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State of Minnesota  
**HOUSE OF REPRESENTATIVES**

EIGHTY-FIFTH  
SESSION

**HOUSE FILE No. 721**

February 8, 2007

    Authorized by Fritz, Hosch, Huntley, Abeler, Finstad and others

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

March 7, 2007

    Committee Recommendation and Adoption of Report:

    To Pass as Amended and re-referred to the Committee on Finance

1.1                                   A bill for an act  
1.2           relating to human services; modifying long-term care initiatives; changing  
1.3           property reimbursements; providing long-term care provider rate increases;  
1.4           requiring the use of new nursing facility case mix indices; providing an  
1.5           exemption from the MinnesotaCare program prohibition on employer-subsidized  
1.6           coverage; requiring workforce initiatives; allowing the authorization of  
1.7           moratorium exception projects; appropriating money; amending Minnesota  
1.8           Statutes 2006, sections 144A.073, subdivision 4; 256B.431, subdivisions 2e, 17a,  
1.9           17e, 32; 256B.434, by adding subdivisions; 256B.438, by adding a subdivision;  
1.10          256B.441, subdivisions 1, 46; 256B.5012, by adding a subdivision; 256L.07,  
1.11          subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 256.

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

1.13                                   **ARTICLE 1**  
1.14                                   **LONG-TERM CARE INITIATIVES**

1.15           Section 1. **[256.9755] LONG-TERM CARE WORKFORCE TRAINING AND**  
1.16           **DEVELOPMENT.**

1.17           Subdivision 1. **Access to standardized curriculum.** The commissioner, in  
1.18           cooperation with the Minnesota job skills partnership program established under chapter  
1.19           116L, shall subsidize student access to the health care core curriculum developed by the  
1.20           Health Education-Industry Partnership, using a sliding tuition scale tied to income.

1.21           Subd. 2. **Additional workforce initiatives.** The commissioner shall develop and  
1.22           implement initiatives to train and increase the supply of long-term caregivers who provide  
1.23           specialized nursing facility care and community-based care to elderly and disabled persons  
1.24           with chronic care needs. The commissioner shall present to the legislature by January 15,  
1.25           2008, a description of the initiatives to be implemented and draft legislation incorporating  
1.26           any statutory changes necessary to implement the initiatives.

2.1            Subd. 3. **Funding.** The subsidies and initiatives required by this subdivision are  
2.2 funded using savings to the general fund that result from nursing facility closures and  
2.3 downsizing.

2.4            Sec. 2. Minnesota Statutes 2006, section 256B.431, subdivision 2e, is amended to read:

2.5            **Subd. 2e. Contracts for services for ventilator-dependent persons and**  
2.6 **persons requiring other specialized services.** The commissioner may negotiate with a  
2.7 nursing facility eligible to receive medical assistance payments to provide services to a  
2.8 ventilator-dependent person; a person requiring wound vacuum and wound stimulation  
2.9 equipment and care; a person requiring bariatric care, services, and equipment due to  
2.10 obesity; a person requiring skilled nursing services and equipment for tracheotomy care;  
2.11 and a person requiring other commissioner-specified complex clinical care, identified by  
2.12 the commissioner according to criteria developed by the commissioner, including:

2.13            (1) nursing facility care has been recommended for the person by a preadmission  
2.14 screening team;

2.15            (2) the person has been hospitalized and no longer requires inpatient acute care  
2.16 hospital services; and

2.17            (3) the commissioner has determined that necessary services for the person cannot  
2.18 be provided under existing nursing facility rates.

2.19            The commissioner may negotiate an adjustment to the operating cost payment  
2.20 rate for a nursing facility with a resident who is ventilator-dependent, for that resident.  
2.21 The commissioner may also negotiate an adjustment to the operating cost payment  
2.22 rate for a resident who requires wound vacuum and wound stimulation equipment and  
2.23 care; bariatric care, services, and equipment due to obesity; skilled nursing services  
2.24 and equipment for tracheotomy care; or other complex clinical care. The negotiated  
2.25 adjustment must reflect only the actual additional cost of meeting the specialized care  
2.26 needs of ~~a ventilator-dependent person~~ the resident identified by the commissioner for  
2.27 whom necessary services cannot be provided under existing nursing facility rates and  
2.28 which are not otherwise covered under Minnesota Rules, parts 9549.0010 to 9549.0080 or  
2.29 9505.0170 to 9505.0475. For persons who are initially admitted to a nursing facility before  
2.30 July 1, 2001, and have their payment rate under this subdivision negotiated after July 1,  
2.31 2001, the negotiated payment rate must not exceed 200 percent of the highest multiple  
2.32 bedroom payment rate for the facility, as initially established by the commissioner for the  
2.33 rate year for case mix classification K; or, upon implementation of the RUG's-based case  
2.34 mix system, 200 percent of the highest RUG's rate. For persons initially admitted to a  
2.35 nursing facility on or after July 1, 2001, the negotiated payment rate must not exceed 300

3.1 percent of the facility's multiple bedroom payment rate for case mix classification K; or,  
3.2 upon implementation of the RUG's-based case mix system, 300 percent of the highest  
3.3 RUG's rate. The negotiated adjustment shall not affect the payment rate charged to private  
3.4 paying residents under the provisions of section 256B.48, subdivision 1.

