

116.1

**ARTICLE 3**

78.23

116.2

**CONTINUING CARE**

78.24

**ARTICLE 2****CONTINUING CARE**

116.3 Section 1. Minnesota Statutes 2016, section 144.0724, subdivision 4, is amended to read:

116.4 Subd. 4. **Resident assessment schedule.** (a) A facility must conduct and electronically  
 116.5 submit to the commissioner of health MDS assessments that conform with the assessment  
 116.6 schedule defined by Code of Federal Regulations, title 42, section 483.20, and published  
 116.7 by the United States Department of Health and Human Services, Centers for Medicare and  
 116.8 Medicaid Services, in the Long Term Care Assessment Instrument User's Manual, version  
 116.9 3.0, and subsequent updates when issued by the Centers for Medicare and Medicaid Services.  
 116.10 The commissioner of health may substitute successor manuals or question and answer  
 116.11 documents published by the United States Department of Health and Human Services,  
 116.12 Centers for Medicare and Medicaid Services, to replace or supplement the current version  
 116.13 of the manual or document.

116.14 (b) The assessments used to determine a case mix classification for reimbursement  
 116.15 include the following:

116.16 (1) a new admission assessment;

116.17 (2) an annual assessment which must have an assessment reference date (ARD) within  
 116.18 92 days of the previous assessment and the previous comprehensive assessment;

116.19 (3) a significant change in status assessment must be completed within 14 days of the  
 116.20 identification of a significant change, whether improvement or decline, and regardless of  
 116.21 the amount of time since the last significant change in status assessment;

116.22 (4) all quarterly assessments must have an assessment reference date (ARD) within 92  
 116.23 days of the ARD of the previous assessment;

116.24 (5) any significant correction to a prior comprehensive assessment, if the assessment  
 116.25 being corrected is the current one being used for RUG classification; and

116.26 (6) any significant correction to a prior quarterly assessment, if the assessment being  
 116.27 corrected is the current one being used for RUG classification.

116.28 (c) In addition to the assessments listed in paragraph (b), the assessments used to  
 116.29 determine nursing facility level of care include the following:

116.30 (1) preadmission screening completed under section 256.975, subdivisions 7a to 7c, by  
 116.31 the Senior LinkAge Line or other organization under contract with the Minnesota Board on  
 116.32 Aging; and

117.1 (2) a nursing facility level of care determination as provided for under section 256B.0911,  
 117.2 subdivision 4e, as part of a face-to-face long-term care consultation assessment completed  
 117.3 under section 256B.0911, by a county, tribe, or managed care organization under contract  
 117.4 with the Department of Human Services.

117.5 Sec. 2. Minnesota Statutes 2016, section 144.0724, subdivision 6, is amended to read:

117.6 Subd. 6. **Penalties for late or nonsubmission.** (a) A facility that fails to complete or  
 117.7 submit an assessment according to subdivisions 4 and 5 for a RUG-IV classification within  
 117.8 seven days of the time requirements listed in the Long-Term Care Facility Resident  
 117.9 Assessment Instrument User's Manual is subject to a reduced rate for that resident. The  
 117.10 reduced rate shall be the lowest rate for that facility. The reduced rate is effective on the  
 117.11 day of admission for new admission assessments, on the ARD for significant change in  
 117.12 status assessments, or on the day that the assessment was due for all other assessments and  
 117.13 continues in effect until the first day of the month following the date of submission and  
 117.14 acceptance of the resident's assessment.

117.15 (b) If loss of revenue due to penalties incurred by a facility for any period of 92 days  
 117.16 are equal to or greater than ~~4~~ 0.1 percent of the total operating costs on the facility's most  
 117.17 recent annual statistical and cost report, a facility may apply to the commissioner of human  
 117.18 services for a reduction in the total penalty amount. The commissioner of human services,  
 117.19 in consultation with the commissioner of health, may, at the sole discretion of the  
 117.20 commissioner of human services, limit the penalty for residents covered by medical assistance  
 117.21 to ~~5~~ ten days.

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

78.25 Section 1. Minnesota Statutes 2016, section 144.0724, subdivision 6, is amended to read:

78.26 Subd. 6. **Penalties for late or nonsubmission.** (a) A facility that fails to complete or  
 78.27 submit an assessment according to subdivisions 4 and 5 for a RUG-IV classification within  
 78.28 seven days of the time requirements listed in the Long-Term Care Facility Resident  
 78.29 Assessment Instrument User's Manual is subject to a reduced rate for that resident. The  
 78.30 reduced rate shall be the lowest rate for that facility. The reduced rate is effective on the  
 78.31 day of admission for new admission assessments, on the ARD for significant change in  
 79.1 status assessments, or on the day that the assessment was due for all other assessments and  
 79.2 continues in effect until the first day of the month following the date of submission and  
 79.3 acceptance of the resident's assessment.

79.4 (b) If loss of revenue due to penalties incurred by a facility for any period of 92 days  
 79.5 are equal to or greater than ~~4~~ 0.1 percent of the total operating costs on the facility's most  
 79.6 recent annual statistical and cost report, a facility may apply to the commissioner of human  
 79.7 services for a reduction in the total penalty amount. The commissioner of human services,  
 79.8 in consultation with the commissioner of health, may, at the sole discretion of the  
 79.9 commissioner of human services, limit the penalty for residents covered by medical assistance  
 79.10 to ~~5~~ ten days.

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

79.12 Sec. 2. **Minnesota Statutes 2016, section 144.562, subdivision 2, is amended to read:**

79.13 Subd. 2. **Eligibility for license condition.** (a) A hospital is not eligible to receive a  
 79.14 license condition for swing beds unless (1) it either has a licensed bed capacity of less than  
 79.15 50 beds defined in the federal Medicare regulations, Code of Federal Regulations, title 42,  
 79.16 section 482.66, or it has a licensed bed capacity of 50 beds or more and has swing beds that  
 79.17 were approved for Medicare reimbursement before May 1, 1985, or it has a licensed bed  
 79.18 capacity of less than 65 beds and the available nursing homes within 50 miles have had, in  
 79.19 the aggregate, an average occupancy rate of 96 percent or higher in the most recent two  
 79.20 years as documented on the statistical reports to the Department of Health; and (2) it is  
 79.21 located in a rural area as defined in the federal Medicare regulations, Code of Federal  
 79.22 Regulations, title 42, section 482.66.

79.23 (b) Except for those critical access hospitals established under section 144.1483, clause  
 79.24 (9), and section 1820 of the federal Social Security Act, United States Code, title 42, section  
 79.25 1395i-4, that have an attached nursing home or that owned a nursing home located in the  
 79.26 same municipality as of May 1, 2005, eligible hospitals are allowed a total of 2,000 days  
 79.27 of swing bed use per year. Critical access hospitals that have an attached nursing home or  
 79.28 that owned a nursing home located in the same municipality as of May 1, 2005, are allowed  
 79.29 swing bed use as provided in federal law.

79.30 (c) Except for critical access hospitals that have an attached nursing home or that owned  
 79.31 a nursing home located in the same municipality as of May 1, 2005, the commissioner of  
 79.32 health may approve swing bed use beyond 2,000 days as long as there are no Medicare  
 79.33 certified skilled nursing facility beds available within 25 miles of that hospital that are  
 79.34 willing to admit the patient and the patient agrees to the referral being sent to the skilled  
 80.1 nursing facility. Critical access hospitals exceeding 2,000 swing bed days must maintain  
 80.2 documentation that they have contacted skilled nursing facilities within 25 miles to determine  
 80.3 if any skilled nursing facility beds are available that are willing to admit the patient and the  
 80.4 patient agrees to the referral being sent to the skilled nursing facility.

80.5 (d) After reaching 2,000 days of swing bed use in a year, an eligible hospital to which  
 80.6 this limit applies may admit six additional patients to swing beds each year without seeking  
 80.7 approval from the commissioner or being in violation of this subdivision. These six swing  
 80.8 bed admissions are exempt from the limit of 2,000 annual swing bed days for hospitals  
 80.9 subject to this limit.

80.10 (e) A health care system that is in full compliance with this subdivision may allocate its  
 80.11 total limit of swing bed days among the hospitals within the system, provided that no hospital  
 80.12 in the system without an attached nursing home may exceed 2,000 swing bed days per year.

#### THE FOLLOWING SECTION IS FROM HOUSE ARTICLE 9.

117.23 Sec. 3. Minnesota Statutes 2016, section 144A.071, subdivision 4d, is amended to read:

117.24 Subd. 4d. **Consolidation of nursing facilities.** (a) The commissioner of health, in  
 117.25 consultation with the commissioner of human services, may approve a request for  
 117.26 consolidation of nursing facilities which includes the closure of one or more facilities and  
 117.27 the upgrading of the physical plant of the remaining nursing facility or facilities, the costs  
 117.28 of which exceed the threshold project limit under subdivision 2, clause (a). The  
 117.29 commissioners shall consider the criteria in this section, section 144A.073, and section  
 117.30 ~~256B.437~~ 256R.40, in approving or rejecting a consolidation proposal. In the event the  
 117.31 commissioners approve the request, the commissioner of human services shall calculate an  
 117.32 external fixed costs rate adjustment according to clauses (1) to (3):

318.23 Sec. 8. Minnesota Statutes 2016, section 144A.071, subdivision 4d, is amended to read:

318.24 Subd. 4d. **Consolidation of nursing facilities.** (a) The commissioner of health, in  
 318.25 consultation with the commissioner of human services, may approve a request for  
 318.26 consolidation of nursing facilities which includes the closure of one or more facilities and  
 318.27 the upgrading of the physical plant of the remaining nursing facility or facilities, the costs  
 318.28 of which exceed the threshold project limit under subdivision 2, clause (a). The  
 318.29 commissioners shall consider the criteria in this section, section 144A.073, and section  
 318.30 ~~256B.437~~ 256R.40, in approving or rejecting a consolidation proposal. In the event the  
 318.31 commissioners approve the request, the commissioner of human services shall calculate an  
 318.32 external fixed costs rate adjustment according to clauses (1) to (3):

118.1 (1) the closure of beds shall not be eligible for a planned closure rate adjustment under  
118.2 section ~~256B.437, subdivision 6~~ 256R.40, subdivision 5;

118.3 (2) the construction project permitted in this clause shall not be eligible for a threshold  
118.4 project rate adjustment under section 256B.434, subdivision 4f, or a moratorium exception  
118.5 adjustment under section 144A.073; and

118.6 (3) the payment rate for external fixed costs for a remaining facility or facilities shall  
118.7 be increased by an amount equal to 65 percent of the projected net cost savings to the state  
118.8 calculated in paragraph (b), divided by the state's medical assistance percentage of medical  
118.9 assistance dollars, and then divided by estimated medical assistance resident days, as  
118.10 determined in paragraph (c), of the remaining nursing facility or facilities in the request in  
118.11 this paragraph. The rate adjustment is effective on the ~~later of the first day of the month~~  
118.12 ~~following~~ first day of the month of January or July, whichever date occurs first following  
118.13 ~~both the completion of the construction upgrades in the consolidation plan or the first day~~  
118.14 ~~of the month following and the complete closure of a facility~~ closure of the facility or  
118.15 facilities designated for closure in the consolidation plan. If more than one facility is receiving  
118.16 upgrades in the consolidation plan, each facility's date of construction completion must be  
118.17 evaluated separately.

118.18 (b) For purposes of calculating the net cost savings to the state, the commissioner shall  
118.19 consider clauses (1) to (7):

118.20 (1) the annual savings from estimated medical assistance payments from the net number  
118.21 of beds closed taking into consideration only beds that are in active service on the date of  
118.22 the request and that have been in active service for at least three years;

118.23 (2) the estimated annual cost of increased case load of individuals receiving services  
118.24 under the elderly waiver;

118.25 (3) the estimated annual cost of elderly waiver recipients receiving support under group  
118.26 residential housing;

118.27 (4) the estimated annual cost of increased case load of individuals receiving services  
118.28 under the alternative care program;

118.29 (5) the annual loss of license surcharge payments on closed beds;

118.30 (6) the savings from not paying planned closure rate adjustments that the facilities would  
118.31 otherwise be eligible for under section ~~256B.437~~ 256R.40; and

319.1 (1) the closure of beds shall not be eligible for a planned closure rate adjustment under  
319.2 section ~~256B.437, subdivision 6~~ 256R.40, subdivision 5;

319.3 (2) the construction project permitted in this clause shall not be eligible for a threshold  
319.4 project rate adjustment under section 256B.434, subdivision 4f, or a moratorium exception  
319.5 adjustment under section 144A.073; and

319.6 (3) the payment rate for external fixed costs for a remaining facility or facilities shall  
319.7 be increased by an amount equal to 65 percent of the projected net cost savings to the state  
319.8 calculated in paragraph (b), divided by the state's medical assistance percentage of medical  
319.9 assistance dollars, and then divided by estimated medical assistance resident days, as  
319.10 determined in paragraph (c), of the remaining nursing facility or facilities in the request in  
319.11 this paragraph. The rate adjustment is effective on the ~~later of the first day of the month~~  
319.12 ~~following completion of the construction upgrades in the consolidation plan or the first day~~  
319.13 ~~of the month following the complete~~ closure of a facility designated for closure in the  
319.14 consolidation plan. If more than one facility is receiving upgrades in the consolidation plan,  
319.15 each facility's date of construction completion must be evaluated separately.

319.16 (b) For purposes of calculating the net cost savings to the state, the commissioner shall  
319.17 consider clauses (1) to (7):

319.18 (1) the annual savings from estimated medical assistance payments from the net number  
319.19 of beds closed taking into consideration only beds that are in active service on the date of  
319.20 the request and that have been in active service for at least three years;

319.21 (2) the estimated annual cost of increased case load of individuals receiving services  
319.22 under the elderly waiver;

319.23 (3) the estimated annual cost of elderly waiver recipients receiving support under group  
319.24 residential housing;

319.25 (4) the estimated annual cost of increased case load of individuals receiving services  
319.26 under the alternative care program;

319.27 (5) the annual loss of license surcharge payments on closed beds;

319.28 (6) the savings from not paying planned closure rate adjustments that the facilities would  
319.29 otherwise be eligible for under section ~~256B.437~~ 256R.40; and

119.1 (7) the savings from not paying external fixed costs payment rate adjustments from  
 119.2 submission of renovation costs that would otherwise be eligible as threshold projects under  
 119.3 section 256B.434, subdivision 4f.

119.4 (c) For purposes of the calculation in paragraph (a), clause (3), the estimated medical  
 119.5 assistance resident days of the remaining facility or facilities shall be computed assuming  
 119.6 95 percent occupancy multiplied by the historical percentage of medical assistance resident  
 119.7 days of the remaining facility or facilities, as reported on the facility's or facilities' most  
 119.8 recent nursing facility statistical and cost report filed before the plan of closure is submitted,  
 119.9 multiplied by 365.

119.10 (d) For purposes of net cost of savings to the state in paragraph (b), the average occupancy  
 119.11 percentages will be those reported on the facility's or facilities' most recent nursing facility  
 119.12 statistical and cost report filed before the plan of closure is submitted, and the average  
 119.13 payment rates shall be calculated based on the approved payment rates in effect at the time  
 119.14 the consolidation request is submitted.

119.15 (e) To qualify for the external fixed costs payment rate adjustment under this subdivision,  
 119.16 the closing facilities shall:

119.17 (1) submit an application for closure according to section ~~256B.437, subdivision 3,~~  
 119.18 256R.40, subdivision 2; and

119.19 (2) follow the resident relocation provisions of section 144A.161.

119.20 (f) The county or counties in which a facility or facilities are closed under this subdivision  
 119.21 shall not be eligible for designation as a hardship area under subdivision 3 for five years  
 119.22 from the date of the approval of the proposed consolidation. The applicant shall notify the  
 119.23 county of this limitation and the county shall acknowledge this in a letter of support.

119.24 **EFFECTIVE DATE.** This section is effective for consolidations occurring after July  
 119.25 1, 2017.

319.30 (7) the savings from not paying external fixed costs payment rate adjustments from  
 319.31 submission of renovation costs that would otherwise be eligible as threshold projects under  
 319.32 section 256B.434, subdivision 4f.

320.1 (c) For purposes of the calculation in paragraph (a), clause (3), the estimated medical  
 320.2 assistance resident days of the remaining facility or facilities shall be computed assuming  
 320.3 95 percent occupancy multiplied by the historical percentage of medical assistance resident  
 320.4 days of the remaining facility or facilities, as reported on the facility's or facilities' most  
 320.5 recent nursing facility statistical and cost report filed before the plan of closure is submitted,  
 320.6 multiplied by 365.

320.7 (d) For purposes of net cost of savings to the state in paragraph (b), the average occupancy  
 320.8 percentages will be those reported on the facility's or facilities' most recent nursing facility  
 320.9 statistical and cost report filed before the plan of closure is submitted, and the average  
 320.10 payment rates shall be calculated based on the approved payment rates in effect at the time  
 320.11 the consolidation request is submitted.

320.12 (e) To qualify for the external fixed costs payment rate adjustment under this subdivision,  
 320.13 the closing facilities shall:

320.14 (1) submit an application for closure according to section ~~256B.437, subdivision 3,~~  
 320.15 256R.40, subdivision 2; and

320.16 (2) follow the resident relocation provisions of section 144A.161.

320.17 (f) The county or counties in which a facility or facilities are closed under this subdivision  
 320.18 shall not be eligible for designation as a hardship area under subdivision 3 for five years  
 320.19 from the date of the approval of the proposed consolidation. The applicant shall notify the  
 320.20 county of this limitation and the county shall acknowledge this in a letter of support.

## THE FOLLOWING SECTIONS ARE FROM HOUSE ARTICLE 2.

80.13 Sec. 3. Minnesota Statutes 2016, section 144A.74, is amended to read:

80.14 **144A.74 MAXIMUM CHARGES.**

80.15 A supplemental nursing services agency must not bill or receive payments from a nursing  
 80.16 home licensed under this chapter at a rate higher than 150 percent of the sum of the weighted  
 80.17 average wage rate, plus a factor determined by the commissioner to incorporate payroll  
 80.18 taxes as defined in Minnesota Rules, part 9549.0020, subpart 33 section 256R.02, subdivision

80.19 37, for the applicable employee classification for the geographic group to which the nursing  
 80.20 home is assigned under Minnesota Rules, part 9549.0052. The weighted average wage rates  
 80.21 must be determined by the commissioner of human services and reported to the commissioner  
 80.22 of health on an annual basis. Wages are defined as hourly rate of pay and shift differential,  
 80.23 including weekend shift differential and overtime. Facilities shall provide information  
 80.24 necessary to determine weighted average wage rates to the commissioner of human services  
 80.25 in a format requested by the commissioner. The maximum rate must include all charges for  
 80.26 administrative fees, contract fees, or other special charges in addition to the hourly rates for  
 80.27 the temporary nursing pool personnel supplied to a nursing home. A nursing home that pays  
 80.28 for the actual travel and housing costs for supplemental nursing services agency staff working  
 80.29 at the facility and that pays these costs to the employee, the agency, or another vendor, is  
 80.30 not violating the limitation on charges described in this section.

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

**HOUSE ART. 2, SEC. 4 - SEE SENATE ART. 1, SEC. 2**

**HOUSE ART. 2, SEC. 5 - SEE SENATE ART. 7, SEC. 34**

**HOUSE ART. 2, SEC. 6 - SEE SENATE ART. 1, SEC. 3**

119.26 Sec. 4. Minnesota Statutes 2016, section 256.975, subdivision 7, is amended to read:

119.27 Subd. 7. **Consumer information and assistance and long-term care options**  
 119.28 **counseling; Senior LinkAge Line.** (a) The Minnesota Board on Aging shall operate a  
 119.29 statewide service to aid older Minnesotans and their families in making informed choices  
 119.30 about long-term care options and health care benefits. Language services to persons with  
 119.31 limited English language skills may be made available. The service, known as Senior  
 119.32 LinkAge Line, shall serve older adults as the designated Aging and Disability Resource  
 119.33 Center under United States Code, title 42, section 3001, the Older Americans Act  
 120.1 Amendments of 2006 in partnership with the Disability Linkage Line under section 256.01,  
 120.2 subdivision 24, and must be available during business hours through a statewide toll-free  
 120.3 number and the Internet. The Minnesota Board on Aging shall consult with, and when  
 120.4 appropriate work through, the area agencies on aging counties, and other entities that serve  
 120.5 aging and disabled populations of all ages, to provide and maintain the telephone  
 120.6 infrastructure and related support for the Aging and Disability Resource Center partners  
 120.7 which agree by memorandum to access the infrastructure, including the designated providers  
 120.8 of the Senior LinkAge Line and the Disability Linkage Line.

