which the physician, physician assistant, or advanced practice registered nurse can be contacted; and

(G) the date and time period for which the protocol is valid;

(ii) the pharmacist has successfully completed a program approved by the Accreditation Council for Pharmacy Education specifically for the administration of immunizations or a program approved by the board;

(iii) the pharmacist utilizes the Minnesota Immunization Information Connection to assess the immunization status of individuals prior to the administration of vaccines, except when administering influenza vaccines to individuals age nine and older;

(iv) the pharmacist reports the administration of the immunization to the Minnesota Immunization Information Connection; and

(v) the pharmacist complies with guidelines for vaccines and immunizations established by the federal Advisory Committee on Immunization Practices, except that a pharmacist does not need to comply with those portions of the guidelines that establish immunization schedules when administering a vaccine pursuant to a valid, patient-specific order issued by a physician licensed under chapter 147, a physician assistant authorized to prescribe drugs under chapter 147A, or an advanced practice registered nurse authorized to prescribe drugs under section 148.235, provided that the order is consistent with the United States Food and Drug Administration approved labeling of the vaccine;

(7) participation in the initiation, management, modification, and discontinuation of drug therapy according to a written protocol or collaborative practice agreement between: (i) one or more pharmacists and one or more dentists, optometrists, physicians, podiatrists, or veterinarians; or (ii) one or more pharmacists and one or more physician assistants authorized to prescribe, dispense, and administer under chapter 147A, or advanced practice registered nurses authorized to prescribe, dispense, and administer under section 148.235. Any changes in drug therapy made pursuant to a protocol or collaborative practice agreement must be documented by the pharmacist in the patient's medical record or reported by the pharmacist to a practitioner responsible for the patient's care;

(8) participation in the storage of drugs and the maintenance of records;

(9) patient counseling on therapeutic values, content, hazards, and uses of drugs and devices;

(10) offering or performing those acts, services, operations, or transactions necessary in the conduct, operation, management, and control of a pharmacy;

(11) participation in the initiation, management, modification, and discontinuation of therapy with opiate antagonists, as defined in section 604A.04, subdivision 1, pursuant to:

(i) a written protocol as allowed under clause (7); or

(ii) a written protocol with a community health board medical consultant or a practitioner designated by the commissioner of health, as allowed under section 151.37, subdivision 13; ~~and~~

(12) prescribing self-administered hormonal contraceptives; nicotine replacement medications; and opiate antagonists for the treatment of an acute opiate overdose pursuant to section 151.37, subdivision 14, 15, or 16; and

(13) participation in the placement of drug monitoring devices according to a prescription, protocol, or collaborative practice agreement.

Sec. 21. Minnesota Statutes 2020, section 153.16, subdivision 1, is amended to read:

Subdivision 1. **License requirements.** The board shall issue a license to practice podiatric medicine to a person who meets the following requirements:

(a) The applicant for a license shall file a written notarized application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a podiatric medical school approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant factors.

(c) The applicant must have received a passing score on each part of the national board examinations, parts one and two, prepared and graded by the National Board of Podiatric Medical Examiners. The passing score for each part of the national board examinations, parts one and two, is as defined by the National Board of Podiatric Medical Examiners.



(d) Applicants graduating after ~~1986~~ 1990 from a podiatric medical school shall present evidence of successful completion of a residency program approved by a national accrediting podiatric medicine organization.

(e) The applicant shall appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section, including knowledge of laws, rules, and ethics pertaining to the practice of podiatric medicine. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation. Upon completion of all other application requirements, a doctor of podiatric medicine applying for a temporary military license has six months in which to comply with this subdivision.

(f) The applicant shall pay a fee established by the board by rule. The fee shall not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

(h) Upon payment of a fee as the board may require, an applicant who fails to pass an examination and is refused a license is entitled to reexamination within one year of the board's refusal to issue the license. No more than two reexaminations are allowed without a new application for a license.

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

Sec. 22. Laws 2021, First Special Session chapter 7, article 16, section 5, is amended to read:

**Sec. 5. EMERGENCY MEDICAL SERVICES  
REGULATORY BOARD**

**\$ 4,780,000 \$ 4,576,000**

(a) **Cooper/Sams Volunteer Ambulance Program.** \$950,000 in fiscal year 2022 and \$950,000 in fiscal year 2023 are for the Cooper/Sams volunteer ambulance program under Minnesota Statutes, section 144E.40.

(1) Of this amount, \$861,000 in fiscal year 2022 and \$861,000 in fiscal year 2023 are for the ambulance service personnel longevity award and incentive program under Minnesota Statutes, section 144E.40.

(2) Of this amount, \$89,000 in fiscal year 2022 and \$89,000 in fiscal year 2023 are for the operations of the ambulance service personnel longevity award and incentive program under Minnesota Statutes, section 144E.40.

(b) **EMSRB Operations.** \$1,880,000 in fiscal year 2022 and \$1,880,000 in fiscal year 2023 are for board operations.

~~(c) **Regional Grants for Continuing Education.** \$585,000 in fiscal year 2022 and \$585,000 in fiscal year 2023 are for regional emergency medical services programs, to be distributed equally to the eight emergency medical service regions under Minnesota Statutes, section 144E.52.~~

~~(d) **Regional Grants for Local and Regional Emergency Medical Services.** (c) **Emergency Medical Services Fund.** \$800,000 \$1,385,000 in fiscal year 2022 and \$800,000 \$1,385,000 in fiscal year 2023 are for distribution to regional emergency medical services regions systems for regional emergency medical services programs the purposes specified in Minnesota Statutes, section 144E.50. Notwithstanding Minnesota Statutes, section 144E.50, subdivision 5, in each year the board shall distribute the appropriation equally among the eight emergency medical services regions systems designated by the board. This is a onetime appropriation The general fund base for this appropriation is \$585,000 in fiscal year 2024 and \$585,000 in fiscal year 2025.~~

~~(e)~~ (d) **Ambulance Training Grants.** \$565,000 in fiscal year 2022 and \$361,000 in fiscal year 2023 are for training grants under Minnesota Statutes, section 144E.35.

~~(f)~~ (e) **Base Level Adjustment.** The general fund base is \$3,776,000 in fiscal year 2024 and \$3,776,000 in fiscal year 2025.

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

Sec. 23. **TEMPORARY REQUIREMENTS GOVERNING AMBULANCE SERVICE OPERATIONS AND THE PROVISION OF EMERGENCY MEDICAL SERVICES.**

Subdivision 1. **Application.** Notwithstanding any law to the contrary in Minnesota Statutes, chapter 144E, an ambulance service may operate according to this section, and emergency medical

technicians, advanced emergency medical technicians, and paramedics may provide emergency medical services according to this section.

Subd. 2. **Definitions.** (a) The terms defined in this subdivision apply to this section.

(b) "Advanced emergency medical technician" has the meaning given in Minnesota Statutes, section 144E.001, subdivision 5d.

(c) "Advanced life support" has the meaning given in Minnesota Statutes, section 144E.001, subdivision 1b.

(d) "Ambulance" has the meaning given in Minnesota Statutes, section 144E.001, subdivision 2.

(e) "Ambulance service personnel" has the meaning given in Minnesota Statutes, section 144E.001, subdivision 3a.

(f) "Basic life support" has the meaning given in Minnesota Statutes, section 144E.001, subdivision 4b.

(g) "Board" means the Emergency Medical Services Regulatory Board.

(h) "Emergency medical technician" has the meaning given in Minnesota Statutes, section 144E.001, subdivision 5c.

(i) "Paramedic" has the meaning given in Minnesota Statutes, section 144E.001, subdivision 5e.

(j) "Primary service area" means the area designated by the board according to Minnesota Statutes, section 144E.06, to be served by an ambulance service.

Subd. 3. **Staffing.** (a) For emergency ambulance calls and interfacility transfers in an ambulance service's primary service area, an ambulance service must staff an ambulance that provides basic life support with at least:

(1) one emergency medical technician, who must be in the patient compartment when a patient is being transported; and

(2) one individual to drive the ambulance. The driver must hold a valid driver's license from any state, must have attended an emergency vehicle driving course approved by the ambulance service, and must have completed a course on cardiopulmonary resuscitation approved by the ambulance service.

(b) For emergency ambulance calls and interfacility transfers in an ambulance service's primary service area, an ambulance service must staff an ambulance that provides advanced life support with at least:

(1) one paramedic; one registered nurse who meets the requirements in Minnesota Statutes, section 144E.001, subdivision 3a, clause (2); or one physician assistant who meets the requirements

in Minnesota Statutes, section 144E.001, subdivision 3a, clause (3), and who must be in the patient compartment when a patient is being transported; and

(2) one individual to drive the ambulance. The driver must hold a valid driver's license from any state, must have attended an emergency vehicle driving course approved by the ambulance service, and must have completed a course on cardiopulmonary resuscitation approved by the ambulance service.

(c) The ambulance service director and medical director must approve the staffing of an ambulance according to this subdivision.

(d) An ambulance service staffing an ambulance according to this subdivision must immediately notify the board in writing and in a manner prescribed by the board. The notice must specify how the ambulance service is staffing its basic life support or advanced life support ambulances and the time period the ambulance service plans to staff the ambulances according to this subdivision. If an ambulance service continues to staff an ambulance according to this subdivision after the date provided to the board in its initial notice, the ambulance service must provide a new notice to the board in a manner that complies with this paragraph.

(e) If an individual serving as a driver under this subdivision commits an act listed in Minnesota Statutes, section 144E.27, subdivision 5, paragraph (a), the board may temporarily suspend or prohibit the individual from driving an ambulance or place conditions on the individual's ability to drive an ambulance using the procedures and authority in Minnesota Statutes, section 144E.27, subdivisions 5 and 6.

**Subd. 4. Use of expired emergency medications and medical supplies.** (a) If an ambulance service experiences a shortage of an emergency medication or medical supply, ambulance service personnel may use an emergency medication or medical supply for up to six months after the emergency medication's or medical supply's specified expiration date, provided:

(1) the ambulance service director and medical director approve the use of the expired emergency medication or medical supply;

(2) ambulance service personnel use an expired emergency medication or medical supply only after depleting the ambulance service's supply of that emergency medication or medical supply that is unexpired;

(3) the ambulance service has stored and maintained the expired emergency medication or medical supply according to the manufacturer's instructions;

(4) if possible, ambulance service personnel obtain consent from the patient to use the expired emergency medication or medical supply prior to its use; and

(5) when the ambulance service obtains a supply of that emergency medication or medical supply that is unexpired, ambulance service personnel cease use of the expired emergency medication or medical supply and instead use the unexpired emergency medication or medical supply.

(b) Before approving the use of an expired emergency medication, an ambulance service director and medical director must consult with the Board of Pharmacy regarding the safety and efficacy of using the expired emergency medication.

(c) An ambulance service must keep a record of all expired emergency medications and all expired medical supplies used and must submit that record in writing to the board in a time and manner specified by the board. The record must list the specific expired emergency medications and medical supplies used and the time period during which ambulance service personnel used the expired emergency medication or medical supply.

**Subd. 5. Provision of emergency medical services after certification expires.** (a) At the request of an emergency medical technician, advanced emergency medical technician, or paramedic, and with the approval of the ambulance service director, an ambulance service medical director may authorize the emergency medical technician, advanced emergency medical technician, or paramedic to provide emergency medical services for the ambulance service for up to three months after the certification of the emergency medical technician, advanced emergency medical technician, or paramedic expires.

(b) An ambulance service must immediately notify the board each time its medical director issues an authorization under paragraph (a). The notice must be provided in writing and in a manner prescribed by the board and must include information on the time period each emergency medical technician, advanced emergency medical technician, or paramedic will provide emergency medical services according to an authorization under this subdivision; information on why the emergency medical technician, advanced emergency medical technician, or paramedic needs the authorization; and an attestation from the medical director that the authorization is necessary to help the ambulance service adequately staff its ambulances.

**Subd. 6. Reports.** The board must provide quarterly reports to the chairs and ranking minority members of the legislative committees with jurisdiction over the board regarding actions taken by ambulance services according to subdivisions 3, 4, and 5. The board must submit reports by June 30, September 30, and December 31 of 2022; and by March 31, June 30, September 30, and December 31 of 2023. Each report must include the following information:

(1) for each ambulance service staffing basic life support or advanced life support ambulances according to subdivision 3, the primary service area served by the ambulance service, the number of ambulances staffed according to subdivision 3, and the time period the ambulance service has staffed and plans to staff the ambulances according to subdivision 3;

(2) for each ambulance service that authorized the use of an expired emergency medication or medical supply according to subdivision 4, the expired emergency medications and medical supplies authorized for use and the time period the ambulance service used each expired emergency medication or medical supply; and

(3) for each ambulance service that authorized the provision of emergency medical services according to subdivision 5, the number of emergency medical technicians, advanced emergency medical technicians, and paramedics providing emergency medical services under an expired certification and the time period each emergency medical technician, advanced emergency medical

technician, or paramedic provided and will provide emergency medical services under an expired certification.

Subd. 7. **Expiration.** This section expires January 1, 2024.

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

Sec. 24. **EXPEDITED REREGISTRATION FOR LAPSED NURSING LICENSES.**

(a) Notwithstanding Minnesota Statutes, section 148.231, a nurse who desires to resume the practice of professional or practical nursing at a licensed nursing facility or licensed assisted living facility but whose license to practice nursing has lapsed effective on or after January 1, 2019, may submit an application to the Board of Nursing for reregistration. The application must be submitted and received by the board between March 31, 2022, and March 31, 2023, and must be accompanied with the reregistration fee specified in Minnesota Statutes, section 148.243, subdivision 5. The applicant must include with the application the name and location of the facility where the nurse is or will be employed.

(b) The board shall issue a current registration if upon a licensure history review, the board determines that at the time the nurse's license lapsed:

(1) the nurse's license was in good standing; and

(2) the nurse was not the subject of any pending investigations or disciplinary actions or was not disqualified to practice in any way.

The board shall waive any other requirements for reregistration including any continuing education requirements.

(c) The registration issued under this section shall remain valid until the nurse's next registration period. If the nurse desires to continue to practice after that date, the nurse must meet the reregistration requirements under Minnesota Statutes, section 148.231, including any penalty fees required.

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

Sec. 25. **APPROPRIATION; BOARD OF DENTISTRY.**

\$3,000 in fiscal year 2023 is appropriated from the state government special revenue fund to the Board of Dentistry to process new credential applications and to administer administrative fines. This is a onetime appropriation.

Sec. 26. **REPEALER.**

Minnesota Statutes 2020, section 150A.091, subdivisions 3, 15, and 17, are repealed.

**ARTICLE 4****COMMUNITY SUPPORTS AND BEHAVIORAL HEALTH POLICY**

Section 1. Minnesota Statutes 2021 Supplement, section 62A.673, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the terms defined in this subdivision have the meanings given.

(b) "Distant site" means a site at which a health care provider is located while providing health care services or consultations by means of telehealth.

(c) "Health care provider" means a health care professional who is licensed or registered by the state to perform health care services within the provider's scope of practice and in accordance with state law. A health care provider includes a mental health professional ~~as defined under section 245.462, subdivision 18, or 245.4871, subdivision 27~~ 245I.04, subdivision 2; a mental health practitioner ~~as defined under section 245.462, subdivision 17, or 245.4871, subdivision 26~~ 245I.04, subdivision 4; a clinical trainee under section 245I.04, subdivision 6; a treatment coordinator under section 245G.11, subdivision 7; an alcohol and drug counselor under section 245G.11, subdivision 5; and a recovery peer under section 245G.11, subdivision 8.

(d) "Health carrier" has the meaning given in section 62A.011, subdivision 2.

(e) "Health plan" has the meaning given in section 62A.011, subdivision 3. Health plan includes dental plans as defined in section 62Q.76, subdivision 3, but does not include dental plans that provide indemnity-based benefits, regardless of expenses incurred, and are designed to pay benefits directly to the policy holder.

(f) "Originating site" means a site at which a patient is located at the time health care services are provided to the patient by means of telehealth. For purposes of store-and-forward technology, the originating site also means the location at which a health care provider transfers or transmits information to the distant site.

(g) "Store-and-forward technology" means the asynchronous electronic transfer or transmission of a patient's medical information or data from an originating site to a distant site for the purposes of diagnostic and therapeutic assistance in the care of a patient.

(h) "Telehealth" means the delivery of health care services or consultations through the use of real time two-way interactive audio and visual communications to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes the application of secure video conferencing, store-and-forward technology, and synchronous interactions between a patient located at an originating site and a health care provider located at a distant site. Until July 1, 2023, telehealth also includes audio-only communication between a health care provider and a patient in accordance with subdivision 6, paragraph (b). Telehealth does not include communication between health care providers that consists solely of a telephone conversation, e-mail, or facsimile transmission. Telehealth does not include communication between a health care provider and a patient that consists solely

of an e-mail or facsimile transmission. Telehealth does not include telemonitoring services as defined in paragraph (i).

(i) "Telemonitoring services" means the remote monitoring of clinical data related to the enrollee's vital signs or biometric data by a monitoring device or equipment that transmits the data electronically to a health care provider for analysis. Telemonitoring is intended to collect an enrollee's health-related data for the purpose of assisting a health care provider in assessing and monitoring the enrollee's medical condition or status.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 2. Minnesota Statutes 2021 Supplement, section 148F.11, subdivision 1, is amended to read:

Subdivision 1. **Other professionals.** (a) Nothing in this chapter prevents members of other professions or occupations from performing functions for which they are qualified or licensed. This exception includes, but is not limited to: licensed physicians; registered nurses; licensed practical nurses; licensed psychologists and licensed psychological practitioners; members of the clergy provided such services are provided within the scope of regular ministries; American Indian medicine men and women; licensed attorneys; probation officers; licensed marriage and family therapists; licensed social workers; social workers employed by city, county, or state agencies; licensed professional counselors; licensed professional clinical counselors; licensed school counselors; registered occupational therapists or occupational therapy assistants; Upper Midwest Indian Council on Addictive Disorders (UMICAD) certified counselors when providing services to Native American people; city, county, or state employees when providing assessments or case management under Minnesota Rules, chapter 9530; and ~~individuals defined in section 256B.0623, subdivision 5, clauses (1) to (6),~~ staff persons providing co-occurring substance use disorder treatment in adult mental health rehabilitative programs certified or licensed by the Department of Human Services under section 245I.23, 256B.0622, or 256B.0623.

(b) Nothing in this chapter prohibits technicians and resident managers in programs licensed by the Department of Human Services from discharging their duties as provided in Minnesota Rules, chapter 9530.

(c) Any person who is exempt from licensure under this section must not use a title incorporating the words "alcohol and drug counselor" or "licensed alcohol and drug counselor" or otherwise hold himself or herself out to the public by any title or description stating or implying that he or she is engaged in the practice of alcohol and drug counseling, or that he or she is licensed to engage in the practice of alcohol and drug counseling, unless that person is also licensed as an alcohol and drug counselor. Persons engaged in the practice of alcohol and drug counseling are not exempt from the board's jurisdiction solely by the use of one of the titles in paragraph (a).

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 3. Minnesota Statutes 2020, section 245.462, subdivision 4, is amended to read:



Subd. 4. **Case management service provider.** (a) "Case management service provider" means a case manager or case manager associate employed by the county or other entity authorized by the county board to provide case management services specified in section 245.4711.

(b) A case manager must:

(1) be skilled in the process of identifying and assessing a wide range of client needs;

(2) be knowledgeable about local community resources and how to use those resources for the benefit of the client;

(3) be a mental health practitioner as defined in section 245I.04, subdivision 4, or have a bachelor's degree in one of the behavioral sciences or related fields including, but not limited to, social work, psychology, or nursing from an accredited college or university or. A case manager who is not a mental health practitioner and who does not have a bachelor's degree in one of the behavioral sciences or related fields must meet the requirements of paragraph (c); and

(4) meet the supervision and continuing education requirements described in paragraphs (d), (e), and (f), as applicable.

(c) Case managers without a bachelor's degree must meet one of the requirements in clauses (1) to (3):

(1) have three or four years of experience as a case manager associate as defined in this section;

(2) be a registered nurse without a bachelor's degree and have a combination of specialized training in psychiatry and work experience consisting of community interaction and involvement or community discharge planning in a mental health setting totaling three years; or

(3) be a person who qualified as a case manager under the 1998 Department of Human Service waiver provision and meet the continuing education and mentoring requirements in this section.

(d) A case manager with at least 2,000 hours of supervised experience in the delivery of services to adults with mental illness must receive regular ongoing supervision and clinical supervision totaling 38 hours per year of which at least one hour per month must be clinical supervision regarding individual service delivery with a case management supervisor. The remaining 26 hours of supervision may be provided by a case manager with two years of experience. Group supervision may not constitute more than one-half of the required supervision hours. Clinical supervision must be documented in the client record.

(e) A case manager without 2,000 hours of supervised experience in the delivery of services to adults with mental illness must:

(1) receive clinical supervision regarding individual service delivery from a mental health professional at least one hour per week until the requirement of 2,000 hours of experience is met; and

(2) complete 40 hours of training approved by the commissioner in case management skills and the characteristics and needs of adults with serious and persistent mental illness.

(f) A case manager who is not licensed, registered, or certified by a health-related licensing board must receive 30 hours of continuing education and training in mental illness and mental health services every two years.

(g) A case manager associate (CMA) must:

(1) work under the direction of a case manager or case management supervisor;

(2) be at least 21 years of age;

(3) have at least a high school diploma or its equivalent; and

(4) meet one of the following criteria:

(i) have an associate of arts degree in one of the behavioral sciences or human services;

(ii) be a certified peer specialist under section 256B.0615;

(iii) be a registered nurse without a bachelor's degree;

(iv) within the previous ten years, have three years of life experience with serious and persistent mental illness as defined in subdivision 20; or as a child had severe emotional disturbance as defined in section 245.4871, subdivision 6; or have three years life experience as a primary caregiver to an adult with serious and persistent mental illness within the previous ten years;

(v) have 6,000 hours work experience as a nondegreed state hospital technician; or

(vi) have at least 6,000 hours of supervised experience in the delivery of services to persons with mental illness.

Individuals meeting one of the criteria in items (i) to (v) may qualify as a case manager after four years of supervised work experience as a case manager associate. Individuals meeting the criteria in item (vi) may qualify as a case manager after three years of supervised experience as a case manager associate.

(h) A case management associate must meet the following supervision, mentoring, and continuing education requirements:

(1) have 40 hours of preservice training described under paragraph (e), clause (2);

(2) receive at least 40 hours of continuing education in mental illness and mental health services annually; and

(3) receive at least five hours of mentoring per week from a case management mentor.

A "case management mentor" means a qualified, practicing case manager or case management supervisor who teaches or advises and provides intensive training and clinical supervision to one or more case manager associates. Mentoring may occur while providing direct services to consumers in the office or in the field and may be provided to individuals or groups of case manager associates. At least two mentoring hours per week must be individual and face-to-face.

(i) A case management supervisor must meet the criteria for mental health professionals, as specified in subdivision 18.

(j) An immigrant who does not have the qualifications specified in this subdivision may provide case management services to adult immigrants with serious and persistent mental illness who are members of the same ethnic group as the case manager if the person:

(1) is currently enrolled in and is actively pursuing credits toward the completion of a bachelor's degree in one of the behavioral sciences or a related field including, but not limited to, social work, psychology, or nursing from an accredited college or university;

(2) completes 40 hours of training as specified in this subdivision; and

(3) receives clinical supervision at least once a week until the requirements of this subdivision are met.

Sec. 4. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 2, is amended to read:

Subd. 2. **Diagnostic assessment.** ~~Providers~~ A provider of services governed by this section must complete a diagnostic assessment of a client according to the standards of section 245I.10; ~~subdivisions 4 to 6.~~

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 5. Minnesota Statutes 2021 Supplement, section 245.467, subdivision 3, is amended to read:

Subd. 3. **Individual treatment plans.** ~~Providers~~ A provider of services governed by this section must complete an individual treatment plan for a client according to the standards of section 245I.10, subdivisions 7 and 8.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 6. Minnesota Statutes 2021 Supplement, section 245.4871, subdivision 21, is amended to read:

Subd. 21. **Individual treatment plan.** (a) "Individual treatment plan" means the formulation of planned services that are responsive to the needs and goals of a client. An individual treatment plan must be completed according to section 245I.10, subdivisions 7 and 8.

(b) A children's residential facility licensed under Minnesota Rules, chapter 2960, is exempt from the requirements of section 245I.10, subdivisions 7 and 8. Instead, the individual treatment plan must:

(1) include a written plan of intervention, treatment, and services for a child with an emotional disturbance that the service provider develops under the clinical supervision of a mental health professional on the basis of a diagnostic assessment;

(2) be developed in conjunction with the family unless clinically inappropriate; and

(3) identify goals and objectives of treatment, treatment strategy, a schedule for accomplishing treatment goals and objectives, and the individuals responsible for providing treatment to the child with an emotional disturbance.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 7. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 2, is amended to read:

Subd. 2. **Diagnostic assessment. Providers** ~~A provider~~ A provider of services governed by this section ~~shall~~ shall ~~must~~ must complete a diagnostic assessment of a client according to the standards of section 245I.10, ~~subdivisions 4 to 6.~~ Notwithstanding the required timelines for completing a diagnostic assessment in section 245I.10, a children's residential facility licensed under Minnesota Rules, chapter 2960, that provides mental health services to children must, within ten days of the client's admission: (1) complete the client's diagnostic assessment; or (2) review and update the client's diagnostic assessment with a summary of the child's current mental health status and service needs if a diagnostic assessment is available that was completed within 180 days preceding admission and the client's mental health status has not changed markedly since the diagnostic assessment.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 8. Minnesota Statutes 2021 Supplement, section 245.4876, subdivision 3, is amended to read:

Subd. 3. **Individual treatment plans. Providers** ~~A provider~~ A provider of services governed by this section ~~shall~~ shall ~~must~~ must complete an individual treatment plan for a client according to the standards of section 245I.10, subdivisions 7 and 8. A children's residential facility licensed according to Minnesota Rules, chapter 2960, is exempt from the requirements in section 245I.10, subdivisions 7 and 8. Instead, the facility must involve the child and the child's family in all phases of developing and implementing the individual treatment plan to the extent appropriate and must review the individual treatment plan every 90 days after intake.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 9. Minnesota Statutes 2021 Supplement, section 245.735, subdivision 3, is amended to read:

Subd. 3. **Certified community behavioral health clinics.** (a) The commissioner shall establish a state certification process for certified community behavioral health clinics (CCBHCs) that satisfy all federal requirements necessary for CCBHCs certified under this section to be eligible for reimbursement under medical assistance, without service area limits based on geographic area or region. The commissioner shall consult with CCBHC stakeholders before establishing and implementing changes in the certification process and requirements. Entities that choose to be CCBHCs must:

- (1) comply with state licensing requirements and other requirements issued by the commissioner;
- (2) employ or contract for clinic staff who have backgrounds in diverse disciplines, including licensed mental health professionals and licensed alcohol and drug counselors, and staff who are culturally and linguistically trained to meet the needs of the population the clinic serves;
- (3) ensure that clinic services are available and accessible to individuals and families of all ages and genders and that crisis management services are available 24 hours per day;
- (4) establish fees for clinic services for individuals who are not enrolled in medical assistance using a sliding fee scale that ensures that services to patients are not denied or limited due to an individual's inability to pay for services;
- (5) comply with quality assurance reporting requirements and other reporting requirements, including any required reporting of encounter data, clinical outcomes data, and quality data;
- (6) provide crisis mental health and substance use services, withdrawal management services, emergency crisis intervention services, and stabilization services through existing mobile crisis services; screening, assessment, and diagnosis services, including risk assessments and level of care determinations; person- and family-centered treatment planning; outpatient mental health and substance use services; targeted case management; psychiatric rehabilitation services; peer support and counselor services and family support services; and intensive community-based mental health services, including mental health services for members of the armed forces and veterans. CCBHCs must directly provide the majority of these services to enrollees, but may coordinate some services with another entity through a collaboration or agreement, pursuant to paragraph (b);
- (7) provide coordination of care across settings and providers to ensure seamless transitions for individuals being served across the full spectrum of health services, including acute, chronic, and behavioral needs. Care coordination may be accomplished through partnerships or formal contracts with:
  - (i) counties, health plans, pharmacists, pharmacies, rural health clinics, federally qualified health centers, inpatient psychiatric facilities, substance use and detoxification facilities, or community-based mental health providers; and
  - (ii) other community services, supports, and providers, including schools, child welfare agencies, juvenile and criminal justice agencies, Indian health services clinics, tribally licensed health care and mental health facilities, urban Indian health clinics, Department of Veterans Affairs medical centers, outpatient clinics, drop-in centers, acute care hospitals, and hospital outpatient clinics;
- (8) be certified as a mental health clinics clinic under section ~~245.69, subdivision 2~~ 245I.20;

(9) comply with standards established by the commissioner relating to CCBHC screenings, assessments, and evaluations;

(10) be licensed to provide substance use disorder treatment under chapter 245G;

(11) be certified to provide children's therapeutic services and supports under section 256B.0943;

(12) be certified to provide adult rehabilitative mental health services under section 256B.0623;

(13) be enrolled to provide mental health crisis response services under ~~sections~~ section 256B.0624 and 256B.0944;

(14) be enrolled to provide mental health targeted case management under section 256B.0625, subdivision 20;

(15) comply with standards relating to mental health case management in Minnesota Rules, parts 9520.0900 to 9520.0926;

(16) provide services that comply with the evidence-based practices described in paragraph (e); and

(17) comply with standards relating to peer services under sections 256B.0615, 256B.0616, and 245G.07, ~~subdivision 1, paragraph (a), clause (5)~~ subdivision 2, clause (8), as applicable when peer services are provided.

(b) If a certified CCBHC is unable to provide one or more of the services listed in paragraph (a), clauses (6) to (17), the CCBHC may contract with another entity that has the required authority to provide that service and that meets the following criteria as a designated collaborating organization:

(1) the entity has a formal agreement with the CCBHC to furnish one or more of the services under paragraph (a), clause (6);

(2) the entity provides assurances that it will provide services according to CCBHC service standards and provider requirements;

(3) the entity agrees that the CCBHC is responsible for coordinating care and has clinical and financial responsibility for the services that the entity provides under the agreement; and

(4) the entity meets any additional requirements issued by the commissioner.

(c) Notwithstanding any other law that requires a county contract or other form of county approval for certain services listed in paragraph (a), clause (6), a clinic that otherwise meets CCBHC requirements may receive the prospective payment under section 256B.0625, subdivision 5m, for those services without a county contract or county approval. As part of the certification process in paragraph (a), the commissioner shall require a letter of support from the CCBHC's host county confirming that the CCBHC and the county or counties it serves have an ongoing relationship to facilitate access and continuity of care, especially for individuals who are uninsured or who may go on and off medical assistance.

(d) When the standards listed in paragraph (a) or other applicable standards conflict or address similar issues in duplicative or incompatible ways, the commissioner may grant variances to state requirements if the variances do not conflict with federal requirements for services reimbursed under medical assistance. If standards overlap, the commissioner may substitute all or a part of a licensure or certification that is substantially the same as another licensure or certification. The commissioner shall consult with stakeholders, as described in subdivision 4, before granting variances under this provision. For the CCBHC that is certified but not approved for prospective payment under section 256B.0625, subdivision 5m, the commissioner may grant a variance under this paragraph if the variance does not increase the state share of costs.

(e) The commissioner shall issue a list of required evidence-based practices to be delivered by CCBHCs, and may also provide a list of recommended evidence-based practices. The commissioner may update the list to reflect advances in outcomes research and medical services for persons living with mental illnesses or substance use disorders. The commissioner shall take into consideration the adequacy of evidence to support the efficacy of the practice, the quality of workforce available, and the current availability of the practice in the state. At least 30 days before issuing the initial list and any revisions, the commissioner shall provide stakeholders with an opportunity to comment.

(f) The commissioner shall recertify CCBHCs at least every three years. The commissioner shall establish a process for decertification and shall require corrective action, medical assistance repayment, or decertification of a CCBHC that no longer meets the requirements in this section or that fails to meet the standards provided by the commissioner in the application and certification process.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2021 Supplement, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family child foster care home or family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

- (1) foster care settings where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care; or

~~(5) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:~~

~~(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and~~

~~(ii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the unlicensed setting as determined by the lead agency; or~~

~~(6)~~ (5) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 and residing in the customized living setting before July 1, 2022, for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2023. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people under the brain injury or community access for disability inclusion waiver plans under section 256B.49 in a single-family home operational on or before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and



(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available reports required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing

settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

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

Sec. 11. Minnesota Statutes 2020, section 245A.11, subdivision 2, is amended to read:

Subd. 2. **Permitted single-family residential use.** (a) Residential programs with a licensed capacity of six or fewer persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations, except that a residential program whose primary purpose is to treat juveniles who have violated criminal statutes relating to sex offenses or have been adjudicated delinquent on the basis of conduct in violation of criminal statutes relating to sex offenses shall not be considered a permitted use. This exception shall not apply to residential programs licensed before July 1, 1995. Programs otherwise allowed under this subdivision shall not be prohibited by operation of restrictive covenants or similar restrictions, regardless of when entered into, which cannot be met because of the nature of the licensed program, including provisions which require the home's occupants be related, and that the home must be occupied by the owner, or similar provisions.

(b) Unless otherwise provided in any town, municipal, or county zoning regulation, licensed residential services provided to more than four persons with developmental disabilities in a supervised living facility, including intermediate care facilities for persons with developmental disabilities, with a licensed capacity of seven to eight persons shall be considered a permitted single-family residential use of property for the purposes of zoning and other land use regulations. A town, municipal, or county zoning authority may require a conditional use or special use permit to assure

proper maintenance and operation of the residential program. Conditions imposed on the residential program must not be more restrictive than those imposed on other conditional uses or special uses of residential property in the same zones, unless the additional conditions are necessary to protect the health and safety of the persons being served by the program. This paragraph expires July 1, 2023.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 12. Minnesota Statutes 2020, section 245A.11, subdivision 2a, is amended to read:

Subd. 2a. **Adult foster care and community residential setting license capacity.** (a) The commissioner shall issue adult foster care and community residential setting 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 (b) to (g).

(b) The 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.

(c) The commissioner may grant variances to paragraph (b) to allow a facility with a licensed capacity of up to 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 facility is located.

(d) The commissioner may grant variances to paragraph (a) to allow the use of an additional bed, up to ~~five~~ six, 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 facility is located.

(e) The commissioner may grant a variance to paragraph (b) to allow for the use of an additional bed, up to ~~five~~ six, for respite services, as defined in section 245A.02, for persons with disabilities, regardless of age, if the variance complies with sections 245A.03, subdivision 7, and 245A.04, subdivision 9, and approval of the variance is recommended by the county in which the licensed facility is located. Respite care may be provided under the following conditions:

(1) staffing ratios cannot be reduced below the approved level for the individuals being served in the home on a permanent basis;

(2) no more than two different individuals can be accepted for respite services in any calendar month and the total respite days may not exceed 120 days per program in any calendar year;

(3) the person receiving respite services must have his or her own bedroom, which could be used for alternative purposes when not used as a respite bedroom, and cannot be the room of another person who lives in the facility; and

(4) individuals living in the facility must be notified when the variance is approved. The provider must give 60 days' notice in writing to the residents and their legal representatives prior to accepting the first respite placement. Notice must be given to residents at least two days prior to service

initiation, or as soon as the license holder is able if they receive notice of the need for respite less than two days prior to initiation, each time a respite client will be served, unless the requirement for this notice is waived by the resident or legal guardian.

(f) The commissioner may issue an adult foster care or community residential setting license with a capacity of five adults if the fifth bed does not increase the overall statewide capacity of licensed adult foster care or community residential setting beds in homes that are not the primary residence of the license holder, 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 remain 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, 2016.

(g) The commissioner shall not issue a new adult foster care license under paragraph (f) after December 31, 2020. The commissioner shall allow a facility with an adult foster care license issued under paragraph (f) before December 31, 2020, to continue with a capacity of five adults if the license holder continues to comply with the requirements in paragraph (f).

(h) Notwithstanding Minnesota Rules, part 9520.0500, adult foster care and community residential setting licenses with a capacity of up to six adults as allowed under this subdivision are not required to be licensed as an adult mental health residential program according to Minnesota Rules, parts 9520.0500 to 9520.0670.

**EFFECTIVE DATE.** This section is effective upon federal approval. The amendments to paragraphs (d) and (e) expire 365 calendar days after federal approval is obtained and the language of Minnesota Statutes 2020, section 245A.11, subdivision 2a, paragraphs (d) and (e), is revived and reenacted as of that date. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 13. Minnesota Statutes 2020, section 245A.11, is amended by adding a subdivision to read:

Subd. 2c. **Residential programs in intermediate care facilities; license capacity.** Notwithstanding subdivision 4 and section 252.28, subdivision 3, for licensed residential services provided to more than four persons with developmental disabilities in a supervised living facility,

including intermediate care facilities for persons with developmental disabilities, located in a single-family home and in a town, municipal, or county zoning authority that will permit a licensed capacity of seven or eight persons in a single-family home, the commissioner may increase the licensed capacity of the program to seven or eight if the seventh or eighth bed does not increase the overall statewide capacity in intermediate care facilities for persons with developmental disabilities. If the licensed capacity of these facilities is increased under this subdivision, the capacity of the license may remain at the increased number of persons. This subdivision expires July 1, 2023.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 14. Minnesota Statutes 2020, section 245D.12, is amended to read:

**245D.12 INTEGRATED COMMUNITY SUPPORTS; SETTING CAPACITY REPORT.**

(a) The license holder providing integrated community support, as defined in section 245D.03, subdivision 1, paragraph (c), clause (8), must submit a setting capacity report to the commissioner to ensure the identified location of service delivery meets the criteria of the home and community-based service requirements as specified in section 256B.492.

(b) The license holder shall provide the setting capacity report on the forms and in the manner prescribed by the commissioner. The report must include:

(1) the address of the multifamily housing building where the license holder delivers integrated community supports and owns, leases, or has a direct or indirect financial relationship with the property owner;

(2) the total number of living units in the multifamily housing building described in clause (1) where integrated community supports are delivered;

(3) the total number of living units in the multifamily housing building described in clause (1), including the living units identified in clause (2); ~~and~~

(4) the total number of people who could reside in the living units in the multifamily housing building described in clause (2) and receive integrated community supports; and

~~(4) (5)~~ the percentage of living units that are controlled by the license holder in the multifamily housing building by dividing clause (2) by clause (3).

(c) Only one license holder may deliver integrated community supports at the address of the multifamily housing building.

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

Sec. 15. Minnesota Statutes 2020, section 245G.01, is amended by adding a subdivision to read:

Subd. 13b. **Guest speaker.** "Guest speaker" means an individual who is not an alcohol and drug counselor qualified according to section 245G.11, subdivision 5; is not qualified according to the commissioner's list of professionals under section 245G.07, subdivision 3; and who works under the direct observation of an alcohol and drug counselor to present to clients on topics in which the guest speaker has expertise and that the license holder has determined to be beneficial to a client's

recovery. Tribally licensed programs have autonomy to identify the qualifications of their guest speakers.

Sec. 16. Minnesota Statutes 2020, section 245G.07, is amended by adding a subdivision to read:

Subd. 3a. **Use of guest speakers.** (a) The license holder may allow a guest speaker to present information to clients as part of a treatment service provided by an alcohol and drug counselor, according to the requirements of this subdivision.

(b) An alcohol and drug counselor must visually observe and listen to the presentation of information by a guest speaker the entire time the guest speaker presents information to the clients. The alcohol and drug counselor is responsible for all information the guest speaker presents to the clients.

(c) The presentation of information by a guest speaker constitutes a direct contact service, as defined in section 245C.02, subdivision 11.

(d) The license holder must provide the guest speaker with all training required for staff members. If the guest speaker provides direct contact services one day a month or less, the license holder must only provide the guest speaker with orientation training on the following subjects before the guest speaker provides direct contact services:

(1) mandatory reporting of maltreatment, as specified in sections 245A.65, 626.557, and 626.5572 and chapter 260E;

(2) applicable client confidentiality rules and regulations;

(3) ethical standards for client interactions; and

(4) emergency procedures.

Sec. 17. Minnesota Statutes 2020, section 245G.12, is amended to read:

#### **245G.12 PROVIDER POLICIES AND PROCEDURES.**

A license holder must develop a written policies and procedures manual, indexed according to section 245A.04, subdivision 14, paragraph (c), that provides staff members immediate access to all policies and procedures and provides a client and other authorized parties access to all policies and procedures. The manual must contain the following materials:

(1) assessment and treatment planning policies, including screening for mental health concerns and treatment objectives related to the client's identified mental health concerns in the client's treatment plan;

(2) policies and procedures regarding HIV according to section 245A.19;

(3) the license holder's methods and resources to provide information on tuberculosis and tuberculosis screening to each client and to report a known tuberculosis infection according to section 144.4804;

- (4) personnel policies according to section 245G.13;
- (5) policies and procedures that protect a client's rights according to section 245G.15;
- (6) a medical services plan according to section 245G.08;
- (7) emergency procedures according to section 245G.16;
- (8) policies and procedures for maintaining client records according to section 245G.09;
- (9) procedures for reporting the maltreatment of minors according to chapter 260E, and vulnerable adults according to sections 245A.65, 626.557, and 626.5572;
- (10) a description of treatment services that: (i) includes the amount and type of services provided; (ii) identifies which services meet the definition of group counseling under section 245G.01, subdivision 13a; ~~and~~ (iii) identifies which groups and topics on which a guest speaker could provide services under the direct observation of an alcohol and drug counselor; and (iv) defines the program's treatment week;
- (11) the methods used to achieve desired client outcomes;
- (12) the hours of operation; and
- (13) the target population served.

Sec. 18. Minnesota Statutes 2021 Supplement, section 245I.02, subdivision 19, is amended to read:

Subd. 19. **Level of care assessment.** "Level of care assessment" means the level of care decision support tool appropriate to the client's age. For a client five years of age or younger, a level of care assessment is the Early Childhood Service Intensity Instrument (ESCII). For a client six to 17 years of age, a level of care assessment is the Child and Adolescent Service Intensity Instrument (CASII). For a client 18 years of age or older, a level of care assessment is the Level of Care Utilization System for Psychiatric and Addiction Services (LOCUS) or another tool authorized by the commissioner.

Sec. 19. Minnesota Statutes 2021 Supplement, section 245I.02, subdivision 36, is amended to read:

Subd. 36. **Staff person.** "Staff person" means an individual who works under a license holder's direction or under a contract with a license holder. Staff person includes an intern, consultant, contractor, individual who works part-time, and an individual who does not provide direct contact services to clients but does have physical access to clients. Staff person includes a volunteer who provides treatment services to a client or a volunteer whom the license holder regards as a staff person for the purpose of meeting staffing or service delivery requirements. A staff person must be 18 years of age or older.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 20. Minnesota Statutes 2021 Supplement, section 245I.03, subdivision 5, is amended to read:

Subd. 5. **Health services and medications.** If a license holder is licensed as a residential program, stores or administers client medications, or observes clients self-administer medications, the license holder must ensure that a staff person who is a registered nurse or licensed prescriber reviews and approves of the license holder's policies and procedures to comply with the health services and medications requirements in section 245I.11, the training requirements in section 245I.05, subdivision ~~6~~ 5, and the documentation requirements in section 245I.08, subdivision 5.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 21. Minnesota Statutes 2021 Supplement, section 245I.03, subdivision 9, is amended to read:

Subd. 9. **Volunteers.** ~~A~~ If a license holder uses volunteers, the license holder must have policies and procedures for using volunteers, including when a the license holder must submit a background study for a volunteer, and the specific tasks that a volunteer may perform.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 22. Minnesota Statutes 2021 Supplement, section 245I.04, subdivision 4, is amended to read:

Subd. 4. **Mental health practitioner qualifications.** (a) An individual who is qualified in at least one of the ways described in paragraph (b) to (d) may serve as a mental health practitioner.

(b) An individual is qualified as a mental health practitioner through relevant coursework if the individual completes at least 30 semester hours or 45 quarter hours in behavioral sciences or related fields and:

(1) has at least 2,000 hours of experience providing services to individuals with:

(i) a mental illness or a substance use disorder; or

(ii) a traumatic brain injury or a developmental disability, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to a client;

(2) is fluent in the non-English language of the ethnic group to which at least 50 percent of the individual's clients belong, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to a client;

(3) is working in a day treatment program under section 256B.0671, subdivision 3, or 256B.0943;



(4) has completed a practicum or internship that (i) required direct interaction with adult clients or child clients, and (ii) was focused on behavioral sciences or related fields; or

(5) is in the process of completing a practicum or internship as part of a formal undergraduate or graduate training program in social work, psychology, or counseling.

(c) An individual is qualified as a mental health practitioner through work experience if the individual:

(1) has at least 4,000 hours of experience in the delivery of services to individuals with:

(i) a mental illness or a substance use disorder; or

(ii) a traumatic brain injury or a developmental disability, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to clients; or

(2) receives treatment supervision at least once per week until meeting the requirement in clause (1) of 4,000 hours of experience and has at least 2,000 hours of experience providing services to individuals with:

(i) a mental illness or a substance use disorder; or

(ii) a traumatic brain injury or a developmental disability, and completes the additional training described in section 245I.05, subdivision 3, paragraph (c), before providing direct contact services to clients.

(d) An individual is qualified as a mental health practitioner if the individual has a master's or other graduate degree in behavioral sciences or related fields.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 23. Minnesota Statutes 2021 Supplement, section 245I.05, subdivision 3, is amended to read:

Subd. 3. **Initial training.** (a) A staff person must receive training about:

(1) vulnerable adult maltreatment under section 245A.65, subdivision 3; and

(2) the maltreatment of minor reporting requirements and definitions in chapter 260E within 72 hours of first providing direct contact services to a client.

(b) Before providing direct contact services to a client, a staff person must receive training about:

(1) client rights and protections under section 245I.12;

(2) the Minnesota Health Records Act, including client confidentiality, family engagement under section 144.294, and client privacy;

(3) emergency procedures that the staff person must follow when responding to a fire, inclement weather, a report of a missing person, and a behavioral or medical emergency;

(4) specific activities and job functions for which the staff person is responsible, including the license holder's program policies and procedures applicable to the staff person's position;

(5) professional boundaries that the staff person must maintain; and

(6) specific needs of each client to whom the staff person will be providing direct contact services, including each client's developmental status, cognitive functioning, and physical and mental abilities.

(c) Before providing direct contact services to a client, a mental health rehabilitation worker, mental health behavioral aide, or mental health practitioner ~~qualified under~~ required to receive the training according to section 245I.04, subdivision 4, must receive 30 hours of training about:

(1) mental illnesses;

(2) client recovery and resiliency;

(3) mental health de-escalation techniques;

(4) co-occurring mental illness and substance use disorders; and

(5) psychotropic medications and medication side effects.

(d) Within 90 days of first providing direct contact services to an adult client, a clinical trainee, mental health practitioner, mental health certified peer specialist, or mental health rehabilitation worker must receive training about:

(1) trauma-informed care and secondary trauma;

(2) person-centered individual treatment plans, including seeking partnerships with family and other natural supports;

(3) co-occurring substance use disorders; and

(4) culturally responsive treatment practices.

(e) Within 90 days of first providing direct contact services to a child client, a clinical trainee, mental health practitioner, mental health certified family peer specialist, mental health certified peer specialist, or mental health behavioral aide must receive training about the topics in clauses (1) to (5). This training must address the developmental characteristics of each child served by the license holder and address the needs of each child in the context of the child's family, support system, and culture. Training topics must include:

(1) trauma-informed care and secondary trauma, including adverse childhood experiences (ACEs);

(2) family-centered treatment plan development, including seeking partnership with a child client's family and other natural supports;

(3) mental illness and co-occurring substance use disorders in family systems;

(4) culturally responsive treatment practices; and

(5) child development, including cognitive functioning, and physical and mental abilities.

(f) For a mental health behavioral aide, the training under paragraph (e) must include parent team training using a curriculum approved by the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 24. Minnesota Statutes 2021 Supplement, section 245I.08, subdivision 4, is amended to read:

Subd. 4. **Progress notes.** A license holder must use a progress note to document each occurrence of a mental health service that a staff person provides to a client. A progress note must include the following:

(1) the type of service;

(2) the date of service;

(3) the start and stop time of the service unless the license holder is licensed as a residential program;

(4) the location of the service;

(5) the scope of the service, including: (i) the targeted goal and objective; (ii) the intervention that the staff person provided to the client and the methods that the staff person used; (iii) the client's response to the intervention; (iv) the staff person's plan to take future actions, including changes in treatment that the staff person will implement if the intervention was ineffective; and (v) the service modality;

(6) the signature, ~~printed name~~, and credentials of the staff person who provided the service to the client;

(7) the mental health provider travel documentation required by section 256B.0625, if applicable; and

(8) significant observations by the staff person, if applicable, including: (i) the client's current risk factors; (ii) emergency interventions by staff persons; (iii) consultations with or referrals to other professionals, family, or significant others; and (iv) changes in the client's mental or physical symptoms.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 25. Minnesota Statutes 2021 Supplement, section 245I.09, subdivision 2, is amended to read:

Subd. 2. **Record retention.** A license holder must retain client records of a discharged client for a minimum of five years from the date of the client's discharge. A license holder who ~~ceases to provide treatment services to a client~~ closes a program must retain the a client's records for a minimum of five years from the date that the license holder stopped providing services to the client and must notify the commissioner of the location of the client records and the name of the individual responsible for storing and maintaining the client records.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 26. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 2, is amended to read:

Subd. 2. **Generally.** (a) A license holder must use a client's diagnostic assessment or crisis assessment to determine a client's eligibility for mental health services, except as provided in this section.

(b) Prior to completing a client's initial diagnostic assessment, a license holder may provide a client with the following services:

- (1) an explanation of findings;
- (2) neuropsychological testing, neuropsychological assessment, and psychological testing;
- (3) any combination of psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed three sessions;
- (4) crisis assessment services according to section 256B.0624; and
- (5) ten days of intensive residential treatment services according to the assessment and treatment planning standards in section ~~245.23~~ 245I.23, subdivision 7.

(c) Based on the client's needs that a crisis assessment identifies under section 256B.0624, a license holder may provide a client with the following services:

- (1) crisis intervention and stabilization services under section 245I.23 or 256B.0624; and
- (2) any combination of psychotherapy sessions, group psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions within a 12-month period without prior authorization.

(d) Based on the client's needs in the client's brief diagnostic assessment, a license holder may provide a client with any combination of psychotherapy sessions, group psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions within a 12-month period without prior authorization for any new client or for an existing client who the license holder projects will need fewer than ten sessions during the next 12 months.

(e) Based on the client's needs that a hospital's medical history and presentation examination identifies, a license holder may provide a client with:

(1) any combination of psychotherapy sessions, group psychotherapy sessions, family psychotherapy sessions, and family psychoeducation sessions not to exceed ten sessions within a 12-month period without prior authorization for any new client or for an existing client who the license holder projects will need fewer than ten sessions during the next 12 months; and

(2) up to five days of day treatment services or partial hospitalization.

(f) A license holder must complete a new standard diagnostic assessment of a client:

(1) when the client requires services of a greater number or intensity than the services that paragraphs (b) to (e) describe;

(2) at least annually following the client's initial diagnostic assessment if the client needs additional mental health services and the client does not meet the criteria for a brief assessment;

(3) when the client's mental health condition has changed markedly since the client's most recent diagnostic assessment; or

(4) when the client's current mental health condition does not meet the criteria of the client's current diagnosis.

(g) For an existing client, the license holder must ensure that a new standard diagnostic assessment includes a written update containing all significant new or changed information about the client, and an update regarding what information has not significantly changed, including a discussion with the client about changes in the client's life situation, functioning, presenting problems, and progress with achieving treatment goals since the client's last diagnostic assessment was completed.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 27. Minnesota Statutes 2021 Supplement, section 245I.10, subdivision 6, is amended to read:

Subd. 6. **Standard diagnostic assessment; required elements.** (a) Only a mental health professional or a clinical trainee may complete a standard diagnostic assessment of a client. A standard diagnostic assessment of a client must include a face-to-face interview with a client and a written evaluation of the client. The assessor must complete a client's standard diagnostic assessment within the client's cultural context.

(b) When completing a standard diagnostic assessment of a client, the assessor must gather and document information about the client's current life situation, including the following information:

- (1) the client's age;
- (2) the client's current living situation, including the client's housing status and household members;
- (3) the status of the client's basic needs;
- (4) the client's education level and employment status;
- (5) the client's current medications;
- (6) any immediate risks to the client's health and safety;
- (7) the client's perceptions of the client's condition;
- (8) the client's description of the client's symptoms, including the reason for the client's referral;
- (9) the client's history of mental health treatment; and
- (10) cultural influences on the client.

(c) If the assessor cannot obtain the information that this ~~subdivision~~ paragraph requires without retraumatizing the client or harming the client's willingness to engage in treatment, the assessor must identify which topics will require further assessment during the course of the client's treatment. The assessor must gather and document information related to the following topics:

- (1) the client's relationship with the client's family and other significant personal relationships, including the client's evaluation of the quality of each relationship;
- (2) the client's strengths and resources, including the extent and quality of the client's social networks;
- (3) important developmental incidents in the client's life;
- (4) maltreatment, trauma, potential brain injuries, and abuse that the client has suffered;
- (5) the client's history of or exposure to alcohol and drug usage and treatment; and
- (6) the client's health history and the client's family health history, including the client's physical, chemical, and mental health history.

(d) When completing a standard diagnostic assessment of a client, an assessor must use a recognized diagnostic framework.

(1) When completing a standard diagnostic assessment of a client who is five years of age or younger, the assessor must use the current edition of the DC: 0-5 Diagnostic Classification of Mental Health and Development Disorders of Infancy and Early Childhood published by Zero to Three.

(2) When completing a standard diagnostic assessment of a client who is six years of age or older, the assessor must use the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

(3) When completing a standard diagnostic assessment of a client who is five years of age or younger, an assessor must administer the Early Childhood Service Intensity Instrument (ECSII) to the client and include the results in the client's assessment.

(4) When completing a standard diagnostic assessment of a client who is six to 17 years of age, an assessor must administer the Child and Adolescent Service Intensity Instrument (CASII) to the client and include the results in the client's assessment.

(5) When completing a standard diagnostic assessment of a client who is 18 years of age or older, an assessor must use either (i) the CAGE-AID Questionnaire or (ii) the criteria in the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association to screen and assess the client for a substance use disorder.

(e) When completing a standard diagnostic assessment of a client, the assessor must include and document the following components of the assessment:

(1) the client's mental status examination;

(2) the client's baseline measurements; symptoms; behavior; skills; abilities; resources; vulnerabilities; safety needs, including client information that supports the assessor's findings after applying a recognized diagnostic framework from paragraph (d); and any differential diagnosis of the client;

(3) an explanation of: (i) how the assessor diagnosed the client using the information from the client's interview, assessment, psychological testing, and collateral information about the client; (ii) the client's needs; (iii) the client's risk factors; (iv) the client's strengths; and (v) the client's responsivity factors.

(f) When completing a standard diagnostic assessment of a client, the assessor must consult the client and the client's family about which services that the client and the family prefer to treat the client. The assessor must make referrals for the client as to services required by law.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 28. Minnesota Statutes 2021 Supplement, section 245I.20, subdivision 5, is amended to read:

Subd. 5. **Treatment supervision specified.** (a) A mental health professional must remain responsible for each client's case. The certification holder must document the name of the mental health professional responsible for each case and the dates that the mental health professional is responsible for the client's case from beginning date to end date. The certification holder must assign each client's case for assessment, diagnosis, and treatment services to a treatment team member who

is competent in the assigned clinical service, the recommended treatment strategy, and in treating the client's characteristics.

(b) Treatment supervision of mental health practitioners and clinical trainees required by section 245I.06 must include case reviews as described in this paragraph. Every two months, a mental health professional must complete and document a case review of each client assigned to the mental health professional when the client is receiving clinical services from a mental health practitioner or clinical trainee. The case review must include a consultation process that thoroughly examines the client's condition and treatment, including: (1) a review of the client's reason for seeking treatment, diagnoses and assessments, and the individual treatment plan; (2) a review of the appropriateness, duration, and outcome of treatment provided to the client; and (3) treatment recommendations.

Sec. 29. Minnesota Statutes 2021 Supplement, section 245I.23, subdivision 22, is amended to read:

Subd. 22. **Additional policy and procedure requirements.** (a) In addition to the policies and procedures in section 245I.03, the license holder must establish, enforce, and maintain the policies and procedures in this subdivision.

(b) The license holder must have policies and procedures for receiving referrals and making admissions determinations about referred persons under subdivisions ~~14 to 16~~ 15 to 17.

(c) The license holder must have policies and procedures for discharging clients under subdivision ~~17~~ 18. In the policies and procedures, the license holder must identify the staff persons who are authorized to discharge clients from the program.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 30. Minnesota Statutes 2021 Supplement, section 254B.05, subdivision 5, is amended to read:

Subd. 5. **Rate requirements.** (a) The commissioner shall establish rates for substance use disorder services and service enhancements funded under this chapter.

(b) Eligible substance use disorder treatment services include:

(1) outpatient treatment services that are licensed according to sections 245G.01 to 245G.17, or applicable tribal license;

(2) comprehensive assessments provided according to sections 245.4863, paragraph (a), and 245G.05;

(3) care coordination services provided according to section 245G.07, subdivision 1, paragraph (a), clause (5);

(4) peer recovery support services provided according to section 245G.07, subdivision 2, clause (8);



(5) on July 1, 2019, or upon federal approval, whichever is later, withdrawal management services provided according to chapter 245F;

(6) medication-assisted therapy services that are licensed according to sections 245G.01 to 245G.17 and 245G.22, or applicable tribal license;

(7) medication-assisted therapy plus enhanced treatment services that meet the requirements of clause (6) and provide nine hours of clinical services each week;

(8) high, medium, and low intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license which provide, respectively, 30, 15, and five hours of clinical services each week;

(9) hospital-based treatment services that are licensed according to sections 245G.01 to 245G.17 or applicable tribal license and licensed as a hospital under sections 144.50 to 144.56;

(10) adolescent treatment programs that are licensed as outpatient treatment programs according to sections 245G.01 to 245G.18 or as residential treatment programs according to Minnesota Rules, parts 2960.0010 to 2960.0220, and 2960.0430 to 2960.0490, or applicable tribal license;

(11) high-intensity residential treatment services that are licensed according to sections 245G.01 to 245G.17 and 245G.21 or applicable tribal license, which provide 30 hours of clinical services each week provided by a state-operated vendor or to clients who have been civilly committed to the commissioner, present the most complex and difficult care needs, and are a potential threat to the community; and

(12) room and board facilities that meet the requirements of subdivision 1a.

(c) The commissioner shall establish higher rates for programs that meet the requirements of paragraph (b) and one of the following additional requirements:

(1) programs that serve parents with their children if the program:

(i) provides on-site child care during the hours of treatment activity that:

(A) is licensed under chapter 245A as a child care center under Minnesota Rules, chapter 9503;  
or

(B) meets the licensure exclusion criteria of section 245A.03, subdivision 2, paragraph (a), clause (6), and meets the requirements under section 245G.19, subdivision 4; or

(ii) arranges for off-site child care during hours of treatment activity at a facility that is licensed under chapter 245A as:

(A) a child care center under Minnesota Rules, chapter 9503; or

(B) a family child care home under Minnesota Rules, chapter 9502;

(2) culturally specific or culturally responsive programs as defined in section 254B.01, subdivision 4a;

(3) disability responsive programs as defined in section 254B.01, subdivision 4b;

(4) programs that offer medical services delivered by appropriately credentialed health care staff in an amount equal to two hours per client per week if the medical needs of the client and the nature and provision of any medical services provided are documented in the client file; or

(5) programs that offer services to individuals with co-occurring mental health and chemical dependency problems if:

(i) the program meets the co-occurring requirements in section 245G.20;

(ii) 25 percent of the counseling staff are licensed mental health professionals, ~~as defined in section 245.462, subdivision 18, clauses (1) to (6) under section 245I.04, subdivision 2,~~ or are students or licensing candidates under the supervision of a licensed alcohol and drug counselor supervisor and ~~licensed mental health professional under section 245I.04, subdivision 2,~~ except that no more than 50 percent of the mental health staff may be students or licensing candidates with time documented to be directly related to provisions of co-occurring services;

(iii) clients scoring positive on a standardized mental health screen receive a mental health diagnostic assessment within ten days of admission;

(iv) the program has standards for multidisciplinary case review that include a monthly review for each client that, at a minimum, includes a licensed mental health professional and licensed alcohol and drug counselor, and their involvement in the review is documented;

(v) family education is offered that addresses mental health and substance abuse disorders and the interaction between the two; and

(vi) co-occurring counseling staff shall receive eight hours of co-occurring disorder training annually.

(d) In order to be eligible for a higher rate under paragraph (c), clause (1), a program that provides arrangements for off-site child care must maintain current documentation at the chemical dependency facility of the child care provider's current licensure to provide child care services. Programs that provide child care according to paragraph (c), clause (1), must be deemed in compliance with the licensing requirements in section 245G.19.

(e) Adolescent residential programs that meet the requirements of Minnesota Rules, parts 2960.0430 to 2960.0490 and 2960.0580 to 2960.0690, are exempt from the requirements in paragraph (c), clause (4), items (i) to (iv).

(f) Subject to federal approval, substance use disorder services that are otherwise covered as direct face-to-face services may be provided via telehealth as defined in section 256B.0625, subdivision 3b. The use of telehealth to deliver services must be medically appropriate to the condition and needs of the person being served. Reimbursement shall be at the same rates and under the same conditions that would otherwise apply to direct face-to-face services.

(g) For the purpose of reimbursement under this section, substance use disorder treatment services provided in a group setting without a group participant maximum or maximum client to

staff ratio under chapter 245G shall not exceed a client to staff ratio of 48 to one. At least one of the attending staff must meet the qualifications as established under this chapter for the type of treatment service provided. A recovery peer may not be included as part of the staff ratio.

(h) Payment for outpatient substance use disorder services that are licensed according to sections 245G.01 to 245G.17 is limited to six hours per day or 30 hours per week unless prior authorization of a greater number of hours is obtained from the commissioner.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 31. Minnesota Statutes 2021 Supplement, section 256B.0622, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For purposes of this section, the following terms have the meanings given them.

(b) "ACT team" means the group of interdisciplinary mental health staff who work as a team to provide assertive community treatment.

(c) "Assertive community treatment" means intensive nonresidential treatment and rehabilitative mental health services provided according to the assertive community treatment model. Assertive community treatment provides a single, fixed point of responsibility for treatment, rehabilitation, and support needs for clients. Services are offered 24 hours per day, seven days per week, in a community-based setting.

(d) "Individual treatment plan" means a plan described by section 245I.10, subdivisions 7 and 8.

(e) "Crisis assessment and intervention" means ~~mental health~~ mobile crisis response services ~~as defined in~~ under section 256B.0624, ~~subdivision 2.~~

(f) "Individual treatment team" means a minimum of three members of the ACT team who are responsible for consistently carrying out most of a client's assertive community treatment services.

(g) "Primary team member" means the person who leads and coordinates the activities of the individual treatment team and is the individual treatment team member who has primary responsibility for establishing and maintaining a therapeutic relationship with the client on a continuing basis.

(h) "Certified rehabilitation specialist" means a staff person who is qualified according to section 245I.04, subdivision 8.

(i) "Clinical trainee" means a staff person who is qualified according to section 245I.04, subdivision 6.

(j) "Mental health certified peer specialist" means a staff person who is qualified according to section 245I.04, subdivision 10.

(k) "Mental health practitioner" means a staff person who is qualified according to section 245I.04, subdivision 4.

(l) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(m) "Mental health rehabilitation worker" means a staff person who is qualified according to section 245I.04, subdivision 14.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 32. Minnesota Statutes 2021 Supplement, section 256B.0625, subdivision 3b, is amended to read:

Subd. 3b. **Telehealth services.** (a) Medical assistance covers medically necessary services and consultations delivered by a health care provider through telehealth in the same manner as if the service or consultation was delivered through in-person contact. Services or consultations delivered through telehealth shall be paid at the full allowable rate.

(b) The commissioner may establish criteria that a health care provider must attest to in order to demonstrate the safety or efficacy of delivering a particular service through telehealth. The attestation may include that the health care provider:

(1) has identified the categories or types of services the health care provider will provide through telehealth;

(2) has written policies and procedures specific to services delivered through telehealth that are regularly reviewed and updated;

(3) has policies and procedures that adequately address patient safety before, during, and after the service is delivered through telehealth;

(4) has established protocols addressing how and when to discontinue telehealth services; and

(5) has an established quality assurance process related to delivering services through telehealth.

(c) As a condition of payment, a licensed health care provider must document each occurrence of a health service delivered through telehealth to a medical assistance enrollee. Health care service records for services delivered through telehealth must meet the requirements set forth in Minnesota Rules, part 9505.2175, subparts 1 and 2, and must document:

(1) the type of service delivered through telehealth;

(2) the time the service began and the time the service ended, including an a.m. and p.m. designation;

(3) the health care provider's basis for determining that telehealth is an appropriate and effective means for delivering the service to the enrollee;

(4) the mode of transmission used to deliver the service through telehealth and records evidencing that a particular mode of transmission was utilized;

(5) the location of the originating site and the distant site;

(6) if the claim for payment is based on a physician's consultation with another physician through telehealth, the written opinion from the consulting physician providing the telehealth consultation; and

(7) compliance with the criteria attested to by the health care provider in accordance with paragraph (b).

(d) Telehealth visits, ~~as described in this subdivision~~ provided through audio and visual communication, or accessible video-based platforms may be used to satisfy the face-to-face requirement for reimbursement under the payment methods that apply to a federally qualified health center, rural health clinic, Indian health service, 638 tribal clinic, and certified community behavioral health clinic, if the service would have otherwise qualified for payment if performed in person.

~~(e) For mental health services or assessments delivered through telehealth that are based on an individual treatment plan, the provider may document the client's verbal approval or electronic written approval of the treatment plan or change in the treatment plan in lieu of the client's signature in accordance with Minnesota Rules, part 9505.0371.~~

~~(f)~~ (e) For purposes of this subdivision, unless otherwise covered under this chapter:

(1) "telehealth" means the delivery of health care services or consultations ~~through the use of~~ using real-time two-way interactive audio and visual communication or accessible telehealth video-based platforms to provide or support health care delivery and facilitate the assessment, diagnosis, consultation, treatment, education, and care management of a patient's health care. Telehealth includes: the application of secure video conferencing, consisting of a real-time, full-motion synchronized video; store-and-forward technology; and synchronous interactions, between a patient located at an originating site and a health care provider located at a distant site. Telehealth does not include communication between health care providers, or between a health care provider and a patient that consists solely of an audio-only communication, e-mail, or facsimile transmission or as specified by law;

(2) "health care provider" means a health care provider as defined under section 62A.673, a community paramedic as defined under section 144E.001, subdivision 5f, a community health worker who meets the criteria under subdivision 49, paragraph (a), a mental health certified peer specialist under section ~~256B.0615, subdivision 5~~ 245I.04, subdivision 10, a mental health certified family peer specialist under section ~~256B.0616, subdivision 5~~ 245I.04, subdivision 12, a mental health rehabilitation worker under section ~~256B.0623, subdivision 5, paragraph (a), clause (4), and paragraph (b)~~ 245I.04, subdivision 14, a mental health behavioral aide under section ~~256B.0943, subdivision 7, paragraph (b), clause (3)~~ 245I.04, subdivision 16, a treatment coordinator under section 245G.11, subdivision 7, an alcohol and drug counselor under section 245G.11, subdivision 5, or a recovery peer under section 245G.11, subdivision 8; and

(3) "originating site," "distant site," and "store-and-forward technology" have the meanings given in section 62A.673, subdivision 2.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 33. Minnesota Statutes 2020, section 256B.0659, subdivision 19, is amended to read:

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 according to the terms of the written agreement required under subdivision 20, paragraph (a);

(2) develop a personal care assistance care plan based on the assessed needs and addressing the health and safety of the recipient with the assistance of a qualified professional as needed;

(3) orient and train the personal care assistant with assistance as needed from the qualified professional;

(4) ~~effective January 1, 2010,~~ supervise and evaluate the personal care assistant with the qualified professional, who is required to visit the recipient at least every 180 days;

(5) monitor and verify in writing and report to the personal care assistance choice agency the number of hours worked by the personal care assistant and the qualified professional;

(6) engage in an annual ~~face-to-face~~ reassessment as required in subdivision 3a 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 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, unemployment insurance, and labor market data required under section 256B.4912, subdivision 1a;

(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.

Sec. 34. Minnesota Statutes 2021 Supplement, section 256B.0671, subdivision 6, is amended to read:

Subd. 6. **Dialectical behavior therapy.** (a) Subject to federal approval, medical assistance covers intensive mental health outpatient treatment for dialectical behavior therapy ~~for adults~~. A dialectical behavior therapy provider must make reasonable and good faith efforts to report individual client outcomes to the commissioner using instruments and protocols that are approved by the commissioner.

(b) "Dialectical behavior therapy" means an evidence-based treatment approach that a mental health professional or clinical trainee provides to a client or a group of clients in an intensive outpatient treatment program using a combination of individualized rehabilitative and psychotherapeutic interventions. A dialectical behavior therapy program involves: individual dialectical behavior therapy, group skills training, telephone coaching, and team consultation meetings.

(c) To be eligible for dialectical behavior therapy, a client must:

~~(1) be 18 years of age or older;~~

~~(2)~~ (1) have mental health needs that available community-based services cannot meet or that the client must receive concurrently with other community-based services;

~~(3)~~ (2) have either:

(i) a diagnosis of borderline personality disorder; or

(ii) multiple mental health diagnoses, exhibit behaviors characterized by impulsivity or intentional self-harm, and be at significant risk of death, morbidity, disability, or severe dysfunction in multiple areas of the client's life;

~~(4)~~ (3) be cognitively capable of participating in dialectical behavior therapy as an intensive therapy program and be able and willing to follow program policies and rules to ensure the safety of the client and others; and

~~(5)~~ (4) be at significant risk of one or more of the following if the client does not receive dialectical behavior therapy:

- (i) having a mental health crisis;
- (ii) requiring a more restrictive setting such as hospitalization;
- (iii) decompensating; or
- (iv) engaging in intentional self-harm behavior.

(d) Individual dialectical behavior therapy combines individualized rehabilitative and psychotherapeutic interventions to treat a client's suicidal and other dysfunctional behaviors and to reinforce a client's use of adaptive skillful behaviors. A mental health professional or clinical trainee must provide individual dialectical behavior therapy to a client. A mental health professional or clinical trainee providing dialectical behavior therapy to a client must:

- (1) identify, prioritize, and sequence the client's behavioral targets;
- (2) treat the client's behavioral targets;
- (3) assist the client in applying dialectical behavior therapy skills to the client's natural environment through telephone coaching outside of treatment sessions;
- (4) measure the client's progress toward dialectical behavior therapy targets;
- (5) help the client manage mental health crises and life-threatening behaviors; and
- (6) help the client learn and apply effective behaviors when working with other treatment providers.

(e) Group skills training combines individualized psychotherapeutic and psychiatric rehabilitative interventions conducted in a group setting to reduce the client's suicidal and other dysfunctional coping behaviors and restore function. Group skills training must teach the client adaptive skills in the following areas: (1) mindfulness; (2) interpersonal effectiveness; (3) emotional regulation; and (4) distress tolerance.

(f) Group skills training must be provided by two mental health professionals or by a mental health professional co-facilitating with a clinical trainee or a mental health practitioner. Individual skills training must be provided by a mental health professional, a clinical trainee, or a mental health practitioner.



(g) Before a program provides dialectical behavior therapy to a client, the commissioner must certify the program as a dialectical behavior therapy provider. To qualify for certification as a dialectical behavior therapy provider, a provider must:

- (1) allow the commissioner to inspect the provider's program;
- (2) provide evidence to the commissioner that the program's policies, procedures, and practices meet the requirements of this subdivision and chapter 245I;
- (3) be enrolled as a MHCP provider; and
- (4) have a manual that outlines the program's policies, procedures, and practices that meet the requirements of this subdivision.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 35. Minnesota Statutes 2021 Supplement, section 256B.0911, subdivision 3a, is amended to read:

Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services planning, or other assistance intended to support community-based living, including persons who need assessment ~~in order~~ to determine waiver or alternative care program eligibility, must be visited by a long-term care consultation team within 20 calendar days after the date on which an assessment was requested or recommended. Upon statewide implementation of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person requesting personal care assistance services. The commissioner shall provide at least a 90-day notice to lead agencies prior to the effective date of this requirement. Assessments must be conducted according to paragraphs (b) to (r).

(b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified assessors to conduct the assessment. For a person with complex health care needs, a public health or registered nurse from the team must be consulted.

(c) The MnCHOICES assessment provided by the commissioner to lead agencies must be used to complete a comprehensive, conversation-based, person-centered assessment. The assessment must include the health, psychological, functional, environmental, and social needs of the individual necessary to develop a person-centered community support plan that meets the individual's needs and preferences.

