SENATE
STATE OF MINNESOTA
NINETIETH SESSION

S.F. No. 799

(SENATE AUTHORS: BENSON and Abeler)

DATE	D-PG	OFFICIAL STATUS
02/09/2017		Referred to Health and Human Services Finance and Policy
02/27/2017	777	Comm report: To pass and re-referred to State Government Finance and Policy and Elections
03/13/2017	1284	Comm report: To pass
	1359	Second reading
03/27/2017	1966	Author added Abeler
04/20/2017	3284	Special Order
	3284	Third reading Passed
05/04/2017	3368	Returned from House with amendment
	3368	Senate not concur, conference committee of 5 requested
05/16/2017	5290	Senate conferees Benson; Abeler; Housley; Utke; Lourey
05/18/2017	5390	House conferees Dean, M.; Schomacker; Albright; Kiel; Schultz
	6107	Joint rule 3.02, conference committee discharged
		Laid on table
02/20/2018	6143	Taken from table
		New conference committee of 5 requested
	6149	Senate conferees Benson; Abeler; Housely; Utke; Lourey
02/22/2018	6179	House conferees Dean, M.; Schomacker; Albright; Kiel; Schultz
05/20/2018	10597c	Conference committee report, delete everything
		Senate adopted CC report and repassed bill
	10611	Third reading
	10615	House adopted SCC report and repassed bill
		Presentment date 05/21/18
	10620	Governor's action Veto 05/23/18
		Secretary of State Chapter 212 05/23/18

A bill for an act

relating to health; establishing the Opioid Epidemic Response Advisory Council and the opiate epidemic response account; modifying certain payment rates; appropriating money; requiring a report; amending Minnesota Statutes 2016, section 256B.0625, subdivision 13e; proposing coding for new law in Minnesota Statutes, chapter 256.

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

Section 1. **COMMISSIONER OF HUMAN SERVICES**

Subdivision 1. **Total Appropriation** **$** **-0-** **$** **32,145,000**

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

Subd. 2. **Central Office; Operations** -0- 6,549,000

(a) **Advisory Council on Rare Diseases.** $150,000 in fiscal year 2019 is for transfer to the Board of Regents of the University of Minnesota for the advisory council on rare diseases under Minnesota Statutes, section 137.68.

(b) **Study and Report on Health Insurance Rate Disparities between Geographic Rating Areas.** $251,000 in fiscal year 2019 is for transfer to the Legislative Coordinating

Commission for the Office of the Legislative Auditor to study and report on disparities between geographic rating areas in individual and small group market health insurance rates. This is a onetime appropriation and a onetime transfer.

(c) **Substance Abuse Recovery Services Provided through Minnesota Recovery Corps.** $309,000 in fiscal year 2019 is for transfer to ServeMinnesota under Minnesota Statutes, section 124D.37, to provide evidenced-based substance abuse recovery services through Minnesota Recovery Corps. Funds shall be used to support training, supervision, and deployment of AmeriCorps members to serve as recovery navigators. The Minnesota Commission on National and Community Service shall include in the commission's report to the legislature under Minnesota Statutes, section 124D.385, subdivision 3, an evaluation of program data to determine the efficacy of the services in promoting sustained substance abuse recovery, including but not limited to stable housing, relationship-building, employment skills, or a year of AmeriCorps service. This is a onetime appropriation and a onetime transfer.

(d) **Base Level Adjustment.** The general fund base is increased by $6,993,000 in fiscal year 2020 and increased by $6,936,000 in fiscal year 2021.

Subd. 3. **Central Office; Children and Families** -0- 84,000

Task Force on Childhood Trauma-Informed Policy and Practices. $84,000 in fiscal year 2019 is for the task force

on childhood trauma-informed policy and practices. This is a onetime appropriation.

Subd. 4. **Central Office; Health Care** -0- 1,058,000

Base Level Adjustment. The general fund base is increased by $1,574,000 in fiscal year 2020 and increased by $1,580,000 in fiscal year 2021.

