ARTICLE 4

CONTINUING CARE FOR OLDER ADULTS

Section 1. Minnesota Statutes 2018, section 144.0724, subdivision 4, is amended to read:

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

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

(1) a new admission assessment;

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

(3) a significant change in status assessment must be completed within 14 days of the identification of a significant change, whether improvement or decline, and regardless of the amount of time since the last significant change in status assessment~~;~~. Effective for rehabilitation therapy completed on or after January 1, 2020, a facility must complete a significant change in status assessment if for any reason all speech, occupational, and physical therapies have ended. The ARD of the significant change in status assessment must be the eighth day after all speech, occupational, and physical therapies have ended. The last day on which rehabilitation therapy was furnished is considered day zero when determining the ARD for the significant change in status assessment;

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

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

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

(7) modifications to the most recent assessment in clauses (1) to (6).

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

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

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

Sec. 2. Minnesota Statutes 2018, section 144.0724, subdivision 5, is amended to read:

Subd. 5. **Short stays.** (a) A facility must submit to the commissioner of health an admission assessment for all residents who stay in the facility 14 days or less.

(b) Notwithstanding the admission assessment requirements of paragraph (a), a facility may elect to accept a short stay rate with a case mix index of 1.0 for all facility residents who stay 14 days or less in lieu of submitting an admission assessment. Facilities shall make this election annually.

(c) Nursing facilities must elect one of the options described in paragraphs (a) and (b) by reporting to the commissioner of health, as prescribed by the commissioner. The election is effective on July 1 each year.

(d) An admission assessment is not required regardless of the facility's election status when a resident is admitted to and discharged from the facility on the same day.

EFFECTIVE DATE. This section is effective for admissions on or after July 1, 2019.

Sec. 3. Minnesota Statutes 2018, section 144.0724, subdivision 8, is amended to read:

Subd. 8. **Request for reconsideration of resident classifications.** (a) The resident, or resident's representative, or the nursing facility or boarding care home may request that the commissioner of health reconsider the assigned reimbursement classification including any items changed during the audit process. The request for reconsideration must be submitted in writing to the commissioner within 30 days of the day the resident or the resident's representative receives the resident classification notice. The request for reconsideration must include the name of the resident, the name and address of the facility in which the resident resides, the reasons for the reconsideration, and documentation supporting the request. The documentation accompanying the reconsideration request is limited to ~~a copy of the MDS that determined the classification and other~~ documents that would support or change the MDS findings.

(b) Upon request, the nursing facility must give the resident or the resident's representative a copy of the assessment form and the other documentation that was given to the commissioner of health to support the assessment findings. The nursing facility shall also provide access to and a copy of other information from the resident's record that has been requested by or on behalf of the resident to support a resident's reconsideration request. A copy of any requested material must be provided within three working days of receipt of a

written request for the information. Notwithstanding any law to the contrary, the facility may not charge a fee for providing copies of the requested documentation. If a facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the nursing facility immediately comply with the request for information and that as of the date of the issuance of the correction order, the facility shall forfeit to the state a $100 fine for the first day of noncompliance, and an increase in the $100 fine by $50 increments for each day the noncompliance continues.

(c) In addition to the information required under paragraphs (a) and (b), a reconsideration request from a nursing facility must contain the following information: (i) the date the reimbursement classification notices were received by the facility; (ii) the date the classification notices were distributed to the resident or the resident's representative; and (iii) a copy of a notice sent to the resident or to the resident's representative. This notice must inform the resident or the resident's representative that a reconsideration of the resident's classification is being requested, the reason for the request, that the resident's rate will change if the request is approved by the commissioner, the extent of the change, that copies of the facility's request and supporting documentation are available for review, and that the resident also has the right to request a reconsideration. If the facility fails to provide the required information listed in item (iii) with the reconsideration request, the commissioner may request that the facility provide the information within 14 calendar days. The reconsideration request must be denied if the information is then not provided, and the facility may not make further reconsideration requests on that specific reimbursement classification.

(d) Reconsideration by the commissioner must be made by individuals not involved in reviewing the assessment, audit, or reconsideration that established the disputed classification. The reconsideration must be based upon the assessment that determined the classification and upon the information provided to the commissioner under paragraphs (a) and (b). If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. Within 15 working days of receiving the request for reconsideration, the commissioner shall affirm or modify the original resident classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect characteristics of the resident at the time of the assessment. The resident and the nursing facility or boarding care home shall be notified within five working days after the decision is made. A decision by the commissioner under this subdivision is the final administrative decision of the agency for the party requesting reconsideration.

(e) The resident classification established by the commissioner shall be the classification that applies to the resident while the request for reconsideration is pending. If a request for reconsideration applies to an assessment used to determine nursing facility level of care under subdivision 4, paragraph (c), the resident shall continue to be eligible for nursing facility level of care while the request for reconsideration is pending.

(f) The commissioner may request additional documentation regarding a reconsideration necessary to make an accurate reconsideration determination.

Sec. 4. Minnesota Statutes 2018, section 144A.071, subdivision 1a, is amended to read:

Subd. 1a. **Definitions.** For purposes of sections 144A.071 to 144A.073, the following terms have the meanings given them:

(a) "Attached fixtures" has the meaning given in Minnesota Rules, part 9549.0020, subpart 6.

(b) ~~"Buildings"~~ "Building" has the meaning given in ~~Minnesota Rules, part 9549.0020, subpart 7~~ section 256R.261, subdivision 4.

(c) "Capital assets" has the meaning given in section ~~256B.421, subdivision 16~~ 256R.02, subdivision 8.

(d) "Commenced construction" means that all of the following conditions were met: the final working drawings and specifications were approved by the commissioner of health; the construction contracts were let; a timely construction schedule was developed, stipulating dates for beginning, achieving various stages, and completing construction; and all zoning and building permits were applied for.

(e) "Completion date" means the date on which clearance for the construction project is issued, or if a clearance for the construction project is not required, the date on which the construction project assets are available for facility use.

(f) "Construction" means any erection, building, alteration, reconstruction, modernization, or improvement necessary to comply with the nursing home licensure rules.

(g) "Construction project" means:

(1) a capital asset addition to, or replacement of a nursing home or certified boarding care home that results in new space or the remodeling of or renovations to existing facility space; and

(2) the remodeling or renovation of existing facility space the use of which is modified as a result of the project described in clause (1). This existing space and the project described in clause (1) must be used for the functions as designated on the construction plans on completion of the project described in clause (1) for a period of not less than 24 months.

(h) "Depreciation guidelines" ~~means the most recent publication of "The Estimated Useful Lives of Depreciable Hospital Assets," issued by the American Hospital Association, 840 North Lake Shore Drive, Chicago, Illinois, 60611~~ has the meaning given in section 256R.261, subdivision 9.

(i) "New licensed" or "new certified beds" means:

(1) newly constructed beds in a facility or the construction of a new facility that would increase the total number of licensed nursing home beds or certified boarding care or nursing home beds in the state; or

(2) newly licensed nursing home beds or newly certified boarding care or nursing home beds that result from remodeling of the facility that involves relocation of beds but does not result in an increase in the total number of beds, except when the project involves the upgrade of boarding care beds to nursing home beds, as defined in section 144A.073, subdivision 1. "Remodeling" includes any of the type of conversion, renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1.

~~(j) "Project construction costs" means the cost of the following items that have a completion date within 12 months before or after the completion date of the project described in item (g), clause (1):~~

~~(1) facility capital asset additions;~~

~~(2) replacements;~~

~~(3) renovations;~~

~~(4) remodeling projects;~~

~~(5) construction site preparation costs;~~

~~(6) related soft costs; and~~

~~(7) the cost of new technology implemented as part of the construction project and depreciable equipment directly identified to the project, if the construction costs for clauses (1) to (6) exceed the threshold for additions and replacements stated in section 256B.431, subdivision 16. Technology and depreciable equipment shall be included in the project construction costs unless a written election is made by the facility, to not include it in the facility's appraised value for purposes of Minnesota Rules, part 9549.0020, subpart 5. Debt incurred for purchase of technology and depreciable equipment shall be included as allowable debt for purposes of Minnesota Rules, part 9549.0060, subpart 5, items A and C, unless the written election is to not include it. Any new technology and depreciable equipment included in the project construction costs that the facility elects not to include in its appraised value and allowable debt shall be treated as provided in section 256B.431, subdivision 17, paragraph (b). Written election under this paragraph must be included in the facility's request for the rate change related to the project, and this election may not be changed.~~

~~(k) "Technology" means information systems or devices that make documentation, charting, and staff time more efficient or encourage and allow for care through alternative settings including, but not limited to, touch screens, monitors, hand-helds, swipe cards, motion detectors, pagers, telemedicine, medication dispensers, and equipment to monitor vital signs and self-injections, and to observe skin and other conditions.~~

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 5. Minnesota Statutes 2018, section 144A.071, subdivision 2, is amended to read:

Subd. 2. **Moratorium.** The commissioner of health, in coordination with the commissioner of human services, shall deny each request for new licensed or certified nursing home or certified boarding care beds except as provided in subdivision 3 or 4a, or section 144A.073. "Certified bed" means a nursing home bed or a boarding care bed certified by the commissioner of health for the purposes of the medical assistance program, under United States Code, title 42, sections 1396 et seq. Certified beds in facilities which do not allow medical assistance intake shall be deemed to be decertified for purposes of this section only.

The commissioner of human services, in coordination with the commissioner of health, shall deny any request to issue a license under section 252.28 and chapter 245A to a nursing home or boarding care home, if that license would result in an increase in the medical assistance reimbursement amount.

In addition, the commissioner of health must not approve any construction project whose cost exceeds ~~$1,000,000~~ $1,500,000, unless:

(a) any construction costs exceeding ~~$1,000,000~~ $1,500,000 are not added to the facility's appraised value and are not included in the facility's payment rate for reimbursement under the medical assistance program; or

(b) the project:

(1) has been approved through the process described in section 144A.073;

(2) meets an exception in subdivision 3 or 4a;

(3) is necessary to correct violations of state or federal law issued by the commissioner of health;

(4) is necessary to repair or replace a portion of the facility that was damaged by fire, lightning, ground shifts, or other such hazards, including environmental hazards, provided that the provisions of subdivision 4a, clause (a), are met;

(5) as of May 1, 1992, the facility has submitted to the commissioner of health written documentation evidencing that the facility meets the "commenced construction" definition as specified in subdivision 1a, paragraph (d), or that substantial steps have been taken prior to April 1, 1992, relating to the construction project. "Substantial steps" require that the facility has made arrangements with outside parties relating to the construction project and include the hiring of an architect or construction firm, submission of preliminary plans to the Department of Health or documentation from a financial institution that financing arrangements for the construction project have been made; or

(6) is being proposed by a licensed nursing facility that is not certified to participate in the medical assistance program and will not result in new licensed or certified beds.

