

SENATE
STATE OF MINNESOTA
EIGHTY-EIGHTH LEGISLATURE

S.F. No. 399

(SENATE AUTHORS: TOMASSONI, Marty, Eken, Cohen and Hayden)

DATE	D-PG	OFFICIAL STATUS
02/13/2013	212	Introduction and first reading Referred to Health, Human Services and Housing
03/04/2013	487	Withdrawn and re-referred to Jobs, Agriculture and Rural Development

A bill for an act

1.1 relating to state government; creating the family economic security act;
 1.2 increasing minimum wage rates; modifying child care assistance; providing a
 1.3 new child care tax credit; expanding the working family tax credit; appropriating
 1.4 money; amending Minnesota Statutes 2012, sections 119B.02, subdivision
 1.5 1; 119B.03, subdivision 9; 119B.035, subdivision 1; 119B.08, subdivision 3;
 1.6 119B.09, subdivisions 1, 4a; 177.23, subdivision 7; 177.24, subdivision 1;
 1.7 177.27, subdivisions 7, 8; 256.017, subdivision 9; 290.0671, subdivision 1;
 1.8 proposing coding for new law in Minnesota Statutes, chapter 290; repealing
 1.9 Minnesota Statutes 2012, sections 119B.03, subdivisions 1, 2, 4, 5, 6, 6a, 6b, 8;
 1.10 119B.09, subdivision 3; 177.23, subdivision 11.
 1.11

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

1.13 Section 1. CITATION.

1.14 Sections 2 to 12 may be cited as the "Family Economic Security Act."

1.15 Sec. 2. Minnesota Statutes 2012, section 119B.02, subdivision 1, is amended to read:

1.16 Subdivision 1. **Child care services.** The commissioner shall develop standards
 1.17 for county and human services boards to provide child care services to enable eligible
 1.18 families to participate in employment, training, or education programs. ~~Within the limits~~
 1.19 ~~of available appropriations,~~ The commissioner shall distribute money to counties to
 1.20 reduce the costs of child care for eligible families. The commissioner shall adopt rules to
 1.21 govern the program in accordance with this section. The rules must establish a sliding
 1.22 schedule of fees for parents receiving child care services. The rules shall provide that
 1.23 funds received as a lump-sum payment of child support arrearages shall not be counted
 1.24 as income to a family in the month received but shall be prorated over the 12 months
 1.25 following receipt and added to the family income during those months. The commissioner
 1.26 shall maximize the use of federal money under title I and title IV of Public Law 104-193,

2.1 the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and
 2.2 other programs that provide federal or state reimbursement for child care services for
 2.3 low-income families who are in education, training, job search, or other activities allowed
 2.4 under those programs. Money appropriated under this section must be coordinated with
 2.5 the programs that provide federal reimbursement for child care services to accomplish
 2.6 this purpose. Federal reimbursement obtained must be allocated to the county that spent
 2.7 money for child care that is federally reimbursable under programs that provide federal
 2.8 reimbursement for child care services. The counties shall use the federal money to expand
 2.9 child care services. The commissioner may adopt rules under chapter 14 to implement and
 2.10 coordinate federal program requirements.

2.11 Sec. 3. Minnesota Statutes 2012, section 119B.03, subdivision 9, is amended to read:

2.12 Subd. 9. **Portability pool Family move; continued participation.** (a) ~~The~~
 2.13 ~~commissioner shall establish a pool of up to five percent of the annual appropriation for~~
 2.14 ~~the basic sliding fee program to provide continuous child care assistance for eligible~~
 2.15 ~~families who move between Minnesota counties. At the end of each allocation period, any~~
 2.16 ~~unspent funds in the portability pool must be used for assistance under the basic sliding fee~~
 2.17 ~~program. If expenditures from the portability pool exceed the amount of money available,~~
 2.18 ~~the reallocation pool must be reduced to cover these shortages.~~

2.19 ~~(b) To be eligible for portable basic sliding fee assistance, a family that has moved~~
 2.20 ~~from a county in which it~~ A family receiving child care assistance under the child care
 2.21 fund that has moved from a county in which the family was receiving basic sliding fee
 2.22 child care assistance to a county with a waiting list for the basic sliding fee program must
 2.23 be admitted into the receiving county's child care assistance program if the family:

2.24 (1) ~~meet~~ meets the income and eligibility guidelines for the ~~basic sliding fee~~ child
 2.25 care assistance program; and

2.26 (2) ~~notify~~ notifies the new county of residence within 60 days of moving and ~~submit~~
 2.27 submits information to the new county of residence to verify eligibility for the ~~basic~~
 2.28 sliding fee child care assistance program.

