A bill for an act

relating to human services; designating critical access nursing facilities; providing a rate decrease for certain nursing facilities; appropriating any cost savings; amending Minnesota Statutes 2008, section 256B.441, by adding subdivisions.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 59. **Critical access nursing facilities.** (a) The commissioner, in consultation with the commissioner of health, shall designate qualifying nursing facilities as critical access nursing facilities.

(b) A nursing facility may apply to be designated a critical access nursing facility if it meets the following criteria:

(1) it is located more than 20 miles, defined as official mileage as reported by the Minnesota Department of Transportation, from the nearest licensed and certified nursing facility or hospital with swing beds;

(2) it is located in a county that would be in the lowest quartile of counties measured in terms of the number of licensed and certified nursing facility beds per 1,000 residents age 65 or older, if the nursing facility were to close; and

(3) it agrees to permanently delicense all beds in layaway status under section 144A.071, subdivision 4b, at the time of designation.

(c) The operating payment rates for a nursing facility designated as a critical access nursing facility shall be the greater of:

(1) rates determined by the commissioner under this section, beginning October 1, 2009, without application of the phase-in period in subdivision 55. For purposes of

determining the operating payment rate limits in subdivision 50, the facility shall be included in peer group I; or

(2) operating payment rates determined by the commissioner for the rate year beginning October 1, 2009, that are equal for a RUG's rate level with a weight of 1.00 to the peer group I median operating payment rate for that RUG's level. The percentage of operating payment rate to be case-mix adjusted shall be equal to the percentage of allowable costs that are case-mix adjusted in the facility's most recent available and audited annual statistical and cost report. This paragraph applies only if it results in a rate increase.

(d) The commissioner shall request applications from eligible nursing facilities for critical access nursing facility status designation within 60 days of enactment of this subdivision and may request additional applications at any time.

(e) The commissioner of health shall give priority to a critical access nursing facility for approval of nursing home moratorium exception proposals under section 144A.073.

Sec. 2. Minnesota Statutes 2008, section 256B.441, is amended by adding a subdivision to read:

Subd. 60. **Rate decrease for certain nursing facilities.** Effective October 1, 2009, operating payment rates of all nursing facilities that are reimbursed under this section or section 256B.434, shall be decreased to be equal, for a RUG's rate with a weight of 1.00, to the peer group I median rate for the same RUG's weight, but no facility's rate shall be decreased more than five percent. The percentage of the operating payment rate for each facility to be case-mix adjusted shall be equal to the percentage that is case-mix adjusted in that facility's September 30, 2009, operating payment rate. This subdivision shall apply only if it results in a rate decrease. Decreases determined under this subdivision shall be subtracted from rates after the blending required by subdivision 55, paragraph (a).

Sec. 3. **APPROPRIATIONS.**

All savings to the general fund resulting from implementation of Minnesota Statutes, section 256B.441, subdivision 60, are appropriated to the commissioner of human services for general fund costs related to funding critical access nursing facilities as described in Minnesota Statutes, section 256B.441, subdivision 59.