120.9 (b) The service must provide long-term care options counseling by assisting older adults,  
 120.10 caregivers, and providers in accessing information and options counseling about choices in  
 120.11 long-term care services that are purchased through private providers or available through  
 120.12 public options. The service must:

- 120.13 (1) develop and provide for regular updating of a comprehensive database that includes  
120.14 detailed listings in both consumer- and provider-oriented formats that can provide search  
120.15 results down to the neighborhood level;
- 120.16 (2) make the database accessible on the Internet and through other telecommunication  
120.17 and media-related tools;
- 120.18 (3) link callers to interactive long-term care screening tools and make these tools available  
120.19 through the Internet by integrating the tools with the database;
- 120.20 (4) develop community education materials with a focus on planning for long-term care  
120.21 and evaluating independent living, housing, and service options;
- 120.22 (5) conduct an outreach campaign to assist older adults and their caregivers in finding  
120.23 information on the Internet and through other means of communication;
- 120.24 (6) implement a messaging system for overflow callers and respond to these callers by  
120.25 the next business day;
- 120.26 (7) link callers with county human services and other providers to receive more in-depth  
120.27 assistance and consultation related to long-term care options;
- 120.28 (8) link callers with quality profiles for nursing facilities and other home and  
120.29 community-based services providers developed by the commissioners of health and human  
120.30 services;
- 120.31 (9) develop an outreach plan to seniors and their caregivers with a particular focus on  
120.32 establishing a clear presence in places that seniors recognize and:
- 121.1 (i) place a significant emphasis on improved outreach and service to seniors and their  
121.2 caregivers by establishing annual plans by neighborhood, city, and county, as necessary, to  
121.3 address the unique needs of geographic areas in the state where there are dense populations  
121.4 of seniors;
- 121.5 (ii) establish an efficient workforce management approach and assign community living  
121.6 specialist staff and volunteers to geographic areas as well as aging and disability resource  
121.7 center sites so that seniors and their caregivers and professionals recognize the Senior  
121.8 LinkAge Line as the place to call for aging services and information;
- 121.9 (iii) recognize the size and complexity of the metropolitan area service system by working  
121.10 with metropolitan counties to establish a clear partnership with them, including seeking  
121.11 county advice on the establishment of local aging and disabilities resource center sites; and

- 121.12 (iv) maintain dashboards with metrics that demonstrate how the service is expanding  
121.13 and extending or enhancing its outreach efforts in dispersed or hard to reach locations in  
121.14 varied population centers;
- 121.15 (10) incorporate information about the availability of housing options, as well as  
121.16 registered housing with services and consumer rights within the MinnesotaHelp.info network  
121.17 long-term care database to facilitate consumer comparison of services and costs among  
121.18 housing with services establishments and with other in-home services and to support financial  
121.19 self-sufficiency as long as possible. Housing with services establishments and their arranged  
121.20 home care providers shall provide information that will facilitate price comparisons, including  
121.21 delineation of charges for rent and for services available. The commissioners of health and  
121.22 human services shall align the data elements required by section 144G.06, the Uniform  
121.23 Consumer Information Guide, and this section to provide consumers standardized information  
121.24 and ease of comparison of long-term care options. The commissioner of human services  
121.25 shall provide the data to the Minnesota Board on Aging for inclusion in the  
121.26 MinnesotaHelp.info network long-term care database;
- 121.27 (11) provide long-term care options counseling. Long-term care options counselors shall:
- 121.28 (i) for individuals not eligible for case management under a public program or public  
121.29 funding source, provide interactive decision support under which consumers, family  
121.30 members, or other helpers are supported in their deliberations to determine appropriate  
121.31 long-term care choices in the context of the consumer's needs, preferences, values, and  
121.32 individual circumstances, including implementing a community support plan;
- 122.1 (ii) provide Web-based educational information and collateral written materials to  
122.2 familiarize consumers, family members, or other helpers with the long-term care basics,  
122.3 issues to be considered, and the range of options available in the community;
- 122.4 (iii) provide long-term care futures planning, which means providing assistance to  
122.5 individuals who anticipate having long-term care needs to develop a plan for the more  
122.6 distant future; and
- 122.7 (iv) provide expertise in benefits and financing options for long-term care, including  
122.8 Medicare, long-term care insurance, tax or employer-based incentives, reverse mortgages,  
122.9 private pay options, and ways to access low or no-cost services or benefits through  
122.10 volunteer-based or charitable programs;
- 122.11 (12) using risk management and support planning protocols, provide long-term care  
122.12 options counseling under clause (13) to current residents of nursing homes deemed  
122.13 appropriate for discharge by the commissioner, ~~former residents of nursing homes who~~  
122.14 ~~were discharged to community settings, and older adults who request service after~~



122.15 ~~consultation with the Senior LinkAge Line under clause (13). The Senior LinkAge Line~~  
 122.16 ~~shall also receive referrals from the residents or staff of nursing homes, who meet a profile~~  
 122.17 ~~that demonstrates that the consumer is either at risk of readmission to a nursing home or~~  
 122.18 ~~hospital, or would benefit from long-term care options counseling to age in place. The Senior~~  
 122.19 ~~LinkAge Line shall identify and contact residents or patients deemed appropriate for~~  
 122.20 ~~discharge by developing targeting criteria and creating a profile in consultation with the~~  
 122.21 ~~commissioner who. The commissioner shall provide designated Senior LinkAge Line contact~~  
 122.22 ~~centers with a list of current or former nursing home residents or people discharged from a~~  
 122.23 ~~hospital or for whom Medicare home care has ended, that meet the criteria as being~~  
 122.24 ~~appropriate for discharge planning long-term care options counseling through a referral via~~  
 122.25 ~~a secure Web portal. Senior LinkAge Line shall provide these residents, if they indicate a~~  
 122.26 ~~preference to receive long-term care options counseling, with initial assessment and, if~~  
 122.27 ~~appropriate, a referral to:~~

122.28 (i) long-term care consultation services under section 256B.0911;

122.29 (ii) designated care coordinators of contracted entities under section 256B.035 for persons  
 122.30 who are enrolled in a managed care plan; or

122.31 (iii) the long-term care consultation team for those who are eligible for relocation service  
 122.32 coordination due to high-risk factors or psychological or physical disability; and

122.33 (13) develop referral protocols and processes that will assist certified health care homes,  
 122.34 Medicare home care, and hospitals to identify at-risk older adults and determine when to  
 123.1 refer these individuals to the Senior LinkAge Line for long-term care options counseling  
 123.2 under this section. The commissioner is directed to work with the commissioner of health  
 123.3 to develop protocols that would comply with the health care home designation criteria and  
 123.4 protocols available at the time of hospital discharge or the end of Medicare home care. The  
 123.5 commissioner shall keep a record of the number of people who choose long-term care  
 123.6 options counseling as a result of this section.

123.7 (c) Nursing homes shall provide contact information to the Senior LinkAge Line for  
 123.8 residents identified in paragraph (b), clause (12), to provide long-term care options counseling  
 123.9 pursuant to paragraph (b), clause (11). The contact information for residents shall include  
 123.10 all information reasonably necessary to contact residents, including first and last names,  
 123.11 permanent and temporary addresses, telephone numbers, and e-mail addresses.

123.12 (d) The Senior LinkAge Line shall determine when it is appropriate to refer a consumer  
 123.13 who receives long-term care options counseling under paragraph (b), clause (12) or (13),  
 123.14 and who uses an unpaid caregiver to the self-directed caregiver service under subdivision  
 123.15 12.

123.16 **EFFECTIVE DATE.** This section is effective July 1, 2017.

123.17 Sec. 5. Minnesota Statutes 2016, section 256.975, is amended by adding a subdivision to  
123.18 read:

123.19 Subd. 12. **Self-directed caregiver grants.** Beginning on July 1, 2019, the Minnesota  
123.20 Board on Aging shall administer self-directed caregiver grants to support at risk family  
123.21 caregivers of older adults or others eligible under the Older Americans Act of 1965, United  
123.22 States Code, title 42, chapter 35, sections 3001 to 3058ff, to sustain family caregivers in  
123.23 the caregivers' roles so older adults can remain at home longer. The board shall give priority  
123.24 to consumers referred under section 256.975, subdivision 7, paragraph (d).

123.25 **EFFECTIVE DATE.** This section is effective July 1, 2017.

86.28 Sec. 7. **[256.9755] CAREGIVER SUPPORT PROGRAMS.**

86.29 Subdivision 1. **Program goals.** It is the goal of all area agencies on aging and caregiver  
86.30 support programs to support family caregivers of persons with Alzheimer's disease or other  
86.31 related dementias who are living in the community by:

87.1 (1) promoting caregiver support programs that serve Minnesotans in their homes and  
87.2 communities; and

87.3 (2) providing, within the limits of available funds, the caregiver support services that  
87.4 will enable the family caregiver to access caregiver support programs in the most  
87.5 cost-effective and efficient manner.

87.6 Subd. 2. **Authority.** The Minnesota Board on Aging shall allocate to area agencies on  
87.7 aging the state and federal funds which are received for the caregiver support program in a  
87.8 manner consistent with federal requirements.

87.9 Subd. 3. **Caregiver support services.** Funds allocated to an area agency on aging for  
87.10 caregiver support services must be used in a manner consistent with the National Family  
87.11 Caregiver Support Program to reach family caregivers of persons with Alzheimer's disease  
87.12 or related dementias. The funds must be used to provide social, nonmedical,  
87.13 community-based services and activities that provide respite for caregivers and social  
87.14 interaction for participants.

**HOUSE ART. 2, SEC. 8 - SEE SENATE ART. 1**

**HOUSE ART. 2, SEC. 9 - SEE SENATE ART. 1**

**HOUSE ART. 2, SEC. 10 - SEE SENATE ART. 1**

**HOUSE ART. 2, SEC. 11 - SEE SENATE ART. 1**

**HOUSE ART. 2, SEC. 12 - SEE SENATE ART. 1**

**HOUSE ART. 2, SEC. 13 - SEE SENATE ART. 1**

**HOUSE ART. 2, SEC. 14 - SEE SENATE ART. 1**

123.26 Sec. 6. Minnesota Statutes 2016, section 256B.0911, subdivision 3a, is amended to read:

123.27 Subd. 3a. **Assessment and support planning.** (a) Persons requesting assessment, services  
123.28 planning, or other assistance intended to support community-based living, including persons  
123.29 who need assessment in order to determine waiver or alternative care program eligibility,  
123.30 must be visited by a long-term care consultation team within 20 calendar days after the date  
123.31 on which an assessment was requested or recommended. Upon statewide implementation  
123.32 of subdivisions 2b, 2c, and 5, this requirement also applies to an assessment of a person  
124.1 requesting personal care assistance services and home care nursing. The commissioner shall  
124.2 provide at least a 90-day notice to lead agencies prior to the effective date of this requirement.  
124.3 Face-to-face assessments must be conducted according to paragraphs (b) to (i).

124.4 (b) Upon implementation of subdivisions 2b, 2c, and 5, lead agencies shall use certified  
124.5 assessors to conduct the assessment. For a person with complex health care needs, a public  
124.6 health or registered nurse from the team must be consulted.

124.7 (c) The MnCHOICES assessment provided by the commissioner to lead agencies must  
124.8 be used to complete a comprehensive, person-centered assessment. The assessment must  
124.9 include the health, psychological, functional, environmental, and social needs of the  
124.10 individual necessary to develop a community support plan that meets the individual's needs  
124.11 and preferences.

124.12 (d) The assessment must be conducted in a face-to-face interview with the person being  
124.13 assessed and the person's legal representative. At the request of the person, other individuals  
124.14 may participate in the assessment to provide information on the needs, strengths, and  
124.15 preferences of the person necessary to develop a community support plan that ensures the  
124.16 person's health and safety. Except for legal representatives or family members invited by  
124.17 the person, persons participating in the assessment may not be a provider of service or have

124.18 any financial interest in the provision of services. For persons who are to be assessed for  
124.19 elderly waiver customized living or adult day services under section 256B.0915, with the  
124.20 permission of the person being assessed or the person's designated or legal representative,  
124.21 the client's current or proposed provider of services may submit a copy of the provider's  
124.22 nursing assessment or written report outlining its recommendations regarding the client's  
124.23 care needs. The person conducting the assessment must notify the provider of the date by  
124.24 which this information is to be submitted. This information shall be provided to the person  
124.25 conducting the assessment prior to the assessment. For a person who is to be assessed for  
124.26 waiver services under section 256B.092 or 256B.49, with the permission of the person being  
124.27 assessed or the person's designated legal representative, the person's current provider of  
124.28 services may submit a written report outlining recommendations regarding the person's care  
124.29 needs prepared by a direct service employee with at least 20 hours of service to that client.  
124.30 The person conducting the assessment or reassessment must notify the provider of the date  
124.31 by which this information is to be submitted. This information shall be provided to the  
124.32 person conducting the assessment and the person or the person's legal representative, and  
124.33 must be considered prior to the finalization of the assessment or reassessment.

125.1 (e) The person or the person's legal representative must be provided with a written  
125.2 community support plan within 40 calendar days of the assessment visit, regardless of  
125.3 whether the individual is eligible for Minnesota health care programs.

125.4 (f) For a person being assessed for elderly waiver services under section 256B.0915, a  
125.5 provider who submitted information under paragraph (d) shall receive a copy of the  
125.6 assessment, the final written community support plan when available, the case mix level,  
125.7 and the Residential Services Workbook.

125.8 (g) The written community support plan must include:

125.9 (1) a summary of assessed needs as defined in paragraphs (c) and (d);

125.10 (2) the individual's options and choices to meet identified needs, including all available  
125.11 options for case management services and providers;

125.12 (3) identification of health and safety risks and how those risks will be addressed,  
125.13 including personal risk management strategies;

125.14 (4) referral information; and

125.15 (5) informal caregiver supports, if applicable.

125.16 For a person determined eligible for state plan home care under subdivision 1a, paragraph  
125.17 (b), clause (1), the person or person's representative must also receive a copy of the home  
125.18 care service plan developed by the certified assessor.

125.19 ~~(h)~~ (h) A person may request assistance in identifying community supports without  
125.20 participating in a complete assessment. Upon a request for assistance identifying community  
125.21 support, the person must be transferred or referred to long-term care options counseling  
125.22 services available under sections 256.975, subdivision 7, and 256.01, subdivision 24, for  
125.23 telephone assistance and follow up.

125.24 ~~(g)~~ (i) The person has the right to make the final decision between institutional placement  
125.25 and community placement after the recommendations have been provided, except as provided  
125.26 in section 256.975, subdivision 7a, paragraph (d).

125.27 ~~(h)~~ (j) The lead agency must give the person receiving assessment or support planning,  
125.28 or the person's legal representative, materials, and forms supplied by the commissioner  
125.29 containing the following information:

125.30 (1) written recommendations for community-based services and consumer-directed  
125.31 options;

126.1 (2) documentation that the most cost-effective alternatives available were offered to the  
126.2 individual. For purposes of this clause, "cost-effective" means community services and  
126.3 living arrangements that cost the same as or less than institutional care. For an individual  
126.4 found to meet eligibility criteria for home and community-based service programs under  
126.5 section 256B.0915 or 256B.49, "cost-effectiveness" has the meaning found in the federally  
126.6 approved waiver plan for each program;

126.7 (3) the need for and purpose of preadmission screening conducted by long-term care  
126.8 options counselors according to section 256.975, subdivisions 7a to 7c, if the person selects  
126.9 nursing facility placement. If the individual selects nursing facility placement, the lead  
126.10 agency shall forward information needed to complete the level of care determinations and  
126.11 screening for developmental disability and mental illness collected during the assessment  
126.12 to the long-term care options counselor using forms provided by the commissioner;

126.13 (4) the role of long-term care consultation assessment and support planning in eligibility  
126.14 determination for waiver and alternative care programs, and state plan home care, case  
126.15 management, and other services as defined in subdivision 1a, paragraphs (a), clause (6),  
126.16 and (b);

126.17 (5) information about Minnesota health care programs;

- 126.18 (6) the person's freedom to accept or reject the recommendations of the team;
- 126.19 (7) the person's right to confidentiality under the Minnesota Government Data Practices  
126.20 Act, chapter 13;
- 126.21 (8) the certified assessor's decision regarding the person's need for institutional level of  
126.22 care as determined under criteria established in subdivision 4e and the certified assessor's  
126.23 decision regarding eligibility for all services and programs as defined in subdivision 1a,  
126.24 paragraphs (a), clause (6), and (b); and
- 126.25 (9) the person's right to appeal the certified assessor's decision regarding eligibility for  
126.26 all services and programs as defined in subdivision 1a, paragraphs (a), clauses (6), (7), and  
126.27 (8), and (b), and incorporating the decision regarding the need for institutional level of care  
126.28 or the lead agency's final decisions regarding public programs eligibility according to section  
126.29 256.045, subdivision 3.
- 126.30 ~~(k)~~ (k) Face-to-face assessment completed as part of eligibility determination for the  
126.31 alternative care, elderly waiver, community access for disability inclusion, community  
126.32 alternative care, and brain injury waiver programs under sections 256B.0913, 256B.0915,  
127.1 and 256B.49 is valid to establish service eligibility for no more than 60 calendar days after  
127.2 the date of assessment.
- 127.3 ~~(l)~~ (l) The effective eligibility start date for programs in paragraph ~~(k)~~ can never be  
127.4 prior to the date of assessment. If an assessment was completed more than 60 days before  
127.5 the effective waiver or alternative care program eligibility start date, assessment and support  
127.6 plan information must be updated and documented in the department's Medicaid Management  
127.7 Information System (MMIS). Notwithstanding retroactive medical assistance coverage of  
127.8 state plan services, the effective date of eligibility for programs included in paragraph ~~(k)~~  
127.9 (k) cannot be prior to the date the most recent updated assessment is completed.
- 127.10 (m) If an eligibility update is completed within 90 days of the previous face-to-face  
127.11 assessment and documented in the department's Medicaid Management Information System  
127.12 (MMIS), the effective date of eligibility for programs included in paragraph (k) is the date  
127.13 of the previous face-to-face assessment when all other eligibility requirements are met.
- 127.14 Sec. 7. Minnesota Statutes 2016, section 256B.0915, subdivision 3a, is amended to read:
- 127.15 Subd. 3a. **Elderly waiver cost limits.** (a) Effective on the first day of the state fiscal  
127.16 year in which the resident assessment system as described in section ~~256B.438~~ 256R.17 for  
127.17 nursing home rate determination is implemented and the first day of each subsequent state  
127.18 fiscal year, the monthly limit for the cost of waived services to an individual elderly waiver  
127.19 client shall be the monthly limit of the case mix resident class to which the waiver client

127.20 would be assigned under Minnesota Rules, parts 9549.0051 to 9549.0059, in effect on the  
127.21 last day of the previous state fiscal year, adjusted by any legislatively adopted home and  
127.22 community-based services percentage rate adjustment. If a legislatively authorized increase  
127.23 is service-specific, the monthly cost limit shall be adjusted based on the overall average  
127.24 increase to the elderly waiver program.