2.29 ~~(e)~~ (b) The receiving county must:

2.30 ~~(1) accept administrative responsibility for applicants for portable basic sliding fee~~
 2.31 ~~assistance at the end of the two months of assistance under the Unitary Residency Act;~~

2.32 ~~(2) continue basic sliding fee assistance for the lesser of six months or until the~~
 2.33 ~~family is able to receive assistance under the county's regular basic sliding program; and~~

2.34 ~~(3) notify the commissioner through the quarterly reporting process of any family~~
 2.35 ~~that meets the criteria of the portable basic sliding fee assistance pool.~~

3.1 Sec. 4. Minnesota Statutes 2012, section 119B.035, subdivision 1, is amended to read:

3.2 Subdivision 1. **Establishment.** A family in which a parent provides care for the
3.3 family's infant child may receive a subsidy in lieu of assistance if the family is eligible for
3.4 or is receiving assistance under the basic sliding fee program. An eligible family must
3.5 meet the eligibility factors under section 119B.09, except as provided in subdivision 4,
3.6 and the requirements of this section. Subject to federal match and maintenance of effort
3.7 requirements for the child care and development fund, ~~and up to available appropriations;~~
3.8 the commissioner shall provide assistance under the at-home infant child care program
3.9 and for administrative costs associated with the program. At the end of a fiscal year, the
3.10 commissioner may carry forward any unspent funds under this section to the next fiscal
3.11 year within the same biennium for assistance under the basic sliding fee program.

3.12 Sec. 5. Minnesota Statutes 2012, section 119B.08, subdivision 3, is amended to read:

3.13 Subd. 3. **Child care fund plan.** The county and designated administering agency
3.14 shall submit a biennial child care fund plan to the commissioner. The commissioner shall
3.15 establish the dates by which the county must submit the plans. The plan shall include:

3.16 (1) a description of strategies to coordinate and maximize public and private
3.17 community resources, including school districts, health care facilities, government
3.18 agencies, neighborhood organizations, and other resources knowledgeable in early
3.19 childhood development, in particular to coordinate child care assistance with existing
3.20 community-based programs and service providers including child care resource and
3.21 referral programs, early childhood family education, school readiness, Head Start, local
3.22 interagency early intervention committees, special education services, early childhood
3.23 screening, and other early childhood care and education services and programs to the extent
3.24 possible, to foster collaboration among agencies and other community-based programs that
3.25 provide flexible, family-focused services to families with young children and to facilitate
3.26 transition into kindergarten. The county must describe a method by which to share
3.27 information, responsibility, and accountability among service and program providers;

3.28 (2) a description of procedures and methods to be used to make copies of the
3.29 proposed state plan reasonably available to the public, including members of the public
3.30 particularly interested in child care policies such as parents, child care providers, culturally
3.31 specific service organizations, child care resource and referral programs, interagency
3.32 early intervention committees, potential collaborative partners and agencies involved in
3.33 the provision of care and education to young children, and allowing sufficient time for
3.34 public review and comment; and

4.1 (3) information as requested by the department to ensure compliance with the child
4.2 care fund statutes and rules promulgated by the commissioner.

4.3 The commissioner shall notify counties within 90 days of the date the plan is
4.4 submitted whether the plan is approved or the corrections or information needed to approve
4.5 the plan. The commissioner shall withhold a county's allocation until it has an approved
4.6 plan. ~~Plans not approved by the end of the second quarter after the plan is due may result~~
4.7 ~~in a 25 percent reduction in allocation. Plans not approved by the end of the third quarter~~
4.8 ~~after the plan is due may result in a 100 percent reduction in the allocation to the county~~
4.9 payments to a county until it has an approved plan. Counties are to maintain services despite
4.10 any ~~reduction in their allocation~~ withholding of payments due to plans not being approved.

4.11 Sec. 6. Minnesota Statutes 2012, section 119B.09, subdivision 1, is amended to read:

4.12 Subdivision 1. **General eligibility requirements for all applicants for child**
4.13 **care assistance.** (a) Child care services must be available to families who need child
4.14 care to find or keep employment or to obtain the training or education necessary to find
4.15 employment and who:

4.16 (1) have household income less than or equal to ~~67~~76 percent of the state median
4.17 income, adjusted for family size, and meet the requirements of section 119B.05; receive
4.18 MFIP assistance; and are participating in employment and training services under chapter
4.19 256J; or

4.20 (2) have household income less than or equal to 47 percent of the state median
4.21 income, adjusted for family size, at program entry and less than or equal to ~~67~~76 percent
4.22 of the state median income, adjusted for family size, at program exit.