Subd. 5. **Central Office; Continuing Care for Older Adults** -0- 2,353,000

(a) **Regional Ombudsmen.** $1,283,000 in fiscal year 2019 is for nine additional regional ombudsmen and one policy lead in the Office of Ombudsman for Long-Term Care, to perform the duties in Minnesota Statutes, section 256.9742. The base for this appropriation is $1,459,000 in fiscal year 2020 and $1,459,000 in fiscal year 2021.

(b) **Base Level Adjustment.** The general fund base is increased by $2,149,000 in fiscal year 2020 and increased by $2,149,000 in fiscal year 2021.

Subd. 6. **Central Office; Community Supports** -0- 4,072,000

Base Level Adjustment. The general fund base is increased by $4,012,000 in fiscal year 2020 and increased by $4,012,000 in fiscal year 2021.

Subd. 7. **Forecasted Programs; Medical Assistance** -0- 28,082,000

Subd. 8. **Forecasted Programs; Alternative Care** -0- (28,000)

Subd. 9. **Forecasted Programs; Chemical Dependency Treatment Fund** -0- (12,153,000)

Subd. 10. **Grant Programs; Children's Services Grants** -0- 365,000

American Indian Child Welfare Initiative.

$365,000 in fiscal year 2019 is for planning

efforts to expand the American Indian Child Welfare Initiative authorized under Minnesota Statutes, section 256.01, subdivision 14b. Of this appropriation, $240,000 is for a grant to the Mille Lacs Band of Ojibwe and $125,000 is for a grant to the Red Lake Nation. This is a onetime appropriation.

Subd. 11. **Grant Programs; Child and Economic Support Grants** -0- 517,000

(a) **Community Action Grants.** $200,000 in fiscal year 2019 is for community action grants under Minnesota Statutes, sections 256E.30 to 256E.32. The base for this appropriation is $150,000 in fiscal year 2020 and $150,000 in fiscal year 2021.

(b) **Mobile food shelf grants.** (1) $117,000 in fiscal year 2019 is for mobile food shelf grants under Minnesota Statutes, section 256E.34. The base for this appropriation is $115,000 in fiscal year 2020 and $115,000 in fiscal year 2021.

(c) **Project Legacy.** $200,000 in fiscal year 2019 is for a grant to Project Legacy to provide counseling and outreach to youth and young adults from families with a history of generational poverty. This appropriation must be used for mental health care, medical care, chemical dependency interventions, housing, and mentoring and counseling services for first generation college students. This is a onetime appropriation.

(d) **Base Level Adjustment.** The general fund base is increased by $265,000 in fiscal year 2020 and increased by $265,000 in fiscal year 2021.

Subd. 12. **Grant Programs; Aging and Adult Services Grants** -0- -0-

Live Well At Home Grants. Of the fiscal year 2019 general fund appropriation in Laws 2017, First Special Session chapter 6, article 18, section 2, subdivision 27: (1) $50,000 shall be used to provide a live well at home grant under Minnesota Statutes, section 256B.0917, to an organization that provides block nurse services to the elderly in the city of McGregor; and (2) $120,000 shall be used to provide a live well at home grant under Minnesota Statutes, section 256B.0917, to an organization that provides block nurse services to the elderly in the city of Grove City.

Subd. 13. **Grant Programs; Chemical Dependency Treatment Support Grants** -0- 1,246,000

(a) **Student Health Initiative to Limit Opioid Harm.** $195,000 in fiscal year 2019 is for the student health initiative to limit opioid harm. This is a onetime appropriation.

(b) **Opioid Epidemic Response Grants.** $1,051,000 is for opioid epidemic response grants under Minnesota Statutes, section 256.043. The base for this appropriation is $1,000,000 in fiscal year 2020 and $1,000,000 in fiscal year 2021. The commissioner shall transfer $1,051,000 in fiscal year 2019 from the general fund to the opioid epidemic response account under Minnesota Statutes, section 256.043. The base for this transfer is $1,000,000 in fiscal year 2020 and $1,000,000 in fiscal year 2021.

(c) **Base Level Adjustment.** The general fund base is increased by $1,000,000 in fiscal year

2020 and increased by $1,000,000 in fiscal year 2021.

EFFECTIVE DATE. This section is effective July 1, 2018, and replaces article 45, section 2, in S.F. No. 3656 if enacted.

