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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. 2219

02/13/2012 Authored by Slawik, Fritz, Moran, Ward, Peterson, S. and others
The bill was read for the first time and referred to the Committee on Health and Human Services Reform

1.1 A bill for an act
1.2 relating to human services; establishing the Child Care Affordability Act;
1.3 modifying child care assistance programs; appropriating money; amending
1.4 Minnesota Statutes 2010, sections 119B.02, subdivisions 1, 2; 119B.03,
1.5 subdivision 9; 119B.035, subdivision 1; 119B.05, subdivisions 1, 5; 119B.08,
1.6 subdivision 3; 119B.09, subdivisions 1, 4a; 119B.11, subdivision 1; 119B.231,
1.7 subdivision 5; 256.017, subdivision 9; Minnesota Statutes 2011 Supplement,
1.8 section 119B.13, subdivision 1; repealing Minnesota Statutes 2010, sections
1.9 119B.011, subdivision 20a; 119B.03, subdivisions 1, 2, 4, 5, 6, 6a, 6b, 8;
1.10 119B.09, subdivision 3.

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

1.12 ARTICLE 1
1.13 CHILD CARE ASSISTANCE PROGRAMS

1.14 Section 1. SHORT TITLE.

1.15 Sections 2 to 13 may be cited as the "Child Care Affordability Act."

1.16 Sec. 2. Minnesota Statutes 2010, section 119B.02, subdivision 1, is amended to read:

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

2.1 following receipt and added to the family income during those months. The commissioner
 2.2 shall maximize the use of federal money under title I and title IV of Public Law 104-193,
 2.3 the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, and
 2.4 other programs that provide federal or state reimbursement for child care services for
 2.5 low-income families who are in education, training, job search, or other activities allowed
 2.6 under those programs. Money appropriated under this section must be coordinated with
 2.7 the programs that provide federal reimbursement for child care services to accomplish
 2.8 this purpose. ~~Federal reimbursement obtained must be allocated to the county that spent~~
 2.9 ~~money for child care that is federally reimbursable under programs that provide federal~~
 2.10 ~~reimbursement for child care services.~~ The ~~counties~~ commissioner shall use the federal
 2.11 money to expand child care services. The commissioner may adopt rules under chapter 14
 2.12 to implement and coordinate federal program requirements.

2.13 Sec. 3. Minnesota Statutes 2010, section 119B.03, subdivision 9, is amended to read:

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

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

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

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

2.31 ~~(c)~~ (b) The receiving county must:

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

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

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

3.3 Sec. 4. Minnesota Statutes 2010, section 119B.035, subdivision 1, is amended to read:

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

3.14 Sec. 5. Minnesota Statutes 2010, section 119B.05, subdivision 5, is amended to read:

3.15 Subd. 5. **Federal reimbursement.** Counties and the state shall maximize their
3.16 federal reimbursement under federal reimbursement programs for money spent for persons
3.17 eligible under this chapter. The commissioner shall allocate any federal earnings to the
3.18 county to be used to expand child care services under this chapter.

3.19 Sec. 6. Minnesota Statutes 2010, section 119B.08, subdivision 3, is amended to read:

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

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

4.1 to share information, responsibility, and accountability among service and program
4.2 providers;

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

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

4.12 The commissioner shall notify counties within 90 days of the date the plan is
4.13 submitted whether the plan is approved or the corrections or information needed to
4.14 approve the plan. The commissioner shall withhold ~~a county's allocation until it has an~~
4.15 ~~approved plan. Plans not approved by the end of the second quarter after the plan is due~~
4.16 ~~may result in a 25 percent reduction in allocation. Plans not approved by the end of the~~
4.17 ~~third quarter after the plan is due may result in a 100 percent reduction in the allocation to~~
4.18 ~~the county~~ payments to a county until it has an approved plan. Counties are to maintain
4.19 services despite any ~~reduction in their allocation~~ withholding of payments due to plans
4.20 not being approved.