Prior to the final plan approval of any construction project, the ~~commissioner~~ commissioners of health and human services shall be provided with an itemized cost estimate for the project construction costs. If a construction project is anticipated to be completed in phases, the total estimated cost of all phases of the project shall be submitted to the ~~commissioner~~ commissioners and shall be considered as one construction project. Once the construction project is completed and prior to the final clearance by the ~~commissioner~~ commissioners, the total project construction costs for the construction project shall be submitted to the ~~commissioner~~ commissioners. If the final project construction cost exceeds the dollar threshold in this subdivision, the commissioner of human services shall not recognize any of the project construction costs or the related financing costs in excess of this threshold in establishing the facility's property-related payment rate.

The dollar thresholds for construction projects are as follows: for construction projects other than those authorized in clauses (1) to (6), the dollar threshold is $1,000,000. For projects authorized after July 1, 1993, under clause (1), the dollar threshold is the cost estimate submitted with a proposal for an exception under section 144A.073, plus inflation as calculated according to section 256B.431, subdivision 3f, paragraph (a). For projects authorized under clauses (2) to (4), the dollar threshold is the itemized estimate project construction costs submitted to the commissioner of health at the time of final plan approval, plus inflation as calculated according to section 256B.431, subdivision 3f, paragraph (a).

The commissioner of health shall adopt rules to implement this section or to amend the emergency rules for granting exceptions to the moratorium on nursing homes under section 144A.073.

Sec. 6. Minnesota Statutes 2018, section 144A.071, subdivision 3, is amended to read:

Subd. 3. **Exceptions authorizing increase in beds; hardship areas.** (a) The commissioner of health, in coordination with the commissioner of human services, may approve the addition of new licensed and Medicare and Medicaid certified nursing home beds, using the criteria and process set forth in this subdivision.

(b) The commissioner, in cooperation with the commissioner of human services, shall consider the following criteria when determining that an area of the state is a hardship area with regard to access to nursing facility services:

(1) a low number of beds per thousand in a specified area using as a standard the beds per thousand people age 65 and older, in five year age groups, using data from the most recent census and population projections, weighted by each group's most recent nursing home utilization, of the county at the 20th percentile, as determined by the commissioner of human services;

(2) a high level of out-migration for nursing facility services associated with a described area from the county or counties of residence to other Minnesota counties, as determined

by the commissioner of human services, using as a standard an amount greater than the out-migration of the county ranked at the 50th percentile;

(3) an adequate level of availability of noninstitutional long-term care services measured as public spending for home and community-based long-term care services per individual age 65 and older, in five year age groups, using data from the most recent census and population projections, weighted by each group's most recent nursing home utilization, as determined by the commissioner of human services using as a standard an amount greater than the 50th percentile of counties;

(4) there must be a declaration of hardship resulting from insufficient access to nursing home beds by local county agencies and area agencies on aging; and

(5) other factors that may demonstrate the need to add new nursing facility beds.

(c) On August 15 of odd-numbered years, the commissioner, in cooperation with the commissioner of human services, may publish in the State Register a request for information in which interested parties, using the data provided under section 144A.351, along with any other relevant data, demonstrate that a specified area is a hardship area with regard to access to nursing facility services. For a response to be considered, the commissioner must receive it by November 15. The commissioner shall make responses to the request for information available to the public and shall allow 30 days for comment. The commissioner shall review responses and comments and determine if any areas of the state are to be declared hardship areas.

(d) For each designated hardship area determined in paragraph (c), the commissioner shall publish a request for proposals in accordance with section 144A.073 and Minnesota Rules, parts 4655.1070 to 4655.1098. The request for proposals must be published in the State Register by March 15 following receipt of responses to the request for information. The request for proposals must specify the number of new beds which may be added in the designated hardship area, which must not exceed the number which, if added to the existing number of beds in the area, including beds in layaway status, would have prevented it from being determined to be a hardship area under paragraph (b), clause (1). Beginning July 1, 2011, the number of new beds approved must not exceed 200 beds statewide per biennium. After June 30, 2019, the number of new beds that may be approved in a biennium must not exceed 300 statewide. For a proposal to be considered, the commissioner must receive it within six months of the publication of the request for proposals. The commissioner shall review responses to the request for proposals and shall approve or disapprove each proposal by the following July 15, in accordance with section 144A.073 and Minnesota Rules, parts 4655.1070 to 4655.1098. The commissioner shall base approvals or disapprovals on a comparison and ranking of proposals using only the criteria in subdivision 4a. Approval of a proposal expires after 18 months unless the facility has added the new beds using existing space, subject to approval by the commissioner, or has commenced construction as defined in subdivision 1a, paragraph (d). If, after the approved beds have been added, fewer than 50 percent of the beds in a facility are newly licensed, the operating payment rates previously in effect shall remain. If, after the approved beds have been added, 50 percent or more of

the beds in a facility are newly licensed, operating and external fixed payment rates shall be determined according to ~~Minnesota Rules, part 9549.0057, using the limits under sections 256R.23, subdivision 5, and 256R.24, subdivision 3. External fixed costs payment rates must be determined according to section 256R.25~~ section 256R.21, subdivision 5. Property payment rates for facilities with beds added under this subdivision must be determined ~~in the same manner as rate determinations resulting from projects approved and completed under section 144A.073~~ under section 256R.26.

(e) The commissioner may:

(1) certify or license new beds in a new facility that is to be operated by the commissioner of veterans affairs or when the costs of constructing and operating the new beds are to be reimbursed by the commissioner of veterans affairs or the United States Veterans Administration; and

(2) license or certify beds in a facility that has been involuntarily delicensed or decertified for participation in the medical assistance program, provided that an application for relicensure or recertification is submitted to the commissioner by an organization that is not a related organization as defined in section 256R.02, subdivision 43, to the prior licensee within 120 days after delicensure or decertification.

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 7. Minnesota Statutes 2018, section 144A.071, subdivision 4a, is amended to read:

Subd. 4a. **Exceptions for replacement beds.** It is in the best interest of the state to ensure that nursing homes and boarding care homes continue to meet the physical plant licensing and certification requirements by permitting certain construction projects. Facilities should be maintained in condition to satisfy the physical and emotional needs of residents while allowing the state to maintain control over nursing home expenditure growth.

The commissioner of health in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(a) to license or certify beds in a new facility constructed to replace a facility or to make repairs in an existing facility that was destroyed or damaged after June 30, 1987, by fire, lightning, or other hazard provided:

(i) destruction was not caused by the intentional act of or at the direction of a controlling person of the facility;

(ii) at the time the facility was destroyed or damaged the controlling persons of the facility maintained insurance coverage for the type of hazard that occurred in an amount that a reasonable person would conclude was adequate;

(iii) the net proceeds from an insurance settlement for the damages caused by the hazard are applied to the cost of the new facility or repairs;

(iv) the number of licensed and certified beds in the new facility does not exceed the number of licensed and certified beds in the destroyed facility; and

(v) the commissioner determines that the replacement beds are needed to prevent an inadequate supply of beds.

Project construction costs incurred for repairs authorized under this clause shall not be considered in the dollar threshold amount defined in subdivision 2;

(b) to license or certify beds that are moved from one location to another within a nursing home facility, provided the total costs of remodeling performed in conjunction with the relocation of beds does not exceed $1,000,000;

(c) to license or certify beds in a project recommended for approval under section 144A.073;

(d) to license or certify beds that are moved from an existing state nursing home to a different state facility, provided there is no net increase in the number of state nursing home beds;

(e) to certify and license as nursing home beds boarding care beds in a certified boarding care facility if the beds meet the standards for nursing home licensure, or in a facility that was granted an exception to the moratorium under section 144A.073, and if the cost of any remodeling of the facility does not exceed $1,000,000. If boarding care beds are licensed as nursing home beds, the number of boarding care beds in the facility must not increase beyond the number remaining at the time of the upgrade in licensure. The provisions contained in section 144A.073 regarding the upgrading of the facilities do not apply to facilities that satisfy these requirements;

(f) to license and certify up to 40 beds transferred from an existing facility owned and operated by the Amherst H. Wilder Foundation in the city of St. Paul to a new unit at the same location as the existing facility that will serve persons with Alzheimer's disease and other related disorders. The transfer of beds may occur gradually or in stages, provided the total number of beds transferred does not exceed 40. At the time of licensure and certification of a bed or beds in the new unit, the commissioner of health shall delicense and decertify the same number of beds in the existing facility. As a condition of receiving a license or certification under this clause, the facility must make a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate as a result of the transfers allowed under this paragraph;

(g) to license and certify nursing home beds to replace currently licensed and certified boarding care beds which may be located either in a remodeled or renovated boarding care or nursing home facility or in a remodeled, renovated, newly constructed, or replacement nursing home facility within the identifiable complex of health care facilities in which the currently licensed boarding care beds are presently located, provided that the number of boarding care beds in the facility or complex are decreased by the number to be licensed as nursing home beds and further provided that, if the total costs of new construction,

replacement, remodeling, or renovation exceed ten percent of the appraised value of the facility or $200,000, whichever is less, the facility makes a written commitment to the commissioner of human services that it will not seek to receive an increase in its property-related payment rate by reason of the new construction, replacement, remodeling, or renovation. The provisions contained in section 144A.073 regarding the upgrading of facilities do not apply to facilities that satisfy these requirements;

(h) to license as a nursing home and certify as a nursing facility a facility that is licensed as a boarding care facility but not certified under the medical assistance program, but only if the commissioner of human services certifies to the commissioner of health that licensing the facility as a nursing home and certifying the facility as a nursing facility will result in a net annual savings to the state general fund of $200,000 or more;

(i) to certify, after September 30, 1992, and prior to July 1, 1993, existing nursing home beds in a facility that was licensed and in operation prior to January 1, 1992;

(j) to license and certify new nursing home beds to replace beds in a facility acquired by the Minneapolis Community Development Agency as part of redevelopment activities in a city of the first class, provided the new facility is located within three miles of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under section 256B.431 or 256B.434 or chapter 256R;

(k) to license and certify up to 20 new nursing home beds in a community-operated hospital and attached convalescent and nursing care facility with 40 beds on April 21, 1991, that suspended operation of the hospital in April 1986. The commissioner of human services shall provide the facility with the same per diem property-related payment rate for each additional licensed and certified bed as it will receive for its existing 40 beds;

(l) to license or certify beds in renovation, replacement, or upgrading projects as defined in section 144A.073, subdivision 1, so long as the cumulative total costs of the facility's remodeling projects do not exceed $1,000,000;

(m) to license and certify beds that are moved from one location to another for the purposes of converting up to five four-bed wards to single or double occupancy rooms in a nursing home that, as of January 1, 1993, was county-owned and had a licensed capacity of 115 beds;