Sec. 2. **COMMISSIONER OF HEALTH**

Subdivision 1. **Total Appropriation** **$** **-0-** **$** **7,069,000**

Appropriations by Fund

	2018	2019
General	-0-	7,044,000
State Government Special Revenue	-0-	25,000

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

Subd. 2. **Health Improvement** -0- 4,554,000

(a) **Minnesota Biomedicine and Bioethics Innovation Grants.** $500,000 in fiscal year 2019 is for transfer to the Board of Regents of the University of Minnesota for Minnesota biomedicine and bioethics innovation grants under Minnesota Statutes, section 137.67.

(b) **Mental Health and Substance Use Disorder Parity Work Group.** $75,000 in fiscal year 2019 is for transfer to the commissioner of commerce for the mental health and substance use disorder parity work group. This is a onetime appropriation and a onetime transfer.

(c) **The TAP Program.** Notwithstanding Minnesota Statutes, section 16B.97, $10,000 in fiscal year 2019 is for a grant to the TAP in St. Paul to support mental health in disability communities through spoken art forms, community supports, and community

engagement. The commissioner may use only up to 3.5 percent of this appropriation for administrative costs.

(d) **Opioid Overdose Reduction Pilot Program.** $1,000,000 in fiscal year 2019 is for the opioid overdose reduction pilot program. This is a onetime appropriation and is available until June 30, 2021. The commissioner may use only up to 3.5 percent of this appropriation for administrative costs.

(e) **Reduction of Statewide Health Improvement Program Appropriation.** The appropriation in Laws 2017, First Special Session chapter 6, article 18, section 3, subdivision 2, from the health care access fund for the statewide health improvement program under Minnesota Statutes, section 145.986, is reduced by $291,000 in fiscal year 2019. The base for this reduction is $1,550,000 in fiscal year 2020, and $2,955,000 in fiscal year 2021.

(f) **Statewide Tobacco Cessation Services.** $291,000 in fiscal year 2019 is appropriated from the health care access fund for statewide tobacco cessation services under Minnesota Statutes, section 144.397. The base for this appropriation is $1,550,000 in fiscal year 2020, and $2,955,000 in fiscal year 2021.

(g) **Additional Funding for Opioid Prevention Pilot Projects.** $2,000,000 in fiscal year 2019 is for opioid abuse prevention pilot projects under Laws 2017, First Special Session chapter 6, article 10, section 144. Of this amount, $1,400,000 is for the opioid abuse prevention pilot project through CHI St. Gabriel's Health Family Medical Center, also

known as Unity Family Health Care. $600,000 is for Project Echo through CHI St. Gabriel's Health Family Medical Center for e-learning sessions centered around opioid case management and best practices for opioid abuse prevention. The commissioner may use only up to 3.5 percent of this appropriation for administrative costs.

(h) **Suicide Prevention Grants.** $969,000 in fiscal year 2019 is for suicide prevention grants under Minnesota Statutes, section 145.56, subdivision 2, clause (7). This is a onetime appropriation.

(i) **Base Level Adjustments.** The general fund base is increased by $500,000 in fiscal year 2020 and increased by $500,000 in fiscal year 2021.

Subd. 3. **Health Protection**

Appropriations by Fund		
General	-0-	2,490,000
State Government Special Revenue	-0-	25,000

(a) **Regulation of Low-Dose X-Ray Security Screening Systems.** $29,000 in fiscal year 2019 is from the state government special revenue fund for rulemaking under Minnesota Statutes, section 144.121. The base for this appropriation is $21,000 in fiscal year 2020 and $21,000 in fiscal year 2021.

(b) **Assisted Living Report Card Working Group.** $27,000 in fiscal year 2019 is from the general fund for the assisted living report card working group. This is a onetime appropriation.

(c) **Assisted Living Licensure and Dementia Care Task Force.** $60,000 in fiscal year 2019 is from the general fund for the Assisted Living Licensure and Dementia Care Task Force.This is a onetime appropriation.

(d) **Safety and Quality Improvement Practices Report.** $33,000 in fiscal year 2019 is from the general fund for the safety and quality improvement practices report.

(e) **Technology Upgrades.** $1,755,000 in fiscal year 2019 is from the general fund for Web site improvements and data analytics at the Office of Health Facility Complaints. The general fund base for this appropriation is $971,000 in fiscal year 2020 and $853,000 in fiscal year 2021.