4.23 (b) Child care services must be made available as in-kind services.

4.24 (c) All applicants for child care assistance and families currently receiving child care
4.25 assistance must be assisted and required to cooperate in establishment of paternity and
4.26 enforcement of child support obligations for all children in the family as a condition
4.27 of program eligibility. For purposes of this section, a family is considered to meet the
4.28 requirement for cooperation when the family complies with the requirements of section
4.29 256.741.

4.30 Sec. 7. Minnesota Statutes 2012, section 119B.09, subdivision 4a, is amended to read:

4.31 Subd. 4a. **Temporary ineligibility of military personnel.** Counties must reserve a
4.32 family's position under the child care assistance fund if a family has been receiving child
4.33 care assistance but is temporarily ineligible for assistance due to increased income from
4.34 active military service. Activated military personnel may be temporarily ineligible until

5.1 deactivation. ~~A county must reserve a military family's position on the basic sliding fee~~
5.2 ~~waiting list under the child care assistance fund if a family is approved to receive child care~~
5.3 ~~assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.~~

5.4 Sec. 8. Minnesota Statutes 2012, section 177.23, subdivision 7, is amended to read:

5.5 Subd. 7. **Employee.** "Employee" means any individual employed by an employer
5.6 but does not include:

5.7 (1) two or fewer specified individuals employed at any given time in agriculture on a
5.8 farming unit or operation who are paid a salary;

5.9 (2) any individual employed in agriculture on a farming unit or operation who is
5.10 paid a salary greater than the individual would be paid if the individual worked 48 hours at
5.11 the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;

5.12 (3) an individual under 18 who is employed in agriculture on a farm to perform
5.13 services other than corn detasseling or hand field work when one or both of that minor
5.14 hand field worker's parents or physical custodians are also hand field workers;

5.15 (4) for purposes of section 177.24, an individual under 18 who is employed as a
5.16 corn detasseler;

5.17 (5) any staff member employed on a seasonal basis by an organization for work in an
5.18 organized resident or day camp operating under a permit issued under section 144.72;

5.19 (6) any individual employed in a bona fide executive, administrative, or professional
5.20 capacity, or a salesperson who conducts no more than 20 percent of sales on the premises
5.21 of the employer;

5.22 (7) any individual who renders service gratuitously for a nonprofit organization;

5.23 (8) any individual who serves as an elected official for a political subdivision or who
5.24 serves on any governmental board, commission, committee or other similar body, or who
5.25 renders service gratuitously for a political subdivision;

5.26 (9) any individual employed by a political subdivision to provide police or fire
5.27 protection services or employed by an entity whose principal purpose is to provide police
5.28 or fire protection services to a political subdivision;

5.29 (10) any individual employed by a political subdivision who is ineligible for
5.30 membership in the Public Employees Retirement Association under section 353.01,
5.31 subdivision 2b, clause (1), (2), (4), or (9);

5.32 ~~(11) any driver employed by an employer engaged in the business of operating~~
5.33 ~~taxicabs;~~

5.34 ~~(12)~~ (11) any individual engaged in babysitting as a sole practitioner;

6.1 ~~(13)~~ (12) for the purpose of section 177.25, any individual employed on a seasonal
6.2 basis in a carnival, circus, fair, or ski facility;

6.3 ~~(14)~~ (13) any individual under 18 working less than 20 hours per workweek for a
6.4 municipality as part of a recreational program;

6.5 ~~(15)~~ (14) any individual employed by the state as a natural resource manager 1, 2, or
6.6 3 (conservation officer);

6.7 ~~(16)~~ (15) any individual in a position for which the United States Department of
6.8 Transportation has power to establish qualifications and maximum hours of service under
6.9 United States Code, title 49, section 31502;

6.10 ~~(17)~~ (16) any individual employed as a seafarer. The term "seafarer" means a
6.11 master of a vessel or any person subject to the authority, direction, and control of the
6.12 master who is exempt from federal overtime standards under United States Code, title 29,
6.13 section 213(b)(6), including but not limited to pilots, sailors, engineers, radio operators,
6.14 firefighters, security guards, pursers, surgeons, cooks, and stewards;

6.15 ~~(18)~~ (17) any individual employed by a county in a single-family residence owned
6.16 by a county home school as authorized under section 260B.060 if the residence is
6.17 an extension facility of that county home school, and if the individual as part of the
6.18 employment duties resides at the residence for the purpose of supervising children as
6.19 defined by section 260C.007, subdivision 4; or

6.20 ~~(19)~~ (18) nuns, monks, priests, lay brothers, lay sisters, ministers, deacons, and other
6.21 members of religious orders who serve pursuant to their religious obligations in schools,
6.22 hospitals, and other nonprofit institutions operated by the church or religious order.