127.25 (b) The monthly limit for the cost of waived services under paragraph (a) to an  
127.26 individual elderly waiver client assigned to a case mix classification A with:

127.27 (1) no dependencies in activities of daily living; or

127.28 (2) up to two dependencies in bathing, dressing, grooming, walking, and eating when  
127.29 the dependency score in eating is three or greater as determined by an assessment performed  
127.30 under section 256B.0911 shall be \$1,750 per month effective on July 1, 2011, for all new  
127.31 participants enrolled in the program on or after July 1, 2011. This monthly limit shall be  
127.32 applied to all other participants who meet this criteria at reassessment. This monthly limit  
127.33 shall be increased annually as described in paragraphs (a) and (e).

128.1 (c) If extended medical supplies and equipment or environmental modifications are or  
128.2 will be purchased for an elderly waiver client, the costs may be prorated for up to 12  
128.3 consecutive months beginning with the month of purchase. If the monthly cost of a recipient's  
128.4 waived services exceeds the monthly limit established in paragraph (a), (b), (d), or (e),  
128.5 the annual cost of all waived services shall be determined. In this event, the annual cost  
128.6 of all waived services shall not exceed 12 times the monthly limit of waived services  
128.7 as described in paragraph (a), (b), (d), or (e).

128.8 (d) Effective July 1, 2013, the monthly cost limit of waiver services, including any  
128.9 necessary home care services described in section 256B.0651, subdivision 2, for individuals  
128.10 who meet the criteria as ventilator-dependent given in section 256B.0651, subdivision 1,  
128.11 paragraph (g), shall be the average of the monthly medical assistance amount established  
128.12 for home care services as described in section 256B.0652, subdivision 7, and the annual  
128.13 average contracted amount established by the commissioner for nursing facility services  
128.14 for ventilator-dependent individuals. This monthly limit shall be increased annually as  
128.15 described in paragraphs (a) and (e).

128.16 (e) Effective ~~July 1, 2016~~ January 1, 2018, and each ~~July~~ January 1 thereafter, the monthly  
128.17 cost limits for elderly waiver services in effect on the previous ~~June 30~~ December 31 shall  
128.18 be increased by the difference between any legislatively adopted home and community-based  
128.19 provider rate increases effective on ~~July~~ January 1 or since the previous ~~July~~ January 1 and  
128.20 the average statewide percentage increase in nursing facility operating payment rates under  
128.21 ~~sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective the previous January  
128.22 1. This paragraph shall only apply if the average statewide percentage increase in nursing  
128.23 facility operating payment rates is greater than any legislatively adopted home and

128.24 community-based provider rate increases effective on July January 1, or occurring since  
 128.25 the previous July January 1.

128.26 Sec. 8. Minnesota Statutes 2016, section 256B.0915, subdivision 3e, is amended to read:

128.27 Subd. 3e. **Customized living service rate.** (a) Payment for customized living services  
 128.28 shall be a monthly rate authorized by the lead agency within the parameters established by  
 128.29 the commissioner. The payment agreement must delineate the amount of each component  
 128.30 service included in the recipient's customized living service plan. The lead agency, with  
 128.31 input from the provider of customized living services, shall ensure that there is a documented  
 128.32 need within the parameters established by the commissioner for all component customized  
 128.33 living services authorized.

129.1 (b) The payment rate must be based on the amount of component services to be provided  
 129.2 utilizing component rates established by the commissioner. Counties and tribes shall use  
 129.3 tools issued by the commissioner to develop and document customized living service plans  
 129.4 and rates.

129.5 (c) Component service rates must not exceed payment rates for comparable elderly  
 129.6 waiver or medical assistance services and must reflect economies of scale. Customized  
 129.7 living services must not include rent or raw food costs.

129.8 (d) With the exception of individuals described in subdivision 3a, paragraph (b), the  
 129.9 individualized monthly authorized payment for the customized living service plan shall not  
 129.10 exceed 50 percent of the greater of either the statewide or any of the geographic groups'  
 129.11 weighted average monthly nursing facility rate of the case mix resident class to which the  
 129.12 elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0051  
 129.13 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph  
 129.14 (a). Effective On July 1 of the state fiscal each year in which the resident assessment system  
 129.15 as described in section 256B.438 for nursing home rate determination is implemented and  
 129.16 July 1 of each subsequent state fiscal year, the individualized monthly authorized payment  
 129.17 for the services described in this clause shall not exceed the limit which was in effect on  
 129.18 June 30 of the previous state fiscal year updated annually based on legislatively adopted  
 129.19 changes to all service rate maximums for home and community-based service providers.

129.20 (e) For rates effective on or after January 1, 2022, the elderly waiver payment for  
 129.21 customized living services includes a cognitive and behavioral needs factor equal to an  
 129.22 additional 15 percent applied to the component service rates for a client.

## THE FOLLOWING SECTION IS FROM HOUSE ARTICLE 9.

324.31 Sec. 18. Minnesota Statutes 2016, section 256B.0915, subdivision 3e, is amended to read:

324.32 Subd. 3e. **Customized living service rate.** (a) Payment for customized living services  
 324.33 shall be a monthly rate authorized by the lead agency within the parameters established by  
 325.1 the commissioner. The payment agreement must delineate the amount of each component  
 325.2 service included in the recipient's customized living service plan. The lead agency, with  
 325.3 input from the provider of customized living services, shall ensure that there is a documented  
 325.4 need within the parameters established by the commissioner for all component customized  
 325.5 living services authorized.

325.6 (b) The payment rate must be based on the amount of component services to be provided  
 325.7 utilizing component rates established by the commissioner. Counties and tribes shall use  
 325.8 tools issued by the commissioner to develop and document customized living service plans  
 325.9 and rates.

325.10 (c) Component service rates must not exceed payment rates for comparable elderly  
 325.11 waiver or medical assistance services and must reflect economies of scale. Customized  
 325.12 living services must not include rent or raw food costs.

325.13 (d) With the exception of individuals described in subdivision 3a, paragraph (b), the  
 325.14 individualized monthly authorized payment for the customized living service plan shall not  
 325.15 exceed 50 percent of the greater of either the statewide or any of the geographic groups'  
 325.16 weighted average monthly nursing facility rate of the case mix resident class to which the  
 325.17 elderly waiver eligible client would be assigned under Minnesota Rules, parts 9549.0051  
 325.18 to 9549.0059, less the maintenance needs allowance as described in subdivision 1d, paragraph  
 325.19 (a). Effective on July 1 of the state fiscal year in which the resident assessment system as  
 325.20 described in section 256B.438 256R.17 for nursing home rate determination is implemented  
 325.21 and July 1 of each subsequent state fiscal year, the individualized monthly authorized  
 325.22 payment for the services described in this clause shall not exceed the limit which was in  
 325.23 effect on June 30 of the previous state fiscal year updated annually based on legislatively  
 325.24 adopted changes to all service rate maximums for home and community-based service  
 325.25 providers.



129.23 (1) for whom the total monthly hours for customized living services divided by 30.4 is  
 129.24 less than 3.62; and  
 129.25 (2) is determined, based on responses to questions 45 and 51 of the Minnesota long-term  
 129.26 care consultation assessment form, to have either:  
 129.27 (i) wandering or orientation issues; or  
 129.28 (ii) anxiety, verbal aggression, physical aggression, repetitive behavior, agitation,  
 129.29 self-injurious behavior, or behavior related to property destruction.

129.30 (e) Effective July 1, 2011, (f) The individualized monthly payment for the customized  
 129.31 living service plan for individuals described in subdivision 3a, paragraph (b), must be the  
 129.32 monthly authorized payment limit for customized living for individuals classified as case  
 129.33 mix A, reduced by 25 percent. This rate limit must be applied to all new participants enrolled  
 130.1 in the program on or after July 1, 2011, who meet the criteria described in subdivision 3a,  
 130.2 paragraph (b). This monthly limit also applies to all other participants who meet the criteria  
 130.3 described in subdivision 3a, paragraph (b), at reassessment.

130.4 (f) (g) Customized living services are delivered by a provider licensed by the Department  
 130.5 of Health as a class A or class F home care provider and provided in a building that is  
 130.6 registered as a housing with services establishment under chapter 144D. Licensed home  
 130.7 care providers are subject to section 256B.0651, subdivision 14.

130.8 (g) (h) A provider may not bill or otherwise charge an elderly waiver participant or their  
 130.9 family for additional units of any allowable component service beyond those available under  
 130.10 the service rate limits described in paragraph (d) (e), nor for additional units of any allowable  
 130.11 component service beyond those approved in the service plan by the lead agency.

130.12 (h) (i) Effective July 1, 2016 January 1, 2018, and each July January 1 thereafter,  
 130.13 individualized service rate limits for customized living services under this subdivision shall  
 130.14 be increased by the difference between any legislatively adopted home and community-based  
 130.15 provider rate increases effective on July January 1 or since the previous July January 1 and  
 130.16 the average statewide percentage increase in nursing facility operating payment rates under  
 130.17 sections 256B.431, and 256B.434, and 256B.441 chapter 256R, effective the previous  
 130.18 January 1. This paragraph shall only apply if the average statewide percentage increase in  
 130.19 nursing facility operating payment rates is greater than any legislatively adopted home and  
 130.20 community-based provider rate increases effective on July January 1, or occurring since  
 130.21 the previous July January 1.

130.22 Sec. 9. Minnesota Statutes 2016, section 256B.0915, subdivision 3h, is amended to read:

325.26 (e) Effective July 1, 2011, the individualized monthly payment for the customized living  
 325.27 service plan for individuals described in subdivision 3a, paragraph (b), must be the monthly  
 325.28 authorized payment limit for customized living for individuals classified as case mix A,  
 325.29 reduced by 25 percent. This rate limit must be applied to all new participants enrolled in  
 325.30 the program on or after July 1, 2011, who meet the criteria described in subdivision 3a,  
 325.31 paragraph (b). This monthly limit also applies to all other participants who meet the criteria  
 325.32 described in subdivision 3a, paragraph (b), at reassessment.

325.33 (f) Customized living services are delivered by a provider licensed by the Department  
 325.34 of Health as a class A or class F home care provider and provided in a building that is  
 326.1 registered as a housing with services establishment under chapter 144D. Licensed home  
 326.2 care providers are subject to section 256B.0651, subdivision 14.

326.3 (g) A provider may not bill or otherwise charge an elderly waiver participant or their  
 326.4 family for additional units of any allowable component service beyond those available under  
 326.5 the service rate limits described in paragraph (d), nor for additional units of any allowable  
 326.6 component service beyond those approved in the service plan by the lead agency.

326.7 (h) Effective July 1, 2016, and each July 1 thereafter, individualized service rate limits  
 326.8 for customized living services under this subdivision shall be increased by the difference  
 326.9 between any legislatively adopted home and community-based provider rate increases  
 326.10 effective on July 1 or since the previous July 1 and the average statewide percentage increase  
 326.11 in nursing facility operating payment rates under sections 256B.431, 256B.434, and 256B.441  
 326.12 chapter 256R, effective the previous January 1. This paragraph shall only apply if the average  
 326.13 statewide percentage increase in nursing facility operating payment rates is greater than any  
 326.14 legislatively adopted home and community-based provider rate increases effective on July  
 326.15 1, or occurring since the previous July 1.

## THE FOLLOWING SECTIONS ARE FROM HOUSE ARTICLE 2.

130.23 Subd. 3h. **Service rate limits; 24-hour customized living services.** (a) The payment  
130.24 rate for 24-hour customized living services is a monthly rate authorized by the lead agency  
130.25 within the parameters established by the commissioner of human services. The payment  
130.26 agreement must delineate the amount of each component service included in each recipient's  
130.27 customized living service plan. The lead agency, with input from the provider of customized  
130.28 living services, shall ensure that there is a documented need within the parameters established  
130.29 by the commissioner for all component customized living services authorized. The lead  
130.30 agency shall not authorize 24-hour customized living services unless there is a documented  
130.31 need for 24-hour supervision.

130.32 (b) For purposes of this section, "24-hour supervision" means that the recipient requires  
130.33 assistance due to needs related to one or more of the following:

131.1 (1) intermittent assistance with toileting, positioning, or transferring;

131.2 (2) cognitive or behavioral issues;

131.3 (3) a medical condition that requires clinical monitoring; or

131.4 (4) for all new participants enrolled in the program on or after July 1, 2011, and all other  
131.5 participants at their first reassessment after July 1, 2011, dependency in at least three of the  
131.6 following activities of daily living as determined by assessment under section 256B.0911:  
131.7 bathing; dressing; grooming; walking; or eating when the dependency score in eating is  
131.8 three or greater; and needs medication management and at least 50 hours of service per  
131.9 month. The lead agency shall ensure that the frequency and mode of supervision of the  
131.10 recipient and the qualifications of staff providing supervision are described and meet the  
131.11 needs of the recipient.

131.12 (c) The payment rate for 24-hour customized living services must be based on the amount  
131.13 of component services to be provided utilizing component rates established by the  
131.14 commissioner. Counties and tribes will use tools issued by the commissioner to develop  
131.15 and document customized living plans and authorize rates.

131.16 (d) Component service rates must not exceed payment rates for comparable elderly  
131.17 waiver or medical assistance services and must reflect economies of scale.

131.18 (e) The individually authorized 24-hour customized living payments, in combination  
131.19 with the payment for other elderly waiver services, including case management, must not  
131.20 exceed the recipient's community budget cap specified in subdivision 3a. Customized living  
131.21 services must not include rent or raw food costs.

131.22 (f) The individually authorized 24-hour customized living payment rates shall not exceed  
131.23 the 95 percentile of statewide monthly authorizations for 24-hour customized living services  
131.24 in effect and in the Medicaid management information systems on March 31, 2009, for each  
131.25 case mix resident class under Minnesota Rules, parts 9549.0051 to 9549.0059, to which  
131.26 elderly waiver service clients are assigned. When there are fewer than 50 authorizations in  
131.27 effect in the case mix resident class, the commissioner shall multiply the calculated service  
131.28 payment rate maximum for the A classification by the standard weight for that classification  
131.29 under Minnesota Rules, parts 9549.0051 to 9549.0059, to determine the applicable payment  
131.30 rate maximum. Service payment rate maximums shall be updated annually based on  
131.31 legislatively adopted changes to all service rates for home and community-based service  
131.32 providers.

132.1 (g) Notwithstanding the requirements of paragraphs (d) and (f), the commissioner may  
132.2 establish alternative payment rate systems for 24-hour customized living services in housing  
132.3 with services establishments which are freestanding buildings with a capacity of 16 or fewer,  
132.4 by applying a single hourly rate for covered component services provided in either:

132.5 (1) licensed corporate adult foster homes; or

132.6 (2) specialized dementia care units which meet the requirements of section 144D.065  
132.7 and in which:

132.8 (i) each resident is offered the option of having their own apartment; or

132.9 (ii) the units are licensed as board and lodge establishments with maximum capacity of  
132.10 eight residents, and which meet the requirements of Minnesota Rules, part 9555.6205,  
132.11 subparts 1, 2, 3, and 4, item A.

132.12 (h) Twenty-four-hour customized living services are delivered by a provider licensed  
132.13 by the Department of Health as a class A or class F home care provider and provided in a  
132.14 building that is registered as a housing with services establishment under chapter 144D.  
132.15 Licensed home care providers are subject to section 256B.0651, subdivision 14.

132.16 (i) A provider may not bill or otherwise charge an elderly waiver participant or their  
132.17 family for additional units of any allowable component service beyond those available under  
132.18 the service rate limits described in paragraph (e), nor for additional units of any allowable  
132.19 component service beyond those approved in the service plan by the lead agency.

132.20 (j) Effective ~~July 1, 2016~~ January 1, 2018, and each ~~July~~ January 1 thereafter,  
132.21 individualized service rate limits for 24-hour customized living services under this  
132.22 subdivision shall be increased by the difference between any legislatively adopted home  
132.23 and community-based provider rate increases effective on ~~July~~ January 1 or since the previous

132.24 ~~July January 1~~ and the average statewide percentage increase in nursing facility operating  
132.25 payment rates under ~~sections 256B.431, 256B.434, and 256B.441~~ chapter 256R, effective  
132.26 the previous January 1. This paragraph shall only apply if the average statewide percentage  
132.27 increase in nursing facility operating payment rates is greater than any legislatively adopted  
132.28 home and community-based provider rate increases effective on ~~July January 1~~, or occurring  
132.29 since the previous ~~July January 1~~.

132.30 Sec. 10. Minnesota Statutes 2016, section 256B.0915, subdivision 5, is amended to read:

132.31 Subd. 5. **Assessments and reassessments for waiver clients.** (a) Each client shall  
132.32 receive an initial assessment of strengths, informal supports, and need for services in  
132.33 accordance with section 256B.0911, subdivisions 3, 3a, and 3b. A reassessment of a client  
133.1 served under the elderly waiver must be conducted at least every 12 months ~~and at other~~  
133.2 ~~times when the case manager determines that there has been significant change in the client's~~  
133.3 ~~functioning. This may include instances where the client is discharged from the hospital.~~  
133.4 There must be a determination that the client requires nursing facility level of care as defined  
133.5 in section 256B.0911, subdivision 4e, at initial and subsequent assessments to initiate and  
133.6 maintain participation in the waiver program.

133.7 (b) Regardless of other assessments identified in section 144.0724, subdivision 4, as  
133.8 appropriate to determine nursing facility level of care for purposes of medical assistance  
133.9 payment for nursing facility services, only face-to-face assessments conducted according  
133.10 to section 256B.0911, subdivisions 3a and 3b, that result in a nursing facility level of care  
133.11 determination will be accepted for purposes of initial and ongoing access to waiver service  
133.12 payment.

133.13 (c) The lead agency shall conduct a change-in-condition reassessment before the annual  
133.14 reassessment in cases where a client's condition changed due to a major health event, an  
133.15 emerging need or risk, worsening health condition, or cases where the current services do  
133.16 not meet the client's needs. A change-in-condition reassessment may be initiated by the lead  
133.17 agency, or it may be requested by the client or requested on the client's behalf by another  
133.18 party, such as a provider of services. The lead agency shall complete a change-in-condition  
133.19 reassessment no later than 20 calendar days from the request. The lead agency shall conduct  
133.20 these assessments in a timely manner and expedite urgent requests. The lead agency shall  
133.21 evaluate urgent requests based on the client's needs and risk to the client if a reassessment  
133.22 is not completed.

133.23 Sec. 11. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision  
133.24 to read:

133.25 Subd. 11. **Payment rates; application.** The payment methodologies in subdivisions 12  
133.26 to 16 apply to elderly waiver and elderly waiver customized living under this section,  
133.27 alternative care under section 256B.0913, essential community supports under section

133.28 256B.0922, and community access for disability inclusion customized living, brain injury  
133.29 customized living, and elderly waiver foster care and residential care.

133.30 Sec. 12. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision  
133.31 to read:

133.32 Subd. 12. **Payment rates; phase-in.** (a) Effective January 1, 2019, through December  
133.33 31, 2020, all rates and rate components for services under subdivision 11 shall be the sum  
134.1 of 12 percent of the rates calculated under subdivisions 13 to 16 and 88 percent of the rates  
134.2 calculated using the rate methodology in effect as of June 30, 2017.

134.3 (b) Effective January 1, 2021, all rates and rate components for services under subdivision  
134.4 11 shall be the sum of 20 percent of the rates calculated under subdivisions 13 to 16 and 80  
134.5 percent of the rates calculated using the rate methodology in effect as of June 30, 2017.

134.6 Sec. 13. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision  
134.7 to read:

134.8 Subd. 13. **Payment rates; establishment.** (a) The commissioner shall use standard  
134.9 occupational classification (SOC) codes from the Bureau of Labor Statistics as defined in  
134.10 the most recent edition of the Occupational Handbook and data from the most recent and  
134.11 available nursing facility cost report, to establish rates and component rates every January  
134.12 1 using Minnesota-specific wages taken from job descriptions.

134.13 (b) In creating the rates and component rates, the commissioner shall establish a base  
134.14 wage calculation for each component service and value, and add the following factors:

134.15 (1) payroll taxes and benefits;

134.16 (2) general and administrative;

134.17 (3) program plan support;

134.18 (4) registered nurse management and supervision; and

134.19 (5) social worker supervision.