(f) **Base Level Adjustment.** The general fund base is increased by $1,420,000 in fiscal year 2020 and increased by $1,289,000 in fiscal year 2021. The state government special revenue fund base is increased by $17,000 in fiscal year 2020 and increased by $17,000 in fiscal year 2021.

EFFECTIVE DATE. This section is effective July 1, 2018, and replaces article 45, section 3, in S.F. No. 3656 if enacted.

Sec. 3. **[256.042] OPIOID EPIDEMIC RESPONSE ADVISORY COUNCIL.**

Subdivision 1. **Establishment of the advisory council.** (a) The Opioid Epidemic Response Advisory Council is established to develop and implement a comprehensive and effective statewide effort to address the opioid addiction and overdose epidemic in Minnesota. The council shall focus on:

(1) prevention and education, including public education and awareness for adults and youth, prescriber education, the development and sustainability of opioid overdose prevention

and education programs, and providing financial support to local law enforcement agencies for opiate antagonist programs;

(2) treatment, including statewide access to effective treatment and recovery services that is aligned with Minnesota's model of care approach to promoting access to treatment and recovery services. This includes ensuring that individuals throughout the state have access to treatment and recovery services, including care coordination services; peer recovery services; medication-assisted treatment and office-based opioid treatment; integrative and multidisciplinary therapies; and culturally specific services; and

(3) innovation and capacity building, including development of evidence-based practices, using research and evaluation to understand which policies and programs promote efficient and effective prevention, treatment, and recovery results. This also includes ensuring that there are qualified providers and a comprehensive set of treatment and recovery services throughout the state.

(b) The council shall:

(1) review local, state, and federal initiatives and funding related to prevention and education, treatment, and services for individuals and families experiencing and affected by opioid abuse, and promoting innovation and capacity building to address the opioid addiction and overdose epidemic;

(2) establish priorities to address the state's opioid addiction and overdose epidemic for the purpose of allocating funds and consult with the commissioner of management and budget to determine whether proposals are for evidence-based practices, promising practices, or theory-based practices;

(3) ensure that available funding under this section is allocated to align with existing state and federal funding to achieve the greatest impact and ensure a coordinated state effort to address the opioid addiction and overdose epidemic;

(4) develop criteria and procedures to be used in awarding grants and allocating available funds from the opioid epidemic response account and select proposals to receive grant funding. The council is encouraged to select proposals that are promising practices or theory-based practices, in addition to evidence-based practices, to help identify new approaches to effective prevention, treatment, and recovery; and

(5) in consultation with the commissioner of management and budget, and within available appropriations, select from the awarded grants projects that include promising practices or theory-based activities for which the commissioner of management and budget

shall conduct evaluations using experimental or quasi-experimental design. Grants awarded to proposals that include promising practices or theory-based activities and that are selected for an evaluation shall be administered to support the experimental or quasi-experimental evaluation and require grantees to collect and report information that is needed to complete the evaluation. The commissioner of management and budget, under section 15.08, may obtain additional relevant data to support the experimental or quasi-experimental evaluation studies.

Subd. 2. **Membership.** (a) The council shall consist of 18 members appointed by the commissioner of human services, except as otherwise specified:

(1) two members of the house of representatives, one from the majority party appointed by the speaker of the house and one from the minority party appointed by the minority leader;

(2) two members of the senate, one from the majority party appointed by the senate majority leader and one from the minority party appointed by the senate minority leader;

(3) one member appointed by the Board of Pharmacy;

(4) one member who is a physician appointed by the Minnesota chapter of the American College of Emergency Physicians;

(5) one member representing opioid treatment programs or sober living programs;

(6) one member who is a physician appointed by the Minnesota Hospital Association;

(7) one member who is a physician appointed by the Minnesota Society of Addiction Medicine;

(8) one member who is a pain psychologist;

(9) one member appointed by the Steve Rummler Hope Network;

(10) one member appointed by the Minnesota Ambulance Association;

(11) one member representing the Minnesota courts who is a judge or law enforcement officer;

(12) one public member who is a Minnesota resident and who has been impacted by the opioid epidemic;

(13) one member representing a manufacturer of opiates;

(14) one member representing an Indian tribe;

(15) the commissioner of human services or designee; and

(16) the commissioner of health or designee.