(d) Except as provided in paragraph (r), the assessment must be conducted by a certified assessor in a face-to-face conversational interview with the person being assessed. The person's legal representative must provide input during the assessment process and may do so remotely if requested. At the request of the person, other individuals may participate in the assessment to provide information on the needs, strengths, and preferences of the person necessary to develop a community support plan that ensures the person's health and safety. Except for legal representatives or family members invited by the person, persons participating in the assessment may not be a provider of service or have any financial interest in the provision of services. For persons who are to be assessed for elderly waiver customized living or adult day services under chapter 256S, with the permission of the person

being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment must notify the provider of the date by which this information is to be submitted. This information shall be provided to the person conducting the assessment prior to the assessment. For a person who is to be assessed for waiver services under section 256B.092 or 256B.49, with the permission of the person being assessed or the person's designated legal representative, the person's current provider of services may submit a written report outlining recommendations regarding the person's care needs the person completed in consultation with someone who is known to the person and has interaction with the person on a regular basis. The provider must submit the report at least 60 days before the end of the person's current service agreement. The certified assessor must consider the content of the submitted report prior to finalizing the person's assessment or reassessment.

(e) The certified assessor and the individual responsible for developing the coordinated service and support plan must complete the community support plan and the coordinated service and support plan no more than 60 calendar days from the assessment visit. The person or the person's legal representative must be provided with a written community support plan within the timelines established by the commissioner, regardless of whether the person is eligible for Minnesota health care programs.

(f) For a person being assessed for elderly waiver services under chapter 256S, a provider who submitted information under paragraph (d) shall receive the final written community support plan when available and the Residential Services Workbook.

(g) The written community support plan must include:

(1) a summary of assessed needs as defined in paragraphs (c) and (d);

(2) the individual's options and choices to meet identified needs, including:

(i) all available options for case management services and providers;

(ii) all available options for employment services, settings, and providers;

(iii) all available options for living arrangements;

(iv) all available options for self-directed services and supports, including self-directed budget options; and

(v) service provided in a non-disability-specific setting;

(3) identification of health and safety risks and how those risks will be addressed, including personal risk management strategies;

(4) referral information; and

(5) informal caregiver supports, if applicable.

For a person determined eligible for state plan home care under subdivision 1a, paragraph (b), clause (1), the person or person's representative must also receive a copy of the home care service plan developed by the certified assessor.

(h) A person may request assistance in identifying community supports without participating in a complete assessment. Upon a request for assistance identifying community support, the person must be transferred or referred to long-term care options counseling services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for telephone assistance and follow up.

(i) The person has the right to make the final decision:

(1) between institutional placement and community placement after the recommendations have been provided, except as provided in section 256.975, subdivision 7a, paragraph (d);

(2) between community placement in a setting controlled by a provider and living independently in a setting not controlled by a provider;

(3) between day services and employment services; and

(4) regarding available options for self-directed services and supports, including self-directed funding options.

(j) The lead agency must give the person receiving long-term care consultation services or the person's legal representative, materials, and forms supplied by the commissioner containing the following information:

(1) written recommendations for community-based services and consumer-directed options;

(2) documentation that the most cost-effective alternatives available were offered to the individual. For purposes of this clause, "cost-effective" means community services and living arrangements that cost the same as or less than institutional care. For an individual found to meet eligibility criteria for home and community-based service programs under chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally approved waiver plan for each program;

(3) the need for and purpose of preadmission screening conducted by long-term care options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects nursing facility placement. If the individual selects nursing facility placement, the lead agency shall forward information needed to complete the level of care determinations and screening for developmental disability and mental illness collected during the assessment to the long-term care options counselor using forms provided by the commissioner;

(4) the role of long-term care consultation assessment and support planning in eligibility determination for waiver and alternative care programs, and state plan home care, case management, and other services as defined in subdivision 1a, paragraphs (a), clause (6), and (b);

(5) information about Minnesota health care programs;

(6) the person's freedom to accept or reject the recommendations of the team;

(7) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;

(8) the certified assessor's decision regarding the person's need for institutional level of care as determined under criteria established in subdivision 4e and the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clause (6), and (b);

(9) the person's right to appeal the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and (8), and (b), and incorporating the decision regarding the need for institutional level of care or the lead agency's final decisions regarding public programs eligibility according to section 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right to the person and must visually point out where in the document the right to appeal is stated; and

(10) documentation that available options for employment services, independent living, and self-directed services and supports were described to the individual.

(k) An assessment that is completed as part of an eligibility determination for multiple programs for the alternative care, elderly waiver, developmental disabilities, community access for disability inclusion, community alternative care, and brain injury waiver programs under chapter 256S and sections 256B.0913, 256B.092, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of the assessment.

(l) The effective eligibility start date for programs in paragraph (k) can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated and documented in the department's Medicaid Management Information System (MMIS). Notwithstanding retroactive medical assistance coverage of state plan services, the effective date of eligibility for programs included in paragraph (k) cannot be prior to the date the most recent updated assessment is completed.

(m) If an eligibility update is completed within 90 days of the previous assessment and documented in the department's Medicaid Management Information System (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date of the previous face-to-face assessment when all other eligibility requirements are met.

(n) If a person who receives home and community-based waiver services under section 256B.0913, 256B.092, or 256B.49 or chapter 256S temporarily enters for 121 days or fewer a hospital, institution of mental disease, nursing facility, intensive residential treatment services program, transitional care unit, or inpatient substance use disorder treatment setting, the person may return to the community with home and community-based waiver services under the same waiver, without requiring an assessment or reassessment under this section, unless the person's annual reassessment is otherwise due. Nothing in this paragraph shall change annual long-term care consultation reassessment requirements, payment for institutional or treatment services, medical assistance financial eligibility, or any other law.

(o) At the time of reassessment, the certified assessor shall assess each person receiving waiver residential supports and services currently residing in a community residential setting, licensed adult

foster care home that is either not the primary residence of the license holder or in which the license holder is not the primary caregiver, family adult foster care residence, customized living setting, or supervised living facility to determine if that person would prefer to be served in a community-living setting as defined in section 256B.49, subdivision 23, in a setting not controlled by a provider, or to receive integrated community supports as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified assessor shall offer the person, through a person-centered planning process, the option to receive alternative housing and service options.

(p) At the time of reassessment, the certified assessor shall assess each person receiving waiver day services to determine if that person would prefer to receive employment services as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified assessor shall describe to the person through a person-centered planning process the option to receive employment services.

(q) At the time of reassessment, the certified assessor shall assess each person receiving non-self-directed waiver services to determine if that person would prefer an available service and setting option that would permit self-directed services and supports. The certified assessor shall describe to the person through a person-centered planning process the option to receive self-directed services and supports.

(r) All assessments performed according to this subdivision must be face-to-face unless the assessment is a reassessment meeting the requirements of this paragraph. Remote reassessments conducted by interactive video or telephone may substitute for face-to-face reassessments. For services provided by the developmental disabilities waiver under section 256B.092, and the community access for disability inclusion, community alternative care, and brain injury waiver programs under section 256B.49, remote reassessments may be substituted for two consecutive reassessments if followed by a face-to-face reassessment. For services provided by alternative care under section 256B.0913, essential community supports under section 256B.0922, and the elderly waiver under chapter 256S, remote reassessments may be substituted for one reassessment if followed by a face-to-face reassessment. A remote reassessment is permitted only if the lead agency provides informed choice and the person being reassessed, or the person's legal representative, and the lead agency case manager both agree that there is no change in the person's condition, there is no need for a change in service, and that a remote reassessment is appropriate or the person's legal representative provides informed consent for a remote assessment. Lead agencies must document that informed choice was offered. The person being reassessed, or the person's legal representative, has the right to refuse a remote reassessment at any time. During a remote reassessment, if the certified assessor determines a face-to-face reassessment is necessary ~~in order~~ to complete the assessment, the lead agency shall schedule a face-to-face reassessment. All other requirements of a face-to-face reassessment shall apply to a remote reassessment, including updates to a person's support plan.

Sec. 36. Minnesota Statutes 2020, section 256B.092, subdivision 1a, is amended to read:

Subd. 1a. **Case management services.** (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.

(b) Case management service activities provided to or arranged for a person include:

(1) development of the person-centered coordinated service and support plan under subdivision 1b;

(2) informing the individual or the individual's legal guardian or conservator, or parent if the person is a minor, of service options, including all service options available under the waiver plan;

(3) consulting with relevant medical experts or service providers;

(4) assisting the person in the identification of potential providers of chosen services, including:

(i) providers of services provided in a non-disability-specific setting;

(ii) employment service providers;

(iii) providers of services provided in settings that are not controlled by a provider; and

(iv) providers of financial management services;

(5) assisting the person to access services and assisting in appeals under section 256.045;

(6) coordination of services, if coordination is not provided by another service provider;

(7) evaluation and monitoring of the services identified in the coordinated service and support plan, which must incorporate at least one annual face-to-face visit by the case manager with each person; and

(8) reviewing coordinated service and support plans and providing the lead agency with recommendations for service authorization based upon the individual's needs identified in the coordinated service and support plan.

(c) Case management service activities that are provided to the person with a developmental disability shall be provided directly by county agencies or under contract. If a county agency contracts for case management services, the county agency must provide each recipient of home and community-based services who is receiving contracted case management services with the contact information the recipient may use to file a grievance with the county agency about the quality of the contracted services the recipient is receiving from a county-contracted case manager. Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has a financial interest in the provision of any other services included in the recipient's coordinated service and support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision 1a, paragraph (e).

(d) Case managers are responsible for service provisions listed in paragraphs (a) and (b). Case managers shall collaborate with consumers, families, legal representatives, and relevant medical experts and service providers in the development and annual review of the person-centered coordinated service and support plan and habilitation plan.

(e) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

- (1) phasing out the use of prohibited procedures;
- (2) acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline;  
and
- (3) accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(f) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ten hours of case management education and disability-related training each year. The education and training must include person-centered planning. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision 1a, paragraph (f).

Sec. 37. Minnesota Statutes 2021 Supplement, section 256B.0946, subdivision 1, is amended to read:

**Subdivision 1. Required covered service components.** (a) Subject to federal approval, medical assistance covers medically necessary intensive treatment services when the services are provided by a provider entity certified under and meeting the standards in this section. The provider entity must make reasonable and good faith efforts to report individual client outcomes to the commissioner, using instruments and protocols approved by the commissioner.

(b) Intensive treatment services to children with mental illness residing in foster family settings that comprise specific required service components provided in clauses (1) to (6) are reimbursed by medical assistance when they meet the following standards:

- (1) psychotherapy provided by a mental health professional or a clinical trainee;
- (2) crisis planning;
- (3) individual, family, and group psychoeducation services provided by a mental health professional or a clinical trainee;
- (4) clinical care consultation provided by a mental health professional or a clinical trainee;
- (5) individual treatment plan development as defined in ~~Minnesota Rules, part 9505.0371, subpart 7~~ section 245I.10, subdivisions 7 and 8; and
- (6) service delivery payment requirements as provided under subdivision 4.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 38. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Intensive nonresidential rehabilitative mental health services" means child rehabilitative mental health services as defined in section 256B.0943, except that these services are provided by a multidisciplinary staff using a total team approach consistent with assertive community treatment, as adapted for youth, and are directed to recipients who are eight years of age or older and under 26 years of age who require intensive services to prevent admission to an inpatient psychiatric hospital or placement in a residential treatment facility or who require intensive services to step down from inpatient or residential care to community-based care.

(b) "Co-occurring mental illness and substance use disorder" means a dual diagnosis of at least one form of mental illness and at least one substance use disorder. Substance use disorders include alcohol or drug abuse or dependence, excluding nicotine use.

(c) "Standard diagnostic assessment" means the assessment described in section 245I.10, subdivision 6.

(d) "Medication education services" means services provided individually or in groups, which focus on:

- (1) educating the client and client's family or significant nonfamilial supporters about mental illness and symptoms;
- (2) the role and effects of medications in treating symptoms of mental illness; and
- (3) the side effects of medications.

Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, or registered nurses with certification in psychiatric and mental health care.

(e) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(f) "Provider agency" means a for-profit or nonprofit organization established to administer an assertive community treatment for youth team.

(g) "Substance use disorders" means one or more of the disorders defined in the diagnostic and statistical manual of mental disorders, current edition.

(h) "Transition services" means:



- (1) activities, materials, consultation, and coordination that ensures continuity of the client's care in advance of and in preparation for the client's move from one stage of care or life to another by maintaining contact with the client and assisting the client to establish provider relationships;
- (2) providing the client with knowledge and skills needed posttransition;
- (3) establishing communication between sending and receiving entities;
- (4) supporting a client's request for service authorization and enrollment; and
- (5) establishing and enforcing procedures and schedules.

~~A youth's transition from the children's mental health system and services to the adult mental health system and services and return to the client's home and entry or re-entry into community-based mental health services following discharge from an out-of-home placement or inpatient hospital stay.~~

- (i) "Treatment team" means all staff who provide services to recipients under this section.
- (j) "Family peer specialist" means a staff person who is qualified under section 256B.0616.

Sec. 39. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 6, is amended to read:

Subd. 6. **Service standards.** The standards in this subdivision apply to intensive nonresidential rehabilitative mental health services.

- (a) The treatment team must use team treatment, not an individual treatment model.
  - (b) Services must be available at times that meet client needs.
  - (c) Services must be age-appropriate and meet the specific needs of the client.
  - (d) The level of care assessment as defined in section 245I.02, subdivision 19, and functional assessment as defined in section 245I.02, subdivision 17, must be updated at least every ~~90 days~~ six months or prior to discharge from the service, whichever comes first.
  - (e) The treatment team must complete an individual treatment plan for each client, according to section 245I.10, subdivisions 7 and 8, and the individual treatment plan must:
    - (1) be completed in consultation with the client's current therapist and key providers and provide for ongoing consultation with the client's current therapist to ensure therapeutic continuity and to facilitate the client's return to the community. For clients under the age of 18, the treatment team must consult with parents and guardians in developing the treatment plan;
    - (2) if a need for substance use disorder treatment is indicated by validated assessment:
      - (i) identify goals, objectives, and strategies of substance use disorder treatment;
      - (ii) develop a schedule for accomplishing substance use disorder treatment goals and objectives;
- and

(iii) identify the individuals responsible for providing substance use disorder treatment services and supports; and

(3) provide for the client's transition out of intensive nonresidential rehabilitative mental health services by defining the team's actions to assist the client and subsequent providers in the transition to less intensive or "stepped down" services; and.

~~(4) notwithstanding section 245I.10, subdivision 8, be reviewed at least every 90 days and revised to document treatment progress or, if progress is not documented, to document changes in treatment.~~

(f) The treatment team shall actively and assertively engage the client's family members and significant others by establishing communication and collaboration with the family and significant others and educating the family and significant others about the client's mental illness, symptom management, and the family's role in treatment, unless the team knows or has reason to suspect that the client has suffered or faces a threat of suffering any physical or mental injury, abuse, or neglect from a family member or significant other.

(g) For a client age 18 or older, the treatment team may disclose to a family member, other relative, or a close personal friend of the client, or other person identified by the client, the protected health information directly relevant to such person's involvement with the client's care, as provided in Code of Federal Regulations, title 45, part 164.502(b). If the client is present, the treatment team shall obtain the client's agreement, provide the client with an opportunity to object, or reasonably infer from the circumstances, based on the exercise of professional judgment, that the client does not object. If the client is not present or is unable, by incapacity or emergency circumstances, to agree or object, the treatment team may, in the exercise of professional judgment, determine whether the disclosure is in the best interests of the client and, if so, disclose only the protected health information that is directly relevant to the family member's, relative's, friend's, or client-identified person's involvement with the client's health care. The client may orally agree or object to the disclosure and may prohibit or restrict disclosure to specific individuals.

(h) The treatment team shall provide interventions to promote positive interpersonal relationships.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 40. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) The terms used in this section have the meanings given in this subdivision.

(b) "Advanced certification" means a person who has completed advanced certification in an approved modality under subdivision 13, paragraph (b).

~~(b)~~ (c) "Agency" means the legal entity that is enrolled with Minnesota health care programs as a medical assistance provider according to Minnesota Rules, part 9505.0195, to provide EIDBI services and that has the legal responsibility to ensure that its employees or contractors carry out

the responsibilities defined in this section. Agency includes a licensed individual professional who practices independently and acts as an agency.

~~(e)~~ (d) "Autism spectrum disorder or a related condition" or "ASD or a related condition" means either autism spectrum disorder (ASD) as defined in the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM) or a condition that is found to be closely related to ASD, as identified under the current version of the DSM, and meets all of the following criteria:

- (1) is severe and chronic;
- (2) results in impairment of adaptive behavior and function similar to that of a person with ASD;
- (3) requires treatment or services similar to those required for a person with ASD; and

(4) results in substantial functional limitations in three core developmental deficits of ASD: social or interpersonal interaction; functional communication, including nonverbal or social communication; and restrictive or repetitive behaviors or hyperreactivity or hyporeactivity to sensory input; and may include deficits or a high level of support in one or more of the following domains:

- (i) behavioral challenges and self-regulation;
- (ii) cognition;
- (iii) learning and play;
- (iv) self-care; or
- (v) safety.

~~(d)~~ (e) "Person" means a person under 21 years of age.

~~(e)~~ (f) "Clinical supervision" means the overall responsibility for the control and direction of EIDBI service delivery, including individual treatment planning, staff supervision, individual treatment plan progress monitoring, and treatment review for each person. Clinical supervision is provided by a qualified supervising professional (QSP) who takes full professional responsibility for the service provided by each supervisee.

~~(f)~~ (g) "Commissioner" means the commissioner of human services, unless otherwise specified.

~~(g)~~ (h) "Comprehensive multidisciplinary evaluation" or "CMDE" means a comprehensive evaluation of a person to determine medical necessity for EIDBI services based on the requirements in subdivision 5.

~~(h)~~ (i) "Department" means the Department of Human Services, unless otherwise specified.

~~(i)~~ (j) "Early intensive developmental and behavioral intervention benefit" or "EIDBI benefit" means a variety of individualized, intensive treatment modalities approved and published by the commissioner that are based in behavioral and developmental science consistent with best practices on effectiveness.

~~(j)~~ (k) "Generalizable goals" means results or gains that are observed during a variety of activities over time with different people, such as providers, family members, other adults, and people, and in different environments including, but not limited to, clinics, homes, schools, and the community.

~~(k)~~ (l) "Incident" means when any of the following occur:

(1) an illness, accident, or injury that requires first aid treatment;

(2) a bump or blow to the head; or

(3) an unusual or unexpected event that jeopardizes the safety of a person or staff, including a person leaving the agency unattended.

~~(l)~~ (m) "Individual treatment plan" or "ITP" means the person-centered, individualized written plan of care that integrates and coordinates person and family information from the CMDE for a person who meets medical necessity for the EIDBI benefit. An individual treatment plan must meet the standards in subdivision 6.

~~(m)~~ (n) "Legal representative" means the parent of a child who is under 18 years of age, a court-appointed guardian, or other representative with legal authority to make decisions about service for a person. For the purpose of this subdivision, "other representative with legal authority to make decisions" includes a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.

~~(n)~~ (o) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

~~(o)~~ (p) "Person-centered" means a service that both responds to the identified needs, interests, values, preferences, and desired outcomes of the person or the person's legal representative and respects the person's history, dignity, and cultural background and allows inclusion and participation in the person's community.

~~(p)~~ (q) "Qualified EIDBI provider" means a person who is a QSP or a level I, level II, or level III treatment provider.

Sec. 41. Minnesota Statutes 2020, section 256B.0949, subdivision 8, is amended to read:

Subd. 8. **Refining the benefit with stakeholders.** Before making revisions to the EIDBI benefit or proposing statutory changes to this section, the commissioner must refine the details of the benefit in consultation consult with stakeholders and consider recommendations from the Department of Human Services Early Intensive Developmental and Behavioral Intervention Advisory Council, the early intensive developmental and behavioral intervention learning collaborative, and the Departments of Health, Education, Employment and Economic Development, and Human Services. The details must Revisions and proposed statutory changes subject to this subdivision include, but are not limited to, the following components:

(1) a definition of the qualifications, standards, and roles of the treatment team, including recommendations after stakeholder consultation on whether board-certified behavior analysts and other professionals certified in other treatment approaches recognized by the department or trained

in ASD or a related condition and child development should be added as professionals qualified to provide EIDBI clinical supervision or other functions under medical assistance;

(2) refinement of uniform parameters for CMDE and ongoing ITP progress monitoring standards;

(3) the design of an effective and consistent process for assessing the person's and the person's legal representative's and the person's caregiver's preferences and options to participate in the person's early intervention treatment and efficacy of methods to involve and educate the person's legal representative and caregiver in the treatment of the person;

(4) formulation of a collaborative process in which professionals have opportunities to collectively inform provider standards and qualifications; standards for CMDE; medical necessity determination; efficacy of treatment apparatus, including modality, intensity, frequency, and duration; and ITP progress monitoring processes to support quality improvement of EIDBI services;

(5) coordination of this benefit and its interaction with other services provided by the Departments of Human Services, Health, Employment and Economic Development, and Education;

(6) evaluation, on an ongoing basis, of EIDBI services outcomes and efficacy of treatment modalities provided to people under this benefit; and

(7) as provided under subdivision 17, determination of the availability of qualified EIDBI providers with necessary expertise and training in ASD or a related condition throughout the state to assess whether there are sufficient professionals to provide timely access and prevent delay in the CMDE and treatment of a person with ASD or a related condition.

Sec. 42. Minnesota Statutes 2021 Supplement, section 256B.0949, subdivision 13, is amended to read:

Subd. 13. **Covered services.** (a) The services described in paragraphs (b) to (l) are eligible for reimbursement by medical assistance under this section. Services must be provided by a qualified EIDBI provider and supervised by a QSP. An EIDBI service must address the person's medically necessary treatment goals and must be targeted to develop, enhance, or maintain the individual developmental skills of a person with ASD or a related condition to improve functional communication, including nonverbal or social communication, social or interpersonal interaction, restrictive or repetitive behaviors, hyperreactivity or hyporeactivity to sensory input, behavioral challenges and self-regulation, cognition, learning and play, self-care, and safety.

(b) EIDBI treatment must be delivered consistent with the standards of an approved modality, as published by the commissioner. EIDBI modalities include:

(1) applied behavior analysis (ABA);

(2) developmental individual-difference relationship-based model (DIR/Floortime);

(3) early start Denver model (ESDM);

(4) PLAY project;

(5) relationship development intervention (RDI); or

(6) additional modalities not listed in clauses (1) to (5) upon approval by the commissioner.

(c) An EIDBI provider may use one or more of the EIDBI modalities in paragraph (b), clauses (1) to (5), as the primary modality for treatment as a covered service, or several EIDBI modalities in combination as the primary modality of treatment, as approved by the commissioner. An EIDBI provider that identifies and provides assurance of qualifications for a single specific treatment modality, including an EIDBI provider with advanced certification overseeing implementation, must document the required qualifications to meet fidelity to the specific model in a manner determined by the commissioner.

(d) Each qualified EIDBI provider must identify and provide assurance of qualifications for professional licensure certification, or training in evidence-based treatment methods, and must document the required qualifications outlined in subdivision 15 in a manner determined by the commissioner.

(e) CMDE is a comprehensive evaluation of the person's developmental status to determine medical necessity for EIDBI services and meets the requirements of subdivision 5. The services must be provided by a qualified CMDE provider.

(f) EIDBI intervention observation and direction is the clinical direction and oversight of EIDBI services by the QSP, level I treatment provider, or level II treatment provider, including developmental and behavioral techniques, progress measurement, data collection, function of behaviors, and generalization of acquired skills for the direct benefit of a person. EIDBI intervention observation and direction informs any modification of the current treatment protocol to support the outcomes outlined in the ITP.

(g) Intervention is medically necessary direct treatment provided to a person with ASD or a related condition as outlined in their ITP. All intervention services must be provided under the direction of a QSP. Intervention may take place across multiple settings. The frequency and intensity of intervention services are provided based on the number of treatment goals, person and family or caregiver preferences, and other factors. Intervention services may be provided individually or in a group. Intervention with a higher provider ratio may occur when deemed medically necessary through the person's ITP.

(1) Individual intervention is treatment by protocol administered by a single qualified EIDBI provider delivered to one person.

(2) Group intervention is treatment by protocol provided by one or more qualified EIDBI providers, delivered to at least two people who receive EIDBI services.

(3) Higher provider ratio intervention is treatment with protocol modification provided by two or more qualified EIDBI providers delivered to one person in an environment that meets the person's needs and under the direction of the QSP or level I provider.

(h) ITP development and ITP progress monitoring is development of the initial, annual, and progress monitoring of an ITP. ITP development and ITP progress monitoring documents provide oversight and ongoing evaluation of a person's treatment and progress on targeted goals and objectives and integrate and coordinate the person's and the person's legal representative's information from

the CMDE and ITP progress monitoring. This service must be reviewed and completed by the QSP, and may include input from a level I provider or a level II provider.

(i) Family caregiver training and counseling is specialized training and education for a family or primary caregiver to understand the person's developmental status and help with the person's needs and development. This service must be provided by the QSP, level I provider, or level II provider.

(j) A coordinated care conference is a voluntary meeting with the person and the person's family to review the CMDE or ITP progress monitoring and to integrate and coordinate services across providers and service-delivery systems to develop the ITP. This service ~~must be provided by the QSP and~~ may include the CMDE provider ~~or, QSP,~~ a level I provider, or a level II provider.

(k) Travel time is allowable billing for traveling to and from the person's home, school, a community setting, or place of service outside of an EIDBI center, clinic, or office from a specified location to provide in-person EIDBI intervention, observation and direction, or family caregiver training and counseling. The person's ITP must specify the reasons the provider must travel to the person.

(l) Medical assistance covers medically necessary EIDBI services and consultations delivered ~~by a licensed health care provider~~ via telehealth, as defined under section 256B.0625, subdivision 3b, in the same manner as if the service or consultation was delivered in person.

Sec. 43. Minnesota Statutes 2020, section 256G.02, subdivision 6, is amended to read:

Subd. 6. **Excluded time.** "Excluded time" means:

(1) any period an applicant spends in a hospital, sanitarium, nursing home, shelter other than an emergency shelter, halfway house, foster home, community residential setting licensed under chapter 245D, 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 section 253B.05, subdivisions 1 and 2;

(2) 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; semi-independent living services provided under section 252.275, and chapter 245D; or day training and habilitation programs ~~and~~;

(3) any period an applicant is receiving assisted living services, integrated community supports, or day support services; and

~~(3)~~ (4) any placement for a person with an indeterminate commitment, including independent living.

Sec. 44. Minnesota Statutes 2020, section 256K.26, subdivision 2, is amended to read:

Subd. 2. **Implementation.** The commissioner, in consultation with the commissioners of the Department of Corrections and the Minnesota Housing Finance Agency, counties, Tribes, providers, and funders of supportive housing and services, shall develop application requirements and make funds available according to this section, with the goal of providing maximum flexibility in program design.

Sec. 45. Minnesota Statutes 2020, section 256K.26, subdivision 6, is amended to read:

Subd. 6. **Outcomes.** Projects will be selected to further the following outcomes:

(1) reduce the number of Minnesota individuals and families that experience long-term homelessness;

(2) increase the number of housing opportunities with supportive services;

(3) develop integrated, cost-effective service models that address the multiple barriers to obtaining housing stability faced by people experiencing long-term homelessness, including abuse, neglect, chemical dependency, disability, chronic health problems, or other factors including ethnicity and race that may result in poor outcomes or service disparities;

(4) encourage partnerships among counties, Tribes, community agencies, schools, and other providers so that the service delivery system is seamless for people experiencing long-term homelessness;

(5) increase employability, self-sufficiency, and other social outcomes for individuals and families experiencing long-term homelessness; and

(6) reduce inappropriate use of emergency health care, shelter, ~~chemical dependency~~ substance use disorder treatment, foster care, child protection, corrections, and similar services used by people experiencing long-term homelessness.

Sec. 46. Minnesota Statutes 2020, section 256K.26, subdivision 7, is amended to read:

Subd. 7. **Eligible services.** Services eligible for funding under this section are all services needed to maintain households in permanent supportive housing, as determined by the ~~county or counties~~ or Tribes administering the project or projects.

Sec. 47. Minnesota Statutes 2021 Supplement, section 256P.01, subdivision 6a, is amended to read:

Subd. 6a. **Qualified professional.** (a) For illness, injury, or incapacity, a "qualified professional" means a licensed physician, physician assistant, advanced practice registered nurse, physical therapist, occupational therapist, or licensed chiropractor, according to their scope of practice.

(b) For developmental disability, learning disability, and intelligence testing, a "qualified professional" means a licensed physician, physician assistant, advanced practice registered nurse, licensed independent clinical social worker, licensed psychologist, certified school psychologist, or certified psychometrist working under the supervision of a licensed psychologist.



(c) For mental health, a "qualified professional" means a licensed physician, advanced practice registered nurse, or qualified mental health professional under section 245I.04, subdivision 2.

(d) For substance use disorder, a "qualified professional" means a licensed physician, a qualified mental health professional under section ~~245.462, subdivision 18, clauses (1) to (6)~~ 245I.04, subdivision 2, or an individual as defined in section 245G.11, subdivision 3, 4, or 5.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 48. Minnesota Statutes 2020, section 256Q.06, is amended by adding a subdivision to read:

Subd. 6. **Account creation.** If an eligible individual is unable to establish the eligible individual's own ABLE account, an ABLE account may be established on behalf of the eligible individual by the eligible individual's agent under a power of attorney or, if none, by the eligible individual's conservator or legal guardian, spouse, parent, sibling, or grandparent or a representative payee appointed for the eligible individual by the Social Security Administration, in that order.

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

Sec. 49. Laws 2020, First Special Session chapter 7, section 1, subdivision 1, as amended by Laws 2021, First Special Session chapter 7, article 2, section 71, is amended to read:

Subdivision 1. **Waivers and modifications; federal funding extension.** When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, the following waivers and modifications to human services programs issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12 ~~that are required to comply with federal law~~ may remain in effect for the time period set out in applicable federal law or for the time period set out in any applicable federally approved waiver or state plan amendment, whichever is later:

- (1) CV15: allowing telephone or video visits for waiver programs;
- (2) CV17: preserving health care coverage for Medical Assistance and MinnesotaCare;
- (3) CV18: implementation of federal changes to the Supplemental Nutrition Assistance Program;
- (4) CV20: eliminating cost-sharing for COVID-19 diagnosis and treatment;
- (5) CV24: allowing telephone or video use for targeted case management visits;
- (6) CV30: expanding telemedicine in health care, mental health, and substance use disorder settings;
- (7) CV37: implementation of federal changes to the Supplemental Nutrition Assistance Program;
- (8) CV39: implementation of federal changes to the Supplemental Nutrition Assistance Program;
- (9) CV42: implementation of federal changes to the Supplemental Nutrition Assistance Program;

(10) CV43: expanding remote home and community-based waiver services;

(11) CV44: allowing remote delivery of adult day services;

(12) CV59: modifying eligibility period for the federally funded Refugee Cash Assistance Program;

(13) CV60: modifying eligibility period for the federally funded Refugee Social Services Program; and

(14) CV109: providing 15 percent increase for Minnesota Food Assistance Program and Minnesota Family Investment Program maximum food benefits.

Sec. 50. Laws 2021, First Special Session chapter 7, article 11, section 38, is amended to read:

**Sec. 38. DIRECTION TO THE COMMISSIONER; SUBSTANCE USE DISORDER TREATMENT PAPERWORK REDUCTION.**

(a) The commissioner of human services, in consultation with counties, tribes, managed care organizations, substance use disorder treatment professional associations, and other relevant stakeholders, shall develop, assess, and recommend systems improvements to minimize regulatory paperwork and improve systems for substance use disorder programs licensed under Minnesota Statutes, chapter 245A, and regulated under Minnesota Statutes, chapters 245F and 245G, and Minnesota Rules, chapters 2960 and 9530. The commissioner of human services shall make available any resources needed from other divisions within the department to implement systems improvements.

(b) The commissioner of health shall make available needed information and resources from the Division of Health Policy.

(c) The Office of MN.IT Services shall provide advance consultation and implementation of the changes needed in data systems.

(d) The commissioner of human services shall contract with a vendor that has experience with developing statewide system changes for multiple states at the payer and provider levels. If the commissioner, after exercising reasonable diligence, is unable to secure a vendor with the requisite qualifications, the commissioner may select the best qualified vendor available. When developing recommendations, the commissioner shall consider input from all stakeholders. The commissioner's recommendations shall maximize benefits for clients and utility for providers, regulatory agencies, and payers.

(e) The commissioner of human services and the contracted vendor shall follow the recommendations from the report issued in response to Laws 2019, First Special Session chapter 9, article 6, section 76.

(f) ~~By December 15, 2022~~ Within two years of contracting with a qualified vendor according to paragraph (d), the commissioner of human services shall take steps to implement paperwork reductions and systems improvements within the commissioner's authority and submit to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services a report that includes recommendations for changes in statutes that would further enhance

systems improvements to reduce paperwork. The report shall include a summary of the approaches developed and assessed by the commissioner of human services and stakeholders and the results of any assessments conducted.

Sec. 51. **REVISOR INSTRUCTION.**

In Minnesota Statutes and Minnesota Rules, the revisor of statutes shall change the term "chemical dependency" or similar terms to "substance use disorder." The revisor may make grammatical changes related to the term change.

Sec. 52. **REPEALER.**

(a) Minnesota Statutes 2020, sections 254A.04; and 254B.14, subdivisions 1, 2, 3, 4, and 6, are repealed.

(b) Minnesota Statutes 2021 Supplement, section 254B.14, subdivision 5, is repealed.

## ARTICLE 5

### COMMUNITY SUPPORTS

Section 1. Minnesota Statutes 2020, section 245D.10, subdivision 3a, is amended to read:

Subd. 3a. **Service termination.** (a) The license holder must establish policies and procedures for service termination that promote continuity of care and service coordination with the person and the case manager and with other licensed caregivers, if any, who also provide support to the person. The policy must include the requirements specified in paragraphs (b) to (f).

(b) The license holder must permit each person to remain in the program or to continue receiving services and must not terminate services unless:

(1) the termination is necessary for the person's welfare and the ~~facility~~ license holder cannot meet the person's needs;

(2) the safety of the person ~~or~~ others in the program, or staff is endangered and positive support strategies were attempted and have not achieved and effectively maintained safety for the person or others;

(3) the health of the person ~~or~~ others in the program, or staff would otherwise be endangered;

(4) the ~~program~~ license holder has not been paid for services;

(5) the program or license holder ceases to operate;

(6) the person has been terminated by the lead agency from waiver eligibility; or

(7) for state-operated community-based services, the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1).

(c) Prior to giving notice of service termination, the license holder must document actions taken to minimize or eliminate the need for termination. Action taken by the license holder must include, at a minimum:

(1) consultation with the person's support team or expanded support team to identify and resolve issues leading to issuance of the termination notice;

(2) a request to the case manager for intervention services identified in section 245D.03, subdivision 1, paragraph (c), clause (1), or other professional consultation or intervention services to support the person in the program. This requirement does not apply to notices of service termination issued under paragraph (b), clauses (4) and (7); and

(3) for state-operated community-based services terminating services under paragraph (b), clause (7), the state-operated community-based services must engage in consultation with the person's support team or expanded support team to:

(i) identify that the person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1);

(ii) provide notice of intent to issue a termination of services to the lead agency when a finding has been made that a person no longer demonstrates complex behavioral needs that cannot be met by private community-based providers identified in section 252.50, subdivision 5, paragraph (a), clause (1);

(iii) assist the lead agency and case manager in developing a person-centered transition plan to a private community-based provider to ensure continuity of care; and

(iv) coordinate with the lead agency to ensure the private community-based service provider is able to meet the person's needs and criteria established in a person's person-centered transition plan.

If, based on the best interests of the person, the circumstances at the time of the notice were such that the license holder was unable to take the action specified in clauses (1) and (2), the license holder must document the specific circumstances and the reason for being unable to do so.

(d) The notice of service termination must meet the following requirements:

(1) the license holder must notify the person or the person's legal representative and the case manager in writing of the intended service termination. If the service termination is from residential supports and services as defined in section 245D.03, subdivision 1, paragraph (c), clause (3), the license holder must also notify the commissioner in writing; and

(2) the notice must include:

(i) the reason for the action;

(ii) except for a service termination under paragraph (b), clause (5), a summary of actions taken to minimize or eliminate the need for service termination or temporary service suspension as required under paragraph (c), and why these measures failed to prevent the termination or suspension;

(iii) the person's right to appeal the termination of services under section 256.045, subdivision 3, paragraph (a); and

(iv) the person's right to seek a temporary order staying the termination of services according to the procedures in section 256.045, subdivision 4a or 6, paragraph (c).

(e) Notice of the proposed termination of service, including those situations that began with a temporary service suspension, must be given at least 90 days prior to termination of services under paragraph (b), clause (7), 60 days prior to termination when a license holder is providing intensive supports and services identified in section 245D.03, subdivision 1, paragraph (c), and 30 days prior to termination for all other services licensed under this chapter. This notice may be given in conjunction with a notice of temporary service suspension under subdivision 3.

(f) During the service termination notice period, the license holder must:

(1) work with the support team or expanded support team to develop reasonable alternatives to protect the person and others and to support continuity of care;

(2) provide information requested by the person or case manager; and

(3) maintain information about the service termination, including the written notice of intended service termination, in the service recipient record.

(g) For notices issued under paragraph (b), clause (7), the lead agency shall provide notice to the commissioner and state-operated services at least 30 days before the conclusion of the 90-day termination period, if an appropriate alternative provider cannot be secured. Upon receipt of this notice, the commissioner and state-operated services shall reassess whether a private community-based service can meet the person's needs. If the commissioner determines that a private provider can meet the person's needs, state-operated services shall, if necessary, extend notice of service termination until placement can be made. If the commissioner determines that a private provider cannot meet the person's needs, state-operated services shall rescind the notice of service termination and re-engage with the lead agency in service planning for the person.

(h) For state-operated community-based services, the license holder shall prioritize the capacity created within the existing service site by the termination of services under paragraph (b), clause (7), to serve persons described in section 252.50, subdivision 5, paragraph (a), clause (1).

Sec. 2. Minnesota Statutes 2020, section 256.045, subdivision 3, is amended to read:

Subd. 3. **State agency hearings.** (a) State agency hearings are available for the following:

(1) any person applying for, receiving or having received public assistance, medical care, or a program of social services granted by the state agency or a county agency or the federal Food and Nutrition Act whose application for assistance is denied, not acted upon with reasonable promptness, or whose assistance is suspended, reduced, terminated, or claimed to have been incorrectly paid;

(2) any patient or relative aggrieved by an order of the commissioner under section 252.27;

(3) a party aggrieved by a ruling of a prepaid health plan;

(4) except as provided under chapter 245C, any individual or facility determined by a lead investigative agency to have maltreated a vulnerable adult under section 626.557 after they have exercised their right to administrative reconsideration under section 626.557;

(5) any person whose claim for foster care payment according to a placement of the child resulting from a child protection assessment under chapter 260E is denied or not acted upon with reasonable promptness, regardless of funding source;

(6) any person to whom a right of appeal according to this section is given by other provision of law;

(7) an applicant aggrieved by an adverse decision to an application for a hardship waiver under section 256B.15;

(8) an applicant aggrieved by an adverse decision to an application or redetermination for a Medicare Part D prescription drug subsidy under section 256B.04, subdivision 4a;

(9) except as provided under chapter 245A, an individual or facility determined to have maltreated a minor under chapter 260E, after the individual or facility has exercised the right to administrative reconsideration under chapter 260E;

(10) except as provided under chapter 245C, an individual disqualified under sections 245C.14 and 245C.15, following a reconsideration decision issued under section 245C.23, on the basis of serious or recurring maltreatment; a preponderance of the evidence that the individual has committed an act or acts that meet the definition of any of the crimes listed in section 245C.15, subdivisions 1 to 4; or for failing to make reports required under section 260E.06, subdivision 1, or 626.557, subdivision 3. Hearings regarding a maltreatment determination under clause (4) or (9) and a disqualification under this clause in which the basis for a disqualification is serious or recurring maltreatment, shall be consolidated into a single fair hearing. In such cases, the scope of review by the human services judge shall include both the maltreatment determination and the disqualification. The failure to exercise the right to an administrative reconsideration shall not be a bar to a hearing under this section if federal law provides an individual the right to a hearing to dispute a finding of maltreatment;

(11) any person with an outstanding debt resulting from receipt of public assistance, medical care, or the federal Food and Nutrition Act who is contesting a setoff claim by the Department of Human Services or a county agency. The scope of the appeal is the validity of the claimant agency's intention to request a setoff of a refund under chapter 270A against the debt;

(12) a person issued a notice of service termination under section 245D.10, subdivision 3a, ~~from~~ by a licensed provider of any residential supports and or services as defined listed in section 245D.03, subdivision 1, paragraph paragraphs (b) and (c), clause (3); that is not otherwise subject to appeal under subdivision 4a;

(13) an individual disability waiver recipient based on a denial of a request for a rate exception under section 256B.4914; or

(14) a person issued a notice of service termination under section 245A.11, subdivision 11, that is not otherwise subject to appeal under subdivision 4a.

(b) The hearing for an individual or facility under paragraph (a), clause (4), (9), or (10), is the only administrative appeal to the final agency determination specifically, including a challenge to the accuracy and completeness of data under section 13.04. Hearings requested under paragraph (a), clause (4), apply only to incidents of maltreatment that occur on or after October 1, 1995. Hearings requested by nursing assistants in nursing homes alleged to have maltreated a resident prior to October 1, 1995, shall be held as a contested case proceeding under the provisions of chapter 14. Hearings requested under paragraph (a), clause (9), apply only to incidents of maltreatment that occur on or after July 1, 1997. A hearing for an individual or facility under paragraph (a), clauses (4), (9), and (10), is only available when there is no district court action pending. If such action is filed in district court while an administrative review is pending that arises out of some or all of the events or circumstances on which the appeal is based, the administrative review must be suspended until the judicial actions are completed. If the district court proceedings are completed, dismissed, or overturned, the matter may be considered in an administrative hearing.

(c) For purposes of this section, bargaining unit grievance procedures are not an administrative appeal.

(d) The scope of hearings involving claims to foster care payments under paragraph (a), clause (5), shall be limited to the issue of whether the county is legally responsible for a child's placement under court order or voluntary placement agreement and, if so, the correct amount of foster care payment to be made on the child's behalf and shall not include review of the propriety of the county's child protection determination or child placement decision.

(e) The scope of hearings under paragraph (a), clauses (12) and (14), shall be limited to whether the proposed termination of services is authorized under section 245D.10, subdivision 3a, paragraph (b), or 245A.11, subdivision 11, and whether the requirements of section 245D.10, subdivision 3a, paragraphs (c) to (e), or 245A.11, subdivision 2a, paragraphs (d) to (f), were met. If the appeal includes a request for a temporary stay of termination of services, the scope of the hearing shall also include whether the case management provider has finalized arrangements for a residential facility, a program, or services that will meet the assessed needs of the recipient by the effective date of the service termination.

(f) A vendor of medical care as defined in section 256B.02, subdivision 7, or a vendor under contract with a county agency to provide social services is not a party and may not request a hearing under this section, except if assisting a recipient as provided in subdivision 4.

(g) An applicant or recipient is not entitled to receive social services beyond the services prescribed under chapter 256M or other social services the person is eligible for under state law.

(h) The commissioner may summarily affirm the county or state agency's proposed action without a hearing when the sole issue is an automatic change due to a change in state or federal law.

(i) Unless federal or Minnesota law specifies a different time frame in which to file an appeal, an individual or organization specified in this section may contest the specified action, decision, or final disposition before the state agency by submitting a written request for a hearing to the state agency within 30 days after receiving written notice of the action, decision, or final disposition, or within 90 days of such written notice if the applicant, recipient, patient, or relative shows good cause, as defined in section 256.0451, subdivision 13, why the request was not submitted within the

30-day time limit. The individual filing the appeal has the burden of proving good cause by a preponderance of the evidence.

Sec. 3. Minnesota Statutes 2020, section 256I.03, subdivision 6, is amended to read:

Subd. 6. **Medical assistance room and board rate.** "Medical assistance room and board rate" means an amount equal to ~~the medical assistance income standard~~ 81 percent of the federal poverty guideline for a single individual living alone in the community less the medical assistance personal needs allowance under section 256B.35. For the purposes of this section, the amount of the room and board rate that exceeds the medical assistance room and board rate is considered a remedial care cost. A remedial care cost may be used to meet a spenddown obligation under section 256B.056, subdivision 5. The medical assistance room and board rate is to be adjusted on the first day of January of each year.

## ARTICLE 6

### BEHAVIORAL HEALTH

#### Section 1. [4.046] OPIOIDS, SUBSTANCE USE, AND ADDICTION SUBCABINET.

Subdivision 1. Subcabinet established; purposes. The Opioids, Substance Use, and Addiction Subcabinet is established. The purposes of the subcabinet are to identify:

(1) challenges that exist within state government that create silos around addiction, treatment, prevention, and recovery; that limit access to treatment options or addiction-related services for all Minnesotans; and that prevent successful treatment outcomes;

(2) opportunities that exist within state government that support accessible and effective substance use disorder treatment options or addiction-related services;

(3) barriers and gaps in service for all Minnesotans seeking treatment for opioid or substance use disorder, particularly those barriers and gaps affecting members of communities disproportionately impacted by substance use and addiction;

(4) potential solutions to barriers and gaps identified in clause (3);

(5) how the state can address addiction as a chronic disease, emphasizing that there are multiple ways to enter sobriety; and

(6) policies and strategies that address prevention efforts, including addressing underlying causes of addiction and public awareness and education around the dangers of issues including but not limited to opioid abuse, use of fentanyl and other synthetic opioids, other substance use, excessive alcohol consumption, and addiction.

Subd. 2. **Subcabinet membership.** The subcabinet consists of the following members:

(1) the commissioner of human services;

(2) the commissioner of health;



- (3) the commissioner of education;
- (4) the commissioner of public safety;
- (5) the commissioner of corrections;
- (6) the commissioner of management and budget;
- (7) the commissioner of higher education;
- (8) the chair of the Interagency Council on Homelessness; and
- (9) the governor's director of addiction and recovery, who shall serve as chair of the subcabinet.

Subd. 3. **Policy and strategy development.** The subcabinet must engage in the following duties related to the development of opioid use, substance use, and addiction policy and strategy:

(1) identify challenges and opportunities that exist relating to accessing treatment and support services and develop recommendations to overcome these barriers for all Minnesotans;

(2) with input from affected communities, develop policies and strategies that will reduce barriers and gaps in service for all Minnesotans seeking treatment for opioid or substance use disorder, particularly for those Minnesotans who are members of communities disproportionately impacted by substance use and addiction;

(3) develop policies and strategies that the state may adopt to expand Minnesota's recovery infrastructure, including detoxification or withdrawal management facilities, treatment facilities, and sober housing;

(4) identify innovative services and strategies for effective treatment and support;

(5) develop policies and strategies to expand services and support for people in Minnesota suffering from opioid or substance use disorder through partnership with the Opioid Epidemic Response Advisory Council and other relevant partnerships;

(6) develop policies and strategies for agencies to manage addiction and the relationship it has with co-occurring conditions;

(7) identify policies and strategies to address opioid or substance use disorder among Minnesotans experiencing homelessness; and

(8) submit recommendations to the legislature addressing opioid use, substance use, and addiction in Minnesota.

Subd. 4. **Public engagement.** The subcabinet must develop and implement a framework to ensure meaningful public engagement is conducted by the subcabinet's agencies and boards. The purpose of the framework is to:

(1) engage with and seek feedback from all affected Minnesotans, including members of the 11 Tribal Nations within Minnesota;

(2) build partnerships and shared understanding with all affected Minnesotans, including members of Tribal communities in urban areas, communities of color, local communities, and industries, including but not limited to the health and business sectors;

(3) provide a platform for dialogue about the needs and challenges of those in active addiction or in recovery and to identify effective solutions and how those solutions will impact the lives of people in Minnesota, including those who are members of communities disproportionately impacted by addiction, including opioid addiction; and

(4) gather and share ideas for how Minnesotans can get involved with and stay informed about addiction issues that matter to them.

**Subd. 5. Governor's Advisory Council on Opioids, Substance Use, and Addiction.** (a) The Governor's Advisory Council on Opioids, Substance Use, and Addiction is established to advise the subcabinet on the purposes and duties described in this section. The advisory council consists of up to 18 members appointed by the governor. The governor must seek representation from community leaders, individuals with direct experience with addiction, individuals providing treatment services, and other relevant stakeholders in making appointments to the council. The governor will appoint one member as chair of the advisory council.

(b) The advisory council must:

(1) meet up to four times per year to identify opportunities for and barriers to the development and implementation of policies and strategies to expand access to effective services for people in Minnesota suffering from addiction;

(2) examine what services and supports are needed in communities that are disproportionately impacted by the opioid epidemic; and

(3) provide opportunities for Minnesotans who have directly experienced addiction to address needs, challenges, and solutions.

(c) The terms, compensation, and removal of members of the advisory council are governed by section 15.059.

**Subd. 6. Addiction and recovery director.** The governor must appoint an addiction and recovery director, who shall serve as chair of the subcabinet. The director shall serve in the unclassified service and shall report to the governor. The director must:

(1) make efforts to break down silos and work across agencies to better target the state's role in addressing addiction, treatment, and recovery;

(2) assist in leading the subcabinet and the advisory council toward progress on measurable goals that track the state's efforts in combatting addiction; and

(3) establish and manage external partnerships and build relationships with communities, community leaders, and those who have direct experience with addiction to ensure that all voices of recovery are represented in the work of the subcabinet and advisory council.

Subd. 7. **Staff and administrative support.** The commissioner of human services, in coordination with other state agencies and boards as applicable, must provide staffing and administrative support to the addiction and recovery director, the subcabinet, and the advisory council established in this section.

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

Sec. 2. Minnesota Statutes 2020, section 13.46, subdivision 7, is amended to read:

Subd. 7. **Mental health data.** (a) Mental health data are private data on individuals and shall not be disclosed, except:

(1) pursuant to section 13.05, as determined by the responsible authority for the community mental health center, mental health division, or provider;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to or disclosure of mental health data or as otherwise provided by this subdivision;

(4) to personnel of the welfare system working in the same program or providing services to the same individual or family to the extent necessary to coordinate services, provided that a health record may be disclosed only as provided under section 144.293;

(5) to a health care provider governed by sections 144.291 to 144.298, to the extent necessary to coordinate services; or

(6) with the consent of the client or patient.

(b) An agency of the welfare system may not require an individual to consent to the release of mental health data as a condition for receiving services or for reimbursing a community mental health center, mental health division of a county, or provider under contract to deliver mental health services.

(c) Notwithstanding section 245.69, subdivision 2, paragraph (f), or any other law to the contrary, ~~the responsible authority for~~ a community mental health center, mental health division of a county, or a mental health provider must disclose mental health data to a law enforcement agency if the law enforcement agency provides the name of a client or patient and communicates that the:

(1) client or patient is currently involved in ~~an emergency interaction with~~ a mental health crisis as defined in section 256B.0624, subdivision 2, paragraph (j), to which the law enforcement agency has responded; and

(2) data is necessary to protect the health or safety of the client or patient or of another person.

The scope of disclosure under this paragraph is limited to the minimum necessary for law enforcement to safely respond to the emergency mental health crisis. Disclosure under this paragraph may include, ~~but is not limited to,~~ the name and telephone number of the psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager of the client or patient, if known; and strategies to address the mental health crisis. A law enforcement agency that obtains mental

health data under this paragraph shall maintain a record of the requestor, the provider of the ~~information~~ data, and the client or patient name. Mental health data obtained by a law enforcement agency under this paragraph are private data on individuals and must not be used by the law enforcement agency for any other purpose. A law enforcement agency that obtains mental health data under this paragraph shall inform the subject of the data that mental health data was obtained.

(d) In the event of a request under paragraph (a), clause (6), a community mental health center, county mental health division, or provider must release mental health data to Criminal Mental Health Court personnel in advance of receiving a copy of a consent if the Criminal Mental Health Court personnel communicate that the:

- (1) client or patient is a defendant in a criminal case pending in the district court;
- (2) data being requested is limited to information that is necessary to assess whether the defendant is eligible for participation in the Criminal Mental Health Court; and
- (3) client or patient has consented to the release of the mental health data and a copy of the consent will be provided to the community mental health center, county mental health division, or provider within 72 hours of the release of the data.

For purposes of this paragraph, "Criminal Mental Health Court" refers to a specialty criminal calendar of the Hennepin County District Court for defendants with mental illness and brain injury where a primary goal of the calendar is to assess the treatment needs of the defendants and to incorporate those treatment needs into voluntary case disposition plans. The data released pursuant to this paragraph may be used for the sole purpose of determining whether the person is eligible for participation in mental health court. This paragraph does not in any way limit or otherwise extend the rights of the court to obtain the release of mental health data pursuant to court order or any other means allowed by law.

Sec. 3. Minnesota Statutes 2020, section 144.294, subdivision 2, is amended to read:

Subd. 2. **Disclosure to law enforcement agency.** Notwithstanding section 144.293, subdivisions 2 and 4, a provider must disclose health records relating to a patient's mental health to a law enforcement agency if the law enforcement agency provides the name of the patient and communicates that the:

- (1) patient is currently involved in an emergency interaction with a mental health crisis as defined in section 256B.0624, subdivision 2, paragraph (j), to which the law enforcement agency has responded; and
- (2) disclosure of the records is necessary to protect the health or safety of the patient or of another person.

The scope of disclosure under this subdivision is limited to the minimum necessary for law enforcement to safely respond to the emergency mental health crisis. The disclosure may include the name and telephone number of the psychiatrist, psychologist, therapist, mental health professional, practitioner, or case manager of the patient, if known; and strategies to address the mental health crisis. A law enforcement agency that obtains health records under this subdivision shall maintain a record of the requestor, the provider of the information, and the patient's name. Health records

obtained by a law enforcement agency under this subdivision are private data on individuals as defined in section 13.02, subdivision 12, and must not be used by law enforcement for any other purpose. A law enforcement agency that obtains health records under this subdivision shall inform the patient that health records were obtained.

Sec. 4. Minnesota Statutes 2021 Supplement, section 245.4889, subdivision 1, is amended to read:

Subdivision 1. **Establishment and authority.** (a) The commissioner is authorized to make grants from available appropriations to assist:

- (1) counties;
- (2) Indian tribes;
- (3) children's collaboratives under section 124D.23 or 245.493; or
- (4) mental health service providers.

(b) The following services are eligible for grants under this section:

(1) services to children with emotional disturbances as defined in section 245.4871, subdivision 15, and their families;

(2) transition services under section 245.4875, subdivision 8, for young adults under age 21 and their families;

(3) respite care services for children with emotional disturbances or severe emotional disturbances who are at risk of out-of-home placement or already in out-of-home placement in family foster settings as defined in chapter 245A and at risk of change in out-of-home placement or placement in a residential facility or other higher level of care. Allowable activities and expenses for respite care services are defined under subdivision 4. A child is not required to have case management services to receive respite care services;

(4) children's mental health crisis services;

(5) mental health services for people from cultural and ethnic minorities, including supervision of clinical trainees who are Black, indigenous, or people of color;

(6) children's mental health screening and follow-up diagnostic assessment and treatment;

(7) services to promote and develop the capacity of providers to use evidence-based practices in providing children's mental health services;

(8) school-linked mental health services under section 245.4901;

(9) building evidence-based mental health intervention capacity for children birth to age five;

(10) suicide prevention and counseling services that use text messaging statewide;

(11) mental health first aid training;

(12) training for parents, collaborative partners, and mental health providers on the impact of adverse childhood experiences and trauma and development of an interactive website to share information and strategies to promote resilience and prevent trauma;

(13) transition age services to develop or expand mental health treatment and supports for adolescents and young adults 26 years of age or younger;

(14) early childhood mental health consultation;

(15) evidence-based interventions for youth at risk of developing or experiencing a first episode of psychosis, and a public awareness campaign on the signs and symptoms of psychosis;

(16) psychiatric consultation for primary care practitioners; and

(17) providers to begin operations and meet program requirements when establishing a new children's mental health program. These may be start-up grants.

(c) Services under paragraph (b) must be designed to help each child to function and remain with the child's family in the community and delivered consistent with the child's treatment plan. Transition services to eligible young adults under this paragraph must be designed to foster independent living in the community.

(d) As a condition of receiving grant funds, a grantee shall obtain all available third-party reimbursement sources, if applicable.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 5. Minnesota Statutes 2020, section 245.4889, is amended by adding a subdivision to read:

**Subd. 4. Respite care services.** Respite care services under subdivision 1, paragraph (b), clause (3), include hourly or overnight stays at a licensed foster home or with a qualified and approved family member or friend and may occur at a child's or provider's home. Respite care services may also include the following activities and expenses:

(1) recreational, sport, and nonsport extracurricular activities and programs for the child including camps, clubs, lessons, group outings, sports, or other activities and programs;

(2) family activities, camps, and retreats that the family does together and provide a break from the family's circumstance;

(3) cultural programs and activities for the child and family designed to address the unique needs of individuals who share a common language, racial, ethnic, or social background; and

(4) costs of transportation, food, supplies, and equipment directly associated with approved respite care services and expenses necessary for the child and family to access and participate in respite care services.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 6. Minnesota Statutes 2020, section 245.713, subdivision 2, is amended to read:

Subd. 2. **Total funds available; allocation.** Funds granted to the state by the federal government under United States Code, title 42, sections 300X to 300X-9 each federal fiscal year for mental health services must be allocated as follows:

(a) Any amount set aside by the commissioner of human services for American Indian organizations within the state, which funds shall not duplicate any direct federal funding of American Indian organizations and which funds shall be at least 25 percent of the total federal allocation to the state for mental health services; ~~provided that sufficient applications for funding are received by the commissioner which meet the specifications contained in requests for proposals.~~ Money from this source may be used for special committees to advise the commissioner on mental health programs and services for American Indians and other minorities or underserved groups. For purposes of this subdivision, "American Indian organization" means an American Indian tribe or band or an organization providing mental health services that is legally incorporated as a nonprofit organization registered with the secretary of state and governed by a board of directors having at least a majority of American Indian directors.

(b) An amount not to exceed five percent of the federal block grant allocation for mental health services to be retained by the commissioner for administration.

(c) Any amount permitted under federal law which the commissioner approves for demonstration or research projects for severely disturbed children and adolescents, the underserved, special populations or multiply disabled mentally ill persons. The groups to be served, the extent and nature of services to be provided, the amount and duration of any grant awards are to be based on criteria set forth in the Alcohol, Drug Abuse and Mental Health Block Grant Law, United States Code, title 42, sections 300X to 300X-9, and on state policies and procedures determined necessary by the commissioner. Grant recipients must comply with applicable state and federal requirements and demonstrate fiscal and program management capabilities that will result in provision of quality, cost-effective services.

(d) The amount required under federal law, for federally mandated expenditures.

(e) An amount not to exceed 15 percent of the federal block grant allocation for mental health services to be retained by the commissioner for planning and evaluation.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 7. Minnesota Statutes 2021 Supplement, section 256B.0625, subdivision 5m, is amended to read:

Subd. 5m. **Certified community behavioral health clinic services.** (a) Medical assistance covers services provided by a not-for-profit certified community behavioral health clinic (CCBHC) services that meet ~~meets~~ the requirements of section 245.735, subdivision 3.

(b) The commissioner shall reimburse CCBHCs on a ~~per-visit per-day~~ per-visit per-day basis ~~under the prospective payment~~ for each day that an eligible service is delivered using the CCBHC daily bundled rate system for medical assistance payments as described in paragraph (c). The commissioner shall include a quality incentive payment in the prospective payment CCBHC daily bundled rate system as described in paragraph (e). There is no county share for medical assistance services when reimbursed through the CCBHC prospective payment daily bundled rate system.

(c) The commissioner shall ensure that the ~~prospective payment~~ CCBHC daily bundled rate system for CCBHC payments under medical assistance meets the following requirements:

(1) the ~~prospective payment~~ CCBHC daily bundled rate shall be a provider-specific rate calculated for each CCBHC, based on the daily cost of providing CCBHC services and the total annual allowable CCBHC costs for CCBHCs divided by the total annual number of CCBHC visits. For calculating the payment rate, total annual visits include visits covered by medical assistance and visits not covered by medical assistance. Allowable costs include but are not limited to the salaries and benefits of medical assistance providers; the cost of CCBHC services provided under section 245.735, subdivision 3, paragraph (a), clauses (6) and (7); and other costs such as insurance or supplies needed to provide CCBHC services;

(2) payment shall be limited to one payment per day per medical assistance enrollee ~~for each when an eligible CCBHC visit eligible for reimbursement service is provided~~. A CCBHC visit is eligible for reimbursement if at least one of the CCBHC services listed under section 245.735, subdivision 3, paragraph (a), clause (6), is furnished to a medical assistance enrollee by a health care practitioner or licensed agency employed by or under contract with a CCBHC;

(3) ~~new payment~~ initial CCBHC daily bundled rates set by the commissioner for newly certified CCBHCs under section 245.735, subdivision 3, shall be ~~based on rates for established CCBHCs with a similar scope of services. If no comparable CCBHC exists, the commissioner shall establish a clinic specific rate using audited historical cost report data adjusted for the estimated cost of delivering CCBHC services, including the estimated cost of providing the full scope of services and the projected change in visits resulting from the change in scope established by the commissioner~~ using a provider-specific rate based on the newly certified CCBHC's audited historical cost report data adjusted for the expected cost of delivering CCBHC services. Estimates are subject to review by the commissioner and must include the expected cost of providing the full scope of CCBHC services and the expected number of visits for the rate period;

(4) the commissioner shall rebase CCBHC rates once every three years following the last rebasing and no less than 12 months following an initial rate or a rate change due to a change in the scope of services;

(5) the commissioner shall provide for a 60-day appeals process after notice of the results of the rebasing;

(6) the ~~prospective payment~~ CCBHC daily bundled rate under this section does not apply to services rendered by CCBHCs to individuals who are dually eligible for Medicare and medical assistance when Medicare is the primary payer for the service. An entity that receives a ~~prospective payment~~ CCBHC daily bundled rate system rate that overlaps with the CCBHC rate is not eligible for the CCBHC rate;

(7) payments for CCBHC services to individuals enrolled in managed care shall be coordinated with the state's phase-out of CCBHC wrap payments. The commissioner shall complete the phase-out of CCBHC wrap payments within 60 days of the implementation of the ~~prospective payment~~ CCBHC daily bundled rate system in the Medicaid Management Information System (MMIS), for CCBHCs reimbursed under this chapter, with a final settlement of payments due made payable to CCBHCs no later than 18 months thereafter;



(8) the ~~prospective payment~~ CCBHC daily bundled rate for each CCBHC shall be updated by trending each provider-specific rate by the Medicare Economic Index for primary care services. This update shall occur each year in between rebasing periods determined by the commissioner in accordance with clause (4). CCBHCs must provide data on costs and visits to the state annually using the CCBHC cost report established by the commissioner; and

(9) a CCBHC may request a rate adjustment for changes in the CCBHC's scope of services when such changes are expected to result in an adjustment to the CCBHC payment rate by 2.5 percent or more. The CCBHC must provide the commissioner with information regarding the changes in the scope of services, including the estimated cost of providing the new or modified services and any projected increase or decrease in the number of visits resulting from the change. Estimated costs are subject to review by the commissioner. Rate adjustments for changes in scope shall occur no more than once per year in between rebasing periods per CCBHC and are effective on the date of the annual CCBHC rate update.

(d) Managed care plans and county-based purchasing plans shall reimburse CCBHC providers at the ~~prospective payment~~ CCBHC daily bundled rate. The commissioner shall monitor the effect of this requirement on the rate of access to the services delivered by CCBHC providers. If, for any contract year, federal approval is not received for this paragraph, the commissioner must adjust the capitation rates paid to managed care plans and county-based purchasing plans for that contract year to reflect the removal of this provision. Contracts between managed care plans and county-based purchasing plans and providers to whom this paragraph applies must allow recovery of payments from those providers if capitation rates are adjusted in accordance with this paragraph. Payment recoveries must not exceed the amount equal to any increase in rates that results from this provision. This paragraph expires if federal approval is not received for this paragraph at any time.

(e) The commissioner shall implement a quality incentive payment program for CCBHCs that meets the following requirements:

(1) a CCBHC shall receive a quality incentive payment upon meeting specific numeric thresholds for performance metrics established by the commissioner, in addition to payments for which the CCBHC is eligible under the ~~prospective payment~~ CCBHC daily bundled rate system described in paragraph (c);

(2) a CCBHC must be certified and enrolled as a CCBHC for the entire measurement year to be eligible for incentive payments;

(3) each CCBHC shall receive written notice of the criteria that must be met in order to receive quality incentive payments at least 90 days prior to the measurement year; and

(4) a CCBHC must provide the commissioner with data needed to determine incentive payment eligibility within six months following the measurement year. The commissioner shall notify CCBHC providers of their performance on the required measures and the incentive payment amount within 12 months following the measurement year.

(f) All claims to managed care plans for CCBHC services as provided under this section shall be submitted directly to, and paid by, the commissioner on the dates specified no later than January 1 of the following calendar year, if:

(1) one or more managed care plans does not comply with the federal requirement for payment of clean claims to CCBHCs, as defined in Code of Federal Regulations, title 42, section 447.45(b), and the managed care plan does not resolve the payment issue within 30 days of noncompliance; and

(2) the total amount of clean claims not paid in accordance with federal requirements by one or more managed care plans is 50 percent of, or greater than, the total CCBHC claims eligible for payment by managed care plans.

If the conditions in this paragraph are met between January 1 and June 30 of a calendar year, claims shall be submitted to and paid by the commissioner beginning on January 1 of the following year. If the conditions in this paragraph are met between July 1 and December 31 of a calendar year, claims shall be submitted to and paid by the commissioner beginning on July 1 of the following year.

Sec. 8. Minnesota Statutes 2020, section 256B.0941, is amended by adding a subdivision to read:

Subd. 2a. **Sleeping hours.** During normal sleeping hours, a psychiatric residential treatment facility provider must provide at least one staff person for every six residents present within a living unit. A provider must adjust sleeping-hour staffing levels based on the clinical needs of the residents in the facility.

Sec. 9. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 1, is amended to read:

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

(a) "Children's therapeutic services and supports" means the flexible package of mental health services for children who require varying therapeutic and rehabilitative levels of intervention to treat a diagnosed emotional disturbance, as defined in section 245.4871, subdivision 15, or a diagnosed mental illness, as defined in section 245.462, subdivision 20. The services are time-limited interventions that are delivered using various treatment modalities and combinations of services designed to reach treatment outcomes identified in the individual treatment plan.

(b) "Clinical trainee" means a staff person who is qualified according to section 245I.04, subdivision 6.

(c) "Crisis planning" has the meaning given in section 245.4871, subdivision 9a.

(d) "Culturally competent provider" means a provider who understands and can utilize to a client's benefit the client's culture when providing services to the client. A provider may be culturally competent because the provider is of the same cultural or ethnic group as the client or the provider has developed the knowledge and skills through training and experience to provide services to culturally diverse clients.

(e) "Day treatment program" for children means a site-based structured mental health program consisting of psychotherapy for three or more individuals and individual or group skills training provided by a team, under the treatment supervision of a mental health professional.

(f) "Standard diagnostic assessment" means the assessment described in 245I.10, subdivision 6.

(g) "Direct service time" means the time that a mental health professional, clinical trainee, mental health practitioner, or mental health behavioral aide spends face-to-face with a client and the client's family or providing covered services through telehealth as defined under section 256B.0625, subdivision 3b. Direct service time includes time in which the provider obtains a client's history, develops a client's treatment plan, records individual treatment outcomes, or provides service components of children's therapeutic services and supports. Direct service time does not include time doing work before and after providing direct services, including scheduling or maintaining clinical records.

(h) "Direction of mental health behavioral aide" means the activities of a mental health professional, clinical trainee, or mental health practitioner in guiding the mental health behavioral aide in providing services to a client. The direction of a mental health behavioral aide must be based on the client's individual treatment plan and meet the requirements in subdivision 6, paragraph (b), clause (7).

(i) "Emotional disturbance" has the meaning given in section 245.4871, subdivision 15.

~~(j) "Individual behavioral plan" means a plan of intervention, treatment, and services for a child written by a mental health professional or a clinical trainee or mental health practitioner under the treatment supervision of a mental health professional, to guide the work of the mental health behavioral aide. The individual behavioral plan may be incorporated into the child's individual treatment plan so long as the behavioral plan is separately communicable to the mental health behavioral aide.~~

~~(k)~~ (j) "Individual treatment plan" means the plan described in section 245I.10, subdivisions 7 and 8.

~~(l)~~ (k) "Mental health behavioral aide services" means medically necessary one-on-one activities performed by a mental health behavioral aide qualified according to section 245I.04, subdivision 16, to assist a child retain or generalize psychosocial skills as previously trained by a mental health professional, clinical trainee, or mental health practitioner and as described in the child's individual treatment plan and individual behavior plan. Activities involve working directly with the child or child's family as provided in subdivision 9, paragraph (b), clause (4).

~~(m)~~ (l) "Mental health certified family peer specialist" means a staff person who is qualified according to section 245I.04, subdivision 12.

~~(n)~~ (m) "Mental health practitioner" means a staff person who is qualified according to section 245I.04, subdivision 4.

~~(o)~~ (n) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

~~(p)~~ (o) "Mental health service plan development" includes:

(1) ~~the development, review, and revision of a child's individual treatment plan, including involvement of the client or client's parents, primary caregiver, or other person authorized to consent to mental health services for the client, and including arrangement of treatment and support activities specified in the individual treatment plan;~~ and

(2) administering and reporting the standardized outcome measurements in section 245I.10, subdivision 6, paragraph (d), clauses (3) and (4), and other standardized outcome measurements approved by the commissioner, as periodically needed to evaluate the effectiveness of treatment.

~~(q)~~ (p) "Mental illness," for persons at least age 18 but under age 21, has the meaning given in section 245.462, subdivision 20, paragraph (a).

~~(r)~~ (q) "Psychotherapy" means the treatment described in section 256B.0671, subdivision 11.

~~(s)~~ (r) "Rehabilitative services" or "psychiatric rehabilitation services" means interventions to: (1) restore a child or adolescent to an age-appropriate developmental trajectory that had been disrupted by a psychiatric illness; or (2) enable the child to self-monitor, compensate for, cope with, counteract, or replace psychosocial skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Psychiatric rehabilitation services for children combine coordinated psychotherapy to address internal psychological, emotional, and intellectual processing deficits, and skills training to restore personal and social functioning. Psychiatric rehabilitation services establish a progressive series of goals with each achievement building upon a prior achievement.

~~(t)~~ (s) "Skills training" means individual, family, or group training, delivered by or under the supervision of a mental health professional, designed to facilitate the acquisition of psychosocial skills that are medically necessary to rehabilitate the child to an age-appropriate developmental trajectory heretofore disrupted by a psychiatric illness or to enable the child to self-monitor, compensate for, cope with, counteract, or replace skills deficits or maladaptive skills acquired over the course of a psychiatric illness. Skills training is subject to the service delivery requirements under subdivision 9, paragraph (b), clause (2).

~~(u)~~ (t) "Treatment supervision" means the supervision described in section 245I.06.

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 10. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 3, is amended to read:

Subd. 3. **Determination of client eligibility.** (a) A client's eligibility to receive children's therapeutic services and supports under this section shall be determined based on a standard diagnostic assessment by a mental health professional or a clinical trainee that is performed within one year before the initial start of service. The standard diagnostic assessment must:

(1) determine whether a child under age 18 has a diagnosis of emotional disturbance or, if the person is between the ages of 18 and 21, whether the person has a mental illness;

(2) document children's therapeutic services and supports as medically necessary to address an identified disability, functional impairment, and the individual client's needs and goals; and

(3) be used in the development of the individual treatment plan.

(b) Notwithstanding paragraph (a), a client may be determined to be eligible for up to five days of day treatment under this section based on a hospital's medical history and presentation examination of the client.

(c) Children's therapeutic services and supports include development and rehabilitative services that support a child's developmental treatment needs.

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 11. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 4, is amended to read:

Subd. 4. **Provider entity certification.** (a) The commissioner shall establish an initial provider entity application and certification process and recertification process to determine whether a provider entity has an administrative and clinical infrastructure that meets the requirements in subdivisions 5 and 6. A provider entity must be certified for the three core rehabilitation services of psychotherapy, skills training, and crisis planning. The commissioner shall recertify a provider entity ~~at least~~ every three years using the individual provider's certification anniversary or the calendar year end, whichever is later. The commissioner may approve a recertification extension, in the interest of sustaining services, when a certain date for recertification is identified. The commissioner shall establish a process for decertification of a provider entity and shall require corrective action, medical assistance repayment, or decertification of a provider entity that no longer meets the requirements in this section or that fails to meet the clinical quality standards or administrative standards provided by the commissioner in the application and certification process.

(b) The commissioner must provide the following to providers for the certification, recertification, and decertification processes:

(1) a structured listing of required provider certification criteria;

(2) a formal written letter with a determination of certification, recertification, or decertification, signed by the commissioner or the appropriate division director; and

(3) a formal written communication outlining the process for necessary corrective action and follow-up by the commissioner, if applicable.

~~(b)~~ (c) For purposes of this section, a provider entity must meet the standards in this section and chapter 245I, as required under section 245I.011, subdivision 5, and be:

(1) an Indian health services facility or a facility owned and operated by a tribe or tribal organization operating as a 638 facility under Public Law 93-638 certified by the state;

(2) a county-operated entity certified by the state; or

- (3) a noncounty entity certified by the state.