6.23 Sec. 9. Minnesota Statutes 2012, section 177.24, subdivision 1, is amended to read:

6.24 Subdivision 1. **Amount.** (a) For purposes of this subdivision, the terms defined in
6.25 this paragraph have the meanings given them.

6.26 (1) "Large employer" means an enterprise whose annual gross volume of sales made
6.27 or business done is not less than ~~\$625,000~~ \$500,000 (exclusive of excise taxes at the
6.28 retail level that are separately stated) and covered by the Minnesota Fair Labor Standards
6.29 Act, sections 177.21 to 177.35.

6.30 (2) "Small employer" means an enterprise whose annual gross volume of sales
6.31 made or business done is less than ~~\$625,000~~ \$500,000 (exclusive of excise taxes at the
6.32 retail level that are separately stated) and covered by the Minnesota Fair Labor Standards
6.33 Act, sections 177.21 to 177.35.

6.34 (b) Except as otherwise provided in sections 177.21 to 177.35, ~~every large employer~~
6.35 ~~must pay each employee wages at a rate of at least \$5.15 an hour beginning September~~

7.1 ~~1, 1997, and at a rate of at least \$6.15 an hour beginning August 1, 2005. Every small~~
 7.2 ~~employer must pay each employee at a rate of at least \$4.90 an hour beginning January 1,~~
 7.3 ~~1998, and at a rate of at least \$5.25 an hour beginning August 1, 2005:~~

7.4 (1) every large employer must pay each employee wages at a rate of at least:

7.5 (i) \$8.25 per hour beginning September 1, 2013;

7.6 (ii) \$9.50 per hour beginning July 1, 2014;

7.7 (iii) at the rate established under paragraph (d) beginning July 1, 2015; or

7.8 (iv) the wage rate under United States Code, title 29, section 206(a)(1), whichever
 7.9 is greater; and

7.10 (2) every small employer must pay each employee wages at a rate of at least:

7.11 (i) \$7.50 per hour beginning September 1, 2013;

7.12 (ii) \$8.25 per hour beginning July 1, 2014;

7.13 (iii) at the rate established under paragraph (d) beginning July 1, 2015; or

7.14 (iv) the wage rate under United States Code, title 29, section 206(a)(1), whichever
 7.15 is greater.

7.16 (c) Notwithstanding paragraph (b), during the first 90 consecutive days of
 7.17 employment, an employer may pay an employee under the age of 20 years a wage of ~~\$4.90~~
 7.18 ~~an hour. No employer may take any action to displace any employee, including a partial~~
 7.19 ~~displacement through a reduction in hours, wages, or employment benefits, in order to~~
 7.20 ~~hire an employee at the wage authorized in this paragraph:~~

7.21 (1) \$6.50 per hour beginning September 1, 2013;

7.22 (2) \$7.50 per hour beginning July 1, 2014;

7.23 (3) at the rate established under paragraph (d) beginning July 1, 2015; or

7.24 (4) the wage rate under United States Code, title 29, section 206(a)(1), whichever
 7.25 is greater.

7.26 No employer may take any action to displace any employee, including a partial
 7.27 displacement through a reduction in hours, wages, or employment benefits, in order to
 7.28 hire an employee at the wage authorized in this paragraph.

7.29 (d) No later than April 1 each year, beginning in 2015, the commissioner shall
 7.30 determine the percentage increase in the rate of inflation, as measured by the Consumer
 7.31 Price Index for all urban consumers, United States city average, as determined by the
 7.32 United States Department of Labor, during the most recent 12-month period for which
 7.33 data is available. The minimum wage rates in paragraphs (b) and (c) are increased by the
 7.34 percentage calculated by the commissioner, rounded up to the nearest five cents. The new
 7.35 minimum wage rates determined under this paragraph take effect on the next July 1.