(b) The commissioner of human services shall coordinate appointments to provide geographic diversity and shall ensure that at least one-half of council members reside outside of the seven-county metropolitan area.

(c) The council is governed by section 15.059, except that members of the council shall receive no compensation other than reimbursement for expenses. Notwithstanding section 15.059, subdivision 6, the council shall not expire.

(d) The chair shall convene the council at least quarterly, and may convene other meetings as necessary. The chair shall convene meetings at different locations in the state to provide geographic access, and shall ensure that at least one-half of the meetings are held at locations outside of the seven-county metropolitan area.

(e) The commissioner of human services shall provide staff and administrative services for the advisory council.

(f) The council is subject to chapter 13D.

Subd. 3. **Conflict of interest.** Advisory council members must disclose to the council and recuse themselves from voting on any matter before the council if the member has a conflict of interest. A conflict of interest means a financial association that has the potential to bias or have the appearance of biasing a council member's decision related to the opioid epidemic response grant decision process or other council activities under this section.

Subd. 4. **Grants.** (a) The commissioner of human services shall submit a report of the grants proposed by the advisory council to be awarded for the upcoming fiscal year to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance, by March 1 of each year, beginning March 1, 2019.

(b) The commissioner of human services shall award grants from the opioid epidemic response account under section 256.043. The grants shall be awarded to proposals selected by the advisory council that address the priorities in paragraph (a), clauses (1) to (3), unless otherwise appropriated by the legislature. No more than three percent of the grant amount may be used by a grantee for administration.

Subd. 5. **Reports.** (a) The advisory council shall report annually to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance by January 1 of each year beginning January 1, 2021, information about the individual projects that receive grants and the overall role of the project in

addressing the opioid addiction and overdose epidemic in Minnesota. The report must describe the grantees and the activities implemented, along with measurable outcomes as determined by the council in consultation with the commissioner of human services and the commissioner of management and budget.

(b) The commissioner of management and budget, in consultation with the Opioid Epidemic Response Council, shall report to the chairs and ranking minority members of the legislative committees with jurisdiction over health and human services policy and finance when an evaluation study described in subdivision 1, paragraph (b), clause (5), is complete on the promising practices or theory-based projects that are selected for evaluation activities. The report shall include demographic information; outcome information for the individuals in the program; the results for the program in promoting recovery, employment, family reunification, and reducing involvement with the criminal justice system; and other relevant outcomes determined by the commissioner of management and budget that are specific to the projects that are evaluated. The report shall include information about the ability of grant programs to be scaled to achieve statewide the results that the grant project demonstrated.

Sec. 4. **[256.043] OPIATE EPIDEMIC RESPONSE ACCOUNT.**

Subdivision 1. **Establishment.** The opiate epidemic response account is established in the special revenue fund in the state treasury.

Subd. 2. **Use of account funds.** (a) Beginning in fiscal year 2019, money in the account shall be appropriated each fiscal year as specified in this subdivision.

(b) $213,000 is appropriated to the commissioner of management and budget for evaluation activities for selected projects.

(c) $384,000 is appropriated to the commissioner of public safety for Bureau of Criminal Apprehension drug scientists and lab supplies.

(d) $56,000 is appropriated to the commissioner of human services for the provision of administrative services to the Opioid Epidemic Response Advisory Council.

(e) Money remaining in the opioid epidemic response account after making the appropriations required in paragraphs (b) through (d) is appropriated to the commissioner of human services to be allocated as grants as specified by the opioid epidemic response advisory council in accordance with section 256.042, unless otherwise appropriated by the legislature.

EFFECTIVE DATE. This section is effective July 1, 2018, and replaces article 38, section 10, in S.F. No. 3656 if enacted.