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 12. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 6, is amended to read:

Subd. 6. **Provider entity clinical infrastructure requirements.** (a) To be an eligible provider entity under this section, a provider entity must have a clinical infrastructure that utilizes diagnostic assessment, individual treatment plans, service delivery, and individual treatment plan review that are culturally competent, child-centered, and family-driven to achieve maximum benefit for the client. The provider entity must review, and update as necessary, the clinical policies and procedures every three years, must distribute the policies and procedures to staff initially and upon each subsequent update, and must train staff accordingly.

(b) The clinical infrastructure written policies and procedures must include policies and procedures for meeting the requirements in this subdivision:

(1) providing or obtaining a client's standard diagnostic assessment, including a standard diagnostic assessment. When required components of the standard diagnostic assessment are not provided in an outside or independent assessment or cannot be attained immediately, the provider entity must determine the missing information within 30 days and amend the child's standard diagnostic assessment or incorporate the information into the child's individual treatment plan;

(2) developing an individual treatment plan;

~~(3) developing an individual behavior plan that documents and describes interventions to be provided by the mental health behavioral aide. The individual behavior plan must include:~~

~~(i) detailed instructions on the psychosocial skills to be practiced;~~

~~(ii) time allocated to each intervention;~~

~~(iii) methods of documenting the child's behavior;~~

~~(iv) methods of monitoring the child's progress in reaching objectives; and~~

~~(v) goals to increase or decrease targeted behavior as identified in the individual treatment plan;~~

~~(3)~~ (3) providing treatment supervision plans for staff according to section 245I.06. Treatment supervision does not include the authority to make or terminate court-ordered placements of the child. A treatment supervisor must be available for urgent consultation as required by the individual client's needs or the situation;

~~(5) meeting day treatment program conditions in items (i) and (ii);~~

~~(i) the treatment supervisor must be present and available on the premises more than 50 percent of the time in a provider's standard working week during which the supervisee is providing a mental health service; and~~

~~(ii) every 30 days, the treatment supervisor must review and sign the record indicating the supervisor has reviewed the client's care for all activities in the preceding 30-day period;~~

~~(6) meeting the treatment supervision standards in items (i) and (ii) for all other services provided under CTSS:~~

~~(i) the mental health professional is required to be present at the site of service delivery for observation as clinically appropriate when the clinical trainee, mental health practitioner, or mental health behavioral aide is providing CTSS services; and~~

~~(ii) when conducted, the on-site presence of the mental health professional must be documented in the child's record and signed by the mental health professional who accepts full professional responsibility;~~

~~(7) providing direction to a mental health behavioral aide. For entities that employ mental health behavioral aides, the treatment supervisor must be employed by the provider entity or other provider certified to provide mental health behavioral aide services to ensure necessary and appropriate oversight for the client's treatment and continuity of care. The staff giving direction must begin with the goals on the individual treatment plan, and instruct the mental health behavioral aide on how to implement therapeutic activities and interventions that will lead to goal attainment. The staff giving direction must also instruct the mental health behavioral aide about the client's diagnosis, functional status, and other characteristics that are likely to affect service delivery. Direction must also include determining that the mental health behavioral aide has the skills to interact with the client and the client's family in ways that convey personal and cultural respect and that the aide actively solicits information relevant to treatment from the family. The aide must be able to clearly explain or demonstrate the activities the aide is doing with the client and the activities' relationship to treatment goals. Direction is more didactic than is supervision and requires the staff providing it to continuously evaluate the mental health behavioral aide's ability to carry out the activities of the individual treatment plan and the individual behavior plan. When providing direction, the staff must:~~

~~(i) review progress notes prepared by the mental health behavioral aide for accuracy and consistency with diagnostic assessment, treatment plan, and behavior goals and the staff must approve and sign the progress notes;~~

~~(ii) identify changes in treatment strategies, revise the individual behavior plan, and communicate treatment instructions and methodologies as appropriate to ensure that treatment is implemented correctly;~~

~~(iii) demonstrate family-friendly behaviors that support healthy collaboration among the child, the child's family, and providers as treatment is planned and implemented;~~

~~(iv) ensure that the mental health behavioral aide is able to effectively communicate with the child, the child's family, and the provider;~~

~~(v)~~ record the results of any evaluation and corrective actions taken to modify the work of the mental health behavioral aide; and

~~(vi)~~ ensure (4) requiring a mental health professional to determine the level of supervision for a behavioral health aide and to document and sign the supervision determination in the behavioral health aide's supervision plan;

(5) ensuring the immediate accessibility of a mental health professional, clinical trainee, or mental health practitioner to the behavioral aide during service delivery;

~~(8)~~ (6) providing service delivery that implements the individual treatment plan and meets the requirements under subdivision 9; and

~~(9)~~ (7) individual treatment plan review. The review must determine the extent to which the services have met each of the goals and objectives in the treatment plan. The review must assess the client's progress and ensure that services and treatment goals continue to be necessary and appropriate to the client and the client's family or foster family.

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 13. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 7, is amended to read:

Subd. 7. **Qualifications of individual and team providers.** (a) An individual or team provider working within the scope of the provider's practice or qualifications may provide service components of children's therapeutic services and supports that are identified as medically necessary in a client's individual treatment plan.

(b) An individual provider must be qualified as a:

- (1) mental health professional;
- (2) clinical trainee;
- (3) mental health practitioner;
- (4) mental health certified family peer specialist; or
- (5) mental health behavioral aide.

(c) A day treatment team must include ~~at least~~ one mental health professional or clinical trainee ~~and one mental health practitioner.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.



Sec. 14. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 9, is amended to read:

Subd. 9. **Service delivery criteria.** (a) In delivering services under this section, a certified provider entity must ensure that:

(1) the provider's caseload size should reasonably enable the provider to play an active role in service planning, monitoring, and delivering services to meet the client's and client's family's needs, as specified in each client's individual treatment plan;

(2) site-based programs, including day treatment programs, provide staffing and facilities to ensure the client's health, safety, and protection of rights, and that the programs are able to implement each client's individual treatment plan; and

(3) a day treatment program is provided to a group of clients by a team under the treatment supervision of a mental health professional. The day treatment program must be provided in and by: (i) an outpatient hospital accredited by the Joint Commission on Accreditation of Health Organizations and licensed under sections 144.50 to 144.55; (ii) a community mental health center under section 245.62; or (iii) an entity that is certified under subdivision 4 to operate a program that meets the requirements of section 245.4884, subdivision 2, and Minnesota Rules, parts 9505.0170 to 9505.0475. The day treatment program must stabilize the client's mental health status while developing and improving the client's independent living and socialization skills. The goal of the day treatment program must be to reduce or relieve the effects of mental illness and provide training to enable the client to live in the community. ~~The program must be available year-round at least three to five days per week, two or three hours per day, unless the normal five-day school week is shortened by a holiday, weather-related cancellation, or other districtwide reduction in a school week. A child transitioning into or out of day treatment must receive a minimum treatment of one day a week for a two-hour time block. The two-hour time block must include at least one hour of patient and/or family or group psychotherapy.~~ The remainder of the structured treatment program may include patient and/or family or group psychotherapy, and individual or group skills training, if included in the client's individual treatment plan. Day treatment programs are not part of inpatient or residential treatment services. When a day treatment group that meets the minimum group size requirement temporarily falls below the minimum group size because of a member's temporary absence, medical assistance covers a group session conducted for the group members in attendance. A day treatment program may provide fewer than the minimally required hours for a particular child during a billing period in which the child is transitioning into, or out of, the program.

(b) To be eligible for medical assistance payment, a provider entity must deliver the service components of children's therapeutic services and supports in compliance with the following requirements:

(1) psychotherapy to address the child's underlying mental health disorder must be documented as part of the child's ongoing treatment. A provider must deliver, or arrange for, medically necessary psychotherapy, unless the child's parent or caregiver chooses not to receive it or the provider determines that psychotherapy is no longer medically necessary. When a provider determines that psychotherapy is no longer medically necessary, the provider must update required documentation, including but not limited to the individual treatment plan, the child's medical record, or other authorizations, to include the determination. ~~When a provider delivering other services to a child~~

~~under this section deems it not medically necessary to provide psychotherapy to the child for a period of 90 days or longer, the provider entity must document the medical reasons why psychotherapy is not necessary.~~ When a provider determines that a child needs psychotherapy but psychotherapy cannot be delivered due to a shortage of licensed mental health professionals in the child's community, the provider must document the lack of access in the child's medical record;

(2) individual, family, or group skills training is subject to the following requirements:

(i) a mental health professional, clinical trainee, or mental health practitioner shall provide skills training;

(ii) skills training delivered to a child or the child's family must be targeted to the specific deficits or maladaptations of the child's mental health disorder and must be prescribed in the child's individual treatment plan;

~~(iii) the mental health professional delivering or supervising the delivery of skills training must document any underlying psychiatric condition and must document how skills training is being used in conjunction with psychotherapy to address the underlying condition;~~

~~(iv) skills training delivered to the child's family must teach skills needed by parents to enhance the child's skill development, to help the child utilize daily life skills taught by a mental health professional, clinical trainee, or mental health practitioner, and to develop or maintain a home environment that supports the child's progressive use of skills;~~

~~(v)~~ (iii) group skills training may be provided to multiple recipients who, because of the nature of their emotional, behavioral, or social dysfunction, can derive mutual benefit from interaction in a group setting, which must be staffed as follows:

(A) one mental health professional, clinical trainee, or mental health practitioner must work with a group of three to eight clients; or

(B) any combination of two mental health professionals, clinical trainees, or mental health practitioners must work with a group of nine to 12 clients;

~~(vi)~~ (iv) a mental health professional, clinical trainee, or mental health practitioner must have taught the psychosocial skill before a mental health behavioral aide may practice that skill with the client; and

~~(vii)~~ (v) for group skills training, when a skills group that meets the minimum group size requirement temporarily falls below the minimum group size because of a group member's temporary absence, the provider may conduct the session for the group members in attendance;

(3) crisis planning to a child and family must include development of a written plan that anticipates the particular factors specific to the child that may precipitate a psychiatric crisis for the child in the near future. The written plan must document actions that the family should be prepared to take to resolve or stabilize a crisis, such as advance arrangements for direct intervention and support services to the child and the child's family. Crisis planning must include preparing resources designed to address abrupt or substantial changes in the functioning of the child or the child's family

when sudden change in behavior or a loss of usual coping mechanisms is observed, or the child begins to present a danger to self or others;

(4) mental health behavioral aide services must be medically necessary treatment services, identified in the child's individual treatment plan and individual behavior plan, and which are designed to improve the functioning of the child in the progressive use of developmentally appropriate psychosocial skills. Activities involve working directly with the child, child-peer groupings, or child-family groupings to practice, repeat, reintroduce, and master the skills defined in subdivision 1, paragraph (t), as previously taught by a mental health professional, clinical trainee, or mental health practitioner including:

~~(i) providing cues or prompts in skill-building peer-to-peer or parent-child interactions so that the child progressively recognizes and responds to the cues independently;~~

~~(ii) performing as a practice partner or role-play partner;~~

~~(iii) reinforcing the child's accomplishments;~~

~~(iv) generalizing skill-building activities in the child's multiple natural settings;~~

~~(v) assigning further practice activities; and~~

~~(vi) intervening as necessary to redirect the child's target behavior and to de-escalate behavior that puts the child or other person at risk of injury.~~

To be eligible for medical assistance payment, mental health behavioral aide services must be delivered to a child who has been diagnosed with an emotional disturbance or a mental illness, as provided in subdivision 1, paragraph (a). ~~The mental health behavioral aide must implement treatment strategies in the individual treatment plan and the individual behavior plan as developed by the mental health professional, clinical trainee, or mental health practitioner providing direction for the mental health behavioral aide.~~ The mental health behavioral aide must document the delivery of services in written progress notes. Progress notes must reflect implementation of the treatment strategies, as performed by the mental health behavioral aide and the child's responses to the treatment strategies; and

(5) mental health service plan development must be performed in consultation with the child's family and, when appropriate, with other key participants in the child's life by the child's treating mental health professional or clinical trainee or by a mental health practitioner and approved by the treating mental health professional. Treatment plan drafting consists of development, review, and revision by face-to-face or electronic communication. The provider must document events, including the time spent with the family and other key participants in the child's life to approve the individual treatment plan. Medical assistance covers service plan development before completion of the child's individual treatment plan. Service plan development is covered only if a treatment plan is completed for the child. If upon review it is determined that a treatment plan was not completed for the child, the commissioner shall recover the payment for the service plan development.

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 15. Minnesota Statutes 2021 Supplement, section 256B.0943, subdivision 11, is amended to read:

Subd. 11. **Documentation and billing.** (a) A provider entity must document the services it provides under this section. The provider entity must ensure that documentation complies with Minnesota Rules, parts 9505.2175 and 9505.2197. Services billed under this section that are not documented according to this subdivision shall be subject to monetary recovery by the commissioner. Billing for covered service components under subdivision 2, paragraph (b), must not include anything other than direct service time.

(b) Required documentation must be completed for each individual provider and service modality for each day a child receives a service under subdivision 2, paragraph (b).

**EFFECTIVE DATE.** This section is effective January 1, 2023, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 16. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 2, is amended to read:

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them.

(a) "Intensive nonresidential rehabilitative mental health services" means child rehabilitative mental health services as defined in section 256B.0943, except that these services are provided by a multidisciplinary staff using a total team approach consistent with assertive community treatment, as adapted for youth, and are directed to recipients who are eight years of age or older and under ~~26~~ 21 years of age who require intensive services to prevent admission to an inpatient psychiatric hospital or placement in a residential treatment facility or who require intensive services to step down from inpatient or residential care to community-based care.

(b) "Co-occurring mental illness and substance use disorder" means a dual diagnosis of at least one form of mental illness and at least one substance use disorder. Substance use disorders include alcohol or drug abuse or dependence, excluding nicotine use.

(c) "Standard diagnostic assessment" means the assessment described in section 245I.10, subdivision 6.

(d) "Medication education services" means services provided individually or in groups, which focus on:

(1) educating the client and client's family or significant nonfamilial supporters about mental illness and symptoms;

(2) the role and effects of medications in treating symptoms of mental illness; and

(3) the side effects of medications.

Medication education is coordinated with medication management services and does not duplicate it. Medication education services are provided by physicians, pharmacists, or registered nurses with certification in psychiatric and mental health care.

(e) "Mental health professional" means a staff person who is qualified according to section 245I.04, subdivision 2.

(f) "Provider agency" means a for-profit or nonprofit organization established to administer an assertive community treatment for youth team.

(g) "Substance use disorders" means one or more of the disorders defined in the diagnostic and statistical manual of mental disorders, current edition.

(h) "Transition services" means:

(1) activities, materials, consultation, and coordination that ensures continuity of the client's care in advance of and in preparation for the client's move from one stage of care or life to another by maintaining contact with the client and assisting the client to establish provider relationships;

(2) providing the client with knowledge and skills needed posttransition;

(3) establishing communication between sending and receiving entities;

(4) supporting a client's request for service authorization and enrollment; and

(5) establishing and enforcing procedures and schedules.

A youth's transition from the children's mental health system and services to the adult mental health system and services and return to the client's home and entry or re-entry into community-based mental health services following discharge from an out-of-home placement or inpatient hospital stay.

(i) "Treatment team" means all staff who provide services to recipients under this section.

(j) "Family peer specialist" means a staff person who is qualified under section 256B.0616.

Sec. 17. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 3, is amended to read:

Subd. 3. **Client eligibility.** An eligible recipient is an individual who:

(1) is eight years of age or older and under ~~26~~ 21 years of age;

(2) is diagnosed with a serious mental illness or co-occurring mental illness and substance use disorder, for which intensive nonresidential rehabilitative mental health services are needed;

(3) has received a level of care assessment as defined in section 245I.02, subdivision 19, that indicates a need for intensive integrated intervention without 24-hour medical monitoring and a need for extensive collaboration among multiple providers;

(4) has received a functional assessment as defined in section 245I.02, subdivision 17, that indicates functional impairment and a history of difficulty in functioning safely and successfully in the community, school, home, or job; or who is likely to need services from the adult mental health system during adulthood; and

(5) has had a recent standard diagnostic assessment that documents that intensive nonresidential rehabilitative mental health services are medically necessary to ameliorate identified symptoms and functional impairments and to achieve individual transition goals.

Sec. 18. Minnesota Statutes 2021 Supplement, section 256B.0947, subdivision 5, is amended to read:

Subd. 5. **Standards for intensive nonresidential rehabilitative providers.** (a) Services must meet the standards in this section and chapter 245I as required in section 245I.011, subdivision 5.

(b) The treatment team must have specialized training in providing services to the specific age group of youth that the team serves. An individual treatment team must serve youth who are: (1) at least eight years of age or older and under 16 years of age, or (2) at least 14 years of age or older and under ~~26~~ 21 years of age.

(c) The treatment team for intensive nonresidential rehabilitative mental health services comprises both permanently employed core team members and client-specific team members as follows:

(1) Based on professional qualifications and client needs, clinically qualified core team members are assigned on a rotating basis as the client's lead worker to coordinate a client's care. The core team must comprise at least four full-time equivalent direct care staff and must minimally include:

(i) a mental health professional who serves as team leader to provide administrative direction and treatment supervision to the team;

(ii) an advanced-practice registered nurse with certification in psychiatric or mental health care or a board-certified child and adolescent psychiatrist, either of which must be credentialed to prescribe medications;

(iii) a licensed alcohol and drug counselor who is also trained in mental health interventions; and

(iv) a mental health certified peer specialist who is qualified according to section 245I.04, subdivision 10, and is also a former children's mental health consumer.

(2) The core team may also include any of the following:

(i) additional mental health professionals;

(ii) a vocational specialist;

(iii) an educational specialist with knowledge and experience working with youth regarding special education requirements and goals, special education plans, and coordination of educational activities with health care activities;

- (iv) a child and adolescent psychiatrist who may be retained on a consultant basis;
- (v) a clinical trainee qualified according to section 245I.04, subdivision 6;
- (vi) a mental health practitioner qualified according to section 245I.04, subdivision 4;
- (vii) a case management service provider, as defined in section 245.4871, subdivision 4;
- (viii) a housing access specialist; and
- (ix) a family peer specialist as defined in subdivision 2, paragraph (j).

(3) A treatment team may include, in addition to those in clause (1) or (2), ad hoc members not employed by the team who consult on a specific client and who must accept overall clinical direction from the treatment team for the duration of the client's placement with the treatment team and must be paid by the provider agency at the rate for a typical session by that provider with that client or at a rate negotiated with the client-specific member. Client-specific treatment team members may include:

- (i) the mental health professional treating the client prior to placement with the treatment team;
- (ii) the client's current substance use counselor, if applicable;
- (iii) a lead member of the client's individualized education program team or school-based mental health provider, if applicable;
- (iv) a representative from the client's health care home or primary care clinic, as needed to ensure integration of medical and behavioral health care;
- (v) the client's probation officer or other juvenile justice representative, if applicable; and
- (vi) the client's current vocational or employment counselor, if applicable.

(d) The treatment supervisor shall be an active member of the treatment team and shall function as a practicing clinician at least on a part-time basis. The treatment team shall meet with the treatment supervisor at least weekly to discuss recipients' progress and make rapid adjustments to meet recipients' needs. The team meeting must include client-specific case reviews and general treatment discussions among team members. Client-specific case reviews and planning must be documented in the individual client's treatment record.

(e) The staffing ratio must not exceed ten clients to one full-time equivalent treatment team position.

(f) The treatment team shall serve no more than 80 clients at any one time. Should local demand exceed the team's capacity, an additional team must be established rather than exceed this limit.

(g) Nonclinical staff shall have prompt access in person or by telephone to a mental health practitioner, clinical trainee, or mental health professional. The provider shall have the capacity to promptly and appropriately respond to emergent needs and make any necessary staffing adjustments to ensure the health and safety of clients.

(h) The intensive nonresidential rehabilitative mental health services provider shall participate in evaluation of the assertive community treatment for youth (Youth ACT) model as conducted by the commissioner, including the collection and reporting of data and the reporting of performance measures as specified by contract with the commissioner.

(i) A regional treatment team may serve multiple counties.

Sec. 19. Minnesota Statutes 2020, section 626.5571, subdivision 1, is amended to read:

Subdivision 1. **Establishment of team.** A county may establish a multidisciplinary adult protection team comprised of the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, and representatives of health care. In addition, representatives of mental health or other appropriate human service agencies, community corrections agencies, representatives from local tribal governments, local law enforcement agencies or designees thereof, and adult advocate groups may be added to the adult protection team.

**Sec. 20. [626.8477] MENTAL HEALTH AND HEALTH RECORDS; WRITTEN POLICY REQUIRED.**

The chief officer of every state and local law enforcement agency that seeks or uses mental health data under section 13.46, subdivision 7, paragraph (c), or health records under section 144.294, subdivision 2, must establish and enforce a written policy governing its use. At a minimum, the written policy must incorporate the requirements of sections 13.46, subdivision 7, paragraph (c), and 144.294, subdivision 2, and access procedures, retention policies, and data security safeguards that, at a minimum, meet the requirements of chapter 13 and any other applicable law.

Sec. 21. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 33, is amended to read:

**Subd. 33. Grant Programs; Chemical Dependency Treatment Support Grants**

	Appropriations by Fund	
General	4,273,000	4,274,000
Lottery Prize	1,733,000	1,733,000
Opiate Epidemic Response	500,000	500,000

(a) **Problem Gambling.** \$225,000 in fiscal year 2022 and \$225,000 in fiscal year 2023 are from the lottery prize fund for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education, training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research related to problem gambling.



**(b) Recovery Community Organization**

**Grants.** \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 are from the general fund for grants to recovery community organizations, as defined in Minnesota Statutes, section 254B.01, subdivision 8, to provide for costs and community-based peer recovery support services that are not otherwise eligible for reimbursement under Minnesota Statutes, section 254B.05, as part of the continuum of care for substance use disorders. The general fund base for this appropriation is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025

**(c) Grant to Anoka County for Enhanced Treatment Program.** \$125,000 in fiscal year 2023 is from the general fund for a grant to Anoka County for an enhanced treatment program for substance use disorder. This paragraph does not expire.

**(d) Base Level Adjustment.** The general fund base is \$4,636,000 in fiscal year 2024 and \$2,636,000 in fiscal year 2025. The opiate epidemic response fund base is \$500,000 in fiscal year 2024 and \$0 in fiscal year 2025.

Sec. 22. Laws 2021, First Special Session chapter 7, article 17, section 1, subdivision 2, is amended to read:

Subd. 2. **Eligibility.** An individual is eligible for the transition to community initiative if the individual does not meet eligibility criteria for the medical assistance program under section 256B.056 or 256B.057, but who meets at least one of the following criteria:

(1) the person otherwise meets the criteria under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(2) the person has met treatment objectives and no longer requires a hospital-level care or a secure treatment setting, but the person's discharge from the Anoka Metro Regional Treatment Center, the Minnesota Security Hospital, or a community behavioral health hospital would be substantially delayed without additional resources available through the transitions to community initiative;

(3) the person is in a community hospital ~~and on the waiting list for the Anoka Metro Regional Treatment Center~~, but alternative community living options would be appropriate for the person, and the person has received approval from the commissioner; or

(4)(i) the person is receiving customized living services reimbursed under section 256B.4914, 24-hour customized living services reimbursed under section 256B.4914, or community residential services reimbursed under section 256B.4914; (ii) the person expresses a desire to move; and (iii) the person has received approval from the commissioner.

**Sec. 23. REVIEW OF HUMAN SERVICES STRUCTURE; RECOMMENDATION FOR 2023 LEGISLATIVE SESSION.**

(a) No later than September 1, 2022, the addiction and recovery director must contract with a consultant to conduct an independent review of the structure of the Department of Human Services, with a focus on substance use disorder and mental health treatment access and service delivery. The review must be completed no later than December 31, 2022.

(b) In addition to the duties prescribed by Minnesota Statutes, section 4.046, the Opioids, Substance Use, and Addiction Subcabinet must submit a recommendation to the legislature for the creation of a permanent Office of Opioid Use, Substance Use, and Addiction, including proposed statutory language that establishes the office and provides initial goals. This recommendation must be submitted to the chairs and ranking minority members of the legislative committees with jurisdiction over opioid and substance use disorder treatment and prevention no later than December 31, 2022.

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

**Sec. 24. IMPACT ON EXECUTIVE ORDER.**

Sections 1 and 23 supersede the requirements of Executive Order No. 22-07, filed April 7, 2022. To the extent a conflict exists between that executive order and this act, the provisions of this act prevail.

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

**Sec. 25. REVISOR INSTRUCTION.**

The revisor of statutes shall change the terms "medication-assisted treatment" and "medication-assisted therapy" or similar terms to "substance use disorder treatment with medications for opioid use disorder" whenever the terms appear in Minnesota Statutes and Minnesota Rules. The revisor may make technical and other necessary grammatical changes related to the term change.

**Sec. 26. REPEALER.**

Minnesota Statutes 2020, section 256B.0943, subdivision 8a, is repealed.

**EFFECTIVE DATE.** This section is effective July 1, 2022, or upon federal approval, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

**ARTICLE 7****CONTINUING CARE FOR OLDER ADULTS POLICY**

Section 1. Minnesota Statutes 2020, section 245A.14, subdivision 14, is amended to read:

Subd. 14. **Attendance records for publicly funded services.** (a) A child care center licensed under this chapter and according to Minnesota Rules, chapter 9503, must maintain documentation of actual attendance for each child receiving care for which the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

- (1) the first and last name of the child;
- (2) the time of day that the child was dropped off; and
- (3) the time of day that the child was picked up.

(b) A family child care provider licensed under this chapter and according to Minnesota Rules, chapter 9502, must maintain documentation of actual attendance for each child receiving care for which the license holder is reimbursed for the care of that child by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

- (1) the first and last name of the child;
- (2) the time of day that the child was dropped off; and
- (3) the time of day that the child was picked up.

(c) An adult day services program licensed under this chapter and according to Minnesota Rules, parts 9555.5105 to 9555.6265, must maintain documentation of actual attendance for each adult day service recipient for which the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, they must be completed on the actual day of attendance, and they must include:

- (1) the first, middle, and last name of the recipient;
- (2) the time of day that the recipient was dropped off; and
- (3) the time of day that the recipient was picked up.

(d) ~~The commissioner shall not issue a correction for attendance record errors that occur before August 1, 2013.~~ Adult day services programs licensed under this chapter that are designated for remote adult day services must maintain documentation of actual participation for each adult day service recipient for whom the license holder is reimbursed by a governmental program. The records must be accessible to the commissioner during the program's hours of operation, must be completed on the actual day service is provided, and must include the:

- (1) first, middle, and last name of the recipient;

(2) time of day the remote services started;

(3) time of day that the remote services ended; and

(4) means by which the remote services were provided, through audio remote services or through audio and video remote services.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

**Sec. 2. [245A.70] REMOTE ADULT DAY SERVICES.**

(a) For the purposes of sections 245A.70 to 245A.75, the following terms have the meanings given.

(b) "Adult day care" and "adult day services" have the meanings given in section 245A.02, subdivision 2a.

(c) "Remote adult day services" means an individualized and coordinated set of services provided via live two-way communication by an adult day care or adult day services center.

(d) "Live two-way communication" means real-time audio or audio and video transmission of information between a participant and an actively involved staff member.

**Sec. 3. [245A.71] APPLICABILITY AND SCOPE.**

Subdivision 1. **Licensing requirements.** Adult day care centers or adult day services centers that provide remote adult day services must be licensed under this chapter and comply with the requirements set forth in this section.

Subd. 2. **Standards for licensure.** License holders seeking to provide remote adult day services must submit a request in the manner prescribed by the commissioner. Remote adult day services must not be delivered until approved by the commissioner. The designation to provide remote services is voluntary for license holders. Upon approval, the designation of approval for remote adult day services must be printed on the center's license, and identified on the commissioner's public website.

Subd. 3. **Federal requirements.** Adult day care centers or adult day services centers that provide remote adult day services to participants receiving alternative care under section 256B.0913, essential community supports under section 256B.0922, or home and community-based services waivers under chapter 256S or section 256B.092 or 256B.49 must comply with federally approved waiver plans.

Subd. 4. **Service limitations.** Remote adult day services must be provided during the days and hours of in-person services specified on the license of the adult day care center or adult day services center.

**Sec. 4. [245A.72] RECORD REQUIREMENTS.**

Adult day care centers and adult day services centers providing remote adult day services must comply with participant record requirements set forth in Minnesota Rules, part 9555.9660. The

center must document how remote services will help a participant reach the short- and long-term objectives in the participant's plan of care.

Sec. 5. **[245A.73] REMOTE ADULT DAY SERVICES STAFF.**

Subdivision 1. Staff ratios. (a) A staff person who provides remote adult day services without two-way interactive video must only provide services to one participant at a time.

(b) A staff person who provides remote adult day services through two-way interactive video must not provide services to more than eight participants at one time.

Subd. 2. Staff training. A center licensed under section 245A.71 must document training provided to each staff person regarding the provision of remote services in the staff person's record. The training must be provided prior to a staff person delivering remote adult day services without supervision. The training must include:

(1) how to use the equipment, technology, and devices required to provide remote adult day services via live two-way communication;

(2) orientation and training on each participant's plan of care as directly related to remote adult day services; and

(3) direct observation by a manager or supervisor of the staff person while providing supervised remote service delivery sufficient to assess staff competency.

Sec. 6. **[245A.74] INDIVIDUAL SERVICE PLANNING.**

Subdivision 1. Eligibility. (a) A person must be eligible for and receiving in-person adult day services to receive remote adult day services from the same provider. The same provider must deliver both in-person adult day services and remote adult day services to a participant.

(b) The license holder must update the participant's plan of care according to Minnesota Rules, part 9555.9700.

(c) For a participant who chooses to receive remote adult day services, the license holder must document in the participant's plan of care the participant's proposed schedule and frequency for receiving both in-person and remote services. The license holder must also document in the participant's plan of care that remote services:

(1) are chosen as a service delivery method by the participant or the participant's legal representative;

(2) will meet the participant's assessed needs;

(3) are provided within the scope of adult day services; and

(4) will help the participant achieve identified short and long-term objectives specific to the provision of remote adult day services.

Subd. 2. Participant daily service limitations. In a 24-hour period, a participant may receive:

(1) a combination of in-person adult day services and remote adult day services on the same day but not at the same time;

(2) a combination of in-person and remote adult day services that does not exceed 12 hours in total; and

(3) up to six hours of remote adult day services.

Subd. 3. **Minimum in-person requirement.** A participant who receives remote services must receive services in-person as assigned in the participant's plan of care at least quarterly.

**Sec. 7. [245A.75] SERVICE AND PROGRAM REQUIREMENTS.**

Remote adult day services must be in the scope of adult day services provided in Minnesota Rules, part 9555.9710, subparts 3 to 7.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 8. Minnesota Statutes 2020, section 256R.02, subdivision 4, is amended to read:

Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for administering the overall activities of the nursing home. These costs include salaries and wages of the administrator, assistant administrator, business office employees, security guards, purchasing and inventory employees, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related to business office functions, licenses, permits except as provided in the external fixed costs category, employee recognition, travel including meals and lodging, all training except as specified in subdivision 17, voice and data communication or transmission, office supplies, property and liability insurance and other forms of insurance except insurance that is a fringe benefit under subdivision 22, personnel recruitment, legal services, accounting services, management or business consultants, data processing, information technology, website, central or home office costs, business meetings and seminars, postage, fees for professional organizations, subscriptions, security services, nonpromotional advertising, board of directors fees, working capital interest expense, bad debts, bad debt collection fees, and costs incurred for travel and ~~housing~~ lodging for persons employed by a Minnesota-registered supplemental nursing services agency as defined in section 144A.70, subdivision 6.

Sec. 9. Minnesota Statutes 2020, section 256R.02, subdivision 17, is amended to read:

Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing administration, direct care registered nurses, licensed practical nurses, certified nursing assistants, trained medication aides, employees conducting training in resident care topics and associated fringe benefits and payroll taxes; services from a Minnesota-registered supplemental nursing services agency up to the maximum allowable charges under section 144A.74, excluding associated lodging and travel costs; supplies that are stocked at nursing stations or on the floor and distributed or used individually, including, but not limited to: rubbing alcohol or alcohol swabs, applicators, cotton balls, incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue depressors, disposable gloves, enemas, enema equipment, personal hygiene soap, medication cups, diapers, ~~plastic waste bags~~, sanitary products, disposable thermometers, hypodermic needles and syringes, ~~clinical reagents or similar diagnostic agents~~, drugs that are not paid not payable on a separate fee

schedule by the medical assistance program or any other payer, and ~~technology related~~ clinical software costs specific to the provision of nursing care to residents, such as electronic charting systems; costs of materials used for resident care training, and training courses outside of the facility attended by direct care staff on resident care topics; and costs for nurse consultants, pharmacy consultants, and medical directors. Salaries and payroll taxes for nurse consultants who work out of a central office must be allocated proportionately by total resident days or by direct identification to the nursing facilities served by those consultants.

Sec. 10. Minnesota Statutes 2020, section 256R.02, subdivision 18, is amended to read:

Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means:

(1) premium expenses for group coverage;

(2) actual expenses incurred for self-insured plans, including ~~reinsurance~~; actual claims paid, stop-loss premiums, and plan fees. Actual expenses incurred for self-insured plans does not include allowances for future funding unless the plan meets the Medicare requirements for reporting on a premium basis when the Medicare regulations define the actual costs; and

(3) employer contributions to employer-sponsored individual coverage health reimbursement arrangements as provided by Code of Federal Regulations, title 45, section 146.123, employee health reimbursement accounts, and health savings accounts. ~~Premium and expense costs and contributions are allowable for (1) all employees and (2) the spouse and dependents of those employees who are employed on average at least 30 hours per week.~~

Sec. 11. Minnesota Statutes 2020, section 256R.02, subdivision 22, is amended to read:

Subd. 22. **Fringe benefit costs.** "Fringe benefit costs" means the costs for group life, dental, workers' compensation, short- and long-term disability, long-term care insurance, accident insurance, supplemental insurance, legal assistance insurance, profit sharing, child care costs, health insurance costs not covered under subdivision 18, including costs associated with part-time employee family members or retirees, and pension and retirement plan contributions, except for the Public Employees Retirement Association costs.

Sec. 12. Minnesota Statutes 2020, section 256R.02, subdivision 29, is amended to read:

Subd. 29. **Maintenance and plant operations costs.** "Maintenance and plant operations costs" means the costs for the salaries and wages of the maintenance supervisor, engineers, heating-plant employees, and other maintenance employees and associated fringe benefits and payroll taxes. It also includes identifiable costs for maintenance and operation of the building and grounds, including, but not limited to, fuel, electricity, plastic waste bags, medical waste and garbage removal, water, sewer, supplies, tools, and repairs, and minor equipment not requiring capitalization under Medicare guidelines.

Sec. 13. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision to read:

Subd. 32a. **Minor equipment.** "Minor equipment" means equipment that does not qualify as either fixed equipment or depreciable movable equipment as defined in section 256R.261.

Sec. 14. Minnesota Statutes 2020, section 256R.02, subdivision 42a, is amended to read:

Subd. 42a. **Real estate taxes.** "Real estate taxes" means the real estate tax liability shown on the annual property tax ~~statement~~ statements of the nursing facility for the reporting period. The term does not include personnel costs or fees for late payment.

Sec. 15. Minnesota Statutes 2020, section 256R.02, subdivision 48a, is amended to read:

Subd. 48a. **Special assessments.** "Special assessments" means the actual special assessments and related interest paid during the reporting period that are not voluntary costs. The term does not include personnel costs ~~or~~ fees for late payment, or special assessments for projects that are reimbursed in the property rate.

Sec. 16. Minnesota Statutes 2020, section 256R.02, is amended by adding a subdivision to read:

Subd. 53. **Vested.** "Vested" means the existence of a legally fixed unconditional right to a present or future benefit.

Sec. 17. Minnesota Statutes 2020, section 256R.07, subdivision 1, is amended to read:

Subdivision 1. **Criteria.** A nursing facility ~~shall~~ must keep adequate documentation. In order to be adequate, documentation must:

- (1) be maintained in orderly, well-organized files;
- (2) not include documentation of more than one nursing facility in one set of files unless transactions may be traced by the commissioner to the nursing facility's annual cost report;
- (3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name and address, purchaser name and delivery destination address, listing of items or services purchased, cost of items purchased, account number to which the cost is posted, and a breakdown of any allocation of costs between accounts or nursing facilities. If any of the information is not available, the nursing facility ~~shall~~ must document its good faith attempt to obtain the information;
- (4) include contracts, agreements, amortization schedules, mortgages, other debt instruments, and all other documents necessary to explain the nursing facility's costs or revenues; ~~and~~
- (5) include signed and dated position descriptions; and
- (6) be retained by the nursing facility to support the five most recent annual cost reports. The commissioner may extend the period of retention if the field audit was postponed because of inadequate record keeping or accounting practices as in section 256R.13, subdivisions 2 and 4, the records are necessary to resolve a pending appeal, or the records are required for the enforcement of sections 256R.04; 256R.05, subdivision 2; 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09, subdivisions 3 and 4.

Sec. 18. Minnesota Statutes 2020, section 256R.07, subdivision 2, is amended to read:

Subd. 2. **Documentation of compensation.** Compensation for personal services, regardless of whether treated as identifiable costs or costs that are not identifiable, must be documented on payroll



records. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employees which are allocated to more than one cost category must be supported by time distribution records. ~~The method used must produce a proportional distribution of actual time spent, or an accurate estimate of time spent performing assigned duties. The nursing facility that chooses to estimate time spent must use a statistically valid method. The compensation must reflect an amount proportionate to a full-time basis if the services are rendered on less than a full-time basis.~~ Salary allocations are allowable using the Medicare-approved allocation basis and methodology only if the salary costs cannot be directly determined, including when employees provide shared services to noncovered operations.

Sec. 19. Minnesota Statutes 2020, section 256R.07, subdivision 3, is amended to read:

Subd. 3. **Adequate documentation supporting nursing facility payrolls.** Payroll records supporting compensation costs claimed by nursing facilities must be supported by affirmative time and attendance records prepared by each individual at intervals of not more than one month. The requirements of this subdivision are met when documentation is provided under either clause (1) or (2) ~~as follows:~~

(1) the affirmative time and attendance record must identify the individual's name; the days worked during each pay period; the number of hours worked each day; and the number of hours taken each day by the individual for vacation, sick, and other leave. The affirmative time and attendance record must include a signed verification by the individual and the individual's supervisor, if any, that the entries reported on the record are correct; or

(2) if the affirmative time and attendance records identifying the individual's name, the days worked each pay period, the number of hours worked each day, and the number of hours taken each day by the individual for vacation, sick, and other leave are ~~placed on microfilm~~ stored electronically, equipment must be made available for viewing and printing ~~them~~, or if the records are stored as automated data, summary data must be available for viewing and printing the records.

Sec. 20. Minnesota Statutes 2020, section 256R.08, subdivision 1, is amended to read:

Subdivision 1. **Reporting of financial statements.** (a) No later than February 1 of each year, a nursing facility ~~shall~~ must:

(1) provide the state agency with a copy of its audited financial statements or its working trial balance;

(2) provide the state agency with a statement of ownership for the facility;

(3) provide the state agency with separate, audited financial statements or working trial balances for every other facility owned in whole or in part by an individual or entity that has an ownership interest in the facility;

(4) upon request, provide the state agency with separate, audited financial statements or working trial balances for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;

(5) provide the state agency with copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing facility; and

(6) upon request, provide the state agency with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs.

(b) Audited financial statements submitted under paragraph (a) must include a balance sheet, income statement, statement of the rate or rates charged to private paying residents, statement of retained earnings, statement of cash flows, notes to the financial statements, audited applicable supplemental information, and the public accountant's report. Public accountants must conduct audits in accordance with chapter 326A. The cost of an audit ~~shall~~ must not be an allowable cost unless the nursing facility submits its audited financial statements in the manner otherwise specified in this subdivision. A nursing facility must permit access by the state agency to the public accountant's audit work papers that support the audited financial statements submitted under paragraph (a).

(c) Documents or information provided to the state agency pursuant to this subdivision ~~shall~~ must be public unless prohibited by the Health Insurance Portability and Accountability Act or any other federal or state regulation. Data, notes, and preliminary drafts of reports created, collected, and maintained by the audit offices of government entities, or persons performing audits for government entities, and relating to an audit or investigation are confidential data on individuals or protected nonpublic data until the final report has been published or the audit or investigation is no longer being pursued actively, except that the data must be disclosed as required to comply with section 6.67 or 609.456.

(d) If the requirements of paragraphs (a) and (b) are not met, the reimbursement rate may be reduced to 80 percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting period and the reduction ~~shall~~ must continue until the requirements are met.

Sec. 21. Minnesota Statutes 2020, section 256R.09, subdivision 2, is amended to read:

**Subd. 2. Reporting of statistical and cost information.** All nursing facilities ~~shall~~ must provide information annually to the commissioner on a form and in a manner determined by the commissioner. The commissioner may separately require facilities to submit in a manner specified by the commissioner documentation of statistical and cost information included in the report to ensure accuracy in establishing payment rates and to perform audit and appeal review functions under this chapter. The commissioner may also require nursing facilities to provide statistical and cost information for a subset of the items in the annual report on a semiannual basis. Nursing facilities ~~shall~~ must report only costs directly related to the operation of the nursing facility. The facility ~~shall~~ must not include costs which are separately reimbursed or reimbursable by residents, medical assistance, or other payors. Allocations of costs from central, affiliated, or corporate office and related organization transactions shall be reported according to sections 256R.07, subdivision 3, and 256R.12, subdivisions 1 to 7. The commissioner shall not grant facilities extensions to the filing deadline.

Sec. 22. Minnesota Statutes 2020, section 256R.09, subdivision 5, is amended to read:

**Subd. 5. Method of accounting.** (a) The accrual method of accounting in accordance with generally accepted accounting principles is the only method acceptable for purposes of satisfying

the reporting requirements of this chapter. If a governmentally owned nursing facility demonstrates that the accrual method of accounting is not applicable to its accounts and that a cash or modified accrual method of accounting more accurately reports the nursing facility's financial operations, the commissioner shall permit the governmentally owned nursing facility to use a cash or modified accrual method of accounting.

(b) For reimbursement purposes, a provider must pay an accrued nonpayroll expense within 180 days following the end of the reporting period. A provider must not report on a subsequent cost report an expense disallowed by the commissioner under this paragraph for nonpayment unless the commissioner grants a specific exception to the 180-day rule for a documented contractual arrangement such as receivership, property tax installment payments, or pension contributions.

Sec. 23. Minnesota Statutes 2020, section 256R.10, is amended by adding a subdivision to read:

Subd. 8. **Employer health insurance costs.** (a) Employer health insurance costs are allowable for (1) all employees and (2) the spouse and dependents of those employees who are employed on average at least 30 hours per week.

(b) The commissioner must not treat employer contributions to employer-sponsored individual coverage health reimbursement arrangements as allowable costs if the facility does not provide the commissioner copies of the employer-sponsored individual coverage health reimbursement arrangement plan documents and documentation of any health insurance premiums and associated co-payments reimbursed under the arrangement. Documentation of reimbursements must denote any reimbursements for health insurance premiums or associated co-payments incurred by the spouses or dependents of employees who work on average less than 30 hours per week.

Sec. 24. Minnesota Statutes 2020, section 256R.13, subdivision 4, is amended to read:

Subd. 4. **Extended record retention requirements.** The commissioner shall extend the period for retention of records under section 256R.09, subdivision 3, for purposes of performing field audits as necessary to enforce sections 256R.04; 256R.05, subdivision 2; 256R.06, subdivisions 2, 6, and 7; 256R.08, subdivisions 1 ~~to~~ and 3; and 256R.09, subdivisions 3 and 4, with written notice to the facility postmarked no later than 90 days prior to the expiration of the record retention requirement.

Sec. 25. Minnesota Statutes 2020, section 256R.16, subdivision 1, is amended to read:

Subdivision 1. **Calculation of a quality score.** (a) The commissioner shall determine a quality score for each nursing facility using quality measures established in section 256B.439, according to methods determined by the commissioner in consultation with stakeholders and experts, and using the most recently available data as provided in the Minnesota Nursing Home Report Card. These methods ~~shall~~ must be exempt from the rulemaking requirements under chapter 14.

(b) For each quality measure, a score ~~shall~~ must be determined with the number of points assigned as determined by the commissioner using the methodology established according to this subdivision. The determination of the quality measures to be used and the methods of calculating scores may be revised annually by the commissioner.

(c) The quality score ~~shall~~ must include up to 50 points related to the Minnesota quality indicators score derived from the minimum data set, up to 40 points related to the resident quality of life score

derived from the consumer survey conducted under section 256B.439, subdivision 3, and up to ten points related to the state inspection results score.

(d) The commissioner, in cooperation with the commissioner of health, may adjust the formula in paragraph (c), or the methodology for computing the total quality score, ~~effective July 1 of any year,~~ with five months advance public notice. In changing the formula, the commissioner shall consider quality measure priorities registered by report card users, advice of stakeholders, and available research.

Sec. 26. Minnesota Statutes 2020, section 256R.17, subdivision 3, is amended to read:

Subd. 3. **Resident assessment schedule.** (a) Nursing facilities ~~shall~~ must conduct and submit case mix classification assessments according to the schedule established by the commissioner of health under section 144.0724, subdivisions 4 and 5.

(b) The case mix classifications established under section 144.0724, subdivision 3a, ~~shall be~~ are effective the day of admission for new admission assessments. The effective date for significant change assessments ~~shall be~~ is the assessment reference date. The effective date for annual and quarterly assessments ~~shall be~~ and significant corrections assessments is the first day of the month following assessment reference date.

Sec. 27. Minnesota Statutes 2020, section 256R.26, subdivision 1, is amended to read:

Subdivision 1. **Determination of limited undepreciated replacement cost.** A facility's limited URC is the lesser of:

- (1) the facility's recognized URC from the appraisal; or
- (2) the product of (i) the number of the facility's licensed beds three months prior to the beginning of the rate year, (ii) the construction cost per square foot value, and (iii) 1,000 square feet.

Sec. 28. Minnesota Statutes 2020, section 256R.261, subdivision 13, is amended to read:

Subd. 13. **Equipment allowance per bed value.** The equipment allowance per bed value is \$10,000 adjusted annually for rate years beginning on or after January 1, 2021, by the percentage change indicated by the urban consumer price index for Minneapolis-St. Paul, as published by the Bureau of Labor Statistics (series ~~1967=100~~ 1982-84=100) for the two previous Julys. The computation for this annual adjustment is based on the data that is publicly available on November 1 immediately preceding the start of the rate year.

Sec. 29. Minnesota Statutes 2020, section 256R.37, is amended to read:

**256R.37 SCHOLARSHIPS.**

~~(a) For the 27-month period beginning October 1, 2015, through December 31, 2017, the commissioner shall allow a scholarship per diem of up to 25 cents for each nursing facility with no scholarship per diem that is requesting a scholarship per diem to be added to the external fixed payment rate to be used:~~

- ~~(1) for employee scholarships that satisfy the following requirements:~~

~~(i) scholarships are available to all employees who work an average of at least ten hours per week at the facility except the administrator, and to reimburse student loan expenses for newly hired registered nurses and licensed practical nurses, and training expenses for nursing assistants as specified in section 144A.611, subdivisions 2 and 4, who are newly hired; and~~

~~(ii) the course of study is expected to lead to career advancement with the facility or in long-term care, including medical care interpreter services and social work; and~~

~~(2) to provide job-related training in English as a second language.~~

~~(b) All facilities may annually request a rate adjustment under this section by submitting information to the commissioner on a schedule and in a form supplied by the commissioner. The commissioner shall allow a scholarship payment rate equal to the reported and allowable costs divided by resident days.~~

~~(c) In calculating the per diem under paragraph (b), the commissioner shall allow costs related to tuition, direct educational expenses, and reasonable costs as defined by the commissioner for child care costs and transportation expenses related to direct educational expenses.~~

~~(d) The rate increase under this section is an optional rate add-on that the facility must request from the commissioner in a manner prescribed by the commissioner. The rate increase must be used for scholarships as specified in this section.~~

~~(e) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities that close beds during a rate year may request to have their scholarship adjustment under paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect the reduction in resident days compared to the cost report year.~~

(a) The commissioner shall provide a scholarship per diem rate calculated using the criteria in paragraphs (b) to (d). The per diem rate must be based on the allowable costs the facility paid for employee scholarships for any eligible employee, except the facility administrator, who works an average of at least ten hours per week in the licensed nursing facility building when the facility has paid expenses related to:

(1) an employee's course of study that is expected to lead to career advancement with the facility or in the field of long-term care;

(2) an employee's job-related training in English as a second language;

(3) the reimbursement of student loan expenses for newly hired registered nurses and licensed practical nurses; and

(4) the reimbursement of training, testing, and associated expenses for newly hired nursing assistants as specified in section 144A.611, subdivisions 2 and 4. The reimbursement of nursing assistant expenses under this clause is not subject to the ten-hour minimum work requirement under this paragraph.

(b) Allowable scholarship costs include: tuition, student loan reimbursement, other direct educational expenses, and reasonable costs for child care and transportation expenses directly related to education, as defined by the commissioner.

(c) The commissioner shall provide a scholarship per diem rate equal to the allowable scholarship costs divided by resident days. The commissioner shall compute the scholarship per diem rate annually and include the scholarship per diem rate in the external fixed costs payment rate.

(d) When the resulting scholarship per diem rate is 15 cents or more, nursing facilities that close beds during a rate year may request to have the scholarship rate recalculated. This recalculation is effective from the date of the bed closure through the remainder of the rate year and reflects the estimated reduction in resident days compared to the previous cost report year.

(e) Facilities seeking to have the facility's scholarship expenses recognized for the payment rate computation in section 256R.25 may apply annually by submitting information to the commissioner on a schedule and in a form supplied by the commissioner.

Sec. 30. Minnesota Statutes 2020, section 256R.39, is amended to read:

**256R.39 QUALITY IMPROVEMENT INCENTIVE PROGRAM.**

The commissioner shall develop a quality improvement incentive program in consultation with stakeholders. The annual funding pool available for quality improvement incentive payments ~~shall~~ must be equal to 0.8 percent of all operating payments, not including any rate components resulting from equitable cost-sharing for publicly owned nursing facility program participation under section 256R.48, critical access nursing facility program participation under section 256R.47, or performance-based incentive payment program participation under section 256R.38. ~~For the period from October 1, 2015, to December 31, 2016, rate adjustments provided under this section shall be effective for 15 months. Beginning January 1, 2017, An annual rate adjustments adjustment provided under this section shall~~ must be effective for one rate year.

Sec. 31. Minnesota Statutes 2021 Supplement, section 256S.205, is amended to read:

**256S.205 CUSTOMIZED LIVING SERVICES; DISPROPORTIONATE SHARE RATE ADJUSTMENTS.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given.

(b) "Application year" means a year in which a facility submits an application for designation as a disproportionate share facility.

~~(c) "Assisted living facility" or "facility" means an assisted living facility licensed under chapter 144G~~ "Customized living resident" means a resident of a facility who is receiving either 24-hour customized living services or customized living services authorized under the elderly waiver, the brain injury waiver, or the community access for disability inclusion waiver.

(d) "Disproportionate share facility" means ~~an assisted living~~ a facility designated by the commissioner under subdivision 4.

(e) "Facility" means either an assisted living facility licensed under chapter 144G or a setting that is exempt from assisted living licensure under section 144G.08, subdivision 7, clauses (10) to (13).

(f) "Rate year" means January 1 to December 31 of the year following an application year.

**Subd. 2. Rate adjustment application.** ~~An assisted living~~ A facility may apply to the commissioner for designation as a disproportionate share facility. Applications must be submitted annually between ~~October~~ September 1 and ~~October 31~~ September 30. The applying facility must apply in a manner determined by the commissioner. The applying facility must document ~~as a percentage the census of elderly waiver participants~~ each of the following on the application:

(1) the number of customized living residents in the facility on September 1 of the application year, broken out by specific waiver program; and

(2) the total number of people residing in the facility on ~~October~~ September 1 of the application year.

**Subd. 3. Rate adjustment eligibility criteria.** Only facilities ~~with a census of at least 80 percent elderly waiver participants~~ satisfying all of the following conditions on ~~October~~ September 1 of the application year are eligible for designation as a disproportionate share facility:

(1) at least 83.5 percent of the residents of the facility are customized living residents; and

(2) at least 70 percent of the customized living residents are elderly waiver participants.

**Subd. 4. Designation as a disproportionate share facility.** (a) By ~~November~~ October 15 of each application year, the commissioner must designate as a disproportionate share facility a facility that complies with the application requirements of subdivision 2 and meets the eligibility criteria of subdivision 3.

(b) An annual designation is effective for one rate year.

**Subd. 5. Rate adjustment; rate floor.** (a) Notwithstanding the 24-hour customized living monthly service rate limits under section 256S.202, subdivision 2, and the component service rates established under section 256S.201, subdivision 4, the commissioner must establish a rate floor equal to \$119 per resident per day for 24-hour customized living services provided to an elderly waiver participant in a designated disproportionate share facility ~~for the purpose of ensuring the minimal level of staffing required to meet the health and safety needs of elderly waiver participants.~~

(b) The commissioner must apply the rate floor to the services described in paragraph (a) provided during the rate year.

~~(b)~~ (c) The commissioner must adjust the rate floor at least annually in the manner described under section 256S.18, subdivisions 5 and 6 by the same amount and at the same time as any adjustment to the 24-hour customized living monthly service rate limits under section 256S.202, subdivision 2.

(e) (d) The commissioner shall not implement the rate floor under this section if the customized living rates established under sections 256S.21 to 256S.215 will be implemented at 100 percent on January 1 of the year following an application year.

Subd. 6. **Budget cap disregard.** The value of the rate adjustment under this section must not be included in an elderly waiver client's monthly case mix budget cap.

**EFFECTIVE DATE.** This section is effective September 1, 2022, or upon federal approval, whichever is later, and applies to services provided on or after January 1, 2023, or on or after the date upon which federal approval is obtained, whichever is later. The commissioner of human services shall notify the revisor of statutes when federal approval is obtained.

Sec. 32. **REPEALER.**

Minnesota Statutes 2020, sections 245A.03, subdivision 5; and 256R.08, subdivision 2, and Minnesota Rules, part 9555.6255, are repealed.

## ARTICLE 8

### CHILD AND VULNERABLE ADULT PROTECTION

Section 1. Minnesota Statutes 2020, section 242.19, subdivision 2, is amended to read:

Subd. 2. **Dispositions.** When a child has been committed to the commissioner of corrections by a juvenile court, upon a finding of delinquency, the commissioner may for the purposes of treatment and rehabilitation:

(1) order the child's confinement to the Minnesota Correctional Facility-Red Wing, which shall accept the child, or to a group foster home under the control of the commissioner of corrections, or to private facilities or facilities established by law or incorporated under the laws of this state that may care for delinquent children;

(2) order the child's release on parole under such supervisions and conditions as the commissioner believes conducive to law-abiding conduct, treatment and rehabilitation;

(3) order reconfinement or renewed parole as often as the commissioner believes to be desirable;

(4) revoke or modify any order, except an order of discharge, as often as the commissioner believes to be desirable;

(5) discharge the child when the commissioner is satisfied that the child has been rehabilitated and that such discharge is consistent with the protection of the public;

(6) if the commissioner finds that the child is eligible for probation or parole and it appears from the commissioner's investigation that conditions in the child's or the guardian's home are not conducive to the child's treatment, rehabilitation, or law-abiding conduct, refer the child, together with the commissioner's findings, to a local social services agency or a licensed child-placing agency for placement in a foster care or, when appropriate, for initiation of child in need of protection or services proceedings as provided in sections 260C.001 to 260C.421. The commissioner of corrections shall



reimburse local social services agencies for foster care costs they incur for the child while on probation or parole to the extent that funds for this purpose are made available to the commissioner by the legislature. The juvenile court ~~shall~~ may order the parents of a child on probation or parole to pay the costs of foster care under section 260B.331, subdivision 1, if the local social services agency has determined that requiring reimbursement is in the child's best interests, according to their ability to pay, and to the extent that the commissioner of corrections has not reimbursed the local social services agency.

Sec. 2. Minnesota Statutes 2020, section 260.012, is amended to read:

**260.012 DUTY TO ENSURE PLACEMENT PREVENTION AND FAMILY REUNIFICATION; REASONABLE EFFORTS.**

(a) Once a child alleged to be in need of protection or services is under the court's jurisdiction, the court shall ensure that reasonable efforts, including culturally appropriate services and practices, by the social services agency are made to prevent placement or to eliminate the need for removal and to reunite the child with the child's family at the earliest possible time, and the court must ensure that the responsible social services agency makes reasonable efforts to finalize an alternative permanent plan for the child as provided in paragraph (e). In determining reasonable efforts to be made with respect to a child and in making those reasonable efforts, the child's best interests, health, and safety must be of paramount concern. Reasonable efforts to prevent placement and for rehabilitation and reunification are always required except upon a determination by the court that a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been terminated involuntarily;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parent's custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (d), clause (1), section 260C.515, subdivision 4, or a similar law of another jurisdiction;

(5) the parent has committed sexual abuse as defined in section 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable under the circumstances.

(b) When the court makes one of the prima facie determinations under paragraph (a), either permanency pleadings under section 260C.505, or a termination of parental rights petition under sections 260C.141 and 260C.301 must be filed. A permanency hearing under sections 260C.503 to 260C.521 must be held within 30 days of this determination.

(c) In the case of an Indian child, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, the juvenile court must make findings and conclusions consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901 et seq., as to the provision of active efforts. In cases governed by the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, the responsible social services agency must provide active efforts as required under United States Code, title 25, section 1911(d).

(d) "Reasonable efforts to prevent placement" means:

(1) the agency has made reasonable efforts to prevent the placement of the child in foster care by working with the family to develop and implement a safety plan that is individualized to the needs of the child and the child's family and may include support persons from the child's extended family, kin network, and community; or

(2) the agency has demonstrated to the court that, given the particular circumstances of the child and family at the time of the child's removal, there are no services or efforts available which that could allow the child to safely remain in the home.

(e) "Reasonable efforts to finalize a permanent plan for the child" means due diligence by the responsible social services agency to:

(1) reunify the child with the parent or guardian from whom the child was removed;

(2) assess a noncustodial parent's ability to provide day-to-day care for the child and, where appropriate, provide services necessary to enable the noncustodial parent to safely provide the care, as required by section 260C.219;

(3) conduct a relative search to identify and provide notice to adult relatives, and engage relatives in case planning and permanency planning, as required under section 260C.221;

(4) consider placing the child with relatives in the order specified in section 260C.212, subdivision 2, paragraph (a);

~~(4)~~ (5) place siblings removed from their home in the same home for foster care or adoption, or transfer permanent legal and physical custody to a relative. Visitation between siblings who are not in the same foster care, adoption, or custodial placement or facility shall be consistent with section 260C.212, subdivision 2; and

~~(5)~~ (6) when the child cannot return to the parent or guardian from whom the child was removed, to plan for and finalize a safe and legally permanent alternative home for the child, and considers permanent alternative homes for the child inside or outside of the state, preferably with a relative in the order specified in section 260C.212, subdivision 2, paragraph (a), through adoption or transfer of permanent legal and physical custody of the child.

(f) Reasonable efforts are made upon the exercise of due diligence by the responsible social services agency to use culturally appropriate and available services to meet the individualized needs of the child and the child's family. Services may include those provided by the responsible social services agency and other culturally appropriate services available in the community. The responsible social services agency must select services for a child and the child's family by collaborating with

the child's family and, if appropriate, the child. At each stage of the proceedings where when the court is required to review the appropriateness of the responsible social services agency's reasonable efforts as described in paragraphs (a), (d), and (e), the social services agency has the burden of demonstrating that:

(1) ~~it~~ the agency has made reasonable efforts to prevent placement of the child in foster care, including that the agency considered or established a safety plan according to paragraph (d), clause (1);

(2) ~~it~~ the agency has made reasonable efforts to eliminate the need for removal of the child from the child's home and to reunify the child with the child's family at the earliest possible time;

(3) the agency has made reasonable efforts to finalize a permanent plan for the child pursuant to paragraph (e);

~~(3) it~~ (4) the agency has made reasonable efforts to finalize an alternative permanent home for the child, and ~~considers~~ considered permanent alternative homes for the child ~~inside or outside in or out of the state,~~ preferably with a relative in the order specified in section 260C.212, subdivision 2, paragraph (a); or

~~(4)~~ (5) reasonable efforts to prevent placement and to reunify the child with the parent or guardian are not required. The agency may meet this burden by stating facts in a sworn petition filed under section 260C.141, by filing an affidavit summarizing the agency's reasonable efforts or facts that the agency believes demonstrate that there is no need for reasonable efforts to reunify the parent and child, or through testimony or a certified report required under juvenile court rules.

(g) Once the court determines that reasonable efforts for reunification are not required because the court has made one of the prima facie determinations under paragraph (a), the court may only require the agency to make reasonable efforts for reunification after a hearing according to section 260C.163, ~~where~~ if the court finds that there is not clear and convincing evidence of the facts upon which the court based ~~its~~ the court's prima facie determination. ~~In this case when~~ If there is clear and convincing evidence that the child is in need of protection or services, the court may find the child in need of protection or services and order any of the dispositions available under section 260C.201, subdivision 1. Reunification of a child with a parent is not required if the parent has been convicted of:

(1) a violation of, or an attempt or conspiracy to commit a violation of, sections 609.185 to 609.20; 609.222, subdivision 2; or 609.223 in regard to another child of the parent;

(2) a violation of section 609.222, subdivision 2; or 609.223, in regard to the child;

(3) a violation of, or an attempt or conspiracy to commit a violation of, United States Code, title 18, section 1111(a) or 1112(a), in regard to another child of the parent;

(4) committing sexual abuse as defined in section 260E.03, against the child or another child of the parent; or

(5) an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b).

(h) The juvenile court, in proceedings under sections 260B.178, 260C.178, 260C.201, 260C.202, 260C.204, 260C.301, or 260C.503 to 260C.521, shall make findings and conclusions as to the provision of reasonable efforts. When determining whether reasonable efforts have been made by the agency, the court shall consider whether services to the child and family were:

- (1) selected in collaboration with the child's family and, if appropriate, the child;
- (2) tailored to the individualized needs of the child and child's family;
- ~~(3)~~ (3) relevant to the safety ~~and~~, protection, and well-being of the child;
- ~~(4)~~ (4) adequate to meet the individualized needs of the child and family;
- ~~(5)~~ (5) culturally appropriate;
- ~~(6)~~ (6) available and accessible;
- ~~(7)~~ (7) consistent and timely; and
- ~~(8)~~ (8) realistic under the circumstances.

In the alternative, the court may determine that the provision of services or further services for the purpose of rehabilitation is futile and therefore unreasonable under the circumstances or that reasonable efforts are not required as provided in paragraph (a).

(i) This section does not prevent out-of-home placement for the treatment of a child with a mental disability when it is determined to be medically necessary as a result of the child's diagnostic assessment or the child's individual treatment plan indicates that appropriate and necessary treatment cannot be effectively provided outside of a residential or inpatient treatment program and the level or intensity of supervision and treatment cannot be effectively and safely provided in the child's home or community and it is determined that a residential treatment setting is the least restrictive setting that is appropriate to the needs of the child.

(j) If continuation of reasonable efforts to prevent placement or reunify the child with the parent or guardian from whom the child was removed is determined by the court to be inconsistent with the permanent plan for the child or upon the court making one of the prima facie determinations under paragraph (a), reasonable efforts must be made to place the child in a timely manner in a safe and permanent home and to complete whatever steps are necessary to legally finalize the permanent placement of the child.

(k) Reasonable efforts to place a child for adoption or in another permanent placement may be made concurrently with reasonable efforts to prevent placement or to reunify the child with the parent or guardian from whom the child was removed. When the responsible social services agency decides to concurrently make reasonable efforts for both reunification and permanent placement away from the parent under paragraph (a), the agency shall disclose ~~its~~ the agency's decision and both plans for concurrent reasonable efforts to all parties and the court. When the agency discloses ~~its~~ the agency's decision to proceed ~~on~~ with both plans for reunification and permanent placement away from the parent, the court's review of the agency's reasonable efforts shall include the agency's efforts under both plans.

Sec. 3. Minnesota Statutes 2020, section 260B.331, subdivision 1, is amended to read:

Subdivision 1. **Care, examination, or treatment.** (a)(1) Whenever legal custody of a child is transferred by the court to a local social services agency, or

(2) whenever legal custody is transferred to a person other than the local social services agency, but under the supervision of the local social services agency, and

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court ~~shall~~ may order, and the local social services agency ~~shall~~ may require, the parents or custodian of a child, while the child is under the age of 18, to use ~~the total~~ income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, Supplemental Security Income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court ~~shall~~ may order, and the local social services agency ~~shall~~ may require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. The local social services agency shall determine whether requiring reimbursement, either through child support or parental fees, for the cost of care, examination, or treatment from income and resources attributable to the child is in the child's best interests. In determining whether to require reimbursement, the local social services agency shall consider:

(1) whether requiring reimbursement would compromise a parent's ability to meet the child's treatment and rehabilitation needs before the child returns to the parent's home;

(2) whether requiring reimbursement would compromise the parent's ability to meet the child's needs after the child returns home; and

(3) whether redirecting existing child support payments or changing the representative payee of social security benefits to the local social services agency would limit the parent's ability to maintain financial stability for the child upon the child's return home.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court ~~shall~~ may inquire into the ability of the parents to ~~support the child~~ reimburse the county for the cost of care, examination, or treatment and, after giving the parents a reasonable opportunity to be heard, the court ~~shall~~ may order, and the local social services agency ~~shall~~ may require, the parents to contribute to the cost of care, examination, or treatment of the child. ~~Except in delinquency cases where the victim is a member of the child's immediate family,~~ When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the local social services agency and approved by the commissioner of human services. ~~In delinquency cases where the victim is a member of the child's immediate family,~~ The court shall use the fee schedule but may also take into account ~~the seriousness of the offense and any expenses which the parents have incurred as a~~

result of the offense any expenses that the parents may have incurred as a result of the offense, including but not limited to co-payments for mental health treatment and attorney fees. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section. The local social services agency shall determine whether requiring reimbursement from the parents, either through child support or parental fees, for the cost of care, examination, or treatment from income and resources attributable to the child is in the child's best interests. In determining whether to require reimbursement, the local social services agency shall consider:

(1) whether requiring reimbursement would compromise a parent's ability to meet the child's treatment and rehabilitation needs before the child returns to the parent's home;

(2) whether requiring reimbursement would compromise the parent's ability to meet the child's needs after the child returns home; and

(3) whether requiring reimbursement would compromise the parent's ability to meet the needs of the family.

(d) If the local social services agency determines that requiring reimbursement is in the child's best interests, the court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Sec. 4. Minnesota Statutes 2020, section 260C.001, subdivision 3, is amended to read:

Subd. 3. **Permanency, termination of parental rights, and adoption.** The purpose of the laws relating to permanency, termination of parental rights, and children who come under the guardianship of the commissioner of human services is to ensure that:

(1) when required and appropriate, reasonable efforts have been made by the social services agency to reunite the child with the child's parents in a home that is safe and permanent;

(2) if placement with the parents is not reasonably foreseeable, to secure for the child a safe and permanent placement according to the requirements of section 260C.212, subdivision 2, preferably ~~with adoptive parents~~ with a relative through an adoption or a transfer of permanent legal and physical custody or, if that is not possible or in the best interests of the child, ~~a fit and willing relative through transfer of permanent legal and physical custody to that relative~~ with a nonrelative caregiver through adoption; and

(3) when a child is under the guardianship of the commissioner of human services, reasonable efforts are made to finalize an adoptive home for the child in a timely manner.

Nothing in this section requires reasonable efforts to prevent placement or to reunify the child with the parent or guardian to be made in circumstances where the court has determined that the child has been subjected to egregious harm, when the child is an abandoned infant, the parent has involuntarily lost custody of another child through a proceeding under section 260C.515, subdivision 4, or similar law of another state, the parental rights of the parent to a sibling have been involuntarily terminated, or the court has determined that reasonable efforts or further reasonable efforts to reunify the child with the parent or guardian would be futile.

The paramount consideration in all proceedings for permanent placement of the child under sections 260C.503 to 260C.521, or the termination of parental rights is the best interests of the child. In proceedings involving an American Indian child, as defined in section 260.755, subdivision 8, the best interests of the child must be determined consistent with the Indian Child Welfare Act of 1978, United States Code, title 25, section 1901, et seq.

Sec. 5. Minnesota Statutes 2020, section 260C.007, subdivision 27, is amended to read:

Subd. 27. **Relative.** "Relative" means a person related to the child by blood, marriage, or adoption; the legal parent, guardian, or custodian of the child's siblings; or an individual who is an important friend of the child or of the child's parent or custodian, including an individual with whom the child has resided or had significant contact or who has a significant relationship to the child or the child's parent or custodian.

Sec. 6. Minnesota Statutes 2020, section 260C.151, subdivision 6, is amended to read:

Subd. 6. **Immediate custody.** If the court makes individualized, explicit findings, based on the notarized petition or sworn affidavit, that there are reasonable grounds to believe that the child is in surroundings or conditions ~~which~~ that endanger the child's health, safety, or welfare that require that responsibility for the child's care and custody be immediately assumed by the responsible social services agency and that continuation of the child in the custody of the parent or guardian is contrary to the child's welfare, the court may order that the officer serving the summons take the child into immediate custody for placement of the child in foster care, preferably with a relative. In ordering that responsibility for the care, custody, and control of the child be assumed by the responsible social services agency, the court is ordering emergency protective care as that term is defined in the juvenile court rules.

Sec. 7. Minnesota Statutes 2020, section 260C.152, subdivision 5, is amended to read:

Subd. 5. **Notice to foster parents and preadoptive parents and relatives.** The foster parents, if any, of a child and any preadoptive parent or relative providing care for the child must be provided notice of and a right to be heard in any review or hearing to be held with respect to the child. Any other relative may also request, and must be granted, a notice and the opportunity right to be heard under this section. This subdivision does not require that a foster parent, preadoptive parent, ~~or~~ relative providing care for the child, or any other relative be made a party to a review or hearing solely on the basis of the notice and right to be heard.

Sec. 8. Minnesota Statutes 2020, section 260C.175, subdivision 2, is amended to read:

Subd. 2. **Notice to parent or custodian and child; emergency placement with relative.** ~~Whenever~~ (a) At the time that a peace officer takes a child into custody for relative placement or shelter care or relative placement pursuant to subdivision 1, section 260C.151, subdivision 5, or section 260C.154, the officer shall notify the child's parent or custodian and the child, if the child is ten years of age or older, that under section 260C.181, subdivision 2, the parent or custodian or the child may request that to place the child be placed with a relative or a designated caregiver under chapter 257A as defined in section 260C.007, subdivision 27, instead of in a shelter care facility.

(b) When a child who is not alleged to be delinquent is taken into custody pursuant to subdivision 1, clause (1) or (2), item (ii), and placement with an identified relative is requested, the peace officer shall coordinate with the responsible social services agency to ensure the child's safety and well-being and comply with section 260C.181, subdivision 2.

(c) The officer also shall give the parent or custodian of the child a list of names, addresses, and telephone numbers of social services agencies that offer child welfare services. If the parent or custodian was not present when the child was removed from the residence, the list shall be left with an adult on the premises or left in a conspicuous place on the premises if no adult is present. If the officer has reason to believe the parent or custodian is not able to read and understand English, the officer must provide a list that is written in the language of the parent or custodian. The list shall be prepared by the commissioner of human services. The commissioner shall prepare lists for each county and provide each county with copies of the list without charge. The list shall be reviewed annually by the commissioner and updated if it is no longer accurate. Neither the commissioner nor any peace officer or the officer's employer shall be liable to any person for mistakes or omissions in the list. The list does not constitute a promise that any agency listed will ~~in fact~~ assist the parent or custodian.

Sec. 9. Minnesota Statutes 2020, section 260C.176, subdivision 2, is amended to read:

Subd. 2. **Reasons for detention.** (a) If the child is not released as provided in subdivision 1, the person taking the child into custody shall notify the court as soon as possible of the detention of the child and the reasons for detention.

(b) No child taken into custody and placed in a relative's home or shelter care facility ~~or relative's home~~ by a peace officer pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), may be held in custody longer than 72 hours, excluding Saturdays, Sundays and holidays, unless a petition has been filed and the judge or referee determines pursuant to section 260C.178 that the child shall remain in custody or unless the court has made a finding of domestic abuse perpetrated by a minor after a hearing under Laws 1997, chapter 239, article 10, sections 2 to 26, in which case the court may extend the period of detention for an additional seven days, within which time the social services agency shall conduct an assessment and shall provide recommendations to the court regarding voluntary services or file a child in need of protection or services petition.

Sec. 10. Minnesota Statutes 2020, section 260C.178, subdivision 1, is amended to read:

Subdivision 1. **Hearing and release requirements.** (a) If a child was taken into custody under section 260C.175, subdivision 1, clause (1) or (2), item (ii), the court shall hold a hearing within 72 hours of the time that the child was taken into custody, excluding Saturdays, Sundays, and holidays, to determine whether the child should continue to be in custody.



(b) Unless there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered, the child shall be released to the custody of a parent, guardian, custodian, or other suitable person, subject to reasonable conditions of release including, but not limited to, a requirement that the child undergo a chemical use assessment as provided in section 260C.157, subdivision 1.

