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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. **401**

January 29, 2007

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The bill was read for the first time and referred to the Committee on Health and Human Services

1.1 A bill for an act
1.2 relating to human services; providing additional criteria for ranking nursing
1.3 facility moratorium exception proposals; increasing the limit on allowable
1.4 interest on equipment; increasing the replacement-cost-new per bed limit;
1.5 providing reimbursement for certain nursing facility property costs; authorizing
1.6 funding of moratorium exception projects; amending Minnesota Statutes 2006,
1.7 sections 144A.073, subdivision 4; 256B.431, subdivisions 17a, 17e; 256B.434,
1.8 by adding a subdivision.

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

1.10 Section 1. Minnesota Statutes 2006, section 144A.073, subdivision 4, is amended to
1.11 read:

1.12 Subd. 4. **Criteria for review.** The following criteria shall be used in a consistent
1.13 manner to compare, evaluate, and rank all proposals submitted. Except for the criteria
1.14 specified in clause (3), the application of criteria listed under this subdivision shall not
1.15 reflect any distinction based on the geographic location of the proposed project:

1.16 (1) the extent to which the proposal furthers state long-term care goals, including
1.17 the goal of enhancing the availability and use of alternative care services and the goal of
1.18 reducing the number of long-term care resident rooms with more than two beds;

1.19 (2) the proposal's long-term effects on state costs including the cost estimate of the
1.20 project according to section 144A.071, subdivision 5a;

1.21 (3) the extent to which the proposal promotes equitable access to long-term care
1.22 services in nursing homes through redistribution of the nursing home bed supply, as
1.23 measured by the number of beds relative to the population 85 or older, projected to the
1.24 year 2000 by the state demographer, and according to items (i) to (iv):

1.25 (i) reduce beds in counties where the supply is high, relative to the statewide mean,
1.26 and increase beds in counties where the supply is low, relative to the statewide mean;

2.1 (ii) adjust the bed supply so as to create the greatest benefits in improving the
2.2 distribution of beds;

2.3 (iii) adjust the existing bed supply in counties so that the bed supply in a county
2.4 moves toward the statewide mean; and

2.5 (iv) adjust the existing bed supply so that the distribution of beds as projected for the
2.6 year 2020 would be consistent with projected need, based on the methodology outlined in
2.7 the Interagency Long-Term Care Committee's nursing home bed distribution study;

2.8 (4) the extent to which the project improves conditions that affect the health or
2.9 safety of residents, such as narrow corridors, narrow door frames, unenclosed fire exits,
2.10 and wood frame construction, and similar provisions contained in fire and life safety
2.11 codes and licensure and certification rules;

2.12 (5) the extent to which the project improves conditions that affect the comfort or
2.13 quality of life of residents in a facility or the ability of the facility to provide efficient
2.14 care, such as a relatively high number of residents in a room; inadequate lighting or
2.15 ventilation; poor access to bathing or toilet facilities; a lack of available ancillary space for
2.16 dining rooms, day rooms, or rooms used for other activities; problems relating to heating,
2.17 cooling, or energy efficiency; inefficient location of nursing stations; narrow corridors; or
2.18 other provisions contained in the licensure and certification rules;

2.19 (6) the extent to which the applicant demonstrates the delivery of quality care, as
2.20 defined in state and federal statutes and rules, to residents as evidenced by the two most
2.21 recent state agency certification surveys and the applicants' response to those surveys;

2.22 (7) the extent to which the project removes the need for waivers or variances
2.23 previously granted by either the licensing agency, certifying agency, fire marshal, or
2.24 local government entity;

2.25 (8) the extent to which the project increases the number of private or single bed
2.26 rooms; ~~and~~

2.27 (9) the extent to which the applicant demonstrates the continuing need for nursing
2.28 facility care in the community; and

2.29 (10) other factors that may be developed in permanent rule by the commissioner of
2.30 health that evaluate and assess how the proposed project will further promote or protect
2.31 the health, safety, comfort, treatment, or well-being of the facility's residents.

2.32 **EFFECTIVE DATE.** This section is effective July 1, 2007.