(n) to allow a facility that on April 16, 1993, was a 106-bed licensed and certified nursing facility located in Minneapolis to layaway all of its licensed and certified nursing home beds. These beds may be relicensed and recertified in a newly constructed teaching nursing home facility affiliated with a teaching hospital upon approval by the legislature. The proposal must be developed in consultation with the interagency committee on long-term care planning. The beds on layaway status shall have the same status as voluntarily delicensed and decertified beds, except that beds on layaway status remain subject to the surcharge in section 256.9657. This layaway provision expires July 1, 1998;

(o) to allow a project which will be completed in conjunction with an approved moratorium exception project for a nursing home in southern Cass County and which is directly related to that portion of the facility that must be repaired, renovated, or replaced, to correct an emergency plumbing problem for which a state correction order has been issued and which must be corrected by August 31, 1993;

(p) to allow a facility that on April 16, 1993, was a 368-bed licensed and certified nursing facility located in Minneapolis to layaway, upon 30 days prior written notice to the commissioner, up to 30 of the facility's licensed and certified beds by converting three-bed wards to single or double occupancy. Beds on layaway status shall have the same status as voluntarily delicensed and decertified beds except that beds on layaway status remain subject to the surcharge in section 256.9657, remain subject to the license application and renewal fees under section 144A.07 and shall be subject to a $100 per bed reactivation fee. In addition, at any time within three years of the effective date of the layaway, the beds on layaway status may be:

(1) relicensed and recertified upon relocation and reactivation of some or all of the beds to an existing licensed and certified facility or facilities located in Pine River, Brainerd, or International Falls; provided that the total project construction costs related to the relocation of beds from layaway status for any facility receiving relocated beds may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073;

(2) relicensed and recertified, upon reactivation of some or all of the beds within the facility which placed the beds in layaway status, if the commissioner has determined a need for the reactivation of the beds on layaway status.

The property-related payment rate of a facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for a facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than three years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(q) to license and certify beds in a renovation and remodeling project to convert 12 four-bed wards into 24 two-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey County; had a licensed capacity of 154 beds; and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(r) to license and certify up to 117 beds that are relocated from a licensed and certified 138-bed nursing facility located in St. Paul to a hospital with 130 licensed hospital beds located in South St. Paul, provided that the nursing facility and hospital are owned by the same or a related organization and that prior to the date the relocation is completed the hospital ceases operation of its inpatient hospital services at that hospital. After relocation, the nursing facility's status shall be the same as it was prior to relocation. The nursing facility's property-related payment rate resulting from the project authorized in this paragraph shall become effective no earlier than April 1, 1996. For purposes of calculating the incremental change in the facility's rental per diem resulting from this project, the allowable appraised value of the nursing facility portion of the existing health care facility physical plant prior to the renovation and relocation may not exceed $2,490,000;

(s) to license and certify two beds in a facility to replace beds that were voluntarily delicensed and decertified on June 28, 1991;

(t) to allow 16 licensed and certified beds located on July 1, 1994, in a 142-bed nursing home and 21-bed boarding care home facility in Minneapolis, notwithstanding the licensure and certification after July 1, 1995, of the Minneapolis facility as a 147-bed nursing home facility after completion of a construction project approved in 1993 under section 144A.073, to be laid away upon 30 days' prior written notice to the commissioner. Beds on layaway status shall have the same status as voluntarily delicensed or decertified beds except that they shall remain subject to the surcharge in section 256.9657. The 16 beds on layaway status may be relicensed as nursing home beds and recertified at any time within five years of the effective date of the layaway upon relocation of some or all of the beds to a licensed and certified facility located in Watertown, provided that the total project construction costs related to the relocation of beds from layaway status for the Watertown facility may not exceed the dollar threshold provided in subdivision 2 unless the construction project has been approved through the moratorium exception process under section 144A.073.

The property-related payment rate of the facility placing beds on layaway status must be adjusted by the incremental change in its rental per diem after recalculating the rental per diem as provided in section 256B.431, subdivision 3a, paragraph (c). The property-related payment rate for the facility relicensing and recertifying beds from layaway status must be adjusted by the incremental change in its rental per diem after recalculating its rental per diem using the number of beds after the relicensing to establish the facility's capacity day divisor, which shall be effective the first day of the month following the month in which the relicensing and recertification became effective. Any beds remaining on layaway status more than five years after the date the layaway status became effective must be removed from layaway status and immediately delicensed and decertified;

(u) to license and certify beds that are moved within an existing area of a facility or to a newly constructed addition which is built for the purpose of eliminating three- and four-bed rooms and adding space for dining, lounge areas, bathing rooms, and ancillary service areas in a nursing home that, as of January 1, 1995, was located in Fridley and had a licensed capacity of 129 beds;

(v) to relocate 36 beds in Crow Wing County and four beds from Hennepin County to a 160-bed facility in Crow Wing County, provided all the affected beds are under common ownership;

(w) to license and certify a total replacement project of up to 49 beds located in Norman County that are relocated from a nursing home destroyed by flood and whose residents were relocated to other nursing homes. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of ~~Minnesota Rules, part 9549.0057,~~ section 256R.27 and the reimbursement provisions of chapter 256R. Property-related reimbursement rates shall be determined under section 256R.26, taking into account any federal or state flood-related loans or grants provided to the facility;

(x) to license and certify to the licensee of a nursing home in Polk County that was destroyed by flood in 1997 replacement projects with a total of up to 129 beds, with at least 25 beds to be located in Polk County and up to 104 beds distributed among up to three other counties. These beds may only be distributed to counties with fewer than the median number of age intensity adjusted beds per thousand, as most recently published by the commissioner of human services. If the licensee chooses to distribute beds outside of Polk County under this paragraph, prior to distributing the beds, the commissioner of health must approve the location in which the licensee plans to distribute the beds. The commissioner of health shall consult with the commissioner of human services prior to approving the location of the proposed beds. The licensee may combine these beds with beds relocated from other nursing facilities as provided in section 144A.073, subdivision 3c. The operating payment rates for the new nursing facilities shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, parts 9549.0010 to 9549.0080. Property-related reimbursement rates shall be determined under section 256R.26. If the replacement beds permitted under this paragraph are combined with beds from other nursing facilities, the rates shall be calculated as the weighted average of rates determined as provided in this paragraph and section 256R.50;

(y) to license and certify beds in a renovation and remodeling project to convert 13 three-bed wards into 13 two-bed rooms and 13 single-bed rooms, expand space, and add improvements in a nursing home that, as of January 1, 1994, met the following conditions: the nursing home was located in Ramsey County, was not owned by a hospital corporation, had a licensed capacity of 64 beds, and had been ranked among the top 15 applicants by the 1993 moratorium exceptions advisory review panel. The total project construction cost estimate for this project must not exceed the cost estimate submitted in connection with the 1993 moratorium exception process;

(z) to license and certify up to 150 nursing home beds to replace an existing 285 bed nursing facility located in St. Paul. The replacement project shall include both the renovation of existing buildings and the construction of new facilities at the existing site. The reduction in the licensed capacity of the existing facility shall occur during the construction project as beds are taken out of service due to the construction process. Prior to the start of the

construction process, the facility shall provide written information to the commissioner of health describing the process for bed reduction, plans for the relocation of residents, and the estimated construction schedule. The relocation of residents shall be in accordance with the provisions of law and rule;

(aa) to allow the commissioner of human services to license an additional 36 beds to provide residential services for the physically disabled under Minnesota Rules, parts 9570.2000 to 9570.3400, in a 198-bed nursing home located in Red Wing, provided that the total number of licensed and certified beds at the facility does not increase;

(bb) to license and certify a new facility in St. Louis County with 44 beds constructed to replace an existing facility in St. Louis County with 31 beds, which has resident rooms on two separate floors and an antiquated elevator that creates safety concerns for residents and prevents nonambulatory residents from residing on the second floor. The project shall include the elimination of three- and four-bed rooms;

(cc) to license and certify four beds in a 16-bed certified boarding care home in Minneapolis to replace beds that were voluntarily delicensed and decertified on or before March 31, 1992. The licensure and certification is conditional upon the facility periodically assessing and adjusting its resident mix and other factors which may contribute to a potential institution for mental disease declaration. The commissioner of human services shall retain the authority to audit the facility at any time and shall require the facility to comply with any requirements necessary to prevent an institution for mental disease declaration, including delicensure and decertification of beds, if necessary;

(dd) to license and certify 72 beds in an existing facility in Mille Lacs County with 80 beds as part of a renovation project. The renovation must include construction of an addition to accommodate ten residents with beginning and midstage dementia in a self-contained living unit; creation of three resident households where dining, activities, and support spaces are located near resident living quarters; designation of four beds for rehabilitation in a self-contained area; designation of 30 private rooms; and other improvements;

(ee) to license and certify beds in a facility that has undergone replacement or remodeling as part of a planned closure under section 256R.40;

(ff) to license and certify a total replacement project of up to 124 beds located in Wilkin County that are in need of relocation from a nursing home significantly damaged by flood. The operating cost payment rates for the new nursing facility shall be determined based on the interim and settle-up payment provisions of ~~Minnesota Rules, part 9549.0057,~~ section 256R.27 and the reimbursement provisions of chapter 256R. Property-related reimbursement rates shall be determined under section 256R.26, taking into account any federal or state flood-related loans or grants provided to the facility;

(gg) to allow the commissioner of human services to license an additional nine beds to provide residential services for the physically disabled under Minnesota Rules, parts

9570.2000 to 9570.3400, in a 240-bed nursing home located in Duluth, provided that the total number of licensed and certified beds at the facility does not increase;

(hh) to license and certify up to 120 new nursing facility beds to replace beds in a facility in Anoka County, which was licensed for 98 beds as of July 1, 2000, provided the new facility is located within four miles of the existing facility and is in Anoka County. Operating and property rates shall be determined and allowed under chapter 256R and Minnesota Rules, parts 9549.0010 to 9549.0080; or

(ii) to transfer up to 98 beds of a 129-licensed bed facility located in Anoka County that, as of March 25, 2001, is in the active process of closing, to a 122-licensed bed nonprofit nursing facility located in the city of Columbia Heights or its affiliate. The transfer is effective when the receiving facility notifies the commissioner in writing of the number of beds accepted. The commissioner shall place all transferred beds on layaway status held in the name of the receiving facility. The layaway adjustment provisions of section 256B.431, subdivision 30, do not apply to this layaway. The receiving facility may only remove the beds from layaway for recertification and relicensure at the receiving facility's current site, or at a newly constructed facility located in Anoka County. The receiving facility must receive statutory authorization before removing these beds from layaway status, or may remove these beds from layaway status if removal from layaway status is part of a moratorium exception project approved by the commissioner under section 144A.073.