134.20 Sec. 14. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision  
134.21 to read:

- 134.22 Subd. 14. **Payment rates; base wage index.** (a) Base wages are calculated for customized  
134.23 living, foster care, and residential care component services as follows:
- 134.24 (1) the home management and support services base wage equals 33.33 percent of the  
134.25 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home  
134.26 care aide (SOC code 39-9021); 33.33 percent of the Minneapolis-St. Paul-Bloomington,  
134.27 MN-WI MetroSA average wage for food preparation workers (SOC code 35-2021); and  
134.28 33.34 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage  
134.29 for maids and housekeeping cleaners (SOC code 37-2012);
- 134.30 (2) the home care aide base wage equals 50 percent of the Minneapolis-St.  
134.31 Paul-Bloomington, MN-WI MetroSA average wage for home health aides (SOC code  
135.1 31-1011); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA  
135.2 average wage for nursing assistants (SOC code 31-1014);
- 135.3 (3) the home health aide base wage equals 20 percent of the Minneapolis-St.  
135.4 Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed  
135.5 vocational nurses (SOC code 29-2061); and 80 percent of the Minneapolis-St.  
135.6 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code  
135.7 31-1014); and
- 135.8 (4) the medication setups by licensed practical nurse base wage equals ten percent of  
135.9 the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical  
135.10 and licensed vocational nurses (SOC code 29-2061); and 90 percent of the Minneapolis-St.  
135.11 Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code  
135.12 29-1141).
- 135.13 (b) Base wages are calculated for the following services as follows:
- 135.14 (1) the chore services base wage equals 100 percent of the Minneapolis-St.  
135.15 Paul-Bloomington, MN-WI MetroSA average wage for landscaping and groundskeeping  
135.16 workers (SOC code 37-3011);
- 135.17 (2) the companion services base wage equals 50 percent of the Minneapolis-St.  
135.18 Paul-Bloomington, MN-WI MetroSA average wage for personal and home care aides (SOC  
135.19 code 39-9021); and 50 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA  
135.20 average wage for maids and housekeeping cleaners (SOC code 37-2012);
- 135.21 (3) the homemaker services and assistance with personal care base wage equals 60  
135.22 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for  
135.23 personal and home care aide (SOC code 39-9021); 20 percent of the Minneapolis-St.  
135.24 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code

- 135.25 31-1014); and 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA  
135.26 average wage for maids and housekeeping cleaners (SOC code 37-2012);
- 135.27 (4) the homemaker services and cleaning base wage equals 60 percent of the  
135.28 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home  
135.29 care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI  
135.30 MetroSA average wage for nursing assistants (SOC code 31-1014); and 20 percent of the  
135.31 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and  
135.32 housekeeping cleaners (SOC code 37-2012);
- 136.1 (5) the homemaker services and home management base wage equals 60 percent of the  
136.2 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for personal and home  
136.3 care aide (SOC code 39-9021); 20 percent of the Minneapolis-St. Paul-Bloomington, MN-WI  
136.4 MetroSA average wage for nursing assistants (SOC code 31-1014); and 20 percent of the  
136.5 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for maids and  
136.6 housekeeping cleaners (SOC code 37-2012);
- 136.7 (6) the in-home respite care services base wage equals five percent of the Minneapolis-St.  
136.8 Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code  
136.9 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average  
136.10 wage for nursing assistants (SOC code 31-1014); and 20 percent of the Minneapolis-St.  
136.11 Paul-Bloomington, MN-WI MetroSA average wage for licensed practical and licensed  
136.12 vocational nurses (SOC code 29-2061);
- 136.13 (7) the out-of-home respite care services base wage equals five percent of the  
136.14 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for registered nurses  
136.15 (SOC code 29-1141); 75 percent of the Minneapolis-St. Paul-Bloomington, MN-WI MetroSA  
136.16 average wage for nursing assistants (SOC code 31-1014); and 20 percent of the  
136.17 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical  
136.18 and licensed vocational nurses (SOC code 29-2061); and
- 136.19 (8) the individual community living support base wage equals 20 percent of the  
136.20 Minneapolis-St. Paul-Bloomington, MN-WI MetroSA average wage for licensed practical  
136.21 and licensed vocational nurses (SOC code 29-2061); and 80 percent of the Minneapolis-St.  
136.22 Paul-Bloomington, MN-WI MetroSA average wage for nursing assistants (SOC code  
136.23 31-1014).
- 136.24 (c) Base wages are calculated for the following values as follows:

- 136.25 (1) the registered nurse base wage equals 100 percent of the Minneapolis-St.  
136.26 Paul-Bloomington, MN-WI MetroSA average wage for registered nurses (SOC code  
136.27 29-1141); and
- 136.28 (2) the social worker base wage equals 100 percent of the Minneapolis-St.  
136.29 Paul-Bloomington, MN-WI MetroSA average wage for medical and public health social  
136.30 workers (SOC code 21-1022).
- 136.31 (d) If any of the SOC codes and positions are no longer available, the commissioner  
136.32 shall, in consultation with stakeholders, select a new SOC code and position that is the  
136.33 closest match to the previously used SOC position.
- 137.1 Sec. 15. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision  
137.2 to read:
- 137.3 Subd. 15. **Payment rates; factors.** The commissioner shall use the following factors:
- 137.4 (1) the payroll taxes and benefits factor is the sum of net payroll taxes and benefits  
137.5 divided by the sum of all salaries for all nursing facilities on the most recent and available  
137.6 cost report;
- 137.7 (2) the general and administrative factor is the sum of net general and administrative  
137.8 expenses minus administrative salaries divided by total operating expenses for all nursing  
137.9 facilities on the most recent and available cost report;
- 137.10 (3) the program plan support factor is defined as the direct service staff needed to provide  
137.11 support for the home and community-based service when not engaged in direct contact with  
137.12 clients. Based on the 2016 Non-Wage Provider Costs in Home and Community-Based  
137.13 Disability Waiver Services Report, this factor equals 12.8 percent;
- 137.14 (4) the registered nurse management and supervision factor equals 15 percent of the  
137.15 product of the position's base wage and the sum of the factors in clauses (1) to (3); and
- 137.16 (5) the social worker supervision factor equals 15 percent of the product of the position's  
137.17 base wage and the sum of the factors in clauses (1) to (3).
- 137.18 Sec. 16. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision  
137.19 to read:
- 137.20 Subd. 16. **Payment rates; component rates.** (a) For the purposes of this subdivision,  
137.21 the "adjusted base wage" for a position equals the position's base wage plus:



- 137.22 (1) the position's base wage multiplied by the payroll taxes and benefits factor;
- 137.23 (2) the position's base wage multiplied by the general and administrative factor; and
- 137.24 (3) the position's base wage multiplied by the program plan support factor.
- 137.25 (b) For medication setups by licensed nurse, registered nurse, and social worker services,
- 137.26 the component rate for each service equals the respective position's adjusted base wage.
- 137.27 (c) For home management and support services, home care aide, and home health aide
- 137.28 services, the component rate for each service equals the respective position's adjusted base
- 137.29 wage plus the registered nurse management and supervision factor.
- 137.30 (d) The home management and support services component rate shall be used for payment
- 137.31 for socialization and transportation component rates under elderly waiver customized living.
- 138.1 (e) The 15-minute unit rates for chore services and companion services are calculated
- 138.2 as follows:
- 138.3 (1) sum the adjusted base wage for the respective position and the social worker factor;
- 138.4 and
- 138.5 (2) divide the result of clause (1) by four.
- 138.6 (f) The 15-minute unit rates for homemaker services and assistance with personal care,
- 138.7 homemaker services and cleaning, and homemaker services and home management are
- 138.8 calculated as follows:
- 138.9 (1) sum the adjusted base wage for the respective position and the registered nurse
- 138.10 management and supervision factor; and
- 138.11 (2) divide the result of clause (1) by four.
- 138.12 (g) The 15-minute unit rate for in-home respite care services is calculated as follows:
- 138.13 (1) sum the adjusted base wage for in-home respite care services and the registered nurse
- 138.14 management and supervision factor; and
- 138.15 (2) divide the result of clause (1) by four.

- 138.16 (h) The in-home respite care services daily rate equals the in-home respite care services  
138.17 15-minute unit rate multiplied by 18.
- 138.18 (i) The 15-minute unit rate for out-of-home respite care is calculated as follows:
- 138.19 (1) sum the out-of-home respite care services adjusted base wage and the registered  
138.20 nurse management and supervision factor; and
- 138.21 (2) divide the result of clause (1) by four.
- 138.22 (j) The out-of-home respite care services daily rate equals the out-of-home respite care  
138.23 services 15-minute unit rate multiplied by 18.
- 138.24 (k) The individual community living support rate is calculated as follows:
- 138.25 (1) sum the adjusted base wage for the home care aide rate in subdivision 14, paragraph  
138.26 (a), clause (2), and the social worker factor; and
- 138.27 (2) divide the result of clause (1) by four.
- 138.28 (l) The home delivered meals rate equals \$9.30. Beginning July 1, 2018, the commissioner  
138.29 shall increase the home delivered meals rate every July 1 by the percent increase in the  
138.30 nursing facility dietary per diem using the two most recent nursing facility cost reports.
- 139.1 (m) The adult day services rate is based on the home care aide rate in subdivision 14,  
139.2 paragraph (a), clause (2), plus the additional factors from subdivision 15, except that the  
139.3 general and administrative factor used shall be 20 percent. The nonregistered nurse portion  
139.4 of the rate shall be multiplied by 0.25, to reflect an assumed-ratio staffing of one caregiver  
139.5 to four clients, and divided by four to determine the 15-minute unit rate. The registered  
139.6 nurse portion is divided by four to determine the 15-minute unit rate and \$0.63 per 15-minute  
139.7 unit is added to cover the cost of meals.
- 139.8 (n) The adult day services bath 15-minute unit rate is the same as the calculation of the  
139.9 adult day services 15-minute unit rate without the adjustment for staffing ratio.
- 139.10 (o) If a bath is authorized for an adult day services client, at least two 15-minute units  
139.11 must be authorized to allow for adequate time to meet client needs. Adult day services may  
139.12 be authorized for up to 48 units, or 12 hours, per day based on client and family caregiver  
139.13 needs.

139.14 Sec. 17. Minnesota Statutes 2016, section 256B.0915, is amended by adding a subdivision  
139.15 to read:

139.16 Subd. 17. **Evaluation of rate methodology.** The commissioner, in consultation with  
139.17 stakeholders, shall conduct a study to evaluate the following:

139.18 (1) base wages in subdivision 14, to determine if the standard occupational classification  
139.19 codes for each rate and component rate are an appropriate representation of staff who deliver  
139.20 the services; and

139.21 (2) factors in subdivision 15, and adjusted base wage calculation in subdivision 16, to  
139.22 determine if the factors and calculations appropriately address nonwage provider costs.

139.23 By January 1, 2019, the commissioner shall submit a report to the legislature on the  
139.24 changes to the rate methodology in this statute, based on the results of the evaluation. Where  
139.25 feasible, the report shall address the impact of the new rates on the workforce situation and  
139.26 client access to services. The report should include any changes to the rate calculations  
139.27 methods that the commissioner recommends.

139.28 Sec. 18. Minnesota Statutes 2016, section 256B.0922, subdivision 1, is amended to read:

139.29 Subdivision 1. **Essential community supports.** (a) The purpose of the essential  
139.30 community supports program is to provide targeted services to persons age 65 and older  
139.31 who need essential community support, but whose needs do not meet the level of care  
139.32 required for nursing facility placement under section 144.0724, subdivision 11.

140.1 (b) Essential community supports are available not to exceed \$400 \$600 per person per  
140.2 month. Essential community supports may be used as authorized within an authorization  
140.3 period not to exceed 12 months. Services must be available to a person who:

140.4 (1) is age 65 or older;

140.5 (2) is not eligible for medical assistance;

140.6 (3) has received a community assessment under section 256B.0911, subdivision 3a or  
140.7 3b, and does not require the level of care provided in a nursing facility;

140.8 (4) meets the financial eligibility criteria for the alternative care program under section  
140.9 256B.0913, subdivision 4;

140.10 (5) has a community support plan; and

140.11 (6) has been determined by a community assessment under section 256B.0911,  
140.12 subdivision 3a or 3b, to be a person who would require provision of at least one of the  
140.13 following services, as defined in the approved elderly waiver plan, in order to maintain their  
140.14 community residence:

140.15 (i) adult day services;

140.16 (ii) family caregiver support services;

140.17 (iii) respite care;

140.18 ~~(iii)~~ (iv) homemaker support;

140.19 (v) companion services;

140.20 ~~(iv)~~ (vi) chores;

140.21 ~~(v)~~ (vii) a personal emergency response device or system;

140.22 ~~(vi)~~ (viii) home-delivered meals; or

140.23 ~~(vii)~~ (ix) community living assistance as defined by the commissioner.

140.24 (c) The person receiving any of the essential community supports in this subdivision  
140.25 must also receive service coordination, not to exceed \$600 in a 12-month authorization  
140.26 period, as part of their community support plan.

140.27 (d) A person who has been determined to be eligible for essential community supports  
140.28 must be reassessed at least annually and continue to meet the criteria in paragraph (b) to  
140.29 remain eligible for essential community supports.

141.1 (e) The commissioner is authorized to use federal matching funds for essential community  
141.2 supports as necessary and to meet demand for essential community supports as outlined in  
141.3 subdivision 2, and that amount of federal funds is appropriated to the commissioner for this  
141.4 purpose.

141.5 Sec. 19. Minnesota Statutes 2016, section 256B.431, subdivision 10, is amended to read:

141.6 Subd. 10. **Property rate adjustments and construction projects.** A nursing facility  
141.7 completing a construction project that is eligible for a rate adjustment under section  
141.8 256B.434, subdivision 4f, and that was not approved through the moratorium exception

141.9 process in section 144A.073 must request from the commissioner a property-related payment  
141.10 rate adjustment. ~~If the request is made within 60 days after the construction project's~~  
141.11 ~~completion date,~~ The effective date of the rate adjustment is the first of the month of January  
141.12 or July, whichever occurs first following both the construction project's completion date  
141.13 and submission of the provider's rate adjustment request. ~~If the request is made more than~~  
141.14 ~~60 days after the completion date, the rate adjustment is effective on the first of the month~~  
141.15 ~~following the request.~~ The commissioner shall provide a rate notice reflecting the allowable  
141.16 costs within 60 days after receiving all the necessary information to compute the rate  
141.17 adjustment. No sooner than the effective date of the rate adjustment for the construction  
141.18 project, a nursing facility may adjust its rates by the amount anticipated to be allowed. Any  
141.19 amounts collected from private pay residents in excess of the allowable rate must be repaid  
141.20 to private pay residents with interest at the rate used by the commissioner of revenue for  
141.21 the late payment of taxes and in effect on the date the rate increase is effective. Construction  
141.22 projects with completion dates within one year of the completion date associated with the  
141.23 property rate adjustment request and phased projects with project completion dates within  
141.24 three years of the last phase of the phased project must be aggregated for purposes of the  
141.25 minimum thresholds in subdivisions 16 and 17, and the maximum threshold in section  
141.26 144A.071, subdivision 2. "Construction project" and "project construction costs" have the  
141.27 meanings given them in Minnesota Statutes, section 144A.071, subdivision 1a.

141.28 **EFFECTIVE DATE.** This section is effective for projects completed after January 1,  
141.29 2018.

141.30 Sec. 20. Minnesota Statutes 2016, section 256B.431, subdivision 16, is amended to read:

141.31 Subd. 16. **Major additions and replacements; equity incentive.** For rate years beginning  
141.32 after June 30, 1993, if a nursing facility acquires capital assets in connection with a project  
141.33 approved under the moratorium exception process in section 144A.073 or in connection  
142.1 with an addition to or replacement of buildings, attached fixtures, or land improvements  
142.2 for which the total historical cost of those capital asset additions exceeds the lesser of  
142.3 \$150,000 or ten percent of the most recent appraised value, the nursing facility shall be  
142.4 eligible for an equity incentive payment rate as in paragraphs (a) to (d). This computation  
142.5 is separate from the determination of the nursing facility's rental rate. An equity incentive  
142.6 payment rate as computed under this subdivision is limited to one in a 12-month period.

142.7 (a) An eligible nursing facility shall receive an equity incentive payment rate equal to  
142.8 the allowable historical cost of the capital asset acquired, minus the allowable debt directly  
142.9 identified to that capital asset, multiplied by the equity incentive factor as described in  
142.10 paragraphs (b) and (c), and divided by the nursing facility's occupancy factor under  
142.11 subdivision 3f, paragraph (c). This amount shall be added to the nursing facility's total  
142.12 payment rate and shall be effective the same day as the incremental increase in paragraph  
142.13 (d) or subdivision 17. The allowable historical cost of the capital assets and the allowable  
142.14 debt shall be determined as provided in Minnesota Rules, parts 9549.0010 to 9549.0080,  
142.15 and this section.

142.16 (b) The equity incentive factor shall be determined under clauses (1) to (4):

142.17 (1) divide the initial allowable debt in paragraph (a) by the initial historical cost of the  
142.18 capital asset additions referred to in paragraph (a), then cube the quotient,

142.19 (2) subtract the amount calculated in clause (1) from the number one,

142.20 (3) determine the difference between the rental factor and the lesser of two percentage  
142.21 points above the posted yield for standard conventional fixed rate mortgages of the Federal  
142.22 Home Loan Mortgage Corporation as published in the Wall Street Journal and in effect on  
142.23 the first day of the month the debt or cost is incurred, or 16 percent,

142.24 (4) multiply the amount calculated in clause (2) by the amount calculated in clause (3).

142.25 (c) The equity incentive payment rate shall be limited to the term of the allowable debt  
142.26 in paragraph (a), not greater than 20 years nor less than ten years. If no debt is incurred in  
142.27 acquiring the capital asset, the equity incentive payment rate shall be paid for ten years. The  
142.28 sale of a nursing facility under subdivision 14 shall terminate application of the equity  
142.29 incentive payment rate effective on the date provided in subdivision 14, paragraph (f), for  
142.30 the sale.

142.31 (d) A nursing facility with an addition to or a renovation of its buildings, attached fixtures,  
142.32 or land improvements meeting the criteria in this subdivision and not receiving the  
142.33 property-related payment rate adjustment in subdivision 17, shall receive the incremental  
143.1 increase in the nursing facility's rental rate as determined under Minnesota Rules, parts  
143.2 9549.0010 to 9549.0080, and this section. The incremental increase shall be added to the  
143.3 nursing facility's property-related payment rate. The effective date of this incremental  
143.4 increase shall be the first day of the month of January or July, whichever occurs first  
143.5 following the month in date on which the addition or replacement is completed.

143.6 **EFFECTIVE DATE.** This section is effective for additions or replacements completed  
143.7 after January 1, 2018.

143.8 Sec. 21. Minnesota Statutes 2016, section 256B.431, subdivision 30, is amended to read:

143.9 Subd. 30. **Bed layaway and delicensure.** (a) For rate years beginning on or after July  
143.10 1, 2000, a nursing facility reimbursed under this section which has placed beds on layaway  
143.11 shall, for purposes of application of the downsizing incentive in subdivision 3a, paragraph  
143.12 (c), and calculation of the rental per diem, have those beds given the same effect as if the  
143.13 beds had been delicensed so long as the beds remain on layaway. At the time of a layaway,  
143.14 a facility may change its single bed election for use in calculating capacity days under  
143.15 Minnesota Rules, part 9549.0060, subpart 11. The property payment rate increase shall be

92.16 Sec. 15. Minnesota Statutes 2016, section 256B.431, subdivision 30, is amended to read:

92.17 Subd. 30. **Bed layaway and delicensure.** (a) For rate years beginning on or after July  
92.18 1, 2000, a nursing facility reimbursed under this section which has placed beds on layaway  
92.19 shall, for purposes of application of the downsizing incentive in subdivision 3a, paragraph  
92.20 (c), and calculation of the rental per diem, have those beds given the same effect as if the  
92.21 beds had been delicensed so long as the beds remain on layaway. At the time of a layaway,  
92.22 a facility may change its single bed election for use in calculating capacity days under  
92.23 Minnesota Rules, part 9549.0060, subpart 11. The property payment rate increase shall be

143.16 effective the first day of the month of January or July, whichever occurs first following the  
 143.17 ~~month in date on~~ which the layaway of the beds becomes effective under section 144A.071,  
 143.18 subdivision 4b.