(c) If the court determines that there is reason to believe that the child would endanger self or others or not return for a court hearing, or that the child's health or welfare would be immediately endangered if returned to the care of the parent or guardian who has custody and from whom the child was removed, the court shall order the child:

(1) into the care of the child's noncustodial parent and order the noncustodial parent to comply with any conditions that the court determines appropriate to ensure the safety and care of the child, including requiring the noncustodial parent to cooperate with paternity establishment proceedings if the noncustodial parent has not been adjudicated the child's father; or

~~(2) into foster care as defined in section 260C.007, subdivision 18, under the legal responsibility of the responsible social services agency or responsible probation or corrections agency for the purposes of protective care as that term is used in the juvenile court rules or into the home of a noncustodial parent and order the noncustodial parent to comply with any conditions the court determines to be appropriate to the safety and care of the child, including cooperating with paternity establishment proceedings in the case of a man who has not been adjudicated the child's father.~~ The court shall not give the responsible social services legal custody and order a trial home visit at any time prior to adjudication and disposition under section 260C.201, subdivision 1, paragraph (a), clause (3), but may order the child returned to the care of the parent or guardian who has custody and from whom the child was removed and order the parent or guardian to comply with any conditions the court determines to be appropriate to meet the safety, health, and welfare of the child.

(d) In determining whether the child's health or welfare would be immediately endangered, the court shall consider whether the child would reside with a perpetrator of domestic child abuse.

(e) The court, before determining whether a child should be placed in or continue in foster care under the protective care of the responsible agency, shall also make a determination, consistent with section 260.012 as to whether reasonable efforts were made to prevent placement or whether reasonable efforts to prevent placement are not required. In the case of an Indian child, the court shall determine whether active efforts, according to section 260.762 and the Indian Child Welfare Act of 1978, United States Code, title 25, section 1912(d), were made to prevent placement. The court shall enter a finding that the responsible social services agency has made reasonable efforts to prevent placement when the agency establishes either:

(1) ~~that~~ the agency has actually provided services or made efforts in an attempt to prevent the child's removal but that such services or efforts have not proven sufficient to permit the child to safely remain in the home; or

(2) that there are no services or other efforts that could be made at the time of the hearing that could safely permit the child to remain home or to return home. The court shall not make a reasonable efforts determination under this clause unless the court is satisfied that the agency has sufficiently demonstrated to the court that there were no services or other efforts that the agency was able to

provide at the time of the hearing enabling the child to safely remain home or to safely return home. When reasonable efforts to prevent placement are required and there are services or other efforts that could be ordered ~~which~~ that would permit the child to safely return home, the court shall order the child returned to the care of the parent or guardian and the services or efforts put in place to ensure the child's safety. When the court makes a prima facie determination that one of the circumstances under paragraph (g) exists, the court shall determine that reasonable efforts to prevent placement and to return the child to the care of the parent or guardian are not required.

(f) If the court finds the social services agency's preventive or reunification efforts have not been reasonable but further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

~~(f)~~ (g) The court may not order or continue the foster care placement of the child unless the court makes explicit, individualized findings that continued custody of the child by the parent or guardian would be contrary to the welfare of the child and that placement is in the best interest of the child.

~~(g)~~ (h) At the emergency removal hearing, or at any time during the course of the proceeding, and upon notice and request of the county attorney, the court shall determine whether a petition has been filed stating a prima facie case that:

(1) the parent has subjected a child to egregious harm as defined in section 260C.007, subdivision 14;

(2) the parental rights of the parent to another child have been involuntarily terminated;

(3) the child is an abandoned infant under section 260C.301, subdivision 2, paragraph (a), clause (2);

(4) the parents' custodial rights to another child have been involuntarily transferred to a relative under Minnesota Statutes 2010, section 260C.201, subdivision 11, paragraph (e), clause (1); section 260C.515, subdivision 4; or a similar law of another jurisdiction;

(5) the parent has committed sexual abuse as defined in section 260E.03, against the child or another child of the parent;

(6) the parent has committed an offense that requires registration as a predatory offender under section 243.166, subdivision 1b, paragraph (a) or (b); or

(7) the provision of services or further services for the purpose of reunification is futile and therefore unreasonable.

~~(h)~~ (i) When a petition to terminate parental rights is required under section 260C.301, subdivision 4, or 260C.503, subdivision 2, but the county attorney has determined not to proceed with a termination of parental rights petition, and has instead filed a petition to transfer permanent legal and physical custody to a relative under section 260C.507, the court shall schedule a permanency hearing within 30 days of the filing of the petition.

~~(j)~~ (j) If the county attorney has filed a petition under section 260C.307, the court shall schedule a trial under section 260C.163 within 90 days of the filing of the petition except when the county attorney determines that the criminal case shall proceed to trial first under section 260C.503, subdivision 2, paragraph (c).

~~(k)~~ (k) If the court determines the child should be ordered into foster care and the child's parent refuses to give information to the responsible social services agency regarding the child's father or relatives of the child, the court may order the parent to disclose the names, addresses, telephone numbers, and other identifying information to the responsible social services agency for the purpose of complying with sections 260C.150, 260C.151, 260C.212, 260C.215, 260C.219, and 260C.221.

~~(l)~~ (l) If a child ordered into foster care has siblings, whether full, half, or step, who are also ordered into foster care, the court shall inquire of the responsible social services agency of the efforts to place the children together as required by section 260C.212, subdivision 2, paragraph (d), if placement together is in each child's best interests, unless a child is in placement for treatment or a child is placed with a previously noncustodial parent who is not a parent to all siblings. If the children are not placed together at the time of the hearing, the court shall inquire at each subsequent hearing of the agency's reasonable efforts to place the siblings together, as required under section 260.012. If any sibling is not placed with another sibling or siblings, the agency must develop a plan to facilitate visitation or ongoing contact among the siblings as required under section 260C.212, subdivision 1, unless it is contrary to the safety or well-being of any of the siblings to do so.

~~(m)~~ (m) When the court has ordered the child into the care of a noncustodial parent or in foster care ~~or into the home of a noncustodial parent~~, the court may order a chemical dependency evaluation, mental health evaluation, medical examination, and parenting assessment for the parent as necessary to support the development of a plan for reunification required under subdivision 7 and section 260C.212, subdivision 1, or the child protective services plan under section 260E.26, and Minnesota Rules, part 9560.0228.

Sec. 11. Minnesota Statutes 2020, section 260C.181, subdivision 2, is amended to read:

Subd. 2. **Least restrictive setting.** Notwithstanding the provisions of subdivision 1, if the child had been taken into custody pursuant to section 260C.175, subdivision 1, clause (1) or (2), item (ii), and is not alleged to be delinquent, the child shall be detained in the least restrictive setting consistent with the child's health and welfare and in closest proximity to the child's family as possible. Placement may be with a child's relative, ~~a designated caregiver under chapter 257A,~~ or, if no placement is available with a relative, in a shelter care facility. The placing officer shall comply with this section and shall document why a less restrictive setting will or will not be in the best interests of the child for placement purposes.

Sec. 12. Minnesota Statutes 2020, section 260C.193, subdivision 3, is amended to read:

Subd. 3. **Best interests of the child.** (a) The policy of the state is to ensure that the best interests of children in foster care, who experience a transfer of permanent legal and physical custody to a relative under section 260C.515, subdivision 4, or adoption under this chapter, are met by:

(1) considering placement of a child with relatives in the order specified in section 260C.212, subdivision 2, paragraph (a); and

(2) requiring individualized determinations under section 260C.212, subdivision 2, paragraph (b), of the needs of the child and of how the selected home will serve the needs of the child.

(b) No later than three months after a child is ordered to be removed from the care of a parent in the hearing required under section 260C.202, the court shall review and enter findings regarding whether the responsible social services agency ~~made~~:

(1) ~~diligent efforts~~ exercised due diligence to identify and search for, notify, and engage relatives as required under section 260C.221; and

(2) made a placement consistent with section 260C.212, subdivision 2, that is based on an individualized determination as required under section 260C.212, subdivision 2, of the child's needs to select a home that meets the needs of the child.

(c) If the court finds that the agency has not made efforts exercised due diligence as required under section 260C.221, and the court shall order the agency to make reasonable efforts. If there is a relative who qualifies to be licensed to provide family foster care under chapter 245A, the court may order the child to be placed with the relative consistent with the child's best interests.

(d) If the agency's efforts under section 260C.221 are found by the court to be sufficient, the court shall order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to appropriately engage relatives who subsequently come to the agency's attention. A court's finding that the agency has made reasonable efforts under this paragraph does not relieve the agency of the duty to continue notifying relatives who come to the agency's attention and engaging and considering relatives who respond to the notice under section 260C.221 in child placement and case planning decisions.

(e) If the child's birth parent ~~or parents~~ explicitly ~~request~~ requests that a specific relative or important friend not be considered for placement of the child, the court shall honor that request if it is consistent with the best interests of the child and consistent with the requirements of section 260C.221. The court shall not waive relative search, notice, and consideration requirements, unless section 260C.139 applies. If the child's birth parent ~~or parents express~~ expresses a preference for placing the child in a foster or adoptive home of the same or a similar religious background ~~to as~~ that of the birth parent or parents, the court shall order placement of the child with an individual who meets the birth parent's religious preference.

(f) Placement of a child ~~cannot~~ must not be delayed or denied based on race, color, or national origin of the foster parent or the child.

(g) Whenever possible, siblings requiring foster care placement ~~should~~ shall be placed together unless it is determined not to be in the best interests of one or more of the siblings after weighing the benefits of separate placement against the benefits of sibling connections for each sibling. The agency shall consider section 260C.008 when making this determination. If siblings were not placed together according to section 260C.212, subdivision 2, paragraph (d), the responsible social services agency shall report to the court the efforts made to place the siblings together and why the efforts were not successful. If the court is not satisfied that the agency has made reasonable efforts to place siblings together, the court must order the agency to make further reasonable efforts. If siblings are not placed together, the court shall order the responsible social services agency to implement the

plan for visitation among siblings required as part of the out-of-home placement plan under section 260C.212.

(h) This subdivision does not affect the Indian Child Welfare Act, United States Code, title 25, sections 1901 to 1923, and the Minnesota Indian Family Preservation Act, sections 260.751 to 260.835.

Sec. 13. Minnesota Statutes 2020, section 260C.201, subdivision 1, is amended to read:

Subdivision 1. **Dispositions.** (a) If the court finds that the child is in need of protection or services or neglected and in foster care, ~~the court~~ shall enter an order making any of the following dispositions of the case:

(1) place the child under the protective supervision of the responsible social services agency or child-placing agency in the home of a parent of the child under conditions prescribed by the court directed to the correction of the child's need for protection or services:

(i) the court may order the child into the home of a parent who does not otherwise have legal custody of the child, however, an order under this section does not confer legal custody on that parent;

(ii) if the court orders the child into the home of a father who is not adjudicated, the father must cooperate with paternity establishment proceedings regarding the child in the appropriate jurisdiction as one of the conditions prescribed by the court for the child to continue in the father's home; and

(iii) the court may order the child into the home of a noncustodial parent with conditions and may also order both the noncustodial and the custodial parent to comply with the requirements of a case plan under subdivision 2; or

(2) transfer legal custody to one of the following:

(i) a child-placing agency; or

(ii) the responsible social services agency. In making a foster care placement ~~for~~ of a child whose custody has been transferred under this subdivision, the agency shall make an individualized determination of how the placement is in the child's best interests using the placement consideration order for relatives; and the best interest factors in section 260C.212, subdivision 2, ~~paragraph (b)~~, and may include a child colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190; or

(3) order a trial home visit without modifying the transfer of legal custody to the responsible social services agency under clause (2). Trial home visit means the child is returned to the care of the parent or guardian from whom the child was removed for a period not to exceed six months. During the period of the trial home visit, the responsible social services agency:

(i) shall continue to have legal custody of the child, which means that the agency may see the child in the parent's home, at school, in a child care facility, or other setting as the agency deems necessary and appropriate;

(ii) shall continue to have the ability to access information under section 260C.208;

(iii) shall continue to provide appropriate services to both the parent and the child during the period of the trial home visit;

(iv) without previous court order or authorization, may terminate the trial home visit in order to protect the child's health, safety, or welfare and may remove the child to foster care;

(v) shall advise the court and parties within three days of the termination of the trial home visit when a visit is terminated by the responsible social services agency without a court order; and

(vi) shall prepare a report for the court when the trial home visit is terminated whether by the agency or court order ~~which~~ that describes the child's circumstances during the trial home visit and recommends appropriate orders, if any, for the court to enter to provide for the child's safety and stability. In the event a trial home visit is terminated by the agency by removing the child to foster care without prior court order or authorization, the court shall conduct a hearing within ten days of receiving notice of the termination of the trial home visit by the agency and shall order disposition under this subdivision or commence permanency proceedings under sections 260C.503 to 260C.515. The time period for the hearing may be extended by the court for good cause shown and if it is in the best interests of the child as long as the total time the child spends in foster care without a permanency hearing does not exceed 12 months;

(4) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a physical or mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the court may order the child's parent, guardian, or custodian to provide it. The court may order the child's health plan company to provide mental health services to the child. Section 62Q.535 applies to an order for mental health services directed to the child's health plan company. If the health plan, parent, guardian, or custodian fails or is unable to provide this treatment or care, the court may order it provided. Absent specific written findings by the court that the child's disability is the result of abuse or neglect by the child's parent or guardian, the court shall not transfer legal custody of the child for the purpose of obtaining special treatment or care solely because the parent is unable to provide the treatment or care. If the court's order for mental health treatment is based on a diagnosis made by a treatment professional, the court may order that the diagnosing professional not provide the treatment to the child if it finds that such an order is in the child's best interests; or

(5) if the court believes that the child has sufficient maturity and judgment and that it is in the best interests of the child, the court may order a child 16 years old or older to be allowed to live independently, either alone or with others as approved by the court under supervision the court considers appropriate, if the county board, after consultation with the court, has specifically authorized this dispositional alternative for a child.

(b) If the child was adjudicated in need of protection or services because the child is a runaway or habitual truant, the court may order any of the following dispositions in addition to or as alternatives to the dispositions authorized under paragraph (a):

(1) counsel the child or the child's parents, guardian, or custodian;

(2) place the child under the supervision of a probation officer or other suitable person in the child's own home under conditions prescribed by the court, including reasonable rules for the child's

conduct and the conduct of the parents, guardian, or custodian, designed for the physical, mental, and moral well-being and behavior of the child;

(3) subject to the court's supervision, transfer legal custody of the child to one of the following:

(i) a reputable person of good moral character. No person may receive custody of two or more unrelated children unless licensed to operate a residential program under sections 245A.01 to 245A.16; or

(ii) a county probation officer for placement in a group foster home established under the direction of the juvenile court and licensed pursuant to section 241.021;

(4) require the child to pay a fine of up to \$100. The court shall order payment of the fine in a manner that will not impose undue financial hardship upon the child;

(5) require the child to participate in a community service project;

(6) order the child to undergo a chemical dependency evaluation and, if warranted by the evaluation, order participation by the child in a drug awareness program or an inpatient or outpatient chemical dependency treatment program;

(7) if the court believes that it is in the best interests of the child or of public safety that the child's driver's license or instruction permit be canceled, the court may order the commissioner of public safety to cancel the child's license or permit for any period up to the child's 18th birthday. If the child does not have a driver's license or permit, the court may order a denial of driving privileges for any period up to the child's 18th birthday. The court shall forward an order issued under this clause to the commissioner, who shall cancel the license or permit or deny driving privileges without a hearing for the period specified by the court. At any time before the expiration of the period of cancellation or denial, the court may, for good cause, order the commissioner of public safety to allow the child to apply for a license or permit, and the commissioner shall so authorize;

(8) order that the child's parent or legal guardian deliver the child to school at the beginning of each school day for a period of time specified by the court; or

(9) require the child to perform any other activities or participate in any other treatment programs deemed appropriate by the court.

To the extent practicable, the court shall enter a disposition order the same day it makes a finding that a child is in need of protection or services or neglected and in foster care, but in no event more than 15 days after the finding unless the court finds that the best interests of the child will be served by granting a delay. If the child was under eight years of age at the time the petition was filed, the disposition order must be entered within ten days of the finding and the court may not grant a delay unless good cause is shown and the court finds the best interests of the child will be served by the delay.

(c) If a child who is 14 years of age or older is adjudicated in need of protection or services because the child is a habitual truant and truancy procedures involving the child were previously dealt with by a school attendance review board or county attorney mediation program under section

260A.06 or 260A.07, the court shall order a cancellation or denial of driving privileges under paragraph (b), clause (7), for any period up to the child's 18th birthday.

(d) In the case of a child adjudicated in need of protection or services because the child has committed domestic abuse and been ordered excluded from the child's parent's home, the court shall dismiss jurisdiction if the court, at any time, finds the parent is able or willing to provide an alternative safe living arrangement for the child, as defined in Laws 1997, chapter 239, article 10, section 2.

(e) When a parent has complied with a case plan ordered under subdivision 6 and the child is in the care of the parent, the court may order the responsible social services agency to monitor the parent's continued ability to maintain the child safely in the home under such terms and conditions as the court determines appropriate under the circumstances.

Sec. 14. Minnesota Statutes 2020, section 260C.201, subdivision 2, is amended to read:

Subd. 2. **Written findings.** (a) Any order for a disposition authorized under this section shall contain written findings of fact to support the disposition and case plan ordered and shall also set forth in writing the following information:

(1) why the best interests and safety of the child are served by the disposition and case plan ordered;

(2) what alternative dispositions or services under the case plan were considered by the court and why such dispositions or services were not appropriate in the instant case;

(3) when legal custody of the child is transferred, the appropriateness of the particular placement made or to be made by the placing agency using the relative and sibling placement considerations and best interest factors in section 260C.212, subdivision 2, ~~paragraph (b)~~, or the appropriateness of a child colocated with a parent in a licensed residential family-based substance use disorder treatment program under section 260C.190;

(4) whether reasonable efforts to finalize the permanent plan for the child consistent with section 260.012 were made including reasonable efforts:

(i) to prevent the child's placement and to reunify the child with the parent or guardian from whom the child was removed at the earliest time consistent with the child's safety. The court's findings must include a brief description of what preventive and reunification efforts were made and why further efforts could not have prevented or eliminated the necessity of removal or that reasonable efforts were not required under section 260.012 or 260C.178, subdivision 1;

(ii) to identify and locate any noncustodial or nonresident parent of the child and to assess such parent's ability to provide day-to-day care of the child, and, where appropriate, provide services necessary to enable the noncustodial or nonresident parent to safely provide day-to-day care of the child as required under section 260C.219, unless such services are not required under section 260.012 or 260C.178, subdivision 1; The court's findings must include a description of the agency's efforts to:

(A) identify and locate the child's noncustodial or nonresident parent;



(B) assess the noncustodial or nonresident parent's ability to provide day-to-day care of the child; and

(C) if appropriate, provide services necessary to enable the noncustodial or nonresident parent to safely provide the child's day-to-day care, including efforts to engage the noncustodial or nonresident parent in assuming care and responsibility of the child;

(iii) to make the diligent search for relatives and provide the notices required under section 260C.221; a finding made pursuant to a hearing under section 260C.202 that the agency has made diligent efforts to conduct a relative search and has appropriately engaged relatives who responded to the notice under section 260C.221 and other relatives, who came to the attention of the agency after notice under section 260C.221 was sent, in placement and case planning decisions fulfills the requirement of this item;

(iv) to identify and make a foster care placement of the child, considering the order in section 260C.212, subdivision 2, paragraph (a), in the home of an unlicensed relative, according to the requirements of section 245A.035, a licensed relative, or other licensed foster care provider, who will commit to being the permanent legal parent or custodian for the child in the event reunification cannot occur, but who will actively support the reunification plan for the child. If the court finds that the agency has not appropriately considered relatives for placement of the child, the court shall order the agency to comply with section 260C.212, subdivision 2, paragraph (a). The court may order the agency to continue considering relatives for placement of the child regardless of the child's current placement setting; and

(v) to place siblings together in the same home or to ensure visitation is occurring when siblings are separated in foster care placement and visitation is in the siblings' best interests under section 260C.212, subdivision 2, paragraph (d); and

(5) if the child has been adjudicated as a child in need of protection or services because the child is in need of special services or care to treat or ameliorate a mental disability or emotional disturbance as defined in section 245.4871, subdivision 15, the written findings shall also set forth:

(i) whether the child has mental health needs that must be addressed by the case plan;

(ii) what consideration was given to the diagnostic and functional assessments performed by the child's mental health professional and to health and mental health care professionals' treatment recommendations;

(iii) what consideration was given to the requests or preferences of the child's parent or guardian with regard to the child's interventions, services, or treatment; and

(iv) what consideration was given to the cultural appropriateness of the child's treatment or services.

(b) If the court finds that the social services agency's preventive or reunification efforts have not been reasonable but that further preventive or reunification efforts could not permit the child to safely remain at home, the court may nevertheless authorize or continue the removal of the child.

(c) If the child has been identified by the responsible social services agency as the subject of concurrent permanency planning, the court shall review the reasonable efforts of the agency to develop a permanency plan for the child that includes a primary plan ~~which~~ that is for reunification with the child's parent or guardian and a secondary plan ~~which~~ that is for an alternative, legally permanent home for the child in the event reunification cannot be achieved in a timely manner.

Sec. 15. Minnesota Statutes 2020, section 260C.202, is amended to read:

**260C.202 COURT REVIEW OF FOSTER CARE.**

(a) If the court orders a child placed in foster care, the court shall review the out-of-home placement plan and the child's placement at least every 90 days as required in juvenile court rules to determine whether continued out-of-home placement is necessary and appropriate or whether the child should be returned home. This review is not required if the court has returned the child home, ordered the child permanently placed away from the parent under sections 260C.503 to 260C.521, or terminated rights under section 260C.301. Court review for a child permanently placed away from a parent, including where the child is under guardianship of the commissioner, shall be governed by section 260C.607. When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

(b) No later than three months after the child's placement in foster care, the court shall review agency efforts to search for and notify relatives pursuant to section 260C.221, and order that the agency's efforts begin immediately, or continue, if the agency has failed to perform, or has not adequately performed, the duties under that section. The court must order the agency to continue to appropriately engage relatives who responded to the notice under section 260C.221 in placement and case planning decisions and to consider relatives for foster care placement consistent with section 260C.221. Notwithstanding a court's finding that the agency has made reasonable efforts to search for and notify relatives under section 260C.221, the court may order the agency to continue making reasonable efforts to search for, notify, engage other, and consider relatives who came to the agency's attention after sending the initial notice under section 260C.221 was sent.

(c) The court shall review the out-of-home placement plan and may modify the plan as provided under section 260C.201, subdivisions 6 and 7.

(d) When the court ~~orders transfer of~~ transfers the custody of a child to a responsible social services agency resulting in foster care or protective supervision with a noncustodial parent under subdivision 1, the court shall notify the parents of the provisions of sections 260C.204 and 260C.503 to 260C.521, as required under juvenile court rules.

(e) When a child remains in or returns to foster care pursuant to section 260C.451 and the court has jurisdiction pursuant to section 260C.193, subdivision 6, paragraph (c), the court shall at least annually conduct the review required under section 260C.203.

Sec. 16. Minnesota Statutes 2020, section 260C.203, is amended to read:

**260C.203 ADMINISTRATIVE OR COURT REVIEW OF PLACEMENTS.**

(a) Unless the court is conducting the reviews required under section 260C.202, there shall be an administrative review of the out-of-home placement plan of each child placed in foster care no later than 180 days after the initial placement of the child in foster care and at least every six months thereafter if the child is not returned to the home of the parent or parents within that time. The out-of-home placement plan must be monitored and updated by the responsible social services agency at each administrative review. The administrative review shall be conducted by the responsible social services agency using a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review. The administrative review shall be open to participation by the parent or guardian of the child and the child, as appropriate.

(b) As an alternative to the administrative review required in paragraph (a), the court may, as part of any hearing required under the Minnesota Rules of Juvenile Protection Procedure, conduct a hearing to monitor and update the out-of-home placement plan pursuant to the procedure and standard in section 260C.201, subdivision 6, paragraph (d). The party requesting review of the out-of-home placement plan shall give parties to the proceeding notice of the request to review and update the out-of-home placement plan. A court review conducted pursuant to section 260C.141, subdivision 2; 260C.193; 260C.201, subdivision 1; 260C.202; 260C.204; 260C.317; or 260D.06 shall satisfy the requirement for the review so long as the other requirements of this section are met.

(c) As appropriate to the stage of the proceedings and relevant court orders, the responsible social services agency or the court shall review:

(1) the safety, permanency needs, and well-being of the child;

(2) the continuing necessity for and appropriateness of the placement, including whether the placement is consistent with the child's best interests and other placement considerations, including relative and sibling placement considerations under section 260C.212, subdivision 2;

(3) the extent of compliance with the out-of-home placement plan required under section 260C.212, subdivisions 1 and 1a, including services and resources that the agency has provided to the child and child's parents, services and resources that other agencies and individuals have provided to the child and child's parents, and whether the out-of-home placement plan is individualized to the needs of the child and child's parents;

(4) the extent of progress that has been made toward alleviating or mitigating the causes necessitating placement in foster care;

(5) the projected date by which the child may be returned to and safely maintained in the home or placed permanently away from the care of the parent or parents or guardian; and

(6) the appropriateness of the services provided to the child.

(d) When a child is age 14 or older:

(1) in addition to any administrative review conducted by the responsible social services agency, at the in-court review required under section 260C.317, subdivision 3, clause (3), or 260C.515, subdivision 5 or 6, the court shall review the independent living plan required under section 260C.212, subdivision 1, paragraph (c), clause (12), and the provision of services to the child related to the

well-being of the child as the child prepares to leave foster care. The review shall include the actual plans related to each item in the plan necessary to the child's future safety and well-being when the child is no longer in foster care; and

(2) consistent with the requirements of the independent living plan, the court shall review progress toward or accomplishment of the following goals:

(i) the child has obtained a high school diploma or its equivalent;

(ii) the child has completed a driver's education course or has demonstrated the ability to use public transportation in the child's community;

(iii) the child is employed or enrolled in postsecondary education;

(iv) the child has applied for and obtained postsecondary education financial aid for which the child is eligible;

(v) the child has health care coverage and health care providers to meet the child's physical and mental health needs;

(vi) the child has applied for and obtained disability income assistance for which the child is eligible;

(vii) the child has obtained affordable housing with necessary supports, which does not include a homeless shelter;

(viii) the child has saved sufficient funds to pay for the first month's rent and a damage deposit;

(ix) the child has an alternative affordable housing plan, which does not include a homeless shelter, if the original housing plan is unworkable;

(x) the child, if male, has registered for the Selective Service; and

(xi) the child has a permanent connection to a caring adult.

Sec. 17. Minnesota Statutes 2020, section 260C.204, is amended to read:

**260C.204 PERMANENCY PROGRESS REVIEW FOR CHILDREN IN FOSTER CARE FOR SIX MONTHS.**

(a) When a child continues in placement out of the home of the parent or guardian from whom the child was removed, no later than six months after the child's placement the court shall conduct a permanency progress hearing to review:

(1) the progress of the case, the parent's progress on the case plan or out-of-home placement plan, whichever is applicable;

(2) the agency's reasonable, or in the case of an Indian child, active efforts for reunification and its provision of services;

(3) the agency's reasonable efforts to finalize the permanent plan for the child under section 260.012, paragraph (e), and to make a placement as required under section 260C.212, subdivision 2, in a home that will commit to being the legally permanent family for the child in the event the child cannot return home according to the timelines in this section; and

(4) in the case of an Indian child, active efforts to prevent the breakup of the Indian family and to make a placement according to the placement preferences under United States Code, title 25, chapter 21, section 1915.

(b) When a child is placed in a qualified residential treatment program setting as defined in section 260C.007, subdivision 26d, the responsible social services agency must submit evidence to the court as specified in section 260C.712.

(c) The court shall ensure that notice of the hearing is sent to any relative who:

(1) responded to the agency's notice provided under section 260C.221, indicating an interest in participating in planning for the child or being a permanency resource for the child and who has kept the court apprised of the relative's address; or

(2) asked to be notified of court proceedings regarding the child as is permitted in section 260C.152, subdivision 5.

(d)(1) If the parent or guardian has maintained contact with the child and is complying with the court-ordered out-of-home placement plan, and if the child would benefit from reunification with the parent, the court may either:

(i) return the child home, if the conditions ~~which~~ that led to the out-of-home placement have been sufficiently mitigated that it is safe and in the child's best interests to return home; or

(ii) continue the matter up to a total of six additional months. If the child has not returned home by the end of the additional six months, the court must conduct a hearing according to sections 260C.503 to 260C.521.

(2) If the court determines that the parent or guardian is not complying, is not making progress with or engaging with services in the out-of-home placement plan, or is not maintaining regular contact with the child as outlined in the visitation plan required as part of the out-of-home placement plan under section 260C.212, the court may order the responsible social services agency:

(i) to develop a plan for legally permanent placement of the child away from the parent;

(ii) to consider, identify, recruit, and support one or more permanency resources from the child's relatives and foster parent, consistent with section 260C.212, subdivision 2, paragraph (a), to be the legally permanent home in the event the child cannot be returned to the parent. Any relative or the child's foster parent may ask the court to order the agency to consider them for permanent placement of the child in the event the child cannot be returned to the parent. A relative or foster parent who wants to be considered under this item shall cooperate with the background study required under section 245C.08, if the individual has not already done so, and with the home study process required under chapter 245A for providing child foster care and for adoption under section 259.41. The home study referred to in this item shall be a single-home study in the form required by the commissioner

of human services or similar study required by the individual's state of residence when the subject of the study is not a resident of Minnesota. The court may order the responsible social services agency to make a referral under the Interstate Compact on the Placement of Children when necessary to obtain a home study for an individual who wants to be considered for transfer of permanent legal and physical custody or adoption of the child; and

(iii) to file a petition to support an order for the legally permanent placement plan.

(e) Following the review under this section:

(1) if the court has either returned the child home or continued the matter up to a total of six additional months, the agency shall continue to provide services to support the child's return home or to make reasonable efforts to achieve reunification of the child and the parent as ordered by the court under an approved case plan;

(2) if the court orders the agency to develop a plan for the transfer of permanent legal and physical custody of the child to a relative, a petition supporting the plan shall be filed in juvenile court within 30 days of the hearing required under this section and a trial on the petition held within 60 days of the filing of the pleadings; or

(3) if the court orders the agency to file a termination of parental rights, unless the county attorney can show cause why a termination of parental rights petition should not be filed, a petition for termination of parental rights shall be filed in juvenile court within 30 days of the hearing required under this section and a trial on the petition held within 60 days of the filing of the petition.

Sec. 18. Minnesota Statutes 2021 Supplement, section 260C.212, subdivision 1, is amended to read:

Subdivision 1. **Out-of-home placement; plan.** (a) An out-of-home placement plan shall be prepared within 30 days after any child is placed in foster care by court order or a voluntary placement agreement between the responsible social services agency and the child's parent pursuant to section 260C.227 or chapter 260D.

(b) An out-of-home placement plan means a written document ~~which~~ individualized to the needs of the child and the child's parents or guardians that is prepared by the responsible social services agency jointly with ~~the parent or parents or guardian of the child~~ the child's parents or guardians and in consultation with the child's guardian ad litem; the child's tribe, if the child is an Indian child; the child's foster parent or representative of the foster care facility; and, ~~where~~ when appropriate, the child. When a child is age 14 or older, the child may include two other individuals on the team preparing the child's out-of-home placement plan. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards. The responsible social services agency may reject an individual selected by the child if the agency has good cause to believe that the individual would not act in the best interest of the child. For a child in voluntary foster care for treatment under chapter 260D, preparation of the out-of-home placement plan shall additionally include the child's mental health treatment provider. For a child 18 years of age or older, the responsible social services agency shall involve the child and the child's parents as appropriate. As appropriate, the plan shall be:

(1) submitted to the court for approval under section 260C.178, subdivision 7;

(2) ordered by the court, either as presented or modified after hearing, under section 260C.178, subdivision 7, or 260C.201, subdivision 6; and

(3) signed by the parent or parents or guardian of the child, the child's guardian ad litem, a representative of the child's tribe, the responsible social services agency, and, if possible, the child.

(c) The out-of-home placement plan shall be explained by the responsible social services agency to all persons involved in ~~its~~ the plan's implementation, including the child who has signed the plan, and shall set forth:

(1) a description of the foster care home or facility selected, including how the out-of-home placement plan is designed to achieve a safe placement for the child in the least restrictive, most family-like, setting available ~~which~~ that is in close proximity to the home of the ~~parent or child's~~ parents or guardian of the child guardians when the case plan goal is reunification; ~~and~~ and how the placement is consistent with the best interests and special needs of the child according to the factors under subdivision 2, paragraph (b);

(2) the specific reasons for the placement of the child in foster care, and when reunification is the plan, a description of the problems or conditions in the home of the parent or parents ~~which~~ that necessitated removal of the child from home and the changes the parent or parents must make for the child to safely return home;

(3) a description of the services offered and provided to prevent removal of the child from the home and to reunify the family including:

(i) the specific actions to be taken by the parent or parents of the child to eliminate or correct the problems or conditions identified in clause (2), and the time period during which the actions are to be taken; and

(ii) the reasonable efforts, or in the case of an Indian child, active efforts to be made to achieve a safe and stable home for the child including social and other supportive services to be provided or offered to the parent or parents or guardian of the child, the child, and the residential facility during the period the child is in the residential facility;

(4) a description of any services or resources that were requested by the child or the child's parent, guardian, foster parent, or custodian since the date of the child's placement in the residential facility, and whether those services or resources were provided and if not, the basis for the denial of the services or resources;

(5) the visitation plan for the parent or parents or guardian, other relatives as defined in section 260C.007, subdivision 26b or 27, and siblings of the child if the siblings are not placed together in foster care, and whether visitation is consistent with the best interest of the child, during the period the child is in foster care;

(6) when a child cannot return to or be in the care of either parent, documentation of steps to finalize adoption as the permanency plan for the child through reasonable efforts to place the child for adoption pursuant to section 260C.605. At a minimum, the documentation must include

consideration of whether adoption is in the best interests of the child; and child-specific recruitment efforts such as a relative search, consideration of relatives for adoptive placement, and the use of state, regional, and national adoption exchanges to facilitate orderly and timely placements in and outside of the state. A copy of this documentation shall be provided to the court in the review required under section 260C.317, subdivision 3, paragraph (b);

(7) when a child cannot return to or be in the care of either parent, documentation of steps to finalize the transfer of permanent legal and physical custody to a relative as the permanency plan for the child. This documentation must support the requirements of the kinship placement agreement under section 256N.22 and must include the reasonable efforts used to determine that it is not appropriate for the child to return home or be adopted, and reasons why permanent placement with a relative through a Northstar kinship assistance arrangement is in the child's best interest; how the child meets the eligibility requirements for Northstar kinship assistance payments; agency efforts to discuss adoption with the child's relative foster parent and reasons why the relative foster parent chose not to pursue adoption, if applicable; and agency efforts to discuss with the child's parent or parents the permanent transfer of permanent legal and physical custody or the reasons why these efforts were not made;

(8) efforts to ensure the child's educational stability while in foster care for a child who attained the minimum age for compulsory school attendance under state law and is enrolled full time in elementary or secondary school, or instructed in elementary or secondary education at home, or instructed in an independent study elementary or secondary program, or incapable of attending school on a full-time basis due to a medical condition that is documented and supported by regularly updated information in the child's case plan. Educational stability efforts include:

(i) efforts to ensure that the child remains in the same school in which the child was enrolled prior to placement or upon the child's move from one placement to another, including efforts to work with the local education authorities to ensure the child's educational stability and attendance; or

(ii) if it is not in the child's best interest to remain in the same school that the child was enrolled in prior to placement or move from one placement to another, efforts to ensure immediate and appropriate enrollment for the child in a new school;

(9) the educational records of the child including the most recent information available regarding:

(i) the names and addresses of the child's educational providers;

(ii) the child's grade level performance;

(iii) the child's school record;

(iv) a statement about how the child's placement in foster care takes into account proximity to the school in which the child is enrolled at the time of placement; and

(v) any other relevant educational information;

(10) the efforts by the responsible social services agency to ensure the oversight and continuity of health care services for the foster child, including:



- (i) the plan to schedule the child's initial health screens;
  - (ii) how the child's known medical problems and identified needs from the screens, including any known communicable diseases, as defined in section 144.4172, subdivision 2, shall be monitored and treated while the child is in foster care;
  - (iii) how the child's medical information shall be updated and shared, including the child's immunizations;
  - (iv) who is responsible to coordinate and respond to the child's health care needs, including the role of the parent, the agency, and the foster parent;
  - (v) who is responsible for oversight of the child's prescription medications;
  - (vi) how physicians or other appropriate medical and nonmedical professionals shall be consulted and involved in assessing the health and well-being of the child and determine the appropriate medical treatment for the child; and
  - (vii) the responsibility to ensure that the child has access to medical care through either medical insurance or medical assistance;
- (11) the health records of the child including information available regarding:
- (i) the names and addresses of the child's health care and dental care providers;
  - (ii) a record of the child's immunizations;
  - (iii) the child's known medical problems, including any known communicable diseases as defined in section 144.4172, subdivision 2;
  - (iv) the child's medications; and
  - (v) any other relevant health care information such as the child's eligibility for medical insurance or medical assistance;
- (12) an independent living plan for a child 14 years of age or older, developed in consultation with the child. The child may select one member of the case planning team to be designated as the child's advisor and to advocate with respect to the application of the reasonable and prudent parenting standards in subdivision 14. The plan should include, but not be limited to, the following objectives:
- (i) educational, vocational, or employment planning;
  - (ii) health care planning and medical coverage;
  - (iii) transportation including, where appropriate, assisting the child in obtaining a driver's license;
  - (iv) money management, including the responsibility of the responsible social services agency to ensure that the child annually receives, at no cost to the child, a consumer report as defined under section 13C.001 and assistance in interpreting and resolving any inaccuracies in the report;
  - (v) planning for housing;

(vi) social and recreational skills;

(vii) establishing and maintaining connections with the child's family and community; and

(viii) regular opportunities to engage in age-appropriate or developmentally appropriate activities typical for the child's age group, taking into consideration the capacities of the individual child;

(13) for a child in voluntary foster care for treatment under chapter 260D, diagnostic and assessment information, specific services relating to meeting the mental health care needs of the child, and treatment outcomes;

(14) for a child 14 years of age or older, a signed acknowledgment that describes the child's rights regarding education, health care, visitation, safety and protection from exploitation, and court participation; receipt of the documents identified in section 260C.452; and receipt of an annual credit report. The acknowledgment shall state that the rights were explained in an age-appropriate manner to the child; and

(15) for a child placed in a qualified residential treatment program, the plan must include the requirements in section 260C.708.

(d) The parent or parents or guardian and the child each shall have the right to legal counsel in the preparation of the case plan and shall be informed of the right at the time of placement of the child. The child shall also have the right to a guardian ad litem. If unable to employ counsel from their own resources, the court shall appoint counsel upon the request of the parent or parents or the child or the child's legal guardian. The parent or parents may also receive assistance from any person or social services agency in preparation of the case plan.

(e) After the plan has been agreed upon by the parties involved or approved or ordered by the court, the foster parents shall be fully informed of the provisions of the case plan and shall be provided a copy of the plan.

(f) Upon the child's discharge from foster care, the responsible social services agency must provide the child's parent, adoptive parent, or permanent legal and physical custodian, and the child, if the child is 14 years of age or older, with a current copy of the child's health and education record. If a child meets the conditions in subdivision 15, paragraph (b), the agency must also provide the child with the child's social and medical history. The responsible social services agency may give a copy of the child's health and education record and social and medical history to a child who is younger than 14 years of age, if it is appropriate and if subdivision 15, paragraph (b), applies.

Sec. 19. Minnesota Statutes 2021 Supplement, section 260C.212, subdivision 2, is amended to read:

**Subd. 2. Placement decisions based on best interests of the child.** (a) The policy of the state of Minnesota is to ensure that the child's best interests are met by requiring an individualized determination of the needs of the child in consideration of paragraphs (a) to (f), and of how the selected placement will serve the current and future needs of the child being placed. The authorized child-placing agency shall place a child, released by court order or by voluntary release by the parent or parents, in a family foster home selected by considering placement with relatives ~~and important friends~~ in the following order:

(1) with an individual who is related to the child by blood, marriage, or adoption, including the legal parent, guardian, or custodian of the child's ~~siblings~~ sibling; or

(2) with an individual who is an important friend of the child or of the child's parent or custodian, including an individual with whom the child has resided or had significant contact or who has a significant relationship to the child or the child's parent or custodian.

~~(2) with an individual who is an important friend with whom the child has resided or had significant contact.~~

For an Indian child, the agency shall follow the order of placement preferences in the Indian Child Welfare Act of 1978, United States Code, title 25, section 1915.

(b) Among the factors the agency shall consider in determining the current and future needs of the child are the following:

(1) the child's current functioning and behaviors;

(2) the medical needs of the child;

(3) the educational needs of the child;

(4) the developmental needs of the child;

(5) the child's history and past experience;

(6) the child's religious and cultural needs;

(7) the child's connection with a community, school, and faith community;

(8) the child's interests and talents;

(9) the child's ~~relationship to current caretakers,~~ current and long-term needs regarding relationships with parents, siblings, ~~and~~ relatives, and other caretakers;

(10) the reasonable preference of the child, if the court, or the child-placing agency in the case of a voluntary placement, deems the child to be of sufficient age to express preferences; and

(11) for an Indian child, the best interests of an Indian child as defined in section 260.755, subdivision 2a.

When placing a child in foster care or in a permanent placement based on an individualized determination of the child's needs, the agency must not use one factor in this paragraph to the exclusion of all others, and the agency shall consider that the factors in paragraph (b) may be interrelated.

(c) Placement of a child cannot be delayed or denied based on race, color, or national origin of the foster parent or the child.

(d) Siblings should be placed together for foster care and adoption at the earliest possible time unless it is documented that a joint placement would be contrary to the safety or well-being of any

of the siblings or unless it is not possible after reasonable efforts by the responsible social services agency. In cases where siblings cannot be placed together, the agency is required to provide frequent visitation or other ongoing interaction between siblings unless the agency documents that the interaction would be contrary to the safety or well-being of any of the siblings.

(e) Except for emergency placement as provided for in section 245A.035, the following requirements must be satisfied before the approval of a foster or adoptive placement in a related or unrelated home: (1) a completed background study under section 245C.08; and (2) a completed review of the written home study required under section 260C.215, subdivision 4, clause (5), or 260C.611, to assess the capacity of the prospective foster or adoptive parent to ensure the placement will meet the needs of the individual child.

(f) The agency must determine whether colocation with a parent who is receiving services in a licensed residential family-based substance use disorder treatment program is in the child's best interests according to paragraph (b) and include that determination in the child's case plan under subdivision 1. The agency may consider additional factors not identified in paragraph (b). The agency's determination must be documented in the child's case plan before the child is colocated with a parent.

(g) The agency must establish a juvenile treatment screening team under section 260C.157 to determine whether it is necessary and appropriate to recommend placing a child in a qualified residential treatment program, as defined in section 260C.007, subdivision 26d.

Sec. 20. Minnesota Statutes 2020, section 260C.212, subdivision 4a, is amended to read:

Subd. 4a. **Monthly caseworker visits.** (a) Every child in foster care or on a trial home visit shall be visited by the child's caseworker or another person who has responsibility for visitation of the child on a monthly basis, with the majority of visits occurring in the child's residence. The responsible social services agency may designate another person responsible for monthly case visits. For the purposes of this section, the following definitions apply:

(1) "visit" is defined as a face-to-face contact between a child and the child's caseworker;

(2) "visited on a monthly basis" is defined as at least one visit per calendar month;

(3) "the child's caseworker" is defined as the person who has responsibility for managing the child's foster care placement case as assigned by the responsible social services agency;

(4) "another person" means the professional staff whom the responsible social services agency has assigned in the out-of-home placement plan or case plan. Another person must be professionally trained to assess the child's safety, permanency, well-being, and case progress. The agency may not designate the guardian ad litem, the child foster care provider, residential facility staff, or a qualified individual as defined in section 260C.007, subdivision 26b, as another person; and

(5) "the child's residence" is defined as the home where the child is residing, and can include the foster home, child care institution, or the home from which the child was removed if the child is on a trial home visit.

(b) Caseworker visits shall be of sufficient substance and duration to address issues pertinent to case planning and service delivery to ensure the safety, permanency, and well-being of the child, including whether the child is enrolled and attending school as required by law.

(c) Every effort shall be made by the responsible social services agency and professional staff to have the monthly visit with the child outside the presence of the child's parents, foster parents, or facility staff. There may be situations related to the child's needs when a caseworker visit cannot occur with the child alone. The reason the caseworker visit occurred in the presence of others must be documented in the case record and may include:

(1) that the child exhibits intense emotion or behavior indicating that visiting without the presence of the parent, foster parent, or facility staff would be traumatic for the child;

(2) that despite a caseworker's efforts, the child declines to visit with the caseworker outside the presence of the parent, foster parent, or facility staff; and

(3) that the child has a specific developmental delay, physical limitation, incapacity, medical device, or significant medical need, such that the parent, foster parent, or facility staff is required to be present with the child during the visit.

Sec. 21. Minnesota Statutes 2020, section 260C.221, is amended to read:

**260C.221 RELATIVE SEARCH AND ENGAGEMENT; PLACEMENT CONSIDERATION.**

Subdivision 1. **Relative search requirements.** (a) The responsible social services agency shall exercise due diligence to identify and notify adult relatives and current caregivers of a child's sibling, prior to placement or within 30 days after the child's removal from the parent, regardless of whether a child is placed in a relative's home, as required under subdivision 2. The county agency shall consider placement with a relative under this section without delay and whenever the child must move from or be returned to foster care. The relative search required by this section shall be comprehensive in scope. After a finding that the agency has made reasonable efforts to conduct the relative search under this paragraph, the agency has the continuing responsibility to appropriately involve relatives, who have responded to the notice required under this paragraph, in planning for the child and to continue to consider relatives according to the requirements of section 260C.212, subdivision 2. At any time during the course of juvenile protection proceedings, the court may order the agency to reopen its search for relatives when it is in the child's best interest to do so.

(b) The relative search required by this section shall include both maternal and paternal adult relatives of the child; all adult grandparents; all legal parents, guardians, or custodians of the child's siblings; and any other adult relatives suggested by the child's parents, subject to the exceptions due to family violence in subdivision 5, paragraph (e) (b). The search shall also include getting information from the child in an age-appropriate manner about who the child considers to be family members and important friends with whom the child has resided or had significant contact. The relative search required under this section must fulfill the agency's duties under the Indian Child Welfare Act regarding active efforts to prevent the breakup of the Indian family under United States Code, title 25, section 1912(d), and to meet placement preferences under United States Code, title 25, section 1915.

(c) The responsible social services agency has a continuing responsibility to search for and identify relatives of a child and send the notice to relatives that is required under subdivision 2, unless the court has relieved the agency of this duty under subdivision 5, paragraph (e).

Subd. 2. Relative notice requirements. (a) The agency may provide oral or written notice to a child's relatives. In the child's case record, the agency must document providing the required notice to each of the child's relatives. The responsible social services agency must notify relatives ~~must be notified:~~

(1) of the need for a foster home for the child, the option to become a placement resource for the child, the order of placement that the agency will consider under section 260C.212, subdivision 2, paragraph (a), and the possibility of the need for a permanent placement for the child;

(2) of their responsibility to keep the responsible social services agency and the court informed of their current address in order to receive notice in the event that a permanent placement is sought for the child and to receive notice of the permanency progress review hearing under section 260C.204. A relative who fails to provide a current address to the responsible social services agency and the court forfeits the right to receive notice of the possibility of permanent placement and of the permanency progress review hearing under section 260C.204, until the relative provides a current address to the responsible social services agency and the court. A decision by a relative not to be identified as a potential permanent placement resource or participate in planning for the child ~~at the beginning of the case~~ shall not affect whether the relative is considered for placement of, or as a permanency resource for, the child with that relative ~~later~~ at any time in the case, and shall not be the sole basis for the court to rule out the relative as the child's placement or permanency resource;

(3) that the relative may participate in the care and planning for the child, as specified in subdivision 3, including that the opportunity for such participation may be lost by failing to respond to the notice sent under this subdivision. ~~"Participate in the care and planning" includes, but is not limited to, participation in case planning for the parent and child, identifying the strengths and needs of the parent and child, supervising visits, providing respite and vacation visits for the child, providing transportation to appointments, suggesting other relatives who might be able to help support the case plan, and to the extent possible, helping to maintain the child's familiar and regular activities and contact with friends and relatives;~~

(4) of the family foster care licensing and adoption home study requirements, including how to complete an application and how to request a variance from licensing standards that do not present a safety or health risk to the child in the home under section 245A.04 and supports that are available for relatives and children who reside in a family foster home; ~~and~~

(5) of the relatives' right to ask to be notified of any court proceedings regarding the child, to attend the hearings, and of a relative's right ~~or opportunity~~ to be heard by the court as required under section 260C.152, subdivision 5-;

(6) that regardless of the relative's response to the notice sent under this subdivision, the agency is required to establish permanency for a child, including planning for alternative permanency options if the agency's reunification efforts fail or are not required; and

(7) that by responding to the notice, a relative may receive information about participating in a child's family and permanency team if the child is placed in a qualified residential treatment program as defined in section 260C.007, subdivision 26d.

(b) The responsible social services agency shall send the notice required under paragraph (a) to relatives who become known to the responsible social services agency, except for relatives that the agency does not contact due to safety reasons under subdivision 5, paragraph (b). The responsible social services agency shall continue to send notice to relatives notwithstanding a court's finding that the agency has made reasonable efforts to conduct a relative search.

(c) The responsible social services agency is not required to send the notice under paragraph (a) to a relative who becomes known to the agency after an adoption placement agreement has been fully executed under section 260C.613, subdivision 1. If the relative wishes to be considered for adoptive placement of the child, the agency shall inform the relative of the relative's ability to file a motion for an order for adoptive placement under section 260C.607, subdivision 6.

Subd. 3. **Relative engagement requirements.** (a) A relative who responds to the notice under subdivision 2 has the opportunity to participate in care and planning for a child, which must not be limited based solely on the relative's prior inconsistent participation or nonparticipation in care and planning for the child. Care and planning for a child may include but is not limited to:

(1) participating in case planning for the child and child's parent, including identifying services and resources that meet the individualized needs of the child and child's parent. A relative's participation in case planning may be in person, via phone call, or by electronic means;

(2) identifying the strengths and needs of the child and child's parent;

(3) asking the responsible social services agency to consider the relative for placement of the child according to subdivision 4;

(4) acting as a support person for the child, the child's parents, and the child's current caregiver;

(5) supervising visits;

(6) providing respite care for the child and having vacation visits with the child;

(7) providing transportation;

(8) suggesting other relatives who may be able to participate in the case plan or that the agency may consider for placement of the child. The agency shall send a notice to each relative identified by other relatives according to subdivision 2, paragraph (b), unless a relative received this notice earlier in the case;

(9) helping to maintain the child's familiar and regular activities and contact with the child's friends and relatives, including providing supervision of the child at family gatherings and events; and

(10) participating in the child's family and permanency team if the child is placed in a qualified residential treatment program as defined in section 260C.007, subdivision 26d.

(b) The responsible social services agency shall make reasonable efforts to contact and engage relatives who respond to the notice required under this section. Upon a request by a relative or party to the proceeding, the court may conduct a review of the agency's reasonable efforts to contact and engage relatives who respond to the notice. If the court finds that the agency did not make reasonable efforts to contact and engage relatives who respond to the notice, the court may order the agency to make reasonable efforts to contact and engage relatives who respond to the notice in care and planning for the child.

Subd. 4. **Placement considerations.** (a) The responsible social services agency shall consider placing a child with a relative under this section without delay and when the child:

(1) enters foster care;

(2) must be moved from the child's current foster setting;

(3) must be permanently placed away from the child's parent; or

(4) returns to foster care after permanency has been achieved for the child.

(b) The agency shall consider placing a child with relatives:

(1) in the order specified in section 260C.212, subdivision 2, paragraph (a); and

(2) based on the child's best interests using the factors in section 260C.212, subdivision 2.

(c) The agency shall document how the agency considered relatives in the child's case record.

(d) Any relative who requests to be a placement option for a child in foster care has the right to be considered for placement of the child according to section 260C.212, subdivision 2, paragraph (a), unless the court finds that placing the child with a specific relative would endanger the child, sibling, parent, guardian, or any other family member under subdivision 5, paragraph (b).

(e) When adoption is the responsible social services agency's permanency goal for the child, the agency shall consider adoptive placement of the child with a relative in the order specified under section 260C.212, subdivision 2, paragraph (a).

Subd. 5. **Data disclosure; court review.** (a) A responsible social services agency may disclose private data, as defined in section 13.02 and chapter 260E, to relatives of the child for the purpose of locating and assessing a suitable placement and may use any reasonable means of identifying and locating relatives including the Internet or other electronic means of conducting a search. The agency shall disclose data that is necessary to facilitate possible placement with relatives and to ensure that the relative is informed of the needs of the child so the relative can participate in planning for the child and be supportive of services to the child and family.

(b) If the child's parent refuses to give the responsible social services agency information sufficient to identify the maternal and paternal relatives of the child, the agency shall ask the juvenile court to order the parent to provide the necessary information and shall use other resources to identify the child's maternal and paternal relatives. If a parent makes an explicit request that a specific relative not be contacted or considered for placement due to safety reasons, including past family or domestic violence, the agency shall bring the parent's request to the attention of the court to determine whether



the parent's request is consistent with the best interests of the child ~~and~~. The agency shall not contact the specific relative when the juvenile court finds that contacting or placing the child with the specific relative would endanger the parent, guardian, child, sibling, or any family member. Unless section 260C.139 applies to the child's case, a court shall not waive or relieve the responsible social services agency of reasonable efforts to:

- (1) conduct a relative search;
- (2) notify relatives;
- (3) contact and engage relatives in case planning; and
- (4) consider relatives for placement of the child.

(c) Notwithstanding chapter 13, the agency shall disclose data to the court about particular relatives that the agency has identified, contacted, or considered for the child's placement for the court to review the agency's due diligence.

(d) At a regularly scheduled hearing not later than three months after the child's placement in foster care and as required in ~~section~~ sections 260C.193 and 260C.202, the agency shall report to the court:

(1) ~~its~~ the agency's efforts to identify maternal and paternal relatives of the child and to engage the relatives in providing support for the child and family, and document that the relatives have been provided the notice required under ~~paragraph (a) subdivision 2~~; and

(2) ~~its~~ the agency's decision regarding placing the child with a relative as required under section 260C.212, subdivision 2, and to ask. If the responsible social services agency decides that relative placement is not in the child's best interests at the time of the hearing, the agency shall inform the court of the agency's decision, including:

(i) why the agency decided against relative placement of the child; and

(ii) the agency's efforts to engage relatives ~~to visit or maintain contact with the child in order as required under subdivision 3 to support family connections for the child, when placement with a relative is not possible or appropriate.~~

~~(c) Notwithstanding chapter 13, the agency shall disclose data about particular relatives identified, searched for, and contacted for the purposes of the court's review of the agency's due diligence.~~

~~(c)~~ (e) When the court is satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in ~~paragraph (a) subdivision 2~~, the court may find that the agency made reasonable efforts have been made to conduct a relative search to identify and provide notice to adult relatives as required under section 260.012, paragraph (e), clause (3). A finding under this paragraph does not relieve the responsible social services agency of the ongoing duty to contact, engage, and consider relatives under this section nor is it a basis for the court to rule out any relative from being a foster care or permanent placement option for the child. The agency has the continuing responsibility to:

- (1) involve relatives who respond to the notice in planning for the child; and

(2) continue considering relatives for the child's placement while taking the child's short- and long-term permanency goals into consideration, according to the requirements of section 260C.212, subdivision 2.

(f) At any time during the course of juvenile protection proceedings, the court may order the agency to reopen the search for relatives when it is in the child's best interests.

(g) If the court is not satisfied that the agency has exercised due diligence to identify relatives and provide the notice required in ~~paragraph (a)~~ subdivision 2, the court may order the agency to continue its search and notice efforts and to report back to the court.

~~(g) When the placing agency determines that permanent placement proceedings are necessary because there is a likelihood that the child will not return to a parent's care, the agency must send the notice provided in paragraph (h), may ask the court to modify the duty of the agency to send the notice required in paragraph (h), or may ask the court to completely relieve the agency of the requirements of paragraph (h). The relative notification requirements of paragraph (h) do not apply when the child is placed with an appropriate relative or a foster home that has committed to adopting the child or taking permanent legal and physical custody of the child and the agency approves of that foster home for permanent placement of the child. The actions ordered by the court under this section must be consistent with the best interests, safety, permanency, and welfare of the child.~~

~~(h) Unless required under the Indian Child Welfare Act or relieved of this duty by the court under paragraph (f), When the agency determines that it is necessary to prepare for permanent placement determination proceedings, or in anticipation of filing a termination of parental rights petition, the agency shall send notice to ~~the~~ relatives who responded to a notice under this section sent at any time during the case, any adult with whom the child is currently residing, any adult with whom the child has resided for one year or longer in the past, and any adults who have maintained a relationship or exercised visitation with the child as identified in the agency case plan. The notice must state that a permanent home is sought for the child and that the individuals receiving the notice may indicate to the agency their interest in providing a permanent home. The notice must state that within 30 days of receipt of the notice an individual receiving the notice must indicate to the agency the individual's interest in providing a permanent home for the child or that the individual may lose the opportunity to be considered for a permanent placement. A relative's failure to respond or timely respond to the notice is not a basis for ruling out the relative from being a permanent placement option for the child, should the relative request to be considered for permanent placement at a later date.~~

Sec. 22. Minnesota Statutes 2020, section 260C.331, subdivision 1, is amended to read:

Subdivision 1. **Care, examination, or treatment.** (a) Except where parental rights are terminated,

(1) whenever legal custody of a child is transferred by the court to a responsible social services agency,

(2) whenever legal custody is transferred to a person other than the responsible social services agency, but under the supervision of the responsible social services agency, or

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment

of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may require, the parents or custodian of a child, while the child is under the age of 18, to use ~~the total~~ income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section 256B.35, to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, Supplemental Security Income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance. Income does not include earnings from a child over the age of 18 who is working as part of a plan under section 260C.212, subdivision 1, paragraph (c), clause (12), to transition from foster care, or the income and resources ~~from sources other than Supplemental Security Income and child support~~ that are needed to complete the requirements listed in section 260C.203. The responsible social services agency shall determine whether requiring reimbursement, either through child support or parental fees, for the cost of care, examination, or treatment from the parents or custodian of a child is in the child's best interests. In determining whether to require reimbursement, the responsible social services agency shall consider:

(1) whether requiring reimbursement would compromise the parent's ability to meet the requirements of the reunification plan;

(2) whether requiring reimbursement would compromise the parent's ability to meet the child's needs after reunification; and

(3) whether redirecting existing child support payments or changing the representative payee of social security benefits to the responsible social services agency would limit the parent's ability to maintain financial stability for the child.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court ~~shall~~ may inquire into the ability of the parents to ~~support the child~~ reimburse the county for the cost of care, examination, or treatment and, after giving the parents a reasonable opportunity to be heard, the court ~~shall~~ may order, and the responsible social services agency ~~shall~~ may require, the parents to contribute to the cost of care, examination, or treatment of the child. When determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the responsible social services agency and approved by the commissioner of human services. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section. In determining whether to require reimbursement, the responsible social services agency shall consider:

(1) whether requiring reimbursement would compromise the parent's ability to meet the requirements of the reunification plan;

(2) whether requiring reimbursement would compromise the parent's ability to meet the child's needs after reunification; and

(3) whether requiring reimbursement would compromise the parent's ability to meet the needs of the family.

(d) If the responsible social services agency determines that reimbursement is in the child's best interest, the court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

(f) Notwithstanding paragraph (b), (c), or (d), a parent, custodian, or guardian of the child is not required to use income and resources attributable to the child to reimburse the county for costs of care and is not required to contribute to the cost of care of the child during any period of time when the child is returned to the home of that parent, custodian, or guardian pursuant to a trial home visit under section 260C.201, subdivision 1, paragraph (a).

Sec. 23. Minnesota Statutes 2020, section 260C.513, is amended to read:

**260C.513 PERMANENCY DISPOSITIONS WHEN CHILD CANNOT RETURN HOME.**

~~(a) Termination of parental rights and adoption, or guardianship to the commissioner of human services through a consent to adopt, are preferred permanency options for a child who cannot return home. If the court finds that termination of parental rights and guardianship to the commissioner is not in the child's best interests, the court may transfer permanent legal and physical custody of the child to a relative when that order is in the child's best interests. For a child who cannot return home, a permanency placement with a relative is preferred. A permanency placement with a relative includes termination of parental rights and adoption by a relative, guardianship to the commissioner of human services through a consent to adopt with a relative, or a transfer of permanent legal and physical custody to a relative. The court must consider the best interests of the child and section 260C.212, subdivision 2, paragraph (a), when making a permanency determination.~~

(b) When the court has determined that permanent placement of the child away from the parent is necessary, the court shall consider permanent alternative homes that are available both inside and outside the state.

Sec. 24. Minnesota Statutes 2021 Supplement, section 260C.605, subdivision 1, is amended to read:

Subdivision 1. **Requirements.** (a) Reasonable efforts to finalize the adoption of a child under the guardianship of the commissioner shall be made by the responsible social services agency responsible for permanency planning for the child.

(b) Reasonable efforts to make a placement in a home according to the placement considerations under section 260C.212, subdivision 2, with a relative or foster parent who will commit to being the permanent resource for the child in the event the child cannot be reunified with a parent are required under section 260.012 and may be made concurrently with reasonable, or if the child is an Indian child, active efforts to reunify the child with the parent.

(c) Reasonable efforts under paragraph (b) must begin as soon as possible when the child is in foster care under this chapter, but not later than the hearing required under section 260C.204.

(d) Reasonable efforts to finalize the adoption of the child include:

(1) considering the child's preference for an adoptive family;

~~(+)~~ (2) using age-appropriate engagement strategies to plan for adoption with the child;

~~(2)~~ (3) identifying an appropriate prospective adoptive parent for the child by updating the child's identified needs using the factors in section 260C.212, subdivision 2;

~~(3)~~ (4) making an adoptive placement that meets the child's needs by:

(i) completing or updating the relative search required under section 260C.221 and giving notice of the need for an adoptive home for the child to:

(A) relatives who have kept the agency or the court apprised of their whereabouts ~~and who have indicated an interest in adopting the child;~~ or

(B) relatives of the child who are located in an updated search;

(ii) an updated search is required whenever:

(A) there is no identified prospective adoptive placement for the child notwithstanding a finding by the court that the agency made diligent efforts under section 260C.221, in a hearing required under section 260C.202;

(B) the child is removed from the home of an adopting parent; or

(C) the court determines that a relative search by the agency is in the best interests of the child;

(iii) engaging the child's relatives or current or former foster parent and the child's relatives identified as an adoptive resource during the search conducted under section 260C.221, parents to commit to being the prospective adoptive parent of the child, and considering the child's relatives for adoptive placement of the child in the order specified under section 260C.212, subdivision 2, paragraph (a); or

(iv) when there is no identified prospective adoptive parent:

(A) registering the child on the state adoption exchange as required in section 259.75 unless the agency documents to the court an exception to placing the child on the state adoption exchange reported to the commissioner;

(B) reviewing all families with approved adoption home studies associated with the responsible social services agency;

(C) presenting the child to adoption agencies and adoption personnel who may assist with finding an adoptive home for the child;

(D) using newspapers and other media to promote the particular child;

(E) using a private agency under grant contract with the commissioner to provide adoption services for intensive child-specific recruitment efforts; and

(F) making any other efforts or using any other resources reasonably calculated to identify a prospective adoption parent for the child;

~~(4)~~ (5) updating and completing the social and medical history required under sections 260C.212, subdivision 15, and 260C.609;

~~(5)~~ (6) making, and keeping updated, appropriate referrals required by section 260.851, the Interstate Compact on the Placement of Children;

~~(6)~~ (7) giving notice regarding the responsibilities of an adoptive parent to any prospective adoptive parent as required under section 259.35;

~~(7)~~ (8) offering the adopting parent the opportunity to apply for or decline adoption assistance under chapter 256N;

~~(8)~~ (9) certifying the child for adoption assistance, assessing the amount of adoption assistance, and ascertaining the status of the commissioner's decision on the level of payment if the adopting parent has applied for adoption assistance;

~~(9)~~ (10) placing the child with siblings. If the child is not placed with siblings, the agency must document reasonable efforts to place the siblings together, as well as the reason for separation. The agency may not cease reasonable efforts to place siblings together for final adoption until the court finds further reasonable efforts would be futile or that placement together for purposes of adoption is not in the best interests of one of the siblings; and

~~(10)~~ (11) working with the adopting parent to file a petition to adopt the child and with the court administrator to obtain a timely hearing to finalize the adoption.

Sec. 25. Minnesota Statutes 2020, section 260C.607, subdivision 2, is amended to read:

Subd. 2. **Notice.** Notice of review hearings shall be given by the court to:

(1) the responsible social services agency;

(2) the child, if the child is age ten and older;

(3) the child's guardian ad litem;

(4) counsel appointed for the child pursuant to section 260C.163, subdivision 3;

(5) relatives of the child who have kept the court informed of their whereabouts as required in section 260C.221 and who have responded to the agency's notice under section 260C.221, ~~indicating a willingness to provide an adoptive home for the child~~ unless the relative has been previously ruled out by the court as a suitable foster parent or permanency resource for the child;

(6) the current foster or adopting parent of the child;

(7) any foster or adopting parents of siblings of the child; and

(8) the Indian child's tribe.

Sec. 26. Minnesota Statutes 2020, section 260C.607, subdivision 5, is amended to read:

**Subd. 5. Required placement by responsible social services agency.** (a) No petition for adoption shall be filed for a child under the guardianship of the commissioner unless the child sought to be adopted has been placed for adoption with the adopting parent by the responsible social services agency as required under section 260C.613, subdivision 1. The court may order the agency to make an adoptive placement using standards and procedures under subdivision 6.

(b) Any relative or the child's foster parent who believes the responsible agency has not reasonably considered the relative's or foster parent's request to be considered for adoptive placement as required under section 260C.212, subdivision 2, and who wants to be considered for adoptive placement of the child shall bring a request for consideration to the attention of the court during a review required under this section. The child's guardian ad litem and the child may also bring a request for a relative or the child's foster parent to be considered for adoptive placement. After hearing from the agency, the court may order the agency to take appropriate action regarding the relative's or foster parent's request for consideration under section 260C.212, subdivision 2, paragraph (b).

Sec. 27. Minnesota Statutes 2021 Supplement, section 260C.607, subdivision 6, is amended to read:

**Subd. 6. Motion and hearing to order adoptive placement.** (a) At any time after the district court orders the child under the guardianship of the commissioner of human services, but not later than 30 days after receiving notice required under section 260C.613, subdivision 1, paragraph (c), that the agency has made an adoptive placement, a relative or the child's foster parent may file a motion for an order for adoptive placement of a child who is under the guardianship of the commissioner if the relative or the child's foster parent:

(1) has an adoption home study under section 259.41 or 260C.611 approving the relative or foster parent for adoption and has. If the relative or foster parent does not have an adoption home study, an affidavit attesting to efforts to complete an adoption home study may be filed with the motion instead. The affidavit must be signed by the relative or foster parent and the responsible social services agency or licensed child-placing agency completing the adoption home study. The relative or foster parent must also have been a resident of Minnesota for at least six months before

filing the motion; the court may waive the residency requirement for the moving party if there is a reasonable basis to do so; or

(2) is not a resident of Minnesota, but has an approved adoption home study by an agency licensed or approved to complete an adoption home study in the state of the individual's residence and the study is filed with the motion for adoptive placement. If the relative or foster parent does not have an adoption home study in the relative or foster parent's state of residence, an affidavit attesting to efforts to complete an adoption home study may be filed with the motion instead. The affidavit must be signed by the relative or foster parent and the agency completing the adoption home study.

(b) The motion shall be filed with the court conducting reviews of the child's progress toward adoption under this section. The motion and supporting documents must make a prima facie showing that the agency has been unreasonable in failing to make the requested adoptive placement. The motion must be served according to the requirements for motions under the Minnesota Rules of Juvenile Protection Procedure and shall be made on all individuals and entities listed in subdivision 2.

(c) If the motion and supporting documents do not make a prima facie showing for the court to determine whether the agency has been unreasonable in failing to make the requested adoptive placement, the court shall dismiss the motion. If the court determines a prima facie basis is made, the court shall set the matter for evidentiary hearing.

(d) At the evidentiary hearing, the responsible social services agency shall proceed first with evidence about the reason for not making the adoptive placement proposed by the moving party. When the agency presents evidence regarding the child's current relationship with the identified adoptive placement resource, the court must consider the agency's efforts to support the child's relationship with the moving party consistent with section 260C.221. The moving party then has the burden of proving by a preponderance of the evidence that the agency has been unreasonable in failing to make the adoptive placement.

(e) The court shall review and enter findings regarding whether the agency, in making an adoptive placement decision for the child:

(1) considered relatives for adoptive placement in the order specified under section 260C.212, subdivision 2, paragraph (a); and

(2) assessed how the identified adoptive placement resource and the moving party are each able to meet the child's current and future needs, based on an individualized determination of the child's needs, as required under sections 260C.212, subdivision 2, and 260C.613, subdivision 1, paragraph (b).

~~(e)~~ (f) At the conclusion of the evidentiary hearing, if the court finds that the agency has been unreasonable in failing to make the adoptive placement and that the ~~relative or the child's foster parent~~ moving party is the most suitable adoptive home to meet the child's needs using the factors in section 260C.212, subdivision 2, paragraph (b), the court may:



(1) order the responsible social services agency to make an adoptive placement in the home of the relative or the child's foster parent. moving party if the moving party has an approved adoption home study; or

(2) order the responsible social services agency to place the child in the home of the moving party upon approval of an adoption home study. The agency must promote and support the child's ongoing visitation and contact with the moving party until the child is placed in the moving party's home. The agency must provide an update to the court after 90 days, including progress and any barriers encountered. If the moving party does not have an approved adoption home study within 180 days, the moving party and the agency must inform the court of any barriers to obtaining the approved adoption home study during a review hearing under this section. If the court finds that the moving party is unable to obtain an approved adoption home study, the court must dismiss the order for adoptive placement under this subdivision and order the agency to continue making reasonable efforts to finalize the adoption of the child as required under section 260C.605.

~~(f)~~ (g) If, in order to ensure that a timely adoption may occur, the court orders the responsible social services agency to make an adoptive placement under this subdivision, the agency shall:

(1) make reasonable efforts to obtain a fully executed adoption placement agreement, including assisting the moving party with the adoption home study process;

(2) work with the moving party regarding eligibility for adoption assistance as required under chapter 256N; and

(3) if the moving party is not a resident of Minnesota, timely refer the matter for approval of the adoptive placement through the Interstate Compact on the Placement of Children.

~~(g)~~ (h) Denial or granting of a motion for an order for adoptive placement after an evidentiary hearing is an order which may be appealed by the responsible social services agency, the moving party, the child, when age ten or over, the child's guardian ad litem, and any individual who had a fully executed adoption placement agreement regarding the child at the time the motion was filed if the court's order has the effect of terminating the adoption placement agreement. An appeal shall be conducted according to the requirements of the Rules of Juvenile Protection Procedure.

Sec. 28. Minnesota Statutes 2020, section 260C.613, subdivision 1, is amended to read:

Subdivision 1. **Adoptive placement decisions.** (a) The responsible social services agency has exclusive authority to make an adoptive placement of a child under the guardianship of the commissioner. The child shall be considered placed for adoption when the adopting parent, the agency, and the commissioner have fully executed an adoption placement agreement on the form prescribed by the commissioner.

(b) The responsible social services agency shall use an individualized determination of the child's current and future needs, pursuant to section 260C.212, subdivision 2, paragraph (b), to determine the most suitable adopting parent for the child in the child's best interests. The responsible social services agency must consider adoptive placement of the child with relatives in the order specified in section 260C.212, subdivision 2, paragraph (a).

(c) The responsible social services agency shall notify the court and parties entitled to notice under section 260C.607, subdivision 2, when there is a fully executed adoption placement agreement for the child.

(d) In the event an adoption placement agreement terminates, the responsible social services agency shall notify the court, the parties entitled to notice under section 260C.607, subdivision 2, and the commissioner that the agreement and the adoptive placement have terminated.

Sec. 29. Minnesota Statutes 2020, section 260C.613, subdivision 5, is amended to read:

**Subd. 5. Required record keeping.** The responsible social services agency shall document, in the records required to be kept under section 259.79, the reasons for the adoptive placement decision regarding the child, including the individualized determination of the child's needs based on the factors in section 260C.212, subdivision 2, paragraph (b); the agency's consideration of relatives in the order specified in section 260C.212, subdivision 2, paragraph (a); and the assessment of how the selected adoptive placement meets the identified needs of the child. The responsible social services agency shall retain in the records required to be kept under section 259.79, copies of all out-of-home placement plans made since the child was ordered under guardianship of the commissioner and all court orders from reviews conducted pursuant to section 260C.607.

Sec. 30. Minnesota Statutes 2021 Supplement, section 260E.20, subdivision 2, is amended to read:

**Subd. 2. Face-to-face contact.** (a) Upon receipt of a screened in report, the local welfare agency shall conduct a face-to-face contact with the child reported to be maltreated and with the child's primary caregiver sufficient to complete a safety assessment and ensure the immediate safety of the child. When it is possible and the report alleges substantial child endangerment or sexual abuse, the local welfare agency is not required to provide notice before conducting the initial face-to-face contact with the child and the child's primary caregiver.