Sec. 8. Minnesota Statutes 2018, section 144A.071, subdivision 4c, is amended to read:

Subd. 4c. **Exceptions for replacement beds after June 30, 2003.** (a) The commissioner of health, in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(1) to license and certify an 80-bed city-owned facility in Nicollet County to be constructed on the site of a new city-owned hospital to replace an existing 85-bed facility attached to a hospital that is also being replaced. The threshold allowed for this project under section 144A.073 shall be the maximum amount available to pay the additional medical assistance costs of the new facility;

(2) to license and certify 29 beds to be added to an existing 69-bed facility in St. Louis County, provided that the 29 beds must be transferred from active or layaway status at an existing facility in St. Louis County that had 235 beds on April 1, 2003.

The licensed capacity at the 235-bed facility must be reduced to 206 beds, but the payment rate at that facility shall not be adjusted as a result of this transfer. The operating payment rate of the facility adding beds after completion of this project shall be the same as it was on the day prior to the day the beds are licensed and certified. This project shall not proceed unless it is approved and financed under the provisions of section 144A.073;

(3) to license and certify a new 60-bed facility in Austin, provided that: (i) 45 of the new beds are transferred from a 45-bed facility in Austin under common ownership that is closed

and 15 of the new beds are transferred from a 182-bed facility in Albert Lea under common ownership; (ii) the commissioner of human services is authorized by the 2004 legislature to negotiate budget-neutral planned nursing facility closures; and (iii) money is available from planned closures of facilities under common ownership to make implementation of this clause budget-neutral to the state. The bed capacity of the Albert Lea facility shall be reduced to 167 beds following the transfer. Of the 60 beds at the new facility, 20 beds shall be used for a special care unit for persons with Alzheimer's disease or related dementias;

(4) to license and certify up to 80 beds transferred from an existing state-owned nursing facility in Cass County to a new facility located on the grounds of the Ah-Gwah-Ching campus. The operating cost payment rates for the new facility shall be determined based on the interim and settle-up payment provisions of ~~Minnesota Rules, part 9549.0057,~~ section 256R.27 and the reimbursement provisions of chapter 256R. The property payment rate for the first three years of operation shall be $35 per day. For subsequent years, the property payment rate of $35 per day shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434;

(5) to initiate a pilot program to license and certify up to 80 beds transferred from an existing county-owned nursing facility in Steele County relocated to the site of a new acute care facility as part of the county's Communities for a Lifetime comprehensive plan to create innovative responses to the aging of its population. Upon relocation to the new site, the nursing facility shall delicense 28 beds. The payment rate for external fixed costs for the new facility shall be increased by an amount as calculated according to items (i) to (v):

(i) compute the estimated decrease in medical assistance residents served by the nursing facility by multiplying the decrease in licensed beds by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure of 28 beds by multiplying the anticipated decrease in medical assistance residents, determined in item (i), by the existing facility's weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the nursing facility, determined in item (i), by the average monthly elderly waiver service costs for individuals in Steele County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) divide the amount in item (iv) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days; and

(6) to consolidate and relocate nursing facility beds to a new site in Goodhue County and to integrate these services with other community-based programs and services under a communities for a lifetime pilot program and comprehensive plan to create innovative responses to the aging of its population. Two nursing facilities, one for 84 beds and one for

65 beds, in the city of Red Wing licensed on July 1, 2015, shall be consolidated into a newly renovated 64-bed nursing facility resulting in the delicensure of 85 beds. Notwithstanding the carryforward of the approval authority in section 144A.073, subdivision 11, the funding approved in April 2009 by the commissioner of health for a project in Goodhue County shall not carry forward. The closure of the 85 beds shall not be eligible for a planned closure rate adjustment under section 256R.40. The construction project permitted in this clause shall not be eligible for a threshold project rate adjustment under section 256B.434, subdivision 4f. The payment rate for external fixed costs for the new facility shall be increased by an amount as calculated according to items (i) to (vi):

(i) compute the estimated decrease in medical assistance residents served by both nursing facilities by multiplying the difference between the occupied beds of the two nursing facilities for the reporting year ending September 30, 2009, and the projected occupancy of the facility at 95 percent occupancy by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure by multiplying the anticipated decrease in the medical assistance residents, determined in item (i), by the hospital-owned nursing facility weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the facilities, determined in item (i), by the average monthly elderly waiver service costs for individuals in Goodhue County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) multiply the amount in item (iv) by 57.2 percent; and

(vi) divide the difference of the amount in item (iv) and the amount in item (v) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days.

(b) Projects approved under this subdivision shall be treated in a manner equivalent to projects approved under subdivision 4a.

Sec. 9. Minnesota Statutes 2018, section 144A.071, subdivision 5a, is amended to read:

Subd. 5a. **Cost estimate of a moratorium exception project.** ~~(a)~~ For the purposes of this section and section 144A.073, the cost estimate of a moratorium exception project shall include the effects of the proposed project on the costs of the state subsidy for community-based services, nursing services, and housing in institutional and noninstitutional settings. The commissioner of health, in cooperation with the commissioner of human services, shall define the method for estimating these costs in the permanent rule implementing section 144A.073. The commissioner of human services shall prepare an estimate of the property-related payment rate to be established upon completion of the

project and total state annual long-term costs of each moratorium exception proposal. The property-related payment rate estimate shall be made using the actual cost of the project but the final property rate must be based on the appraisal and subject to the limitations in section 256R.26, subdivision 6.

~~(b) The interest rate to be used for estimating the cost of each moratorium exception project proposal shall be the lesser of either the prime rate plus two percentage points, or the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation plus two percentage points as published in the Wall Street Journal and in effect 56 days prior to the application deadline. If the applicant's proposal uses this interest rate, the commissioner of human services, in determining the facility's actual property-related payment rate to be established upon completion of the project must use the actual interest rate obtained by the facility for the project's permanent financing up to the maximum permitted under Minnesota Rules, part 9549.0060, subpart 6.~~

~~The applicant may choose an alternate interest rate for estimating the project's cost. If the applicant makes this election, the commissioner of human services, in determining the facility's actual property-related payment rate to be established upon completion of the project, must use the lesser of the actual interest rate obtained for the project's permanent financing or the interest rate which was used to estimate the proposal's project cost. For succeeding rate years, the applicant is at risk for financing costs in excess of the interest rate selected.~~

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 10. Minnesota Statutes 2018, section 144A.073, subdivision 3c, is amended to read:

Subd. 3c. ~~**Cost neutral**~~ **Relocation projects.** ~~(a)~~ Notwithstanding subdivision 3, the commissioner may at any time accept proposals, or amendments to proposals previously approved under this section, for relocations ~~that are cost neutral with respect to state costs as defined in section 144A.071, subdivision 5a~~. The commissioner, in consultation with the commissioner of human services, shall evaluate proposals according to subdivision 4a, clauses (1), (4), (5), (6), and (8), and other criteria established in rule or law. ~~The commissioner of human services shall determine the allowable payment rates of the facility receiving the beds in accordance with section 256R.50.~~ The commissioner shall approve or disapprove a project within 90 days.

~~(b) For the purposes of paragraph (a), cost neutrality shall be measured over the first three 12-month periods of operation after completion of the project.~~

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 11. Minnesota Statutes 2018, section 256B.434, subdivision 1, is amended to read:

Subdivision 1. ~~**Alternative payment demonstration project established**~~ **Contractual agreements.** ~~The commissioner of human services shall establish a contractual alternative payment demonstration project for paying for nursing facility services under the medical~~

~~assistance program. A nursing facility may apply to be paid under the contractual alternative payment demonstration project instead of the cost-based payment system established under section 256B.431. A nursing facility~~ Nursing facilities located in Minnesota electing to ~~use the alternative payment demonstration project~~ enroll as a medical assistance provider must enter into a contract with the commissioner. Payment rates and procedures ~~for facilities electing to use the alternative payment demonstration project~~ are determined and governed by this section and by the terms of the contract. The commissioner may negotiate different contract terms for different nursing facilities.

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

Sec. 12. Minnesota Statutes 2018, section 256B.434, subdivision 3, is amended to read:

Subd. 3. **Duration and termination of contracts.** ~~(a) Subject to available resources, the commissioner may begin to execute contracts with nursing facilities November 1, 1995.~~

~~(b)~~ (a) All contracts entered into under this section are for a term not to exceed four years. Either party may terminate a contract at any time without cause by providing 90 calendar days advance written notice to the other party. The decision to terminate a contract is not appealable. ~~Notwithstanding section 16C.05, subdivision 2, paragraph (a), clause (5), the contract shall be renegotiated for additional terms of up to four years, unless either party provides written notice of termination.~~ The provisions of the contract shall be renegotiated at a minimum of every four years by the parties prior to the expiration date of the contract. The parties may voluntarily ~~renegotiate~~ amend the terms of the contract at any time by mutual agreement.

~~(c)~~ (b) If a nursing facility fails to comply with the terms of a contract, the commissioner shall provide reasonable notice regarding the breach of contract and a reasonable opportunity for the facility to come into compliance. If the facility fails to come into compliance or to remain in compliance, the commissioner may terminate the contract. ~~If a contract is terminated, the contract payment remains in effect for the remainder of the rate year in which the contract was terminated, but in all other respects the provisions of this section do not apply to that facility effective the date the contract is terminated. The contract shall contain a provision governing the transition back to the cost-based reimbursement system established under section 256B.431 and Minnesota Rules, parts 9549.0010 to 9549.0080. A contract entered into under this section may be amended by mutual agreement of the parties.~~

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

Sec. 13. [256M.42] ADULT PROTECTION GRANT ALLOCATIONS.

Subdivision 1. **Formula.** (a) The commissioner shall allocate state money appropriated under this section to each county board and tribal government approved by the commissioner to assume county agency duties for adult protective services or as a lead investigative agency

under section 626.557 on an annual basis in an amount determined according to the following formula:

(1) 25 percent must be allocated on the basis of the number of reports of suspected vulnerable adult maltreatment under sections 626.557 and 626.5572, when the county or tribe is responsible as determined by the most recent data of the commissioner; and

(2) 75 percent must be allocated on the basis of the number of screened-in reports for adult protective services or vulnerable adult maltreatment investigations under sections 626.557 and 626.5572, when the county or tribe is responsible as determined by the most recent data of the commissioner.

(b) The commissioner is precluded from changing the formula under this subdivision or recommending a change to the legislature without public review and input.

Subd. 2. **Payment.** The commissioner shall make allocations for the state fiscal year starting July 1, 2019, and to each county board or tribal government on or before October 10, 2019. The commissioner shall make allocations under subdivision 1 to each county board or tribal government each year thereafter on or before July 10.

Subd. 3. **Prohibition on supplanting existing money.** Money received under this section must be used for staffing for protection of vulnerable adults or to expand adult protective services. Money must not be used to supplant current county or tribe expenditures for these purposes.