Sec. 5. Minnesota Statutes 2016, section 256B.0625, subdivision 13e, is amended to read:

Subd. 13e. **Payment rates.** (a) Effective January 1, 2019, or upon federal approval, whichever is later, the basis for determining the amount of payment shall be the lower of the ~~actual acquisition costs~~ ingredient cost of the drugs ~~or the maximum allowable cost by the commissioner~~ plus the ~~fixed~~ professional dispensing fee; or the usual and customary price charged to the public. The usual and customary price is defined as the lowest price charged by the provider to a patient who pays for the prescription by cash, check, or charge account and includes those prices the pharmacy charges to customers enrolled in a prescription savings club or prescription discount club administered by the pharmacy or pharmacy chain. The amount of payment basis must be reduced to reflect all discount amounts applied to the charge by any third-party provider/insurer agreement or contract for submitted charges to medical assistance programs. The net submitted charge may not be greater than the patient liability for the service. The ~~pharmacy~~ professional dispensing fee shall be ~~$3.65~~ $10.48 for ~~legend prescription drugs~~ prescriptions filled with legend drugs meeting the definition of "covered outpatient drugs" according to United States Code, title 42, section 1396r-8, paragraph (k), clause (2), except that the dispensing fee for intravenous solutions which must be compounded by the pharmacist shall be ~~$8~~ $10.48 per bag~~, $14 per bag for cancer chemotherapy products, and $30 per bag for total parenteral nutritional products dispensed in one liter quantities, or $44 per bag for total parenteral nutritional products dispensed in quantities greater than one liter~~. The professional dispensing fee for prescriptions filled with over-the-counter drugs meeting the definition of covered outpatient drugs shall be $10.48 for dispensed quantities equal to or greater than the number of units contained in the manufacturer's original package. The professional dispensing fee shall be prorated based on the percentage of the package dispensed when the pharmacy dispenses a quantity less than the number of units contained in the manufacturer's original package. The pharmacy dispensing fee for prescribed over-the-counter drugs not meeting the definition of covered outpatient drugs shall be $3.65~~, except that the fee shall be $1.31 for retrospectively billing pharmacies when billing for quantities less than the number of units contained in the manufacturer's original package. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner at wholesale acquisition cost plus four percent for independently owned pharmacies located in a designated rural area within Minnesota, and at wholesale acquisition cost plus two percent for all other pharmacies. A pharmacy is~~

~~"independently owned" if it is one of four or fewer pharmacies under the same ownership nationally. A "designated rural area" means an area defined as a small rural area or isolated rural area according to the four-category classification of the Rural Urban Commuting Area system developed for the United States Health Resources and Services Administration. Effective January 1, 2014, the actual acquisition~~ for quantities equal to or greater than the number of units contained in the manufacturer's original package and shall be prorated based on the percentage of the package dispensed when the pharmacy dispenses a quantity less than the number of units contained in the manufacturer's original package. The National Average Drug Acquisition Cost (NADAC) shall be used to determine the ingredient cost of a drug. For drugs for which a NADAC is not reported, the commissioner shall estimate the ingredient cost at wholesale acquisition cost minus two percent. The commissioner shall establish the ingredient cost of a drug acquired through the federal 340B Drug Pricing Program ~~shall be estimated by the commissioner at wholesale acquisition cost minus 40 percent~~ at a 340B Drug Pricing Program maximum allowable cost. The 340B Drug Pricing Program maximum allowable cost shall be comparable to, but no higher than, the 340B Drug Pricing Program ceiling price established by the Health Resources and Services Administration. Wholesale acquisition cost is defined as the manufacturer's list price for a drug or biological to wholesalers or direct purchasers in the United States, not including prompt pay or other discounts, rebates, or reductions in price, for the most recent month for which information is available, as reported in wholesale price guides or other publications of drug or biological pricing data. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to~~, but~~ the actual acquisition cost of the drug product and no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs and no higher than the NADAC of the generic product. Establishment of the amount of payment for drugs shall not be subject to the requirements of the Administrative Procedure Act.

(b) Pharmacies dispensing prescriptions to residents of long-term care facilities using an automated drug distribution system meeting the requirements of section 151.58, or a packaging system meeting the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse, may employ retrospective billing for prescription drugs dispensed to long-term care facility residents. A retrospectively billing pharmacy must submit a claim only for the quantity of medication used by the enrolled recipient during the defined billing period. A retrospectively billing pharmacy must use a billing period not less than one calendar month or 30 days.