8.1 Sec. 10. Minnesota Statutes 2012, section 177.27, subdivision 7, is amended to read:

8.2 Subd. 7. **Employer liability.** If an employer is found by the commissioner to have
8.3 violated a section identified in subdivision 4, or any rule adopted under section 177.28, and
8.4 the commissioner issues an order to comply, the commissioner shall order the employer to
8.5 cease and desist from engaging in the violative practice and to take such affirmative steps
8.6 that in the judgment of the commissioner will effectuate the purposes of the section or rule
8.7 violated. The commissioner shall order the employer to pay to the aggrieved parties back
8.8 pay, gratuities, and compensatory damages, less any amount actually paid to the employee
8.9 by the employer, and for an additional ~~equal~~ amount equal to twice the compensation owed
8.10 as liquidated damages. Any employer who is found by the commissioner to have repeatedly
8.11 or willfully violated a section or sections identified in subdivision 4 shall be subject to a
8.12 civil penalty of up to \$1,000 for each violation for each employee. In determining the
8.13 amount of a civil penalty under this subdivision, the appropriateness of such penalty to the
8.14 size of the employer's business and the gravity of the violation shall be considered. In
8.15 addition, the commissioner may order the employer to reimburse the department and the
8.16 attorney general for all appropriate litigation and hearing costs expended in preparation for
8.17 and in conducting the contested case proceeding, unless payment of costs would impose
8.18 extreme financial hardship on the employer. If the employer is able to establish extreme
8.19 financial hardship, then the commissioner may order the employer to pay a percentage
8.20 of the total costs that will not cause extreme financial hardship. Costs include but are
8.21 not limited to the costs of services rendered by the attorney general, private attorneys if
8.22 engaged by the department, administrative law judges, court reporters, and expert witnesses
8.23 as well as the cost of transcripts. Interest shall accrue on, and be added to, the unpaid
8.24 balance of a commissioner's order from the date the order is signed by the commissioner
8.25 until it is paid, at an annual rate provided in section 549.09, subdivision 1, paragraph (c).
8.26 The commissioner may establish escrow accounts for purposes of distributing damages.

8.27 Sec. 11. Minnesota Statutes 2012, section 177.27, subdivision 8, is amended to read:

8.28 Subd. 8. **Court actions; suits brought by private parties.** An employee may
8.29 bring a civil action seeking redress for a violation or violations of sections 177.21 to
8.30 177.44 directly to district court. An employer who pays an employee less than the wages
8.31 and overtime compensation to which the employee is entitled under sections 177.21 to
8.32 177.44 is liable to the employee for the full amount of the wages, gratuities, and overtime
8.33 compensation, less any amount the employer is able to establish was actually paid to the
8.34 employee and for an additional ~~equal~~ amount equal to twice the compensation owed
8.35 as liquidated damages. In addition, in an action under this subdivision the employee

9.1 may seek damages and other appropriate relief provided by subdivision 7 and otherwise
 9.2 provided by law. An agreement between the employee and the employer to work for less
 9.3 than the applicable wage is not a defense to the action.

9.4 Sec. 12. Minnesota Statutes 2012, section 256.017, subdivision 9, is amended to read:

9.5 Subd. 9. **Timing and disposition of penalty and case disallowance funds.** Quality
 9.6 control case penalty and administrative penalty amounts shall be disallowed or withheld
 9.7 from the next regular reimbursement made to the county agency for state and federal
 9.8 benefit reimbursements and federal administrative reimbursements for all programs
 9.9 covered in this section, according to procedures established in statute, but shall not be
 9.10 imposed sooner than 30 calendar days from the date of written notice of such penalties.
 9.11 Except for penalties withheld under the child care assistance program, all penalties
 9.12 must be deposited in the county incentive fund provided in section 256.018. ~~Penalties~~
 9.13 ~~withheld under the child care assistance program shall be reallocated to counties using the~~
 9.14 ~~allocation formula under section 119B.03, subdivision 5.~~ All penalties must be imposed
 9.15 according to this provision until a decision is made regarding the status of a written
 9.16 exception. Penalties must be returned to county agencies when a review of a written
 9.17 exception results in a decision in their favor.

9.18 Sec. 13. Minnesota Statutes 2012, section 290.0671, subdivision 1, is amended to read:

9.19 Subdivision 1. **Credit allowed.** (a) An individual is allowed a credit against the tax
 9.20 imposed by this chapter equal to a percentage of earned income. To receive a credit, a
 9.21 taxpayer must be eligible for a credit under section 32 of the Internal Revenue Code.