(b) The face-to-face contact with the child and primary caregiver shall occur immediately if sexual abuse or substantial child endangerment is alleged and within five calendar days for all other reports. If the alleged offender was not already interviewed as the primary caregiver, the local welfare agency shall also conduct a face-to-face interview with the alleged offender in the early stages of the assessment or investigation. Face-to-face contact with the child and primary caregiver in response to a report alleging sexual abuse or substantial child endangerment may be postponed for no more than five calendar days if the child is residing in a location that is confirmed to restrict contact with the alleged offender as established in guidelines issued by the commissioner, or if the local welfare agency is pursuing a court order for the child's caregiver to produce the child for questioning under section 260E.22, subdivision 5.

(c) At the initial contact with the alleged offender, the local welfare agency or the agency responsible for assessing or investigating the report must inform the alleged offender of the complaints or allegations made against the individual in a manner consistent with laws protecting the rights of the person who made the report. The interview with the alleged offender may be postponed if it would jeopardize an active law enforcement investigation.

(d) The local welfare agency or the agency responsible for assessing or investigating the report must provide the alleged offender with an opportunity to make a statement. The alleged offender may submit supporting documentation relevant to the assessment or investigation.

Sec. 31. Minnesota Statutes 2020, section 260E.22, subdivision 2, is amended to read:

Subd. 2. **Child interview procedure.** (a) The interview may take place at school or at any facility or other place where the alleged victim or other children might be found or the child may be transported to, and the interview may be conducted at a place appropriate for the interview of a child designated by the local welfare agency or law enforcement agency.

(b) When it is possible and the report alleges substantial child endangerment or sexual abuse, the interview may take place outside the presence of the alleged offender or parent, legal custodian, guardian, or school official, and may take place prior to any interviews of the alleged offender.

(c) For a family assessment, it is the preferred practice to request a parent or guardian's permission to interview the child before conducting the child interview, unless doing so would compromise the safety assessment.

Sec. 32. Minnesota Statutes 2020, section 260E.24, subdivision 2, is amended to read:

Subd. 2. **Determination after family assessment.** After conducting a family assessment, the local welfare agency shall determine whether child protective services are needed to address the safety of the child and other family members and the risk of subsequent maltreatment. The local welfare agency must document the information collected under section 260E.20, subdivision 3, related to the completed family assessment in the child's or family's case notes.

Sec. 33. Minnesota Statutes 2020, section 477A.0126, is amended by adding a subdivision to read:

Subd. 3a. **Transfer of withheld aid amounts.** (a) For aid payable in 2023 and later, the commissioner must transfer the total amount of the aid reductions under subdivision 3, paragraph (d), for that year to the Board of Regents of the University of Minnesota for the Tribal and Training Certification Partnership in the College of Education and Human Service Professions at the University of Minnesota, Duluth.

(b) In order to support consistent training and county compliance with the Indian Child Welfare Act and the Minnesota Indian Family Preservation Act, the Tribal Training and Certification Partnership must use funds transferred under this subdivision to (1) enhance training on the Indian Child Welfare Act and Minnesota Indian Family Preservation Act for county workers and state guardians ad litem, and (2) build indigenous child welfare training for the Tribal child welfare workforce.

**EFFECTIVE DATE.** This section is effective for aid payable in 2023 and later.

Sec. 34. Minnesota Statutes 2020, section 477A.0126, subdivision 7, is amended to read:

Subd. 7. **Appropriation.** (a) \$5,000,000 is annually appropriated to the commissioner of revenue from the general fund to pay aid and make transfers required under this section.

(b) \$390,000 is appropriated annually from the general fund to the commissioner of human services to implement subdivision 6.

**EFFECTIVE DATE.** This section is effective for aid payable in 2023 and later.

Sec. 35. Minnesota Statutes 2020, section 518.17, subdivision 1, is amended to read:

Subdivision 1. **Best interests of the child.** (a) In evaluating the best interests of the child for purposes of determining issues of custody and parenting time, the court must consider and evaluate all relevant factors, including:

(1) a child's physical, emotional, cultural, spiritual, and other needs, and the effect of the proposed arrangements on the child's needs and development;

(2) any special medical, mental health, developmental disability, or educational needs that the child may have that may require special parenting arrangements or access to recommended services;

(3) the reasonable preference of the child, if the court deems the child to be of sufficient ability, age, and maturity to express an independent, reliable preference;

(4) whether domestic abuse, as defined in section 518B.01, has occurred in the parents' or either parent's household or relationship; the nature and context of the domestic abuse; and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs;

(5) any physical, mental, or chemical health issue of a parent that affects the child's safety or developmental needs;

(6) the history and nature of each parent's participation in providing care for the child;

(7) the willingness and ability of each parent to provide ongoing care for the child; to meet the child's ongoing developmental, emotional, spiritual, and cultural needs; and to maintain consistency and follow through with parenting time;

(8) the effect on the child's well-being and development of changes to home, school, and community;

(9) the effect of the proposed arrangements on the ongoing relationships between the child and each parent, siblings, and other significant persons in the child's life;

(10) the benefit to the child in maximizing parenting time with both parents and the detriment to the child in limiting parenting time with either parent;

(11) except in cases in which domestic abuse as described in clause (4) has occurred, the disposition of each parent to support the child's relationship with the other parent and to encourage and permit frequent and continuing contact between the child and the other parent; and

(12) the willingness and ability of parents to cooperate in the rearing of their child; to maximize sharing information and minimize exposure of the child to parental conflict; and to utilize methods for resolving disputes regarding any major decision concerning the life of the child.

(b) Clauses (1) to (9) govern the application of the best interests of the child factors by the court:

(1) The court must make detailed findings on each of the factors in paragraph (a) based on the evidence presented and explain how each factor led to its conclusions and to the determination of custody and parenting time. The court may not use one factor to the exclusion of all others, and the court shall consider that the factors may be interrelated.

(2) The court shall consider that it is in the best interests of the child to promote the child's healthy growth and development through safe, stable, nurturing relationships between a child and both parents.

(3) The court shall consider both parents as having the capacity to develop and sustain nurturing relationships with their children unless there are substantial reasons to believe otherwise. In assessing whether parents are capable of sustaining nurturing relationships with their children, the court shall recognize that there are many ways that parents can respond to a child's needs with sensitivity and provide the child love and guidance, and these may differ between parents and among cultures.

(4) The court shall not consider conduct of a party that does not affect the party's relationship with the child.

(5) Disability alone, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child.

(6) The court shall consider evidence of a violation of section 609.507 in determining the best interests of the child.

(7) There is no presumption for or against joint physical custody, except as provided in clause (9).

(8) Joint physical custody does not require an absolutely equal division of time.

(9) The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, the court shall use a rebuttable presumption that joint legal custody or joint physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. In determining whether the presumption is rebutted, the court shall consider the nature and context of the domestic abuse and the implications of the domestic abuse for parenting and for the child's safety, well-being, and developmental needs. Disagreement alone over whether to grant sole or joint custody does not constitute an inability of parents to cooperate in the rearing of their children as referenced in paragraph (a), clause (12).

(c) In a proceeding involving the custodial responsibility of a service member's child, a court may not consider only a parent's past deployment or possible future deployment in determining the best interests of the child. For purposes of this paragraph, "custodial responsibility" has the meaning given in section 518E.102, paragraph (f).

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

Sec. 36. Minnesota Statutes 2020, section 518A.43, subdivision 1, is amended to read:

Subdivision 1. **General factors.** Among other reasons, deviation from the presumptive child support obligation computed under section 518A.34 is intended to encourage prompt and regular payments of child support and to prevent either parent or the joint children from living in poverty. In addition to the child support guidelines and other factors used to calculate the child support obligation under section 518A.34, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate upward or downward from the presumptive child support obligation:

(1) all earnings, income, circumstances, and resources of each parent, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 518A.29, paragraph (b);

(2) the extraordinary financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) the standard of living the child would enjoy if the parents were currently living together, but recognizing that the parents now have separate households;

(4) whether the child resides in a foreign country for more than one year that has a substantially higher or lower cost of living than this country;

(5) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;

(6) the parents' debts as provided in subdivision 2; ~~and~~

(7) the obligor's total payments for court-ordered child support exceed the limitations set forth in section 571.922-; and

(8) in cases involving court-ordered out-of-home placement, whether ordering and redirecting a child support obligation to reimburse the county for the cost of care, examination, or treatment would compromise the parent's ability to meet the requirements of a reunification plan or the parent's ability to meet the child's needs after reunification.

Sec. 37. Minnesota Statutes 2020, section 626.557, subdivision 4, is amended to read:

Subd. 4. **Reporting.** (a) Except as provided in paragraph (b), a mandated reporter shall immediately make ~~an oral~~ a report to the common entry point. ~~The common entry point may accept electronic reports submitted through a web-based reporting system established by the commissioner. Use of a telecommunications device for the deaf or other similar device shall be considered an oral report. The common entry point may not require written reports.~~ To the extent possible, the report must be of sufficient content to identify the vulnerable adult, the caregiver, the nature and extent of the suspected maltreatment, any evidence of previous maltreatment, the name and address of the reporter, the time, date, and location of the incident, and any other information that the reporter believes might be helpful in investigating the suspected maltreatment. A mandated reporter may disclose not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, to the extent necessary to comply with this subdivision.

(b) A boarding care home that is licensed under sections 144.50 to 144.58 and certified under Title 19 of the Social Security Act, a nursing home that is licensed under section 144A.02 and certified under Title 18 or Title 19 of the Social Security Act, or a hospital that is licensed under sections 144.50 to 144.58 and has swing beds certified under Code of Federal Regulations, title 42, section 482.66, may submit a report electronically to the common entry point instead of submitting an oral report. The report may be a duplicate of the initial report the facility submits electronically to the commissioner of health to comply with the reporting requirements under Code of Federal Regulations, title 42, section 483.12. The commissioner of health may modify these reporting requirements to include items required under paragraph (a) that are not currently included in the electronic reporting form.

Sec. 38. Minnesota Statutes 2020, section 626.557, subdivision 9, is amended to read:

Subd. 9. **Common entry point designation.** ~~(a) Each county board shall designate a common entry point for reports of suspected maltreatment, for use until the commissioner of human services establishes a common entry point. Two or more county boards may jointly designate a single common entry point. The commissioner of human services shall establish a common entry point effective July 1, 2015. The common entry point is the unit responsible for receiving the report of suspected maltreatment under this section.~~

(b) The common entry point must be available 24 hours per day to take calls from reporters of suspected maltreatment. The common entry point shall use a standard intake form that includes:

(1) the time and date of the report;

(2) the name, relationship, and identifying and contact information for the person believed to be a vulnerable adult and the individual or facility alleged responsible for maltreatment;

(3) the name, address, and telephone number of the person reporting; relationship, and contact information for the:

(i) reporter;

(ii) initial reporter, witnesses, and persons who may have knowledge about the maltreatment; and

(iii) legal surrogate and persons who may provide support to the vulnerable adult;

(4) the basis of vulnerability for the vulnerable adult;

~~(3)~~ (5) the time, date, and location of the incident;

~~(4)~~ (6) the names of the persons involved, including but not limited to, perpetrators, alleged victims, and witnesses;

~~(5)~~ (7) whether there was a risk of imminent danger to the alleged victim;

(6) the immediate safety risk to the vulnerable adult;

~~(6)~~ (7) a description of the suspected maltreatment;

~~(7) the disability, if any, of the alleged victim;~~

~~(8) the relationship of the alleged perpetrator to the alleged victim;~~

(8) the impact of the suspected maltreatment on the vulnerable adult;

(9) whether a facility was involved and, if so, which agency licenses the facility;

~~(10) any action taken by the common entry point;~~

~~(11) whether law enforcement has been notified;~~

(10) the actions taken to protect the vulnerable adult;

(11) the required notifications and referrals made by the common entry point; and

(12) whether the reporter wishes to receive notification of the initial and final reports; and disposition.

~~(13) if the report is from a facility with an internal reporting procedure, the name, mailing address, and telephone number of the person who initiated the report internally.~~

(c) The common entry point is not required to complete each item on the form prior to dispatching the report to the appropriate lead investigative agency.

(d) The common entry point shall immediately report to a law enforcement agency any incident in which there is reason to believe a crime has been committed.

(e) If a report is initially made to a law enforcement agency or a lead investigative agency, those agencies shall take the report on the appropriate common entry point intake forms and immediately forward a copy to the common entry point.

(f) The common entry point staff must receive training on how to screen and dispatch reports efficiently and in accordance with this section.

(g) The commissioner of human services shall maintain a centralized database for the collection of common entry point data, lead investigative agency data including maltreatment report disposition, and appeals data. The common entry point shall have access to the centralized database and must log the reports into the database ~~and immediately identify and locate prior reports of abuse, neglect, or exploitation.~~

(h) When appropriate, the common entry point staff must refer calls that do not allege the abuse, neglect, or exploitation of a vulnerable adult to other organizations that might resolve the reporter's concerns.

(i) A common entry point must be operated in a manner that enables the commissioner of human services to:

(1) track critical steps in the reporting, evaluation, referral, response, disposition, and investigative process to ensure compliance with all requirements for all reports;



(2) maintain data to facilitate the production of aggregate statistical reports for monitoring patterns of abuse, neglect, or exploitation;

(3) serve as a resource for the evaluation, management, and planning of preventative and remedial services for vulnerable adults who have been subject to abuse, neglect, or exploitation;

(4) set standards, priorities, and policies to maximize the efficiency and effectiveness of the common entry point; and

(5) track and manage consumer complaints related to the common entry point.

(j) The commissioners of human services and health shall collaborate on the creation of a system for referring reports to the lead investigative agencies. This system shall enable the commissioner of human services to track critical steps in the reporting, evaluation, referral, response, disposition, investigation, notification, determination, and appeal processes.

Sec. 39. Minnesota Statutes 2020, section 626.557, subdivision 9b, is amended to read:

**Subd. 9b. Response to reports.** Law enforcement is the primary agency to conduct investigations of any incident in which there is reason to believe a crime has been committed. Law enforcement shall initiate a response immediately. If the common entry point notified a county agency for emergency adult protective services, law enforcement shall cooperate with that county agency when both agencies are involved and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). County adult protection shall initiate a response immediately. Each lead investigative agency shall complete the investigative process for reports within its jurisdiction. A lead investigative agency, county, adult protective agency, licensed facility, or law enforcement agency shall cooperate with other agencies in the provision of protective services, coordinating its investigations, and assisting another agency within the limits of its resources and expertise and shall exchange data to the extent authorized in subdivision 12b, paragraph (g). The lead investigative agency shall obtain the results of any investigation conducted by law enforcement officials. The lead investigative agency has the right to enter facilities and inspect and copy records as part of investigations. The lead investigative agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. Each lead investigative agency shall develop guidelines for prioritizing reports for investigation. When a county acts as a lead investigative agency, the county shall make guidelines available to the public regarding which reports the county prioritizes for investigation and adult protective services.

Sec. 40. Minnesota Statutes 2020, section 626.557, subdivision 9c, is amended to read:

**Subd. 9c. Lead investigative agency; notifications, dispositions, determinations.** (a) Upon request of the reporter, the lead investigative agency shall notify the reporter that it has received the report, and provide information on the initial disposition of the report within five business days of receipt of the report, provided that the notification will not endanger the vulnerable adult or hamper the investigation.

(b) In making the initial disposition of a report alleging maltreatment of a vulnerable adult, the lead investigative agency may consider previous reports of suspected maltreatment and may request and consider public information, records maintained by a lead investigative agency or licensed

providers, and information from any person who may have knowledge regarding the alleged maltreatment and the basis for the adult's vulnerability.

(c) When the county social service agency does not accept a report for adult protective services or investigation, the agency may offer assistance to the reporter or the person who was the subject of the report.

(d) While investigating reports and providing adult protective services, the lead investigative agency may coordinate with entities identified under subdivision 12b, paragraph (g), and may coordinate with support persons to safeguard the welfare of the vulnerable adult and prevent further maltreatment of the vulnerable adult.

~~(b)~~ (e) Upon conclusion of every investigation it conducts, the lead investigative agency shall make a final disposition as defined in section 626.5572, subdivision 8.

~~(e)~~ (f) When determining whether the facility or individual is the responsible party for substantiated maltreatment or whether both the facility and the individual are responsible for substantiated maltreatment, the lead investigative agency shall consider at least the following mitigating factors:

(1) whether the actions of the facility or the individual caregivers were in accordance with, and followed the terms of, an erroneous physician order, prescription, resident care plan, or directive. This is not a mitigating factor when the facility or caregiver is responsible for the issuance of the erroneous order, prescription, plan, or directive or knows or should have known of the errors and took no reasonable measures to correct the defect before administering care;

(2) the comparative responsibility between the facility, other caregivers, and requirements placed upon the employee, including but not limited to, the facility's compliance with related regulatory standards and factors such as the adequacy of facility policies and procedures, the adequacy of facility training, the adequacy of an individual's participation in the training, the adequacy of caregiver supervision, the adequacy of facility staffing levels, and a consideration of the scope of the individual employee's authority; and

(3) whether the facility or individual followed professional standards in exercising professional judgment.

~~(d)~~ (g) When substantiated maltreatment is determined to have been committed by an individual who is also the facility license holder, both the individual and the facility must be determined responsible for the maltreatment, and both the background study disqualification standards under section 245C.15, subdivision 4, and the licensing actions under section 245A.06 or 245A.07 apply.

~~(e)~~ (h) The lead investigative agency shall complete its final disposition within 60 calendar days. If the lead investigative agency is unable to complete its final disposition within 60 calendar days, the lead investigative agency shall notify the following persons provided that the notification will not endanger the vulnerable adult or hamper the investigation: (1) the vulnerable adult or the vulnerable adult's guardian or health care agent, when known, if the lead investigative agency knows them to be aware of the investigation; and (2) the facility, where applicable. The notice shall contain the reason for the delay and the projected completion date. If the lead investigative agency is unable to complete its final disposition by a subsequent projected completion date, the lead investigative

agency shall again notify the vulnerable adult or the vulnerable adult's guardian or health care agent, when known if the lead investigative agency knows them to be aware of the investigation, and the facility, where applicable, of the reason for the delay and the revised projected completion date provided that the notification will not endanger the vulnerable adult or hamper the investigation. The lead investigative agency must notify the health care agent of the vulnerable adult only if the health care agent's authority to make health care decisions for the vulnerable adult is currently effective under section 145C.06 and not suspended under section 524.5-310 and the investigation relates to a duty assigned to the health care agent by the principal. A lead investigative agency's inability to complete the final disposition within 60 calendar days or by any projected completion date does not invalidate the final disposition.

~~(f) Within ten calendar days of completing the final disposition~~ (i) When the lead investigative agency is the Department of Health or the Department of Human Services, the lead investigative agency shall provide a copy of the public investigation memorandum under subdivision 12b, paragraph (b), clause (1), when required to be completed under this section, within ten calendar days of completing the final disposition to the following persons:

(1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known, unless the lead investigative agency knows that the notification would endanger the well-being of the vulnerable adult;

(2) the reporter, if the reporter requested notification when making the report, provided this notification would not endanger the well-being of the vulnerable adult;

(3) the alleged perpetrator person or facility alleged responsible for maltreatment, if known;

(4) the facility; and

(5) the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities, as appropriate.

(j) When the lead investigative agency is a county agency, within ten calendar days of completing the final disposition, the lead investigative agency shall provide notification of the final disposition to the following persons:

(1) the vulnerable adult, or the vulnerable adult's guardian or health care agent, if known, when the allegation is applicable to the authority of the vulnerable adult's guardian or health care agent, unless the agency knows that the notification would endanger the well-being of the vulnerable adult;

(2) the individual determined responsible for maltreatment, if known; and

(3) when the alleged incident involves a personal care assistant or provider agency, the personal care provider organization under section 256B.0659. Upon implementation of Community First Services and Supports (CFSS), this notification requirement applies to the CFSS support worker or CFSS agency under section 256B.85.

~~(g)~~ (k) If, as a result of a reconsideration, review, or hearing, the lead investigative agency changes the final disposition, or if a final disposition is changed on appeal, the lead investigative agency shall notify the parties specified in paragraph ~~(f)~~ (k).

~~(h)~~ (l) The lead investigative agency shall notify the vulnerable adult who is the subject of the report or the vulnerable adult's guardian or health care agent, if known, and any person or facility determined to have maltreated a vulnerable adult, of their appeal or review rights under this section or section 256.021.

~~(i)~~ (m) The lead investigative agency shall routinely provide investigation memoranda for substantiated reports to the appropriate licensing boards. These reports must include the names of substantiated perpetrators. The lead investigative agency may not provide investigative memoranda for inconclusive or false reports to the appropriate licensing boards unless the lead investigative agency's investigation gives reason to believe that there may have been a violation of the applicable professional practice laws. If the investigation memorandum is provided to a licensing board, the subject of the investigation memorandum shall be notified and receive a summary of the investigative findings.

~~(j)~~ (n) In order to avoid duplication, licensing boards shall consider the findings of the lead investigative agency in their investigations if they choose to investigate. This does not preclude licensing boards from considering other information.

~~(k)~~ (o) The lead investigative agency must provide to the commissioner of human services its final dispositions, including the names of all substantiated perpetrators. The commissioner of human services shall establish records to retain the names of substantiated perpetrators.

Sec. 41. Minnesota Statutes 2020, section 626.557, subdivision 9d, is amended to read:

Subd. 9d. **Administrative reconsideration; review panel.** (a) Except as provided under paragraph (e), any individual or facility which a lead investigative agency determines has maltreated a vulnerable adult, or the vulnerable adult or an interested person acting on behalf of the vulnerable adult, regardless of the lead investigative agency's determination, who contests the lead investigative agency's final disposition of an allegation of maltreatment, may request the lead investigative agency to reconsider its final disposition. The request for reconsideration must be submitted in writing to the lead investigative agency within 15 calendar days after receipt of notice of final disposition or, if the request is made by an interested person who is not entitled to notice, within 15 days after receipt of the notice by the vulnerable adult or the vulnerable adult's guardian or health care agent. If mailed, the request for reconsideration must be postmarked and sent to the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 15 calendar days of the individual's or facility's receipt of the final disposition. An individual who was determined to have maltreated a vulnerable adult under this section and who was disqualified on the basis of serious or recurring maltreatment under sections 245C.14 and 245C.15, may request reconsideration of the maltreatment determination and the disqualification. The request for reconsideration of the maltreatment determination and the disqualification must be submitted in writing within 30 calendar days of the individual's receipt of the notice of disqualification under sections 245C.16 and 245C.17. If mailed, the request for reconsideration of the maltreatment determination and the disqualification must be postmarked and sent to the lead investigative agency within 30 calendar days of the individual's receipt of the notice of disqualification. If the request for reconsideration is made by personal service, it must be received by the lead investigative agency within 30 calendar days after the individual's receipt of the notice of disqualification.

(b) Except as provided under paragraphs (e) and (f), if the lead investigative agency denies the request or fails to act upon the request within 15 working days after receiving the request for reconsideration, the person or facility entitled to a fair hearing under section 256.045, may submit to the commissioner of human services a written request for a hearing under that statute. The vulnerable adult, or an interested person acting on behalf of the vulnerable adult, may request a review by the Vulnerable Adult Maltreatment Review Panel under section 256.021 if the lead investigative agency denies the request or fails to act upon the request, or if the vulnerable adult or interested person contests a reconsidered disposition. The Vulnerable Adult Maltreatment Review Panel shall not conduct a review if the interested person making the request on behalf of the vulnerable adult is also the individual or facility alleged responsible for the maltreatment of the vulnerable adult. The lead investigative agency shall notify persons who request reconsideration of their rights under this paragraph. The request must be submitted in writing to the review panel and a copy sent to the lead investigative agency within 30 calendar days of receipt of notice of a denial of a request for reconsideration or of a reconsidered disposition. The request must specifically identify the aspects of the lead investigative agency determination with which the person is dissatisfied.

(c) If, as a result of a reconsideration or review, the lead investigative agency changes the final disposition, it shall notify the parties specified in subdivision 9c, paragraph ~~(i)~~ (i).

(d) For purposes of this subdivision, "interested person acting on behalf of the vulnerable adult" means a person designated in writing by the vulnerable adult to act on behalf of the vulnerable adult, or a legal guardian or conservator or other legal representative, a proxy or health care agent appointed under chapter 145B or 145C, or an individual who is related to the vulnerable adult, as defined in section 245A.02, subdivision 13.

(e) If an individual was disqualified under sections 245C.14 and 245C.15, on the basis of a determination of maltreatment, which was serious or recurring, and the individual has requested reconsideration of the maltreatment determination under paragraph (a) and reconsideration of the disqualification under sections 245C.21 to 245C.27, reconsideration of the maltreatment determination and requested reconsideration of the disqualification shall be consolidated into a single reconsideration. If reconsideration of the maltreatment determination is denied and the individual remains disqualified following a reconsideration decision, the individual may request a fair hearing under section 256.045. If an individual requests a fair hearing on the maltreatment determination and the disqualification, the scope of the fair hearing shall include both the maltreatment determination and the disqualification.

(f) If a maltreatment determination or a disqualification based on serious or recurring maltreatment is the basis for a denial of a license under section 245A.05 or a licensing sanction under section 245A.07, the license holder has the right to a contested case hearing under chapter 14 and Minnesota Rules, parts 1400.8505 to 1400.8612. As provided for under section 245A.08, the scope of the contested case hearing must include the maltreatment determination, disqualification, and licensing sanction or denial of a license. In such cases, a fair hearing must not be conducted under section 256.045. Except for family child care and child foster care, reconsideration of a maltreatment determination under this subdivision, and reconsideration of a disqualification under section 245C.22, must not be conducted when:

(1) a denial of a license under section 245A.05, or a licensing sanction under section 245A.07, is based on a determination that the license holder is responsible for maltreatment or the disqualification of a license holder based on serious or recurring maltreatment;

(2) the denial of a license or licensing sanction is issued at the same time as the maltreatment determination or disqualification; and

(3) the license holder appeals the maltreatment determination or disqualification, and denial of a license or licensing sanction.

Notwithstanding clauses (1) to (3), if the license holder appeals the maltreatment determination or disqualification, but does not appeal the denial of a license or a licensing sanction, reconsideration of the maltreatment determination shall be conducted under sections 260E.33 and 626.557, subdivision 9d, and reconsideration of the disqualification shall be conducted under section 245C.22. In such cases, a fair hearing shall also be conducted as provided under sections 245C.27, 260E.33, and 626.557, subdivision 9d.

If the disqualified subject is an individual other than the license holder and upon whom a background study must be conducted under chapter 245C, the hearings of all parties may be consolidated into a single contested case hearing upon consent of all parties and the administrative law judge.

(g) Until August 1, 2002, an individual or facility that was determined by the commissioner of human services or the commissioner of health to be responsible for neglect under section 626.5572, subdivision 17, after October 1, 1995, and before August 1, 2001, that believes that the finding of neglect does not meet an amended definition of neglect may request a reconsideration of the determination of neglect. The commissioner of human services or the commissioner of health shall mail a notice to the last known address of individuals who are eligible to seek this reconsideration. The request for reconsideration must state how the established findings no longer meet the elements of the definition of neglect. The commissioner shall review the request for reconsideration and make a determination within 15 calendar days. The commissioner's decision on this reconsideration is the final agency action.

(1) For purposes of compliance with the data destruction schedule under subdivision 12b, paragraph (d), when a finding of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, the date of the original finding of a substantiated maltreatment must be used to calculate the destruction date.

(2) For purposes of any background studies under chapter 245C, when a determination of substantiated maltreatment has been changed as a result of a reconsideration under this paragraph, any prior disqualification of the individual under chapter 245C that was based on this determination of maltreatment shall be rescinded, and for future background studies under chapter 245C the commissioner must not use the previous determination of substantiated maltreatment as a basis for disqualification or as a basis for referring the individual's maltreatment history to a health-related licensing board under section 245C.31.

Sec. 42. Minnesota Statutes 2020, section 626.557, subdivision 10, is amended to read:

Subd. 10. **Duties of county social service agency.** (a) When the common entry point refers a report to the county social service agency as the lead investigative agency or makes a referral to the county social service agency for emergency adult protective services, or when another lead investigative agency requests assistance from the county social service agency for adult protective services, the county social service agency shall immediately assess and offer emergency and continuing protective social services for purposes of preventing further maltreatment and for safeguarding the welfare of the maltreated vulnerable adult. The county shall use a standardized ~~tool~~ tools and the data system made available by the commissioner. The information entered by the county into the standardized tool must be accessible to the Department of Human Services. In cases of suspected sexual abuse, the county social service agency shall immediately arrange for and make available to the vulnerable adult appropriate medical examination and treatment. When necessary in order to protect the vulnerable adult from further harm, the county social service agency shall seek authority to remove the vulnerable adult from the situation in which the maltreatment occurred. The county social service agency may also investigate to determine whether the conditions which resulted in the reported maltreatment place other vulnerable adults in jeopardy of being maltreated and offer protective social services that are called for by its determination.

(b) Within five business days of receipt of a report screened in by the county social service agency for investigation, the county social service agency shall determine whether, in addition to an assessment and services for the vulnerable adult, to also conduct an investigation for final disposition of the individual or facility alleged to have maltreated the vulnerable adult.

(c) The county social service agency must investigate for a final disposition the individual or facility alleged to have maltreated a vulnerable adult for each report accepted as lead investigative agency involving an allegation of abuse, caregiver neglect that resulted in harm to the vulnerable adult, financial exploitation that may be criminal, or an allegation against a caregiver under chapter 256B.

(d) An investigating county social service agency must make a final disposition for any allegation when the county social service agency determines that a final disposition may safeguard a vulnerable adult or may prevent further maltreatment.

(e) If the county social service agency learns of an allegation listed in paragraph (c) after the determination in paragraph (a), the county social service agency must change the initial determination and conduct an investigation for final disposition of the individual or facility alleged to have maltreated the vulnerable adult.

~~(b)~~ (f) County social service agencies may enter facilities and inspect and copy records as part of an investigation. The county social service agency has access to not public data, as defined in section 13.02, and medical records under sections 144.291 to 144.298, that are maintained by facilities to the extent necessary to conduct its investigation. The inquiry is not limited to the written records of the facility, but may include every other available source of information.

~~(e)~~ (g) When necessary in order to protect a vulnerable adult from serious harm, the county social service agency shall immediately intervene on behalf of that adult to help the family, vulnerable adult, or other interested person by seeking any of the following:

(1) a restraining order or a court order for removal of the perpetrator from the residence of the vulnerable adult pursuant to section 518B.01;

(2) the appointment of a guardian or conservator pursuant to sections 524.5-101 to 524.5-502, or guardianship or conservatorship pursuant to chapter 252A;

(3) replacement of a guardian or conservator suspected of maltreatment and appointment of a suitable person as guardian or conservator, pursuant to sections 524.5-101 to 524.5-502; or

(4) a referral to the prosecuting attorney for possible criminal prosecution of the perpetrator under chapter 609.

The expenses of legal intervention must be paid by the county in the case of indigent persons, under section 524.5-502 and chapter 563.

In proceedings under sections 524.5-101 to 524.5-502, if a suitable relative or other person is not available to petition for guardianship or conservatorship, a county employee shall present the petition with representation by the county attorney. The county shall contract with or arrange for a suitable person or organization to provide ongoing guardianship services. If the county presents evidence to the court exercising probate jurisdiction that it has made a diligent effort and no other suitable person can be found, a county employee may serve as guardian or conservator. The county shall not retaliate against the employee for any action taken on behalf of the ~~ward or protected~~ person subject to guardianship or conservatorship, even if the action is adverse to the county's interest. Any person retaliated against in violation of this subdivision shall have a cause of action against the county and shall be entitled to reasonable attorney fees and costs of the action if the action is upheld by the court.

Sec. 43. Minnesota Statutes 2020, section 626.557, subdivision 10b, is amended to read:

Subd. 10b. **Investigations; guidelines.** (a) Each lead investigative agency shall develop guidelines for prioritizing reports for investigation.

(b) When investigating a report, the lead investigative agency shall conduct the following activities, as appropriate:

- (1) interview of the ~~alleged victim~~ vulnerable adult;
- (2) interview of the reporter and others who may have relevant information;
- (3) interview of the ~~alleged perpetrator~~ individual or facility alleged responsible for maltreatment; and
- ~~(4) examination of the environment surrounding the alleged incident;~~
- ~~(5) (4) review of records and pertinent documentation of the alleged incident; and.~~
- ~~(6) consultation with professionals.~~

(c) The lead investigative agency shall conduct the following activities as appropriate to further the investigation, to prevent further maltreatment, or to safeguard the vulnerable adult:



(1) examining the environment surrounding the alleged incident;

(2) consulting with professionals; and

(3) communicating with state, federal, tribal, and other agencies including:

(i) service providers;

(ii) case managers;

(iii) ombudsmen; and

(iv) support persons for the vulnerable adult.

(d) The lead investigative agency may decide not to conduct an interview of a vulnerable adult, reporter, or witness under paragraph (b) if:

(1) the vulnerable adult, reporter, or witness declines to have an interview with the agency or is unable to be contacted despite the agency's diligent attempts;

(2) an interview of the vulnerable adult or reporter was conducted by law enforcement or a professional trained in forensic interview and an additional interview will not further the investigation;

(3) an interview of the witness will not further the investigation; or

(4) the agency has a reason to believe that the interview will endanger the vulnerable adult.

Sec. 44. Minnesota Statutes 2020, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead investigative agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section while providing adult protective services are welfare data under section 13.46. Investigative data collected under this section are confidential data on individuals or protected nonpublic data as defined under section 13.02. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals, as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic

data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead investigative agency; and

(ix) when a lead investigative agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

(iii) the identity of the individual substantiated as the perpetrator; and

(iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) ~~After the assessment or investigation is completed,~~ The name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report.

(e) The commissioners of health and human services shall annually publish on their websites the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations. On a biennial basis, the commissioners of health and human services shall jointly report the following information to the legislature and the governor:

(1) the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigations under this section, the resolution of those investigations, and which of the two lead agencies was responsible;

(2) trends about types of substantiated maltreatment found in the reporting period;

(3) if there are upward trends for types of maltreatment substantiated, recommendations for addressing and responding to them;

(4) efforts undertaken or recommended to improve the protection of vulnerable adults;

(5) whether and where backlogs of cases result in a failure to conform with statutory time frames and recommendations for reducing backlogs if applicable;

(6) recommended changes to statutes affecting the protection of vulnerable adults; and

(7) any other information that is relevant to the report trends and findings.

(f) Each lead investigative agency must have a record retention policy.

(g) Lead investigative agencies, county agencies responsible for adult protective services, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, with a tribal agency, facility, service provider, vulnerable adult, primary support person for a vulnerable adult, state licensing board, federal or state agency, the ombudsman for long-term care, or the ombudsman for mental health and developmental disabilities, if the agency or authority requesting providing the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing to prevent further maltreatment of a vulnerable adult, to safeguard a vulnerable adult, or for an investigation under this section. Data

collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead investigative agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Notwithstanding section 138.17, upon completion of the review, not public data received by the review panel must be destroyed.

(h) Each lead investigative agency shall keep records of the length of time it takes to complete its investigations.

(i) A lead investigative agency may notify other affected parties and their authorized representative if the lead investigative agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead investigative agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

Sec. 45. Minnesota Statutes 2020, section 626.5571, subdivision 1, is amended to read:

Subdivision 1. **Establishment of team.** A county may establish a multidisciplinary adult protection team comprised of the director of the local welfare agency or designees, the county attorney or designees, the county sheriff or designees, and representatives of health care. In addition, representatives of mental health or other appropriate human service agencies, representatives from local tribal governments, ~~and~~ adult advocate groups, and any other organization with relevant expertise may be added to the adult protection team.

Sec. 46. Minnesota Statutes 2020, section 626.5571, subdivision 2, is amended to read:

Subd. 2. **Duties of team.** A multidisciplinary adult protection team may provide public and professional education, develop resources for prevention, intervention, and treatment, and provide case consultation to the local welfare agency to better enable the agency to carry out its ~~adult protection~~ functions under section 626.557 and to meet the community's needs ~~for adult protection services~~. Case consultation may be performed by a committee of the team composed of the team members representing social services, law enforcement, the county attorney, health care, and persons directly involved in an individual case as determined by the case consultation committee. Case consultation ~~is~~ includes a case review process that results in recommendations about services to be provided to the identified adult and family.

Sec. 47. Minnesota Statutes 2020, section 626.5572, subdivision 2, is amended to read:

Subd. 2. **Abuse.** "Abuse" means:

(a) An act against a vulnerable adult that constitutes a violation of, an attempt to violate, or aiding and abetting a violation of:

(1) assault in the first through fifth degrees as defined in sections 609.221 to 609.224;

- (2) the use of drugs to injure or facilitate crime as defined in section 609.235;
  - (3) the solicitation, inducement, and promotion of prostitution as defined in section 609.322;
- and
- (4) criminal sexual conduct in the first through fifth degrees as defined in sections 609.342 to 609.3451.

A violation includes any action that meets the elements of the crime, regardless of whether there is a criminal proceeding or conviction.

(b) Conduct which is not an accident or therapeutic conduct as defined in this section, which produces or could reasonably be expected to produce physical pain or injury or emotional distress including, but not limited to, the following:

- (1) hitting, slapping, kicking, pinching, biting, or corporal punishment of a vulnerable adult;
- (2) use of repeated or malicious oral, written, or gestured language toward a vulnerable adult or the treatment of a vulnerable adult which would be considered by a reasonable person to be disparaging, derogatory, humiliating, harassing, or threatening; or
- (3) use of any aversive or deprivation procedure, unreasonable confinement, or involuntary seclusion, including the forced separation of the vulnerable adult from other persons against the will of the vulnerable adult or the legal representative of the vulnerable adult; ~~and unless authorized under applicable licensing requirements or Minnesota Rules, chapter 9544.~~
- ~~(4) use of any aversive or deprivation procedures for persons with developmental disabilities or related conditions not authorized under section 245.825.~~

(c) Any sexual contact or penetration as defined in section 609.341, between a facility staff person or a person providing services in the facility and a resident, patient, or client of that facility.

(d) The act of forcing, compelling, coercing, or enticing a vulnerable adult against the vulnerable adult's will to perform services for the advantage of another.

(e) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C or 252A, or section 253B.03 or 524.5-313, refuses consent or withdraws consent, consistent with that authority and within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult or, where permitted under law, to provide nutrition and hydration parenterally or through intubation. This paragraph does not enlarge or diminish rights otherwise held under law by:

- (1) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or
- (2) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct.

(f) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult.

(g) For purposes of this section, a vulnerable adult is not abused for the sole reason that the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(1) a person, including a facility staff person, when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(2) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship.

Sec. 48. Minnesota Statutes 2020, section 626.5572, subdivision 4, is amended to read:

Subd. 4. **Caregiver.** "Caregiver" means an individual or facility who has responsibility for all or a portion of the care of a vulnerable adult as a result of a family relationship, or who has assumed responsibility for all or a portion of the care of a vulnerable adult voluntarily, by contract, or by agreement. Caregiver does not include an unpaid caregiver who provides incidental care.

Sec. 49. Minnesota Statutes 2020, section 626.5572, subdivision 17, is amended to read:

Subd. 17. **Neglect.** ~~"Neglect" means:~~ Neglect means neglect by a caregiver or self-neglect.

(a) "Caregiver neglect" means the failure or omission by a caregiver to supply a vulnerable adult with care or services, including but not limited to, food, clothing, shelter, health care, or supervision which is:

(1) reasonable and necessary to obtain or maintain the vulnerable adult's physical or mental health or safety, considering the physical and mental capacity or dysfunction of the vulnerable adult; and

(2) which is not the result of an accident or therapeutic conduct.

(b) ~~The absence or likelihood of absence of care or services, including but not limited to, food, clothing, shelter, health care, or supervision necessary to maintain the physical and mental health of the vulnerable adult~~ "Self-neglect" means neglect by a vulnerable adult of the vulnerable adult's own food, clothing, shelter, health care, or other services that are not the responsibility of a caregiver which a reasonable person would deem essential to obtain or maintain the vulnerable adult's health, safety, or comfort considering the physical or mental capacity or dysfunction of the vulnerable adult.

(c) For purposes of this section, a vulnerable adult is not neglected for the sole reason that:

(1) the vulnerable adult or a person with authority to make health care decisions for the vulnerable adult under sections 144.651, 144A.44, chapter 145B, 145C, or 252A, or sections 253B.03 or 524.5-101 to 524.5-502, refuses consent or withdraws consent, consistent with that authority and

within the boundary of reasonable medical practice, to any therapeutic conduct, including any care, service, or procedure to diagnose, maintain, or treat the physical or mental condition of the vulnerable adult, or, where permitted under law, to provide nutrition and hydration parenterally or through intubation; this paragraph does not enlarge or diminish rights otherwise held under law by:

(i) a vulnerable adult or a person acting on behalf of a vulnerable adult, including an involved family member, to consent to or refuse consent for therapeutic conduct; or

(ii) a caregiver to offer or provide or refuse to offer or provide therapeutic conduct; or

(2) the vulnerable adult, a person with authority to make health care decisions for the vulnerable adult, or a caregiver in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the vulnerable adult in lieu of medical care, provided that this is consistent with the prior practice or belief of the vulnerable adult or with the expressed intentions of the vulnerable adult;

(3) the vulnerable adult, who is not impaired in judgment or capacity by mental or emotional dysfunction or undue influence, engages in consensual sexual contact with:

(i) a person including a facility staff person when a consensual sexual personal relationship existed prior to the caregiving relationship; or

(ii) a personal care attendant, regardless of whether the consensual sexual personal relationship existed prior to the caregiving relationship; or

(4) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult which does not result in injury or harm which reasonably requires medical or mental health care; or

(5) an individual makes an error in the provision of therapeutic conduct to a vulnerable adult that results in injury or harm, which reasonably requires the care of a physician, and:

(i) the necessary care is provided in a timely fashion as dictated by the condition of the vulnerable adult;

(ii) if after receiving care, the health status of the vulnerable adult can be reasonably expected, as determined by the attending physician, to be restored to the vulnerable adult's preexisting condition;

(iii) the error is not part of a pattern of errors by the individual;

(iv) if in a facility, the error is immediately reported as required under section 626.557, and recorded internally in the facility;

(v) if in a facility, the facility identifies and takes corrective action and implements measures designed to reduce the risk of further occurrence of this error and similar errors; and

(vi) if in a facility, the actions required under items (iv) and (v) are sufficiently documented for review and evaluation by the facility and any applicable licensing, certification, and ombudsman agency.

(d) Nothing in this definition requires a caregiver, if regulated, to provide services in excess of those required by the caregiver's license, certification, registration, or other regulation.

(e) If the findings of an investigation by a lead investigative agency result in a determination of substantiated maltreatment for the sole reason that the actions required of a facility under paragraph (c), clause (5), item (iv), (v), or (vi), were not taken, then the facility is subject to a correction order. An individual will not be found to have neglected or maltreated the vulnerable adult based solely on the facility's not having taken the actions required under paragraph (c), clause (5), item (iv), (v), or (vi). This must not alter the lead investigative agency's determination of mitigating factors under section 626.557, subdivision 9c, paragraph ~~(e)~~ (f).

Sec. 50. Laws 2021, First Special Session chapter 7, article 10, section 1, the effective date, is amended to read:

**EFFECTIVE DATE.** This section is effective June 1, ~~2022~~ 2023.

Sec. 51. Laws 2021, First Special Session chapter 7, article 10, section 3, is amended to read:

**Sec. 3. LEGISLATIVE TASK FORCE; CHILD PROTECTION.**

(a) A legislative task force is created to:

~~(1) review the efforts being made to implement the recommendations of the Governor's Task Force on the Protection of Children;~~

~~(2) expand the efforts into related areas of the child welfare system;~~

~~(3) work with the commissioner of human services and community partners to establish and evaluate child protection grants to address disparities in child welfare pursuant to Minnesota Statutes, section 256E.28;~~

~~(4) review and recommend alternatives to law enforcement responding to a maltreatment report by removing the child and evaluate situations in which it may be appropriate for a social worker or other child protection worker to remove the child from the home;~~

~~(5) evaluate current statutes governing mandatory reporters, consider the modification of mandatory reporting requirements for private or public youth recreation programs, and, if necessary, introduce legislation by February 15, 2022, to implement appropriate modifications;~~

~~(6) evaluate and consider the intersection of educational neglect and the child protection system; and~~

~~(7) identify additional areas within the child welfare system that need to be addressed by the legislature.~~

(b) Members of the legislative task force shall include:

(1) six members from the house of representatives appointed by the speaker of the house, including three from the majority party and three from the minority party; and



(2) six members from the senate, including three members appointed by the senate majority leader and three members appointed by the senate minority leader.

(c) Members of the task force shall serve a term that expires on December 31 of the ~~even-numbered~~ odd-numbered year following the year they are appointed. The speaker of the house and the majority leader of the senate shall each appoint a chair and vice-chair from the membership of the task force. The chair shall rotate after each meeting. The task force must meet at least quarterly.

(d) Initial appointments to the task force shall be made by July 15, ~~2024~~ 2022. The chair shall convene the first meeting of the task force by August 15, ~~2024~~ 2022.

(e) The task force may provide oversight and monitoring of:

(1) the efforts by the Department of Human Services, counties, and Tribes to implement laws related to child protection;

(2) efforts by the Department of Human Services, counties, and Tribes to implement the recommendations of the Governor's Task Force on the Protection of Children;

(3) efforts by agencies including but not limited to the Department of Education, the Housing Finance Agency, the Department of Corrections, and the Department of Public Safety, to work with the Department of Human Services to assure safety and well-being for children at risk of harm or children in the child welfare system; and

(4) efforts by the Department of Human Services, other agencies, counties, and Tribes to implement best practices to ensure every child is protected from maltreatment and neglect and to ensure every child has the opportunity for healthy development.

~~(f) The task force, in cooperation with the commissioner of human services, shall issue a report to the legislature and governor by February 1, 2024. The report must contain information on the progress toward implementation of changes to the child protection system, recommendations for additional legislative changes and procedures affecting child protection and child welfare, and funding needs to implement recommended changes.~~

~~(g)~~ (f) This section expires December 31, ~~2024~~ 2025.

## ARTICLE 9

### ECONOMIC ASSISTANCE

Section 1. Minnesota Statutes 2020, section 256D.0515, is amended to read:

#### **256D.0515 ASSET LIMITATIONS FOR SUPPLEMENTAL NUTRITION ASSISTANCE PROGRAM HOUSEHOLDS.**

All Supplemental Nutrition Assistance Program (SNAP) households must be determined eligible for the benefit discussed under section 256.029. SNAP households must demonstrate that their gross income is equal to or less than ~~165~~ 200 percent of the federal poverty guidelines for the same family size.

**EFFECTIVE DATE.** This section is effective September 1, 2022.

Sec. 2. Minnesota Statutes 2020, section 256E.36, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Commissioner" means the commissioner of human services.

(c) "Eligible organization" means a local governmental unit, federally recognized Tribal Nation, or nonprofit organization providing or seeking to provide emergency services for homeless persons.

(d) "Emergency services" means:

- (1) providing emergency shelter for homeless persons; and
- (2) assisting homeless persons in obtaining essential services, including:
  - (i) access to permanent housing;
  - (ii) medical and psychological help;
  - (iii) employment counseling and job placement;
  - (iv) substance abuse treatment;
  - (v) financial assistance available from other programs;
  - (vi) emergency child care;
  - (vii) transportation; and
  - (viii) other services needed to stabilize housing.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 3. Minnesota Statutes 2020, section 256P.04, subdivision 11, is amended to read:

Subd. 11. **Participant's completion of household report form.** (a) When a participant is required to complete a household report form, the following paragraphs apply.

(b) If the agency receives an incomplete household report form, the agency must immediately ~~return the incomplete form and clearly state what the participant must do for the form to be complete~~ contact the participant by phone or in writing to acquire the necessary information to complete the form.

(c) The automated eligibility system must send a notice of proposed termination of assistance to the participant if a complete household report form is not received by the agency. The automated notice must be mailed to the participant by approximately the 16th of the month. When a participant submits an incomplete form on or after the date a notice of proposed termination has been sent, the termination is valid unless the participant submits a complete form before the end of the month.

(d) The submission of a household report form is considered to have continued the participant's application for assistance if a complete household report form is received within a calendar month after the month in which the form was due. Assistance shall be paid for the period beginning with the first day of that calendar month.

(e) An agency must allow good cause exemptions for a participant required to complete a household report form when any of the following factors cause a participant to fail to submit a completed household report form before the end of the month in which the form is due:

(1) an employer delays completion of employment verification;

(2) the agency does not help a participant complete the household report form when the participant asks for help;

(3) a participant does not receive a household report form due to a mistake on the part of the department or the agency or a reported change in address;

(4) a participant is ill or physically or mentally incapacitated; or

(5) some other circumstance occurs that a participant could not avoid with reasonable care which prevents the participant from providing a completed household report form before the end of the month in which the form is due.

Sec. 4. Minnesota Statutes 2021 Supplement, section 256P.06, subdivision 3, is amended to read:

Subd. 3. **Income inclusions.** The following must be included in determining the income of an assistance unit:

(1) earned income; and

(2) unearned income, which includes:

(i) interest and dividends from investments and savings;

(ii) capital gains as defined by the Internal Revenue Service from any sale of real property;

(iii) proceeds from rent and contract for deed payments in excess of the principal and interest portion owed on property;

(iv) income from trusts, excluding special needs and supplemental needs trusts;

(v) interest income from loans made by the participant or household;

(vi) cash prizes and winnings;

(vii) unemployment insurance income that is received by an adult member of the assistance unit unless the individual receiving unemployment insurance income is:

(A) 18 years of age and enrolled in a secondary school; or

(B) 18 or 19 years of age, a caregiver, and is enrolled in school at least half-time;

(viii) retirement, survivors, and disability insurance payments;

(ix) nonrecurring income over \$60 per quarter unless the nonrecurring income is: (A) from tax refunds, tax rebates, or tax credits; (B) a reimbursement, rebate, award, grant, or refund of personal or real property or costs or losses incurred when these payments are made by: a public agency; a court; solicitations through public appeal; a federal, state, or local unit of government; or a disaster assistance organization; (C) provided as an in-kind benefit; or (D) earmarked and used for the purpose for which it was intended, subject to verification requirements under section 256P.04;

(x) retirement benefits;

(xi) cash assistance benefits, as defined by each program in chapters 119B, 256D, 256I, and 256J;

(xii) Tribal per capita payments unless excluded by federal and state law;

~~(xiii) income and payments from service and rehabilitation programs that meet or exceed the state's minimum wage rate;~~

~~(xiv)~~ (xiii) income from members of the United States armed forces unless excluded from income taxes according to federal or state law;

~~(xv)~~ (xiv) all child support payments for programs under chapters 119B, 256D, and 256I;

~~(xvi)~~ (xv) the amount of child support received that exceeds \$100 for assistance units with one child and \$200 for assistance units with two or more children for programs under chapter 256J;

~~(xvii)~~ (xvi) spousal support; and

~~(xviii)~~ (xvii) workers' compensation.

**EFFECTIVE DATE.** This section is effective November 1, 2022.

Sec. 5. Minnesota Statutes 2020, section 268.19, subdivision 1, is amended to read:

Subdivision 1. **Use of data.** (a) Except as provided by this section, data gathered from any person under the administration of the Minnesota Unemployment Insurance Law are private data on individuals or nonpublic data not on individuals as defined in section 13.02, subdivisions 9 and 12, and may not be disclosed except according to a district court order or section 13.05. A subpoena is not considered a district court order. These data may be disseminated to and used by the following agencies without the consent of the subject of the data:

(1) state and federal agencies specifically authorized access to the data by state or federal law;

(2) any agency of any other state or any federal agency charged with the administration of an unemployment insurance program;

(3) any agency responsible for the maintenance of a system of public employment offices for the purpose of assisting individuals in obtaining employment;

(4) the public authority responsible for child support in Minnesota or any other state in accordance with section 256.978;

(5) human rights agencies within Minnesota that have enforcement powers;

(6) the Department of Revenue to the extent necessary for its duties under Minnesota laws;

(7) public and private agencies responsible for administering publicly financed assistance programs for the purpose of monitoring the eligibility of the program's recipients;

(8) the Department of Labor and Industry and the Commerce Fraud Bureau in the Department of Commerce for uses consistent with the administration of their duties under Minnesota law;

(9) the Department of Human Services and the Office of Inspector General and its agents within the Department of Human Services, including county fraud investigators, for investigations related to recipient or provider fraud and employees of providers when the provider is suspected of committing public assistance fraud;

(10) local and state welfare agencies for monitoring the eligibility of the data subject for assistance programs, or for any employment or training program administered by those agencies, whether alone, in combination with another welfare agency, or in conjunction with the department or to monitor and evaluate the statewide Minnesota family investment program and other cash assistance programs, the Supplemental Nutrition Assistance Program, and the Supplemental Nutrition Assistance Program Employment and Training program by providing data on recipients and former recipients of Supplemental Nutrition Assistance Program (SNAP) benefits, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B or 256L or formerly codified under chapter 256D;

(11) local and state welfare agencies for the purpose of identifying employment, wages, and other information to assist in the collection of an overpayment debt in an assistance program;

(12) local, state, and federal law enforcement agencies for the purpose of ascertaining the last known address and employment location of an individual who is the subject of a criminal investigation;

(13) the United States Immigration and Customs Enforcement has access to data on specific individuals and specific employers provided the specific individual or specific employer is the subject of an investigation by that agency;

(14) the Department of Health for the purposes of epidemiologic investigations;

(15) the Department of Corrections for the purposes of case planning and internal research for preprobation, probation, and postprobation employment tracking of offenders sentenced to probation and preconfinement and postconfinement employment tracking of committed offenders;

(16) the state auditor to the extent necessary to conduct audits of job opportunity building zones as required under section 469.3201; and

(17) the Office of Higher Education for purposes of supporting program improvement, system evaluation, and research initiatives including the Statewide Longitudinal Education Data System.

(b) Data on individuals and employers that are collected, maintained, or used by the department in an investigation under section 268.182 are confidential as to data on individuals and protected nonpublic data not on individuals as defined in section 13.02, subdivisions 3 and 13, and must not be disclosed except under statute or district court order or to a party named in a criminal proceeding, administrative or judicial, for preparation of a defense.

(c) Data gathered by the department in the administration of the Minnesota unemployment insurance program must not be made the subject or the basis for any suit in any civil proceedings, administrative or judicial, unless the action is initiated by the department.

**Sec. 6. DIRECTION TO COMMISSIONER; SNAP VERIFICATION OF FEDERAL WORK REQUIREMENTS.**

No later than December 1, 2022, the commissioner of human services shall issue guidance to local agencies that administer the Supplemental Nutrition Assistance Program (SNAP) regarding local agency responsibilities for verification of federal work requirements for SNAP recipients.

**Sec. 7. REVISOR INSTRUCTION.**

The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary grammatical and cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>256D.051, subdivision 20</u>	<u>256D.60, subdivision 1</u>
<u>256D.051, subdivision 21</u>	<u>256D.60, subdivision 2</u>
<u>256D.051, subdivision 22</u>	<u>256D.60, subdivision 3</u>
<u>256D.051, subdivision 23</u>	<u>256D.60, subdivision 4</u>
<u>256D.051, subdivision 24</u>	<u>256D.60, subdivision 5</u>
<u>256D.0512</u>	<u>256D.61</u>
<u>256D.0515</u>	<u>256D.62</u>
<u>256D.0516</u>	<u>256D.63</u>
<u>256D.053</u>	<u>256D.64</u>

**Sec. 8. REPEALER.**

Minnesota Statutes 2020, section 256D.055, is repealed.

**ARTICLE 10**

**DIRECT CARE AND TREATMENT POLICY**

Section 1. Minnesota Statutes 2020, section 253B.18, subdivision 6, is amended to read:

Subd. 6. **Transfer.** (a) A patient who is a person who has a mental illness and is dangerous to the public shall not be transferred out of a secure treatment facility unless it appears to the satisfaction of the commissioner, after a hearing and favorable recommendation by a majority of the special review board, that the transfer is appropriate. Transfer may be to another state-operated treatment program. In those instances where a commitment also exists to the Department of Corrections, transfer may be to a facility designated by the commissioner of corrections.

(b) The following factors must be considered in determining whether a transfer is appropriate:

- (1) the person's clinical progress and present treatment needs;
- (2) the need for security to accomplish continuing treatment;
- (3) the need for continued institutionalization;
- (4) which facility can best meet the person's needs; and
- (5) whether transfer can be accomplished with a reasonable degree of safety for the public.

(c) If a committed person has been transferred out of a secure treatment facility pursuant to this subdivision, that committed person may voluntarily return to a secure treatment facility for a period of up to 60 days with the consent of the head of the treatment facility.

(d) If the committed person is not returned to the original, nonsecure transfer facility within 60 days of being readmitted to a secure treatment facility, the transfer is revoked and the committed person must remain in a secure treatment facility. The committed person must immediately be notified in writing of the revocation.

(e) Within 15 days of receiving notice of the revocation, the committed person may petition the special review board for a review of the revocation. The special review board shall review the circumstances of the revocation and shall recommend to the commissioner whether or not the revocation should be upheld. The special review board may also recommend a new transfer at the time of the revocation hearing.

(f) No action by the special review board is required if the transfer has not been revoked and the committed person is returned to the original, nonsecure transfer facility with no substantive change to the conditions of the transfer ordered under this subdivision.

(g) The head of the treatment facility may revoke a transfer made under this subdivision and require a committed person to return to a secure treatment facility if:

(1) remaining in a nonsecure setting does not provide a reasonable degree of safety to the committed person or others; or

(2) the committed person has regressed clinically and the facility to which the committed person was transferred does not meet the committed person's needs.

(h) Upon the revocation of the transfer, the committed person must be immediately returned to a secure treatment facility. A report documenting the reasons for revocation must be issued by the

head of the treatment facility within seven days after the committed person is returned to the secure treatment facility. Advance notice to the committed person of the revocation is not required.

(i) The committed person must be provided a copy of the revocation report and informed, orally and in writing, of the rights of a committed person under this section. The revocation report must be served upon the committed person, the committed person's counsel, and the designated agency. The report must outline the specific reasons for the revocation, including but not limited to the specific facts upon which the revocation is based.

(j) If a committed person's transfer is revoked, the committed person may re-petition for transfer according to subdivision 5.

(k) A committed person aggrieved by a transfer revocation decision may petition the special review board within seven business days after receipt of the revocation report for a review of the revocation. The matter must be scheduled within 30 days. The special review board shall review the circumstances leading to the revocation and, after considering the factors in paragraph (b), shall recommend to the commissioner whether or not the revocation shall be upheld. The special review board may also recommend a new transfer out of a secure treatment facility at the time of the revocation hearing.

Sec. 2. Minnesota Statutes 2021 Supplement, section 256.01, subdivision 42, is amended to read:

Subd. 42. **Expiration of report mandates.** (a) If the submission of a report by the commissioner of human services to the legislature is mandated by statute and the enabling legislation does not include a date for the submission of a final report or an expiration date, the mandate to submit the report shall expire in accordance with this section.

(b) If the mandate requires the submission of an annual or more frequent report and the mandate was enacted before January 1, 2021, the mandate shall expire on January 1, 2023. If the mandate requires the submission of a biennial or less frequent report and the mandate was enacted before January 1, 2021, the mandate shall expire on January 1, 2024.

(c) Any reporting mandate enacted on or after January 1, 2021, shall expire three years after the date of enactment if the mandate requires the submission of an annual or more frequent report and shall expire five years after the date of enactment if the mandate requires the submission of a biennial or less frequent report unless the enacting legislation provides for a different expiration date.

(d) By January 15 of each year, the commissioner shall submit a list to the chairs and ranking minority members of the legislative committees with jurisdiction over human services by February 15 of each year, beginning February 15, 2022, of all reports set to expire during the following calendar year in accordance with this section to the chairs and ranking minority members of the legislative committees with jurisdiction over human services. Notwithstanding paragraph (c), this paragraph does not expire.

Sec. 3. Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended by Laws 2009, chapter 173, article 2, section 1, is amended to read:

Subd. 10. **State-Operated Services**



The amounts that may be spent from the appropriation for each purpose are as follows:

**Transfer Authority Related to State-Operated Services.** Money appropriated to finance state-operated services may be transferred between the fiscal years of the biennium with the approval of the commissioner of finance.

**County Past Due Receivables.** The commissioner is authorized to withhold county federal administrative reimbursement when the county of financial responsibility for cost-of-care payments due the state under Minnesota Statutes, section 246.54 or 253B.045, is 90 days past due. The commissioner shall deposit the withheld federal administrative earnings for the county into the general fund to settle the claims with the county of financial responsibility. The process for withholding funds is governed by Minnesota Statutes, section 256.017.

~~**Forecast and Census Data.** The commissioner shall include census data and fiscal projections for state-operated services and Minnesota sex offender services with the November and February budget forecasts. Notwithstanding any contrary provision in this article, this paragraph shall not expire.~~

**(a) Adult Mental Health Services**

106,702,000

107,201,000

**Appropriation Limitation.** No part of the appropriation in this article to the commissioner for mental health treatment services provided by state-operated services shall be used for the Minnesota sex offender program.

**Community Behavioral Health Hospitals.** Under Minnesota Statutes, section 246.51, subdivision 1, a determination order for the clients served in a community behavioral health hospital operated by the commissioner of human services is only required when a

client's third-party coverage has been exhausted.

**Base Adjustment.** The general fund base is decreased by \$500,000 for fiscal year 2012 and by \$500,000 for fiscal year 2013.

**(b) Minnesota Sex Offender Services**

	Appropriations by Fund	
General	38,348,000	67,503,000
Federal Fund	26,495,000	0

**Use of Federal Stabilization Funds.** Of this appropriation, \$26,495,000 in fiscal year 2010 is from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

**(c) Minnesota Security Hospital and METO Services**

	Appropriations by Fund	
General	230,000	83,735,000
Federal Fund	83,505,000	0

**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.

**Use of Federal Stabilization Funds.** \$83,505,000 in fiscal year 2010 is appropriated from the fiscal stabilization account in the federal fund to the commissioner. This appropriation must not be used for any activity or service for which federal reimbursement is claimed. This is a onetime appropriation.

Sec. 4. **REPEALER.**

Minnesota Statutes 2020, sections 246.0136; 252.025, subdivision 7; and 252.035, are repealed.

**ARTICLE 11****PREVENTING HOMELESSNESS**

Section 1. Minnesota Statutes 2020, section 256E.33, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

(b) "Transitional housing" means housing designed for independent living and provided to a homeless person or family at a rental rate of at least 25 percent of the family income for a period of up to ~~24~~ 36 months. If a transitional housing program is associated with a licensed facility or shelter, it must be located in a separate facility or a specified section of the main facility where residents can be responsible for their own meals and other daily needs.

(c) "Support services" means an assessment service that identifies the needs of individuals for independent living and arranges or provides for the appropriate educational, social, legal, advocacy, child care, employment, financial, health care, or information and referral services to meet these needs.

Sec. 2. Minnesota Statutes 2020, section 256E.33, subdivision 2, is amended to read:

Subd. 2. **Establishment and administration.** A transitional housing program is established to be administered by the commissioner. The commissioner may make grants to eligible recipients or enter into agreements with community action agencies or other public or private nonprofit agencies to make grants to eligible recipients to initiate, maintain, or expand programs to provide transitional housing and support services for persons in need of transitional housing, which may include up to six months of follow-up support services for persons who complete transitional housing as they stabilize in permanent housing. The commissioner must ensure that money appropriated to implement this section is distributed as soon as practicable. The commissioner may make grants directly to eligible recipients. The commissioner may extend use up to ten percent of the appropriation available for of this program for persons needing assistance longer than ~~24~~ 36 months.

Sec. 3. Minnesota Statutes 2020, section 256K.45, subdivision 6, is amended to read:

Subd. 6. **Funding.** Funds appropriated for this section may be expended on programs described under subdivisions 3 to 5 and 7, technical assistance, and capacity building to meet the greatest need on a statewide basis. The commissioner will provide outreach, technical assistance, and program development support to increase capacity to new and existing service providers to better meet needs statewide, particularly in areas where services for homeless youth have not been established, especially in greater Minnesota.

Sec. 4. Minnesota Statutes 2020, section 256K.45, is amended by adding a subdivision to read:

Subd. 7. **Provider repair or improvement grants.** (a) Providers that serve homeless youth under this section may apply for a grant of up to \$200,000 under this subdivision to make minor or

mechanical repairs or improvements to a facility providing services to homeless youth or youth at risk of homelessness.

(b) Grant applications under this subdivision must include a description of the repairs or improvements and the estimated cost of the repairs or improvements.

(c) Grantees under this subdivision cannot receive grant funds under this subdivision for two consecutive years.

Sec. 5. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 24, is amended to read:

<b>Subd. 24. Grant Programs; Children and Economic Support Grants</b>	29,740,000	29,740,000
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**(a) Minnesota Food Assistance Program.** Unexpended funds for the Minnesota food assistance program for fiscal year 2022 do not cancel but are available in fiscal year 2023.

**(b) Base Level Adjustment; Provider Repair Grants.** The general fund base includes \$1,000,000 in fiscal year 2024 and \$1,000,000 in fiscal year 2025 for provider repair or improvement grants under Minnesota Statutes, section 256K.45, subdivision 7.

Sec. 6. Laws 2021, First Special Session chapter 8, article 6, section 1, subdivision 7, is amended to read:

Subd. 7. **Report.** (a) No later than February 1, 2022, the task force shall submit an initial report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over housing and preventing homelessness on its findings and recommendations.

(b) No later than ~~August 31~~ December 15, 2022, the task force shall submit a final report to the chairs and ranking minority members of the house of representatives and senate committees and divisions with jurisdiction over housing and preventing homelessness on its findings and recommendations.

## ARTICLE 12

### DEPARTMENT OF HUMAN SERVICES LICENSING AND OPERATIONS POLICY

Section 1. Minnesota Statutes 2020, section 245A.02, subdivision 5a, is amended to read:

Subd. 5a. **Controlling individual.** (a) "Controlling individual" means an owner of a program or service provider licensed under this chapter and the following individuals, if applicable:

(1) each officer of the organization, including the chief executive officer and chief financial officer;

(2) the individual designated as the authorized agent under section 245A.04, subdivision 1, paragraph (b);

(3) the individual designated as the compliance officer under section 256B.04, subdivision 21, paragraph (g); ~~and~~

(4) each managerial official whose responsibilities include the direction of the management or policies of a program-; and

(5) the individual designated as the primary provider of care for a special family child care program under section 245A.14, subdivision 4, paragraph (i).

(b) Controlling individual does not include:

(1) a bank, savings bank, trust company, savings association, credit union, industrial loan and thrift company, investment banking firm, or insurance company unless the entity operates a program directly or through a subsidiary;

(2) an individual who is a state or federal official, or state or federal employee, or a member or employee of the governing body of a political subdivision of the state or federal government that operates one or more programs, unless the individual is also an officer, owner, or managerial official of the program, receives remuneration from the program, or owns any of the beneficial interests not excluded in this subdivision;

(3) an individual who owns less than five percent of the outstanding common shares of a corporation:

(i) whose securities are exempt under section 80A.45, clause (6); or

(ii) whose transactions are exempt under section 80A.46, clause (2);

(4) an individual who is a member of an organization exempt from taxation under section 290.05, unless the individual is also an officer, owner, or managerial official of the program or owns any of the beneficial interests not excluded in this subdivision. This clause does not exclude from the definition of controlling individual an organization that is exempt from taxation; or

(5) an employee stock ownership plan trust, or a participant or board member of an employee stock ownership plan, unless the participant or board member is a controlling individual according to paragraph (a).

(c) For purposes of this subdivision, "managerial official" means an individual who has the decision-making authority related to the operation of the program, and the responsibility for the ongoing management of or direction of the policies, services, or employees of the program. A site

director who has no ownership interest in the program is not considered to be a managerial official for purposes of this definition.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 2. Minnesota Statutes 2021 Supplement, section 245A.14, subdivision 4, is amended to read:

Subd. 4. **Special family child care homes.** Nonresidential child care programs serving 14 or fewer children that are conducted at a location other than the license holder's own residence shall be licensed under this section and the rules governing family child care or group family child care if:

(a) the license holder is the primary provider of care and the nonresidential child care program is conducted in a dwelling that is located on a residential lot;

(b) the license holder is an employer who may or may not be the primary provider of care, and the purpose for the child care program is to provide child care services to children of the license holder's employees;

(c) the license holder is a church or religious organization;

(d) the license holder is a community collaborative child care provider. For purposes of this subdivision, a community collaborative child care provider is a provider participating in a cooperative agreement with a community action agency as defined in section 256E.31;

(e) the license holder is a not-for-profit agency that provides child care in a dwelling located on a residential lot and the license holder maintains two or more contracts with community employers or other community organizations to provide child care services. The county licensing agency may grant a capacity variance to a license holder licensed under this paragraph to exceed the licensed capacity of 14 children by no more than five children during transition periods related to the work schedules of parents, if the license holder meets the following requirements:

(1) the program does not exceed a capacity of 14 children more than a cumulative total of four hours per day;

(2) the program meets a one to seven staff-to-child ratio during the variance period;

(3) all employees receive at least an extra four hours of training per year than required in the rules governing family child care each year;

(4) the facility has square footage required per child under Minnesota Rules, part 9502.0425;

(5) the program is in compliance with local zoning regulations;

(6) the program is in compliance with the applicable fire code as follows:

(i) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015, Section 202; or

(ii) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided in the Minnesota State Fire Code 2015, Section 202, unless the rooms in which the children are cared for are located on a level of exit discharge and each of these child care rooms has an exit door directly to the exterior, then the applicable fire code is Group E occupancies, as provided in the Minnesota State Fire Code 2015, Section 202; and

(7) any age and capacity limitations required by the fire code inspection and square footage determinations shall be printed on the license; or

(f) the license holder is the primary provider of care and has located the licensed child care program in a commercial space, if the license holder meets the following requirements:

(1) the program is in compliance with local zoning regulations;

(2) the program is in compliance with the applicable fire code as follows:

(i) if the program serves more than five children older than 2-1/2 years of age, but no more than five children 2-1/2 years of age or less, the applicable fire code is educational occupancy, as provided in Group E Occupancy under the Minnesota State Fire Code 2015, Section 202; or

(ii) if the program serves more than five children 2-1/2 years of age or less, the applicable fire code is Group I-4 Occupancies, as provided under the Minnesota State Fire Code 2015, Section 202;

(3) any age and capacity limitations required by the fire code inspection and square footage determinations are printed on the license; and

(4) the license holder prominently displays the license issued by the commissioner which contains the statement "This special family child care provider is not licensed as a child care center."

(g) Notwithstanding Minnesota Rules, part 9502.0335, subpart 12, the commissioner may issue up to four licenses to an organization licensed under paragraph (b), (c), or (e). Each license must have its own primary provider of care as required under paragraph (i). Each license must operate as a distinct and separate program in compliance with all applicable laws and regulations.

(h) For licenses issued under paragraph (b), (c), (d), (e), or (f), the commissioner may approve up to four licenses at the same location or under one contiguous roof if each license holder is able to demonstrate compliance with all applicable rules and laws. Each licensed program must operate as a distinct program and within the capacity, age, and ratio distributions of each license.

(i) For a license issued under paragraph (b), (c), or (e), the license holder must designate a person to be the primary provider of care at the licensed location on a form and in a manner prescribed by the commissioner. The license holder shall notify the commissioner in writing before there is a change of the person designated to be the primary provider of care. The primary provider of care:

(1) must be the person who will be the provider of care at the program and present during the hours of operation;

(2) must operate the program in compliance with applicable laws and regulations under chapter 245A and Minnesota Rules, chapter 9502;

(3) is considered a child care background study subject as defined in section 245C.02, subdivision 6a, and must comply with background study requirements in chapter 245C; ~~and~~

(4) must complete the training that is required of license holders in section 245A.50; and

(5) is authorized to communicate with the county licensing agency and the department on matters related to licensing.

(j) For any license issued under this subdivision, the license holder must ensure that any other caregiver, substitute, or helper who assists in the care of children meets the training requirements in section 245A.50 and background study requirements under chapter 245C.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 3. Minnesota Statutes 2020, section 245A.1443, is amended to read:

**245A.1443 CHEMICAL DEPENDENCY SUBSTANCE USE DISORDER TREATMENT LICENSED PROGRAMS THAT SERVE PARENTS WITH THEIR CHILDREN.**

Subdivision 1. **Application.** This section applies to ~~chemical dependency residential substance use disorder treatment facilities that are licensed under this chapter and Minnesota Rules, chapter 9530,~~ 245G and that provide services in accordance with section 245G.19.

Subd. 2. **Requirements for providing education.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must provide education to the child's parent related to safe bathing and reducing the risk of sudden unexpected infant death and abusive head trauma from shaking infants and young children. The license holder must use the educational material developed by the commissioner to comply with this requirement. At a minimum, the education must address:

(1) instruction that a child or infant should never be left unattended around water, a tub should be filled with only two to four inches of water for infants, and an infant should never be put into a tub when the water is running; and

(2) the risk factors related to sudden unexpected infant death and abusive head trauma from shaking infants and young children, and means of reducing the risks, including the safety precautions identified in section 245A.1435 and the ~~danger~~ risks of co-sleeping.