EFFECTIVE DATE. This section is effective July 1, 2019.

Sec. 14. Minnesota Statutes 2018, section 256R.02, subdivision 8, is amended to read:

Subd. 8. **Capital assets.** "Capital assets" means a nursing facility's buildings, ~~attached fixtures~~ fixed equipment, land improvements, leasehold improvements, and all additions to or replacements of those assets used directly for resident care.

Sec. 15. Minnesota Statutes 2018, section 256R.02, subdivision 19, is amended to read:

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

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 16. Minnesota Statutes 2018, section 256R.02, is amended by adding a subdivision to read:

Subd. 25a. **Interim payment rates.** "Interim payment rates" means the total operating and external fixed costs payment rates determined by anticipated costs and resident days reported on an interim cost report as described in section 256R.27.

Sec. 17. Minnesota Statutes 2018, section 256R.02, is amended by adding a subdivision to read:

Subd. 47a. **Settle up payment rates.** "Settle up payment rates" means the total operating and external fixed costs payment rates determined by actual allowable costs and resident days reported on a settle up cost report as described under section 256R.27.

Sec. 18. Minnesota Statutes 2018, section 256R.08, subdivision 1, is amended to read:

Subdivision 1. **Reporting of financial statements.** (a) No later than February 1 of each year, a nursing facility shall:

(1) provide the state agency with a copy of its audited financial statements or its working trial balance;

(2) provide the state agency with a statement of ownership for the facility;

(3) provide the state agency with separate, audited financial statements or working trial balances for every other facility owned in whole or in part by an individual or entity that has an ownership interest in the facility;

(4) provide the state agency with information regarding whether the licensee, or a general partner, director, or officer of the licensee, has an ownership or control interest of five percent or more in a related party or related organization that provides any service to the skilled nursing facility. If the licensee, or the general partner, director, or officer of the licensee has such an interest, the licensee shall disclose all services provided to the skilled nursing facility, the number of individuals who provide that service at the skilled nursing facility, and any other information requested by the state agency. If goods, fees, and services collectively worth $10,000 or more per year are delivered to the skilled nursing facility, the disclosure required pursuant to this subdivision shall include the related party and related organization profit and loss statement, and the Payroll-Based Journal public use data;

~~(4)~~ (5) upon request, provide the state agency with separate, audited financial statements or working trial balances for every organization with which the facility conducts business and which is owned in whole or in part by an individual or entity which has an ownership interest in the facility;

~~(5)~~ (6) provide the state agency with copies of leases, purchase agreements, and other documents related to the lease or purchase of the nursing facility; and

~~(6)~~ (7) upon request, provide the state agency with copies of leases, purchase agreements, and other documents related to the acquisition of equipment, goods, and services which are claimed as allowable costs.

(b) Audited financial statements submitted under paragraph (a) must include a balance sheet, income statement, statement of the rate or rates charged to private paying residents, statement of retained earnings, statement of cash flows, notes to the financial statements, audited applicable supplemental information, and the public accountant's report. Public accountants must conduct audits in accordance with chapter 326A. The cost of an audit shall not be an allowable cost unless the nursing facility submits its audited financial statements in the manner otherwise specified in this subdivision. A nursing facility must permit access by the state agency to the public accountant's audit work papers that support the audited financial statements submitted under paragraph (a).

(c) Documents or information provided to the state agency pursuant to this subdivision shall be public.

(d) If the requirements of paragraphs (a) and (b) are not met, the reimbursement rate may be reduced to 80 percent of the rate in effect on the first day of the fourth calendar month after the close of the reporting period and the reduction shall continue until the requirements are met.

(e) Licensees shall provide the information required in this section to the commissioner in a manner prescribed by the commissioner.

(f) For purposes of this section, the following terms have the meanings given:

(1) "profit and loss statement" means the most recent annual statement on profits and losses finalized by a related party for the most recent year available; and

(2) "related party" means an organization related to the licensee provider or that is under common ownership or control, as defined in Code of Federal Regulations, title 42, section 413.17(b).

EFFECTIVE DATE. This section is effective November 1, 2019.

Sec. 19. Minnesota Statutes 2018, section 256R.10, is amended by adding a subdivision to read:

Subd. 8. **Pilot projects for energy-related programs.** (a) The commissioner shall develop a pilot project to reduce overall energy consumption and evaluate the financial impacts associated with property assessed clean energy (PACE) approved projects in nursing facilities.

(b) Notwithstanding section 256R.02, subdivision 48a, the commissioner may make payments to facilities for the allowable costs of special assessments for approved energy-related program payments authorized under sections 216C.435 and 216C.436. The commissioner shall limit the amount of any payment and the number of contract amendments

under this subdivision to operate the energy-related program within funds appropriated for this purpose.

(c) The commissioner shall approve proposals through a contract which shall specify the level of payment, provided that each facility demonstrates:

(1) completion of a facility-specific energy assessment or energy audit and recommended energy conservation measures that, in aggregate, meet the cost-effectiveness requirements of section 216B.241;

(2) a completed PACE application and recommended approval by a PACE program administrator authorized under sections 216C.435 and 216C.436; and

(3) the facility's reported spending on utilities per resident day since calendar year 2016 is higher than average for similar facilities.

(d) Payments to facilities under this subdivision shall be in the form of time-limited rate adjustments which shall be included in the external fixed costs payment rate under section 256R.25. The commissioner shall select from facilities which meet the requirements of paragraph (c) using a competitive application process.

(e) Allowable costs for special assessments for approved energy-related program payments cannot exceed the amount of debt service for net expenditures for the project and must meet the cost-effective energy improvements requirements described in section 216C.435, subdivision 3a. Any credits or rebates related to the project must be offset. A project cost is not an allowable cost on the cost report as a special assessment if it has been or will be used to increase the facility's property rate.

(f) The external fixed costs payment rate for the PACE allowable costs shall be reduced by an amount equal to the utility per diem included in the other operating payment rate under section 256R.24, that is associated with the energy project.

Sec. 20. Minnesota Statutes 2018, section 256R.16, subdivision 1, is amended to read:

Subdivision 1. **Calculation of a quality score.** (a) The commissioner shall determine a quality score for each nursing facility using quality measures established in section 256B.439, according to methods determined by the commissioner in consultation with stakeholders and experts, and using the most recently available data as provided in the Minnesota Nursing Home Report Card. These methods shall be exempt from the rulemaking requirements under chapter 14.

(b) For each quality measure, a score shall be determined with the number of points assigned as determined by the commissioner using the methodology established according to this subdivision. The determination of the quality measures to be used and the methods of calculating scores may be revised annually by the commissioner.

(c) The quality score shall include up to 50 points related to the Minnesota quality indicators score derived from the minimum data set, up to 40 points related to the resident

quality of life score derived from the consumer survey conducted under section 256B.439, subdivision 3, and up to ten points related to the state inspection results score.

(d) The commissioner, in cooperation with the commissioner of health, may adjust the formula in paragraph (c), or the methodology for computing the total quality score, ~~effective July 1 of any year,~~ with five months advance public notice. In changing the formula, the commissioner shall consider quality measure priorities registered by report card users, advice of stakeholders, and available research.

Sec. 21. Minnesota Statutes 2018, section 256R.21, is amended by adding a subdivision to read:

Subd. 5. **Total payment rate for new facilities.** For a new nursing facility created under section 144A.073, subdivision 3c, the total payment rate must be determined according to this section, except:

(1) the direct care payment rate used in subdivision 2, clause (1), must be determined according to section 256R.27;

(2) the other care-related payment rate used in subdivision 2, clause (2), must be determined according to section 256R.27;

(3) the external fixed costs payment rate used in subdivision 4, clause (2), must be determined according to section 256R.27; and

(4) the property payment rate used in subdivision 4, clause (3), must be determined according to section 256R.26.

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 22. Minnesota Statutes 2018, section 256R.23, subdivision 5, is amended to read:

Subd. 5. **Determination of total care-related payment rate limits.** The commissioner must determine each facility's total care-related payment rate limit by:

(1) multiplying the facility's quality score, as determined under section 256R.16, subdivision 1, paragraph (d), by ~~0.5625~~ 2.0;

(2) ~~adding 89.375 to~~ subtracting 40.0 from the amount determined in clause (1), and dividing the total by 100; ~~and~~

(3) multiplying the amount determined in clause (2) by the median total care-related cost per day~~.~~; and

(4) multiplying the amount determined in clause (3) by the most-recent available Core-Based Statistical Area wage indices established by the Centers for Medicare and Medicaid Services for the Skilled Nursing Facility Prospective Payment System.

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 23. Minnesota Statutes 2018, section 256R.24, is amended to read:
256R.24 OTHER OPERATING PAYMENT RATE.

Subdivision 1. **Determination of ~~other operating~~ laundry, housekeeping, and dietary cost per day.** Each facility's ~~other operating~~ laundry, housekeeping, and dietary cost per day is ~~its other operating~~ equal to its laundry, housekeeping, and dietary costs divided by the sum of the facility's resident days.

Subd. 2. **Determination of the ~~median other operating cost per day~~ medians.** The commissioner must determine the laundry, housekeeping, and dietary median ~~other operating~~ cost per resident day using the cost reports from nursing facilities in Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington Counties.

Subd. 3. **Determination of ~~the other operating~~ payment rate for laundry, housekeeping, and dietary.** A facility's ~~other operating~~ payment rate for laundry, housekeeping, and dietary equals 105 percent of the median ~~other operating cost per day~~ for laundry, housekeeping, and dietary cost as determined in subdivision 2.

Subd. 4. **Administrative, maintenance, and plant operations.** (a) The payment rate for administrative, maintenance, and plant operations is $48.57 per day effective January 1, 2020. For the rate period January 1, 2021, through December 31, 2023, this payment rate is increased by one percent annually on January 1.

(b) For rate years beginning on and after January 1, 2024, this payment rate is adjusted by a forecasting market basket and forecasting index. The adjustment factor must come from the Information Handling Services Healthcare Cost Review, the Skilled Nursing Facility Total Market Basket Index, and the four-quarter moving average percentage change line or a comparable index if this index ceases to be published. The commissioner shall use the fourth quarter index of the upcoming calendar year from the forecast published for the third quarter of the calendar year immediately prior to the rate year for which the rate is being determined.

Subd. 5. **Determination of the other operating payment rate.** A facility's other operating payment rate equals the sum of the factors determined in subdivisions 3 and 4.

Sec. 24. Minnesota Statutes 2018, section 256R.25, is amended to read:
256R.25 EXTERNAL FIXED COSTS PAYMENT RATE.

(a) The payment rate for external fixed costs is the sum of the amounts in paragraphs (b) to ~~(n)~~ (k).