4.21 Sec. 7. Minnesota Statutes 2010, section 119B.09, subdivision 1, is amended to read:

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

4.26 (1) have household income less than or equal to ~~67~~ 76 percent of the state median
4.27 income, adjusted for family size, and meet the requirements of section 119B.05; receive
4.28 MFIP assistance; and are participating in employment and training services under chapter
4.29 256J; ~~or~~

4.30 (2) have household income less than or equal to 47 percent of the state median
4.31 income, adjusted for family size, at program entry and less than or equal to ~~67~~ 76 percent
4.32 of the state median income, adjusted for family size, at program exit; or

4.33 (3) have household income less than or equal to 76 percent of state median income,
4.34 adjusted for family size, and were a family whose child care assistance was terminated
4.35 due to insufficient funds under Minnesota Rules, part 3400.0183.

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

5.2 (c) All applicants for child care assistance and families currently receiving child care
5.3 assistance must be assisted and required to cooperate in establishment of paternity and
5.4 enforcement of child support obligations for all children in the family as a condition
5.5 of program eligibility. For purposes of this section, a family is considered to meet the
5.6 requirement for cooperation when the family complies with the requirements of section
5.7 256.741.

5.8 **EFFECTIVE DATE.** This section is effective July 1, 2012.

5.9 Sec. 8. Minnesota Statutes 2010, section 119B.09, subdivision 4a, is amended to read:

5.10 Subd. 4a. **Temporary ineligibility of military personnel.** Counties must reserve a
5.11 family's position under the child care assistance fund if a family has been receiving child
5.12 care assistance but is temporarily ineligible for assistance due to increased income from
5.13 active military service. Activated military personnel may be temporarily ineligible until
5.14 deactivation. ~~A county must reserve a military family's position on the basic sliding fee
5.15 waiting list under the child care assistance fund if a family is approved to receive child care
5.16 assistance and reaches the top of the waiting list but is temporarily ineligible for assistance.~~

5.17 Sec. 9. Minnesota Statutes 2010, section 119B.11, subdivision 1, is amended to read:

5.18 Subdivision 1. **County contributions required.** (a) In addition to payments from
5.19 ~~basic sliding fee~~ child care assistance program participants, each county shall contribute
5.20 from county tax or other sources a fixed local match equal to its calendar year 1996
5.21 required county contribution reduced by the administrative funding loss that would have
5.22 occurred in state fiscal year 1996 under section 119B.15. The commissioner shall recover
5.23 funds from the county as necessary to bring county expenditures into compliance with this
5.24 subdivision. The commissioner may accept county contributions, including contributions
5.25 above the fixed local match, in order to make state payments.

5.26 (b) The commissioner may accept payments from counties to:

5.27 (1) fulfill the county contribution as required under subdivision 1;

5.28 (2) pay for services authorized under this chapter beyond those paid for with federal
5.29 or state funds or with the required county contributions; or

5.30 (3) pay for child care services in addition to those authorized under this chapter, as
5.31 authorized under other federal, state, or local statutes or regulations.

5.32 (c) The county payments must be deposited in an account in the special revenue
5.33 fund. Money in this account is appropriated to the commissioner for child care assistance

6.1 under this chapter and other applicable statutes and regulations and is in addition to other
6.2 state and federal appropriations.

6.3 Sec. 10. Minnesota Statutes 2011 Supplement, section 119B.13, subdivision 1, is
6.4 amended to read:

6.5 Subdivision 1. **Subsidy restrictions.** (a) Beginning ~~October 31, 2011~~ July 1, 2012,
6.6 the maximum rate paid for child care assistance ~~in any county or multicounty region~~
6.7 the child care fund ~~shall be the rate for like-care arrangements in the county effective July~~
6.8 ~~1, 2006, decreased by 2.5 percent~~ is the 75th percentile rate for like-care arrangements as
6.9 surveyed by the commissioner in the most current market rate survey.