9.22 (b) For individuals with no qualifying children, the credit equals ~~1.9125~~ 2.16 percent
 9.23 of the first \$4,620 of earned income. The credit is reduced by ~~1.9125~~ 2.16 percent of
 9.24 earned income or adjusted gross income, whichever is greater, in excess of \$5,770, but in
 9.25 no case is the credit less than zero.

9.26 (c) For individuals with one qualifying child, the credit equals ~~8.5~~ 9.6 percent of the
 9.27 first \$6,920 of earned income and ~~8.5~~ 9.6 percent of earned income over \$12,080 but less
 9.28 than \$13,450. The credit is reduced by ~~5.73~~ 6.47 percent of earned income or adjusted gross
 9.29 income, whichever is greater, in excess of \$15,080, but in no case is the credit less than zero.

9.30 (d) For individuals with two or more qualifying children, the credit equals ~~ten~~ 11.3
 9.31 percent of the first \$9,720 of earned income and ~~20~~ 22.6 percent of earned income over
 9.32 \$14,860 but less than \$16,800. The credit is reduced by ~~10.3~~ 11.6 percent of earned
 9.33 income or adjusted gross income, whichever is greater, in excess of \$17,890, but in no
 9.34 case is the credit less than zero.

10.1 (e) For a nonresident or part-year resident, the credit must be allocated based on the
10.2 percentage calculated under section 290.06, subdivision 2c, paragraph (e).

10.3 (f) For a person who was a resident for the entire tax year and has earned income
10.4 not subject to tax under this chapter, including income excluded under section 290.01,
10.5 subdivision 19b, clause (9), the credit must be allocated based on the ratio of federal
10.6 adjusted gross income reduced by the earned income not subject to tax under this chapter
10.7 over federal adjusted gross income. For purposes of this paragraph, the subtractions
10.8 for military pay under section 290.01, subdivision 19b, clauses (10) and (11), are not
10.9 considered "earned income not subject to tax under this chapter."

10.10 For the purposes of this paragraph, the exclusion of combat pay under section 112
10.11 of the Internal Revenue Code is not considered "earned income not subject to tax under
10.12 this chapter."

10.13 (g) For tax years beginning after December 31, 2007, and before December 31,
10.14 2010, the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in
10.15 paragraph (d), after being adjusted for inflation under subdivision 7, are each increased by
10.16 \$3,000 for married taxpayers filing joint returns. For tax years beginning after December
10.17 31, 2008, the commissioner shall annually adjust the \$3,000 by the percentage determined
10.18 pursuant to the provisions of section 1(f) of the Internal Revenue Code, except that in
10.19 section 1(f)(3)(B), the word "2007" shall be substituted for the word "1992." For 2009,
10.20 the commissioner shall then determine the percent change from the 12 months ending on
10.21 August 31, 2007, to the 12 months ending on August 31, 2008, and in each subsequent
10.22 year, from the 12 months ending on August 31, 2007, to the 12 months ending on August
10.23 31 of the year preceding the taxable year. The earned income thresholds as adjusted
10.24 for inflation must be rounded to the nearest \$10. If the amount ends in \$5, the amount
10.25 is rounded up to the nearest \$10. The determination of the commissioner under this
10.26 subdivision is not a rule under the Administrative Procedure Act.

10.27 (h) For tax years beginning after December 31, 2010, and before January 1, 2012,
10.28 the \$5,770 in paragraph (b), the \$15,080 in paragraph (c), and the \$17,890 in paragraph
10.29 (d), after being adjusted for inflation under subdivision 7, are each increased by \$5,000 for
10.30 married taxpayers filing joint returns. For tax years beginning after December 31, 2010,
10.31 and before January 1, 2012, the commissioner shall annually adjust the \$5,000 by the
10.32 percentage determined pursuant to the provisions of section 1(f) of the Internal Revenue
10.33 Code, except that in section 1(f)(3)(B), the word "2008" shall be substituted for the word
10.34 "1992." For 2011, the commissioner shall then determine the percent change from the 12
10.35 months ending on August 31, 2008, to the 12 months ending on August 31, 2010. The
10.36 earned income thresholds as adjusted for inflation must be rounded to the nearest \$10. If the

11.1 amount ends in \$5, the amount is rounded up to the nearest \$10. The determination of the
11.2 commissioner under this subdivision is not a rule under the Administrative Procedure Act.

11.3 (i) The commissioner shall construct tables showing the amount of the credit at
11.4 various income levels and make them available to taxpayers. The tables shall follow
11.5 the schedule contained in this subdivision, except that the commissioner may graduate
11.6 the transition between income brackets.

11.7 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
11.8 December 31, 2012.