(b) For a facility licensed as a nursing home, the portion related to the provider surcharge under section 256.9657 is equal to $8.86 per resident day. For a facility licensed as both a nursing home and a boarding care home, the portion related to the provider surcharge under section 256.9657 is equal to $8.86 per resident day multiplied by the result of its number of nursing home beds divided by its total number of licensed beds.

Sec. 2. Minnesota Statutes 2018, section 256R.25, is amended to read:
256R.25 EXTERNAL FIXED COSTS PAYMENT RATE.

(a) The payment rate for external fixed costs is the sum of the amounts in paragraphs (b) to ~~(n)~~ (o).

(b) For a facility licensed as a nursing home, the portion related to the provider surcharge under section 256.9657 is equal to $8.86 per resident day. For a facility licensed as both a nursing home and a boarding care home, the portion related to the provider surcharge under section 256.9657 is equal to $8.86 per resident day multiplied by the result of its number of nursing home beds divided by its total number of licensed beds.

(c) The portion related to the licensure fee under section 144.122, paragraph (d), is the amount of the fee divided by the sum of the facility's resident days.

(d) The portion related to development and education of resident and family advisory councils under section 144A.33 is $5 per resident day divided by 365.

(e) The portion related to scholarships is determined under section 256R.37.

~~(f) The portion related to planned closure rate adjustments is as determined under section 256R.40, subdivision 5, and Minnesota Statutes 2010, section 256B.436.~~

~~(g) The portion related to consolidation rate adjustments shall be as determined under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d.~~

~~(h) The portion related to single-bed room incentives is as determined under section 256R.41.~~

~~(i)~~ (f) The portions related to real estate taxes, special assessments, and payments made in lieu of real estate taxes directly identified or allocated to the nursing facility are the ~~actual~~ allowable amounts divided by the sum of the facility's resident days. Allowable costs under this paragraph for payments made by a nonprofit nursing facility that are in lieu of real estate taxes shall not exceed the amount which the nursing facility would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes.

~~(j)~~ (g) The portion related to employer health insurance costs is the allowable costs divided by the sum of the facility's resident days.

~~(k)~~ (h) The portion related to the Public Employees Retirement Association is ~~actual~~ allowable costs divided by the sum of the facility's resident days.

~~(l)~~ (i) The portion related to quality improvement incentive payment rate adjustments is the amount determined under section 256R.39.

~~(m)~~ (j) The portion related to performance-based incentive payments is the amount determined under section 256R.38.

~~(n)~~ (k) The portion related to special dietary needs is the amount determined under section 256R.51.

EFFECTIVE DATE. This section is effective January, 1, 2020.

Sec. 25. Minnesota Statutes 2018, section 256R.26, is amended to read:

256R.26 PROPERTY PAYMENT RATE.

Subdivision 1. **Generally.** ~~The property payment rate for a nursing facility is the property rate established for the facility under sections 256B.431 and 256B.434.~~ (a) For rate years

(c) The portion related to the licensure fee under section 144.122, paragraph (d), is the amount of the fee divided by the sum of the facility's resident days.

(d) The portion related to development and education of resident and family advisory councils under section 144A.33 is $5 per resident day divided by 365.

(e) The portion related to scholarships is determined under section 256R.37.

(f) The portion related to planned closure rate adjustments is as determined under section 256R.40, subdivision 5, and Minnesota Statutes 2010, section 256B.436.

(g) The portion related to consolidation rate adjustments shall be as determined under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d.

(h) The portion related to single-bed room incentives is as determined under section 256R.41.

(i) The portions related to real estate taxes, special assessments, and payments made in lieu of real estate taxes directly identified or allocated to the nursing facility are the actual amounts divided by the sum of the facility's resident days. Allowable costs under this paragraph for payments made by a nonprofit nursing facility that are in lieu of real estate taxes shall not exceed the amount which the nursing facility would have paid to a city or township and county for fire, police, sanitation services, and road maintenance costs had real estate taxes been levied on that property for those purposes.

(j) The portion related to employer health insurance costs is the allowable costs divided by the sum of the facility's resident days.

(k) The portion related to the Public Employees Retirement Association is actual costs divided by the sum of the facility's resident days.

(l) The portion related to quality improvement incentive payment rate adjustments is the amount determined under section 256R.39.

(m) The portion related to performance-based incentive payments is the amount determined under section 256R.38.

(n) The portion related to special dietary needs is the amount determined under section 256R.51.

(o) The portion related to the rate adjustments for border city facilities is the amount determined under section 256R.481.

beginning on or after January 1, 2020, the commissioner shall reimburse nursing facilities participating in the medical assistance program for the rental use of real estate and depreciable assets according to this section and sections 256R.261 to 256R.27. The property payment rate made under this methodology is the only payment for costs related to capital assets, including depreciation expense, interest and lease expenses for all depreciable assets, also including depreciable movable equipment, land improvements, and land.

(b) The commercial valuation system selected by the commissioner must be utilized in all appraisals. The appraisal is not intended to exactly reflect market value, and no adjustments or substitutions are permitted for any alternative analysis of properties than the selected commercial valuation system.

(c) Based on the valuation of a building and fixed equipment, the property appraisal firm selected by the commissioner must produce a report detailing both the depreciated replacement cost (DRC) and undepreciated replacement cost (URC) of the nursing facility. The valuation excludes depreciable movable equipment, land, or land improvements. The valuation must be adjusted for any shared area included in the DRC and URC not used for nursing facility purposes. Physical plant for central office operations is not included in the appraisal.

(d) The appraisal initially may include the full value of all shared areas. The DRC, URC, and square footage are established by an appraisal and must be adjusted to reflect only the nursing facility usage of shared areas in the final nursing facility values. The adjustment must be based on a Medicare-approved allocation basis for the type of service provided by each area. Shared areas outside the appraised space must be added to the DRC, URC, and related square footage using the average of each value from the space in the appraisal.

Subd. 2. **Appraised value.** For rate years beginning on or after January 1, 2020, the DRC and URC are based on the appraisals of a building and attached fixtures as determined by the contracted property appraisal firm using a commercial valuation system selected by the commissioner.

Subd. 3. **Initial rate year.** The property payment rate calculated under section 256R.265 for the initial rate year effective January 1, 2020, must be a per diem amount based on the DRC and URC of a nursing facility's building and attached fixtures, as estimated by a commercial property appraisal firm in 2016. The initial values for both the DRC and URC, adjusted for nonnursing facility space, must be increased by six percent.

Subd. 4. **Subsequent rate years.** (a) Beginning in calendar year 2020, the commissioner shall contract with a property appraisal firm to appraise the building and attached fixtures for nursing facilities using the commercial valuation system. Approximately one-third of the nursing facilities must be appraised each year.

(b) If a nursing facility wishes to appeal findings of fact in the appraisal report, the nursing facility must request a revision within 20 calendar days after receipt of the appraisal report.

(c) The property payment rate for rate year beginning January 1, 2021, for the one-third of nursing facilities that are newly appraised in 2020 must be based upon new DRCs and URCs for buildings and attached fixtures as determined by the contracted property appraisal firm.

(d) The property payment rate for rate years beginning January 1, 2021, and January 1, 2022, for the remainder of the nursing facilities that were not previously appraised, must use the net DRC and URC used in the January 1, 2020, property payment rates adjusted for inflation before any formula limitations are applied. The index for the inflation adjustment must be based on the change in the United States All-Items Consumer Price Index (CPI-U) forecasted by the Reports and Forecasts Division of the Department of Human Services in the third quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the 12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined. Nursing facilities under this paragraph must have the property payment rates beginning January 1, 2022, and January 1, 2023, based on new replacement costs and depreciated values as determined in appraisals based on the three-year cycle.

(e) For the nursing facilities that have an on-site property appraisal conducted by the commissioner's designee after the initial 2016 appraisal, the most recent appraisal must be used in subsequent years until a new on-site property appraisal is conducted. In the years after the initial appraisal, the most recent DRC and URC must be updated through the commercial valuation system. These valuations are updates only and not subject to revisions of any of the original valuations or appeal by the nursing facility.

Subd. 5. **Special reappraisals.** (a) A nursing facility that completes an addition to or replacement of a building or attached fixtures as approved in section 144A.073 after January 1, 2020, may request a property rate adjustment effective the first of January, April, July, or October after project completion. The nursing facility must submit all cost data related to the project to the commissioner within 90 days of project completion. The commissioner must add the nursing facility to the next group of scheduled appraisals. The nursing facility's updated appraisal must be used to calculate a revised property rate effective the first of January, April, July, or October after project completion. If an updated appraisal cannot be scheduled within 90 days of the effective date of the revised property, the commissioner must establish an interim valuation which must be adjusted retroactively when the updated appraisal is available. For a nursing facility with projects approved under section 144A.073 prior to January 1, 2020, moratorium project construction adjustments must be calculated under Minnesota Statutes 2018, section 256B.434, subdivision 4f, and the adjustment added to the nursing facility's hold harmless rate effective the first of January, April, July, or

October after project completion. This adjustment is in addition to the updated appraisal described in this paragraph.

(b) A nursing facility that completes a threshold construction project after January 1, 2020, may submit a project rate adjustment request to the commissioner if the building improvement or addition costs exceed $300,000 and the threshold construction project is not reflected in an appraisal used for rate setting. The cost must be incurred by the nursing facility, or if the nursing facility is leased and the cost is incurred by the lease holder, the provider's lease has been increased for the project. Threshold project costs exceeding a total of $1,500,000 within a three-year period, or a prorated amount if the appraisals are less than three years apart, must not be recognized. The property payment rate must be updated to reflect the new DRC and URC values effective the first of January or July after project completion. In subsequent property payment rate calculations, an addition to the DRC and URC must be eliminated once a full appraisal is complete for the nursing facility after project completion. At the option of the commissioner, the appraisal schedule may be adjusted for nursing facilities completing threshold projects. Threshold project costs are not considered if the costs were incurred prior to the date of the last appraisal.

(c) Effective January 1, 2020, a nursing facility new to the medical assistance program must have the building and fixed equipment appraised by the property appraisal firm upon completion of construction of the nursing facility, or, if not newly constructed, upon entering the medical assistance program. If an appraisal cannot be scheduled within 90 days of the certification date, the commissioner must establish an interim valuation to be adjusted retroactively when the appraisal is available.

Subd. 6. **Limitation on appraisal valuations.** Effective for appraisals conducted on or after January 1, 2020, the increase in the URC is limited to $500,000 per year since the last completed appraisal plus any completed project costs approved under section 144A.073. Any limitation to the URC must be applied in the same proportion to the DRC.