(b) The license holder must document the parent's receipt of the education and keep the documentation in the parent's file. The documentation must indicate whether the parent agrees to comply with the safeguards. If the parent refuses to comply, program staff must provide additional education to the parent at appropriate intervals, at least weekly as described in the parental supervision plan. The parental supervision plan must include the intervention, frequency, and staff responsible for the duration of the parent's participation in the program or until the parent agrees to comply with the safeguards.

Subd. 3. **Parental supervision of children.** (a) On or before the date of a child's initial physical presence at the facility, the license holder must ~~complete and document an assessment of the parent's capacity to meet the health and safety needs of the child while on the facility premises, including~~



identifying circumstances when the parent may be unable to adequately care for their child due to considering the following factors:

(1) the parent's physical ~~or~~ and mental health;

(2) the parent being under the influence of drugs, alcohol, medications, or other chemicals;

~~(3) the parent being unable to provide appropriate supervision for the child; or~~

(3) the child's physical and mental health; and

(4) any other information available to the license holder that indicates the parent may not be able to adequately care for the child.

(b) The license holder must have written procedures specifying the actions to be taken by staff if a parent is or becomes unable to adequately care for the parent's child.

(c) If the parent refuses to comply with the safeguards described in subdivision 2 or is unable to adequately care for the child, the license holder must develop a parental supervision plan in conjunction with the client. The plan must account for any factors in paragraph (a) that contribute to the parent's inability to adequately care for the child. The plan must be dated and signed by the staff person who completed the plan.

Subd. 4. **Alternative supervision arrangements.** The license holder must have written procedures addressing whether the program permits a parent to arrange for supervision of the parent's child by another client in the program. If permitted, the facility must have a procedure that requires staff approval of the supervision arrangement before the supervision by the nonparental client occurs. The procedure for approval must include an assessment of the nonparental client's capacity to assume the supervisory responsibilities using the criteria in subdivision 3. The license holder must document the license holder's approval of the supervisory arrangement and the assessment of the nonparental client's capacity to supervise the child, and must keep this documentation in the file of the parent of the child being supervised.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 4. Minnesota Statutes 2020, section 245F.15, subdivision 1, is amended to read:

Subdivision 1. **Qualifications for all staff who have direct patient contact.** ~~(a)~~ All staff who have direct patient contact must be at least 18 years of age ~~and must, at the time of hiring, document that they meet the requirements in paragraph (b), (c), or (d).~~

~~(b) Program directors, supervisors, nurses, and alcohol and drug counselors must be free of substance use problems for at least two years immediately preceding their hiring and must sign a statement attesting to that fact.~~

~~(c) Recovery peers must be free of substance use problems for at least one year immediately preceding their hiring and must sign a statement attesting to that fact.~~

~~(d) Technicians and other support staff must be free of substance use problems for at least six months immediately preceding their hiring and must sign a statement attesting to that fact.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 5. Minnesota Statutes 2020, section 245F.16, subdivision 1, is amended to read:

Subdivision 1. **Policy requirements.** A license holder must have written personnel policies and must make them available to staff members at all times. The personnel policies must:

(1) ensure that a staff member's retention, promotion, job assignment, or pay are not affected by a good-faith communication between the staff member and the Department of Human Services, Department of Health, Ombudsman for Mental Health and Developmental Disabilities, law enforcement, or local agencies that investigate complaints regarding patient rights, health, or safety;

(2) include a job description for each position that specifies job responsibilities, degree of authority to execute job responsibilities, standards of job performance related to specified job responsibilities, and qualifications;

(3) provide for written job performance evaluations for staff members of the license holder at least annually;

(4) describe ~~behavior that constitutes grounds~~ the process for disciplinary action, suspension, or dismissal, ~~including policies that address substance use problems and meet the requirements of section 245F.15, subdivisions 1 and 2. The policies and procedures must list behaviors or incidents that are considered substance use problems. The list must include:~~ of a staff person for violating the drug and alcohol policy described in section 245A.04, subdivision 1, paragraph (c):

~~(i) receiving treatment for substance use disorder within the period specified for the position in the staff qualification requirements;~~

~~(ii) substance use that has a negative impact on the staff member's job performance;~~

~~(iii) substance use that affects the credibility of treatment services with patients, referral sources, or other members of the community; and~~

~~(iv) symptoms of intoxication or withdrawal on the job;~~

(5) include policies prohibiting personal involvement with patients and policies prohibiting patient maltreatment as specified under sections 245A.65, 626.557, and 626.5572 and chapters 260E and 604;

(6) include a chart or description of organizational structure indicating the lines of authority and responsibilities;

(7) include a written plan for new staff member orientation that, at a minimum, includes training related to the specific job functions for which the staff member was hired, program policies and procedures, patient needs, and the areas identified in subdivision 2, paragraphs (b) to (e); and

(8) include a policy on the confidentiality of patient information.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 6. Minnesota Statutes 2020, section 245G.01, subdivision 4, is amended to read:

Subd. 4. **Alcohol and drug counselor.** "Alcohol and drug counselor" ~~has the meaning given in section 148F.01, subdivision 5~~ means a person who is qualified according to section 245G.11, subdivision 5.

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

Sec. 7. Minnesota Statutes 2020, section 245G.01, subdivision 17, is amended to read:

Subd. 17. **Licensed professional in private practice.** (a) "Licensed professional in private practice" means an individual who:

(1) is licensed under chapter 148F, or is exempt from licensure under that chapter but is otherwise licensed to provide alcohol and drug counseling services;

(2) practices solely within the permissible scope of the individual's license as defined in the law authorizing licensure; and

(3) does not affiliate with other licensed or unlicensed professionals to provide alcohol and drug counseling services. ~~Affiliation does not include conferring with another professional or making a client referral.~~

(b) For purposes of this subdivision, affiliate includes but is not limited to:

(1) using the same electronic record system as another professional, except when the system prohibits each professional from accessing the records of another professional;

(2) advertising the services of more than one professional together;

(3) accepting client referrals made to a group of professionals;

(4) providing services to another professional's clients when that professional is absent; or

(5) appearing in any way to be a group practice or program.

(c) For purposes of this subdivision, affiliate does not include:

(1) conferring with another professional;

(2) making a client referral to another professional;

(3) contracting with the same agency as another professional for billing services;

(4) using the same waiting area for clients in an office as another professional; or

(5) using the same receptionist as another professional if the receptionist supports each professional independently.

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

Sec. 8. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision to read:

Subd. 2a. **Documentation of treatment services.** The license holder must ensure that the staff member who provides the treatment service documents in the client record the date, type, and amount of each treatment service provided to a client and the client's response to each treatment service within seven days of providing the treatment service.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 9. Minnesota Statutes 2020, section 245G.06, is amended by adding a subdivision to read:

Subd. 2b. **Client record documentation requirements.** (a) The license holder must document in the client record any significant event that occurs at the program on the day the event occurs. A significant event is an event that impacts the client's relationship with other clients, staff, or the client's family, or the client's treatment plan.

(b) A residential treatment program must document in the client record the following items on the day that each occurs:

(1) medical and other appointments the client attended;

(2) concerns related to medications that are not documented in the medication administration record; and

(3) concerns related to attendance for treatment services, including the reason for any client absence from a treatment service.

(c) Each entry in a client's record must be accurate, legible, signed, dated, and include the job title or position of the staff person that made the entry. A late entry must be clearly labeled "late entry." A correction to an entry must be made in a way in which the original entry can still be read.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 10. Minnesota Statutes 2020, section 245G.06, subdivision 3, is amended to read:

~~Subd. 3. **Documentation of treatment services; Treatment plan review.** (a) A review of all treatment services must be documented weekly and include a review of:~~

~~(1) care coordination activities;~~

~~(2) medical and other appointments the client attended;~~

~~(3) issues related to medications that are not documented in the medication administration record; and~~

~~(4) issues related to attendance for treatment services, including the reason for any client absence from a treatment service.~~

~~(b) A note must be entered immediately following any significant event. A significant event is an event that impacts the client's relationship with other clients, staff, the client's family, or the client's treatment plan.~~

~~(e)~~ A treatment plan review must be entered in a client's file weekly or after each treatment service, whichever is less frequent, by the ~~staff member providing the service~~ alcohol and drug counselor responsible for the client's treatment plan. The review must indicate the span of time covered by the review and each of the six dimensions listed in section 245G.05, subdivision 2, paragraph (c). The review must:

~~(1) indicate the date, type, and amount of each treatment service provided and the client's response to each service;~~

~~(2)~~ (1) address each goal in the treatment plan and whether the methods to address the goals are effective;

~~(3)~~ (2) include monitoring of any physical and mental health problems;

~~(4)~~ (3) document the participation of others;

~~(5)~~ (4) document staff recommendations for changes in the methods identified in the treatment plan and whether the client agrees with the change; and

~~(6)~~ (5) include a review and evaluation of the individual abuse prevention plan according to section 245A.65.

~~(d) Each entry in a client's record must be accurate, legible, signed, and dated. A late entry must be clearly labeled "late entry." A correction to an entry must be made in a way in which the original entry can still be read.~~

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 11. Minnesota Statutes 2020, section 245G.08, subdivision 5, is amended to read:

Subd. 5. **Administration of medication and assistance with self-medication.** (a) A license holder must meet the requirements in this subdivision if a service provided includes the administration of medication.

(b) A staff member, other than a licensed practitioner or nurse, who is delegated by a licensed practitioner or a registered nurse the task of administration of medication or assisting with self-medication, must:

(1) successfully complete a medication administration training program for unlicensed personnel through an accredited Minnesota postsecondary educational institution. A staff member's completion of the course must be documented in writing and placed in the staff member's personnel file;

(2) be trained according to a formalized training program that is taught by a registered nurse and offered by the license holder. The training must include the process for administration of naloxone, if naloxone is kept on site. A staff member's completion of the training must be documented in writing and placed in the staff member's personnel records; or

(3) demonstrate to a registered nurse competency to perform the delegated activity. A registered nurse must be employed or contracted to develop the policies and procedures for administration of medication or assisting with self-administration of medication, or both.

(c) A registered nurse must provide supervision as defined in section 148.171, subdivision 23. The registered nurse's supervision must include, at a minimum, monthly on-site supervision or more often if warranted by a client's health needs. The policies and procedures must include:

(1) a provision that a delegation of administration of medication is limited to a method a staff member has been trained to administer and limited to the administration of:

(i) a medication that is administered orally, topically, or as a suppository, an eye drop, an ear drop, or an inhalant, or an intranasal; and

(ii) an intramuscular injection of naloxone or epinephrine;

(2) a provision that each client's file must include documentation indicating whether staff must conduct the administration of medication or the client must self-administer medication, or both;

(3) a provision that a client may carry emergency medication such as nitroglycerin as instructed by the client's physician or advanced practice registered nurse;

(4) a provision for the client to self-administer medication when a client is scheduled to be away from the facility;

(5) a provision that if a client self-administers medication when the client is present in the facility, the client must self-administer medication under the observation of a trained staff member;

(6) a provision that when a license holder serves a client who is a parent with a child, the parent may only administer medication to the child under a staff member's supervision;

(7) requirements for recording the client's use of medication, including staff signatures with date and time;

(8) guidelines for when to inform a nurse of problems with self-administration of medication, including a client's failure to administer, refusal of a medication, adverse reaction, or error; and

(9) procedures for acceptance, documentation, and implementation of a prescription, whether written, verbal, telephonic, or electronic.

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

Sec. 12. Minnesota Statutes 2020, section 245G.09, subdivision 3, is amended to read:

Subd. 3. **Contents.** Client records must contain the following:

(1) documentation that the client was given information on client rights and responsibilities, grievance procedures, tuberculosis, and HIV, and that the client was provided an orientation to the program abuse prevention plan required under section 245A.65, subdivision 2, paragraph (a), clause

(4). If the client has an opioid use disorder, the record must contain documentation that the client was provided educational information according to section 245G.05, subdivision 1, paragraph (b);

(2) an initial services plan completed according to section 245G.04;

(3) a comprehensive assessment completed according to section 245G.05;

(4) an assessment summary completed according to section 245G.05, subdivision 2;

(5) an individual abuse prevention plan according to sections 245A.65, subdivision 2, and 626.557, subdivision 14, when applicable;

(6) an individual treatment plan according to section 245G.06, subdivisions 1 and 2;

(7) documentation of treatment services, significant events, appointments, concerns, and treatment plan ~~review~~ reviews according to section 245G.06, ~~subdivision~~ subdivisions 2a, 2b, and 3; and

(8) a summary at the time of service termination according to section 245G.06, subdivision 4.

**EFFECTIVE DATE.** This section is effective August 1, 2022.

Sec. 13. Minnesota Statutes 2020, section 245G.11, subdivision 1, is amended to read:

Subdivision 1. **General qualifications.** (a) All staff members who have direct contact must be 18 years of age or older. ~~At the time of employment, each staff member must meet the qualifications in this subdivision. For purposes of this subdivision, "problematic substance use" means a behavior or incident listed by the license holder in the personnel policies and procedures according to section 245G.13, subdivision 1, clause (5).~~

~~(b) A treatment director, supervisor, nurse, counselor, student intern, or other professional must be free of problematic substance use for at least the two years immediately preceding employment and must sign a statement attesting to that fact.~~

~~(c) A paraprofessional, recovery peer, or any other staff member with direct contact must be free of problematic substance use for at least one year immediately preceding employment and must sign a statement attesting to that fact.~~

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 14. Minnesota Statutes 2020, section 245G.11, subdivision 10, is amended to read:

Subd. 10. **Student interns.** A qualified staff member must supervise and be responsible for a treatment service performed by a student intern and must review and sign each assessment, ~~progress note, and individual treatment plan, and treatment plan review~~ prepared by a student intern. A student intern must receive the orientation and training required in section 245G.13, subdivisions 1, clause (7), and 2. No more than 50 percent of the treatment staff may be students or licensing candidates with time documented to be directly related to the provision of treatment services for which the staff are authorized.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 15. Minnesota Statutes 2020, section 245G.13, subdivision 1, is amended to read:

Subdivision 1. **Personnel policy requirements.** A license holder must have written personnel policies that are available to each staff member. The personnel policies must:

(1) ensure that staff member retention, promotion, job assignment, or pay are not affected by a good faith communication between a staff member and the department, the Department of Health, the ombudsman for mental health and developmental disabilities, law enforcement, or a local agency for the investigation of a complaint regarding a client's rights, health, or safety;

(2) contain a job description for each staff member position specifying responsibilities, degree of authority to execute job responsibilities, and qualification requirements;

(3) provide for a job performance evaluation based on standards of job performance conducted on a regular and continuing basis, including a written annual review;

(4) describe behavior that constitutes grounds for disciplinary action, suspension, or dismissal, including ~~policies that address staff member problematic substance use and the requirements of section 245G.11, subdivision 1,~~ policies prohibiting personal involvement with a client in violation of chapter 604, and policies prohibiting client abuse described in sections 245A.65, 626.557, and 626.5572, and chapter 260E;

(5) ~~identify how the program will identify whether behaviors or incidents are problematic substance use, including a description of how the facility must address:~~

~~(i) receiving treatment for substance use within the period specified for the position in the staff qualification requirements, including medication-assisted treatment;~~

~~(ii) substance use that negatively impacts the staff member's job performance;~~

~~(iii) substance use that affects the credibility of treatment services with a client, referral source, or other member of the community;~~

~~(iv) symptoms of intoxication or withdrawal on the job; and~~

~~(v) the circumstances under which an individual who participates in monitoring by the health professional services program for a substance use or mental health disorder is able to provide services to the program's clients;~~

(5) describe the process for disciplinary action, suspension, or dismissal of a staff person for violating the drug and alcohol policy described in section 245A.04, subdivision 1, paragraph (c);

(6) include a chart or description of the organizational structure indicating lines of authority and responsibilities;

(7) include orientation within 24 working hours of starting for each new staff member based on a written plan that, at a minimum, must provide training related to the staff member's specific job responsibilities, policies and procedures, client confidentiality, HIV minimum standards, and client needs; and



(8) include policies outlining the license holder's response to a staff member with a behavior problem that interferes with the provision of treatment service.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 16. Minnesota Statutes 2020, section 245G.20, is amended to read:

**245G.20 LICENSE HOLDERS SERVING PERSONS WITH CO-OCCURRING DISORDERS.**

A license holder specializing in the treatment of a person with co-occurring disorders must:

(1) demonstrate that staff levels are appropriate for treating a client with a co-occurring disorder, and that there are adequate staff members with mental health training;

(2) have continuing access to a medical provider with appropriate expertise in prescribing psychotropic medication;

(3) have a mental health professional available for staff member supervision and consultation;

(4) determine group size, structure, and content considering the special needs of a client with a co-occurring disorder;

(5) have documentation of active interventions to stabilize mental health symptoms present in the individual treatment plans and ~~progress notes~~ treatment plan reviews;

(6) have continuing documentation of collaboration with continuing care mental health providers, and involvement of the providers in treatment planning meetings;

(7) have available program materials adapted to a client with a mental health problem;

(8) have policies that provide flexibility for a client who may lapse in treatment or may have difficulty adhering to established treatment rules as a result of a mental illness, with the goal of helping a client successfully complete treatment; and

(9) have individual psychotherapy and case management available during treatment service.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

Sec. 17. Minnesota Statutes 2020, section 245G.22, subdivision 7, is amended to read:

Subd. 7. **Restrictions for unsupervised use of methadone hydrochloride.** (a) If a medical director or prescribing practitioner assesses and determines that a client meets the criteria in subdivision 6 and may be dispensed a medication used for the treatment of opioid addiction, the restrictions in this subdivision must be followed when the medication to be dispensed is methadone hydrochloride. The results of the assessment must be contained in the client file. The number of unsupervised use medication doses per week in paragraphs (b) to (d) is in addition to the number of unsupervised use medication doses a client may receive for days the clinic is closed for business as allowed by subdivision 6, paragraph (a).

(b) During the first 90 days of treatment, the unsupervised use medication supply must be limited to a maximum of a single dose each week and the client shall ingest all other doses under direct supervision.

(c) In the second 90 days of treatment, the unsupervised use medication supply must be limited to two doses per week.

(d) In the third 90 days of treatment, the unsupervised use medication supply must not exceed three doses per week.

(e) In the remaining months of the first year, a client may be given a maximum six-day unsupervised use medication supply.

(f) After one year of continuous treatment, a client may be given a maximum two-week unsupervised use medication supply.

(g) After two years of continuous treatment, a client may be given a maximum one-month unsupervised use medication supply, but must make monthly visits to the program.

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

Sec. 18. Laws 2020, First Special Session chapter 7, section 1, subdivision 5, as amended by Laws 2021, First Special Session chapter 7, article 2, section 73, is amended to read:

Subd. 5. **Waivers and modifications; extension for ~~365 days~~.** (a) When the peacetime emergency declared by the governor in response to the COVID-19 outbreak expires, is terminated, or is rescinded by the proper authority, waiver CV23: modifying background study requirements, issued by the commissioner of human services pursuant to Executive Orders 20-11 and 20-12, including any amendments to the modification issued before the peacetime emergency expires, shall remain in effect for ~~365 days after the peacetime emergency ends~~ until January 1, 2023.

(b) Under the extension of the waiver in paragraph (a), mandatory direct contact supervision requirements are waived to allow the commissioner to permit an individual to work without supervision while that individual's background study is being processed, on a case-by-case basis and as permitted under federal law and regulation, while providers transition from name and date of birth background studies of only Minnesota records to fingerprint-based background studies.

(c) The commissioner shall conduct a name and date of birth background study of only Minnesota records for an individual who has direct contact with persons served in any program licensed by the commissioner that is not authorized to conduct fingerprint-based national criminal history record checks, until federal approval is obtained for fingerprint-based national criminal history record checks and necessary NETStudy 2.0 system changes following federal approval have been completed. A name and date of birth background study of only Minnesota records conducted under this paragraph shall remain valid until three months after the commissioner begins conducting fingerprint-based national criminal history record checks.

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

Sec. 19. **CHILD CARE REGULATION MODERNIZATION; PILOT PROJECTS.**

The commissioner of human services may conduct and administer pilot projects to test methods and procedures for the projects to modernize regulation of child care centers and family child care allowed under Laws 2021, First Special Session chapter 7, article 2, sections 75 and 81. To carry out the pilot projects, the commissioner of human services may, by issuing a commissioner's order, waive enforcement of existing specific statutory program requirements, rules, and standards in one or more counties. The commissioner's order establishing the waiver must provide alternative methods and procedures of administration and must not be in conflict with the basic purposes, coverage, or benefits provided by law. Pilot projects must comply with the requirements of the child care and development fund plan.

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

Sec. 20. **DIRECTION TO COMMISSIONER OF HUMAN SERVICES; AMENDING CHILDREN'S RESIDENTIAL FACILITY AND DETOXIFICATION PROGRAM RULES.**

(a) The commissioner of human services must amend Minnesota Rules, part 2960.0460, to remove all references to repealed Minnesota Rules, part 2960.0460, subpart 2.

(b) The commissioner must amend Minnesota Rules, part 2960.0470, to require license holders to have written personnel policies that describe the process for disciplinary action, suspension, or dismissal of a staff person for violating the drug and alcohol policy described in Minnesota Statutes, section 245A.04, subdivision 1, paragraph (c), and Minnesota Rules, part 2960.0030, subpart 9.

(c) The commissioner must amend Minnesota Rules, part 9530.6565, subpart 1, to remove items A and B and the documentation requirement that references these items.

(d) The commissioner must amend Minnesota Rules, part 9530.6570, subpart 1, item D, to remove the existing language and insert language to require license holders to have written personnel policies that describe the process for disciplinary action, suspension, or dismissal of a staff person for violating the drug and alcohol policy described in Minnesota Statutes, section 245A.04, subdivision 1, paragraph (c).

(e) For purposes of this section, the commissioner may use the good cause exempt process under Minnesota Statutes, section 14.388, subdivision 1, clause (3), and Minnesota Statutes, section 14.386, does not apply.

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

Sec. 21. **REPEALER.**

(a) Minnesota Statutes 2020, sections 245F.15, subdivision 2; and 245G.11, subdivision 2, are repealed.

(b) Minnesota Rules, parts 2960.0460, subpart 2; and 9530.6565, subpart 2, are repealed.

**EFFECTIVE DATE.** This section is effective January 1, 2023.

## ARTICLE 13

## MISCELLANEOUS

Section 1. Minnesota Statutes 2020, section 34A.01, subdivision 4, is amended to read:

Subd. 4. **Food.** "Food" means every ingredient used for, entering into the consumption of, or used or intended for use in the preparation of food, drink, confectionery, or condiment for humans or other animals, whether simple, mixed, or compound; and articles used as components of these ingredients, except that edible cannabinoid products, as defined in section 151.72, subdivision 1, paragraph (c), are not food.

Sec. 2. Minnesota Statutes 2020, section 137.68, is amended to read:

**137.68 MINNESOTA RARE DISEASE ADVISORY COUNCIL ~~ON RARE DISEASES.~~**

Subdivision 1. **Establishment.** ~~The University of Minnesota is requested to establish~~ There is established an advisory council on rare diseases to provide advice on policies, access, equity, research, diagnosis, treatment, and education related to rare diseases. The advisory council is established in honor of Chloe Barnes and her experiences in the health care system. For purposes of this section, "rare disease" has the meaning given in United States Code, title 21, section 360bb. The council shall be called the ~~Chloe Barnes Advisory Council on Rare Diseases~~ Minnesota Rare Disease Advisory Council. ~~The Council on Disability shall provide meeting and office space and administrative support to the advisory council but does not have authority over the work of the advisory council.~~

Subd. 2. **Membership.** (a) ~~The advisory council may~~ shall consist of at least 17 public members who reflect statewide representation. Except for initial members, members are appointed by the Board of Regents or a designee the governor according to paragraph (b) ~~and~~. Four members of the legislature are appointed according to paragraph (c).

(b) ~~The Board of Regents or a designee is requested to~~ The governor shall appoint at least the following public members according to section 15.0597:

(1) three physicians licensed and practicing in the state with experience researching, diagnosing, or treating rare diseases, including one specializing in pediatrics;

(2) one registered nurse or advanced practice registered nurse licensed and practicing in the state with experience treating rare diseases;

(3) at least two hospital administrators, or their designees, from hospitals in the state that provide care to persons diagnosed with a rare disease. One administrator or designee appointed under this clause must represent a hospital in which the scope of service focuses on rare diseases of pediatric patients;

(4) three persons age 18 or older who either have a rare disease or are a caregiver of a person with a rare disease. One person appointed under this clause must reside in rural Minnesota;

(5) a representative of a rare disease patient organization that operates in the state;

- (6) a social worker with experience providing services to persons diagnosed with a rare disease;
- (7) a pharmacist with experience with drugs used to treat rare diseases;
- (8) a dentist licensed and practicing in the state with experience treating rare diseases;
- (9) a representative of the biotechnology industry;
- (10) a representative of health plan companies;
- (11) a medical researcher with experience conducting research on rare diseases; ~~and~~
- (12) a genetic counselor with experience providing services to persons diagnosed with a rare disease or caregivers of those persons-; and
- (13) representatives with other areas of expertise as identified by the advisory council.

(c) The advisory council shall include two members of the senate, one appointed by the majority leader and one appointed by the minority leader; and two members of the house of representatives, one appointed by the speaker of the house and one appointed by the minority leader. Members appointed under this paragraph serve until their successors are appointed.

(d) The commissioner of health or a designee, a representative of Mayo Medical School, and a representative of the University of Minnesota Medical School shall serve as ex officio, nonvoting members of the advisory council.

~~(e) Initial appointments to the advisory council shall be made no later than September 1, 2019. Members appointed according to paragraph (b) shall serve for a term of three years, except that the initial members appointed according to paragraph (b) shall have an initial term of two, three, or four years determined by lot by the chairperson. Members appointed according to paragraph (b) shall serve until their successors have been appointed.~~

(f) Members may be reappointed for up to two full additional terms according to the advisory council's operating procedures.

(g) Members may be removed as provided in section 15.059, subdivision 4.

(h) Public members serve without compensation, but may have expenses reimbursed as provided in section 15.059, subdivision 3. Legislative members may receive per diem according to the rules of their respective bodies.

Subd. 3. **Meetings.** ~~The Board of Regents or a designee is requested to convene the first meeting of the advisory council no later than October 1, 2019.~~ The advisory council shall meet at the call of the chairperson or at the request of a majority of advisory council members. Meetings of the advisory council are subject to section 13D.01, and notice of its meetings is governed by section 13D.04.

Subd. 3a. **Chairperson; executive director; staff; executive committee.** (a) The advisory council shall elect a chairperson and other officers as it deems necessary and in accordance with the advisory council's operating procedures.

(b) The advisory council shall be governed by an executive committee elected by the members of the advisory council. One member of the executive committee must be the advisory council chairperson.

(c) The advisory council shall appoint an executive director. The executive director serves as an ex officio nonvoting member of the executive committee. The advisory council may delegate to the executive director any powers and duties under this section that do not require advisory council approval. The executive director serves in the unclassified service and may be removed at any time by a majority vote of the advisory council. The executive director may employ and direct staff necessary to carry out advisory council mandates, policies, activities, and objectives.

(d) The executive committee may appoint additional subcommittees and work groups as necessary to fulfill the duties of the advisory council.

Subd. 4. **Duties.** (a) The advisory council's duties may include, but are not limited to:

(1) in conjunction with the state's medical schools, the state's schools of public health, and hospitals in the state that provide care to persons diagnosed with a rare disease, developing resources or recommendations relating to quality of and access to treatment and services in the state for persons with a rare disease, including but not limited to:

(i) a list of existing, publicly accessible resources on research, diagnosis, treatment, and education relating to rare diseases;

(ii) identifying best practices for rare disease care implemented in other states, at the national level, and at the international level that will improve rare disease care in the state and seeking opportunities to partner with similar organizations in other states and countries;

(iii) identifying and addressing problems faced by patients with a rare disease when changing health plans, including recommendations on how to remove obstacles faced by these patients to finding a new health plan and how to improve the ease and speed of finding a new health plan that meets the needs of patients with a rare disease; ~~and~~

(iv) identifying and addressing barriers faced by patients with a rare disease to obtaining care, caused by prior authorization requirements in private and public health plans; and

~~(iv)~~ (v) identifying, recommending, and implementing best practices to ensure health care providers are adequately informed of the most effective strategies for recognizing and treating rare diseases; ~~and~~

(2) advising, consulting, and cooperating with the Department of Health, including the Advisory Committee on Heritable and Congenital Disorders; the Department of Human Services, including the Drug Utilization Review Board and the Drug Formulary Committee; and other agencies of state government in developing recommendations, information, and programs for the public and the health care community relating to diagnosis, treatment, and awareness of rare diseases;

(3) advising on policy issues and advancing policy initiatives at the state and federal levels; and

(4) receiving funds and issuing grants.

(b) The advisory council shall collect additional topic areas for study and evaluation from the general public. In order for the advisory council to study and evaluate a topic, the topic must be approved for study and evaluation by the advisory council.

(c) Legislative members may not deliberate about or vote on decisions related to the issuance of grants of state money.

Subd. 5. **Conflict of interest.** Advisory council members are subject to the ~~Board of Regents policy on conflicts~~ advisory council's conflict of interest policy as outlined in the advisory council's operating procedures.

Subd. 6. **Annual report.** By January 1 of each year, beginning January 1, 2020, the advisory council shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over higher education and health care policy on the advisory council's activities under subdivision 4 and other issues on which the advisory council may choose to report.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 3. Minnesota Statutes 2020, section 151.72, subdivision 1, is amended to read:

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

(b) "Certified hemp" means hemp plants that have been tested and found to meet the requirements of chapter 18K and the rules adopted thereunder.

(c) "Edible cannabinoid product" means any product that is intended to be eaten or consumed as a beverage by humans, contains a cannabinoid in combination with food ingredients, and is not a drug.

~~(b)~~ (d) "Hemp" has the meaning given to "industrial hemp" in section 18K.02, subdivision 3.

(e) "Label" has the meaning given in section 151.01, subdivision 18.

~~(c)~~ (f) "Labeling" means all labels and other written, printed, or graphic matter that are:

(1) affixed to the immediate container in which a product regulated under this section is sold;  
or

(2) provided, in any manner, with the immediate container, including but not limited to outer containers, wrappers, package inserts, brochures, or pamphlets; or

(3) provided on that portion of a manufacturer's website that is linked by a scannable barcode or matrix barcode.

(g) "Matrix barcode" means a code that stores data in a two-dimensional array of geometrically shaped dark and light cells capable of being read by the camera on a smartphone or other mobile device.

(h) "Nonintoxicating cannabinoid" means substances extracted from certified hemp plants that do not produce intoxicating effects when consumed by any route of administration.

Sec. 4. Minnesota Statutes 2020, section 151.72, subdivision 2, is amended to read:

Subd. 2. **Scope.** (a) This section applies to the sale of any product that contains ~~nonintoxicating~~ cannabinoids extracted from hemp ~~other than food~~ and that is an edible cannabinoid product or is intended for human or animal consumption by any route of administration.

(b) This section does not apply to any product dispensed by a registered medical cannabis manufacturer pursuant to sections 152.22 to 152.37.

(c) The board must have no authority over food products, as defined in section 34A.01, subdivision 4, that do not contain cannabinoids extracted or derived from hemp.

Sec. 5. Minnesota Statutes 2020, section 151.72, subdivision 3, is amended to read:

Subd. 3. **Sale of cannabinoids derived from hemp.** (a) Notwithstanding any other section of this chapter, a product containing nonintoxicating cannabinoids, including an edible cannabinoid product, may be sold for human or animal consumption only if all of the requirements of this section are met, provided that a product sold for human or animal consumption does not contain more than 0.3 percent of any tetrahydrocannabinol and an edible cannabinoid product does not contain an amount of any tetrahydrocannabinol that exceeds the limits established in subdivision 5a, paragraph (f).

(b) No other substance extracted or otherwise derived from hemp may be sold for human consumption if the substance is intended:

(1) for external or internal use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; or

(2) to affect the structure or any function of the bodies of humans or other animals.

(c) No product containing any cannabinoid or tetrahydrocannabinol extracted or otherwise derived from hemp may be sold to any individual who is under the age of 21.

(d) Products that meet the requirements of this section are not controlled substances under section 152.02.

Sec. 6. Minnesota Statutes 2020, section 151.72, subdivision 4, is amended to read:

Subd. 4. **Testing requirements.** (a) A manufacturer of a product regulated under this section must submit representative samples of the product to an independent, accredited laboratory in order to certify that the product complies with the standards adopted by the board. Testing must be consistent with generally accepted industry standards for herbal and botanical substances, and, at a minimum, the testing must confirm that the product:

(1) contains the amount or percentage of cannabinoids that is stated on the label of the product;



(2) does not contain more than trace amounts of any mold, residual solvents, pesticides, fertilizers, or heavy metals; and

(3) does not contain a ~~delta-9 tetrahydrocannabinol concentration that exceeds the concentration permitted for industrial hemp as defined in section 18K.02, subdivision 3~~ more than 0.3 percent of any tetrahydrocannabinol.

(b) Upon the request of the board, the manufacturer of the product must provide the board with the results of the testing required in this section.

(c) Testing of the hemp from which the nonintoxicating cannabinoid was derived, or possession of a certificate of analysis for such hemp, does not meet the testing requirements of this section.

Sec. 7. Minnesota Statutes 2021 Supplement, section 151.72, subdivision 5, is amended to read:

Subd. 5. **Labeling requirements.** (a) A product regulated under this section must bear a label that contains, at a minimum:

(1) the name, location, contact phone number, and website of the manufacturer of the product;

(2) the name and address of the independent, accredited laboratory used by the manufacturer to test the product; and

(3) an accurate statement of the amount or percentage of cannabinoids found in each unit of the product meant to be consumed; ~~or.~~

~~(4) instead of the information required in clauses (1) to (3), a scannable bar code or QR code that links to the manufacturer's website.~~

(b) The information in paragraph (a) may be provided on an outer package if the immediate container that holds the product is too small to contain all of the information.

(c) The information required in paragraph (a) may be provided through the use of a scannable barcode or matrix barcode that links to a page on the manufacturer's website if that page contains all of the information required by this subdivision.

(d) The label must also include a statement stating that ~~this~~ the product does not claim to diagnose, treat, cure, or prevent any disease and has not been evaluated or approved by the United States Food and Drug Administration (FDA) unless the product has been so approved.

~~(b)~~ (e) The information required to be on the label by this subdivision must be prominently and conspicuously placed ~~and~~ on the label or displayed on the website in terms that can be easily read and understood by the consumer.

~~(e)~~ (f) The ~~label~~ labeling must not contain any claim that the product may be used or is effective for the prevention, treatment, or cure of a disease or that it may be used to alter the structure or function of human or animal bodies, unless the claim has been approved by the FDA.

Sec. 8. Minnesota Statutes 2020, section 151.72, is amended by adding a subdivision to read:

Subd. 5a. **Additional requirements for edible cannabinoid products.** (a) In addition to the testing and labeling requirements under subdivisions 4 and 5, an edible cannabinoid must meet the requirements of this subdivision.

(b) An edible cannabinoid product must not:

(1) bear the likeness or contain cartoon-like characteristics of a real or fictional person, animal, or fruit that appeals to children;

(2) be modeled after a brand of products primarily consumed by or marketed to children;

(3) be made by applying an extracted or concentrated hemp-derived cannabinoid to a commercially available candy or snack food item;

(4) contain an ingredient, other than a hemp-derived cannabinoid, that is not approved by the United States Food and Drug Administration for use in food;

(5) be packaged in a way that resembles the trademarked, characteristic, or product-specialized packaging of any commercially available food product; or

(6) be packaged in a container that includes a statement, artwork, or design that could reasonably mislead any person to believe that the package contains anything other than an edible cannabinoid product.

(c) An edible cannabinoid product must be prepackaged in packaging or a container that is child-resistant, tamper-evident, and opaque or placed in packaging or a container that is child-resistant, tamper-evident, and opaque at the final point of sale to a customer. The requirement that packaging be child-resistant does not apply to an edible cannabinoid product that is intended to be consumed as a beverage and which contains no more than a trace amount of any tetrahydrocannabinol.

(d) If an edible cannabinoid product is intended for more than a single use or contains multiple servings, each serving must be indicated by scoring, wrapping, or other indicators designating the individual serving size.

(e) A label containing at least the following information must be affixed to the packaging or container of all edible cannabinoid products sold to consumers:

(1) the serving size;

(2) the cannabinoid profile per serving and in total;

(3) a list of ingredients, including identification of any major food allergens declared by name; and

(4) the following statement: "Keep this product out of reach of children."

(f) An edible cannabinoid product must not contain more than five milligrams of any tetrahydrocannabinol in a single serving, or more than a total of 50 milligrams of any tetrahydrocannabinol per package.

Sec. 9. Minnesota Statutes 2020, section 151.72, subdivision 6, is amended to read:

Subd. 6. **Enforcement.** (a) A product ~~sold~~ regulated under this section, including an edible cannabinoid product, shall be considered an adulterated drug if:

- (1) it consists, in whole or in part, of any filthy, putrid, or decomposed substance;
- (2) it has been produced, prepared, packed, or held under unsanitary conditions where it may have been rendered injurious to health, or where it may have been contaminated with filth;
- (3) its container is composed, in whole or in part, of any poisonous or deleterious substance that may render the contents injurious to health;
- (4) it contains any food additives, color additives, or excipients that have been found by the FDA to be unsafe for human or animal consumption; ~~or~~
- (5) it contains an amount or percentage of nonintoxicating cannabinoids that is different than the amount or percentage stated on the label; ~~;~~
- (6) it contains more than 0.3 percent of any tetrahydrocannabinol or, if the product is an edible cannabinoid product, an amount of tetrahydrocannabinol that exceeds the limits established in subdivision 5a, paragraph (f); or
- (7) it contains more than trace amounts of mold, residual solvents, pesticides, fertilizers, or heavy metals.

(b) A product ~~sold~~ regulated under this section shall be considered a misbranded drug if the product's labeling is false or misleading in any manner or in violation of the requirements of this section.

(c) The board's authority to issue cease and desist orders under section 151.06; to embargo adulterated and misbranded drugs under section 151.38; and to seek injunctive relief under section 214.11, extends to any violation of this section.

Sec. 10. Minnesota Statutes 2020, section 152.02, subdivision 2, is amended to read:

Subd. 2. **Schedule I.** (a) Schedule I consists of the substances listed in this subdivision.

(b) Opiates. Unless specifically excepted or unless listed in another schedule, any of the following substances, including their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the analogs, isomers, esters, ethers, and salts is possible:

- (1) acetylmethadol;
- (2) allylprodine;
- (3) alphacetylmethadol (except levo-alphacetylmethadol, also known as levomethadyl acetate);
- (4) alphameprodine;
- (5) alphamethadol;

- (6) alpha-methylfentanyl benzethidine;
- (7) betacetylmethadol;
- (8) betameprodine;
- (9) betamethadol;
- (10) betaprodine;
- (11) clonitazene;
- (12) dextromoramide;
- (13) diampromide;
- (14) diethylambutene;
- (15) difenoxin;
- (16) dimenoxadol;
- (17) dimepheptanol;
- (18) dimethylambutene;
- (19) dioxaphetyl butyrate;
- (20) dipipanone;
- (21) ethylmethylthiambutene;
- (22) etonitazene;
- (23) etoxeridine;
- (24) furethidine;
- (25) hydroxypethidine;
- (26) ketobemidone;
- (27) levomoramide;
- (28) levophenacymorphan;
- (29) 3-methylfentanyl;
- (30) acetyl-alpha-methylfentanyl;
- (31) alpha-methylthiofentanyl;

- (32) benzylfentanyl beta-hydroxyfentanyl;
- (33) beta-hydroxy-3-methylfentanyl;
- (34) 3-methylthiofentanyl;
- (35) thenylfentanyl;
- (36) thiofentanyl;
- (37) para-fluorofentanyl;
- (38) morpheridine;
- (39) 1-methyl-4-phenyl-4-propionoxypiperidine;
- (40) noracymethadol;
- (41) norlevorphanol;
- (42) normethadone;
- (43) norpipanone;
- (44) 1-(2-phenylethyl)-4-phenyl-4-acetoxypiperidine (PEPAP);
- (45) phenadoxone;
- (46) phenampromide;
- (47) phenomorphan;
- (48) phenoperidine;
- (49) piritramide;
- (50) proheptazine;
- (51) properidine;
- (52) propiram;
- (53) racemoramide;
- (54) tilidine;
- (55) trimeperidine;
- (56) N-(1-Phenethylpiperidin-4-yl)-N-phenylacetamide (acetyl fentanyl);
- (57) 3,4-dichloro-N-[(1R,2R)-2-(dimethylamino)cyclohexyl]-N-methylbenzamide(U47700);

- (58) N-phenyl-N-[1-(2-phenylethyl)piperidin-4-yl]furan-2-carboxamide(furanyl fentanyl);
- (59) 4-(4-bromophenyl)-4-dimethylamino-1-phenethylcyclohexanol (bromadol);
- (60) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopropanecarboxamide (Cyclopropyl fentanyl);
- (61) N-(1-phenethylpiperidin-4-yl)-N-phenylbutanamide (butyryl fentanyl);
- (62) 1-cyclohexyl-4-(1,2-diphenylethyl)piperazine (MT-45);
- (63) N-(1-phenethylpiperidin-4-yl)-N-phenylcyclopentanecarboxamide (cyclopentyl fentanyl);
- (64) N-(1-phenethylpiperidin-4-yl)-N-phenylisobutyramide (isobutyryl fentanyl);
- (65) N-(1-phenethylpiperidin-4-yl)-N-phenylpentanamide (valeryl fentanyl);
- (66) N-(4-chlorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (para-chloroisobutyryl fentanyl);
- (67) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (para-fluorobutyryl fentanyl);
- (68) N-(4-methoxyphenyl)-N-(1-phenethylpiperidin-4-yl)butyramide (para-methoxybutyryl fentanyl);
- (69) N-(2-fluorophenyl)-2-methoxy-N-(1-phenethylpiperidin-4-yl)acetamide (ocfentanil);
- (70) N-(4-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)isobutyramide (4-fluoroisobutyryl fentanyl or para-fluoroisobutyryl fentanyl);
- (71) N-(1-phenethylpiperidin-4-yl)-N-phenylacrylamide (acryl fentanyl or acryloyl fentanyl);
- (72) 2-methoxy-N-(1-phenethylpiperidin-4-yl)-N-phenylacetamide (methoxyacetyl fentanyl);
- (73) N-(2-fluorophenyl)-N-(1-phenethylpiperidin-4-yl)propionamide (ortho-fluorofentanyl or 2-fluorofentanyl);
- (74) N-(1-phenethylpiperidin-4-yl)-N-phenyltetrahydrofuran-2-carboxamide (tetrahydrofuran fentanyl); and
- (75) Fentanyl-related substances, their isomers, esters, ethers, salts and salts of isomers, esters and ethers, meaning any substance not otherwise listed under another federal Administration Controlled Substance Code Number or not otherwise listed in this section, and for which no exemption or approval is in effect under section 505 of the Federal Food, Drug, and Cosmetic Act, United States Code , title 21, section 355, that is structurally related to fentanyl by one or more of the following modifications:
- (i) replacement of the phenyl portion of the phenethyl group by any monocycle, whether or not further substituted in or on the monocycle;
  - (ii) substitution in or on the phenethyl group with alkyl, alkenyl, alkoxy, hydroxyl, halo, haloalkyl, amino, or nitro groups;

(iii) substitution in or on the piperidine ring with alkyl, alkenyl, alkoxy, ester, ether, hydroxyl, halo, haloalkyl, amino, or nitro groups;

(iv) replacement of the aniline ring with any aromatic monocycle whether or not further substituted in or on the aromatic monocycle; or

(v) replacement of the N-propionyl group by another acyl group.

(c) Opium derivatives. Any of the following substances, their analogs, salts, isomers, and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) acetorphine;
- (2) acetyldihydrocodeine;
- (3) benzylmorphine;
- (4) codeine methylbromide;
- (5) codeine-n-oxide;
- (6) cyprenorphine;
- (7) desomorphine;
- (8) dihydromorphine;
- (9) drotebanol;
- (10) etorphine;
- (11) heroin;
- (12) hydromorphanol;
- (13) methyldesorphine;
- (14) methyldihydromorphine;
- (15) morphine methylbromide;
- (16) morphine methylsulfonate;
- (17) morphine-n-oxide;
- (18) myrophine;
- (19) nicocodeine;
- (20) nicomorphine;

- (21) normorphine;
- (22) pholcodine; and
- (23) thebacon.

(d) Hallucinogens. Any material, compound, mixture or preparation which contains any quantity of the following substances, their analogs, salts, isomers (whether optical, positional, or geometric), and salts of isomers, unless specifically excepted or unless listed in another schedule, whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) methylenedioxy amphetamine;
- (2) methylenedioxymethamphetamine;
- (3) methylenedioxy-N-ethylamphetamine (MDEA);
- (4) n-hydroxy-methylenedioxyamphetamine;
- (5) 4-bromo-2,5-dimethoxyamphetamine (DOB);
- (6) 2,5-dimethoxyamphetamine (2,5-DMA);
- (7) 4-methoxyamphetamine;
- (8) 5-methoxy-3, 4-methylenedioxyamphetamine;
- (9) alpha-ethyltryptamine;
- (10) bufotenine;
- (11) diethyltryptamine;
- (12) dimethyltryptamine;
- (13) 3,4,5-trimethoxyamphetamine;
- (14) 4-methyl-2, 5-dimethoxyamphetamine (DOM);
- (15) ibogaine;
- (16) lysergic acid diethylamide (LSD);
- (17) mescaline;
- (18) parahexyl;
- (19) N-ethyl-3-piperidyl benzilate;
- (20) N-methyl-3-piperidyl benzilate;
- (21) psilocybin;



- (22) psilocyn;
- (23) tenocyclidine (TPCP or TCP);
- (24) N-ethyl-1-phenyl-cyclohexylamine (PCE);
- (25) 1-(1-phenylcyclohexyl) pyrrolidine (PCPy);
- (26) 1-[1-(2-thienyl)cyclohexyl]-pyrrolidine (TCPy);
- (27) 4-chloro-2,5-dimethoxyamphetamine (DOC);
- (28) 4-ethyl-2,5-dimethoxyamphetamine (DOET);
- (29) 4-iodo-2,5-dimethoxyamphetamine (DOI);
- (30) 4-bromo-2,5-dimethoxyphenethylamine (2C-B);
- (31) 4-chloro-2,5-dimethoxyphenethylamine (2C-C);
- (32) 4-methyl-2,5-dimethoxyphenethylamine (2C-D);
- (33) 4-ethyl-2,5-dimethoxyphenethylamine (2C-E);
- (34) 4-iodo-2,5-dimethoxyphenethylamine (2C-I);
- (35) 4-propyl-2,5-dimethoxyphenethylamine (2C-P);
- (36) 4-isopropylthio-2,5-dimethoxyphenethylamine (2C-T-4);
- (37) 4-propylthio-2,5-dimethoxyphenethylamine (2C-T-7);
- (38) 2-(8-bromo-2,3,6,7-tetrahydrofuro [2,3-f][1]benzofuran-4-yl)ethanamine (2-CB-FLY);
- (39) bromo-benzodifuranyl-isopropylamine (Bromo-DragonFLY);
- (40) alpha-methyltryptamine (AMT);
- (41) N,N-diisopropyltryptamine (DiPT);
- (42) 4-acetoxy-N,N-dimethyltryptamine (4-AcO-DMT);
- (43) 4-acetoxy-N,N-diethyltryptamine (4-AcO-DET);
- (44) 4-hydroxy-N-methyl-N-propyltryptamine (4-HO-MPT);
- (45) 4-hydroxy-N,N-dipropyltryptamine (4-HO-DPT);
- (46) 4-hydroxy-N,N-diallyltryptamine (4-HO-DALT);
- (47) 4-hydroxy-N,N-diisopropyltryptamine (4-HO-DiPT);

- (48) 5-methoxy-N,N-diisopropyltryptamine (5-MeO-DiPT);
- (49) 5-methoxy- $\alpha$ -methyltryptamine (5-MeO-AMT);
- (50) 5-methoxy-N,N-dimethyltryptamine (5-MeO-DMT);
- (51) 5-methylthio-N,N-dimethyltryptamine (5-MeS-DMT);
- (52) 5-methoxy-N-methyl-N-isopropyltryptamine (5-MeO-MiPT);
- (53) 5-methoxy- $\alpha$ -ethyltryptamine (5-MeO-AET);
- (54) 5-methoxy-N,N-dipropyltryptamine (5-MeO-DPT);
- (55) 5-methoxy-N,N-diethyltryptamine (5-MeO-DET);
- (56) 5-methoxy-N,N-diallyltryptamine (5-MeO-DALT);
- (57) methoxetamine (MXE);
- (58) 5-iodo-2-aminoindane (5-IAI);
- (59) 5,6-methylenedioxy-2-aminoindane (MDAI);
- (60) 2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25B-NBOMe);
- (61) 2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25C-NBOMe);
- (62) 2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine (25I-NBOMe);
- (63) 2-(2,5-Dimethoxyphenyl)ethanamine (2C-H);
- (64) 2-(4-Ethylthio-2,5-dimethoxyphenyl)ethanamine (2C-T-2);
- (65) N,N-Dipropyltryptamine (DPT);
- (66) 3-[1-(Piperidin-1-yl)cyclohexyl]phenol (3-HO-PCP);
- (67) N-ethyl-1-(3-methoxyphenyl)cyclohexanamine (3-MeO-PCE);
- (68) 4-[1-(3-methoxyphenyl)cyclohexyl]morpholine (3-MeO-PCMo);
- (69) 1-[1-(4-methoxyphenyl)cyclohexyl]-piperidine (methoxydine, 4-MeO-PCP);
- (70) 2-(2-Chlorophenyl)-2-(ethylamino)cyclohexan-1-one (N-Ethyl-norketamine, ethketamine, NENK);
- (71) methylenedioxy-N,N-dimethylamphetamine (MDDMA);
- (72) 3-(2-Ethyl(methyl)aminoethyl)-1H-indol-4-yl (4-AcO-MET); and
- (73) 2-Phenyl-2-(methylamino)cyclohexanone (deschloroketamine).

(e) Peyote. All parts of the plant presently classified botanically as *Lophophora williamsii* Lemaire, whether growing or not, the seeds thereof, any extract from any part of the plant, and every compound, manufacture, salts, derivative, mixture, or preparation of the plant, its seeds or extracts. The listing of peyote as a controlled substance in Schedule I does not apply to the nondrug use of peyote in bona fide religious ceremonies of the American Indian Church, and members of the American Indian Church are exempt from registration. Any person who manufactures peyote for or distributes peyote to the American Indian Church, however, is required to obtain federal registration annually and to comply with all other requirements of law.

(f) Central nervous system depressants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) mecloqualone;
- (2) methaqualone;
- (3) gamma-hydroxybutyric acid (GHB), including its esters and ethers;
- (4) flunitrazepam;
- (5) 2-(2-Methoxyphenyl)-2-(methylamino)cyclohexanone (2-MeO-2-deschloroketamine, methoxyketamine);
- (6) tianeptine;
- (7) clonazepam;
- (8) etizolam;
- (9) flubromazolam; and
- (10) flubromazepam.

(g) Stimulants. Unless specifically excepted or unless listed in another schedule, any material compound, mixture, or preparation which contains any quantity of the following substances, their analogs, salts, isomers, and salts of isomers whenever the existence of the analogs, salts, isomers, and salts of isomers is possible:

- (1) aminorex;
- (2) cathinone;
- (3) fenethylamine;
- (4) methcathinone;
- (5) methylaminorex;
- (6) N,N-dimethylamphetamine;

- (7) N-benzylpiperazine (BZP);
- (8) methylmethcathinone (mephedrone);
- (9) 3,4-methylenedioxy-N-methylcathinone (methydone);
- (10) methoxymethcathinone (methedrone);
- (11) methylenedioxypropylvalerone (MDPV);
- (12) 3-fluoro-N-methylcathinone (3-FMC);
- (13) methylethcathinone (MEC);
- (14) 1-benzofuran-6-ylpropan-2-amine (6-APB);
- (15) dimethylmethcathinone (DMMC);
- (16) fluoroamphetamine;
- (17) fluoromethamphetamine;
- (18)  $\alpha$ -methylaminobutyrophenone (MABP or buphedrone);
- (19) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)butan-1-one (butylone);
- (20) 2-(methylamino)-1-(4-methylphenyl)butan-1-one (4-MEMABP or BZ-6378);
- (21) 1-(naphthalen-2-yl)-2-(pyrrolidin-1-yl) pentan-1-one (naphthylpyrovalerone or naphyrone);
- (22) (alpha-pyrrolidinopentiophenone (alpha-PVP);
- (23) (RS)-1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-hexanone (4-Me-PHP or MPHP);
- (24) 2-(1-pyrrolidinyl)-hexanophenone (Alpha-PHP);
- (25) 4-methyl-N-ethylcathinone (4-MEC);
- (26) 4-methyl-alpha-pyrrolidinopropiophenone (4-MePPP);
- (27) 2-(methylamino)-1-phenylpentan-1-one (pentedrone);
- (28) 1-(1,3-benzodioxol-5-yl)-2-(methylamino)pentan-1-one (pentylone);
- (29) 4-fluoro-N-methylcathinone (4-FMC);
- (30) 3,4-methylenedioxy-N-ethylcathinone (ethylone);
- (31) alpha-pyrrolidinobutiophenone ( $\alpha$ -PBP);
- (32) 5-(2-Aminopropyl)-2,3-dihydrobenzofuran (5-APDB);

- (33) 1-phenyl-2-(1-pyrrolidinyl)-1-heptanone (PV8);
- (34) 6-(2-Aminopropyl)-2,3-dihydrobenzofuran (6-APDB);
- (35) 4-methyl-alpha-ethylaminopentiophenone (4-MEAPP);
- (36) 4'-chloro-alpha-pyrrolidinopropiophenone (4'-chloro-PPP);
- (37) 1-(1,3-Benzodioxol-5-yl)-2-(dimethylamino)butan-1-one (dibutylone, bk-DMBDB);
- (38) 1-(3-chlorophenyl) piperazine (meta-chlorophenylpiperazine or mCPP);
- (39) 1-(1,3-benzodioxol-5-yl)-2-(ethylamino)-pentan-1-one (N-ethylpentylone, ephylone); and

(40) any other substance, except bupropion or compounds listed under a different schedule, that is structurally derived from 2-aminopropan-1-one by substitution at the 1-position with either phenyl, naphthyl, or thiophene ring systems, whether or not the compound is further modified in any of the following ways:

(i) by substitution in the ring system to any extent with alkyl, alkylendioxy, alkoxy, haloalkyl, hydroxyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;

(ii) by substitution at the 3-position with an acyclic alkyl substituent;

(iii) by substitution at the 2-amino nitrogen atom with alkyl, dialkyl, benzyl, or methoxybenzyl groups; or

(iv) by inclusion of the 2-amino nitrogen atom in a cyclic structure.

(h) Marijuana, tetrahydrocannabinols, and synthetic cannabinoids. Unless specifically excepted or unless listed in another schedule, any natural or synthetic material, compound, mixture, or preparation that contains any quantity of the following substances, their analogs, isomers, esters, ethers, salts, and salts of isomers, esters, and ethers, whenever the existence of the isomers, esters, ethers, or salts is possible:

(1) marijuana;

(2) tetrahydrocannabinols naturally contained in a plant of the genus *Cannabis*, except that tetrahydrocannabinols do not include any material, compound, mixture, or preparation that qualifies as industrial hemp as defined in section 18K.02, subdivision 3; synthetic equivalents of the substances contained in the cannabis plant or in the resinous extractives of the plant; or synthetic substances with similar chemical structure and pharmacological activity to those substances contained in the plant or resinous extract, including, but not limited to, 1 cis or trans tetrahydrocannabinol, 6 cis or trans tetrahydrocannabinol, and 3,4 cis or trans tetrahydrocannabinol;

(3) synthetic cannabinoids, including the following substances:

(i) Naphthoylindoles, which are any compounds containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl,

cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylindoles include, but are not limited to:

- (A) 1-Pentyl-3-(1-naphthoyl)indole (JWH-018 and AM-678);
- (B) 1-Butyl-3-(1-naphthoyl)indole (JWH-073);
- (C) 1-Pentyl-3-(4-methoxy-1-naphthoyl)indole (JWH-081);
- (D) 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl)indole (JWH-200);
- (E) 1-Propyl-2-methyl-3-(1-naphthoyl)indole (JWH-015);
- (F) 1-Hexyl-3-(1-naphthoyl)indole (JWH-019);
- (G) 1-Pentyl-3-(4-methyl-1-naphthoyl)indole (JWH-122);
- (H) 1-Pentyl-3-(4-ethyl-1-naphthoyl)indole (JWH-210);
- (I) 1-Pentyl-3-(4-chloro-1-naphthoyl)indole (JWH-398);
- (J) 1-(5-fluoropentyl)-3-(1-naphthoyl)indole (AM-2201).

(ii) Naphthylmethylindoles, which are any compounds containing a 1H-indol-3-yl-(1-naphthyl)methane structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent. Examples of naphthylmethylindoles include, but are not limited to:

- (A) 1-Pentyl-1H-indol-3-yl-(1-naphthyl)methane (JWH-175);
- (B) 1-Pentyl-1H-indol-3-yl-(4-methyl-1-naphthyl)methane (JWH-184).

(iii) Naphthoylpyrroles, which are any compounds containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the pyrrole ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthoylpyrroles include, but are not limited to, (5-(2-fluorophenyl)-1-pentylpyrrol-3-yl)-naphthalen-1-ylmethanone (JWH-307).

(iv) Naphthylmethylindenes, which are any compounds containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indene ring to any extent, whether or not substituted in the naphthyl ring to any extent. Examples of naphthylmethylindenes include, but are not limited to, E-1-[1-(1-naphthalenylmethylene)-1H-inden-3-yl]pentane (JWH-176).

(v) Phenylacetylindoles, which are any compounds containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent, whether or not substituted in the phenyl ring to any extent. Examples of phenylacetylindoles include, but are not limited to:

- (A) 1-(2-cyclohexylethyl)-3-(2-methoxyphenylacetyl)indole (RCS-8);
- (B) 1-pentyl-3-(2-methoxyphenylacetyl)indole (JWH-250);
- (C) 1-pentyl-3-(2-methylphenylacetyl)indole (JWH-251);
- (D) 1-pentyl-3-(2-chlorophenylacetyl)indole (JWH-203).

(vi) Cyclohexylphenols, which are compounds containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not substituted in the cyclohexyl ring to any extent. Examples of cyclohexylphenols include, but are not limited to:

- (A) 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP 47,497);
- (B) 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (Cannabicyclohexanol or CP 47,497 C8 homologue);
- (C) 5-(1,1-dimethylheptyl)-2-[(1R,2R)-5-hydroxy-2-(3-hydroxypropyl)cyclohexyl]-phenol (CP 55,940).

(vii) Benzoylindoles, which are any compounds containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent. Examples of benzoylindoles include, but are not limited to:

- (A) 1-Pentyl-3-(4-methoxybenzoyl)indole (RCS-4);
- (B) 1-(5-fluoropentyl)-3-(2-iodobenzoyl)indole (AM-694);
- (C) (4-methoxyphenyl-[2-methyl-1-(2-(4-morpholinyl)ethyl)indol-3-yl]methanone (WIN 48,098 or Pravadoline).

(viii) Others specifically named:

- (A) (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (HU-210);
- (B) (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol (Dexanabinol or HU-211);

- (C) 2,3-dihydro-5-methyl-3-(4-morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl-1-naphthalenylmethanone (WIN 55,212-2);
- (D) (1-pentylindol-3-yl)-(2,2,3,3-tetramethylcyclopropyl)methanone (UR-144);
- (E) (1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone (XLR-11);
- (F) 1-pentyl-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-1H-indazole-3-carboxamide (AKB-48(APINACA));
- (G) N-((3s,5s,7s)-adamantan-1-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide (5-Fluoro-AKB-48);
- (H) 1-pentyl-8-quinolinyl ester-1H-indole-3-carboxylic acid (PB-22);
- (I) 8-quinolinyl ester-1-(5-fluoropentyl)-1H-indole-3-carboxylic acid (5-Fluoro PB-22);
- (J) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-pentyl-1H-indazole-3-carboxamide (AB-PINACA);
- (K) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-[(4-fluorophenyl)methyl]-1H-indazole-3-carboxamide (AB-FUBINACA);
- (L) N-[(1S)-1-(aminocarbonyl)-2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide(AB-CHMINACA);
- (M) (S)-methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate (5-fluoro-AMB);
- (N) [1-(5-fluoropentyl)-1H-indazol-3-yl](naphthalen-1-yl) methanone (THJ-2201);
- (O) (1-(5-fluoropentyl)-1H-benzo[d]imidazol-2-yl)(naphthalen-1-yl)methanone (FUBIMINA);
- (P) (7-methoxy-1-(2-morpholinoethyl)-N-((1S,2S,4R)-1,3,3-trimethylbicyclo[2.2.1]heptan-2-yl)-1H-indole-3-carboxamide (MN-25 or UR-12);
- (Q) (S)-N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide (5-fluoro-ABICA);
- (R) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl)-1H-indole-3-carboxamide;
- (S) N-(1-amino-3-phenyl-1-oxopropan-2-yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide;
- (T) methyl 2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate;
- (U) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide (MAB-CHMINACA);
- (V) N-(1-Amino-3,3-dimethyl-1-oxo-2-butanyl)-1-pentyl-1H-indazole-3-carboxamide (ADB-PINACA);
- (W) methyl (1-(4-fluorobenzyl)-1H-indazole-3-carbonyl)-L-valinate (FUB-AMB);



(X) N-[(1S)-2-amino-2-oxo-1-(phenylmethyl)ethyl]-1-(cyclohexylmethyl)-1H-Indazole-3-carboxamide. (APP-CHMINACA);

(Y) quinolin-8-yl 1-(4-fluorobenzyl)-1H-indole-3-carboxylate (FUB-PB-22); and

(Z) methyl N-[1-(cyclohexylmethyl)-1H-indole-3-carbonyl]valinate (MMB-CHMICA).

(ix) Additional substances specifically named:

(A) 1-(5-fluoropentyl)-N-(2-phenylpropan-2-yl)-1 H-pyrrolo[2,3-B]pyridine-3-carboxamide (5F-CUMYL-P7AICA);

(B) 1-(4-cyanobutyl)-N-(2- phenylpropan-2-yl)-1 H-indazole-3-carboxamide (4-CN-Cumyl-Butinaca);

(C) naphthalen-1-yl-1-(5-fluoropentyl)-1-H-indole-3-carboxylate (NM2201; CBL2201);

(D) N-(1-amino-3-methyl-1-oxobutan-2-yl)-1-(5-fluoropentyl)-1 H-indazole-3-carboxamide (5F-ABPINACA);

(E) methyl-2-(1-(cyclohexylmethyl)-1H-indole-3-carboxamido)-3,3-dimethylbutanoate (MDMB CHMICA);

(F) methyl 2-(1-(5-fluoropentyl)-1H-indazole-3-carboxamido)-3,3-dimethylbutanoate (5F-ADB; 5F-MDMB-PINACA); and

(G) N-(1-amino-3,3-dimethyl-1-oxobutan-2-yl)-1-(4-fluorobenzyl) 1H-indazole-3-carboxamide (ADB-FUBINACA).

(i) A controlled substance analog, to the extent that it is implicitly or explicitly intended for human consumption.

**EFFECTIVE DATE.** This section is effective August 1, 2022, and applies to crimes committed on or after that date.

Sec. 11. Minnesota Statutes 2021 Supplement, section 363A.50, is amended to read:

**363A.50 NONDISCRIMINATION IN ACCESS TO TRANSPLANTS.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given unless the context clearly requires otherwise.

(b) "Anatomical gift" has the meaning given in section 525A.02, subdivision 4.

(c) "Auxiliary aids and services" include, but are not limited to:

(1) qualified interpreters or other effective methods of making aurally delivered materials available to individuals with hearing impairments and to non-English-speaking individuals;

(2) qualified readers, taped texts, texts in accessible electronic format, or other effective methods of making visually delivered materials available to individuals with visual impairments;

(3) the provision of information in a format that is accessible for individuals with cognitive, neurological, developmental, intellectual, or physical disabilities;

(4) the provision of supported decision-making services; and

(5) the acquisition or modification of equipment or devices.

(d) "Covered entity" means:

(1) any licensed provider of health care services, including licensed health care practitioners, hospitals, nursing facilities, laboratories, intermediate care facilities, psychiatric residential treatment facilities, institutions for individuals with intellectual or developmental disabilities, and prison health centers; or

(2) any entity responsible for matching anatomical gift donors to potential recipients.

(e) "Disability" has the meaning given in section 363A.03, subdivision 12.

(f) "Organ transplant" means the transplantation or infusion of a part of a human body into the body of another for the purpose of treating or curing a medical condition.

(g) "Qualified individual" means an individual who, with or without available support networks, the provision of auxiliary aids and services, or reasonable modifications to policies or practices, meets the essential eligibility requirements for the receipt of an anatomical gift.

(h) "Reasonable modifications" include, but are not limited to:

(1) communication with individuals responsible for supporting an individual with postsurgical and post-transplantation care, including medication; and

(2) consideration of support networks available to the individual, including family, friends, and home and community-based services, including home and community-based services funded through Medicaid, Medicare, another health plan in which the individual is enrolled, or any program or source of funding available to the individual, in determining whether the individual is able to comply with post-transplant medical requirements.

(i) "Supported decision making" has the meaning given in section 524.5-102, subdivision 16a.

Subd. 2. **Prohibition of discrimination.** (a) A covered entity may not, on the basis of a qualified individual's race, ethnicity, mental disability, or physical disability:

(1) deem an individual ineligible to receive an anatomical gift or organ transplant;

(2) deny medical or related organ transplantation services, including evaluation, surgery, counseling, and postoperative treatment and care;

(3) refuse to refer the individual to a transplant center or other related specialist for the purpose of evaluation or receipt of an anatomical gift or organ transplant;

(4) refuse to place an individual on an organ transplant waiting list or place the individual at a lower-priority position on the list than the position at which the individual would have been placed if not for the individual's race, ethnicity, or disability; or

(5) decline insurance coverage for any procedure associated with the receipt of the anatomical gift or organ transplant, including post-transplantation and postinfusion care.

(b) Notwithstanding paragraph (a), a covered entity may take an individual's disability into account when making treatment or coverage recommendations or decisions, solely to the extent that the physical or mental disability has been found by a physician, following an individualized evaluation of the potential recipient to be medically significant to the provision of the anatomical gift or organ transplant. The provisions of this section may not be deemed to require referrals or recommendations for, or the performance of, organ transplants that are not medically appropriate given the individual's overall health condition.

(c) If an individual has the necessary support system to assist the individual in complying with post-transplant medical requirements, an individual's inability to independently comply with those requirements may not be deemed to be medically significant for the purposes of paragraph (b).

(d) A covered entity must make reasonable modifications to policies, practices, or procedures, when such modifications are necessary to make services such as transplantation-related counseling, information, coverage, or treatment available to qualified individuals with disabilities, unless the entity can demonstrate that making such modifications would fundamentally alter the nature of such services.

(e) A covered entity must take such steps as may be necessary to ensure that no qualified individual with a disability is denied services such as transplantation-related counseling, information, coverage, or treatment because of the absence of auxiliary aids and services, unless the entity can demonstrate that taking such steps would fundamentally alter the nature of the services being offered or result in an undue burden. A covered entity is not required to provide supported decision-making services.

(f) A covered entity must otherwise comply with the requirements of Titles II and III of the Americans with Disabilities Act of 1990, the Americans with Disabilities Act Amendments Act of 2008, and the Minnesota Human Rights Act.

(g) The provisions of this section apply to each part of the organ transplant process.

Subd. 3. **Remedies.** In addition to all other remedies available under this chapter, any individual who has been subjected to discrimination in violation of this section may initiate a civil action in a court of competent jurisdiction to enjoin violations of this section.

#### **Sec. 12. INITIAL MEMBERS AND FIRST MEETING; MINNESOTA RARE DISEASE ADVISORY COUNCIL.**

Public members serving on the University of Minnesota's Advisory Council on Rare Diseases on June 30, 2022, are the initial public members of the Minnesota Rare Disease Advisory Council. The terms of the members begin on July 1, 2022. The governor must designate six members to serve a two-year term; six members to serve a three-year term; and five members to serve a four-year

term. The governor may appoint additional members under Minnesota Statutes, section 137.68, subdivision 2, paragraph (b), clause (13), and must set their terms so that roughly one-third of the members' terms expire after two years, one-third after three years, and one-third after four years. Legislative members of the University of Minnesota's Advisory Council on Rare Disease serve on the Minnesota Rare Disease Advisory Council until appointing authorities appoint successors. The person serving as chair of the executive subcommittee of the University of Minnesota's Advisory Council on Rare Diseases shall convene the first meeting of the Minnesota Rare Disease Advisory Council by September 1, 2022.

Sec. 13. **APPROPRIATIONS.**

In accordance with Minnesota Statutes, section 15.039, subdivision 6, the unexpended balance of money appropriated from the general fund to the Board of Regents of the University of Minnesota for purposes of the advisory council on rare diseases under Minnesota Statutes, section 137.68, shall be under the control of the Minnesota Rare Disease Advisory Council and the Council on Disability.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

Sec. 14. **REVISOR INSTRUCTION.**

The revisor of statutes shall renumber as Minnesota Statutes, section 256.4835, the Minnesota Rare Disease Advisory Council that is currently coded as Minnesota Statutes, section 137.68. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

**EFFECTIVE DATE.** This section is effective July 1, 2022.

## ARTICLE 14

### MANDATED REPORTS

Section 1. Minnesota Statutes 2020, section 62J.692, subdivision 5, is amended to read:

Subd. 5. **Report.** (a) Sponsoring institutions receiving funds under this section must sign and submit a medical education grant verification report (GVR) to verify that the correct grant amount was forwarded to each eligible training site. If the sponsoring institution fails to submit the GVR by the stated deadline, or to request and meet the deadline for an extension, the sponsoring institution is required to return the full amount of funds received to the commissioner within 30 days of receiving notice from the commissioner. The commissioner shall distribute returned funds to the appropriate training sites in accordance with the commissioner's approval letter.

(b) The reports must provide verification of the distribution of the funds and must include:

(1) the total number of eligible trainee FTEs in each clinical medical education program;

(2) the name of each funded program and, for each program, the dollar amount distributed to each training site and a training site expenditure report;

(3) documentation of any discrepancies between the initial grant distribution notice included in the commissioner's approval letter and the actual distribution;

(4) a statement by the sponsoring institution stating that the completed grant verification report is valid and accurate; and

(5) other information the commissioner deems appropriate to evaluate the effectiveness of the use of funds for medical education.

(c) Each year, the commissioner shall provide an annual summary report to the legislature on the implementation of this section. This report is exempt from section 144.05, subdivision 7.

Sec. 2. Minnesota Statutes 2020, section 62Q.37, subdivision 7, is amended to read:

Subd. 7. **Human services.** (a) The commissioner of human services shall implement this section in a manner that is consistent with applicable federal laws and regulations and that avoids the duplication of review activities performed by a nationally recognized independent organization.

~~(b) By December 31 of each year, the commissioner shall submit to the legislature a written report identifying the number of audits performed by a nationally recognized independent organization that were accepted, partially accepted, or rejected by the commissioner under this section. The commissioner shall provide the rationale for partial acceptance or rejection. If the rationale for the partial acceptance or rejection was based on the commissioner's determination that the standards used in the audit were not equivalent to state law, regulation, or contract requirement, the report must document the variances between the audit standards and the applicable state requirements.~~

Sec. 3. Minnesota Statutes 2020, section 144.193, is amended to read:

#### **144.193 INVENTORY OF BIOLOGICAL AND HEALTH DATA.**

By February 1, 2014, and annually after that date, the commissioner shall prepare an inventory of biological specimens, registries, and health data and databases collected or maintained by the commissioner. In addition to the inventory, the commissioner shall provide the schedules for storage of health data and biological specimens. The inventories must be listed in reverse chronological order beginning with the year 2012. The commissioner shall make the inventory and schedules available on the department's website ~~and submit the inventory and schedules to the chairs and ranking minority members of the committees of the legislature with jurisdiction over health policy and data practices issues.~~

Sec. 4. Minnesota Statutes 2020, section 144.4199, subdivision 8, is amended to read:

Subd. 8. **Report.** By January 15 of each year, the commissioner shall submit a report to the chairs and ranking minority members of the house of representatives Ways and Means Committee, the senate Finance Committee, and the house of representatives and senate committees with jurisdiction over health and human services finance, detailing expenditures made in the previous calendar year from the public health response contingency account. This report is exempt from section 144.05, subdivision 7.

Sec. 5. Minnesota Statutes 2020, section 144A.10, subdivision 17, is amended to read:

Subd. 17. **Agency quality improvement program; annual report on survey process.** (a) The commissioner shall establish a quality improvement program for the nursing facility survey and

complaint processes. The commissioner must regularly consult with consumers, consumer advocates, and representatives of the nursing home industry and representatives of nursing home employees in implementing the program. The commissioner, through the quality improvement program, shall submit to the legislature an annual survey and certification quality improvement report, beginning December 15, 2004, and each December 15 thereafter. This report is exempt from section 144.05, subdivision 7.