11.9 Sec. 14. **[290.0682] CHILD CREDIT.**

11.10 **Subdivision 1. Credit allowed.** (a) An individual may claim a credit against the
11.11 tax due under this chapter in an amount equal to \$100 for each qualifying child. For
11.12 individuals with adjusted gross income in excess of 300 percent of the federal poverty
11.13 guideline, adjusted for family size, the credit is reduced by the ratio of (1) adjusted gross
11.14 income in excess of 300 percent of the federal poverty guideline, adjusted for family
11.15 size, to (2) the difference between 400 percent of the federal poverty guideline, adjusted
11.16 for family size, and 300 percent of the federal poverty guideline, adjusted for family
11.17 size; but in no case is the credit less than zero. The credit is not allowed for individuals
11.18 with adjusted gross income equal to or greater than 400 percent of the federal poverty
11.19 guideline, adjusted for family size.

11.20 (b) For a nonresident or part-year resident, the credit must be allocated based on the
11.21 percentage calculated under section 290.06, subdivision 2c, paragraph (e).

11.22 **Subd. 2. Definitions.** (a) For purposes of this section, the following terms have
11.23 the meanings given.

11.24 (b) "Adjusted gross income" means federal adjusted gross income as defined in
11.25 section 62 of the Internal Revenue Code.

11.26 (c) "Family size" is the sum total of the taxpayer, spouse, and each individual eligible
11.27 to be claimed as dependent under sections 151 and 152 of the Internal Revenue Code.

11.28 (d) "Federal poverty guideline" means the federal poverty guideline for the calendar
11.29 year as published in the federal register by the United States Department of Health and
11.30 Human Services.

11.31 (e) "Qualifying child" has the meaning given in section 24 of the Internal Revenue
11.32 Code.

11.33 **Subd. 3. Credit refundable.** If the amount of credit which the individual is eligible
11.34 to receive under this section exceeds the individual's liability for tax under this chapter,
11.35 the commissioner shall refund the excess to the claimant.

12.1 Subd. 4. **Appropriation.** An amount sufficient to pay the refunds required by this
12.2 section is appropriated to the commissioner from the general fund.

12.3 **EFFECTIVE DATE.** This section is effective for taxable years beginning after
12.4 December 31, 2012.

12.5 Sec. 15. **DIRECTION TO COMMISSIONER OF MANAGEMENT AND**
12.6 **BUDGET.**

12.7 The state obligation for the basic sliding fee child care assistance program under
12.8 Minnesota Statutes, section 119B.03, must be included in the Department of Management
12.9 and Budget February and November forecast of state revenues and expenditures under
12.10 Minnesota Statutes, section 16A.103, beginning with the November 2013 forecast.

12.11 Sec. 16. **REPEALER.**

12.12 Minnesota Statutes 2012, sections 119B.03, subdivisions 1, 2, 4, 5, 6, 6a, 6b, and 8;
12.13 119B.09, subdivision 3; and 177.23, subdivision 11, are repealed.

119B.03 BASIC SLIDING FEE PROGRAM.

Subdivision 1. **Notice of allocation.** By October 1 of each year, the commissioner shall notify all counties of their final child care fund program allocation.

Subd. 2. **Waiting list.** Each county that receives funds under this section must keep a written record and report to the commissioner the number of eligible families who have applied for a child care subsidy or have requested child care assistance. Counties shall perform a preliminary determination of eligibility when a family requests child care assistance. At a minimum, a county must make a preliminary determination of eligibility based on family size, income, and authorized activity. A family seeking child care assistance must provide the required information to the county. A family that appears to be eligible must be put on a waiting list if funds are not immediately available. The waiting list must identify students in need of child care. Counties must review and update their waiting list at least every six months.

Subd. 4. **Funding priority.** (a) First priority for child care assistance under the basic sliding fee program must be given to eligible non-MFIP families who do not have a high school or general equivalency diploma or who need remedial and basic skill courses in order to pursue employment or to pursue education leading to employment and who need child care assistance to participate in the education program. Within this priority, the following subpriorities must be used:

- (1) child care needs of minor parents;
- (2) child care needs of parents under 21 years of age; and
- (3) child care needs of other parents within the priority group described in this paragraph.

(b) Second priority must be given to parents who have completed their MFIP or DWP transition year, or parents who are no longer receiving or eligible for diversionary work program supports.

(c) Third priority must be given to families who are eligible for portable basic sliding fee assistance through the portability pool under subdivision 9.