143.19 (b) For rate years beginning on or after July 1, 2000, notwithstanding any provision to  
 143.20 the contrary under section 256B.434, a nursing facility reimbursed under that section ~~which~~  
 143.21 ~~that~~ has placed beds on layaway shall, for so long as the beds remain on layaway, be allowed  
 143.22 to:

143.23 (1) aggregate the applicable investment per bed limits based on the number of beds  
 143.24 licensed immediately prior to entering the alternative payment system;

143.25 (2) retain or change the facility's single bed election for use in calculating capacity days  
 143.26 under Minnesota Rules, part 9549.0060, subpart 11; and

143.27 (3) establish capacity days based on the number of beds immediately prior to the layaway  
 143.28 and the number of beds after the layaway.

143.29 The commissioner shall increase the facility's property payment rate by the incremental  
 143.30 increase in the rental per diem resulting from the recalculation of the facility's rental per  
 143.31 diem applying only the changes resulting from the layaway of beds and clauses (1), (2), and  
 143.32 (3). If a facility reimbursed under section 256B.434 completes a moratorium exception  
 143.33 project after its base year, the base year property rate shall be the moratorium project property  
 144.1 rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4,  
 144.2 paragraph (c). The property payment rate increase shall be effective the first day of the  
 144.3 month of January or July, whichever occurs first following the ~~month in date on~~ which the  
 144.4 layaway of the beds becomes effective.

144.5 (c) If a nursing facility removes a bed from layaway status in accordance with section  
 144.6 144A.071, subdivision 4b, the commissioner shall establish capacity days based on the  
 144.7 number of licensed and certified beds in the facility not on layaway and shall reduce the  
 144.8 nursing facility's property payment rate in accordance with paragraph (b).

144.9 (d) For the rate years beginning on or after July 1, 2000, notwithstanding any provision  
 144.10 to the contrary under section 256B.434, a nursing facility reimbursed under that section,  
 144.11 ~~which that~~ has delicensed beds after July 1, 2000, by giving notice of the delicensure to the  
 144.12 commissioner of health according to the notice requirements in section 144A.071, subdivision  
 144.13 4b, shall be allowed to:

144.14 (1) aggregate the applicable investment per bed limits based on the number of beds  
 144.15 licensed immediately prior to entering the alternative payment system;

92.24 effective the first day of the month of January or July, whichever occurs first following the  
 92.25 ~~month date in~~ which the layaway of the beds becomes effective under section 144A.071,  
 92.26 subdivision 4b.

92.27 (b) For rate years beginning on or after July 1, 2000, notwithstanding any provision to  
 92.28 the contrary under section 256B.434, a nursing facility reimbursed under that section ~~which~~  
 92.29 has placed beds on layaway shall, for so long as the beds remain on layaway, be allowed  
 92.30 to:

92.31 (1) aggregate the applicable investment per bed limits based on the number of beds  
 92.32 licensed immediately prior to entering the alternative payment system;

93.1 (2) retain or change the facility's single bed election for use in calculating capacity days  
 93.2 under Minnesota Rules, part 9549.0060, subpart 11; and

93.3 (3) establish capacity days based on the number of beds immediately prior to the layaway  
 93.4 and the number of beds after the layaway.

93.5 The commissioner shall increase the facility's property payment rate by the incremental  
 93.6 increase in the rental per diem resulting from the recalculation of the facility's rental per  
 93.7 diem applying only the changes resulting from the layaway of beds and clauses (1), (2), and  
 93.8 (3). If a facility reimbursed under section 256B.434 completes a moratorium exception  
 93.9 project after its base year, the base year property rate shall be the moratorium project property  
 93.10 rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4,  
 93.11 paragraph (c). The property payment rate increase shall be effective the first day of the  
 93.12 month of January or July, whichever occurs first following the ~~month date in~~ which the  
 93.13 layaway of the beds becomes effective.

93.14 (c) If a nursing facility removes a bed from layaway status in accordance with section  
 93.15 144A.071, subdivision 4b, the commissioner shall establish capacity days based on the  
 93.16 number of licensed and certified beds in the facility not on layaway and shall reduce the  
 93.17 nursing facility's property payment rate in accordance with paragraph (b).

93.18 (d) For the rate years beginning on or after July 1, 2000, notwithstanding any provision  
 93.19 to the contrary under section 256B.434, a nursing facility reimbursed under that section,  
 93.20 ~~which~~ has delicensed beds after July 1, 2000, by giving notice of the delicensure to the  
 93.21 commissioner of health according to the notice requirements in section 144A.071, subdivision  
 93.22 4b, shall be allowed to:

93.23 (1) aggregate the applicable investment per bed limits based on the number of beds  
 93.24 licensed immediately prior to entering the alternative payment system;

144.16 (2) retain or change the facility's single bed election for use in calculating capacity days  
144.17 under Minnesota Rules, part 9549.0060, subpart 11; and

144.18 (3) establish capacity days based on the number of beds immediately prior to the  
144.19 delicensure and the number of beds after the delicensure.

144.20 The commissioner shall increase the facility's property payment rate by the incremental  
144.21 increase in the rental per diem resulting from the recalculation of the facility's rental per  
144.22 diem applying only the changes resulting from the delicensure of beds and clauses (1), (2),  
144.23 and (3). If a facility reimbursed under section 256B.434 completes a moratorium exception  
144.24 project after its base year, the base year property rate shall be the moratorium project property  
144.25 rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4,  
144.26 paragraph (c). The property payment rate increase shall be effective the first day of the  
144.27 month of January or July, whichever occurs first following the ~~month in~~ date on which the  
144.28 delicensure of the beds becomes effective.

144.29 (e) For nursing facilities reimbursed under this section or section 256B.434, any beds  
144.30 placed on layaway shall not be included in calculating facility occupancy as it pertains to  
144.31 leave days defined in Minnesota Rules, part 9505.0415.

145.1 (f) For nursing facilities reimbursed under this section or section 256B.434, the rental  
145.2 rate calculated after placing beds on layaway may not be less than the rental rate prior to  
145.3 placing beds on layaway.

145.4 (g) A nursing facility receiving a rate adjustment as a result of this section shall comply  
145.5 with section ~~256B.47, subdivision 2~~ 256R.06, subdivision 5.

145.6 (h) A facility that does not utilize the space made available as a result of bed layaway  
145.7 or delicensure under this subdivision to reduce the number of beds per room or provide  
145.8 more common space for nursing facility uses or perform other activities related to the  
145.9 operation of the nursing facility shall have its property rate increase calculated under this  
145.10 subdivision reduced by the ratio of the square footage made available that is not used for  
145.11 these purposes to the total square footage made available as a result of bed layaway or  
145.12 delicensure.

145.13 **EFFECTIVE DATE.** This section is effective for layaways occurring after July 1, 2017.

145.14 Sec. 22. Minnesota Statutes 2016, section 256B.434, subdivision 4, is amended to read:

145.15 Subd. 4. **Alternate rates for nursing facilities.** Effective for the rate years beginning  
145.16 on and after January 1, 2019, a nursing facility's ~~ease-in~~ property payment ~~rates~~ rate for  
145.17 the second and subsequent years of a facility's contract under this section are the previous

93.25 (2) retain or change the facility's single bed election for use in calculating capacity days  
93.26 under Minnesota Rules, part 9549.0060, subpart 11; and

93.27 (3) establish capacity days based on the number of beds immediately prior to the  
93.28 delicensure and the number of beds after the delicensure.

93.29 The commissioner shall increase the facility's property payment rate by the incremental  
93.30 increase in the rental per diem resulting from the recalculation of the facility's rental per  
93.31 diem applying only the changes resulting from the delicensure of beds and clauses (1), (2),  
93.32 and (3). If a facility reimbursed under section 256B.434 completes a moratorium exception  
93.33 project after its base year, the base year property rate shall be the moratorium project property  
94.1 rate. The base year rate shall be inflated by the factors in section 256B.434, subdivision 4,  
94.2 paragraph (c). The property payment rate increase shall be effective the first day of the  
94.3 month of January or July, whichever occurs first following the ~~month~~ date in which the  
94.4 delicensure of the beds becomes effective.

94.5 (e) For nursing facilities reimbursed under this section or section 256B.434, any beds  
94.6 placed on layaway shall not be included in calculating facility occupancy as it pertains to  
94.7 leave days defined in Minnesota Rules, part 9505.0415.

94.8 (f) For nursing facilities reimbursed under this section or section 256B.434, the rental  
94.9 rate calculated after placing beds on layaway may not be less than the rental rate prior to  
94.10 placing beds on layaway.

94.11 (g) A nursing facility receiving a rate adjustment as a result of this section shall comply  
94.12 with section ~~256B.47~~ 256R.06, subdivision ~~2~~ 5.

94.13 (h) A facility that does not utilize the space made available as a result of bed layaway  
94.14 or delicensure under this subdivision to reduce the number of beds per room or provide  
94.15 more common space for nursing facility uses or perform other activities related to the  
94.16 operation of the nursing facility shall have its property rate increase calculated under this  
94.17 subdivision reduced by the ratio of the square footage made available that is not used for  
94.18 these purposes to the total square footage made available as a result of bed layaway or  
94.19 delicensure.

94.20 Sec. 16. Minnesota Statutes 2016, section 256B.434, subdivision 4, is amended to read:

94.21 Subd. 4. **Alternate rates for nursing facilities.** Effective for the rate years beginning  
94.22 on and after January 1, 2018, a nursing facility's ~~ease-in~~ property payment ~~rates~~ rate for  
94.23 the second and subsequent years of a facility's contract under this section are the previous



145.18 rate year's ~~contract property payment rates~~ rate plus an inflation adjustment and, for facilities  
 145.19 ~~reimbursed under this section or section 256B.431, an adjustment to include the cost of any~~  
 145.20 ~~increase in Health Department licensing fees for the facility taking effect on or after July~~  
 145.21 ~~1, 2001. The index for the inflation adjustment must be based on the change in the Consumer~~  
 145.22 ~~Price Index-All Items (United States City average) (CPI-U) forecasted by the commissioner~~  
 145.23 ~~of management and budget's national economic consultant Reports and Forecasts Division~~  
 145.24 ~~of the Department of Human Services, as forecasted in the fourth quarter of the calendar~~  
 145.25 ~~year preceding the rate year. The inflation adjustment must be based on the 12-month period~~  
 145.26 ~~from the midpoint of the previous rate year to the midpoint of the rate year for which the~~  
 145.27 ~~rate is being determined. For the rate years beginning on July 1, 1999, July 1, 2000, July 1,~~  
 145.28 ~~2001, July 1, 2002, July 1, 2003, July 1, 2004, July 1, 2005, July 1, 2006, July 1, 2007, July~~  
 145.29 ~~1, 2008, October 1, 2009, and October 1, 2010, this paragraph shall apply only to the~~  
 145.30 ~~property-related payment rate. For the rate years beginning on October 1, 2011, October 1,~~  
 145.31 ~~2012, October 1, 2013, October 1, 2014, October 1, 2015, January 1, 2016, and January 1,~~  
 145.32 ~~2017, the rate adjustment under this paragraph shall be suspended. Beginning in 2005,~~  
 145.33 ~~adjustment to the property payment rate under this section and section 256B.431 shall be~~  
 145.34 ~~effective on October 1. In determining the amount of the property-related payment rate~~  
 146.1 ~~adjustment under this paragraph, the commissioner shall determine the proportion of the~~  
 146.2 ~~facility's rates that are property-related based on the facility's most recent cost report.~~

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

146.4 Sec. 23. Minnesota Statutes 2016, section 256B.434, subdivision 4f, is amended to read:

146.5 Subd. 4f. **Construction project rate adjustments effective October 1, 2006. (a)**  
 146.6 **Effective October 1, 2006, facilities reimbursed under this section may receive a property**  
 146.7 **rate adjustment for construction projects exceeding the threshold in section 256B.431,**  
 146.8 **subdivision 16, and below the threshold in section 144A.071, subdivision 2, clause (a). For**  
 146.9 **these projects, capital assets purchased shall be counted as construction project costs for a**  
 146.10 **rate adjustment request made by a facility if they are: (1) purchased within 24 months of**  
 146.11 **the completion of the construction project; (2) purchased after the completion date of any**  
 146.12 **prior construction project; and (3) are not purchased prior to July 14, 2005. Except as**  
 146.13 **otherwise provided in this subdivision, the definitions, rate calculation methods, and**  
 146.14 **principles in sections 144A.071 and 256B.431 and Minnesota Rules, parts 9549.0010 to**  
 146.15 **9549.0080, shall be used to calculate rate adjustments for allowable construction projects**  
 146.16 **under this subdivision and section 144A.073. Facilities completing construction projects**  
 146.17 **between October 1, 2005, and October 1, 2006, are eligible to have a property rate adjustment**  
 146.18 **effective October 1, 2006. Facilities completing projects after October 1, 2006, are eligible**  
 146.19 **for a property rate adjustment effective on the first day of the month following the completion**  
 146.20 **date. Facilities completing projects after January 1, 2018, are eligible for a property rate**  
 146.21 **adjustment effective on the first day of the month of January or July, whichever occurs**  
 146.22 **immediately following the completion date.**

94.24 rate year's ~~contract property payment rates~~ rate plus an inflation adjustment and, for facilities  
 94.25 ~~reimbursed under this section or section 256B.431, an adjustment to include the cost of any~~  
 94.26 ~~increase in Health Department licensing fees for the facility taking effect on or after July~~  
 94.27 ~~1, 2001. The index for the inflation adjustment must be based on the change in the Consumer~~  
 94.28 ~~Price Index-All Items (United States City average) (CPI-U) forecasted by the commissioner~~  
 94.29 ~~of management and budget's national economic consultant Reports and Forecasts Division~~  
 94.30 ~~of the Department of Human Services, as forecasted in the fourth quarter of the calendar~~  
 94.31 ~~year preceding the rate year. The inflation adjustment must be based on the 12-month period~~  
 94.32 ~~from the midpoint of the previous rate year to the midpoint of the rate year for which the~~  
 94.33 ~~rate is being determined. For the rate years beginning on July 1, 1999, July 1, 2000, July 1,~~  
 94.34 ~~2001, July 1, 2002, July 1, 2003, July 1, 2004, July 1, 2005, July 1, 2006, July 1, 2007, July~~  
 95.1 ~~1, 2008, October 1, 2009, and October 1, 2010, this paragraph shall apply only to the~~  
 95.2 ~~property-related payment rate. For the rate years beginning on October 1, 2011, October 1,~~  
 95.3 ~~2012, October 1, 2013, October 1, 2014, October 1, 2015, January 1, 2016, and January 1,~~  
 95.4 ~~2017, the rate adjustment under this paragraph shall be suspended. Beginning in 2005,~~  
 95.5 ~~adjustment to the property payment rate under this section and section 256B.431 shall be~~  
 95.6 ~~effective on October 1. In determining the amount of the property-related payment rate~~  
 95.7 ~~adjustment under this paragraph, the commissioner shall determine the proportion of the~~  
 95.8 ~~facility's rates that are property-related based on the facility's most recent cost report.~~

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

146.23 (b) Notwithstanding subdivision 18, as of July 14, 2005, facilities with rates set under  
146.24 section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, that commenced a  
146.25 construction project on or after October 1, 2004, and do not have a contract under subdivision  
146.26 3 by September 30, 2006, are eligible to request a rate adjustment under section 256B.431,  
146.27 subdivision 10, through September 30, 2006. If the request results in the commissioner  
146.28 determining a rate adjustment is allowable, the rate adjustment is effective on the first of  
146.29 the month following project completion. These facilities shall be allowed to accumulate  
146.30 construction project costs for the period October 1, 2004, to September 30, 2006.

146.31 (c) Facilities shall be allowed construction project rate adjustments no sooner than 12  
146.32 months after completing a previous construction project. Facilities must request the rate  
146.33 adjustment according to section 256B.431, subdivision 10.

147.1 (d) Capacity days shall be computed according to Minnesota Rules, part 9549.0060,  
147.2 subpart 11. For rate calculations under this section, the number of licensed beds in the  
147.3 nursing facility shall be the number existing after the construction project is completed and  
147.4 the number of days in the nursing facility's reporting period shall be 365.

147.5 (e) The value of assets to be recognized for a total replacement project as defined in  
147.6 section 256B.431, subdivision 17d, shall be computed as described in clause (1). The value  
147.7 of assets to be recognized for all other projects shall be computed as described in clause  
147.8 (2).

147.9 (1) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the  
147.10 number of beds allowed under subdivision 3a, paragraph (c), shall be used to compute the  
147.11 maximum amount of assets allowable in a facility's property rate calculation. If a facility's  
147.12 current request for a rate adjustment results from the completion of a construction project  
147.13 that was previously approved under section 144A.073, the assets to be used in the rate  
147.14 calculation cannot exceed the lesser of the amount determined under sections 144A.071,  
147.15 subdivision 2, and 144A.073, subdivision 3b, or the actual allowable costs of the construction  
147.16 project. A current request that is not the result of a project under section 144A.073 cannot  
147.17 exceed the limit under section 144A.071, subdivision 2, paragraph (a). Applicable credits  
147.18 must be deducted from the cost of the construction project.

147.19 (2)(i) Replacement-cost-new limits under section 256B.431, subdivision 17e, and the  
147.20 number of beds allowed under section 256B.431, subdivision 3a, paragraph (c), shall be  
147.21 used to compute the maximum amount of assets allowable in a facility's property rate  
147.22 calculation.

147.23 (ii) The value of a facility's assets to be compared to the amount in item (i) begins with  
147.24 the total appraised value from the last rate notice a facility received when its rates were set  
147.25 under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080. This value

147.26 shall be indexed by the factor in section 256B.431, subdivision 3f, paragraph (a), for each  
147.27 rate year the facility received an inflation factor on its property-related rate when its rates  
147.28 were set under this section. The value of assets listed as previous capital additions, capital  
147.29 additions, and special projects on the facility's base year rate notice and the value of assets  
147.30 related to a construction project for which the facility received a rate adjustment when its  
147.31 rates were determined under this section shall be added to the indexed appraised value.

147.32 (iii) The maximum amount of assets to be recognized in computing a facility's rate  
147.33 adjustment after a project is completed is the lesser of the aggregate replacement-cost-new  
148.1 limit computed in (i) minus the assets recognized in (ii) or the actual allowable costs of the  
148.2 construction project.

148.3 (iv) If a facility's current request for a rate adjustment results from the completion of a  
148.4 construction project that was previously approved under section 144A.073, the assets to be  
148.5 added to the rate calculation cannot exceed the lesser of the amount determined under  
148.6 sections 144A.071, subdivision 2, and 144A.073, subdivision 3b, or the actual allowable  
148.7 costs of the construction project. A current request that is not the result of a project under  
148.8 section 144A.073 cannot exceed the limit stated in section 144A.071, subdivision 2,  
148.9 paragraph (a). Assets disposed of as a result of a construction project and applicable credits  
148.10 must be deducted from the cost of the construction project.

148.11 (f) For construction projects approved under section 144A.073, allowable debt may  
148.12 never exceed the lesser of the cost of the assets purchased, the threshold limit in section  
148.13 144A.071, subdivision 2, or the replacement-cost-new limit less previously existing capital  
148.14 debt.