6.10 (b) Every year, the commissioner shall survey rates charged by child care
6.11 providers in Minnesota to determine the 75th percentile for like-care arrangements in
6.12 counties. When the commissioner determines that, using the commissioner's established
6.13 protocol, the number of providers responding to the survey is too small to determine
6.14 the 75th percentile rate for like-care arrangements in a county or multicounty region,
6.15 the commissioner may establish the 75th percentile maximum rate based on like-care
6.16 arrangements in a county, region, or category that the commissioner deems to be similar.

6.17 (c) A rate which includes a special needs rate paid under subdivision 3 or under a
6.18 school readiness service agreement paid under section 119B.231, may be in excess of the
6.19 maximum rate allowed under this subdivision.

6.20 (d) The department shall monitor the effect of this paragraph on provider rates. The
6.21 county shall pay the provider's full charges for every child in care up to the maximum
6.22 established. The commissioner shall determine the maximum rate for each type of care
6.23 on an hourly, full-day, and weekly basis, including special needs and disability care. The
6.24 maximum payment to a provider for one day of care must not exceed the daily rate. The
6.25 maximum payment to a provider for one week of care must not exceed the weekly rate.

6.26 (e) Child care providers receiving reimbursement under this chapter must not be
6.27 paid activity fees or an additional amount above the maximum rates for care provided
6.28 during nonstandard hours for families receiving assistance.

6.29 (f) When the provider charge is greater than the maximum provider rate allowed,
6.30 the parent is responsible for payment of the difference in the rates in addition to any
6.31 family co-payment fee.

6.32 (g) All maximum provider rates changes shall be implemented on the Monday
6.33 following the effective date of the maximum provider rate.

7.1 Sec. 11. **DIRECTION TO COMMISSIONER OF MANAGEMENT AND**
7.2 **BUDGET.**

7.3 The state obligation for the basic sliding fee child care assistance program under
7.4 Minnesota Statutes, section 119B.03, must be included in the Department of Management
7.5 and Budget February and November forecasts of state revenues and expenditures under
7.6 Minnesota Statutes, section 16A.103, beginning with the November 2012 forecast.

7.7 Sec. 12. **APPROPRIATIONS.**

7.8 Subdivision 1. **Child care resource and referral programs.** \$1,500,000 is
7.9 appropriated in fiscal year 2013 from the general fund to the commissioner of human
7.10 services for the purposes of grants for child care resource and referral programs under
7.11 Minnesota Statutes, section 119B.19. The appropriation under this subdivision is the
7.12 total appropriation for this purpose for fiscal year 2013 and replaces any general fund
7.13 appropriation for this purpose in Laws 2011, First Special Session chapter 9. This
7.14 appropriation is not onetime and is added to the base for fiscal year 2014.

7.15 Subd. 2. **Child care services grants.** \$2,500,000 is appropriated in fiscal year
7.16 2013 from the general fund to the commissioner of human services for the purposes of
7.17 child care services grants under Minnesota Statutes, section 119B.21, subdivision 5. The
7.18 appropriation under this subdivision is the total appropriation for this purpose for fiscal
7.19 year 2013 and replaces any general fund appropriation for this purpose in Laws 2011,
7.20 First Special Session chapter 9. This appropriation is not onetime and is added to the
7.21 base for fiscal year 2014.

7.22 Subd. 3. **Migrant child care.** \$300,000 is appropriated in fiscal year 2013 from
7.23 the general fund to the commissioner of human services for the purposes of migrant child
7.24 care. The appropriation under this subdivision is the total appropriation for this purpose
7.25 for fiscal year 2013 and replaces any general fund appropriation for this purpose in Laws
7.26 2011, First Special Session chapter 9. This appropriation is not onetime and is added
7.27 to the base for fiscal year 2014.