2.33 Sec. 2. Minnesota Statutes 2006, section 256B.431, subdivision 17a, is amended to
2.34 read:

3.1 Subd. 17a. **Allowable interest expense.** (a) Notwithstanding Minnesota Rules, part
 3.2 9549.0060, subparts 5, item A, subitems (1) and (3), and 7, item D, allowable interest
 3.3 expense on debt shall include:

3.4 (1) interest expense on debt related to the cost of purchasing or replacing depreciable
 3.5 equipment, excluding vehicles, not to exceed ~~six~~ ten percent of the total historical cost
 3.6 of the project; and

3.7 (2) interest expense on debt related to financing or refinancing costs, including costs
 3.8 related to points, loan origination fees, financing charges, legal fees, and title searches; and
 3.9 issuance costs including bond discounts, bond counsel, underwriter's counsel, corporate
 3.10 counsel, printing, and financial forecasts. Allowable debt related to items in this clause
 3.11 shall not exceed seven percent of the total historical cost of the project. To the extent
 3.12 these costs are financed, the straight-line amortization of the costs in this clause is not an
 3.13 allowable cost; and

3.14 (3) interest on debt incurred for the establishment of a debt reserve fund, net of the
 3.15 interest earned on the debt reserve fund.

3.16 (b) Debt incurred for costs under paragraph (a) is not subject to Minnesota Rules,
 3.17 part 9549.0060, subpart 5, item A, subitem (5) or (6).

3.18 **EFFECTIVE DATE.** This section is effective October 1, 2007.

3.19 Sec. 3. Minnesota Statutes 2006, section 256B.431, subdivision 17e, is amended to
 3.20 read:

3.21 Subd. 17e. **Replacement-costs-new per bed limit effective ~~July 1, 2001~~ October**
 3.22 **1, 2007.** Notwithstanding Minnesota Rules, part 9549.0060, subpart 11, item C, subitem
 3.23 (2), for a total replacement, as defined in paragraph (f), authorized under section 144A.071
 3.24 or 144A.073 after July 1, 1999, or any building project that is ~~a relocation, renovation,~~
 3.25 ~~upgrading, or conversion completed on or after July 1, 2001~~ eligible for reimbursement
 3.26 under section 256B.434, subdivision 4f, the replacement-costs-new per bed limit effective
 3.27 October 1, 2007, shall be ~~\$74,280~~ \$165,000 per licensed bed in multiple-bed rooms,
 3.28 ~~\$92,850~~ \$195,000 per licensed bed in semiprivate rooms with a fixed partition separating
 3.29 the resident beds, and ~~\$111,420~~ \$225,000 per licensed bed in single rooms. Minnesota
 3.30 Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. These amounts
 3.31 must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning ~~January~~
 3.32 ~~1, 2000~~ January 1, 2008.

3.33 **EFFECTIVE DATE.** This section is effective October 1, 2007.

4.1 Sec. 4. Minnesota Statutes 2006, section 256B.434, is amended by adding a
4.2 subdivision to read:

4.3 Subd. 19. Reimbursement for mandatory property loss. (a) Notwithstanding
4.4 the threshold in section 256B.431, subdivision 16, facilities that take action to come into
4.5 compliance with existing or expected requirements of the federal certification standards,
4.6 life safety code, or other building codes shall receive reimbursement for the property,
4.7 equipment, and technology costs associated with compliance if all of the following
4.8 circumstances are met:

4.9 (1) the costs associated with compliance were incurred on or after January 1, 2005;

4.10 (2) the costs were not otherwise reimbursed under sections 144A.071, 144A.073, or
4.11 subdivision 4f; and

4.12 (3) the total allowable cost reported under this subdivision during a reporting year
4.13 exceeds \$50,000.

4.14 (b) Property rate increases for projects under this subdivision shall be calculated
4.15 according to the formula in subdivision 4f, with the exception that any equipment costs
4.16 under this subdivision shall be depreciated using the American Hospital Association
4.17 useful life guidelines.

4.18 **EFFECTIVE DATE.** This section is effective October 1, 2007.

4.19 Sec. 5. **AUTHORIZATION FOR MORATORIUM EXCEPTION PROJECTS.**

4.20 During fiscal year 2008, the commissioner of health may approve moratorium
4.21 exception projects under Minnesota Statutes, section 144A.073, for which the full
4.22 annualized state share of medical assistance costs does not exceed \$10,000,000. During
4.23 fiscal year 2009, the commissioner of health may approve moratorium exception projects
4.24 under Minnesota Statutes, section 144A.073, for which the full annualized state share of
4.25 medical assistance costs does not exceed \$10,000,000 less the amount approved during
4.26 the first year.

4.27 **EFFECTIVE DATE.** This section is effective July 1, 2007.