148.15 (g) For construction projects that were not approved under section 144A.073, allowable  
148.16 debt is limited to the lesser of the threshold in section 144A.071, subdivision 2, for such  
148.17 construction projects or the applicable limit in paragraph (e), clause (1) or (2), less previously  
148.18 existing capital debt. Amounts of debt taken out that exceed the costs of a construction  
148.19 project shall not be allowed regardless of the use of the funds.

148.20 For all construction projects being recognized, interest expense and average debt shall  
148.21 be computed based on the first 12 months following project completion. "Previously existing  
148.22 capital debt" means capital debt recognized on the last rate determined under section  
148.23 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080, and the amount of debt  
148.24 recognized for a construction project for which the facility received a rate adjustment when  
148.25 its rates were determined under this section.

148.26 For a total replacement project as defined in section 256B.431, subdivision 17d, the  
148.27 value of previously existing capital debt shall be zero.

148.28 (h) In addition to the interest expense allowed from the application of paragraph (f), the  
148.29 amounts allowed under section 256B.431, subdivision 17a, paragraph (a), clauses (2) and  
148.30 (3), will be added to interest expense.

148.31 (i) The equity portion of the construction project shall be computed as the allowable  
148.32 assets in paragraph (e), less the average debt in paragraph (f). The equity portion must be  
148.33 multiplied by 5.66 percent and the allowable interest expense in paragraph (f) must be added.  
149.1 This sum must be divided by 95 percent of capacity days to compute the construction project  
149.2 rate adjustment.

149.3 (j) For projects that are not a total replacement of a nursing facility, the amount in  
149.4 paragraph (i) is adjusted for nonreimbursable areas and then added to the current property  
149.5 payment rate of the facility.

149.6 (k) For projects that are a total replacement of a nursing facility, the amount in paragraph  
149.7 (i) becomes the new property payment rate after being adjusted for nonreimbursable areas.  
149.8 Any amounts existing in a facility's rate before the effective date of the construction project  
149.9 for equity incentives under section 256B.431, subdivision 16; capital repairs and replacements  
149.10 under section 256B.431, subdivision 15; or refinancing incentives under section 256B.431,  
149.11 subdivision 19, shall be removed from the facility's rates.

149.12 (l) No additional equipment allowance is allowed under Minnesota Rules, part 9549.0060,  
149.13 subpart 10, as the result of construction projects under this section. Allowable equipment  
149.14 shall be included in the construction project costs.

149.15 (m) Capital assets purchased after the completion date of a construction project shall be  
149.16 counted as construction project costs for any future rate adjustment request made by a facility  
149.17 under section 144A.071, subdivision 2, clause (a), if they are purchased within 24 months  
149.18 of the completion of the future construction project.

149.19 (n) In subsequent rate years, the property payment rate for a facility that results from  
149.20 the application of this subdivision shall be the amount inflated in subdivision 4.

149.21 (o) Construction projects are eligible for an equity incentive under section 256B.431,  
149.22 subdivision 16. When computing the equity incentive for a construction project under this  
149.23 subdivision, only the allowable costs and allowable debt related to the construction project  
149.24 shall be used. The equity incentive shall not be a part of the property payment rate and not  
149.25 inflated under subdivision 4. Effective October 1, 2006, all equity incentives for nursing  
149.26 facilities reimbursed under this section shall be allowed for a duration determined under  
149.27 section 256B.431, subdivision 16, paragraph (c).

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

149.29 Sec. 24. Minnesota Statutes 2016, section 256B.50, subdivision 1b, is amended to read:

149.30 Subd. 1b. **Filing an appeal.** To appeal, the provider shall file with the commissioner a  
 149.31 written notice of appeal; the appeal must be postmarked or received by the commissioner  
 149.32 within 60 days of the publication date ~~the determination of the payment rate was mailed or~~  
 149.33 ~~personally received by a provider, whichever is earlier~~ printed on the rate notice. The notice  
 150.1 of appeal must specify each disputed item; the reason for the dispute; the total dollar amount  
 150.2 in dispute for each separate disallowance, allocation, or adjustment of each cost item or part  
 150.3 of a cost item; the computation that the provider believes is correct; the authority in statute  
 150.4 or rule upon which the provider relies for each disputed item; the name and address of the  
 150.5 person or firm with whom contacts may be made regarding the appeal; and other information  
 150.6 required by the commissioner.

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

150.8 Sec. 25. Minnesota Statutes 2016, section 256B.5012, is amended by adding a subdivision  
 150.9 to read:

150.10 Subd. 3a. **Therapeutic leave days.** Notwithstanding Minnesota Rules, part 9505.0415,  
 150.11 subpart 7, a vacant bed in an intermediate care facility for persons with developmental  
 150.12 disabilities shall be counted as a reserved bed when determining occupancy rates and  
 150.13 eligibility for payment of a therapeutic leave day.

150.14 Sec. 26. Minnesota Statutes 2016, section 256R.02, subdivision 4, is amended to read:

## HOUSE ART. 2, SEC. 17-26 - SEE SENATE ART. 1, SEC. 18-27

117.23 Sec. 27. Minnesota Statutes 2016, section 256B.50, subdivision 1b, is amended to read:

117.24 Subd. 1b. **Filing an appeal.** To appeal, the provider shall file with the commissioner a  
 117.25 written notice of appeal; the appeal must be postmarked or received by the commissioner  
 117.26 within 60 days of the publication date ~~the determination of the payment rate was mailed or~~  
 117.27 ~~personally received by a provider, whichever is earlier~~ printed on the rate notice. The notice  
 117.28 of appeal must specify each disputed item; the reason for the dispute; the total dollar amount  
 117.29 in dispute for each separate disallowance, allocation, or adjustment of each cost item or part  
 117.30 of a cost item; the computation that the provider believes is correct; the authority in statute  
 117.31 or rule upon which the provider relies for each disputed item; the name and address of the  
 117.32 person or firm with whom contacts may be made regarding the appeal; and other information  
 117.33 required by the commissioner.

118.1 Sec. 28. Minnesota Statutes 2016, section 256B.5012, is amended by adding a subdivision  
 118.2 to read:

118.3 Subd. 3a. **Therapeutic leave days.** Notwithstanding Minnesota Rules, part 9505.0415,  
 118.4 subpart 7, a vacant bed in an intermediate care facility for persons with developmental  
 118.5 disabilities shall be counted as a reserved bed when determining occupancy rates and  
 118.6 eligibility for payment of a therapeutic leave day.

118.7 Sec. 29. Minnesota Statutes 2016, section 256B.5012, is amended by adding a subdivision  
 118.8 to read:

118.9 Subd. 17. ICF/DD rate increase effective July 1, 2017; Murray County. Effective  
 118.10 July 1, 2017, the daily rate for an intermediate care facility for persons with developmental  
 118.11 disabilities located in Murray County that is classified as a class B facility and licensed for  
 118.12 14 beds is \$400. This increase is in addition to any other increase that is effective on July  
 118.13 1, 2017.

## HOUSE ART. 2, SEC. 30-37 - SEE SENATE ART. 1, SEC. 32-39

## HOUSE ART. 2, SEC. 38 - SEE SENATE ART. 1, SEC. 41

124.26 Sec. 39. Minnesota Statutes 2016, section 256R.02, subdivision 4, is amended to read:

150.15 Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for  
 150.16 administering the overall activities of the nursing home. These costs include salaries and  
 150.17 wages of the administrator, assistant administrator, business office employees, security  
 150.18 guards, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related  
 150.19 to business office functions, licenses, ~~and permits~~ except as provided in the external fixed  
 150.20 costs category, employee recognition, travel including meals and lodging, all training except  
 150.21 as specified in subdivision 17, voice and data communication or transmission, office supplies,  
 150.22 property and liability insurance and other forms of insurance ~~not designated to other areas~~  
 150.23 except insurance that is a fringe benefit under subdivision 22, personnel recruitment, legal  
 150.24 services, accounting services, management or business consultants, data processing,  
 150.25 information technology, Web site, central or home office costs, business meetings and  
 150.26 seminars, postage, fees for professional organizations, subscriptions, security services,  
 150.27 advertising, board of directors fees, working capital interest expense, ~~and bad debts,~~ and  
 150.28 bad debt collection fees.

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

150.30 Sec. 27. Minnesota Statutes 2016, section 256R.02, subdivision 18, is amended to read:

150.31 Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means  
 150.32 premium expenses for group coverage ~~and reinsurance,~~ actual expenses incurred for  
 151.1 self-insured plans, including reinsurance, and employer contributions to employee health  
 151.2 reimbursement and health savings accounts. Premium and expense costs and contributions

124.27 Subd. 4. **Administrative costs.** "Administrative costs" means the identifiable costs for  
 124.28 administering the overall activities of the nursing home. These costs include salaries and  
 124.29 wages of the administrator, assistant administrator, business office employees, security  
 124.30 guards, and associated fringe benefits and payroll taxes, fees, contracts, or purchases related  
 124.31 to business office functions, licenses, ~~and permits~~ except as provided in the external fixed  
 124.32 costs category, employee recognition, travel including meals and lodging, all training except  
 125.1 as specified in subdivision 17, voice and data communication or transmission, office supplies,  
 125.2 property and liability insurance and other forms of insurance ~~not designated to other areas~~,  
 125.3 including insurance that is an employee benefit, personnel recruitment, legal services,  
 125.4 accounting services, management or business consultants, data processing, information  
 125.5 technology, Web site, central or home office costs, business meetings and seminars, postage,  
 125.6 fees for professional organizations, subscriptions, security services, advertising, board of  
 125.7 directors fees, working capital interest expense, ~~and bad debts and bad debt collection fees,~~  
 125.8 and costs incurred for travel and housing for persons employed by a supplemental nursing  
 125.9 services agency as defined in section 144A.70, subdivision 6.

125.10 EFFECTIVE DATE. This section is effective October 1, 2017.

125.11 Sec. 40. Minnesota Statutes 2016, section 256R.02, subdivision 17, is amended to read:

125.12 Subd. 17. **Direct care costs.** "Direct care costs" means costs for the wages of nursing  
 125.13 administration, direct care registered nurses, licensed practical nurses, certified nursing  
 125.14 assistants, trained medication aides, employees conducting training in resident care topics  
 125.15 and associated fringe benefits and payroll taxes; services from a supplemental nursing  
 125.16 services agency; supplies that are stocked at nursing stations or on the floor and distributed  
 125.17 or used individually, including, but not limited to: alcohol, applicators, cotton balls,  
 125.18 incontinence pads, disposable ice bags, dressings, bandages, water pitchers, tongue  
 125.19 depressors, disposable gloves, enemas, enema equipment, soap, medication cups, diapers,  
 125.20 plastic waste bags, sanitary products, thermometers, hypodermic needles and syringes,  
 125.21 clinical reagents or similar diagnostic agents, drugs that are not paid on a separate fee  
 125.22 schedule by the medical assistance program or any other payer, and technology related to  
 125.23 the provision of nursing care to residents, such as electronic charting systems; costs of  
 125.24 materials used for resident care training, and training courses outside of the facility attended  
 125.25 by direct care staff on resident care topics; and costs for nurse consultants, pharmacy  
 125.26 consultants, and medical directors. Salaries and payroll taxes for nurse consultants who  
 125.27 work out of a central office must be allocated proportionately by total resident days or by  
 125.28 direct identification to the nursing facilities served by those consultants.

125.29 Sec. 41. Minnesota Statutes 2016, section 256R.02, subdivision 18, is amended to read:

125.30 Subd. 18. **Employer health insurance costs.** "Employer health insurance costs" means  
 125.31 premium expenses for group coverage ~~and reinsurance,~~ actual expenses incurred for  
 125.32 self-insured plans including reinsurance and administrative costs, and employer contributions  
 125.33 to employee health reimbursement and health savings accounts. Premium and expense costs

151.3 are allowable for (1) all employees and (2) the spouse and dependents of those employees  
 151.4 who ~~meet the definition of full-time employees under the federal Affordable Care Act,~~  
 151.5 ~~Public Law 111-148~~ are employed on average at least 30 hours per week.

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

126.1 and contributions are allowable for (1) all employees and (2) the spouse and dependents of  
 126.2 those employees who ~~meet the definition of full-time employees under the federal Affordable~~  
 126.3 ~~Care Act, Public Law 111-148~~ are employed on average at least 30 hours of service per  
 126.4 week, or 130 hours of service per month.

126.5 Sec. 42. Minnesota Statutes 2016, section 256R.02, subdivision 19, is amended to read:

126.6 Subd. 19. **External fixed costs.** "External fixed costs" means costs related to the nursing  
 126.7 home surcharge under section 256.9657, subdivision 1; licensure fees under section 144.122;  
 126.8 family advisory council fee under section 144A.33; scholarships under section 256R.37;  
 126.9 planned closure rate adjustments under section 256R.40; consolidation rate adjustments  
 126.10 under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d;  
 126.11 single-bed room incentives under section 256R.41; property taxes, assessments, and payments  
 126.12 in lieu of taxes; employer health insurance costs; quality improvement incentive payment  
 126.13 rate adjustments under section 256R.39; performance-based incentive payments under  
 126.14 section 256R.38; special dietary needs under section 256R.51; rate adjustments for  
 126.15 compensation-related costs for minimum wage changes under section 256R.49 provided  
 126.16 on or after January 1, 2018; and Public Employees Retirement Association employer costs.

126.17 Sec. 43. Minnesota Statutes 2016, section 256R.02, subdivision 22, is amended to read:

126.18 Subd. 22. **Fringe benefit costs.** "Fringe benefit costs" means the costs for group life,  
 126.19 dental, workers' compensation, ~~and other employee insurances and short- and long-term~~  
 126.20 ~~disability, long-term care insurance, accident insurance, supplemental insurance, legal~~  
 126.21 ~~assistance insurance, profit sharing, health insurance costs not covered under subdivision~~  
 126.22 ~~18, including costs associated with part-time employee family members or retirees, and~~  
 126.23 ~~pension and retirement plan contributions, except for the Public Employees Retirement~~  
 126.24 ~~Association and employer health insurance costs; profit sharing; and retirement plans for~~  
 126.25 ~~which the employer pays all or a portion of the costs.~~

126.26 Sec. 44. Minnesota Statutes 2016, section 256R.02, subdivision 42, is amended to read:

126.27 Subd. 42. **Raw food costs.** "Raw food costs" means the cost of food provided to nursing  
 126.28 facility residents and the allocation of dietary credits. Also included are special dietary  
 126.29 supplements used for tube feeding or oral feeding, such as elemental high nitrogen diet.

127.1 Sec. 45. Minnesota Statutes 2016, section 256R.02, is amended by adding a subdivision  
 127.2 to read:

- 127.3 Subd. 42a. **Real estate taxes.** "Real estate taxes" means the real estate tax liability shown  
 127.4 on the annual property tax statement of the nursing facility for the reporting period. The  
 127.5 term does not include personnel costs or fees for late payment.
- 127.6 Sec. 46. Minnesota Statutes 2016, section 256R.02, is amended by adding a subdivision  
 127.7 to read:
- 127.8 Subd. 48a. **Special assessments.** "Special assessments" means the actual special  
 127.9 assessments and related interest paid during the reporting period. The term does not include  
 127.10 personnel costs or fees for late payment.
- 127.11 Sec. 47. Minnesota Statutes 2016, section 256R.02, subdivision 52, is amended to read:
- 127.12 Subd. 52. **Therapy costs.** "Therapy costs" means any costs related to ~~medical assistance~~  
 127.13 therapy services provided to residents that are not billed separately billable from the daily  
 127.14 operating rate.
- 127.15 Sec. 48. Minnesota Statutes 2016, section 256R.06, subdivision 5, is amended to read:
- 127.16 Subd. 5. **Notice to residents.** (a) No increase in nursing facility rates for private paying  
 127.17 residents shall be effective unless the nursing facility notifies the resident or person  
 127.18 responsible for payment of the increase in writing 30 days before the increase takes effect.  
 127.19 The notice must include the amount of the rate increase, the new payment rate, and the date  
 127.20 the rate increase takes effect.
- 127.21 A nursing facility may adjust its rates without giving the notice required by this  
 127.22 subdivision when the purpose of the rate adjustment is to reflect a change in the case mix  
 127.23 classification of the resident. The nursing facility shall notify private pay residents of any  
 127.24 rate increase related to a change in case mix classifications in a timely manner after  
 127.25 confirmation of the case mix classification change is received from the Department of  
 127.26 Health.
- 127.27 If the state fails to set rates as required by section 256R.09, subdivision 1, the time  
 127.28 required for giving notice is decreased by the number of days by which the state was late  
 127.29 in setting the rates.
- 127.30 (b) If the state does not set rates by the date required in section 256R.09, subdivision 1,  
 127.31 or otherwise provides nursing facilities with retroactive notification of the amount of a rate  
 128.1 increase, nursing facilities shall meet the requirement for advance notice by informing the  
 128.2 resident or person responsible for payments, on or before the effective date of the increase.



128.3 that a rate increase will be effective on that date. The requirements of paragraph (a) do not  
 128.4 apply to situations described in this paragraph.

128.5 If the exact amount has not yet been determined, the nursing facility may raise the rates  
 128.6 by the amount anticipated to be allowed. Any amounts collected from private pay residents  
 128.7 in excess of the allowable rate must be repaid to private pay residents with interest at the  
 128.8 rate used by the commissioner of revenue for the late payment of taxes and in effect on the  
 128.9 date the rate increase is effective.

128.10 Sec. 49. Minnesota Statutes 2016, section 256R.07, subdivision 1, is amended to read:

128.11 Subdivision 1. **Criteria.** A nursing facility shall keep adequate documentation. In order  
 128.12 to be adequate, documentation must:

128.13 (1) be maintained in orderly, well-organized files;

128.14 (2) not include documentation of more than one nursing facility in one set of files unless  
 128.15 transactions may be traced by the commissioner to the nursing facility's annual cost report;

128.16 (3) include a paid invoice or copy of a paid invoice with date of purchase, vendor name  
 128.17 and address, purchaser name and delivery destination address, listing of items or services  
 128.18 purchased, cost of items purchased, account number to which the cost is posted, and a  
 128.19 breakdown of any allocation of costs between accounts or nursing facilities. If any of the  
 128.20 information is not available, the nursing facility shall document its good faith attempt to  
 128.21 obtain the information;

128.22 (4) include contracts, agreements, amortization schedules, mortgages, other debt  
 128.23 instruments, and all other documents necessary to explain the nursing facility's costs or  
 128.24 revenues; and

128.25 (5) be retained by the nursing facility to support the five most recent annual cost reports.  
 128.26 The commissioner may extend the period of retention if the field audit was postponed  
 128.27 because of inadequate record keeping or accounting practices as in section 256R.13,  
 128.28 subdivisions 2 and 4, the records are necessary to resolve a pending appeal, or the records  
 128.29 are required for the enforcement of sections 256R.04; 256R.05, subdivision 2; 256R.06,  
 128.30 subdivisions 2; ~~and 6, and 7~~; 256R.08, subdivisions 1 to 3; and 256R.09, subdivisions 3 and  
 128.31 4.

151.7 Sec. 28. Minnesota Statutes 2016, section 256R.07, is amended by adding a subdivision  
 151.8 to read:

129.1 Sec. 50. Minnesota Statutes 2016, section 256R.07, is amended by adding a subdivision  
 129.2 to read:

151.9 Subd. 6. **Electronic signature.** For documentation requiring a signature under this  
 151.10 chapter or section 256B.431 or 256B.434, use of an electronic signature as defined under  
 151.11 section 325L.02, paragraph (h), is allowed.

151.12 Sec. 29. Minnesota Statutes 2016, section 256R.10, is amended by adding a subdivision  
 151.13 to read:

151.14 Subd. 7. **Not specified allowed costs.** When the cost category for allowed cost items or  
 151.15 services is not specified in this chapter or the provider reimbursement manual, the  
 151.16 commissioner, in consultation with stakeholders, shall determine the cost category for the  
 151.17 allowed cost item or service.