Subd. 7. **Total hold harmless rate.** (a) Total hold harmless rate includes planned closure adjustments under Minnesota Statutes 2018, section 256R.40, subdivision 5; consolidation adjustments under section 144A.071, subdivisions 4c, paragraph (a), clauses (5) and (6), and 4d; equity incentives under sections 256B.431, subdivision 16, and Minnesota Statutes 2018, 256B.434, subdivision 4f; single-bed incentives under Minnesota Statutes 2018, section 256R.41; project construction costs under Minnesota Statutes 2018, section 144A.071, subdivision 1a, paragraph (j); and all components of the property payment rate under section 256R.26 in effect on December 31, 2019.

(b) For moratorium projects as defined under sections 144A.071 and 144A.073 that are eligible for rate adjustments approved prior to January 1, 2020, but not reflected in the rate on December 31, 2019, the moratorium rate adjustments determined under Minnesota Statutes 2018, sections 256B.431, subdivisions 3f, 17, 17a, 17c, 17d, 17e, 21, 30, and 45, and 256B.434, subdivisions 4f and 4j, must be added to the total hold harmless rate in effect on the first of January, April, July, or October after project completion.

(c) Effective January 1, 2020, rate adjustments under Minnesota Statutes 2018, section 256R.25, paragraphs (f) to (h) from previous rate years shall be included in the total hold harmless rate.

(d) This subdivision expires effective January 1, 2026.

Subd. 8. **Phase out of hold harmless rate.** (a) For a nursing facility that has a higher total hold harmless rate than the rate calculated in section 256R.265, the nursing facility must receive 100 percent of the total hold harmless rate for the rate year beginning January 1, 2020.

(b) For rate years beginning January 1, 2021, to January 1, 2024, the property payment rate is a blending of the total hold harmless rate and the property rate determined in section 256R.265, plus any adjustments issued for construction projects between appraisals, if a higher rate results. If not, the property payment rate is determined according to section 256R.265.

(c) For the rate year beginning January 1, 2021, for eligible nursing facilities, the property payment rate is 80 percent of the total hold harmless rate and 20 percent of the property payment rate calculated in section 256R.265.

(d) For the rate year beginning January 1, 2022, for eligible nursing facilities, the property payment rate is 60 percent of the total hold harmless rate and 40 percent of the property payment rate calculated in section 256R.265.

(e) For the rate year beginning January 1, 2023, for eligible nursing facilities, the property payment rate is 40 percent of the total hold harmless rate and 60 percent of the property payment rate calculated in section 256R.265.

(f) For the rate year beginning January 1, 2024, for eligible nursing facilities, the property payment rate is 20 percent of the total hold harmless rate and 80 percent of the property payment rate calculated in section 256R.265.

(g) For rate years beginning January 1, 2025, and thereafter, the property payment rate is as calculated under section 256R.265.

(h) This subdivision expires effective January 1, 2026.

Sec. 26. [256R.261] NURSING FACILITY PROPERTY RATE DEFINITIONS.

Subdivision 1. **Definitions.** For purposes of sections 256R.26 to 256R.27, the following terms have the meanings given them.

Subd. 2. **Addition.** "Addition" means an extension, enlargement, or expansion of the nursing facility for the purpose of increasing the number of licensed beds or improving resident care.

Subd. 3. **Appraisal.** "Appraisal" means an evaluation of the nursing facility's physical real estate conducted by a property appraisal firm selected by the commissioner to establish the valuation of a building and fixed equipment.

Subd. 4. **Building.** "Building" means the physical plant and fixed equipment used directly for resident care and licensed under chapter 144A or sections 144.50 to 144.56. Building excludes buildings or portions of buildings used by central, affiliated, or corporate offices.

Subd. 5. **Commercial valuation system.** "Commercial valuation system" means a commercially available building valuation system selected by the commissioner.

Subd. 6. **Depreciable movable equipment.** "Depreciable movable equipment" means the standard movable care equipment and support service equipment generally used in nursing facilities. Depreciable movable equipment includes equipment specified in the major movable equipment table of the depreciation guidelines. The general characteristics of this equipment are: (1) a relatively fixed location in the building; (2) capable of being moved as distinguished from building equipment; (3) a unit cost sufficient to justify ledger control; and (4) sufficient size and identity to make control feasible by means of identification tags.

Subd. 7. **Depreciated replacement cost or DRC.** "Depreciated replacement cost" or "DRC" means the depreciated replacement cost determined by an appraisal using the commercial valuation system. DRC excludes costs related to parking structures.

Subd. 8. **Depreciation expense.** "Depreciation expense" means the portion of a capital asset deemed to be consumed or expired over the life of the asset.

Subd. 9. **Depreciation guidelines.** "Depreciation guidelines" means the most recent publication of "Estimated Useful Lives of Depreciable Hospital Assets" issued by the American Hospital Association.

Subd. 10. **Equipment allowance.** "Equipment allowance" means the component of the property-related payment rate which is a payment for the use of depreciable movable equipment.

Subd. 11. **Fair rental value system.** "Fair rental value system" means a system that establishes a price for the use of a space based on an appraised value of the property. The price is established without consideration of the actual accounting cost to construct or remodel the property. The price is the nursing facility value, subject to limits, multiplied by an established rental rate.

Subd. 12. **Fixed equipment.** "Fixed equipment" means equipment affixed to the building and not subject to transfer, including but not limited to wiring, electrical fixtures, plumbing, elevators, and heating and air conditioning systems.

Subd. 13. **Land improvement.** "Land improvement" means improvement to the land surrounding the nursing facility directly used for nursing facility operations as specified in the land improvements table of the depreciation guidelines. Land improvement includes

construction of auxiliary buildings including sheds, garages, storage buildings, and parking structures.

Subd. 14. **Rental rate.** "Rental rate" means the percentage applied to the allowable value of the building and attached fixtures per year in the property payment calculation as determined by the commissioner.

Subd. 15. **Shared area.** "Shared area" means square footage that a nursing facility shares with a non-nursing facility operation to provide a support service.

Subd. 16. **Threshold project.** "Threshold project" means additions to a building or fixed equipment that exceed the costs specified in section 256R.26, subdivision 5, paragraph (b). Threshold projects exclude land, land improvements, and depreciable movable equipment purchases.

Subd. 17. **Undepreciated replacement cost or URC.** "Undepreciated replacement cost" or "URC" means the undepreciated replacement cost determined by the appraisal for building and attached fixtures using a commercial valuation system. URC excludes costs related to parking structures.

Subd. 18. **Undepreciated replacement cost (URC) per bed limit.** "Undepreciated replacement cost (URC) per bed limit" means the maximum allowed URC per nursing facility bed as established by the commissioner based on values across the industry and compared to an industry standard for reasonableness.

Sec. 27. [256R.265] PROPERTY RATE CALCULATION UNDER FAIR RENTAL VALUE SYSTEM.

Subdivision 1. **Square feet per bed limit.** The square feet per bed limit is calculated as follows:

(1) the URC of the nursing facility from the appraisal is divided by the total allowable square feet;

(2) the total allowable square feet per bed is calculated by dividing the actual square feet from the appraisal, after adjustment for non-nursing facility area, by the number of licensed beds three months prior to the beginning of the rate year limited to the following maximum. The allowable square feet maximum is 800 square feet per bed plus 25 percent of the square feet over 800 up to 1,200 square feet per bed. Square feet over 1,200 square feet per bed is not recognized; and

(3) the total allowable square feet per bed in clause (2) is multiplied by the amount in clause (1) and by the number of licensed beds three months prior to the beginning of the rate year to determine the square feet per bed limit.

Subd. 2. **Total URC limit.** The total URC limit is calculated as follows:

(1) the square feet per bed limit as determined in subdivision 1 is divided by the number of licensed beds three months prior to the beginning of the rate year to determine allowable URC per bed for each nursing facility, adjusted for square feet limitation;

(2) the allowable URC per bed, adjusted for square feet limitation, for all nursing facilities is placed in an array annually to determine the value at the 75th percentile. This is the limit for the URC per bed for non-single beds;

(3) the value determined in clause (2) is multiplied by 115 percent to determine the limit for the URC per bed for single beds;

(4) the number of non-single-licensed beds three months prior to the beginning of the rate year is multiplied by the amount in clause (2);

(5) the number of single-licensed beds three months prior to the beginning of the rate year is multiplied by the amount in clause (3); and

(6) the amounts in clauses (4) and (5) are summed to determine the total URC limit;

Subd. 3. **Calculation of total property rate.** The total property rate is calculated as follows:

(1) the lower of the allowable URC based on square feet per bed limit as determined under subdivision 1 or the total URC limit in subdivision 2 is the final allowed URC;

(2) the final allowed URC determined in clause (1) is divided by the URC from the appraisal to determine the allowed percentage. The allowed percentage is multiplied by the depreciated replacement value from the appraisal, adjusted for non-nursing facility area, to determine the final allowed depreciated replacement value;

(3) the number of licensed beds three months prior to the beginning of the rate year is multiplied by $5,305 to determine reimbursement for land and land improvements. There is no separate addition to the property rate for parking structures;

(4) the values in clauses (2) and (3) are summed and then multiplied by the rental rate of 5.5 percent to determine allowable property reimbursement;

(5) the allowable property reimbursement determined in clause (4) is divided by 90 percent of capacity days to determine the building property rate. Capacity days are determined by multiplying the number of licensed beds three months prior to the beginning of the report year by 365;

(6) for the rate year beginning January 1, 2020, the equipment allowance is $2.77 per resident day. For the rate year beginning January 1, 2021, the equipment allowance must be adjusted annually for inflation. The index for the inflation adjustment must be based on the change in the United States All Items Consumer Price Index (CPI-U) forecasted by the Reports and Forecasts Division of the Department of Human Services in the third quarter of the calendar year preceding the rate year. The inflation adjustment must be based on the

12-month period from the midpoint of the previous rate year to the midpoint of the rate year for which the rate is being determined; and

(7) the sum of the building property rate and the equipment allowance is the total property rate.

Sec. 28. [256R.27] INTERIM AND SETTLE UP PAYMENT RATES.

Subdivision 1. **Generally.** (a) The commissioner shall determine the interim payment rates and settle up payment rates for a newly constructed nursing facility, or a nursing facility with an increase in licensed capacity of 50 percent or more, according to subdivisions 2 and 3.

(b) The nursing facility must submit a written application to the commissioner to receive interim payment rates. In its application, the nursing facility must state any reasons for noncompliance with this chapter.

(c) The effective date of the interim payment rates is the earlier of either the first day a resident is admitted to the newly constructed nursing facility or the date the nursing facility bed is certified for the medical assistance program. The interim payment rates must not be in effect for more than 17 months.

(d) The nursing facility must continue to receive the interim payment rates until the settle up payment rates are determined under subdivision 3.

(e) For the 15-month period following the settle up reporting period, the settle up payment rates must be determined according to subdivision 3, paragraph (c).