(b) The report must include, but is not limited to, an analysis of:

- (1) the number, scope, and severity of citations by region within the state;
- (2) cross-referencing of citations by region within the state and between states within the Centers for Medicare and Medicaid Services region in which Minnesota is located;
- (3) the number and outcomes of independent dispute resolutions;
- (4) the number and outcomes of appeals;
- (5) compliance with timelines for survey revisits and complaint investigations;
- (6) techniques of surveyors in investigations, communication, and documentation to identify and support citations;
- (7) compliance with timelines for providing facilities with completed statements of deficiencies; and
- (8) other survey statistics relevant to improving the survey process.

(c) The report must also identify and explain inconsistencies and patterns across regions of the state; include analyses and recommendations for quality improvement areas identified by the commissioner, consumers, consumer advocates, and representatives of the nursing home industry and nursing home employees; and provide action plans to address problems that are identified.

Sec. 6. Minnesota Statutes 2020, section 144A.351, subdivision 1, is amended to read:

Subdivision 1. **Report requirements.** (a) The commissioners of health and human services, with the cooperation of counties and in consultation with stakeholders, including persons who need or are using long-term care services and supports, lead agencies, regional entities, senior, disability, and mental health organization representatives, service providers, and community members shall ~~prepare a report to the legislature by August 15, 2013, and biennially thereafter,~~ compile data regarding the status of the full range of long-term care services and supports for the elderly and children and adults with disabilities and mental illnesses in Minnesota. ~~Any amounts appropriated for this report are available in either year of the biennium.~~ The report shall address compiled data shall include:

- (1) demographics and need for long-term care services and supports in Minnesota;
- (2) summary of county and regional reports on long-term care gaps, surpluses, imbalances, and corrective action plans;

(3) status of long-term care services and related mental health services, housing options, and supports by county and region including:

(i) changes in availability of the range of long-term care services and housing options;

(ii) access problems, including access to the least restrictive and most integrated services and settings, regarding long-term care services; and

(iii) comparative measures of long-term care services availability, including serving people in their home areas near family, and changes over time; and

(4) recommendations regarding goals for the future of long-term care services and supports, policy and fiscal changes, and resource development and transition needs.

(b) The commissioners of health and human services shall make the compiled data available on at least one of the department's websites.

Sec. 7. Minnesota Statutes 2020, section 144A.483, subdivision 1, is amended to read:

Subdivision 1. **Annual legislative report on home care licensing.** The commissioner shall establish a quality improvement program for the home care survey and home care complaint investigation processes. The commissioner shall submit to the legislature an annual report, beginning October 1, 2015, and each October 1 thereafter, until October 1, 2027. Each report will review the previous state fiscal year of home care licensing and regulatory activities. The report must include, but is not limited to, an analysis of:

(1) the number of FTEs in the Division of Compliance Monitoring, including the Office of Health Facility Complaints units assigned to home care licensing, survey, investigation, and enforcement process;

(2) numbers of and descriptive information about licenses issued, complaints received and investigated, including allegations made and correction orders issued, surveys completed and timelines, and correction order reconsiderations and results;

(3) descriptions of emerging trends in home care provision and areas of concern identified by the department in its regulation of home care providers;

(4) information and data regarding performance improvement projects underway and planned by the commissioner in the area of home care surveys; and

(5) work of the Department of Health Home Care Advisory Council.

Sec. 8. Minnesota Statutes 2020, section 145.4134, is amended to read:

**145.4134 COMMISSIONER'S PUBLIC REPORT.**

(a) By July 1 of each year, except for 1998 and 1999 information, the commissioner shall issue a public report providing statistics for the previous calendar year compiled from the data submitted under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249. For 1998 and 1999 information, the report shall be issued October 1, 2000. Each report shall provide the statistics for

all previous calendar years, adjusted to reflect any additional information from late or corrected reports. The commissioner shall ensure that none of the information included in the public reports can reasonably lead to identification of an individual having performed or having had an abortion. All data included on the forms under sections 145.4131 to 145.4133 and sections 145.4241 to 145.4249 must be included in the public report, except that the commissioner shall maintain as confidential, data which alone or in combination may constitute information from which an individual having performed or having had an abortion may be identified using epidemiologic principles. ~~The commissioner shall submit the report to the senate Health and Family Security Committee and the house of representatives Health and Human Services Committee.~~

(b) The commissioner may, by rules adopted under chapter 14, alter the submission dates established under sections 145.4131 to 145.4133 for administrative convenience, fiscal savings, or other valid reason, provided that physicians or facilities and the commissioner of human services submit the required information once each year and the commissioner issues a report once each year.

Sec. 9. Minnesota Statutes 2020, section 145.928, subdivision 13, is amended to read:

Subd. 13. **Reports.** (a) The commissioner shall submit a biennial report to the legislature on the local community projects, tribal government, and community health board prevention activities funded under this section. These reports must include information on grant recipients, activities that were conducted using grant funds, evaluation data, and outcome measures, if available. These reports are due by January 15 of every other year, beginning in the year 2003.

(b) ~~The commissioner shall release an annual report to the public and submit the annual report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over public health on grants made under subdivision 7 to decrease racial and ethnic disparities in infant mortality rates. The report must provide specific information on the amount of each grant awarded to each agency or organization, an itemized list submitted to the commissioner by each agency or organization awarded a grant specifying all uses of grant funds and the amount expended for each use, the population served by each agency or organization, outcomes of the programs funded by each grant, and the amount of the appropriation retained by the commissioner for administrative and associated expenses. The commissioner shall issue a report each January 15 for the previous fiscal year beginning January 15, 2016.~~

Sec. 10. Minnesota Statutes 2020, section 245.4661, subdivision 10, is amended to read:

Subd. 10. **Commissioner duty to report on use of grant funds biennially.** (a) By November 1, 2016, and biennially thereafter, the commissioner of human services shall provide sufficient information to the members of the legislative committees having jurisdiction over mental health funding and policy issues to evaluate the use of funds appropriated under this section of law. The commissioner shall provide, at a minimum, the following information:

(1) the amount of funding to mental health initiatives, what programs and services were funded in the previous two years, gaps in services that each initiative brought to the attention of the commissioner, and outcome data for the programs and services that were funded; and

(2) the amount of funding for other targeted services and the location of services.



(b) This subdivision expires January 1, 2032.

Sec. 11. Minnesota Statutes 2020, section 245.4889, subdivision 3, is amended to read:

Subd. 3. **Commissioner duty to report on use of grant funds biennially.** (a) By November 1, 2016, and biennially thereafter, the commissioner of human services shall provide sufficient information to the members of the legislative committees having jurisdiction over mental health funding and policy issues to evaluate the use of funds appropriated under this section. The commissioner shall provide, at a minimum, the following information:

(1) the amount of funding for children's mental health grants, what programs and services were funded in the previous two years, and outcome data for the programs and services that were funded; and

(2) the amount of funding for other targeted services and the location of services.

(b) This subdivision expires January 1, 2032.

Sec. 12. Minnesota Statutes 2021 Supplement, section 245A.03, subdivision 7, is amended to read:

Subd. 7. **Licensing moratorium.** (a) The commissioner shall not issue an initial license for child foster care licensed under Minnesota Rules, parts 2960.3000 to 2960.3340, or adult foster care licensed under Minnesota Rules, parts 9555.5105 to 9555.6265, under this chapter for a physical location that will not be the primary residence of the license holder for the entire period of licensure. If a family child foster care home or family adult foster care home license is issued during this moratorium, and the license holder changes the license holder's primary residence away from the physical location of the foster care license, the commissioner shall revoke the license according to section 245A.07. The commissioner shall not issue an initial license for a community residential setting licensed under chapter 245D. When approving an exception under this paragraph, the commissioner shall consider the resource need determination process in paragraph (h), the availability of foster care licensed beds in the geographic area in which the licensee seeks to operate, the results of a person's choices during their annual assessment and service plan review, and the recommendation of the local county board. The determination by the commissioner is final and not subject to appeal. Exceptions to the moratorium include:

(1) foster care settings where at least 80 percent of the residents are 55 years of age or older;

(2) foster care licenses replacing foster care licenses in existence on May 15, 2009, or community residential setting licenses replacing adult foster care licenses in existence on December 31, 2013, and determined to be needed by the commissioner under paragraph (b);

(3) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for the closure of a nursing facility, ICF/DD, or regional treatment center; restructuring of state-operated services that limits the capacity of state-operated facilities; or allowing movement to the community for people who no longer require the level of care provided in state-operated facilities as provided under section 256B.092, subdivision 13, or 256B.49, subdivision 24;

(4) new foster care licenses or community residential setting licenses determined to be needed by the commissioner under paragraph (b) for persons requiring hospital level care;

(5) new foster care licenses or community residential setting licenses for people receiving services under chapter 245D and residing in an unlicensed setting before May 1, 2017, and for which a license is required. This exception does not apply to people living in their own home. For purposes of this clause, there is a presumption that a foster care or community residential setting license is required for services provided to three or more people in a dwelling unit when the setting is controlled by the provider. A license holder subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2018. This exception is available when:

(i) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(ii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the unlicensed setting as determined by the lead agency; or

(6) new foster care licenses or community residential setting licenses for people receiving customized living or 24-hour customized living services under the brain injury or community access for disability inclusion waiver plans under section 256B.49 and residing in the customized living setting before July 1, 2022, for which a license is required. A customized living service provider subject to this exception may rebut the presumption that a license is required by seeking a reconsideration of the commissioner's determination. The commissioner's disposition of a request for reconsideration is final and not subject to appeal under chapter 14. The exception is available until June 30, 2023. This exception is available when:

(i) the person's customized living services are provided in a customized living service setting serving four or fewer people under the brain injury or community access for disability inclusion waiver plans under section 256B.49 in a single-family home operational on or before June 30, 2021. Operational is defined in section 256B.49, subdivision 28;

(ii) the person's case manager provided the person with information about the choice of service, service provider, and location of service, including in the person's home, to help the person make an informed choice; and

(iii) the person's services provided in the licensed foster care or community residential setting are less than or equal to the cost of the person's services delivered in the customized living setting as determined by the lead agency.

(b) The commissioner shall determine the need for newly licensed foster care homes or community residential settings as defined under this subdivision. As part of the determination, the commissioner shall consider the availability of foster care capacity in the area in which the licensee seeks to operate, and the recommendation of the local county board. The determination by the commissioner must be final. A determination of need is not required for a change in ownership at the same address.

(c) When an adult resident served by the program moves out of a foster home that is not the primary residence of the license holder according to section 256B.49, subdivision 15, paragraph (f), or the adult community residential setting, the county shall immediately inform the Department of Human Services Licensing Division. The department may decrease the statewide licensed capacity for adult foster care settings.

(d) Residential settings that would otherwise be subject to the decreased license capacity established in paragraph (c) shall be exempt if the license holder's beds are occupied by residents whose primary diagnosis is mental illness and the license holder is certified under the requirements in subdivision 6a or section 245D.33.

(e) A resource need determination process, managed at the state level, using the available ~~reports~~ data required by section 144A.351, and other data and information shall be used to determine where the reduced capacity determined under section 256B.493 will be implemented. The commissioner shall consult with the stakeholders described in section 144A.351, and employ a variety of methods to improve the state's capacity to meet the informed decisions of those people who want to move out of corporate foster care or community residential settings, long-term service needs within budgetary limits, including seeking proposals from service providers or lead agencies to change service type, capacity, or location to improve services, increase the independence of residents, and better meet needs identified by the long-term services and supports reports and statewide data and information.

(f) At the time of application and reapplication for licensure, the applicant and the license holder that are subject to the moratorium or an exclusion established in paragraph (a) are required to inform the commissioner whether the physical location where the foster care will be provided is or will be the primary residence of the license holder for the entire period of licensure. If the primary residence of the applicant or license holder changes, the applicant or license holder must notify the commissioner immediately. The commissioner shall print on the foster care license certificate whether or not the physical location is the primary residence of the license holder.

(g) License holders of foster care homes identified under paragraph (f) that are not the primary residence of the license holder and that also provide services in the foster care home that are covered by a federally approved home and community-based services waiver, as authorized under chapter 256S or section 256B.092 or 256B.49, must inform the human services licensing division that the license holder provides or intends to provide these waiver-funded services.

(h) The commissioner may adjust capacity to address needs identified in section 144A.351. Under this authority, the commissioner may approve new licensed settings or delicense existing settings. Delicensing of settings will be accomplished through a process identified in section 256B.493. ~~Annually, by August 1, the commissioner shall provide information and data on capacity of licensed long-term services and supports, actions taken under the subdivision to manage statewide long-term services and supports resources, and any recommendations for change to the legislative committees with jurisdiction over the health and human services budget.~~

(i) The commissioner must notify a license holder when its corporate foster care or community residential setting licensed beds are reduced under this section. The notice of reduction of licensed beds must be in writing and delivered to the license holder by certified mail or personal service. The notice must state why the licensed beds are reduced and must inform the license holder of its

right to request reconsideration by the commissioner. The license holder's request for reconsideration must be in writing. If mailed, the request for reconsideration must be postmarked and sent to the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds. If a request for reconsideration is made by personal service, it must be received by the commissioner within 20 calendar days after the license holder's receipt of the notice of reduction of licensed beds.

(j) The commissioner shall not issue an initial license for children's residential treatment services licensed under Minnesota Rules, parts 2960.0580 to 2960.0700, under this chapter for a program that Centers for Medicare and Medicaid Services would consider an institution for mental diseases. Facilities that serve only private pay clients are exempt from the moratorium described in this paragraph. The commissioner has the authority to manage existing statewide capacity for children's residential treatment services subject to the moratorium under this paragraph and may issue an initial license for such facilities if the initial license would not increase the statewide capacity for children's residential treatment services subject to the moratorium under this paragraph.

Sec. 13. Minnesota Statutes 2020, section 256.01, subdivision 29, is amended 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, subdivisions 7, paragraph (b), and 12, and 256B.057, subdivision 9, the commissioner shall review all medical evidence and seek information from providers, applicants, and enrollees to support the determination of disability where necessary. Disability shall be determined according to the rules of title XVI and title XIX of the Social Security Act and pertinent rules and policies of the Social Security Administration.

(b) Prior to a denial or withdrawal of a requested determination of disability due to insufficient evidence, the commissioner shall (1) ensure that the missing evidence is necessary and appropriate to a determination of disability, and (2) assist applicants and enrollees to obtain the evidence, including, but not limited to, medical examinations and electronic medical records.

~~(c) The commissioner shall provide the chairs of the legislative committees with jurisdiction over health and human services finance and budget the following information on the activities of the state medical review team by February 1 of each year:~~

~~(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, appeal results, and the length of time taken from the date the person involved requested an appeal for a written decision to be made on each appeal;~~

~~(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.~~

~~(d)~~ (c) Any appeal made under section 256.045, subdivision 3, of a disability determination made by the state medical review team must be decided according to the timelines under section 256.0451, subdivision 22, paragraph (a). If a written decision is not issued within the timelines under section 256.0451, subdivision 22, paragraph (a), the appeal must be immediately reviewed by the chief human services judge.

Sec. 14. Minnesota Statutes 2020, section 256.021, subdivision 3, is amended to read:

Subd. 3. **Report.** (a) By January 15 of each year, the panel shall submit a report to the committees of the legislature with jurisdiction over section 626.557 regarding the number of requests for review it receives under this section, the number of cases where the panel requires the lead investigative agency to reconsider its final disposition, and the number of cases where the final disposition is changed, and any recommendations to improve the review or investigative process.

(b) This subdivision expires January 1, 2024.

Sec. 15. Minnesota Statutes 2021 Supplement, section 256.042, subdivision 4, as amended by Laws 2022, chapter 53, section 5, is amended to read:

Subd. 4. **Grants.** (a) The commissioner of human services shall submit a report of the grants proposed by the advisory council to be awarded for the upcoming calendar year to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance, by December 1 of each year, beginning ~~March 1, 2020~~ December 1, 2022. This paragraph expires upon the expiration of the advisory council.

(b) The grants shall be awarded to proposals selected by the advisory council that address the priorities in subdivision 1, paragraph (a), clauses (1) to (4), unless otherwise appropriated by the legislature. The advisory council shall determine grant awards and funding amounts based on the funds appropriated to the commissioner under section 256.043, subdivision 3, paragraph (h), and subdivision 3a, paragraph (d). The commissioner shall award the grants from the opiate epidemic response fund and administer the grants in compliance with section 16B.97. No more than ten percent of the grant amount may be used by a grantee for administration.

Sec. 16. Minnesota Statutes 2020, section 256.042, subdivision 5, as amended by Laws 2022, chapter 53, section 6, is amended to read:

Subd. 5. **Reports.** (a) The advisory council shall report annually to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by January 31 of each year. The report shall include information about the individual projects that receive grants, the municipality projects funded by direct payments received as part of a statewide opioid settlement agreement, and the overall role of the project in addressing the opioid addiction and overdose epidemic in Minnesota. The report must describe the grantees and municipalities and the activities implemented, along with measurable outcomes as determined by the council in consultation with the commissioner of human services and the commissioner of management and budget. At a minimum, the report must include information about the number of individuals who received information or treatment, the outcomes the individuals achieved, and demographic information about the individuals participating in the project; an assessment of the progress toward achieving statewide access to qualified providers and comprehensive treatment and

recovery services; and an update on the evaluations implemented by the commissioner of management and budget for the promising practices and theory-based projects that receive funding.

(b) The commissioner of management and budget, in consultation with the Opiate Epidemic Response Advisory Council, shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance when an evaluation study described in subdivision 1, paragraph (c), is complete on the promising practices or theory-based projects that are selected for evaluation activities. The report shall include demographic information; outcome information for the individuals in the program; the results for the program in promoting recovery, employment, family reunification, and reducing involvement with the criminal justice system; and other relevant outcomes determined by the commissioner of management and budget that are specific to the projects that are evaluated. The report shall include information about the ability of grant programs to be scaled to achieve the statewide results that the grant project demonstrated.

(c) The advisory council, in its annual report to the legislature under paragraph (a) due by January 31, 2024, shall include recommendations on whether the appropriations to the specified entities under Laws 2019, chapter 63, should be continued, adjusted, or discontinued; whether funding should be appropriated for other purposes related to opioid abuse prevention, education, and treatment; and on the appropriate level of funding for existing and new uses.

(d) Municipalities receiving direct payments from a statewide opioid settlement agreement must report annually to the commissioner of human services on how the payments were used on opioid remediation. The report must be submitted in a format prescribed by the commissioner. The report must include data and measurable outcomes on expenditures funded with direct payments from a statewide opioid settlement agreement, including details on services listed in the categories of approved uses, as identified in agreements between the state of Minnesota, the Association of Minnesota Counties, and the League of Minnesota Cities. Reporting requirements must include, at a minimum:

- (1) contact information;
- (2) information on funded services and programs; and
- (3) target populations for each funded service and program.

(e) In reporting data and outcomes under paragraph (d), municipalities must include, to the extent feasible, information on the use of evidence-based and culturally relevant services.

(f) For municipal projects using \$25,000 or more of statewide opioid settlement agreement payments in a calendar year, municipalities must also include in the report required under paragraph (d):

- (1) a brief qualitative description of successes or challenges; and
- (2) results using process and quality measures.

(g) This subdivision expires upon the expiration of the advisory council.

Sec. 17. Minnesota Statutes 2020, section 256.9657, subdivision 8, is amended to read:

Subd. 8. **Commissioner's duties.** (a) Beginning October 1, 2023, the commissioner of human services shall annually report to the legislature quarterly on the first day of January, April, July, and October chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and finance regarding the provider surcharge program. The report shall include information on total billings, total collections, and administrative expenditures for the previous fiscal year. The report on January 1, 1993, shall include information on all surcharge billings, collections, federal matching payments received, efforts to collect unpaid amounts, and administrative costs pertaining to the surcharge program in effect from July 1, 1991, to September 30, 1992. This paragraph expires January 1, 2032.

(b) The surcharge shall be adjusted by inflationary and caseload changes in future bienniums to maintain reimbursement of health care providers in accordance with the requirements of the state and federal laws governing the medical assistance program, including the requirements of the Medicaid moratorium amendments of 1991 found in Public Law No. 102-234.

(c) The commissioner shall request the Minnesota congressional delegation to support a change in federal law that would prohibit federal disallowances for any state that makes a good faith effort to comply with Public Law 102-234 by enacting conforming legislation prior to the issuance of federal implementing regulations.

Sec. 18. Minnesota Statutes 2020, section 256.975, subdivision 11, is amended to read:

Subd. 11. **Regional and local dementia grants.** (a) The Minnesota Board on Aging shall award competitive grants to eligible applicants for regional and local projects and initiatives targeted to a designated community, which may consist of a specific geographic area or population, to increase awareness of Alzheimer's disease and other dementias, increase the rate of cognitive testing in the population at risk for dementias, promote the benefits of early diagnosis of dementias, or connect caregivers of persons with dementia to education and resources.

(b) The project areas for grants include:

(1) local or community-based initiatives to promote the benefits of physician or advanced practice registered nurse consultations for all individuals who suspect a memory or cognitive problem;

(2) local or community-based initiatives to promote the benefits of early diagnosis of Alzheimer's disease and other dementias; and

(3) local or community-based initiatives to provide informational materials and other resources to caregivers of persons with dementia.

(c) Eligible applicants for local and regional grants may include, but are not limited to, community health boards, school districts, colleges and universities, community clinics, tribal communities, nonprofit organizations, and other health care organizations.

(d) Applicants must:

(1) describe the proposed initiative, including the targeted community and how the initiative meets the requirements of this subdivision; and

(2) identify the proposed outcomes of the initiative and the evaluation process to be used to measure these outcomes.

(e) In awarding the regional and local dementia grants, the Minnesota Board on Aging must give priority to applicants who demonstrate that the proposed project:

(1) is supported by and appropriately targeted to the community the applicant serves;

(2) is designed to coordinate with other community activities related to other health initiatives, particularly those initiatives targeted at the elderly;

(3) is conducted by an applicant able to demonstrate expertise in the project areas;

(4) utilizes and enhances existing activities and resources or involves innovative approaches to achieve success in the project areas; and

(5) strengthens community relationships and partnerships in order to achieve the project areas.

(f) The board shall divide the state into specific geographic regions and allocate a percentage of the money available for the local and regional dementia grants to projects or initiatives aimed at each geographic region.

(g) The board shall award any available grants by January 1, 2016, and each July 1 thereafter.

(h) Each grant recipient shall report to the board on the progress of the initiative at least once during the grant period, and within two months of the end of the grant period shall submit a final report to the board that includes the outcome results.

(i) The Minnesota Board on Aging shall:

(+) develop the criteria and procedures to allocate the grants under this subdivision, evaluate all applicants on a competitive basis and award the grants, and select qualified providers to offer technical assistance to grant applicants and grantees. The selected provider shall provide applicants and grantees assistance with project design, evaluation methods, materials, and training; ~~and~~

~~(2) submit by January 15, 2017, and on each January 15 thereafter, a progress report on the dementia grants programs under this subdivision to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over health finance and policy. The report shall include:~~

~~(i) information on each grant recipient;~~

~~(ii) a summary of all projects or initiatives undertaken with each grant;~~

~~(iii) the measurable outcomes established by each grantee, an explanation of the evaluation process used to determine whether the outcomes were met, and the results of the evaluation; and~~



~~(iv) an accounting of how the grant funds were spent.~~

Sec. 19. Minnesota Statutes 2020, section 256.975, subdivision 12, is amended to read:

Subd. 12. **Self-directed caregiver grants.** The Minnesota Board on Aging shall, in consultation with area agencies on aging and other community caregiver stakeholders, administer self-directed caregiver grants to support at-risk family caregivers of older adults or others eligible under the Older Americans Act of 1965, United States Code, title 42, chapter 35, sections 3001 to 3058ff, to sustain family caregivers in the caregivers' roles so older adults can remain at home longer. ~~The board shall submit by January 15, 2022, and each January 15 thereafter, a progress report on the self-directed caregiver grants program to the chairs and ranking minority members of the senate and house of representatives committees and divisions with jurisdiction over human services. The progress report must include metrics on the use of the grant program.~~

Sec. 20. Minnesota Statutes 2020, section 256B.0561, subdivision 4, is amended to read:

Subd. 4. **Report.** (a) By September 1, 2019, and each September 1 thereafter, the commissioner shall submit a report to the chairs and ranking minority members of the house and senate committees with jurisdiction over human services finance that includes the number of cases affected by periodic data matching under this section, the number of recipients identified as possibly ineligible as a result of a periodic data match, and the number of recipients whose eligibility was terminated as a result of a periodic data match. The report must also specify, for recipients whose eligibility was terminated, how many cases were closed due to failure to cooperate.

(b) This subdivision expires January 1, 2027.

Sec. 21. Minnesota Statutes 2020, section 256B.0911, subdivision 5, is amended to read:

Subd. 5. **Administrative activity.** (a) The commissioner shall streamline the processes, including timelines for when assessments need to be completed, required to provide the services in this section and shall implement integrated solutions to automate the business processes to the extent necessary for community support plan approval, reimbursement, program planning, evaluation, and policy development.

(b) The commissioner of human services shall work with lead agencies responsible for conducting long-term consultation services to modify the MnCHOICES application and assessment policies to create efficiencies while ensuring federal compliance with medical assistance and long-term services and supports eligibility criteria.

(c) The commissioner shall work with lead agencies responsible for conducting long-term consultation services to develop a set of measurable benchmarks sufficient to demonstrate quarterly improvement in the average time per assessment and other mutually agreed upon measures of increasing efficiency. The commissioner shall collect data on these benchmarks and provide to the lead agencies ~~and the chairs and ranking minority members of the legislative committees with jurisdiction over human services~~ an annual trend analysis of the data in order to demonstrate the commissioner's compliance with the requirements of this subdivision.

Sec. 22. Minnesota Statutes 2020, section 256B.0949, subdivision 17, is amended to read:

Subd. 17. **Provider shortage; authority for exceptions.** (a) In consultation with the Early Intensive Developmental and Behavioral Intervention Advisory Council and stakeholders, including agencies, professionals, parents of people with ASD or a related condition, and advocacy organizations, the commissioner shall determine if a shortage of EIDBI providers exists. For the purposes of this subdivision, "shortage of EIDBI providers" means a lack of availability of providers who meet the EIDBI provider qualification requirements under subdivision 15 that results in the delay of access to timely services under this section, or that significantly impairs the ability of a provider agency to have sufficient providers to meet the requirements of this section. The commissioner shall consider geographic factors when determining the prevalence of a shortage. The commissioner may determine that a shortage exists only in a specific region of the state, multiple regions of the state, or statewide. The commissioner shall also consider the availability of various types of treatment modalities covered under this section.

(b) The commissioner, in consultation with the Early Intensive Developmental and Behavioral Intervention Advisory Council and stakeholders, must establish processes and criteria for granting an exception under this paragraph. The commissioner may grant an exception only if the exception would not compromise a person's safety and not diminish the effectiveness of the treatment. The commissioner may establish an expiration date for an exception granted under this paragraph. The commissioner may grant an exception for the following:

- (1) EIDBI provider qualifications under this section;
- (2) medical assistance provider enrollment requirements under section 256B.04, subdivision 21; or
- (3) EIDBI provider or agency standards or requirements.

(c) If the commissioner, in consultation with the Early Intensive Developmental and Behavioral Intervention Advisory Council and stakeholders, determines that a shortage no longer exists, the commissioner must submit a notice that a shortage no longer exists to the chairs and ranking minority members of the senate and the house of representatives committees with jurisdiction over health and human services. The commissioner must post the notice for public comment for 30 days. The commissioner shall consider public comments before submitting to the legislature a request to end the shortage declaration. ~~The commissioner shall annually provide an update on the status of the provider shortage and exceptions granted to the chairs and ranking minority members of the senate and house of representatives committees with jurisdiction over health and human services.~~ The commissioner shall not declare the shortage of EIDBI providers ended without direction from the legislature to declare it ended.

Sec. 23. Minnesota Statutes 2020, section 256B.493, subdivision 2, is amended to read:

Subd. 2. **Planned closure process needs determination.** A resource need determination process, managed at the state level, using available ~~reports~~ data required by section 144A.351 and other data and information shall be used by the commissioner to align capacity where needed.

Sec. 24. Minnesota Statutes 2020, section 256B.69, subdivision 9d, is amended to read:

Subd. 9d. **Financial and quality assurance audits.** (a) The commissioner shall require, in the request for bids and resulting contracts with managed care plans and county-based purchasing plans

under this section and section 256B.692, that each managed care plan and county-based purchasing plan submit to and fully cooperate with the independent third-party financial audits by the legislative auditor under subdivision 9e of the information required under subdivision 9c, paragraph (b). Each contract with a managed care plan or county-based purchasing plan under this section or section 256B.692 must provide the commissioner, the legislative auditor, and vendors contracting with the legislative auditor, access to all data required to complete audits under subdivision 9e.

(b) Each managed care plan and county-based purchasing plan providing services under this section shall provide to the commissioner biweekly encounter data and claims data for state public health care programs and shall participate in a quality assurance program that verifies the timeliness, completeness, accuracy, and consistency of the data provided. The commissioner shall develop written protocols for the quality assurance program and shall make the protocols publicly available. The commissioner shall contract for an independent third-party audit to evaluate the quality assurance protocols as to the capacity of the protocols to ensure complete and accurate data and to evaluate the commissioner's implementation of the protocols.

(c) Upon completion of the evaluation under paragraph (b), the commissioner shall provide copies of the report to the legislative auditor ~~and the chairs and ranking minority members of the legislative committees with jurisdiction over health care policy and financing.~~

(d) Any actuary under contract with the commissioner to provide actuarial services must meet the independence requirements under the professional code for fellows in the Society of Actuaries and must not have provided actuarial services to a managed care plan or county-based purchasing plan that is under contract with the commissioner pursuant to this section and section 256B.692 during the period in which the actuarial services are being provided. An actuary or actuarial firm meeting the requirements of this paragraph must certify and attest to the rates paid to the managed care plans and county-based purchasing plans under this section and section 256B.692, and the certification and attestation must be auditable.

(e) The commissioner, to the extent of available funding, shall conduct ad hoc audits of state public health care program administrative and medical expenses reported by managed care plans and county-based purchasing plans. This includes: financial and encounter data reported to the commissioner under subdivision 9c, including payments to providers and subcontractors; supporting documentation for expenditures; categorization of administrative and medical expenses; and allocation methods used to attribute administrative expenses to state public health care programs. These audits also must monitor compliance with data and financial report certification requirements established by the commissioner for the purposes of managed care capitation payment rate-setting. The managed care plans and county-based purchasing plans shall fully cooperate with the audits in this subdivision.

~~The commissioner shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by February 1, 2016, and each February 1 thereafter, the number of ad hoc audits conducted in the past calendar year and the results of these audits.~~

(f) Nothing in this subdivision shall allow the release of information that is nonpublic data pursuant to section 13.02.

Sec. 25. Minnesota Statutes 2020, section 256E.28, subdivision 6, is amended to read:

Subd. 6. **Evaluation.** (a) Using the outcomes established according to subdivision 3, the commissioner shall conduct a biennial evaluation of the grant program funded under this section. Grant recipients shall cooperate with the commissioner in the evaluation and shall provide the commissioner with the information needed to conduct the evaluation.

(b) The commissioner shall consult with the legislative task force on child protection during the evaluation process ~~and~~.

(c) The commissioner shall submit a biennial evaluation report to the task force and to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over child protection funding. This paragraph expires January 1, 2032.

Sec. 26. Minnesota Statutes 2020, section 256R.18, is amended to read:

**256R.18 REPORT BY COMMISSIONER OF HUMAN SERVICES.**

(a) Beginning January 1, 2019, the commissioner shall provide to the house of representatives and senate committees with jurisdiction over nursing facility payment rates a biennial report on the effectiveness of the reimbursement system in improving quality, restraining costs, and any other features of the system as determined by the commissioner.

(b) This section expires January 1, 2026.

Sec. 27. Minnesota Statutes 2020, section 257.0725, is amended to read:

**257.0725 ANNUAL REPORT.**

(a) The commissioner of human services shall publish an annual report on child maltreatment and on children in out-of-home placement. The commissioner shall confer with counties, child welfare organizations, child advocacy organizations, the courts, and other groups on how to improve the content and utility of the department's annual report. In regard to child maltreatment, the report shall include the number and kinds of maltreatment reports received and any other data that the commissioner determines is appropriate to include in a report on child maltreatment. In regard to children in out-of-home placement, the report shall include, by county and statewide, information on legal status, living arrangement, age, sex, race, accumulated length of time in placement, reason for most recent placement, race of family with whom placed, school enrollments within seven days of placement pursuant to section 120A.21, and other information deemed appropriate on all children in out-of-home placement. Out-of-home placement includes placement in any facility by an authorized child-placing agency.

(b) This section expires January 1, 2032.

Sec. 28. Minnesota Statutes 2020, section 260.775, is amended to read:

**260.775 PLACEMENT RECORDS.**

(a) The commissioner of human services shall publish annually an inventory of all Indian children in residential facilities. The inventory shall include, by county and statewide, information on legal status, living arrangement, age, sex, tribe in which the child is a member or eligible for membership, accumulated length of time in foster care, and other demographic information deemed appropriate

concerning all Indian children in residential facilities. The report must also state the extent to which authorized child-placing agencies comply with the order of preference described in United States Code, title 25, section 1901, et seq. The commissioner shall include the information required under this paragraph in the annual report on child maltreatment and on children in out-of-home placement under section 257.0725.

(b) This section expires January 1, 2032.

Sec. 29. Minnesota Statutes 2020, section 260E.24, subdivision 6, is amended to read:

Subd. 6. **Required referral to early intervention services.** (a) A child under age three who is involved in a substantiated case of maltreatment shall be referred for screening under the Individuals with Disabilities Education Act, part C. Parents must be informed that the evaluation and acceptance of services are voluntary. The commissioner of human services shall monitor referral rates by county ~~and annually report the information to the legislature.~~ Refusal to have a child screened is not a basis for a child in need of protection or services petition under chapter 260C.

(b) The commissioner of human services shall include the referral rates by county for screening under the Individuals with Disabilities Education Act, part C in the annual report on child maltreatment under section 257.0725. This paragraph expires January 1, 2032.

Sec. 30. Minnesota Statutes 2020, section 260E.38, subdivision 3, is amended to read:

Subd. 3. **Report required.** (a) The commissioner shall produce an annual report of the summary results of the reviews. The report must only contain aggregate data and may not include any data that could be used to personally identify any subject whose data is included in the report. The report is public information and must be provided to the chairs and ranking minority members of the legislative committees having jurisdiction over child protection issues. The commissioner shall include the information required under this paragraph in the annual report on child maltreatment and on children in out-of-home placement under section 257.0725.

(b) This subdivision expires January 1, 2032.

Sec. 31. Minnesota Statutes 2020, section 518A.77, is amended to read:

#### **518A.77 GUIDELINES REVIEW.**

(a) No later than 2006 and every four years after that, the Department of Human Services must conduct a review of the child support guidelines.

(b) This section expires January 1, 2032.

Sec. 32. Minnesota Statutes 2020, section 626.557, subdivision 12b, is amended to read:

Subd. 12b. **Data management.** (a) In performing any of the duties of this section as a lead investigative agency, the county social service agency shall maintain appropriate records. Data collected by the county social service agency under this section are welfare data under section 13.46. Notwithstanding section 13.46, subdivision 1, paragraph (a), data under this paragraph that are inactive investigative data on an individual who is a vendor of services are private data on individuals,

as defined in section 13.02. The identity of the reporter may only be disclosed as provided in paragraph (c).

Data maintained by the common entry point are confidential data on individuals or protected nonpublic data as defined in section 13.02. Notwithstanding section 138.163, the common entry point shall maintain data for three calendar years after date of receipt and then destroy the data unless otherwise directed by federal requirements.

(b) The commissioners of health and human services shall prepare an investigation memorandum for each report alleging maltreatment investigated under this section. County social service agencies must maintain private data on individuals but are not required to prepare an investigation memorandum. During an investigation by the commissioner of health or the commissioner of human services, data collected under this section are confidential data on individuals or protected nonpublic data as defined in section 13.02. Upon completion of the investigation, the data are classified as provided in clauses (1) to (3) and paragraph (c).

(1) The investigation memorandum must contain the following data, which are public:

(i) the name of the facility investigated;

(ii) a statement of the nature of the alleged maltreatment;

(iii) pertinent information obtained from medical or other records reviewed;

(iv) the identity of the investigator;

(v) a summary of the investigation's findings;

(vi) statement of whether the report was found to be substantiated, inconclusive, false, or that no determination will be made;

(vii) a statement of any action taken by the facility;

(viii) a statement of any action taken by the lead investigative agency; and

(ix) when a lead investigative agency's determination has substantiated maltreatment, a statement of whether an individual, individuals, or a facility were responsible for the substantiated maltreatment, if known.

The investigation memorandum must be written in a manner which protects the identity of the reporter and of the vulnerable adult and may not contain the names or, to the extent possible, data on individuals or private data listed in clause (2).

(2) Data on individuals collected and maintained in the investigation memorandum are private data, including:

(i) the name of the vulnerable adult;

(ii) the identity of the individual alleged to be the perpetrator;

- (iii) the identity of the individual substantiated as the perpetrator; and
- (iv) the identity of all individuals interviewed as part of the investigation.

(3) Other data on individuals maintained as part of an investigation under this section are private data on individuals upon completion of the investigation.

(c) After the assessment or investigation is completed, the name of the reporter must be confidential. The subject of the report may compel disclosure of the name of the reporter only with the consent of the reporter or upon a written finding by a court that the report was false and there is evidence that the report was made in bad faith. This subdivision does not alter disclosure responsibilities or obligations under the Rules of Criminal Procedure, except that where the identity of the reporter is relevant to a criminal prosecution, the district court shall do an in-camera review prior to determining whether to order disclosure of the identity of the reporter.

(d) Notwithstanding section 138.163, data maintained under this section by the commissioners of health and human services must be maintained under the following schedule and then destroyed unless otherwise directed by federal requirements:

(1) data from reports determined to be false, maintained for three years after the finding was made;

(2) data from reports determined to be inconclusive, maintained for four years after the finding was made;

(3) data from reports determined to be substantiated, maintained for seven years after the finding was made; and

(4) data from reports which were not investigated by a lead investigative agency and for which there is no final disposition, maintained for three years from the date of the report.

(e) The commissioners of health and human services shall annually publish on their websites the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigation under this section, and the resolution of those investigations.

~~On a biennial basis, the commissioners of health and human services shall jointly report the following information to the legislature and the governor:~~

~~(1) the number and type of reports of alleged maltreatment involving licensed facilities reported under this section, the number of those requiring investigations under this section, the resolution of those investigations, and which of the two lead agencies was responsible;~~

~~(2) trends about types of substantiated maltreatment found in the reporting period;~~

~~(3) if there are upward trends for types of maltreatment substantiated, recommendations for addressing and responding to them;~~

~~(4) efforts undertaken or recommended to improve the protection of vulnerable adults;~~

~~(5) whether and where backlogs of cases result in a failure to conform with statutory time frames and recommendations for reducing backlogs if applicable;~~

~~(6) recommended changes to statutes affecting the protection of vulnerable adults; and~~

~~(7) any other information that is relevant to the report trends and findings.~~

(f) Each lead investigative agency must have a record retention policy.

(g) Lead investigative agencies, prosecuting authorities, and law enforcement agencies may exchange not public data, as defined in section 13.02, if the agency or authority requesting the data determines that the data are pertinent and necessary to the requesting agency in initiating, furthering, or completing an investigation under this section. Data collected under this section must be made available to prosecuting authorities and law enforcement officials, local county agencies, and licensing agencies investigating the alleged maltreatment under this section. The lead investigative agency shall exchange not public data with the vulnerable adult maltreatment review panel established in section 256.021 if the data are pertinent and necessary for a review requested under that section. Notwithstanding section 138.17, upon completion of the review, not public data received by the review panel must be destroyed.

(h) Each lead investigative agency shall keep records of the length of time it takes to complete its investigations.

(i) A lead investigative agency may notify other affected parties and their authorized representative if the lead investigative agency has reason to believe maltreatment has occurred and determines the information will safeguard the well-being of the affected parties or dispel widespread rumor or unrest in the affected facility.

(j) Under any notification provision of this section, where federal law specifically prohibits the disclosure of patient identifying information, a lead investigative agency may not provide any notice unless the vulnerable adult has consented to disclosure in a manner which conforms to federal requirements.

### Sec. 33. **REPEALER.**

(a) Minnesota Statutes 2020, sections 62U.10, subdivision 3; 144.1911, subdivision 10; 144.564, subdivision 3; 144A.483, subdivision 2; 245.981; 246.131; 246B.03, subdivision 2; 246B.035; 256.01, subdivision 31; and 256B.0638, subdivision 7, are repealed.

(b) Laws 1998, chapter 382, article 1, section 23, is repealed.

## ARTICLE 15

### FORECAST ADJUSTMENTS AND CARRY FORWARD AUTHORITY

#### Section 1. **HUMAN SERVICES APPROPRIATION.**

The dollar amounts shown in the columns marked "Appropriations" are added to or, if shown in parentheses, are subtracted from the appropriations in Laws 2021, First Special Session chapter



7, article 16, from the general fund or any 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 figures "2022" and "2023" used in this article mean that the appropriations listed under them are available for the fiscal years ending June 30, 2022, or June 30, 2023, respectively. "The first year" is fiscal year 2022. "The second year" is fiscal year 2023. "The biennium" is fiscal years 2022 and 2023.

		<b><u>APPROPRIATIONS</u></b>	
		<b><u>Available for the Year</u></b>	
		<b><u>Ending June 30</u></b>	
		<b><u>2022</u></b>	<b><u>2023</u></b>
<b>Sec. 2. <u>COMMISSIONER OF HUMAN SERVICES</u></b>			
<b>Subdivision 1. <u>Total Appropriation</u></b>	<b>\$</b>	<b><u>(585,901,000)</u></b>	<b>\$ <u>182,791,000</u></b>
<b><u>Appropriations by Fund</u></b>			
<u>General Fund</u>	<u>(406,629,000)</u>	<u>185,395,000</u>	
<u>Health Care Access Fund</u>	<u>(86,146,000)</u>	<u>(11,799,000)</u>	
<u>Federal TANF</u>	<u>(93,126,000)</u>	<u>9,195,000</u>	
<b>Subd. 2. <u>Forecasted Programs</u></b>			
<b>(a) <u>MFIP/DWP</u></b>			
<b><u>Appropriations by Fund</u></b>			
<u>General Fund</u>	<u>72,106,000</u>	<u>(14,397,000)</u>	
<u>Federal TANF</u>	<u>(93,126,000)</u>	<u>9,195,000</u>	
<b>(b) <u>MFIP Child Care Assistance</u></b>		<u>(103,347,000)</u>	<u>(73,738,000)</u>
<b>(c) <u>General Assistance</u></b>		<u>(4,175,000)</u>	<u>(1,488,000)</u>
<b>(d) <u>Minnesota Supplemental Aid</u></b>		<u>318,000</u>	<u>1,613,000</u>
<b>(e) <u>Housing Support</u></b>		<u>(1,994,000)</u>	<u>9,257,000</u>
<b>(f) <u>Northstar Care for Children</u></b>		<u>(9,613,000)</u>	<u>(4,865,000)</u>
<b>(g) <u>MinnesotaCare</u></b>		<u>(86,146,000)</u>	<u>(11,799,000)</u>
<u>These appropriations are from the health care access fund.</u>			
<b>(h) <u>Medical Assistance</u></b>			
<b><u>Appropriations by Fund</u></b>			
<u>General Fund</u>	<u>(348,364,000)</u>	<u>292,880,000</u>	

Health Care Access

<u>Fund</u>	<u>-0-</u>	<u>-0-</u>		
<b>(i) Alternative Care Program</b>			<u>-0-</u>	<u>-0-</u>
<b>(j) Behavioral Health Fund</b>			<u>(11,560,000)</u>	<u>(23,867,000)</u>
<b>Subd. 3. Technical Activities</b>			<u>-0-</u>	<u>-0-</u>

These appropriations are from the federal TANF fund.

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

Sec. 3. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 23, is amended to read:

<b>Subd. 23. Grant Programs; Children and Community Service Grants</b>			<u>61,856,000</u>	<u>61,856,000</u>
		61,251,000		<u>60,856,000</u>

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

Sec. 4. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 24, is amended to read:

<b>Subd. 24. Grant Programs; Children and Economic Support Grants</b>			<u>29,740,000</u>	<u>29,740,000</u>
		29,740,000		<u>30,740,000</u>

**Minnesota Food Assistance Program.**

Unexpended funds for the Minnesota food assistance program for fiscal year 2022 do not cancel but are available in fiscal year 2023.

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

Sec. 5. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 29, is amended to read:

<b>Subd. 29. Grant Programs; Disabilities Grants</b>		31,398,000		31,010,000
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**(a) Training Stipends for Direct Support Services Providers.** \$1,000,000 in fiscal year 2022 is from the general fund for stipends for individual providers of direct support services as defined in Minnesota Statutes, section 256B.0711, subdivision 1. ~~These~~ The stipends are available to individual providers who have completed designated voluntary trainings made available through the State-Provider Cooperation Committee

formed by the State of Minnesota and the Service Employees International Union Healthcare Minnesota. Any unspent appropriation in fiscal year 2022 is available in fiscal year 2023. This is a onetime appropriation. This appropriation is available only if the labor agreement between the state of Minnesota and the Service Employees International Union Healthcare Minnesota under Minnesota Statutes, section 179A.54, is approved under Minnesota Statutes, section 3.855.

**(b) Parent-to-Parent Peer Support.** \$125,000 in fiscal year 2022 and \$125,000 in fiscal year 2023 are from the general fund for a grant to an alliance member of Parent to Parent USA to support the alliance member's parent-to-parent peer support program for families of children with a disability or special health care need.

**(c) Self-Advocacy Grants.** (1) \$143,000 in fiscal year 2022 and \$143,000 in fiscal year 2023 are from the general fund for a grant under Minnesota Statutes, section 256.477, subdivision 1.

(2) \$105,000 in fiscal year 2022 and \$105,000 in fiscal year 2023 are from the general fund for subgrants under Minnesota Statutes, section 256.477, subdivision 2.

**(d) Minnesota Inclusion Initiative Grants.** \$150,000 in fiscal year 2022 and \$150,000 in fiscal year 2023 are from the general fund for grants under Minnesota Statutes, section 256.4772.

**(e) Grants to Expand Access to Child Care for Children with Disabilities.** \$250,000 in fiscal year 2022 and \$250,000 in fiscal year 2023 are from the general fund for grants to expand access to child care for children with disabilities. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. This is a onetime appropriation.

(f) **Parenting with a Disability Pilot Project.** The general fund base includes \$1,000,000 in fiscal year 2024 and \$0 in fiscal year 2025 to implement the parenting with a disability pilot project.

(g) **Base Level Adjustment.** The general fund base is \$29,260,000 in fiscal year 2024 and \$22,260,000 in fiscal year 2025.

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

Sec. 6. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 31, is amended to read:

**Subd. 31. Grant Programs; Adult Mental Health Grants**

	Appropriations by Fund	
General	98,772,000	98,703,000
Opiate Epidemic Response	2,000,000	2,000,000

(a) **Culturally and Linguistically Appropriate Services Implementation Grants.** \$2,275,000 in fiscal year 2022 and \$2,206,000 in fiscal year 2023 are from the general fund for grants to disability services, mental health, and substance use disorder treatment providers to implement culturally and linguistically appropriate services standards, according to the implementation and transition plan developed by the commissioner. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base for this appropriation is \$1,655,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) **Base Level Adjustment.** The general fund base is \$93,295,000 in fiscal year 2024 and \$83,324,000 in fiscal year 2025. The opiate epidemic response fund base is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

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

Sec. 7. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 32, is amended to read:

**Subd. 32. Grant Programs; Child Mental Health Grants**

30,167,000                      30,182,000

(a) **Children's Residential Facilities.** \$1,964,000 in fiscal year 2022 and \$1,979,000 in fiscal year 2023 are to reimburse counties and Tribal governments for a portion of the costs of treatment in children's residential facilities. The commissioner shall distribute the appropriation ~~on an annual basis~~ to counties and Tribal governments proportionally based on a methodology developed by the commissioner. The fiscal year 2022 appropriation is available until June 30, 2023.

(b) **Base Level Adjustment.** The general fund base is \$29,580,000 in fiscal year 2024 and \$27,705,000 in fiscal year 2025.

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

Sec. 8. Laws 2021, First Special Session chapter 7, article 16, section 2, subdivision 33, is amended to read:

**Subd. 33. Grant Programs; Chemical Dependency Treatment Support Grants**

	Appropriations by Fund	
General	4,273,000	4,274,000
Lottery Prize	1,733,000	1,733,000
Opiate Epidemic Response	500,000	500,000

(a) **Problem Gambling.** \$225,000 in fiscal year 2022 and \$225,000 in fiscal year 2023 are from the lottery prize fund for a grant to the state affiliate recognized by the National Council on Problem Gambling. The affiliate must provide services to increase public awareness of problem gambling, education, training for individuals and organizations providing effective treatment services to problem gamblers and their families, and research related to problem gambling.

(b) **Recovery Community Organization Grants.** \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 are from the general fund for grants to recovery community organizations, as defined in Minnesota Statutes, section 254B.01, subdivision 8, to provide for costs and community-based peer recovery support services that are not otherwise eligible for reimbursement under Minnesota Statutes, section 254B.05, as part of the continuum of care for substance use disorders. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base for this appropriation is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025

(c) **Base Level Adjustment.** The general fund base is \$4,636,000 in fiscal year 2024 and \$2,636,000 in fiscal year 2025. The opiate epidemic response fund base is \$500,000 in fiscal year 2024 and \$0 in fiscal year 2025.

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

Sec. 9. Laws 2021, First Special Session chapter 7, article 17, section 3, is amended to read:

**Sec. 3. GRANTS FOR TECHNOLOGY FOR HCBS RECIPIENTS.**

(a) This act includes \$500,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 for the commissioner of human services to issue competitive grants to home and community-based service providers. Grants must be used to provide technology assistance, including but not limited to Internet services, to older adults and people with disabilities who do not have access to technology resources necessary to use remote service delivery and telehealth. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base included in this act for this purpose is \$1,500,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This section expires June 30, 2024.

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

Sec. 10. Laws 2021, First Special Session chapter 7, article 17, section 6, is amended to read:

**Sec. 6. TRANSITION TO COMMUNITY INITIATIVE.**

(a) This act includes \$5,500,000 in fiscal year 2022 and \$5,500,000 in fiscal year 2023 for additional funding for grants awarded under the transition to community initiative described in Minnesota Statutes, section 256.478. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base in this act for this purpose is \$4,125,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This section expires June 30, 2024.

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

Sec. 11. Laws 2021, First Special Session chapter 7, article 17, section 10, is amended to read:

**Sec. 10. PROVIDER CAPACITY GRANTS FOR RURAL AND UNDERSERVED COMMUNITIES.**

(a) This act includes \$6,000,000 in fiscal year 2022 and \$8,000,000 in fiscal year 2023 for the commissioner to establish a grant program for small provider organizations that provide services to rural or underserved communities with limited home and community-based services provider capacity. The grants are available to build organizational capacity to provide home and community-based services in Minnesota and to build new or expanded infrastructure to access medical assistance reimbursement. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base in this act for this purpose is \$8,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) The commissioner shall conduct community engagement, provide technical assistance, and establish a collaborative learning community related to the grants available under this section and work with the commissioner of management and budget and the commissioner of the Department of Administration to mitigate barriers in accessing grant funds. Funding awarded for the community engagement activities described in this paragraph is exempt from state solicitation requirements under Minnesota Statutes, section 16B.97, for activities that occur in fiscal year 2022.

(c) All grant activities must be completed by March 31, 2024.

(d) This section expires June 30, 2024.

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

Sec. 12. Laws 2021, First Special Session chapter 7, article 17, section 11, is amended to read:

**Sec. 11. EXPAND MOBILE CRISIS.**

(a) This act includes \$8,000,000 in fiscal year 2022 and \$8,000,000 in fiscal year 2023 for additional funding for grants for adult mobile crisis services under Minnesota Statutes, section 245.4661, subdivision 9, paragraph (b), clause (15). Any unexpended amounts in fiscal year 2022 and fiscal year 2023 are available through June 30, 2024. The general fund base in this act for this purpose is \$4,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) Beginning April 1, 2024, counties may fund and continue conducting activities funded under this section.

(c) All grant activities must be completed by March 31, 2024.

(d) This section expires June 30, 2024.

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

Sec. 13. Laws 2021, First Special Session chapter 7, article 17, section 12, is amended to read:

**Sec. 12. PSYCHIATRIC RESIDENTIAL TREATMENT FACILITY AND CHILD AND ADOLESCENT MOBILE TRANSITION UNIT.**

(a) This act includes \$2,500,000 in fiscal year 2022 and \$2,500,000 in fiscal year 2023 for the commissioner of human services to create children's mental health transition and support teams to facilitate transition back to the community of children from psychiatric residential treatment facilities, and child and adolescent behavioral health hospitals. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base included in this act for this purpose is \$1,875,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) Beginning April 1, 2024, counties may fund and continue conducting activities funded under this section.

(c) This section expires March 31, 2024.

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

Sec. 14. Laws 2021, First Special Session chapter 7, article 17, section 17, subdivision 3, is amended to read:

**Subd. 3. Respite services for older adults grants.** (a) This act includes \$2,000,000 in fiscal year 2022 and \$2,000,000 in fiscal year 2023 for the commissioner of human services to establish a grant program for respite services for older adults. The commissioner must award grants on a competitive basis to respite service providers. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base included in this act for this purpose is \$2,000,000 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This subdivision expires June 30, 2024.

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

Sec. 15. Laws 2021, First Special Session chapter 7, article 17, section 19, is amended to read:

**Sec. 19. CENTERS FOR INDEPENDENT LIVING HCBS ACCESS GRANT.**

(a) This act includes \$1,200,000 in fiscal year 2022 and \$1,200,000 in fiscal year 2023 for grants to expand services to support people with disabilities from underserved communities who are



ineligible for medical assistance to live in their own homes and communities by providing accessibility modifications, independent living services, and public health program facilitation. The commissioner of human services must award the grants in equal amounts to ~~the eight organizations~~ grantees. To be eligible, a grantee must be an organization defined in Minnesota Statutes, section 268A.01, subdivision 8. Any unexpended amount in fiscal year 2022 is available through June 30, 2023. The general fund base included in this act for this purpose is \$0 in fiscal year 2024 and \$0 in fiscal year 2025.

(b) All grant activities must be completed by March 31, 2024.

(c) This section expires June 30, 2024.

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

## ARTICLE 16

### LONG-TERM CARE CONSULTATION SERVICES RECODIFICATION

Section 1. Minnesota Statutes 2020, 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 care decisions and selecting support and service options that meet their needs and reflect their preferences. The availability of, and access to, information and other types of assistance, including long-term care consultation assessment and ~~community~~ support planning, is also intended to prevent or delay institutional placements and to provide access to transition assistance after placement. Further, the goal of long-term care consultation services is to contain costs associated with unnecessary institutional admissions. Long-term care consultation services must be available to any person regardless of public program eligibility.

(b) The commissioner of human services shall seek to maximize use of available federal and state funds and establish the broadest program possible within the funding available.

(c) Long-term care consultation services must be coordinated with long-term care options counseling ~~provided under subdivision 4d, section 256.975, subdivisions 7 to 7e, and section 256.01, subdivision 24, long-term care options counseling for assisted living, the Disability Hub, and preadmission screening.~~

(d) ~~The A~~ lead agency 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. 2. Minnesota Statutes 2020, section 256B.0911, subdivision 3c, is amended to read:

Subd. 3c. ~~**Consultation Long-term care options counseling for housing with services assisted living.**~~ **Long-term care options counseling for assisted living.** (a) The purpose of long-term care ~~consultation for registered housing with services options counseling for assisted living~~ is to support persons with current or anticipated long-term care needs in making informed choices among options that include the most cost-effective and least restrictive settings. Prospective residents maintain the right to choose ~~housing with services or assisted living~~ if that option is their preference.

(b) ~~Registered housing with services establishments~~ Licensed assisted living facilities shall inform each prospective resident or the prospective resident's designated or legal representative of the availability of long-term care ~~consultation~~ options counseling for assisted living and the need to receive and verify the ~~consultation~~ counseling prior to signing a ~~lease or~~ contract. Long-term care ~~consultation for registered housing with services~~ options counseling for assisted living is provided as determined by the commissioner of human services. The service is delivered under a partnership between lead agencies as defined in subdivision ~~1a 10~~, paragraph ~~(d)~~ (g), and the Area Agencies on Aging, and is a point of entry to a combination of telephone-based long-term care options counseling provided by Senior LinkAge Line and in-person long-term care consultation provided by lead agencies. The point of entry service must be provided within five working days of the request of the prospective resident as follows:

(1) the ~~consultation~~ counseling shall be conducted with the prospective resident, or in the alternative, the resident's designated or legal representative, if:

(i) the resident verbally requests; or

(ii) the ~~registered housing with services provider~~ assisted living facility has documentation of the designated or legal representative's authority to enter into a lease or contract on behalf of the prospective resident and accepts the documentation in good faith;

(2) the ~~consultation~~ counseling shall be performed in a manner that provides objective and complete information;

(3) the ~~consultation~~ counseling must include a review of the prospective resident's reasons for considering ~~housing with services~~ assisted living services, the prospective resident's personal goals, a discussion of the prospective resident's immediate and projected long-term care needs, and alternative community services or ~~housing with services~~ settings that may meet the prospective resident's needs;

(4) the prospective resident ~~shall~~ must be informed of the availability of ~~a face-to-face~~ an in-person visit from a long-term care consultation team member at no charge to the prospective resident to assist the prospective resident in assessment and planning to meet the prospective resident's long-term care needs; and

(5) verification of counseling shall be generated and provided to the prospective resident by Senior LinkAge Line upon completion of the telephone-based counseling.

(c) ~~Housing with services establishments registered under chapter 144D~~ An assisted living facility licensed under chapter 144G shall:

(1) inform each prospective resident or the prospective resident's designated or legal representative of the availability of and contact information for ~~consultation~~ options counseling services under this subdivision;

(2) receive a copy of the verification of counseling prior to executing a ~~lease or service~~ contract with the prospective resident, ~~and prior to executing a service contract with individuals who have previously entered into lease-only arrangements~~; and

(3) retain a copy of the verification of counseling as part of the resident's file.

(d) Emergency admissions to ~~registered housing with services establishments~~ licensed assisted living facilities prior to consultation under paragraph (b) are permitted according to policies established by the commissioner.

Sec. 3. Minnesota Statutes 2020, section 256B.0911, subdivision 3d, is amended to read:

Subd. 3d. **Exemptions from long-term care options counseling for assisted living.** Individuals shall be exempt from the requirements outlined in subdivision ~~3e~~ 7e in the following circumstances:

(1) the individual is seeking a lease-only arrangement in a subsidized housing setting;

(2) the individual has previously received a long-term care consultation assessment under ~~this section 256B.0911~~. In this instance, the assessor who completes the long-term care consultation assessment will issue a verification code and provide it to the individual;

(3) the individual is receiving or is being evaluated for hospice services from a hospice provider licensed under sections 144A.75 to 144A.755; or

(4) the individual has used financial planning services and created a long-term care plan as defined by the commissioner in the 12 months prior to signing a lease or contract with a ~~registered housing with services establishment~~ licensed assisted living facility.

Sec. 4. Minnesota Statutes 2020, section 256B.0911, subdivision 3e, is amended to read:

Subd. 3e. **Consultation Long-term care options counseling at hospital discharge.** (a) Hospitals shall refer all individuals described in paragraph (b) prior to discharge from an inpatient hospital stay to the Senior LinkAge Line for long-term care options counseling. Hospitals shall make these referrals using referral protocols and processes developed under ~~section 256.975~~, subdivision 7. The purpose of the counseling is to support persons with current or anticipated long-term care needs in making informed choices among options that include the most cost-effective and least restrictive setting.

(b) The individuals who shall be referred under paragraph (a) include older adults who are at risk of nursing home placement. Protocols for identifying at-risk individuals shall be developed under ~~section 256.975~~, subdivision 7, paragraph (b), clause (12).

(c) Counseling provided under this subdivision shall meet the requirements for the consultation required under subdivision ~~3e~~ 7e.

Sec. 5. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 10. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Available service and setting options" or "available options," with respect to the home and community-based waivers under chapter 256S and sections 256B.092 and 256B.49, means all services and settings defined under the waiver plan for which a waiver applicant or waiver participant is eligible.

(c) "Competitive employment" means work in the competitive labor market that is performed on a full-time or part-time basis in an integrated setting, and for which an individual is compensated at or above the minimum wage, but not less than the customary wage and level of benefits paid by the employer for the same or similar work performed by individuals without disabilities.

(d) "Cost-effective" means community services and living arrangements that cost the same as or less than institutional care. For an individual found to meet eligibility criteria for home and community-based service programs under chapter 256S or section 256B.49, "cost-effectiveness" has the meaning found in the federally approved waiver plan for each program.

(e) "Independent living" means living in a setting that is not controlled by a provider.

(f) "Informed choice" has the meaning given in section 256B.4905, subdivision 1a.

(g) "Lead agency" means a county administering or a Tribe or health plan under contract with the commissioner to administer long-term care consultation services.

(h) "Long-term care consultation services" means the activities described in subdivision 11.

(i) "Long-term care options counseling" means the services provided by sections 256.01, subdivision 24, and 256.975, subdivision 7, and also includes telephone assistance and follow-up after a long-term care consultation assessment has been completed.

(j) "Long-term care options counseling for assisted living" means the services provided under section 256.975, subdivisions 7e to 7g.

(k) "Minnesota health care programs" means the medical assistance program under this chapter and the alternative care program under section 256B.0913.

(l) "Person-centered planning" is a process that includes the active participation of a person in the planning of the person's services, including in making meaningful and informed choices about the person's own goals, talents, and objectives, as well as making meaningful and informed choices about the services the person receives, the settings in which the person receives the services, and the setting in which the person lives.

(m) "Preadmission screening" means the services provided under section 256.975, subdivisions 7a to 7c.

Sec. 6. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 11. **Long-term care consultation services.** The following activities are included in long-term care consultation services:

(1) intake for and access to assistance in identifying services needed to maintain an individual in the most inclusive environment;

(2) transfer or referral to long-term care options counseling services for telephone assistance and follow-up after a person requests assistance in identifying community supports without participating in a complete long-term care consultation assessment;

(3) long-term care consultation assessments conducted according to subdivisions 17 to 21, 23, or 24, which may be completed in a hospital, nursing facility, intermediate care facility for persons with developmental disabilities (ICF/DDs), regional treatment center, or the person's current or planned residence;

(4) providing recommendations for and referrals to cost-effective community services that are available to the individual;

(5) providing recommendations for institutional placement when there are no cost-effective community services available;

(6) providing information regarding eligibility for Minnesota health care programs;

(7) determining service eligibility for the following state plan services:

(i) personal care assistance services under section 256B.0625, subdivisions 19a and 19c;

(ii) consumer support grants under section 256.476; or

(iii) community first services and supports under section 256B.85;

(8) notwithstanding provisions in Minnesota Rules, parts 9525.0004 to 9525.0024, gaining access to the following services, including obtaining necessary diagnostic information to determine eligibility:

(i) relocation targeted case management services available under section 256B.0621, subdivision 2, clause (4);

(ii) case management services targeted to vulnerable adults or people with developmental disabilities under section 256B.0924; and

(iii) case management services targeted to people with developmental disabilities under Minnesota Rules, part 9525.0016;

(9) determining eligibility for semi-independent living services under section 252.275, including obtaining necessary diagnostic information;

(10) determining home and community-based waiver and other service eligibility as required under chapter 256S and sections 256B.0913, 256B.092, and 256B.49, including:

(i) level of care determination for individuals who need an institutional level of care as determined under subdivision 26;

(ii) appropriate referrals to obtain necessary diagnostic information; and

(iii) an eligibility determination for consumer-directed community supports;

(11) providing information about competitive employment, with or without supports, for school-age youth and working-age adults and referrals to the Disability Hub and Disability Benefits 101 to ensure that an informed choice about competitive employment can be made;

(12) providing information about independent living to ensure that an informed choice about independent living can be made;

(13) providing information about self-directed services and supports, including self-directed funding options, to ensure that an informed choice about self-directed options can be made;

(14) developing an individual's person-centered assessment summary; and

(15) providing access to assistance to transition people back to community settings after institutional admission.

Sec. 7. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 12. **Exception to use of MnCHOICES assessment; contracted assessors.** (a) A lead agency that has not implemented MnCHOICES assessments and uses contracted assessors as of January 1, 2022, is not subject to the requirements of subdivisions 11, clauses (7) to (9); 13; 14, paragraphs (a) to (c); 16 to 21; 23; 24; and 29 to 31.

(b) This subdivision expires upon statewide implementation of MnCHOICES assessments. The commissioner shall notify the revisor of statutes when statewide implementation has occurred.

Sec. 8. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 13. **MnCHOICES assessor qualifications, training, and certification.** (a) The commissioner shall develop and implement a curriculum and an assessor certification process.

(b) MnCHOICES certified assessors must:

(1) either have 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 be a registered nurse with at least two years of home and community-based experience; and

(2) have received training and certification specific to assessment and consultation for long-term care services in the state.

(c) Certified assessors shall demonstrate best practices in assessment and support planning, including person-centered planning principles, and have a common set of skills that ensures consistency and equitable access to services statewide.

(d) Certified assessors must be recertified every three years.

Sec. 9. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 14. **Use of MnCHOICES certified assessors required.** (a) Each lead agency shall use MnCHOICES certified assessors who have completed MnCHOICES training and the certification process determined by the commissioner in subdivision 13.

(b) Each lead agency must ensure that the lead agency has sufficient numbers of certified assessors to provide long-term consultation assessment and support planning within the timelines and parameters of the service.

(c) A lead agency may choose, according to departmental policies, to contract with a qualified, certified assessor to conduct assessments and reassessments on behalf of the lead agency.

(d) Tribes and health plans under contract with the commissioner must provide long-term care consultation services as specified in the contract.

(e) A lead agency must provide the commissioner with an administrative contact for communication purposes.

Sec. 10. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 15. **Long-term care consultation team.** (a) Each county board of commissioners shall establish a long-term care consultation team. Two or more counties may collaborate to establish a joint local long-term care consultation team or teams.

(b) Each lead agency shall establish and maintain a team of certified assessors qualified under subdivision 13. Each team member is responsible for providing consultation with other team members upon request. 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. The team of certified assessors must include, at a minimum:

(1) a social worker; and

(2) a public health nurse or registered nurse.

(c) The commissioner shall allow arrangements and make recommendations that encourage counties and Tribes 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 coordinated service models as required in subdivision 1, paragraph (c).

Sec. 11. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 16. **MnCHOICES certified assessors; responsibilities.** (a) Certified assessors must use person-centered planning principles to conduct an interview that identifies what is important to the person; the person's needs for supports and health and safety concerns; and the person's abilities, interests, and goals.

(b) Certified assessors are responsible for:

(1) ensuring persons are offered objective, unbiased access to resources;

(2) ensuring persons have the needed information to support informed choice, including where and how they choose to live and the opportunity to pursue desired employment;

(3) determining level of care and eligibility for long-term services and supports;

(4) using the information gathered from the interview to develop a person-centered assessment summary that reflects identified needs and support options within the context of values, interests, and goals important to the person; and

(5) providing the person with an assessment summary of findings, support options, and agreed-upon next steps.

Sec. 12. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 17. **MnCHOICES assessments.** (a) A person requesting long-term care consultation services must be visited by a long-term care consultation team within 20 calendar days after the date on which an assessment was requested or recommended. Assessments must be conducted according to this subdivision and subdivisions 19 to 21, 23, 24, and 29 to 31.

(b) Lead agencies shall use certified assessors to conduct the assessment.

(c) For a person with complex health care needs, a public health or registered nurse from the team must be consulted.

(d) The lead agency must use the MnCHOICES assessment provided by the commissioner to complete a comprehensive, conversation-based, person-centered assessment. The assessment must include the health, psychological, functional, environmental, and social needs of the individual necessary to develop a person-centered assessment summary that meets the individual's needs and preferences.

(e) Except as provided in subdivision 24, an assessment must be conducted by a certified assessor in an in-person conversational interview with the person being assessed.

Sec. 13. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 18. **Exception to use of MnCHOICES assessments; long-term care consultation team visit; notice.** (a) Until statewide implementation of MnCHOICES assessments, the requirement under subdivision 17, paragraph (a), does not apply to an assessment of a person requesting personal care assistance services. The commissioner shall provide at least a 90-day notice to lead agencies prior to the effective date of statewide implementation.

(b) This subdivision expires upon statewide implementation of MnCHOICES assessments. The commissioner shall notify the revisor of statutes when statewide implementation has occurred.

Sec. 14. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 19. **MnCHOICES assessments; third-party participation.** (a) The person's legal representative, if any, must provide input during the assessment process and may do so remotely if requested.



(b) At the request of the person, other individuals may participate in the assessment to provide information on the needs, strengths, and preferences of the person necessary to complete the assessment and assessment summary. Except for legal representatives or family members invited by the person, a person participating in the assessment may not be a provider of service or have any financial interest in the provision of services.

(c) For a person assessed for elderly waiver customized living or adult day services under chapter 256S, with the permission of the person being assessed or the person's designated or legal representative, the client's current or proposed provider of services may submit a copy of the provider's nursing assessment or written report outlining its recommendations regarding the client's care needs. The person conducting the assessment must notify the provider of the date by which to submit this information. This information must be provided to the person conducting the assessment prior to the assessment.

(d) For a person assessed for waiver services under section 256B.092 or 256B.49, with the permission of the person being assessed or the person's designated legal representative, the person's current provider of services may submit a written report outlining recommendations regarding the person's care needs that the person completed in consultation with someone who is known to the person and who has interaction with the person on a regular basis. The provider must submit the report at least 60 days before the end of the person's current service agreement. The certified assessor must consider the content of the submitted report prior to finalizing the person's assessment or reassessment.

Sec. 15. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 20. **MnCHOICES assessments; duration of validity.** (a) An assessment that is completed as part of an eligibility determination for multiple programs for the alternative care, elderly waiver, developmental disabilities, community access for disability inclusion, community alternative care, and brain injury waiver programs under chapter 256S and sections 256B.0913, 256B.092, and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after the date of the assessment.

(b) The effective eligibility start date for programs in paragraph (a) can never be prior to the date of assessment. If an assessment was completed more than 60 days before the effective waiver or alternative care program eligibility start date, assessment and support plan information must be updated and documented in the department's Medicaid Management Information System (MMIS). Notwithstanding retroactive medical assistance coverage of state plan services, the effective date of eligibility for programs included in paragraph (a) cannot be prior to the completion date of the most recent updated assessment.

(c) If an eligibility update is completed within 90 days of the previous assessment and documented in the department's Medicaid Management Information System (MMIS), the effective date of eligibility for programs included in paragraph (a) is the date of the previous in-person assessment when all other eligibility requirements are met.

Sec. 16. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 21. **MnCHOICES assessments; exceptions following institutional stay.** (a) A person receiving home and community-based waiver services under section 256B.0913, 256B.092, or 256B.49 or chapter 256S may return to a community with home and community-based waiver services under the same waiver without being assessed or reassessed under this section if the person temporarily entered one of the following for 121 or fewer days:

- (1) a hospital;
- (2) an institution of mental disease;
- (3) a nursing facility;
- (4) an intensive residential treatment services program;
- (5) a transitional care unit; or
- (6) an inpatient substance use disorder treatment setting.

(b) Nothing in paragraph (a) changes annual long-term care consultation reassessment requirements, payment for institutional or treatment services, medical assistance financial eligibility, or any other law.

Sec. 17. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 22. **MnCHOICES reassessments.** (a) Prior to a reassessment, the certified assessor must review the person's most recent assessment.

(b) Reassessments must:

(1) be tailored using the professional judgment of the assessor to the person's known needs, strengths, preferences, and circumstances;

(2) provide information to support the person's informed choice and opportunities to express choice regarding activities that contribute to quality of life, as well as information and opportunity to identify goals related to desired employment, community activities, and preferred living environment;

(3) provide a review of the most recent assessment, the current support plan's effectiveness and monitoring of services, and the development of an updated person-centered assessment summary;

(4) verify continued eligibility, offer alternatives as warranted, and provide an opportunity for quality assurance of service delivery; and

(5) be conducted annually or as required by federal and state laws.

(c) The certified assessor and the individual responsible for developing the support plan must ensure the continuity of care for the person receiving services and complete the updated assessment summary and the updated support plan no more than 60 days after the reassessment visit.

(d) The commissioner shall develop mechanisms for providers and case managers to share information with the assessor to facilitate a reassessment and support planning process tailored to the person's current needs and preferences.

Sec. 18. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 23. **MnCHOICES reassessments; option for alternative and self-directed waiver services.** (a) At the time of reassessment, the certified assessor shall assess a person receiving waiver residential supports and services and currently residing in a setting listed in clauses (1) to (5) to determine if the person would prefer to be served in a community-living setting as defined in section 256B.49, subdivision 23, or in a setting not controlled by a provider, or to receive integrated community supports as described in section 245D.03, subdivision 1, paragraph (c), clause (8). The certified assessor shall offer the person through a person-centered planning process the option to receive alternative housing and service options. This paragraph applies to those currently residing in a:

(1) community residential setting;

(2) licensed adult foster care home that is either not the primary residence of the license holder or in which the license holder is not the primary caregiver;

(3) family adult foster care residence;

(4) customized living setting; or

(5) supervised living facility.