7.28 Subd. 4. **Child care improvement grants.** \$500,000 is appropriated in fiscal year
7.29 2013 from the general fund to the commissioner of human services for the purposes
7.30 of child care improvement grants under Minnesota Statutes, section 119B.25. The
7.31 appropriation under this subdivision is the total appropriation for this purpose for fiscal
7.32 year 2013 and replaces any general fund appropriation for this purpose in Laws 2011,
7.33 First Special Session chapter 9. This appropriation is not onetime and is added to the
7.34 base for fiscal year 2014.

8.1 Subd. 5. **Child care integrity.** \$150,000 is appropriated in fiscal year 2013 from
 8.2 the general fund to the commissioner of human services for the purposes of child care
 8.3 integrity. The appropriation under this subdivision is the total appropriation for this
 8.4 purpose for fiscal year 2013 and replaces any general fund appropriation for this purpose
 8.5 in Laws 2011, First Special Session chapter 9. This appropriation is not onetime and
 8.6 is added to the base for fiscal year 2014.

8.7 Subd. 6. **Voluntary quality rating system training, coaching, consultation,**
 8.8 **and supports.** \$5,000,000 is appropriated in fiscal year 2013 from the general fund to
 8.9 the commissioner of human services for the purposes of providing grants to provide
 8.10 statewide child care provider training, coaching, consultation, and supports to prepare
 8.11 for the voluntary Minnesota quality rating system rating tool. These grants must help
 8.12 child care providers build quality child care programs including, but not limited to,
 8.13 relationship-based professional development through mentoring and coaching, and
 8.14 ensuring that such training is offered to providers in the provider's native language and
 8.15 available to providers of all income levels. This is a onetime appropriation.

8.16 Sec. 13. **REPEALER.**

8.17 Minnesota Statutes 2010, sections 119B.03, subdivisions 1, 2, 4, 5, 6, 6a, 6b, and 8;
 8.18 and 119B.09, subdivision 3, are repealed.

8.19 ARTICLE 2

8.20 CONFORMING CHANGES

8.21 Section 1. Minnesota Statutes 2010, section 119B.02, subdivision 2, is amended to read:

8.22 Subd. 2. **Contractual agreements with tribes.** The commissioner may enter into
 8.23 contractual agreements with a federally recognized Indian tribe with a reservation in
 8.24 Minnesota to carry out the responsibilities of county human service agencies to the extent
 8.25 necessary for the tribe to operate child care assistance programs under sections 119B.03
 8.26 and 119B.05. An agreement may allow for the tribe to be reimbursed for child care
 8.27 assistance services provided under section 119B.05. The commissioner shall consult with
 8.28 the affected county or counties in the contractual agreement negotiations, if the county or
 8.29 counties wish to be included, in order to avoid the duplication of county and tribal child
 8.30 care services. Funding to support services under section 119B.03 may be transferred to
 8.31 the federally recognized Indian tribe with a reservation in Minnesota from allocations
 8.32 available to counties in which reservation boundaries lie. ~~When funding is transferred~~
 8.33 ~~under section 119B.03, the amount shall be commensurate to estimates of the proportion~~

9.1 ~~of reservation residents with characteristics identified in section 119B.03, subdivision 6, to~~
 9.2 ~~the total population of county residents with those same characteristics.~~

9.3 Sec. 2. Minnesota Statutes 2010, section 119B.05, subdivision 1, is amended to read:

9.4 Subdivision 1. **Eligible participants.** Families eligible for child care assistance
 9.5 under the MFIP child care program are:

9.6 (1) MFIP participants who are employed or in job search and meet the requirements
 9.7 of section 119B.10;

9.8 (2) persons who are members of transition year families under section 119B.011,
 9.9 subdivision 20, and meet the requirements of section 119B.10;

9.10 (3) families who are participating in employment orientation or job search, or
 9.11 other employment or training activities that are included in an approved employability
 9.12 development plan under section 256J.95;