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

151.19 Sec. 30. **[256R.18] REPORT BY COMMISSIONER OF HUMAN SERVICES.**

151.20 Beginning January 1, 2019, the commissioner shall provide to the house of representatives  
 151.21 and senate committees with jurisdiction over nursing facility payment rates a biennial report  
 151.22 on the effectiveness of the reimbursement system in improving quality, restraining costs,  
 151.23 and any other features of the system as determined by the commissioner.

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

129.3 Subd. 6. **Electronic signature.** For documentation requiring a signature under this  
 129.4 chapter or section 256B.431 or 256B.434, use of an electronic signature as defined under  
 129.5 section 325L.02, paragraph (h), is allowed.

129.6 Sec. 51. Minnesota Statutes 2016, section 256R.13, subdivision 4, is amended to read:

129.7 Subd. 4. **Extended record retention requirements.** The commissioner shall extend the  
 129.8 period for retention of records under section 256R.09, subdivision 3, for purposes of  
 129.9 performing field audits as necessary to enforce sections 256R.04; 256R.05, subdivision 2;  
 129.10 256R.06, subdivisions 2, and 6, and 7; 256R.08, subdivisions 1 to 3; and 256R.09,  
 129.11 subdivisions 3 and 4, with written notice to the facility postmarked no later than 90 days  
 129.12 prior to the expiration of the record retention requirement.

129.13 Sec. 52. **[256R.18] BIENNIAL REPORT.**

129.14 The commissioner shall provide to the legislative committees with jurisdiction over  
 129.15 nursing facility payment rates a biennial report including:

151.25 Sec. 31. Minnesota Statutes 2016, section 256R.37, is amended to read:

151.26 **256R.37 SCHOLARSHIPS.**

151.27 (a) For the 27-month period beginning October 1, 2015, through December 31, 2017,  
151.28 the commissioner shall allow a scholarship per diem of up to 25 cents for each nursing  
151.29 facility with no scholarship per diem that is requesting a scholarship per diem to be added  
151.30 to the external fixed payment rate to be used:

152.1 (1) for employee scholarships that satisfy the following requirements:

152.2 (i) scholarships are available to all employees who work an average of at least ten hours  
152.3 per week at the facility except the administrator, and to reimburse student loan expenses  
152.4 for ~~newly hired and recently graduated~~ registered nurses and licensed practical nurses, and  
152.5 training expenses for nursing assistants as specified in section 144A.611, subdivisions 2  
152.6 and 4, who are newly hired and have graduated within the last 12 months; and

152.7 (ii) the course of study is expected to lead to career advancement with the facility or in  
152.8 long-term care, including medical care interpreter services and social work; and

152.9 (2) to provide job-related training in English as a second language.

152.10 (b) All facilities may annually request a rate adjustment under this section by submitting  
152.11 information to the commissioner on a schedule and in a form supplied by the commissioner.  
152.12 The commissioner shall allow a scholarship payment rate equal to the reported and allowable  
152.13 costs divided by resident days.

129.16 ~~(1) the impact of using cost report data to set rates without updating the cost report data~~  
129.17 ~~by the change in the Consumer Price Index for all urban consumers from the mid-point of~~  
129.18 ~~the cost report to the mid-point of the rate year;~~

129.19 ~~(2) the impact of the quality adjusted care limits;~~

129.20 ~~(3) the ability of nursing facilities to retain employees, including whether rate increases~~  
129.21 ~~are passed through to employees;~~

129.22 ~~(4) the efficacy of the critical access nursing facility program under section 256R.47;~~  
129.23 ~~and~~

129.24 ~~(5) the impact of payment rate limit reduction under section 256R.23, subdivision 6.~~

129.25 **EFFECTIVE DATE.** This section is effective January 1, 2019.

129.26 Sec. 53. Minnesota Statutes 2016, section 256R.37, is amended to read:

129.27 **256R.37 SCHOLARSHIPS.**

129.28 (a) For the 27-month period beginning October 1, 2015, through December 31, 2017,  
129.29 the commissioner shall allow a scholarship per diem of up to 25 cents for each nursing  
130.1 facility with no scholarship per diem that is requesting a scholarship per diem to be added  
130.2 to the external fixed payment rate to be used:

130.3 (1) for employee scholarships that satisfy the following requirements:

130.4 (i) scholarships are available to all employees who work an average of at least ten hours  
130.5 per week at the facility except the administrator, and to reimburse student loan expenses  
130.6 for ~~newly hired and recently graduated~~ registered nurses and licensed practical nurses, and  
130.7 training expenses for nursing assistants as specified in section 144A.611, subdivisions 2  
130.8 and 4, who are newly hired and have graduated within the last 12 months; and

130.9 (ii) the course of study is expected to lead to career advancement with the facility or in  
130.10 long-term care, including medical care interpreter services and social work; and

130.11 (2) to provide job-related training in English as a second language.

130.12 (b) All facilities may annually request a rate adjustment under this section by submitting  
130.13 information to the commissioner on a schedule and in a form supplied by the commissioner.  
130.14 The commissioner shall allow a scholarship payment rate equal to the reported and allowable  
130.15 costs divided by resident days.

152.14 (c) In calculating the per diem under paragraph (b), the commissioner shall allow costs  
 152.15 related to tuition, direct educational expenses, and reasonable costs as defined by the  
 152.16 commissioner for child care costs and transportation expenses related to direct educational  
 152.17 expenses.

152.18 (d) The rate increase under this section is an optional rate add-on that the facility must  
 152.19 request from the commissioner in a manner prescribed by the commissioner. The rate  
 152.20 increase must be used for scholarships as specified in this section.

152.21 (e) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities  
 152.22 that close beds during a rate year may request to have their scholarship adjustment under  
 152.23 paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect  
 152.24 the reduction in resident days compared to the cost report year.

152.25 Sec. 32. Minnesota Statutes 2016, section 256R.40, subdivision 5, is amended to read:

130.16 (c) In calculating the per diem under paragraph (b), the commissioner shall allow costs  
 130.17 related to tuition, direct educational expenses, and reasonable costs as defined by the  
 130.18 commissioner for child care costs and transportation expenses related to direct educational  
 130.19 expenses.

130.20 (d) The rate increase under this section is an optional rate add-on that the facility must  
 130.21 request from the commissioner in a manner prescribed by the commissioner. The rate  
 130.22 increase must be used for scholarships as specified in this section.

130.23 (e) For instances in which a rate adjustment will be 15 cents or greater, nursing facilities  
 130.24 that close beds during a rate year may request to have their scholarship adjustment under  
 130.25 paragraph (b) recalculated by the commissioner for the remainder of the rate year to reflect  
 130.26 the reduction in resident days compared to the cost report year.

130.27 Sec. 54. Minnesota Statutes 2016, section 256R.40, subdivision 1, is amended to read:

130.28 Subdivision 1. **Definitions.** (a) The definitions in this subdivision apply to this section.

130.29 (b) "Closure" means the cessation of operations of a nursing facility and delicensure and  
 130.30 decertification of all beds within the facility.

130.31 (c) "Closure plan" means a plan to close a nursing facility and reallocate a portion of  
 130.32 the resulting savings to provide planned closure rate adjustments at other facilities.

131.1 (d) "Commencement of closure" means the date on which residents and designated  
 131.2 representatives are notified of a planned closure as provided in section 144A.161, subdivision  
 131.3 5a, as part of an approved closure plan.

131.4 (e) "Completion of closure" means the date on which the final resident of the nursing  
 131.5 facility designated for closure in an approved closure plan is discharged from the facility  
 131.6 or the date that beds from a partial closure are delicensed and decertified.

131.7 (f) "Partial closure" means the delicensure and decertification of a portion of the beds  
 131.8 within the facility.

131.9 (g) "Planned closure rate adjustment" means an increase in a nursing facility's operating  
 131.10 rates resulting from a planned closure or a planned partial closure of another facility.

131.11 Sec. 55. Minnesota Statutes 2016, section 256R.40, subdivision 5, is amended to read:

152.26 Subd. 5. **Planned closure rate adjustment.** (a) The commissioner shall calculate the  
 152.27 amount of the planned closure rate adjustment available under subdivision 6 according to  
 152.28 clauses (1) to (4):

152.29 (1) the amount available is the net reduction of nursing facility beds multiplied by \$2,080;

152.30 (2) the total number of beds in the nursing facility or facilities receiving the planned  
 152.31 closure rate adjustment must be identified;

153.1 (3) capacity days are determined by multiplying the number determined under clause  
 153.2 (2) by 365; and

153.3 (4) the planned closure rate adjustment is the amount available in clause (1), divided by  
 153.4 capacity days determined under clause (3).

153.5 (b) A planned closure rate adjustment under this section is effective on the first day of  
 153.6 the month of January or July, whichever occurs immediately following completion of closure  
 153.7 of the facility designated for closure in the application and becomes part of the nursing  
 153.8 facility's external fixed payment rate.

153.9 (c) Upon the request of a closing facility, the commissioner must allow the facility a  
 153.10 closure rate adjustment as provided under section 144A.161, subdivision 10.

153.11 (d) A facility that has received a planned closure rate adjustment may reassign it to  
 153.12 another facility that is under the same ownership at any time within three years of its effective  
 153.13 date. The amount of the adjustment is computed according to paragraph (a).

153.14 (e) If the per bed dollar amount specified in paragraph (a), clause (1), is increased, the  
 153.15 commissioner shall recalculate planned closure rate adjustments for facilities that delicense  
 153.16 beds under this section on or after July 1, 2001, to reflect the increase in the per bed dollar  
 153.17 amount. The recalculated planned closure rate adjustment is effective from the date the per  
 153.18 bed dollar amount is increased.

153.19 **EFFECTIVE DATE.** This section is effective for closures occurring after July 1, 2017.

131.12 Subd. 5. **Planned closure rate adjustment.** (a) The commissioner shall calculate the  
 131.13 amount of the planned closure rate adjustment available under subdivision 6 according to  
 131.14 clauses (1) to (4):

131.15 (1) the amount available is the net reduction of nursing facility beds multiplied by \$2,080;

131.16 (2) the total number of beds in the nursing facility or facilities receiving the planned  
 131.17 closure rate adjustment must be identified;

131.18 (3) capacity days are determined by multiplying the number determined under clause  
 131.19 (2) by 365; and

131.20 (4) the planned closure rate adjustment is the amount available in clause (1), divided by  
 131.21 capacity days determined under clause (3).

131.22 (b) A planned closure rate adjustment under this section is effective on the first day of  
 131.23 the month of January or July, whichever occurs first following completion of closure of the  
 131.24 facility designated for closure in the application and becomes part of the nursing facility's  
 131.25 external fixed payment rate.

131.26 (c) Upon the request of a closing facility, the commissioner must allow the facility a  
 131.27 closure rate adjustment as provided under section 144A.161, subdivision 10.

131.28 (d) A facility that has received a planned closure rate adjustment may reassign it to  
 131.29 another facility that is under the same ownership at any time within three years of its effective  
 131.30 date. The amount of the adjustment is computed according to paragraph (a).

132.1 (e) If the per bed dollar amount specified in paragraph (a), clause (1), is increased, the  
 132.2 commissioner shall recalculate planned closure rate adjustments for facilities that delicense  
 132.3 beds under this section on or after July 1, 2001, to reflect the increase in the per bed dollar  
 132.4 amount. The recalculated planned closure rate adjustment is effective from the date the per  
 132.5 bed dollar amount is increased.

132.6 **(f) For a nursing facility that is ceasing operations through delicensure and decertification**  
 132.7 **of all beds within the facility, the planned closure rate adjustment under this section is**  
 132.8 **effective on the first day of the month following completion of closure of the facility**  
 132.9 **designated for closure in the application and becomes part of any assigned nursing facility's**  
 132.10 **external fixed payment rate.**

153.20 Sec. 33. Minnesota Statutes 2016, section 256R.41, is amended to read:

153.21 **256R.41 SINGLE-BED ROOM INCENTIVE.**

153.22 (a) Beginning July 1, 2005, the operating payment rate for nursing facilities reimbursed  
153.23 under this chapter shall be increased by 20 percent multiplied by the ratio of the number of  
153.24 new single-bed rooms created divided by the number of active beds on July 1, 2005, for  
153.25 each bed closure that results in the creation of a single-bed room after July 1, 2005. The  
153.26 commissioner may implement rate adjustments for up to 3,000 new single-bed rooms each  
153.27 year. For eligible bed closures for which the commissioner receives a notice from a facility  
153.28 ~~during a calendar quarter~~ that a bed has been delicensed and a new single-bed room has  
153.29 been established, the rate adjustment in this paragraph shall be effective on either the first  
153.30 day of the ~~second~~ month ~~following that calendar quarter~~ of January or July, whichever  
153.31 occurs immediately following the date of the bed delicensure.

154.1 (b) A nursing facility is prohibited from discharging residents for purposes of establishing  
154.2 single-bed rooms. A nursing facility must submit documentation to the commissioner in a  
154.3 form prescribed by the commissioner, certifying the occupancy status of beds closed to  
154.4 create single-bed rooms. In the event that the commissioner determines that a facility has  
154.5 discharged a resident for purposes of establishing a single-bed room, the commissioner shall  
154.6 not provide a rate adjustment under paragraph (a).

154.7 **EFFECTIVE DATE.** This section is effective for closures occurring after July 1, 2017.

154.8 Sec. 34. Minnesota Statutes 2016, section 256R.47, is amended to read:

154.9 **256R.47 RATE ADJUSTMENT FOR CRITICAL ACCESS NURSING**  
154.10 **FACILITIES.**

154.11 (a) The commissioner, in consultation with the commissioner of health, may designate  
154.12 certain nursing facilities as critical access nursing facilities. The designation shall be granted  
154.13 on a competitive basis, within the limits of funds appropriated for this purpose.

154.14 (b) The commissioner shall request proposals from nursing facilities every two years.  
154.15 Proposals must be submitted in the form and according to the timelines established by the  
154.16 commissioner. In selecting applicants to designate, the commissioner, in consultation with  
154.17 the commissioner of health, and with input from stakeholders, shall develop criteria designed  
154.18 to preserve access to nursing facility services in isolated areas, rebalance long-term care,  
154.19 and improve quality. To the extent practicable, the commissioner shall ensure an even  
154.20 distribution of designations across the state.

154.21 (c) The commissioner shall allow the benefits in clauses (1) to (5) for nursing facilities  
154.22 designated as critical access nursing facilities:

132.11 Sec. 56. Minnesota Statutes 2016, section 256R.41, is amended to read:

132.12 **256R.41 SINGLE-BED ROOM INCENTIVE.**

132.13 (a) Beginning July 1, 2005, the operating payment rate for nursing facilities reimbursed  
132.14 under this chapter shall be increased by 20 percent multiplied by the ratio of the number of  
132.15 new single-bed rooms created divided by the number of active beds on July 1, 2005, for  
132.16 each bed closure that results in the creation of a single-bed room after July 1, 2005. The  
132.17 commissioner may implement rate adjustments for up to 3,000 new single-bed rooms each  
132.18 year. For eligible bed closures for which the commissioner receives a notice from a facility  
132.19 ~~during a calendar quarter~~ that a bed has been delicensed and a new single-bed room has  
132.20 been established, the rate adjustment in this paragraph shall be effective on either the first  
132.21 day of the ~~second~~ month of January or July, whichever occurs first following ~~that calendar~~  
132.22 ~~quarter~~ the date of the bed delicensure.

132.23 (b) A nursing facility is prohibited from discharging residents for purposes of establishing  
132.24 single-bed rooms. A nursing facility must submit documentation to the commissioner in a  
132.25 form prescribed by the commissioner, certifying the occupancy status of beds closed to  
132.26 create single-bed rooms. In the event that the commissioner determines that a facility has  
132.27 discharged a resident for purposes of establishing a single-bed room, the commissioner shall  
132.28 not provide a rate adjustment under paragraph (a).

132.29 Sec. 57. Minnesota Statutes 2016, section 256R.47, is amended to read:

132.30 **256R.47 RATE ADJUSTMENT FOR CRITICAL ACCESS NURSING**  
132.31 **FACILITIES.**

133.1 (a) The commissioner, in consultation with the commissioner of health, may designate  
133.2 certain nursing facilities as critical access nursing facilities. The designation shall be granted  
133.3 on a competitive basis, within the limits of funds appropriated for this purpose.

133.4 (b) The commissioner shall request proposals from nursing facilities every two years.  
133.5 Proposals must be submitted in the form and according to the timelines established by the  
133.6 commissioner. In selecting applicants to designate, the commissioner, in consultation with  
133.7 the commissioner of health, and with input from stakeholders, shall develop criteria designed  
133.8 to preserve access to nursing facility services in isolated areas, rebalance long-term care,  
133.9 and improve quality. To the extent practicable, the commissioner shall ensure an even  
133.10 distribution of designations across the state.

133.11 (c) The commissioner shall allow the benefits in clauses (1) to (5) for nursing facilities  
133.12 designated as critical access nursing facilities:

154.23 (1) partial rebasing, with the commissioner allowing a designated facility operating  
 154.24 payment rates being the sum of up to 60 percent of the operating payment rate determined  
 154.25 in accordance with section 256R.21, subdivision 3, and at least 40 percent, with the sum of  
 154.26 the two portions being equal to 100 percent, of the operating payment rate that would have  
 154.27 been allowed had the facility not been designated. The commissioner may adjust these  
 154.28 percentages by up to 20 percent and may approve a request for less than the amount allowed;

154.29 (2) enhanced payments for leave days. Notwithstanding section 256R.43, upon  
 154.30 designation as a critical access nursing facility, the commissioner shall limit payment for  
 154.31 leave days to 60 percent of that nursing facility's total payment rate for the involved resident,  
 154.32 and shall allow this payment only when the occupancy of the nursing facility, inclusive of  
 154.33 bed hold days, is equal to or greater than 90 percent;

155.1 (3) two designated critical access nursing facilities, with up to 100 beds in active service,  
 155.2 may jointly apply to the commissioner of health for a waiver of Minnesota Rules, part  
 155.3 4658.0500, subpart 2, in order to jointly employ a director of nursing. The commissioner  
 155.4 of health shall consider each waiver request independently based on the criteria under  
 155.5 Minnesota Rules, part 4658.0040;

155.6 (4) the minimum threshold under section 256B.431, subdivision 15, paragraph (e), shall  
 155.7 be 40 percent of the amount that would otherwise apply; and

155.8 (5) the quality-based rate limits under section 256R.23, subdivisions 5 to 7, apply to  
 155.9 designated critical access nursing facilities.

155.10 (d) Designation of a critical access nursing facility is for a period of two years, after  
 155.11 which the benefits allowed under paragraph (c) shall be removed. Designated facilities may  
 155.12 apply for continued designation.

155.13 (e) This section is suspended and no state or federal funding shall be appropriated or  
 155.14 allocated for the purposes of this section from January 1, 2016, to December 31, ~~2017~~ 2019.

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

155.16 Sec. 35. Minnesota Statutes 2016, section 256R.49, subdivision 1, is amended to read:

155.17 Subdivision 1. **Rate adjustments for compensation-related costs.** (a) Operating payment  
 155.18 rates of all nursing facilities that are reimbursed under this chapter shall be increased effective  
 155.19 for rate years beginning on and after October 1, 2014, to address changes in compensation  
 155.20 costs for nursing facility employees paid less than \$14 per hour in accordance with this

133.13 (1) partial rebasing, with the commissioner allowing a designated facility operating  
 133.14 payment rates being the sum of up to 60 percent of the operating payment rate determined  
 133.15 in accordance with section 256R.21, subdivision 3, and at least 40 percent, with the sum of  
 133.16 the two portions being equal to 100 percent, of the operating payment rate that would have  
 133.17 been allowed had the facility not been designated. The commissioner may adjust these  
 133.18 percentages by up to 20 percent and may approve a request for less than the amount allowed;

133.19 (2) enhanced payments for leave days. Notwithstanding section 256R.43, upon  
 133.20 designation as a critical access nursing facility, the commissioner shall limit payment for  
 133.21 leave days to 60 percent of that nursing facility's total payment rate for the involved resident,  
 133.22 and shall allow this payment only when the occupancy of the nursing facility, inclusive of  
 133.23 bed hold days, is equal to or greater than 90 percent;

133.24 (3) two designated critical access nursing facilities, with up to 100 beds in active service,  
 133.25 may jointly apply to the commissioner of health for a waiver of Minnesota Rules, part  
 133.26 4658.0500, subpart 2, in order to jointly employ a director of nursing. The commissioner  
 133.27 of health shall consider each waiver request independently based on the criteria under  
 133.28 Minnesota Rules, part 4658.0040;

133.29 (4) the minimum threshold under section 256B.431, subdivision 15, paragraph (e), shall  
 133.30 be 40 percent of the amount that would otherwise apply; and

133.31 (5) the quality-based rate limits under section 256R.23, subdivisions 5 to 7, apply to  
 133.32 designated critical access nursing facilities.