(f) The settle up payment rates are effective retroactively to the beginning of the interim cost reporting period and are effective until the end of the interim rate period.

(g) The total operating and external fixed costs payment rate for the rate year beginning January 1 following the 15-month period in paragraph (e) must be determined under this chapter.

Subd. 2. **Determination of interim payment rates.** (a) The nursing facility shall submit an interim cost report in a format similar to the Minnesota Statistical and Cost Report and other supporting information as required by this chapter for the reporting year in which the nursing facility plans to begin operation at least 60 days before the first day a resident is admitted to the newly constructed nursing facility bed. The interim cost report must include the nursing facility's anticipated interim costs and anticipated interim resident days for each resident class in the interim cost report. The anticipated interim resident days for each resident class is multiplied by the weight for that resident class to determine the anticipated interim standardized days as defined in section 256R.02, subdivision 50, and resident days as defined in section 256R.02, subdivision 45, for the reporting period.

(b) The interim total operating payment rate is determined according to this section, except that:

(1) the anticipated interim costs and anticipated interim resident days reported on the interim cost report and the anticipated interim standardized days as defined by section 256R.02, subdivision 50, must be used for the interim;

(2) the commissioner shall use anticipated interim costs and anticipated interim standardized days in determining the allowable historical direct care cost per standardized day as determined under section 256R.23, subdivision 2;

(3) the commissioner shall use anticipated interim costs and anticipated interim resident days in determining the allowable historical other care-related cost per resident day as determined under section 256R.23, subdivision 3;

(4) the commissioner shall use anticipated interim costs and anticipated interim resident days to determine the allowable historical external fixed costs per day under section 256R.25, paragraphs (b) to (k);

(5) the total care-related payment rate limits established in section 256R.23, subdivision 5, and in effect at the beginning of the interim period, must be increased by ten percent; and

(6) the other operating payment rate as determined under section 256R.24 in effect for the rate year must be used for the other operating cost per day.

Subd. 3. **Determination of settle up payment rates.** (a) When the interim payment rates begin between May 1 and September 30, the nursing facility shall file settle up cost reports for the period from the beginning of the interim payment rates through September 30 of the following year.

(b) When the interim payment rates begin between October 1 and April 30, the nursing facility shall file settle up cost reports for the period from the beginning of the interim payment rates to the first September 30 following the beginning of the interim payment rates.

(c) The settle up total operating payment rate is determined according to this section, except that:

(1) the allowable costs and resident days reported on the settle up cost report and the standardized days as defined by section 256R.02, subdivision 50, must be used for the interim and settle-up period;

(2) the commissioner shall use the allowable costs and standardized days in clause (1) to determine the allowable historical direct care cost per standardized day as determined under section 256R.23, subdivision 2;

(3) the commissioner shall use the allowable costs and the allowable resident days to determine both the allowable historical other care-related cost per resident day as determined under section 256R.23, subdivision 3;

(4) the commissioner shall use the allowable costs and the allowable resident days to determine the allowable historical external fixed costs per day under section 256R.25, paragraphs (b) to (k);

(5) the total care-related payment limits established in section 256R.23, subdivision 5, are the limits for the settle up reporting periods. If the interim period includes more than one July 1 date, the commissioner shall use the total care-related payment rate limit established in section 256R.23, subdivision 5, increased by ten percent for the second July 1 date; and

(6) the other operating payment rate as determined under section 256R.24 in effect for the rate year must be used for the other operating cost per day.

Sec. 29. [256R.28] INTERIM AND SETTLE UP PAYMENT RATES FOR NEW OWNERS AND OPERATORS.

Subdivision 1. **Generally.** (a) A nursing facility that undergoes a change of ownership or operator resulting in a change of licensee, as determined by the commissioner of health under chapter 144A, after December 31, 2019, must receive interim payment rates and settle up payment rates according to this section.

(b) The effective date of the interim rates is the effective date of the new license. The interim payment rates must not be in effect for more than 26 months.

(c) The nursing facility must continue to receive the interim payment rates until the settle up payment rates are determined under subdivision 3.

(d) The settle up payment rates are effective retroactively to the effective date of the new license and remain effective until the end of the interim rate period.

(e) For the 15-month period following the settle up payment, rates must be determined according to subdivision 3, paragraph (c).

(f) The total operating and external fixed costs payment rates for the rate year beginning January 1 following the 15-month period in paragraph (e) must be determined under section 256R.21.

Subd. 2. **Determination of interim payment rates.** The interim total payment rates must be the rates established under section 256R.21.

Subd. 3. **Determination of settle up payment rates.** (a) When the interim payment rates begin between May 1 and September 30, the nursing facility shall file settle up cost

reports for the period from the beginning of the interim payment rates through September 30 of the following year.

(b) When the interim payment rates begin between October 1 and April 30, the nursing facility shall file settle up cost reports for the period from the beginning of the interim payment rates to the first September 30 following the beginning of the interim payment rates.

(c) The settle up total payment rates are determined according to section 256R.21, except that the commissioner shall:

(1) use the allowable costs and the resident days from the settle up cost reports to determine the allowable external fixed costs payment rate; and

(2) use the allowable costs and the resident days from the settle up cost reports to determine the total care-related payment rate.

Sec. 30. Minnesota Statutes 2018, section 256R.44, is amended to read:

256R.44 RATE ADJUSTMENT FOR PRIVATE ROOMS FOR MEDICAL NECESSITY.

The amount paid for a private room is ~~111.5~~ 110 percent of the established total payment rate for a resident if the resident is a medical assistance recipient and the private room is considered a medical necessity for the resident or others who are affected by the resident's condition~~, except as provided in Minnesota Rules, part 9549.0060, subpart 11, item C~~. Conditions requiring a private room must be determined by the resident's attending physician and submitted to the commissioner for approval or denial by the commissioner on the basis of medical necessity.

EFFECTIVE DATE. This section is effective January 1, 2020.

Sec. 31. Minnesota Statutes 2018, section 256R.47, is amended to read:

256R.47 RATE ADJUSTMENT FOR CRITICAL ACCESS NURSING FACILITIES.

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

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

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

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

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

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

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

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

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

(e) This section is suspended and no state or federal funding shall be appropriated or allocated for the purposes of this section from January 1, 2016, ~~to December 31, 2019.~~ through December 31, 2023.

Sec. 3. [256R.481] RATE ADJUSTMENTS FOR BORDER CITY FACILITIES.

(a)The commissioner shall allow each nonprofit nursing facility located within the boundaries of the city of Breckenridge or Moorhead prior to January 1, 2015, to apply once annually for a rate add-on to the facility's external fixed costs payment rate.

(b) A facility seeking an add-on to its external fixed costs payment rate under this section must apply annually to the commissioner to receive the add-on. A facility must submit the application within 60 calendar days of the effective date of any add-on under this section.

Sec. 32. Minnesota Statutes 2018, section 256R.50, subdivision 6, is amended to read:

Subd. 6. **Determination of rate adjustment.** (a) If the amount determined in subdivision 5 is less than or equal to the amount determined in subdivision 4, the commissioner shall allow a total payment rate equal to the amount used in subdivision 5, clause (3).

(b) If the amount determined in subdivision 5 is greater than the amount determined in subdivision 4, the commissioner shall allow a rate with a case mix index of 1.0 that when used in subdivision 5, clause (3), results in the amount determined in subdivision 5 being equal to the amount determined in subdivision 4.

(c) If the commissioner relies upon provider estimates in subdivision 5, clause (1) or (2), then annually, for three years after the rates determined in this section take effect, the commissioner shall determine the accuracy of the alternative factors of medical assistance case load and the facility average case mix index used in this section and shall reduce the total payment rate if the factors used result in medical assistance costs exceeding the amount in subdivision 4. If the actual medical assistance costs exceed the estimates by more than five percent, the commissioner shall also recover the difference between the estimated costs in subdivision 5 and the actual costs according to section 256B.0641. The commissioner may require submission of data from the receiving facility needed to implement this paragraph.

(d) When beds approved for relocation are put into active service at the destination facility, rates determined in this section must be adjusted by any adjustment amounts that were implemented after the date of the letter of approval.

(e) Rate adjustments determined under this subdivision expire after three full rate years following the effective date of the rate adjustment. This subdivision expires when the final rate adjustment determined under this subdivision expires.

The commissioner may waive the deadlines required by this paragraph under extraordinary circumstances.

(c) The commissioner shall provide the add-on to each eligible facility that applies by the application deadline.

(d) The add-on to the external fixed costs payment rate is the difference on January 1 of the median total payment rate for case mix classification PA1 of the nonprofit facilities located in an adjacent city in another state and in cities contiguous to the adjacent city minus the eligible nursing facility's total payment rate for case mix classification PA1 as determined under section 256R.22, subdivision 4.

EFFECTIVE DATE. The add-on to the external fixed costs payment rate described in Minnesota Statutes, section 256R.481, is available for the rate years beginning on and after January 1, 2021.

Sec. 33. **DIRECTION TO COMMISSIONER; MORATORIUM EXCEPTION FUNDING.**

In fiscal year 2020, the commissioner of health may approve moratorium exception projects under Minnesota Statutes, section 144A.073, for which the full annualized state share of medical assistance costs does not exceed $1,500,000 plus any carryover of previous appropriations for this purpose.

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

Sec. 34. **REVISOR INSTRUCTION.**

In Minnesota Statutes, the revisor of statutes shall renumber the nursing facility contracting provisions that are currently coded as section 256B.434, subdivisions 1 and 3, as amended by this act, as a section in chapter 256R and revise any statutory cross-references consistent with that recoding.

Sec. 35. **REPEALER.**

(a) Minnesota Statutes 2018, sections 144A.071, subdivision 4d; 256R.40; and 256R.41, are repealed effective July 1, 2019.

(b) Minnesota Statutes 2018, sections 256B.431, subdivisions 3a, 3f, 3g, 3i, 10, 13, 15, 16, 17, 17a, 17c, 17d, 17e, 18, 21, 22, 30, and 45; 256B.434, subdivisions 4, 4f, 4i, and 4j; and 256R.36, and Minnesota Rules, parts 9549.0057; and 9549.0060, subparts 4, 5, 6, 7, 10, 11, and 14, are repealed effective January 1, 2020.

(c) Minnesota Statutes 2018, section 256B.434, subdivisions 6 and 10, are repealed effective the day following final enactment.

Section 1. Minnesota Statutes 2018, section 144A.073, is amended by adding a subdivision to read:

Subd. 16. **Moratorium exception funding.** In fiscal year 2020, the commissioner may approve moratorium exception projects under this section for which the full annualized state share of medical assistance costs does not exceed $2,000,000 plus any carryover of previous appropriations for this purpose.

Sec. 4. **REPEALER.**

Minnesota Statutes 2018, section 256R.53, subdivision 2, is repealed effective January 1, 2021.