9.13 (4) MFIP families who are participating in work job search, job support,
 9.14 employment, or training activities as required in their employment plan, or in appeals,
 9.15 hearings, assessments, or orientations according to chapter 256J;

9.16 (5) MFIP families who are participating in social services activities under chapter
 9.17 256J as required in their employment plan approved according to chapter 256J;

9.18 (6) families who are participating in services or activities that are included in an
 9.19 approved family stabilization plan under section 256J.575; and

9.20 (7) families who are participating in programs as required in tribal contracts under
 9.21 section 119B.02, subdivision 2, or 256.01, subdivision 2; and

9.22 ~~(8) families who are participating in the transition year extension under section~~
 9.23 ~~119B.011, subdivision 20a.~~

9.24 Sec. 3. Minnesota Statutes 2010, section 119B.231, subdivision 5, is amended to read:

9.25 Subd. 5. **Relationship to current law.** (a) The following provisions in chapter 119B
 9.26 must be waived or modified for families receiving services under this section.

9.27 (b) Notwithstanding section 119B.13, subdivisions 1 and 1a, maximum weekly rates
 9.28 under this section are 125 percent of the existing maximum weekly rate for like-care.
 9.29 Providers eligible for a differential rate under section 119B.13, subdivision 3a, remain
 9.30 eligible for the differential above the rate identified in this section. Only care for children
 9.31 who have not yet entered kindergarten may be paid at the maximum rate under this
 9.32 section. The provider's charge for service provided through an SRSA may not exceed the
 9.33 rate that the provider charges a private-pay family for like-care arrangements.

10.1 (c) A family or child care provider may not be assessed an overpayment for care
 10.2 provided through an SRSA unless:

10.3 (1) there was an error in the amount of care authorized for the family; or

10.4 (2) the family or provider did not timely report a change as required under the law.

10.5 (d) Care provided through an SRSA is authorized on a weekly basis.

10.6 (e) ~~Funds appropriated under this section to serve families eligible under section~~
 10.7 ~~119B.03 are not allocated through the basic sliding fee formula under section 119B.03.~~
 10.8 Funds appropriated under this section are used to offset increased costs when payments
 10.9 are made under SRSA's.

10.10 (f) Notwithstanding section 119B.09, subdivision 6, the maximum amount of child
 10.11 care assistance that may be authorized for a child receiving care through an SRSA in a
 10.12 two-week period is 160 hours per child.

10.13 (g) Effective May 23, 2008, absent day payment limits under section 119B.13,
 10.14 subdivision 7, do not apply to children for care paid through SRSA's provided the family
 10.15 remains eligible under subdivision 3.

10.16 Sec. 4. Minnesota Statutes 2010, section 256.017, subdivision 9, is amended to read:

10.17 Subd. 9. **Timing and disposition of penalty and case disallowance funds.** Quality
 10.18 control case penalty and administrative penalty amounts shall be disallowed or withheld
 10.19 from the next regular reimbursement made to the county agency for state and federal
 10.20 benefit reimbursements and federal administrative reimbursements for all programs
 10.21 covered in this section, according to procedures established in statute, but shall not be
 10.22 imposed sooner than 30 calendar days from the date of written notice of such penalties.
 10.23 Except for penalties withheld under the child care assistance program, all penalties
 10.24 must be deposited in the county incentive fund provided in section 256.018. Penalties
 10.25 withheld under the child care assistance program shall be reallocated to counties ~~using the~~
 10.26 ~~allocation formula under section 119B.03, subdivision 5.~~ All penalties must be imposed
 10.27 according to this provision until a decision is made regarding the status of a written
 10.28 exception. Penalties must be returned to county agencies when a review of a written
 10.29 exception results in a decision in their favor.

10.30 Sec. 5. **REPEALER.**

10.31 Minnesota Statutes 2010, section 119B.011, subdivision 20a, is repealed.