134.1 (d) Designation of a critical access nursing facility is for a period of two years, after  
 134.2 which the benefits allowed under paragraph (c) shall be removed. Designated facilities may  
 134.3 apply for continued designation.

134.4 (e) This section is suspended and no state or federal funding shall be appropriated or  
 134.5 allocated for the purposes of this section from January 1, 2016, to December 31, ~~2017~~ 2019.

134.6 Sec. 58. Minnesota Statutes 2016, section 256R.49, is amended to read:

134.7 **256R.49 RATE ADJUSTMENTS FOR COMPENSATION-RELATED COSTS**  
 134.8 **FOR MINIMUM WAGE CHANGES.**

134.9 Subdivision 1. **Rate adjustments for compensation-related costs.** (a) Operating  
 134.10 Payment rates of all nursing facilities that are reimbursed under this chapter shall be increased  
 134.11 effective for rate years beginning on and after October 1, 2014, to address changes in  
 134.12 compensation costs for nursing facility employees paid less than \$14 per hour in accordance

155.21 ~~section.~~ Rate increases provided under this section before October 1, 2016, expire effective  
 155.22 January 1, 2018, and rate increases provided on or after October 1, 2016, expire effective  
 155.23 January 1, 2019.

155.24 (b) Nursing facilities that receive approval of the applications in subdivision 2 must  
 155.25 receive rate adjustments according to subdivision 4. ~~The rate adjustments must be used to~~  
 155.26 ~~pay compensation costs for nursing facility employees paid less than \$14 per hour.~~

134.13 ~~with this section.~~ Rate increases provided under this section before October 1, 2016, expire  
 134.14 effective January 1, 2018. ~~Rate increases provided on or after October 1, 2016, expire two~~  
 134.15 ~~years after the effective date of the rate increases.~~

134.16 (b) Nursing facilities that receive approval of the applications in subdivision 2 must  
 134.17 receive rate adjustments according to subdivision 4. ~~The rate adjustments must be used to~~  
 134.18 ~~pay compensation costs for nursing facility employees paid less than \$14 per hour.~~

134.19 Subd. 2. **Application process.** To receive a rate adjustment, nursing facilities must  
 134.20 submit applications to the commissioner in a form and manner determined by the  
 134.21 commissioner. The applications for the rate adjustments shall include specified data, and  
 134.22 spending plans that describe how the funds from the rate adjustments will be allocated for  
 134.23 compensation to employees paid less than \$14 per hour. The applications must be submitted  
 134.24 within three months of the effective date of any operating payment rate adjustment under  
 134.25 this section. The commissioner may request any additional information needed to determine  
 134.26 the rate adjustment within three weeks of receiving a complete application. The nursing  
 134.27 facility must provide any additional information requested by the commissioner within six  
 134.28 months of the effective date of any operating payment rate adjustment under this section.  
 134.29 The commissioner may waive the deadlines in this section under extraordinary circumstances.

134.30 Subd. 3. **Additional application requirements for facilities with employees**  
 134.31 **represented by an exclusive bargaining representative.** For nursing facilities in which  
 134.32 employees are represented by an exclusive bargaining representative, the commissioner  
 134.33 shall approve the applications submitted under subdivision 2 only upon receipt of a letter  
 135.1 or letters of acceptance of the spending plans in regard to members of the bargaining unit,  
 135.2 signed by the exclusive bargaining agent and dated after May 31, 2014. Upon receipt of the  
 135.3 letter or letters of acceptance, the commissioner shall deem all requirements of this section  
 135.4 as having been met in regard to the members of the bargaining unit.

135.5 Subd. 4. **Determination of the rate adjustments for compensation-related costs.**  
 135.6 Based on the application in subdivision 2, the commissioner shall calculate the allowable  
 135.7 annualized compensation costs by adding the totals of clauses (1), and (2), ~~and (3).~~ The  
 135.8 result must be divided by the ~~standardized or~~ sum of the facility's resident days from the  
 135.9 most recently available cost report to determine per day amounts, which must be included  
 135.10 in the operating portion external fixed costs payment rate of the total payment rate ~~and~~  
 135.11 ~~allocated to direct care or other operating as determined by the commissioner.~~

135.12 (1) the sum of the difference between \$9.50 and any hourly wage rate less than \$9.50  
 135.13 for October 1, 2016; and between the indexed value of the minimum wage, as defined in  
 135.14 section 177.24, subdivision 1, paragraph (f), or any other minimum wage implemented in  
 135.15 statute or by any local ordinance, and any hourly wage less than that indexed value for rate



135.16 years beginning on and after ~~October 1, 2017~~ January 1, 2018; multiplied by the number  
135.17 of compensated hours at that wage rate; and

135.18 ~~(2) using wages and hours in effect during the first three months of calendar year 2014,~~  
135.19 ~~beginning with the first pay period beginning on or after January 1, 2014; 22.2 percent of~~  
135.20 ~~the sum of items (i) to (viii) for October 1, 2016;~~

135.21 ~~(i) for all compensated hours from \$8 to \$8.49 per hour, the number of compensated~~  
135.22 ~~hours is multiplied by \$0.13;~~

135.23 ~~(ii) for all compensated hours from \$8.50 to \$8.99 per hour, the number of compensated~~  
135.24 ~~hours is multiplied by \$0.25;~~

135.25 ~~(iii) for all compensated hours from \$9 to \$9.49 per hour, the number of compensated~~  
135.26 ~~hours is multiplied by \$0.38;~~

135.27 ~~(iv) for all compensated hours from \$9.50 to \$10.49 per hour, the number of compensated~~  
135.28 ~~hours is multiplied by \$0.50;~~

135.29 ~~(v) for all compensated hours from \$10.50 to \$10.99 per hour, the number of compensated~~  
135.30 ~~hours is multiplied by \$0.40;~~

135.31 ~~(vi) for all compensated hours from \$11 to \$11.49 per hour, the number of compensated~~  
135.32 ~~hours is multiplied by \$0.30;~~

136.1 ~~(vii) for all compensated hours from \$11.50 to \$11.99 per hour, the number of~~  
136.2 ~~compensated hours is multiplied by \$0.20; and~~

136.3 ~~(viii) for all compensated hours from \$12 to \$13 per hour, the number of compensated~~  
136.4 ~~hours is multiplied by \$0.10; and~~

136.5 ~~(3) (2) the sum of the employer's share of FICA taxes, Medicare taxes, state and federal~~  
136.6 ~~unemployment taxes, workers' compensation, pensions, and contributions to employee~~  
136.7 ~~retirement accounts attributable to the amounts in ~~clauses~~ clause (1) and (2).~~

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

156.3 Sec. 37. DIRECTION TO THE COMMISSIONER; BORDER CITY NURSING  
156.4 FACILITY RATE STUDY.

136.8 Sec. 59. Minnesota Statutes 2016, section 256R.53, subdivision 2, is amended to read:

156.5 The commissioner of human services shall conduct a study using existing administrative  
 156.6 appropriations, to assess the rate disparity between the medical assistance rates paid to  
 156.7 nursing facilities located in Moorhead and those located in an adjacent city in another state  
 156.8 and in cities contiguous to the adjacent city. The study shall review past, current, and  
 156.9 projected disparities in rates and the impact of the disparities on workforce shortage issues  
 156.10 and continued access to medical assistance nursing facility services in Moorhead. The  
 156.11 commissioner shall submit the report to the legislature no later than January 15, 2018.

155.28 Sec. 36. **DIRECTION TO COMMISSIONER; ADULT DAY SERVICES STAFFING**  
 155.29 **RATIOS.**

155.30 The commissioner of human services shall study the staffing ratio for adult day services  
 155.31 clients and shall provide the chairs and ranking minority members of the house of  
 156.1 representatives and senate committees with jurisdiction over adult day services with  
 156.2 recommendations to adjust staffing ratios based on client needs by January 1, 2018.

136.9 Subd. 2. **Nursing facility facilities in Breckenridge border cities.** The operating  
 136.10 payment rate of a nonprofit nursing facility that exists on January 1, 2015, is located within  
 136.11 the boundaries of the city cities of Breckenridge or Moorhead, and is reimbursed under this  
 136.12 chapter, is equal to the greater of:

136.13 (1) the operating payment rate determined under section 256R.21, subdivision 3; or  
 136.14 (2) the median case mix adjusted rates, including comparable rate components as  
 136.15 determined by the median case mix adjusted rates, including comparable rate components  
 136.16 as determined by the commissioner, for the equivalent case mix indices of the nonprofit  
 136.17 nursing facility or facilities located in an adjacent city in another state and in cities contiguous  
 136.18 to the adjacent city. The commissioner shall make the comparison required in this subdivision  
 136.19 on November 1 of each year and shall apply it to the rates to be effective on the following  
 136.20 January 1. The Minnesota facility's operating payment rate with a case mix index of 1.0 is  
 136.21 computed by dividing the adjacent city's nursing facility or facilities' median operating  
 136.22 payment rate with an index of 1.02 by 1.02. If the adjustments under this subdivision result  
 136.23 in a rate that exceeds the limits in section 256R.23, subdivision 5, and whose costs exceed  
 136.24 the rate in section 256R.24, subdivision 3, in a given rate year, the facility's rate shall not  
 136.25 be subject to the limits in section 256R.23, subdivision 5, and shall not be limited to the  
 136.26 rate established in section 256R.24, subdivision 3, for that rate year.

136.27 **EFFECTIVE DATE.** The rate increases for a facility located in Moorhead are effective  
 136.28 for the rate year beginning January 1, 2020, and annually thereafter.

## HOUSE ART. 2, SEC. 60 - SEE SENATE ART. 1, SEC. 48

138.6 Sec. 61. **ALZHEIMER'S DISEASE WORKING GROUP.**

138.7 Subdivision 1. **Members.** (a) The Minnesota Board on Aging must appoint 16 members  
 138.8 to an Alzheimer's disease working group, as follows:

138.9 (1) a caregiver of a person who has been diagnosed with Alzheimer's disease;

- 138.10 (2) a person who has been diagnosed with Alzheimer's disease;
- 138.11 (3) two representatives from the nursing facility or senior housing profession;
- 138.12 (4) a representative of the home care or adult day services profession;
- 138.13 (5) two geriatricians, one of whom serves a diverse or underserved community;
- 138.14 (6) a psychologist who specializes in dementia care;
- 138.15 (7) an Alzheimer's researcher;
- 138.16 (8) a representative of the Alzheimer's Association;
- 138.17 (9) two members from community-based organizations serving one or more diverse or  
138.18 underserved communities;
- 138.19 (10) the commissioner of human services or a designee;
- 138.20 (11) the commissioner of health or a designee;
- 138.21 (12) the ombudsman for long-term care or a designee; and
- 138.22 (13) one member of the Minnesota Board on Aging, selected by the board.
- 138.23 (b) The executive director of the Minnesota Board on Aging serves on the working group  
138.24 as a nonvoting member.
- 138.25 (c) The appointing authorities under this subdivision must complete their appointments  
138.26 no later than December 15, 2017.
- 138.27 (d) To the extent practicable, the membership of the working group must reflect the  
138.28 diversity in Minnesota, and must include representatives from rural and metropolitan areas  
138.29 and representatives of different ethnicities, races, genders, ages, cultural groups, and abilities.
- 139.1 Subd. 2. **Duties; recommendations.** The Alzheimer's disease working group must  
139.2 review and revise the 2011 report, Preparing Minnesota for Alzheimer's: the Budgetary,  
139.3 Social and Personal Impacts. The working group shall consider and make recommendations  
139.4 and findings on the following issues as related to Alzheimer's disease or other dementias:

- 139.5 (1) analysis and assessment of public health and health care data to accurately determine  
 139.6 trends and disparities in cognitive decline;
- 139.7 (2) public awareness, knowledge, and attitudes, including knowledge gaps, stigma,  
 139.8 availability of information, and supportive community environments;
- 139.9 (3) risk reduction, including health education and health promotion on risk factors,  
 139.10 safety, and potentially avoidable hospitalizations;
- 139.11 (4) diagnosis and treatment, including early detection, access to diagnosis, quality of  
 139.12 dementia care, and cost of treatment;
- 139.13 (5) professional education and training, including geriatric education for licensed health  
 139.14 care professionals and dementia-specific training for direct care workers, first responders,  
 139.15 and other professionals in communities;
- 139.16 (6) residential services, including cost to families as well as regulation and licensing  
 139.17 gaps; and
- 139.18 (7) cultural competence and responsiveness to reduce health disparities and improve  
 139.19 access to high-quality dementia care.
- 139.20 Subd. 3. **Meetings.** The Board on Aging must convene the first meeting of the working  
 139.21 group no later than January 15, 2018. Before the first meeting, the Board on Aging must  
 139.22 designate one member to serve as chair. Meetings of the working group must be open to  
 139.23 the public, and to the extent practicable, technological means, such as Web casts, shall be  
 139.24 used to reach the greatest number of people throughout the state. The working group may  
 139.25 not meet more than five times.
- 139.26 Subd. 4. **Compensation.** Members of the working group serve without compensation,  
 139.27 but may be reimbursed for allowed actual and necessary expenses incurred in the performance  
 139.28 of the member's duties for the working group in the same manner and amount as authorized  
 139.29 by the commissioner's plan adopted under Minnesota Statutes, section 43A.18, subdivision  
 139.30 2.
- 139.31 Subd. 5. **Administrative support.** The Minnesota Board on Aging shall provide  
 139.32 administrative support and arrange meeting space for the working group.
- 140.1 Subd. 6. **Report.** The Board on Aging must submit a report providing the findings and  
 140.2 recommendations of the working group, including any draft legislation necessary to

140.3 implement the recommendations, to the governor and chairs and ranking minority members  
 140.4 of the legislative committees with jurisdiction over health care by January 15, 2019.

140.5 Subd. 7. **Expiration.** The working group expires June 30, 2019, or the day after the  
 140.6 working group submits the report required in subdivision 6, whichever is earlier.

**HOUSE ART. 2, SEC. 62 - SEE SENATE ART. 1**

**HOUSE ART. 2, SEC. 63 - SEE SENATE ART. 1, SEC. 45**

**HOUSE ART. 2, SEC. 64 - SEE SENATE ART. 1, SEC. 46**

141.18 Sec. 65. **ELECTRONIC SERVICE DELIVERY DOCUMENTATION SYSTEM.**

141.19 Subdivision 1. **Documentation; establishment.** The commissioner of human services  
 141.20 shall establish implementation requirements and standards for an electronic service delivery  
 141.21 documentation system to comply with the 21st Century Cures Act, Public Law 114-255.

141.22 Subd. 2. **Definitions.** (a) For purposes of this section, the terms in this subdivision have  
 141.23 the meanings given them.

141.24 (b) "Electronic service delivery documentation" means the electronic documentation of  
 141.25 the:

141.26 (1) type of service performed;

141.27 (2) individual receiving the service;

141.28 (3) date of the service;

141.29 (4) location of the service delivery;

141.30 (5) individual providing the service; and

142.1 (6) time the service begins and ends.

142.2 (c) "Electronic service delivery documentation system" means a system that provides  
 142.3 electronic service delivery documentation that complies with the 21st Century Cures Act,  
 142.4 Public Law 114-255, and the requirements of subdivision 3.

- 142.5 (d) "Service" means one of the following:
- 142.6 (1) personal care assistance services as defined in Minnesota Statutes, section 256B.0625,  
142.7 subdivision 19a, and provided according to Minnesota Statutes, section 256B.0659; or
- 142.8 (2) community first services and supports under Minnesota Statutes, section 256B.85.
- 142.9 Subd. 3. **Requirements.** (a) In developing implementation requirements for an electronic  
142.10 service delivery documentation system, the commissioner shall consider electronic visit  
142.11 verification systems and other electronic service delivery documentation methods. The  
142.12 commissioner shall convene stakeholders that will be impacted by an electronic service  
142.13 delivery system, including service providers and their representatives, service recipients  
142.14 and their representatives, and, as appropriate, those with expertise in the development and  
142.15 operation of an electronic service delivery documentation system, to ensure that the  
142.16 requirements:
- 142.17 (1) are minimally administratively and financially burdensome to a provider;
- 142.18 (2) are minimally burdensome to the service recipient and the least disruptive to the  
142.19 service recipient in receiving and maintaining allowed services;
- 142.20 (3) consider existing best practices and use of electronic service delivery documentation;
- 142.21 (4) are conducted according to all state and federal laws;
- 142.22 (5) are effective methods for preventing fraud when balanced against the requirements  
142.23 of clauses (1) and (2); and
- 142.24 (6) are consistent with the Department of Human Services' policies related to covered  
142.25 services, flexibility of service use, and quality assurance.
- 142.26 (b) The commissioner shall make training available to providers on the electronic service  
142.27 delivery documentation system requirements.
- 142.28 (c) The commissioner shall establish baseline measurements related to preventing fraud  
142.29 and establish measures to determine the effect of electronic service delivery documentation  
142.30 requirements on program integrity.
- 143.1 Subd. 4. **Legislative report.** (a) The commissioner shall submit a report by January 15,  
143.2 2018, to the chairs and ranking minority members of the legislative committees with  
143.3 jurisdiction over human services with recommendations, based on the requirements of

- 143.4 subdivision 3, to establish electronic service delivery documentation system requirements  
 143.5 and standards. The report shall identify:
- 143.6 (1) the essential elements necessary to operationalize a base-level electronic service  
 143.7 delivery documentation system to be implemented by January 1, 2019; and
- 143.8 (2) enhancements to the base-level electronic service delivery documentation system to  
 143.9 be implemented by January 1, 2019, or after, with projected operational costs and the costs  
 143.10 and benefits for system enhancements.
- 143.11 (b) The report must also identify current regulations on service providers that are either  
 143.12 inefficient, minimally effective, or will be unnecessary with the implementation of an  
 143.13 electronic service delivery documentation system.
- 143.14 **EFFECTIVE DATE.** This section is effective the day following final enactment.

**HOUSE ART. 2, SEC. 66 - SEE SENATE ART. 1, SEC. 44**

- 144.5 Sec. 67. **DIRECTION TO COMMISSIONER; ICF/DD PAYMENT RATE STUDY.**
- 144.6 Within available appropriations, the commissioner of human services shall study the  
 144.7 intermediate care facility for persons with developmental disabilities payment rates under  
 144.8 Minnesota Statutes, sections 256B.5011 to 256B.5013, and make recommendations on the  
 144.9 rate structure to the chairs and ranking minority members of the legislative committees with  
 144.10 jurisdiction over human services policy and finance by January 15, 2018.

**HOUSE ART. 2, SEC. 68 - SEE SENATE ART. 1, SEC. 43**

**HOUSE ART. 2, SEC. 69 - SEE SENATE ART. 1, SEC. 42**

- 156.12 Sec. 38. **REVISOR'S INSTRUCTION.**

- 156.13 The revisor of statutes, in consultation with the House Research Department, Office of  
 156.14 Senate Counsel, Research, and Fiscal Analysis, and Department of Human Services shall  
 156.15 prepare legislation for the 2018 legislative session to recodify laws governing the elderly  
 156.16 waiver program in Minnesota Statutes, chapter 256B.

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

**HOUSE ART. 2, SEC. 70 - SEE SENATE ART. 1, SEC. 49**