(d) Fourth priority must be given to families in which at least one parent is a veteran as defined under section 197.447.

(e) Families under paragraph (b) must be added to the basic sliding fee waiting list on the date they begin the transition year under section 119B.011, subdivision 20, and must be moved into the basic sliding fee program as soon as possible after they complete their transition year.

Subd. 5. **Review of use of funds; reallocation.** (a) After each quarter, the commissioner shall review the use of basic sliding fee program allocations by county. The commissioner may reallocate unexpended or unencumbered money among those counties who have expended their full allocation or may allow a county to expend up to ten percent of its allocation in the subsequent allocation period.

(b) Any unexpended state and federal appropriations from the first year of the biennium may be carried forward to the second year of the biennium.

Subd. 6. **Allocation formula.** The basic sliding fee state and federal funds shall be allocated on a calendar year basis. Funds shall be allocated first in amounts equal to each county's guaranteed floor according to subdivision 8, with any remaining available funds allocated according to the following formula:

(a) One-fourth of the funds shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

(b) Up to one-fourth of the funds shall be allocated in proportion to the number of families participating in the transition year child care program as reported during and averaged over the most recent six months completed at the time of the notice of allocation. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(c) Up to one-fourth of the funds shall be allocated in proportion to the average of each county's most recent six months of reported first, second, and third priority waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

(d) Up to one-fourth of the funds shall be allocated in proportion to the average of each county's most recent six months of reported waiting list as defined in subdivision 2 and the reinstatement list of those families whose assistance was terminated with the approval of the commissioner under Minnesota Rules, part 3400.0183, subpart 1. Funds in excess of the amount necessary to serve all families in this category shall be allocated according to paragraph (f).

APPENDIX

Repealed Minnesota Statutes: 13-1368

(e) The amount necessary to serve all families in paragraphs (b), (c), and (d) shall be calculated based on the basic sliding fee average cost of care per family in the county with the highest cost in the most recently completed calendar year.

(f) Funds in excess of the amount necessary to serve all families in paragraphs (b), (c), and (d) shall be allocated in proportion to each county's total expenditures for the basic sliding fee child care program reported during the most recent fiscal year completed at the time of the notice of allocation.

Subd. 6a. **Allocation due to increased funding.** When funding increases are implemented within a calendar year, every county must receive an allocation at least equal to its original allocation for the same time period. The remainder of the allocation must be recalculated to reflect the funding increase, according to formulas identified in subdivision 6.

Subd. 6b. **Allocation due to decreased funding.** When funding decreases are implemented within a calendar year, county allocations must be reduced in an amount proportionate to the reduction in the total allocation for the same time period. This applies when a funding decrease necessitates the revision of an existing calendar year allocation.

Subd. 8. **Guaranteed floor.** (a) Beginning January 1, 1996, each county's guaranteed floor shall equal 90 percent of the allocation received in the preceding calendar year. For the period January 1, 1999, to December 31, 1999, each county's guaranteed floor must be equal to its original calendar year 1998 allocation or its actual earnings for calendar year 1998, whichever is less.

(b) When the amount of funds available for allocation is less than the amount available in the previous year, each county's previous year allocation shall be reduced in proportion to the reduction in the statewide funding, for the purpose of establishing the guaranteed floor.

119B.09 FINANCIAL ELIGIBILITY.

Subd. 3. **Priorities; allocations.** If a county projects that its child care allocation is insufficient to meet the needs of all eligible families, it may prioritize among the families that remain to be served after the county has complied with the priority requirements of section 119B.03. Counties that have established a priority for families who are not MFIP participants beyond those established under section 119B.03 must submit the policy in the annual child care fund plan.

177.23 DEFINITIONS.

Subd. 11. **Companionship services; hours.** With respect to an individual who is (1) employed to provide companionship services to individuals who, because of age or infirmity, are unable to care for their own needs; (2) employed to stay overnight in the home of such an aged or infirm individual; and (3) paid the minimum wage or more for at least four hours associated with the overnight stay, the term "hours" for the purposes of requiring the payment of minimum wages and overtime premiums under sections 177.24 and 177.25, shall not include nighttime hours, from 10:00 p.m. to 9:00 a.m., up to a total of eight hours per night, during which the employee is available to perform duties for the aged or infirm individual, but is not in fact performing such duties and is free to sleep and otherwise engage in normal private pursuits in the aged or infirm individual's home. For the purposes of this subdivision, the term "companionship services" is defined in Code of Federal Regulations, title 29, sections 552.6 and 552.106 as of March 1, 1984.