(b) At the time of reassessment, the certified assessor shall assess each person receiving waiver day services to determine if that person would prefer to receive employment services as described in section 245D.03, subdivision 1, paragraph (c), clauses (5) to (7). The certified assessor shall describe to the person through a person-centered planning process the option to receive employment services.

(c) At the time of reassessment, the certified assessor shall assess each person receiving non-self-directed waiver services to determine if that person would prefer an available service and setting option that would permit self-directed services and supports. The certified assessor shall describe to the person through a person-centered planning process the option to receive self-directed services and supports.

Sec. 19. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 24. **Remote reassessments.** (a) Assessments performed according to subdivisions 17 to 20 and 23 must be in person unless the assessment is a reassessment meeting the requirements of this subdivision. Remote reassessments conducted by interactive video or telephone may substitute for in-person reassessments.

(b) For services provided by the developmental disabilities waiver under section 256B.092, and the community access for disability inclusion, community alternative care, and brain injury waiver programs under section 256B.49, remote reassessments may be substituted for two consecutive reassessments if followed by an in-person reassessment.

(c) For services provided by alternative care under section 256B.0913, essential community supports under section 256B.0922, and the elderly waiver under chapter 256S, remote reassessments may be substituted for one reassessment if followed by an in-person reassessment.

(d) A remote reassessment is permitted only if the person being reassessed, or the person's legal representative, and the lead agency case manager both agree that there is no change in the person's condition, there is no need for a change in service, and that a remote reassessment is appropriate.

(e) The person being reassessed, or the person's legal representative, may refuse a remote reassessment at any time.

(f) During a remote reassessment, if the certified assessor determines an in-person reassessment is necessary in order to complete the assessment, the lead agency shall schedule an in-person reassessment.

(g) All other requirements of an in-person reassessment apply to a remote reassessment, including updates to a person's support plan.

Sec. 20. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 25. **Reassessments for Rule 185 case management.** Unless otherwise required by federal law, the county agency is not required to conduct or arrange for an annual needs reassessment by a certified assessor for people receiving Rule 185 case management under Minnesota Rules, part 9525.0016. The case manager who works on behalf of the person to identify the person's needs and to minimize the impact of the disability on the person's life must instead develop a person-centered service plan based on the person's assessed needs and preferences. The person-centered service plan must be reviewed annually for persons with developmental disabilities who are receiving only case management services under Minnesota Rules, part 9525.0016, and who make an informed choice to decline an assessment under this section.

Sec. 21. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 26. **Determination of institutional level of care.** (a) The determination of need for hospital and intermediate care facility levels of care must be made according to criteria developed by the commissioner, and in section 256B.092, using forms developed by the commissioner.

(b) The determination of need for nursing facility level of care must be made based on criteria in section 144.0724, subdivision 11.

Sec. 22. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 27. **Transition assistance.** (a) Lead agency certified assessors shall provide transition assistance to persons residing in a nursing facility, hospital, regional treatment center, or intermediate care facility for persons with developmental disabilities who request or are referred for assistance.

(b) Transition assistance must include:

(1) assessment;

(2) referrals to long-term care options counseling under section 256.975, subdivision 7, for support plan implementation and to Minnesota health care programs, including home and community-based waiver services and consumer-directed options through the waivers; and

(3) referrals to programs that provide assistance with housing.

(c) Transition assistance must also include information about the Centers for Independent Living, Disability Hub, and other organizations that can provide assistance with relocation efforts and information about contacting these organizations to obtain their assistance and support.

(d) The lead agency shall ensure that:

(1) referrals for in-person assessments are taken from long-term care options counselors as provided for in section 256.975, subdivision 7, paragraph (b), clause (11);

(2) persons assessed in institutions receive information about available transition assistance;

(3) the assessment is completed for persons within 20 calendar days of the date of request or recommendation for assessment;

(4) there is a plan for transition and follow-up for the individual's return to the community, including notification of other local agencies when a person may require assistance from agencies located in another county; and

(5) relocation targeted case management as defined in section 256B.0621, subdivision 2, clause (4), is authorized for an eligible medical assistance recipient.

Sec. 23. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 28. **Transition assistance; nursing home residents under 65 years of age.** (a) Upon referral from the Senior LinkAge Line, individuals under 65 years of age who are admitted to nursing facilities on an emergency basis with only a telephone screening must receive an in-person assessment from the long-term care consultation team member of the county in which the facility is located within the timeline established by the commissioner based on review of data.

(b) At the in-person assessment, the long-term care consultation team member or county case manager must:

(1) perform the activities required under subdivision 27; and

(2) present information about home and community-based options, including consumer-directed options, so the individual can make informed choices.

(c) If the individual chooses home and community-based services, the long-term care consultation team member or case manager must complete a written relocation plan within 20 working days of the visit. The plan must describe the services needed to move the individual out of the facility and a timeline for the move that is designed to ensure a smooth transition to the individual's home and community.

(d) For individuals under 21 years of age, a screening interview that recommends nursing facility admission must be in person and approved by the commissioner before the individual is admitted to the nursing facility.

(e) An individual under 65 years of age residing in a nursing facility must receive an in-person assessment at least every 12 months to review the person's service choices and available alternatives unless the individual indicates in writing that annual visits are not desired. In this case, the individual must receive an in-person assessment at least once every 36 months for the same purposes.

(f) Notwithstanding subdivision 33, the commissioner may pay county agencies directly for in-person assessments for individuals under 65 years of age who are being considered for placement or residing in a nursing facility.

Sec. 24. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 29. **Support planning.** (a) The certified assessor and the individual responsible for developing the support plan must complete the assessment summary and the support plan no more than 60 calendar days after the assessment visit.

(b) The person or the person's legal representative must be provided with a written assessment summary within the timelines established by the commissioner, regardless of whether the person is eligible for Minnesota health care programs.

(c) For a person being assessed for elderly waiver services under chapter 256S, a provider who submitted information under subdivision 19, paragraph (c), must receive the final written support plan when available.

(d) The written support plan must include:

(1) a summary of assessed needs as defined in subdivision 17, paragraphs (d) and (e);

(2) the individual's options and choices to meet identified needs, including all available options for:

(i) case management services and providers;

(ii) employment services, settings, and providers;

(iii) living arrangements;

(iv) self-directed services and supports, including self-directed budget options; and

(v) service provided in a non-disability-specific setting;

(3) identification of health and safety risks and how those risks will be addressed, including personal risk management strategies;

(4) referral information; and

(5) informal caregiver supports, if applicable.

(e) For a person determined eligible for state plan home care under subdivision 11, clause (7), the person or person's legal representative must also receive a copy of the home care service plan developed by the certified assessor.

Sec. 25. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 30. **Assessment and support planning; supplemental information.** The lead agency must give the person receiving long-term care consultation services or the person's legal representative materials and forms supplied by the commissioner containing the following information:

(1) written recommendations for community-based services and consumer-directed options;

(2) documentation that the most cost-effective alternatives available were offered to the person;

(3) the need for and purpose of preadmission screening conducted by long-term care options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects nursing facility placement. If the person selects nursing facility placement, the lead agency shall forward information needed to complete the level of care determinations and screening for developmental disability and mental illness collected during the assessment to the long-term care options counselor using forms provided by the commissioner;

(4) the role of long-term care consultation assessment and support planning in eligibility determination for waiver and alternative care programs and state plan home care, case management, and other services as defined in subdivision 11, clauses (7) to (10);

(5) information about Minnesota health care programs;

(6) the person's freedom to accept or reject the recommendations of the team;

(7) the person's right to confidentiality under the Minnesota Government Data Practices Act, chapter 13;

(8) the certified assessor's decision regarding the person's need for institutional level of care as determined under criteria established in subdivision 26 and regarding eligibility for all services and programs as defined in subdivision 11, clauses (7) to (10);

(9) the person's right to appeal the certified assessor's decision regarding eligibility for all services and programs as defined in subdivision 11, clauses (5), (7) to (10), and (15), and the decision

regarding the need for institutional level of care or the lead agency's final decisions regarding public programs eligibility according to section 256.045, subdivision 3. The certified assessor must verbally communicate this appeal right to the person and must visually point out where in the document the right to appeal is stated; and

(10) documentation that available options for employment services, independent living, and self-directed services and supports were described to the person.

Sec. 26. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 31. **Assessment and support planning; right to final decision.** The person has the right to make the final decision:

(1) between institutional placement and community placement after the recommendations have been provided under subdivision 30, clause (1), except as provided in section 256.975, subdivision 7a, paragraph (d);

(2) between community placement in a setting controlled by a provider and living independently in a setting not controlled by a provider;

(3) between day services and employment services; and

(4) regarding available options for self-directed services and supports, including self-directed funding options.

Sec. 27. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

Subd. 32. **Administrative activity.** (a) The commissioner shall:

(1) streamline the processes, including timelines for when assessments need to be completed;

(2) provide the services in this section; and

(3) implement integrated solutions to automate the business processes to the extent necessary for support plan approval, reimbursement, program planning, evaluation, and policy development.

(b) The commissioner shall work with lead agencies responsible for conducting long-term care consultation services to:

(1) modify the MnCHOICES application and assessment policies to create efficiencies while ensuring federal compliance with medical assistance and long-term services and supports eligibility criteria; and

(2) develop a set of measurable benchmarks sufficient to demonstrate quarterly improvement in the average time per assessment and other mutually agreed upon measures of increasing efficiency.

(c) The commissioner shall collect data on the benchmarks developed under paragraph (b) and provide to the lead agencies and the chairs and ranking minority members of the legislative



committees with jurisdiction over human services an annual trend analysis of the data in order to demonstrate the commissioner's compliance with the requirements of this subdivision.

Sec. 28. Minnesota Statutes 2020, section 256B.0911, is amended by adding a subdivision to read:

**Subd. 33. Payment for long-term care consultation services.** (a) 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 11. 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 subdivision 1.

(b) The county is accountable for meeting local objectives as approved by the commissioner in the biennial home and community-based services quality assurance plan. The county must document its compliance with the local objectives on a form provided by the commissioner.

(c) The state shall pay 81.9 percent of the nonfederal share as reimbursement to the counties.

Sec. 29. **DIRECTION TO COMMISSIONER; TRANSITION PROCESS.**

(a) The commissioner of human services shall update references to statutes recodified in this act when printed material is replaced and new printed material is obtained in the normal course of business. The commissioner is not required to replace existing printed material to comply with this act.

(b) The commissioner of human services shall update references to statutes recodified in this act when online documents and websites are edited in the normal course of business. The commissioner is not required to edit online documents and websites merely to comply with this act.

(c) The commissioner of human services shall update references to statutes recodified in this act when the home and community-based service waiver plans are updated in the normal course of business. The commissioner is not required to update the home and community-based service waiver plans merely to comply with this act.

Sec. 30. **REVISOR INSTRUCTION.**

(a) The revisor of statutes shall renumber each section of Minnesota Statutes listed in column A with the number listed in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.

<u>Column A</u>	<u>Column B</u>
<u>256B.0911, subdivision 3c</u>	<u>256.975, subdivision 7e</u>
<u>256B.0911, subdivision 3d</u>	<u>256.975, subdivision 7f</u>
<u>256B.0911, subdivision 3e</u>	<u>256.975, subdivision 7g</u>

(b) The revisor of statutes, in consultation with the House of Representatives Research Department; the Office of Senate Counsel, Research and Fiscal Analysis; and the Department of Human Services, shall make necessary cross-reference changes and remove statutory cross-references

in Minnesota Statutes to conform with the recodification in this act. The revisor may make technical and other necessary changes to sentence structure to preserve the meaning of the text. The revisor may alter the coding in this act to incorporate statutory changes made by other law in a regular or special session of the 2022 legislature. If a provision stricken in this act is also amended in a regular or special session of the 2022 legislature by other law, the revisor shall restore the stricken language and give effect to the amendment, notwithstanding Minnesota Statutes, section 645.30.

(c) If a provision repealed in this article is also amended by a section in this act or any other act in a regular or special session of the 2022 legislature, the revisor of statutes, in consultation with the House Research Department, Office of Senate Counsel, Research and Fiscal Analysis, and the Department of Human Services, shall give effect to the amendment and incorporate the amendment consistent with the recodification of Minnesota Statutes, section 256B.0911, by this article, notwithstanding any law to the contrary. When incorporating any such amendment, the revisor of statutes, in consultation with the House Research Department, Office of Senate Counsel, Research and Fiscal Analysis, and the Department of Human Services, may make technical and other necessary changes to sentence structure to preserve the meaning of the text of the recodification.

Sec. 31. **REPEALER.**

Minnesota Statutes 2020, section 256B.0911, subdivisions 2b, 2c, 3, 3b, 3g, 4d, 4e, 5, and 6, are repealed.

Minnesota Statutes 2021 Supplement, section 256B.0911, subdivisions 1a, 3a, and 3f, are repealed.

Sec. 32. **EFFECTIVE DATE.**

Sections 1 to 31 are effective July 1, 2022.

## ARTICLE 17

### LONG-TERM CARE CONSULTATION SERVICES RECODIFICATION; CONFORMING CHANGES

Section 1. Minnesota Statutes 2021 Supplement, section 144.0724, subdivision 4, is amended to read:

Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically submit to the federal database MDS assessments that conform with the assessment schedule defined by the Long Term Care Facility Resident Assessment Instrument User's Manual, version 3.0, or its successor issued by the Centers for Medicare and Medicaid Services. The commissioner of health may substitute successor manuals or question and answer documents published by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, to replace or supplement the current version of the manual or document.

(b) The assessments required under the Omnibus Budget Reconciliation Act of 1987 (OBRA) used to determine a case mix classification for reimbursement include the following:

(1) a new admission comprehensive assessment, which must have an assessment reference date (ARD) within 14 calendar days after admission, excluding readmissions;

(2) an annual comprehensive assessment, which must have an ARD within 92 days of a previous quarterly review assessment or a previous comprehensive assessment, which must occur at least once every 366 days;

(3) a significant change in status comprehensive assessment, which must have an ARD within 14 days after the facility determines, or should have determined, that there has been a significant change in the resident's physical or mental condition, whether an improvement or a decline, and regardless of the amount of time since the last comprehensive assessment or quarterly review assessment;

(4) a quarterly review assessment must have an ARD within 92 days of the ARD of the previous quarterly review assessment or a previous comprehensive assessment;

(5) any significant correction to a prior comprehensive assessment, if the assessment being corrected is the current one being used for RUG classification;

(6) any significant correction to a prior quarterly review assessment, if the assessment being corrected is the current one being used for RUG classification;

(7) a required significant change in status assessment when:

(i) all speech, occupational, and physical therapies have ended. The ARD of this assessment must be set on day eight after all therapy services have ended; and

(ii) isolation for an infectious disease has ended. The ARD of this assessment must be set on day 15 after isolation has ended; and

(8) any modifications to the most recent assessments under clauses (1) to (7).

(c) In addition to the assessments listed in paragraph (b), the assessments used to determine nursing facility level of care include the following:

(1) preadmission screening completed under section 256.975, subdivisions 7a to 7c, by the Senior LinkAge Line or other organization under contract with the Minnesota Board on Aging; and

(2) a nursing facility level of care determination as provided for under section 256B.0911, subdivision ~~4e~~ 26, as part of a face-to-face long-term care consultation assessment completed under section 256B.0911, by a county, tribe, or managed care organization under contract with the Department of Human Services.

Sec. 2. Minnesota Statutes 2020, section 144.0724, subdivision 11, is amended 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 requires formal clinical monitoring at least once per day;

(2) 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;

(3) 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;

(4) the person has significant difficulty with memory, using information, daily decision making, or behavioral needs that require intervention;

(5) the person has had a qualifying nursing facility stay of at least 90 days;

(6) the person meets the nursing facility level of care criteria determined 90 days after admission or on the first quarterly assessment after admission, whichever is later; or

(7) 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~~ subdivision 17 to 21, 23, 24, 27, or 28, 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 or be homeless without the person's current housing 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 chapter 256S and section 256B.49 and alternative care payment for services provided under section 256B.0913 must be the most recent face-to-face assessment performed under section 256B.0911, ~~subdivision 3a, 3b, or 4d~~ subdivisions 17 to 21, 23, 24, 27, or 28, that occurred no more than 60 calendar days before the effective date of medical assistance eligibility for payment of long-term care services.

Sec. 3. Minnesota Statutes 2021 Supplement, section 144.0724, subdivision 12, as amended by Laws 2022, chapter 55, article 1, section 36, is amended to read:

Subd. 12. **Appeal of nursing facility level of care determination.** (a) 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 (j)~~ 30, clause (9).

(b) The commissioner of human services shall ensure that notice of changes in eligibility due to a nursing facility level of care determination is provided to each affected recipient or the recipient's guardian at least 30 days before the effective date of the change. The notice shall include the following information:

- (1) how to obtain further information on the changes;
- (2) how to receive assistance in obtaining other services;
- (3) a list of community resources; and
- (4) appeal rights.

Sec. 4. Minnesota Statutes 2020, section 256.975, subdivision 7a, is amended to read:

Subd. 7a. **Preadmission screening activities related to nursing facility admissions.** (a) All individuals seeking admission 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 7b, paragraphs (a) and (b). The purpose of the screening is to determine the need for nursing facility level of care as described in section 256B.0911, subdivision ~~4e~~ 26, 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 7b, paragraphs (a) and (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.

(c) The following criteria apply to the preadmission screening:

(1) requests for preadmission screenings must be submitted via an online form developed by the commissioner;

(2) the Senior LinkAge Line 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

(3) 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.

(d) The local county mental health authority or the state developmental disability authority under Public Laws 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 Laws 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).

(e) In assessing a person's needs, the screener shall:

(1) use an automated system designated by the commissioner;

(2) consult with care transitions coordinators, physician, or advanced practice registered nurse; and

(3) consider the assessment of the individual's physician or advanced practice registered nurse.

(f) Other personnel may be included in the level of care determination as deemed necessary by the screener.

Sec. 5. Minnesota Statutes 2020, section 256.975, subdivision 7b, is amended to read:

Subd. 7b. **Exemptions and emergency admissions.** (a) Exemptions from the federal screening requirements outlined in subdivision 7a, paragraphs (b) and (c), are limited to:

(1) a person who, having entered an acute care facility from a certified nursing facility, is returning to a certified nursing facility; or

(2) a person transferring from one certified nursing facility in Minnesota to another certified nursing facility in Minnesota.

(b) Persons who are exempt from preadmission screening for purposes of level of care determination include:

(1) persons described in paragraph (a);

(2) an individual who has a contractual right to have nursing facility care paid for indefinitely by the Veterans Administration;

(3) an individual enrolled in a demonstration project under section 256B.69, subdivision 8, at the time of application to a nursing facility; and

(4) an individual currently being served under the alternative care program or under a home and community-based services waiver authorized under section 1915(c) of the federal Social Security Act.

(c) Persons admitted to a Medicaid-certified nursing facility from the community on an emergency basis as described in paragraph (d) or from an acute care facility on a nonworking day must be screened the first working day after admission.

(d) Emergency admission to a nursing facility prior to screening is permitted when all of the following conditions are met:

(1) a person is admitted from the community to a certified nursing or certified boarding care facility during Senior LinkAge Line nonworking hours;

(2) a physician or advanced practice registered nurse has determined that delaying admission until preadmission screening is completed would adversely affect the person's health and safety;

(3) there is a recent precipitating event that precludes the client from living safely in the community, such as sustaining an injury, sudden onset of acute illness, or a caregiver's inability to continue to provide care;

(4) the attending physician or advanced practice registered nurse has authorized the emergency placement and has documented the reason that the emergency placement is recommended; and

(5) the Senior LinkAge Line is contacted on the first working day following the emergency admission.

(e) Transfer of a patient from an acute care hospital to a nursing facility is not considered an emergency except for a person who has received hospital services in the following situations: hospital admission for observation, care in an emergency room without hospital admission, or following hospital 24-hour bed care and from whom admission is being sought on a nonworking day.

~~(e)~~ (f) A nursing facility must provide written information to all persons admitted regarding the person's right to request and receive long-term care consultation services as defined in section 256B.0911, subdivision ~~1a~~ 11. The information must be provided prior to the person's discharge from the facility and in a format specified by the commissioner.

Sec. 6. Minnesota Statutes 2020, section 256.975, subdivision 7c, is amended to read:

Subd. 7c. **Screening requirements.** (a) A person may be screened for nursing facility admission by telephone or in a face-to-face screening interview. The Senior LinkAge Line shall identify each individual's needs using the following categories:

(1) the person needs no face-to-face long-term care consultation assessment completed under section 256B.0911, ~~subdivision 3a, 3b, or 4d~~ subdivisions 17 to 21, 24, 27 or 28, by a county, tribe, or managed care organization under contract with the Department of Human Services to determine the need for nursing facility level of care based on information obtained from other health care professionals;

(2) the person needs an immediate face-to-face long-term care consultation assessment completed under section 256B.0911, ~~subdivision 3a, 3b, or 4d~~ subdivisions 17 to 21, 24, 27, or 28, by a county, tribe, or managed care organization under contract with the Department of Human Services to determine the need for nursing facility level of care and complete activities required under subdivision 7a; or

(3) the person may be exempt from screening requirements as outlined in subdivision 7b, but will need ~~transitional~~ transition assistance after admission or in-person follow-along after a return home.

(b) The Senior LinkAge Line shall refer individuals under 65 years of age who are admitted to nursing facilities with only a telephone screening ~~must receive a face-to-face~~ for an in-person assessment from the long-term care consultation team member of the county in which the facility is located or from the recipient's county case manager ~~within 40 calendar days of admission~~ as described in section 256B.0911, subdivision ~~4d~~ 28, paragraph ~~(e)~~ (a).

(c) Persons admitted on a nonemergency basis to a Medicaid-certified nursing facility must be screened prior to admission.

(d) Screenings provided by the Senior LinkAge Line must include processes to identify persons who may require transition assistance described in subdivision 7, paragraph (b), clause (12), and section 256B.0911, subdivision ~~3b~~ 27.

Sec. 7. Minnesota Statutes 2020, section 256.975, subdivision 7d, is amended to read:

Subd. 7d. **Payment for preadmission screening.** ~~Funding~~ (a) The Department of Human Services shall provide funding for preadmission screening ~~shall be provided to the Minnesota Board on Aging by the Department of Human Services~~ to cover screener salaries and expenses to provide the services described in subdivisions 7a to 7c. The Minnesota Board on Aging shall:

(1) employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide preadmission screening and level of care determination services; and shall

(2) seek to maximize federal funding for the service as provided under section 256.01, subdivision 2, paragraph (aa).

(b) The Department of Human Services shall provide funding for preadmission screening follow-up to the Disability Hub for the under-60 population to cover options counseling salaries and expenses to provide the services described in subdivisions 7a to 7c. The Disability Hub shall:

(1) employ, or contract with other agencies to employ, within the limits of available funding, sufficient personnel to provide preadmission screening follow-up services; and

(2) seek to maximize federal funding for the service as provided under section 256.01, subdivision 2, paragraph (aa).

Sec. 8. Minnesota Statutes 2020, section 256B.051, subdivision 4, is amended to read:

Subd. 4. **Assessment requirements.** (a) An individual's assessment of functional need must be conducted by one of the following methods:

(1) an assessor according to the criteria established in section 256B.0911, ~~subdivision 3a~~ subdivisions 17 to 21, 23, 24, and 29 to 31, using a format established by the commissioner;



(2) documented need for services as verified by a professional statement of need as defined in section 256I.03, subdivision 12; or

(3) according to the continuum of care coordinated assessment system established in Code of Federal Regulations, title 24, section 578.3, using a format established by the commissioner.

(b) An individual must be reassessed within one year of initial assessment, and annually thereafter.

Sec. 9. Minnesota Statutes 2020, section 256B.0646, is amended to read:

**256B.0646 MINNESOTA RESTRICTED RECIPIENT PROGRAM; PERSONAL CARE ASSISTANCE SERVICES.**

(a) When a recipient's use of personal care assistance services or community first services and supports under section 256B.85 results in abusive or fraudulent billing, the commissioner may place a recipient in the Minnesota restricted recipient program under Minnesota Rules, part 9505.2165. A recipient placed in the Minnesota restricted recipient program under this section must: (1) use a designated traditional personal care assistance provider agency; and (2) obtain a new assessment under section 256B.0911, including consultation with a registered or public health nurse on the long-term care consultation team pursuant to section 256B.0911, subdivision ~~3~~ 15, paragraph (b), clause (2).

(b) A recipient must comply with additional conditions for the use of personal care assistance services or community first services and supports if the commissioner determines it is necessary to prevent future misuse of personal care assistance services or abusive or fraudulent billing. Additional conditions may include but are not limited to restricting service authorizations for a duration of no more than one month and requiring a qualified professional to monitor and report services on a monthly basis.

(c) A recipient placed in the Minnesota restricted recipient program under this section may appeal the placement according to section 256.045.

Sec. 10. Minnesota Statutes 2020, section 256B.0659, subdivision 3a, is amended to read:

Subd. 3a. **Assessment; defined.** (a) "Assessment" means a review and evaluation of a recipient's need for personal care assistance services conducted in person. Assessments for personal care assistance services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county except when a long-term care consultation assessment is being conducted for the purposes of determining a person's eligibility for home and community-based waiver services including personal care assistance services according to section 256B.0911. During the transition to MnCHOICES, a certified assessor may complete the assessment defined in this subdivision. 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 assistance services is determined under this section, 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. 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 assistance 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 assistance service. A service update may be completed by telephone, used when there is no need for an increase in personal care assistance 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~~ ongoing consumer education. Assessments or reassessments 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.

(b) This subdivision expires when notification is given by the commissioner as described in section 256B.0911, subdivision ~~3a~~ 18.

Sec. 11. Minnesota Statutes 2020, 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 is a citizen of the United States or a United States national;

(2) 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, as determined under section 256B.0911, subdivision ~~4e~~ 26, but for the provision of services under the alternative care program;

(3) the person is age 65 or older;

(4) the person would be eligible for medical assistance within 135 days of admission to a nursing facility;

(5) 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;

(6) the person needs long-term care services that are not funded through other state or federal funding, or other health insurance or other third-party insurance such as long-term care insurance;

(7) except for individuals described in clause (8), 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 256S.18. 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 256S.04, 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;

(8) for individuals assigned a case mix classification A as described under section 256S.18, with (i) no dependencies in activities of daily living, or (ii) up to two dependencies in bathing, dressing, grooming, walking, and eating when the dependency score in eating is three or greater as determined by an assessment performed under section 256B.0911, the monthly cost of alternative care services funded by the program cannot exceed \$593 per month for all new participants enrolled in the program on or after July 1, 2011. This monthly limit shall be applied to all other participants who meet this criteria at reassessment. This monthly limit shall be increased annually as described in section 256S.18. This monthly limit does not prohibit the alternative care client from payment for additional services, but in no case may the cost of additional services purchased exceed the difference between the client's monthly service limit defined in this clause and the limit described in clause (7) for case mix classification A; and

(9) 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.

(b) 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)~~ (c) 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)~~ (d) 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)~~ (e) Alternative care funding is not available for a person whose income is greater than the maintenance needs allowance under section 256S.05, but equal to or less than 120 percent of the federal poverty guideline effective July 1 in the fiscal year for which alternative care eligibility is determined, who would be eligible for the elderly waiver with a waiver obligation.

Sec. 12. Minnesota Statutes 2020, section 256B.092, subdivision 1a, is amended to read:

Subd. 1a. **Case management services.** (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.

(b) Case management service activities provided to or arranged for a person include:

(1) development of the person-centered coordinated service and support plan under subdivision 1b;

(2) informing the individual or the individual's legal guardian or conservator, or parent if the person is a minor, of service options, including all service options available under the waiver plan;

(3) consulting with relevant medical experts or service providers;

(4) assisting the person in the identification of potential providers of chosen services, including:

(i) providers of services provided in a non-disability-specific setting;

(ii) employment service providers;

(iii) providers of services provided in settings that are not controlled by a provider; and

(iv) providers of financial management services;

(5) assisting the person to access services and assisting in appeals under section 256.045;

(6) coordination of services, if coordination is not provided by another service provider;

(7) evaluation and monitoring of the services identified in the coordinated service and support plan, which must incorporate at least one annual face-to-face visit by the case manager with each person; and

(8) reviewing coordinated service and support plans and providing the lead agency with recommendations for service authorization based upon the individual's needs identified in the coordinated service and support plan.

(c) Case management service activities that are provided to the person with a developmental disability shall be provided directly by county agencies or under contract. Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has a financial interest in the provision of any other services included in the recipient's coordinated

service and support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision ~~1a, paragraph (e)~~ 10.

(d) Case managers are responsible for service provisions listed in paragraphs (a) and (b). Case managers shall collaborate with consumers, families, legal representatives, and relevant medical experts and service providers in the development and annual review of the person-centered coordinated service and support plan and habilitation plan.

(e) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

- (1) phasing out the use of prohibited procedures;
- (2) acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline;  
and
- (3) accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(f) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ten hours of case management education and disability-related training each year. The education and training must include person-centered planning. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision ~~1a, paragraph (f)~~ 10.

Sec. 13. Minnesota Statutes 2020, section 256B.092, subdivision 1b, is amended to read:

Subd. 1b. **Coordinated service and support plan.** (a) Each recipient of home and community-based waived services shall be provided a copy of the written person-centered coordinated service and support plan that:

(1) is developed with and signed by the recipient within the timelines established by the commissioner and section 256B.0911, subdivision ~~3a, paragraph (e)~~ 29;

(2) includes the person's need for service, including identification of service needs that will be or that are met by the person's relatives, friends, and others, as well as community services used by the general public;

(3) reasonably ensures the health and welfare of the recipient;

(4) identifies the person's preferences for services as stated by the person, the person's legal guardian or conservator, or the parent if the person is a minor, including the person's choices made on self-directed options, services and supports to achieve employment goals, and living arrangements;

(5) provides for an informed choice, as defined in section 256B.77, subdivision 2, paragraph (o), of service and support providers, and identifies all available options for case management services and providers;

(6) identifies long-range and short-range goals for the person;

(7) identifies specific services and the amount and frequency of the services to be provided to the person based on assessed needs, preferences, and available resources. The person-centered coordinated service and support plan shall also specify other services the person needs that are not available;

(8) identifies the need for an individual program plan to be developed by the provider according to the respective state and federal licensing and certification standards, and additional assessments to be completed or arranged by the provider after service initiation;

(9) identifies provider responsibilities to implement and make recommendations for modification to the coordinated service and support plan;

(10) includes notice of the right to request a conciliation conference or a hearing under section 256.045;

(11) is agreed upon and signed by the person, the person's legal guardian or conservator, or the parent if the person is a minor, and the authorized county representative;

(12) is reviewed by a health professional if the person has overriding medical needs that impact the delivery of services; and

(13) includes the authorized annual and monthly amounts for the services.

(b) In developing the person-centered coordinated service and support plan, the case manager is encouraged to include the use of volunteers, religious organizations, social clubs, and civic and service organizations to support the individual in the community. The lead agency must be held harmless for damages or injuries sustained through the use of volunteers and agencies under this paragraph, including workers' compensation liability.

(c) Approved, written, and signed changes to a consumer's services that meet the criteria in this subdivision shall be an addendum to that consumer's individual service plan.

Sec. 14. Minnesota Statutes 2020, section 256B.0922, subdivision 1, is amended to read:

Subdivision 1. **Essential community supports.** (a) The purpose of the essential community supports program is to provide targeted services to persons age 65 and older who need essential community support, but whose needs do not meet the level of care required for nursing facility placement under section 144.0724, subdivision 11.

(b) Essential community supports are available not to exceed \$400 per person per month. Essential community supports may be used as authorized within an authorization period not to exceed 12 months. Services must be available to a person who:

(1) is age 65 or older;

(2) is not eligible for medical assistance;

(3) has received a community assessment under section 256B.0911, ~~subdivision 3a or 3b~~ subdivisions 17 to 21, 23, 24, or 27, and does not require the level of care provided in a nursing facility;

(4) meets the financial eligibility criteria for the alternative care program under section 256B.0913, subdivision 4;

(5) has a community support plan; and

(6) has been determined by a community assessment under section 256B.0911, ~~subdivision 3a or 3b~~ subdivisions 17 to 21, 23, 24 or 27, to be a person who would require provision of at least one of the following services, as defined in the approved elderly waiver plan, in order to maintain their community residence:

(i) adult day services;

(ii) caregiver support;

(iii) homemaker support;

(iv) chores;

(v) a personal emergency response device or system;

(vi) home-delivered meals; or

(vii) community living assistance as defined by the commissioner.

(c) The person receiving any of the essential community supports in this subdivision must also receive service coordination, not to exceed \$600 in a 12-month authorization period, as part of their community support plan.

(d) A person who has been determined to be eligible for essential community supports must be reassessed at least annually and continue to meet the criteria in paragraph (b) to remain eligible for essential community supports.

(e) The commissioner is authorized to use federal matching funds for essential community supports as necessary and to meet demand for essential community supports as outlined in subdivision 2, and that amount of federal funds is appropriated to the commissioner for this purpose.

Sec. 15. Minnesota Statutes 2020, 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 section 256B.0911, subdivision ~~4e~~ 26, or a 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).

Sec. 16. Minnesota Statutes 2020, 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 must include:

(1) finalizing the person-centered written coordinated service and support plan within the timelines established by the commissioner and section 256B.0911, subdivision ~~3a, paragraph (e)~~ 29;

(2) informing the recipient or the recipient's legal guardian or conservator of service options, including all service options available under the waiver plans;

(3) assisting the recipient in the identification of potential service providers of chosen services, including:

(i) available options for case management service and providers;

(ii) providers of services provided in a non-disability-specific setting;

(iii) employment service providers;

(iv) providers of services provided in settings that are not community residential settings; and

(v) providers of financial management services;

(4) assisting the recipient to access services and assisting with appeals under section 256.045; and

(5) coordinating, evaluating, and monitoring of the services identified in the service plan.

(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:

(1) finalizing the person-centered coordinated service and support plan;

(2) ongoing assessment and monitoring of the person's needs and adequacy of the approved person-centered coordinated service and support plan; and

(3) adjustments to the person-centered coordinated service and support plan.

(c) Case management services must be provided by a public or private agency that is enrolled as a medical assistance provider determined by the commissioner to meet all of the requirements in the approved federal waiver plans. Case management services must not be provided to a recipient by a private agency that has any financial interest in the provision of any other services included in the recipient's coordinated service and support plan. For purposes of this section, "private agency" means any agency that is not identified as a lead agency under section 256B.0911, subdivision ~~4a, paragraph (e)~~ 10.



(d) For persons who need a positive support transition plan as required in chapter 245D, the case manager shall participate in the development and ongoing evaluation of the plan with the expanded support team. At least quarterly, the case manager, in consultation with the expanded support team, shall evaluate the effectiveness of the plan based on progress evaluation data submitted by the licensed provider to the case manager. The evaluation must identify whether the plan has been developed and implemented in a manner to achieve the following within the required timelines:

- (1) phasing out the use of prohibited procedures;
- (2) acquisition of skills needed to eliminate the prohibited procedures within the plan's timeline;  
and
- (3) accomplishment of identified outcomes.

If adequate progress is not being made, the case manager shall consult with the person's expanded support team to identify needed modifications and whether additional professional support is required to provide consultation.

(e) The Department of Human Services shall offer ongoing education in case management to case managers. Case managers shall receive no less than ten hours of case management education and disability-related training each year. The education and training must include person-centered planning. For the purposes of this section, "person-centered planning" or "person-centered" has the meaning given in section 256B.0911, subdivision 1a, paragraph (f) 10.

Sec. 17. Minnesota Statutes 2021 Supplement, section 256B.49, subdivision 14, is amended to read:

Subd. 14. **Assessment and reassessment.** (a) Assessments and reassessments shall be conducted by certified assessors according to section 256B.0911, ~~subdivision 2b~~ subdivisions 13 and 14.

(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 256B.0911, subdivision ~~4e~~ 26, 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 assessments conducted according to section 256B.0911, subdivisions ~~3a, 3b, and 4d~~ 17 to 21, 23, 24, and 27 to 31, 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) 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.

Sec. 18. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 2, is amended to read:

Subd. 2. **Definitions.** (a) For the purposes of this section and section 256B.851, the terms defined in this subdivision have the meanings given.

(b) "Activities of daily living" or "ADLs" means:

(1) dressing, including assistance with choosing, applying, and changing clothing and applying 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. Grooming includes nail care, 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 applying orthotics required for eating, transfers, or feeding;

(5) transfers, including assistance with transferring the participant from one seating or reclining area to another;

(6) mobility, including assistance with ambulation and use of a wheelchair. Mobility does not include providing transportation for a participant;

(7) positioning, including assistance with positioning or turning a participant for necessary care and comfort; and

(8) toileting, including assistance with bowel or bladder elimination and care, transfers, mobility, positioning, feminine hygiene, use of toileting equipment or supplies, cleansing the perineal area, inspection of the skin, and adjusting clothing.

(c) "Agency-provider model" means a method of CFSS under which a qualified agency provides services and supports through the agency's own employees and policies. The agency must allow the participant to have a significant role in the selection and dismissal of support workers of their choice for the delivery of their specific services and supports.

(d) "Behavior" means a description of a need for services and supports used to determine the home care rating and additional service units. The presence of Level I behavior is used to determine the home care rating.

(e) "Budget model" means a service delivery method of CFSS that allows the use of a service budget and assistance from a financial management services (FMS) provider for a participant to directly employ support workers and purchase supports and goods.

(f) "Complex health-related needs" means an intervention listed in clauses (1) to (8) that has been ordered by a physician, advanced practice registered nurse, or physician's assistant and is specified in a community support plan, including:

(1) tube feedings requiring:

(i) a gastrojejunostomy 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.0651;
- (5) insertion and maintenance of catheter, including:
  - (i) sterile catheter changes more than one time per month;
  - (ii) clean intermittent catheterization, and including 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, advanced practice registered nurse, or physician's assistant 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.

(g) "Community first services and supports" or "CFSS" means the assistance and supports program under this section needed for accomplishing activities of daily living, instrumental activities of daily living, and health-related tasks through hands-on assistance to accomplish the task or constant supervision and cueing to accomplish the task, or the purchase of goods as defined in subdivision 7, clause (3), that replace the need for human assistance.

(h) "Community first services and supports service delivery plan" or "CFSS service delivery plan" means a written document detailing the services and supports chosen by the participant to meet assessed needs that are within the approved CFSS service authorization, as determined in subdivision 8. Services and supports are based on the coordinated service and support plan identified in sections 256B.092, subdivision 1b, and 256S.10.

(i) "Consultation services" means a Minnesota health care program enrolled provider organization that provides assistance to the participant in making informed choices about CFSS services in general and self-directed tasks in particular, and in developing a person-centered CFSS service delivery plan to achieve quality service outcomes.

(j) "Critical activities of daily living" means transferring, mobility, eating, and toileting.

(k) "Dependency" in activities of daily living means a person requires hands-on assistance or constant supervision and cueing to accomplish one or more of the activities of daily living every day or on the days during the week that the activity is performed; however, a child must 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 assistance needed is the assistance appropriate for a typical child of the same age.

(l) "Extended CFSS" means CFSS services and supports provided under CFSS that are included in the CFSS service delivery plan through one of the home and community-based services waivers and as approved and authorized under chapter 256S and sections 256B.092, subdivision 5, and 256B.49, which exceed the amount, duration, and frequency of the state plan CFSS services for participants. Extended CFSS excludes the purchase of goods.

(m) "Financial management services provider" or "FMS provider" means a qualified organization required for participants using the budget model under subdivision 13 that is an enrolled provider with the department to provide vendor fiscal/employer agent financial management services (FMS).

(n) "Health-related procedures and tasks" means procedures and tasks related to the specific assessed health needs of a participant that can be taught or assigned by a state-licensed health care or mental health professional and performed by a support worker.

(o) "Instrumental activities of daily living" means activities related to living independently in the community, including but not limited to: meal planning, preparation, and cooking; shopping for food, clothing, or other essential items; laundry; housecleaning; assistance with medications;

managing finances; communicating needs and preferences during activities; arranging supports; and assistance with traveling around and participating in the community, including traveling to medical appointments. For purposes of this paragraph, traveling includes driving and accompanying the recipient in the recipient's chosen mode of transportation and according to the individual CFSS service delivery plan.

(p) "Lead agency" has the meaning given in section 256B.0911, subdivision 1a, ~~paragraph (e)~~ 10.

(q) "Legal representative" means parent of a minor, a court-appointed guardian, or another representative with legal authority to make decisions about services and supports for the participant. Other representatives with legal authority to make decisions include but are not limited to a health care agent or an attorney-in-fact authorized through a health care directive or power of attorney.

(r) "Level I behavior" means physical aggression toward self or others or destruction of property that requires the immediate response of another person.

(s) "Medication assistance" means providing verbal or visual reminders to take regularly scheduled medication, and includes any of the following supports listed in clauses (1) to (3) and other types of assistance, except that a support worker must not determine medication dose or time for medication or inject medications into veins, muscles, or skin:

(1) under the direction of the participant or the participant's representative, bringing medications to the participant including medications given through a nebulizer, opening a container of previously set-up medications, emptying the container into the participant's hand, opening and giving the medication in the original container to the participant, or bringing to the participant liquids or food to accompany the medication;

(2) organizing medications as directed by the participant or the participant's representative; and

(3) providing verbal or visual reminders to perform regularly scheduled medications.

(t) "Participant" means a person who is eligible for CFSS.

(u) "Participant's representative" means a parent, family member, advocate, or other adult authorized by the participant or participant's legal representative, if any, to serve as a representative in connection with the provision of CFSS. If the participant is unable to assist in the selection of a participant's representative, the legal representative shall appoint one.

(v) "Person-centered planning process" means a process that is directed by the participant to plan for CFSS services and supports.

(w) "Service budget" means the authorized dollar amount used for the budget model or for the purchase of goods.

(x) "Shared services" means the provision of CFSS services by the same CFSS support worker to two or three participants who voluntarily enter into a written agreement to receive services at the same time, in the same setting, and through the same agency-provider or FMS provider.

(y) "Support worker" means a qualified and trained employee of the agency-provider as required by subdivision 11b or of the participant employer under the budget model as required by subdivision 14 who has direct contact with the participant and provides services as specified within the participant's CFSS service delivery plan.

(z) "Unit" means the increment of service based on hours or minutes identified in the service agreement.

(aa) "Vendor fiscal employer agent" means an agency that provides financial management services.

(bb) "Wages and benefits" means the hourly wages and salaries, the employer's share of FICA taxes, Medicare taxes, state and federal unemployment taxes, workers' compensation, mileage reimbursement, health and dental insurance, life insurance, disability insurance, long-term care insurance, uniform allowance, contributions to employee retirement accounts, or other forms of employee compensation and benefits.

(cc) "Worker training and development" means services provided according to subdivision 18a for developing workers' skills as required by the participant's individual CFSS service delivery plan that are arranged for or provided by the agency-provider or purchased by the participant employer. These services include training, education, direct observation and supervision, and evaluation and coaching of job skills and tasks, including supervision of health-related tasks or behavioral supports.

Sec. 19. Minnesota Statutes 2021 Supplement, section 256B.85, subdivision 5, is amended to read:

Subd. 5. **Assessment requirements.** (a) The assessment of functional need must:

(1) be conducted by a certified assessor according to the criteria established in section 256B.0911, ~~subdivision 3a~~ subdivisions 17 to 21, 23, 24, and 29 to 31;

(2) be conducted face-to-face, initially and at least annually thereafter, or when there is a significant change in the participant's condition or a change in the need for services and supports, or at the request of the participant when the participant experiences a change in condition or needs a change in the services or supports; and

(3) be completed using the format established by the commissioner.

(b) The results of the assessment and any recommendations and authorizations for CFSS must be determined and communicated in writing by the lead agency's assessor as defined in section 256B.0911 to the participant or the participant's representative and chosen CFSS providers within ten business days and must include the participant's right to appeal the assessment under section 256.045, subdivision 3.

(c) The lead agency assessor may authorize a temporary authorization for CFSS services to be provided under the agency-provider model. The lead agency assessor may authorize a temporary authorization for CFSS services to be provided under the agency-provider model without using the assessment process described in this subdivision. Authorization for a temporary level of CFSS services under the agency-provider model is limited to the time specified by the commissioner, but

shall not exceed 45 days. The level of services authorized under this paragraph shall have no bearing on a future authorization. For CFSS services needed beyond the 45-day temporary authorization, the lead agency must conduct an assessment as described in this subdivision and participants must use consultation services to complete their orientation and selection of a service model.

Sec. 20. Minnesota Statutes 2020, section 256S.02, subdivision 15, is amended to read:

Subd. 15. **Lead agency.** "Lead agency" means a county administering long-term care consultation services as defined in section 256B.0911, subdivision ~~4a~~ 10, or a tribe or managed care organization under contract with the commissioner to administer long-term care consultation services as defined in section 256B.0911, subdivision ~~4a~~ 10.

Sec. 21. Minnesota Statutes 2020, section 256S.02, subdivision 20, is amended to read:

Subd. 20. **Nursing facility level of care determination.** "Nursing facility level of care determination" refers to determination of institutional level of care described in section 256B.0911, subdivision ~~4e~~ 26.

Sec. 22. Minnesota Statutes 2021 Supplement, section 256S.05, subdivision 2, is amended to read:

Subd. 2. **Nursing facility level of care determination required.** Notwithstanding other assessments identified in section 144.0724, subdivision 4, only assessments conducted according to section 256B.0911, ~~subdivisions 3, 3a, and 3b~~, that result in a nursing facility level of care determination at initial and subsequent assessments shall be accepted for purposes of a participant's initial and ongoing participation in the elderly waiver and a service provider's access to service payments under this chapter.

Sec. 23. Minnesota Statutes 2020, section 256S.06, subdivision 1, is amended to read:

Subdivision 1. **Initial assessments.** A lead agency shall provide each participant with an initial long-term care consultation assessment of strengths, informal supports, and need for services according to section 256B.0911, ~~subdivisions 3, 3a, and 3b~~.

Sec. 24. Minnesota Statutes 2020, section 256S.06, subdivision 2, is amended to read:

Subd. 2. **Annual reassessments.** At least every 12 months, a lead agency shall provide each participant with an annual long-term care consultation reassessment according to section 256B.0911, ~~subdivisions 3, 3a, and 3b~~ 22 to 25.

Sec. 25. Minnesota Statutes 2020, section 256S.10, subdivision 2, is amended to read:

Subd. 2. **Plan development timeline.** Within the timelines established by the commissioner and section 256B.0911, subdivision ~~3a, paragraph (e)~~ 29, the case manager must develop with the participant and the participant must sign the participant's individualized written coordinated service and support plan.

Sec. 26. **REVISOR INSTRUCTION.**

(a) The revisor of statutes shall change the term "coordinated service and support plan" and similar terms to "support plan" and similar terms wherever these terms appear in Minnesota Statutes, sections 144G.911, 245A.11, 245D.02, 245D.04, 245D.05, 245D.051, 245D.06, 245D.061, 245D.07, 245D.071, 245D.081, 245D.09, 245D.091, 245D.095, 245D.11, 245D.22, 245D.31, 252.41, 252.42, 252.44, 252.45, 252A.02, 256B.0913, 256B.092, 256B.49, 256B.4911, 256B.4914, 256B.85, 256S.01, 256S.08, 256S.09, 256S.10, 256S.11, and 325F.722. The revisor shall also make necessary grammatical changes related to the change in terms in order to preserve the meaning of the text.

(b) The revisor of statutes shall change the term "community support plan" and similar terms to "assessment summary" and similar terms wherever these terms appear in Minnesota Statutes, sections 245.462, 245.4711, 245.477, 245.4835, 245.4871, 245.4873, 245.4881, 245.4885, 245.4887, 245D.091, 256.975, 256B.0623, 256B.0659, 256B.092, 256B.0922, 256B.4911, 256B.4914, and 256B.85. The revisor shall also make necessary grammatical changes related to the change in terms in order to preserve the meaning of the text.

**Sec. 27. EFFECTIVE DATE.**

Sections 1 to 26 are effective July 1, 2022."

Delete the title and insert:

"A bill for an act relating to state government; modifying provisions governing the Department of Health, health care, health-related licensing boards, health insurance, community supports, behavioral health, continuing care for older adults, child and vulnerable adult protection, economic assistance, direct care and treatment, preventing homelessness, human services licensing and operations, the Minnesota Rare Disease Advisory Council, nonintoxicating hemp regulation, organ donation regulation, mandated reports, and long-term care consultation services; making forecast adjustments; requiring reports; appropriating money; amending Minnesota Statutes 2020, sections 13.46, subdivision 7; 34A.01, subdivision 4; 62J.2930, subdivision 3; 62J.692, subdivision 5; 62Q.37, subdivision 7; 137.68; 144.057, subdivision 1; 144.0724, subdivision 11; 144.1201, subdivisions 2, 4; 144.1503; 144.1911, subdivision 4; 144.193; 144.292, subdivision 6; 144.294, subdivision 2; 144.4199, subdivision 8; 144.497; 144.565, subdivision 4; 144.6502, subdivision 1; 144A.01; 144A.03, subdivision 1; 144A.04, subdivisions 4, 6; 144A.06; 144A.10, subdivision 17; 144A.351, subdivision 1; 144A.4799, subdivisions 1, 3; 144A.483, subdivision 1; 144A.75, subdivision 12; 144G.08, by adding a subdivision; 144G.15; 144G.17; 144G.19, by adding a subdivision; 144G.20, subdivisions 1, 4, 5, 8, 9, 12, 15; 144G.30, subdivision 5; 144G.31, subdivisions 4, 8; 144G.41, subdivisions 7, 8; 144G.42, subdivision 10; 144G.45, subdivision 7; 144G.50, subdivision 2; 144G.52, subdivisions 2, 8, 9; 144G.53; 144G.55, subdivisions 1, 3; 144G.56, subdivisions 3, 5; 144G.57, subdivisions 1, 3, 5; 144G.70, subdivisions 2, 4; 144G.80, subdivision 2; 144G.90, subdivision 1, by adding a subdivision; 144G.91, subdivisions 13, 21; 144G.92, subdivision 1; 144G.93; 144G.95; 145.4134; 145.928, subdivision 13; 148B.33, by adding a subdivision; 148E.100, subdivision 3; 148E.105, subdivision 3, as amended; 148E.106, subdivision 3; 148E.110, subdivision 7; 150A.06, subdivisions 1c, 2c, 6, by adding a subdivision; 150A.09; 150A.091, subdivisions 2, 5, 8, 9, by adding subdivisions; 150A.10, subdivision 1a; 150A.105, subdivision 8; 151.01, subdivision 27; 151.72, subdivisions 1, 2, 3, 4, 6, by adding a subdivision; 152.02, subdivision 2; 152.125; 153.16, subdivision 1; 242.19, subdivision 2; 245.462, subdivision 4; 245.4661, subdivision 10; 245.4889, subdivision 3, by adding a subdivision; 245.713, subdivision 2; 245A.02, subdivision 5a; 245A.11, subdivisions 2, 2a, by adding a subdivision; 245A.14, subdivision 14; 245A.1443; 245C.31,



subdivisions 1, 2, by adding subdivisions; 245D.10, subdivision 3a; 245D.12; 245F.15, subdivision 1; 245F.16, subdivision 1; 245G.01, subdivisions 4, 17, by adding a subdivision; 245G.06, subdivision 3, by adding subdivisions; 245G.07, by adding a subdivision; 245G.08, subdivision 5; 245G.09, subdivision 3; 245G.11, subdivisions 1, 10; 245G.12; 245G.13, subdivision 1; 245G.20; 245G.22, subdivision 7; 253B.18, subdivision 6; 256.01, subdivision 29; 256.021, subdivision 3; 256.042, subdivision 5, as amended; 256.045, subdivision 3; 256.9657, subdivision 8; 256.975, subdivisions 7a, 7b, 7c, 7d, 11, 12; 256B.051, subdivision 4; 256B.055, subdivision 2; 256B.056, subdivisions 3b, 3c, 11; 256B.0561, subdivision 4; 256B.0595, subdivision 1; 256B.0625, subdivision 64; 256B.0646; 256B.0659, subdivisions 3a, 19; 256B.0911, subdivisions 1, 3c, 3d, 3e, 5, by adding subdivisions; 256B.0913, subdivision 4; 256B.092, subdivisions 1a, 1b; 256B.0922, subdivision 1; 256B.0941, by adding a subdivision; 256B.0949, subdivisions 8, 17; 256B.49, subdivisions 12, 13; 256B.493, subdivision 2; 256B.69, subdivision 9d; 256B.77, subdivision 13; 256D.0515; 256E.28, subdivision 6; 256E.33, subdivisions 1, 2; 256E.36, subdivision 1; 256G.02, subdivision 6; 256I.03, subdivision 6; 256K.26, subdivisions 2, 6, 7; 256K.45, subdivision 6, by adding a subdivision; 256P.04, subdivision 11; 256Q.06, by adding a subdivision; 256R.02, subdivisions 4, 17, 18, 22, 29, 42a, 48a, by adding subdivisions; 256R.07, subdivisions 1, 2, 3; 256R.08, subdivision 1; 256R.09, subdivisions 2, 5; 256R.10, by adding a subdivision; 256R.13, subdivision 4; 256R.16, subdivision 1; 256R.17, subdivision 3; 256R.18; 256R.26, subdivision 1; 256R.261, subdivision 13; 256R.37; 256R.39; 256S.02, subdivisions 15, 20; 256S.06, subdivisions 1, 2; 256S.10, subdivision 2; 257.0725; 260.012; 260.775; 260B.331, subdivision 1; 260C.001, subdivision 3; 260C.007, subdivision 27; 260C.151, subdivision 6; 260C.152, subdivision 5; 260C.175, subdivision 2; 260C.176, subdivision 2; 260C.178, subdivision 1; 260C.181, subdivision 2; 260C.193, subdivision 3; 260C.201, subdivisions 1, 2; 260C.202; 260C.203; 260C.204; 260C.212, subdivision 4a; 260C.221; 260C.331, subdivision 1; 260C.513; 260C.607, subdivisions 2, 5; 260C.613, subdivisions 1, 5; 260E.22, subdivision 2; 260E.24, subdivisions 2, 6; 260E.38, subdivision 3; 268.19, subdivision 1; 477A.0126, subdivision 7, by adding a subdivision; 518.17, subdivision 1; 518A.43, subdivision 1; 518A.77; 626.557, subdivisions 4, 9, 9b, 9c, 9d, 10, 10b, 12b; 626.5571, subdivisions 1, 2; 626.5572, subdivisions 2, 4, 17; Minnesota Statutes 2021 Supplement, sections 62A.673, subdivision 2; 144.0724, subdivisions 4, 12, as amended; 144.551, subdivision 1; 148B.5301, subdivision 2; 148F.11, subdivision 1; 151.72, subdivision 5; 245.467, subdivisions 2, 3; 245.4871, subdivision 21; 245.4876, subdivisions 2, 3; 245.4889, subdivision 1; 245.735, subdivision 3; 245A.03, subdivision 7; 245A.14, subdivision 4; 245C.03, subdivision 5a; 245I.02, subdivisions 19, 36; 245I.03, subdivisions 5, 9; 245I.04, subdivision 4; 245I.05, subdivision 3; 245I.08, subdivision 4; 245I.09, subdivision 2; 245I.10, subdivisions 2, 6; 245I.20, subdivision 5; 245I.23, subdivision 22; 254B.05, subdivision 5; 256.01, subdivision 42; 256.042, subdivision 4, as amended; 256B.0371, subdivision 4, as amended; 256B.0622, subdivision 2; 256B.0625, subdivisions 3b, 5m; 256B.0638, subdivision 5; 256B.0671, subdivision 6; 256B.0911, subdivision 3a; 256B.0943, subdivisions 1, 3, 4, 6, 7, 9, 11; 256B.0946, subdivision 1; 256B.0947, subdivisions 2, 3, 5, 6; 256B.0949, subdivisions 2, 13; 256B.49, subdivision 14; 256B.69, subdivision 9f; 256B.85, subdivisions 2, 5; 256P.01, subdivision 6a; 256P.06, subdivision 3; 256S.05, subdivision 2; 256S.205; 260C.212, subdivisions 1, 2; 260C.605, subdivision 1; 260C.607, subdivision 6; 260E.20, subdivision 2; 363A.50; Laws 2009, chapter 79, article 13, section 3, subdivision 10, as amended; Laws 2020, First Special Session chapter 7, section 1, subdivisions 1, as amended, 5, as amended; Laws 2021, First Special Session chapter 7, article 10, sections 1; 3; article 11, section 38; article 16, sections 2, subdivisions 23, 24, 29, 31, 32, 33; 3, subdivision 2; 5; article 17, sections 1, subdivision 2; 3; 6; 10; 11; 12; 17, subdivision 3; 19; Laws 2021, First Special Session chapter 8, article 6, section 1, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 4; 144A; 145; 245A;

256B; 626; repealing Minnesota Statutes 2020, sections 62U.10, subdivision 3; 144.1911, subdivision 10; 144.564, subdivision 3; 144A.483, subdivision 2; 150A.091, subdivisions 3, 15, 17; 245.981; 245A.03, subdivision 5; 245F.15, subdivision 2; 245G.11, subdivision 2; 246.0136; 246.131; 246B.03, subdivision 2; 246B.035; 252.025, subdivision 7; 252.035; 254A.04; 254A.21; 254B.14, subdivisions 1, 2, 3, 4, 6; 256.01, subdivision 31; 256B.057, subdivision 7; 256B.0638, subdivision 7; 256B.0911, subdivisions 2b, 2c, 3, 3b, 3g, 4d, 4e, 5, 6; 256B.0943, subdivision 8a; 256B.69, subdivision 20; 256D.055; 256R.08, subdivision 2; 501C.0408, subdivision 4; 501C.1206; Minnesota Statutes 2021 Supplement, sections 144G.07, subdivision 6; 254B.14, subdivision 5; 256B.0911, subdivisions 1a, 3a, 3f; Laws 1998, chapter 382, article 1, section 23; Minnesota Rules, parts 2960.0460, subpart 2; 9530.6565, subpart 2; 9555.6255."

The motion prevailed. So the amendment was adopted.

H.F. No. 4065 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Abeler	Draheim	Ingebrigtsen	Marty	Rosen
Anderson	Duckworth	Isaacson	Mathews	Ruud
Bakk	Dziedzic	Jasinski	McEwen	Senjem
Benson	Eaton	Johnson	Miller	Tomassoni
Bigham	Eichorn	Johnson Stewart	Murphy	Torres Ray
Carlson	Eken	Kent	Nelson	Utke
Chamberlain	Fateh	Kiffmeyer	Newman	Weber
Champion	Frentz	Klein	Newton	Westrom
Clausen	Gazelka	Koran	Osmek	Wiger
Coleman	Goggin	Kunesh	Pappas	Wiklund
Cwodzinski	Hawj	Lang	Port	
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Housley, Ingebrigtsen, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Champion, Dziedzic, Fateh, Kent, Klein, McEwen, Newton, and Wiklund.

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

### SPECIAL ORDER

**S.F. No. 4116:** A bill for an act relating to education; making forecast adjustments; making technical changes to state financial policy; repealing obsolete statutes; amending Minnesota Statutes 2020, sections 16A.011, by adding a subdivision; 16A.103, by adding a subdivision; 16A.152, subdivision 1b; 16A.97; 16A.99, subdivision 4; Minnesota Statutes 2021 Supplement, section 16A.152, subdivision 2; Laws 2021, First Special Session chapter 7, article 16, section 2, subdivisions 29, 31, 33; article 17, sections 3; 6; 10; 11; 12; 17, subdivision 3; 19; Laws 2021, First Special Session chapter 13, article 1, section 10, subdivisions 2, 3, 4, 5, 6, 7, 9; article 2, section 4,

subdivisions 2, 3, 4, 12, 27; article 3, section 7, subdivision 7; article 5, section 3, subdivisions 2, 3, 4, 5; article 7, section 2, subdivisions 2, 3; article 8, section 3, subdivisions 2, 3, 4; article 9, section 4, subdivisions 5, 6, 12; article 10, section 1, subdivisions 2, 5, 8; repealing Minnesota Statutes 2020, section 16A.98.

Senator Pratt moved to amend S.F. No. 4116 as follows:

Page 23, after line 21, insert:

#### "ARTICLE 4

#### MISCELLANEOUS

Section 1. Laws 2022, chapter 50, article 1, section 1, is amended to read:

#### Section 1. **APPROPRIATION; UNEMPLOYMENT INSURANCE TRUST FUND LOAN REPAYMENT AND REPLENISHMENT.**

Subdivision 1. **Appropriation.** \$2,324,175,000 from the state fiscal recovery federal fund and \$405,825,000 from the general fund in fiscal year 2022 are appropriated to the commissioner of employment and economic development for the purposes of this ~~section~~ article.

Subd. 2. **Repayment.** Within ten days following enactment of this section, the commissioner must determine the sum of any outstanding loans and any interest accrued on the loans from the federal unemployment insurance trust fund, and issue payments to the federal unemployment trust fund equal to that sum.

Subd. 3. **Replenishment.** Following the full repayment of outstanding loans from the federal unemployment insurance trust fund, the commissioner must deposit into the unemployment insurance trust fund all the remaining money appropriated ~~in~~ for this section.

Sec. 2. Laws 2022, chapter 50, article 2, section 2, subdivision 5, is amended to read:

Subd. 5. **Eligibility; payments.** (a) After the deadline for applications under subdivision 4 has elapsed, the commissioner of revenue must determine the payment amount based on available appropriations and the number of applications received from eligible frontline workers and the number of eligible family child care providers reported by the commissioner of human services under the Family Child Care Provider Onetime Payments Program. The payment amount must be the same for each eligible frontline worker and eligible family child care provider, and must not exceed \$1,500.

(b) As soon as practicable, the commissioner of revenue shall transfer to the commissioner of human services the amount necessary to make onetime payments of the amount determined under paragraph (a) to all family child care providers deemed by the commissioner of human services to be eligible for the Family Child Care Provider Onetime Payments Program.

~~(b)~~ (c) As soon as practicable, the commissioner of revenue must make payments of the amount determined under paragraph (a) to all eligible frontline workers who applied in accordance with subdivision 4.

~~(e)~~ (d) The commissioner of revenue may contract with a third party to implement part or all of the payment process required under this subdivision.

~~(d)~~ (e) If the commissioner of revenue determines that a payment was made under this section to an ineligible individual, the commissioner may issue an order of assessment to the individual receiving the payment for the amount of the payment. The order must be made within two years after the date of the payment or six years after the date of the payment in the case of fraud. The audit, assessment, appeal, collection, enforcement, and administrative provisions of Minnesota Statutes, chapters 270C and 289A, apply to the orders issued under this section.

Sec. 3. Laws 2022, chapter 50, article 2, section 2, subdivision 11, is amended to read:

Subd. 11. **Appropriations.** (a) \$500,000,000 in fiscal year 2022 is appropriated from the general fund to the commissioner of revenue for payments under this section. This is a onetime appropriation.

(b) \$11,650,000 in fiscal year 2022 is appropriated from the general fund to the commissioner of labor and industry for administrative costs to implement the payments under this section.

(c) The commissioner of labor and industry may transfer money from this appropriation to the commissioner of revenue or the commissioner of employment and economic development for administrative costs to implement the program and payments under this section.

(d) Up to \$5,000,000 of the appropriation under paragraph (a) is for the commissioner of human services to provide frontline child care worker payments. The commissioner may use up to \$326,000 of this amount for administration of these payments.

(e) The appropriations in this subdivision are available until June 30, 2023.

Sec. 4. **FAMILY CHILD CARE PROVIDER ONETIME PAYMENTS.**

Subdivision 1. Family child care onetime payments. The commissioner of human services shall make onetime payments to eligible family child care providers to recognize their service as critical workers during the COVID-19 pandemic. Payments made to family child care providers shall be equal to payments made to frontline workers in accordance with Laws 2022, chapter 50, article 2.

Subd. 2. Eligible providers. (a) A provider is eligible to receive a payment under this section if the provider:

(1) was a family or group family child care provider licensed under Minnesota Statutes, chapter 245A, following licensing standards in Minnesota Rules, chapter 9502, and open and operating for at least 120 hours between March 15, 2020, and June 30, 2021; and

(2) is not eligible to and will not receive a frontline worker payment, as provided in Laws 2022, chapter 50, article 2.

(b) The provider must not currently be or have been at any time during the period between March 15, 2020, and June 30, 2021:

(1) the subject of a finding of fraud;

(2) prohibited from receiving public funds under Minnesota Statutes, section 245.095; or

(3) under revocation, suspension, temporary immediate suspension, or decertification, regardless of whether the action is under appeal.

Subd. 3. **Application; commissioner responsibilities.** (a) To qualify for a payment under this section, an eligible provider must apply to the commissioner of human services in the form and manner specified by the commissioner.

(b) As soon as practicable after final enactment, the commissioner must establish a process for accepting applications for payments under this section and begin accepting applications. The commissioner must not accept an application submitted more than 45 days after opening the application period.

Subd. 4. **Number of eligible providers.** The commissioner of human services must provide the commissioner of revenue with the number of family child care providers that are eligible for payments under this section. The commissioner of revenue shall include the number of eligible family child care providers when determining the payment amount for frontline workers in accordance with Laws 2022, chapter 50, article 2, subdivision 5.

Subd. 5. **Data practices.** (a) Data collected or created by the commissioner of human services because a provider has sought information about, applied for, been denied, or received a payment under this section are classified as not public data, as defined in Minnesota Statutes, section 13.02, subdivision 8a.

(b) Data classified as not public data may be shared or disclosed between the commissioners of human services, revenue, employment and economic development, labor and industry; entities defined as part of the welfare system under Minnesota Statutes, section 13.46, subdivision 1, paragraph (c); and any third-party vendor contracted with under subdivision 4, to the extent necessary to verify eligibility and administer payments under this section, and as otherwise authorized by law.

Subd. 6. **Payments not to be considered income.** (a) For the purposes of this subdivision, "subtraction" has the meaning given in Minnesota Statutes, section 290.0132, subdivision 1, and the rules in that subdivision apply for this subdivision. The definitions in Minnesota Statutes, section 290.01, apply to this subdivision.

(b) The amount of family child care onetime payments received under this section is a subtraction.

(c) Family child care onetime payments under this section are excluded from income, as defined in Minnesota Statutes, sections 290.0674, subdivision 2a, and 290A.03, subdivision 3.

(d) Notwithstanding any law to the contrary, payments under this section must not be considered income, assets, or personal property for purposes of determining eligibility or recertifying eligibility for:

(1) child care assistance programs under Minnesota Statutes, chapter 119B;

(2) general assistance, Minnesota supplemental aid, and food support under Minnesota Statutes, chapter 256D;

(3) housing support under Minnesota Statutes, chapter 256I;

(4) Minnesota family investment program and diversionary work program under Minnesota Statutes, chapter 256J; and

(5) economic assistance programs under Minnesota Statutes, chapter 256P.

(e) The commissioner of human services must not consider family child care onetime payments under this section as income or assets under Minnesota Statutes, section 256B.056, subdivision 1a, paragraph (a), 3, or 3c, or for persons with eligibility determined under Minnesota Statutes, section 256B.057, subdivision 3, 3a, or 3b.

Subd. 7. **Report.** No later than 90 days following the end of the payments to eligible providers under this section, the commissioner of human services shall report to the legislative committees with jurisdiction over human services and early childhood care and education about the program established under this section. The report must include:

(1) the payment amount paid to eligible providers;

(2) the number of eligible providers who applied, including the number in each county; and

(3) the number of applications that were denied and the reason for denial.

Subd. 8. **Separate and distinct program.** The Family Child Care Provider Onetime Payments Program is separate and distinct from the Frontline Worker Payments Program established in Laws 2022, chapter 50, article 2. The Family Child Care Provider Onetime Payment Program is not subject to the Frontline Worker Payments Program requirements and the Frontline Worker Payments Program is not subject to the Family Child Care Provider Onetime Payment Program requirements."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 4116 was read the third time, as amended, and placed on its final passage.

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

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Abeler	Dornink	Housley	Latz	Port
Anderson	Draheim	Howe	Limmer	Pratt
Bakk	Duckworth	Ingebrigtsen	López Franzen	Putnam
Benson	Dziedzic	Isaacson	Marty	Rarick
Bigham	Eaton	Jasinski	Mathews	Rosen
Carlson	Eichorn	Johnson	McEwen	Ruud
Chamberlain	Eken	Johnson Stewart	Miller	Senjem
Champion	Fateh	Kent	Murphy	Tomassoni
Clausen	Frentz	Kiffmeyer	Nelson	Torres Ray
Coleman	Gazelka	Klein	Newman	Utke
Cwodzinski	Goggin	Koran	Newton	Weber
Dahms	Hawj	Kunesh	Osmek	Westrom
Dibble	Hoffman	Lang	Pappas	Wiger

Wiklund

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Anderson, Housley, Ingebrigtsen, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Champion, Dziedzic, Fateh, Kent, Klein, McEwen, Newton, and Wiklund.

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

### SPECIAL ORDER

**H.F. No. 3400:** A bill for an act relating to business organizations; governing fraudulent business filings; amending Minnesota Statutes 2020, sections 336.9-510; 336.9-516; proposing coding for new law in Minnesota Statutes, chapter 336.

H.F. No. 3400 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 66 and nays 0, as follows:

Those who voted in the affirmative were:

Abeler	Draheim	Ingebrigtsen	Marty	Rosen
Anderson	Duckworth	Isaacson	Mathews	Ruud
Bakk	Dziedzic	Jasinski	McEwen	Senjem
Benson	Eaton	Johnson	Miller	Tomassoni
Bigham	Eichorn	Johnson Stewart	Murphy	Torres Ray
Carlson	Eken	Kent	Nelson	Utke
Chamberlain	Fateh	Kiffmeyer	Newman	Weber
Champion	Frentz	Klein	Newton	Westrom
Clausen	Gazelka	Koran	Osmek	Wiger
Coleman	Goggin	Kunesh	Pappas	Wiklund
Cwodzinski	Hawj	Lang	Port	
Dahms	Hoffman	Latz	Pratt	
Dibble	Housley	Limmer	Putnam	
Dornink	Howe	López Franzen	Rarick	

Pursuant to Rule 40, Senator Jasinski cast the affirmative vote on behalf of the following Senators: Abeler, Anderson, Housley, Ingebrigtsen, and Tomassoni.

Pursuant to Rule 40, Senator Port cast the affirmative vote on behalf of the following Senators: Champion, Dziedzic, Fateh, Kent, Klein, McEwen, Newton, and Wiklund.

So the bill passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Senator Miller moved that S.F. No. 4593 be withdrawn from the Committee on Rules and Administration, given a second reading, and placed on General Orders. The motion prevailed.

**S.F. No. 4593:** A bill for an act relating to legislative enactments; correcting miscellaneous oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 2020, section 179A.20, subdivision 4.

S.F. No. 4593 was read the second time.

### SUSPENSION OF RULES

Senator Miller moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to S.F. No. 4593 and that the rules of the Senate be so far suspended as to give S.F. No. 4593, now on General Orders, its third reading and place it on its final passage. The motion prevailed.

S.F. No. 4593 was read the third time.

### RECONSIDERATION

Senator Johnson moved the third reading of S.F. No. 4593 be now reconsidered. The motion prevailed. So the third reading was reconsidered.

Senator Johnson moved to amend S.F. No. 4593 as follows:

Page 1, after line 5, insert:

"Section 1. Minnesota Statutes 2020, section 3.011, is amended to read:

#### **3.011 SESSIONS.**

The legislature shall meet at the seat of government on the first Tuesday after the ~~first~~ second Monday in January of each odd-numbered year. ~~When the first Monday in January falls on January 1, it shall meet on the first Wednesday after the first Monday.~~ It shall also meet when called by the governor to meet in special session."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

S.F. No. 4593 was read the third time, as amended.

Senator Latz moved that S.F. No. 4593 be laid on the table. The motion prevailed.

### RECESS

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

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



**MOTIONS AND RESOLUTIONS - CONTINUED**

Senator Marty moved that his name be stricken as a co-author to S.F. No. 3633. The motion prevailed.

Senator McEwen moved that the name of Senator Wiger be added as a co-author to S.F. No. 3633. The motion prevailed.

Senator Rarick moved that the name of Senator Putnam be added as a co-author to S.F. No. 4096. The motion prevailed.

**Senators Marty, Eken, Rest, Wiger, and Port introduced --**

**Senate Resolution No. 149:** A Senate resolution recognizing and thanking Minnesota's local election judges.

Referred to the Committee on Rules and Administration.

**Senators Miller and López Franzen introduced --**

**Senate Resolution No. 150:** A Senate resolution relating to notifying the House of Representatives the Senate is about to adjourn sine die.

BE IT RESOLVED, by the Senate of the State of Minnesota:

That the Secretary of the Senate shall notify the House of Representatives the Senate is about to adjourn sine die.

Senator Miller moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

**Senators Miller and López Franzen introduced --**

**Senate Resolution No. 151:** A Senate resolution relating to notifying the Governor the Senate is about to adjourn sine die.

BE IT RESOLVED, by the Senate of the State of Minnesota:

That the Secretary of the Senate shall notify The Honorable Tim Walz, Governor of the State of Minnesota, the Senate is ready to adjourn sine die.

Senator Miller moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

**MEMBERS EXCUSED**

Senator Hawj was excused from the Session of today from 1:40 to 2:15 p.m. Senator Rest was excused from the Session of today at 10:30 p.m.

**ADJOURNMENT**

Senator Rosen moved that the Senate do now adjourn sine die. The motion prevailed.

Cal R. Ludeman, Secretary of the Senate