(c) ~~An additional dispensing fee of $.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse.~~ A pharmacy provider using packaging that meets the standards set forth in Minnesota Rules, part 6800.2700, is required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse, unless the pharmacy is using retrospective billing. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply.

(d) ~~Whenever a maximum allowable cost has been set for~~ If a pharmacy dispenses a multisource drug, ~~payment shall be the lower of the usual and customary price charged to the public or~~ the ingredient cost shall be the NADAC of the generic product or the maximum allowable cost established by the commissioner unless prior authorization for the brand name product has been granted according to the criteria established by the Drug Formulary Committee as required by subdivision 13f, paragraph (a), and the prescriber has indicated "dispense as written" on the prescription in a manner consistent with section 151.21, subdivision 2.

(e) The basis for determining the amount of payment for drugs administered in an outpatient setting shall be the lower of the usual and customary cost submitted by the provider, 106 percent of the average sales price as determined by the United States Department of Health and Human Services pursuant to title XVIII, section 1847a of the federal Social Security Act, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. If average sales price is unavailable, the amount of payment must be lower of the usual and customary cost submitted by the provider, the wholesale acquisition cost, the specialty pharmacy rate, or the maximum allowable cost set by the commissioner. Effective January 1, ~~2014~~ 2019, or upon federal approval, whichever is later, the commissioner shall discount the payment rate for drugs obtained through the federal 340B Drug Pricing Program by ~~20~~ 28.6 percent. The payment for drugs administered in an outpatient setting shall be made to the administering facility or practitioner. A retail or specialty pharmacy dispensing a drug for administration in an outpatient setting is not eligible for direct reimbursement.

(f) The commissioner may ~~negotiate lower reimbursement rates~~ establish maximum allowable cost rates for specialty pharmacy products ~~than the rates~~ that are lower than the ingredient cost formulas specified in paragraph (a). The commissioner may require individuals enrolled in the health care programs administered by the department to obtain specialty pharmacy products from providers ~~with whom the commissioner has negotiated lower reimbursement rates~~ able to provide enhanced clinical services and willing to accept the specialty pharmacy reimbursement. Specialty pharmacy products are defined as those used by a small number of recipients or recipients with complex and chronic diseases that require expensive and challenging drug regimens. Examples of these conditions include, but are not limited to: multiple sclerosis, HIV/AIDS, transplantation, hepatitis C, growth hormone deficiency, Crohn's Disease, rheumatoid arthritis, and certain forms of cancer. Specialty pharmaceutical products include injectable and infusion therapies, biotechnology drugs, antihemophilic factor products, high-cost therapies, and therapies that require complex care. The commissioner shall consult with the formulary committee to develop a list of specialty pharmacy products subject to ~~this paragraph~~ maximum allowable cost reimbursement. In consulting with the formulary committee in developing this list, the commissioner shall take into consideration the population served by specialty pharmacy products, the current delivery system and standard of care in the state, and access to care issues. The commissioner shall have the discretion to adjust the ~~reimbursement rate~~ maximum allowable cost to prevent access to care issues.

(g) Home infusion therapy services provided by home infusion therapy pharmacies must be paid at rates according to subdivision 8d.

(h) Subject to federal approval, effective for prescriptions filled on or after January 1, 2019, the commissioner shall increase the ingredient cost reimbursement calculated in paragraphs (a) and (f) by two percent for prescription and nonprescription drugs subject to the wholesale drug distributor tax under section 295.52.

EFFECTIVE DATE. This section is effective July 1, 2018, and replaces article 34, section 10, in S.F. No. 3656 if enacted.

Sec. 6. **STATE LOTTERY.**

The amendments to Minnesota Statutes 2016, section 349A.06, subdivision 11, by 2018 S.F. No. 3656, article 2, section 18, if enacted, are repealed retroactively to the day of final enactment.

Sec. 7. **INSURANCE RISK.**

The amendments to Minnesota Statutes 2016, section 62V.05, subdivision 10, by 2018 S.F. No. 3656, article 43, section 2, if enacted, are repealed retroactively to the day of final enactment.

Sec. 8. **EFFECTIVE DATE.**

This act is effective only if 2018 S.F. No. 3656 is enacted.