A bill for an act

relating to education; providing for a more cost effective K-12 special education third-party billing process; amending Minnesota Statutes 2010, section 125A.21, subdivisions 2, 3; Laws 2009, chapter 79, article 5, section 60, as amended.

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

Section 1. Minnesota Statutes 2010, section 125A.21, subdivision 2, is amended to read:

Subd. 2. **Third-party reimbursement.** (a) Beginning July 1, 2000, districts shall seek reimbursement from insurers and similar third parties for the cost of services provided by the district whenever the services provided by the district are otherwise covered by the child's health coverage. Districts shall request, but may not require, the child's family to provide information about the child's health coverage when a child with a disability begins to receive services from the district of a type that may be reimbursable, and shall request, but may not require, updated information after that as needed.

(b) For children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health coverage, a district shall provide an initial written notice to the enrolled child's parent or legal representative of its intent to seek reimbursement from medical assistance or MinnesotaCare for the individual education plan health-related services provided by the district. The notice shall include:

(1) the right of the parent or legal representative to request a copy of all records concerning individualized education program health-related services disclosed by the district to any third party;

(2) the right of the parent or legal representative to withdraw consent for disclosing a child's records at any time without consequence, including consent that was initially

given as part of the application process for MinnesotaCare or medical assistance under section 256B.08, subdivision 1; and

(3) a decision to revoke consent for schools to share information from education records does not impact a parent's eligibility for MinnesotaCare or medical assistance.

(c) The district shall give the parent or legal representative annual written notice of:

(1) the district's intent to seek reimbursement from medical assistance or MinnesotaCare for individual education plan health-related services provided by the district;

(2) the right of the parent or legal representative to request a copy of all records concerning individual education plan health-related services disclosed by the district to any third party; and

(3) the right of the parent or legal representative to withdraw consent for disclosure of a child's records at any time without consequence, including consent that was initially given as part of the application process for MinnesotaCare or medical assistance under section 256B.08, subdivision 1.

The written notice shall be provided as part of the written notice required by Code of Federal Regulations, title 34, section 300.504.

(d) In order to access the private health care coverage of a child who is covered by private health care coverage in whole or in part, a district must:

(1) obtain annual written informed consent from the parent or legal representative, in compliance with subdivision 5; and

(2) inform the parent or legal representative that a refusal to permit the district or state Medicaid agency to access their private health care coverage does not relieve the district of its responsibility to provide all services necessary to provide free and appropriate public education at no cost to the parent or legal representative.

(e) If the commissioner of human services obtains federal approval to exempt covered individual education plan health-related services from the requirement that private health care coverage refuse payment before medical assistance may be billed, paragraphs (b), (c), and (d) shall also apply to students with a combination of private health care coverage and health care coverage through medical assistance or MinnesotaCare.

(f) In the event that Congress or any federal agency or the Minnesota legislature or any state agency establishes lifetime limits, limits for any health care services, cost-sharing provisions, or otherwise provides that individual education plan health-related services impact benefits for persons enrolled in medical assistance or MinnesotaCare, the amendments to this subdivision adopted in 2002 are repealed on the effective date of any federal or state law or regulation that imposes the limits. In that event, districts must

obtain informed consent consistent with this subdivision as it existed prior to the 2002 amendments and subdivision 5, before seeking reimbursement for children enrolled in medical assistance under chapter 256B or MinnesotaCare under chapter 256L who have no other health care coverage.

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

Sec. 2. Minnesota Statutes 2010, section 125A.21, subdivision 3, is amended to read:

Subd. 3. **Use of reimbursements.** Of the reimbursements received, districts may:

(1) retain an amount sufficient to compensate the district for its administrative costs of obtaining reimbursements;

(2) regularly obtain from education- and health-related entities training and other appropriate technical assistance designed to improve the district's ability to ~~determine which services are reimbursable and to seek timely reimbursement in a cost-effective manner~~ access third-party payments for individualized education program health-related services; or

(3) reallocate reimbursements for the benefit of students with ~~special needs~~ individualized education programs or individual family service plans in the district.

Sec. 3. Laws 2009, chapter 79, article 5, section 60, as amended by Laws 2009, chapter 173, article 1, section 37, is amended to read:

Sec. 60. Minnesota Statutes 2008, section 256L.05, is amended by adding a subdivision to read:

Subd. 1c. **Open enrollment and streamlined application and enrollment process.** (a) The commissioner and local agencies working in partnership must develop a streamlined and efficient application and enrollment process for medical assistance and MinnesotaCare enrollees that meets the criteria specified in this subdivision.

(b) The commissioners of human services and education shall provide recommendations to the legislature by January 15, 2010, on the creation of an open enrollment process for medical assistance and MinnesotaCare that is coordinated with the public education system. The recommendations must:

(1) be developed in consultation with medical assistance and MinnesotaCare enrollees and representatives from organizations that advocate on behalf of children and families, low-income persons and minority populations, counties, school administrators and nurses, health plans, and health care providers;

(2) be based on enrollment and renewal procedures best practices;

(3) simplify the enrollment and renewal processes wherever possible; and

(4) establish a process:

(i) to disseminate information on medical assistance and MinnesotaCare to all children in the public education system, including prekindergarten programs; and

(ii) for the commissioner of human services to enroll children and other household members who are eligible.

The commissioner of human services in coordination with the commissioner of education shall implement an open enrollment process by August 1, 2010, to be effective beginning with the 2010-2011 school year.

(c) The commissioner and local agencies shall develop an online application process for medical assistance and MinnesotaCare.

(d) The commissioner shall develop an application for children that is easily understandable and does not exceed four pages in length.

(e) The commissioner of human services shall present to the legislature, by January 15, 2010, an implementation plan for the open enrollment period and online application process.

(f) To ensure parity between all providers of medical services in the ability to seek reimbursement from MinnesotaCare or medical assistance, the commissioner of human services, in consultation with the commissioner of education, shall include on new or revised enrollment forms consent authorization language for all providers of medical services to the parent's child or children, including schools, by incorporating language on the enrollment form that is consistent with federal data practices laws requiring consent before a school may release information from individual educational records. The consent language shall include a statement that the medical services providers may share with the commissioner of human services medical or other information in the possession of the provider that is necessary for the provider to be reimbursed by MinnesotaCare or medical assistance. The consent language also shall state that information may be shared from a child's individual educational records and that the parent may revoke the consent for schools to share information from educational records at any time. The commissioner shall include substantially similar consent authorization language on each of its other enrollment forms as each form is scheduled for review, revision, or replacement.

**EFFECTIVE DATE.** This section is effective July 1, 2010, or upon federal approval, which must be requested by the commissioner, whichever is later.

Sec. 4. **THIRD-PARTY BILLING.**

To allow the cost effective billing of medical assistance for covered services that are not reimbursed by other legally liable third parties, the commissioner of human services must:

(1) summarize and document school district efforts to secure reimbursement from legally liable third parties; and

(2) request permission from the Centers for Medicare and Medicaid Services to allow school districts to bill Medicaid alone, without first billing private payers, when:

(i) a child has both public and private coverage; and

(ii) documentation demonstrates that the private payer involved does not reimburse for individualized education program health-related services.