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

3.6 Sec. 3. Minnesota Statutes 2006, section 256B.431, subdivision 32, is amended to read:

3.7 Subd. 32. **Payment during first 90 days.** (a) For rate years beginning on or after  
3.8 July 1, 2001, the total payment rate for a facility reimbursed under this section, section  
3.9 256B.434, or any other section for the first 90 paid days after admission shall be:

3.10 (1) for the first 30 paid days, the rate shall be 120 percent of the facility's medical  
3.11 assistance rate for each case mix class;

3.12 (2) for the next 60 paid days after the first 30 paid days, the rate shall be 110 percent  
3.13 of the facility's medical assistance rate for each case mix class;

3.14 (3) beginning with the 91st paid day after admission, the payment rate shall be the  
3.15 rate otherwise determined under this section, section 256B.434, or any other section; and

3.16 (4) payments under this paragraph apply to admissions occurring on or after July 1,  
3.17 2001, and before July 1, 2003, and to resident days occurring before July 30, 2003.

3.18 (b) For rate years beginning on or after July 1, 2003, the total payment rate for a  
3.19 facility reimbursed under this section, section 256B.434, or any other section shall be:

3.20 (1) for the first 30 calendar days after admission, the rate shall be 120 percent of  
3.21 the facility's medical assistance rate for each RUG class;

3.22 (2) beginning with the 31st calendar day after admission, the payment rate shall be  
3.23 the rate otherwise determined under this section, section 256B.434, or any other section;  
3.24 and

3.25 (3) payments under this paragraph apply to admissions occurring on or after July  
3.26 1, 2003.

3.27 (c) Effective January 1, 2004, the enhanced rates under this subdivision shall not be  
3.28 allowed if a resident has resided during the previous 30 calendar days in:

3.29 (1) the same nursing facility;

3.30 (2) a nursing facility owned or operated by a related party; or

3.31 (3) a nursing facility or part of a facility that closed or was in the process of closing.

3.32 (d) For rate years beginning on or after October 1, 2007, the total payment rate for a  
3.33 facility reimbursed under this section, section 256B.434, or any other section shall be:

3.34 (1) for the first 60 calendar days after admission, the rate shall be 120 percent of the  
3.35 facility's medical assistance rate for each RUG class; and

4.1 (2) beginning with the 61st calendar day after admission, the payment rate shall be  
4.2 the rate otherwise determined under this section, section 256B.434, or any other section.

4.3 (e) Payments under paragraph (d) apply to admissions occurring on or after October  
4.4 1, 2007.

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

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

4.8 **Subd. 19. Rate increases for October 1, 2007, and October 1, 2008.** (a) For the  
4.9 rate years beginning October 1, 2007, and October 1, 2008, the commissioner shall make  
4.10 available to each nursing facility reimbursed under this section an adjustment equal to five  
4.11 percent of the total operating payment rate.

4.12 (b) Seventy-five percent of the money resulting from the rate adjustment under  
4.13 paragraph (a) must be used to increase wages and benefits and pay associated costs  
4.14 for all employees, except management fees, the administrator, and central office staff.  
4.15 Seventy-five percent of the money received by a facility as a result of the rate adjustment  
4.16 provided in paragraph (a) must be used only for wage and benefit increases and payment  
4.17 of associated costs, implemented on or after the effective date of the rate increase each  
4.18 year, and must not be used for increases implemented prior to that date.

4.19 (c) Nursing facilities may apply for the portion of the rate adjustment under  
4.20 paragraph (a) for employee wages and benefits and associated costs. The application  
4.21 must be made to the commissioner and contain a plan by which the nursing facility  
4.22 will distribute the funds according to paragraph (b). For nursing facilities in which the  
4.23 employees are represented by an exclusive bargaining representative, an agreement  
4.24 negotiated and agreed to by the employer and the exclusive bargaining representative  
4.25 constitutes the plan. The commissioner shall not review and shall not require changes  
4.26 to the portion or portions of the plan covered by collective bargaining agreements. A  
4.27 negotiated agreement may constitute the plan only if the agreement is finalized after the  
4.28 date of enactment of all increases for the rate year and signed by both parties prior to  
4.29 submission to the commissioner. The commissioner shall review the plan to ensure that  
4.30 the rate adjustments are used as provided in paragraph (b). To be eligible, a facility must  
4.31 submit its distribution plan by March 31, 2008, and March 31, 2009, respectively. The  
4.32 commissioner may approve distribution plans on or before June 30, 2008, and June 30,  
4.33 2009, respectively. If a facility's distribution plan is effective after the first day of the  
4.34 applicable rate period that the funds are available, the rate adjustments are effective the  
4.35 same date as the facility's plan.

5.1 (d) A copy of the approved distribution plan must be made available to all employees  
5.2 by giving each employee a copy or by posting a copy in an area of the nursing facility  
5.3 to which all employees have access. If an employee does not receive the wage and  
5.4 benefit adjustment described in the facility's approved plan and is unable to resolve the  
5.5 problem with the facility's management or through the employee's union representative,  
5.6 the employee may contact the commissioner at an address or telephone number provided  
5.7 by the commissioner and included in the approved plan.

5.8 Sec. 5. Minnesota Statutes 2006, section 256B.434, is amended by adding a  
5.9 subdivision to read:

5.10 Subd. 20. **Funding for staff increases.** (a) For the rate year beginning October 1,  
5.11 2007, the commissioner shall make available to nursing facilities reimbursed under this  
5.12 section an adjustment equal to one percent of the total operating payment rate.

5.13 (b) The money resulting from the rate adjustment under paragraph (a) may be used by  
5.14 a nursing facility only for wages, benefits, and associated costs for direct care employees  
5.15 hired on or after the effective date of the rate increase. For purposes of this requirement, a  
5.16 direct care employee means a registered nurse, licensed practical nurse, or certified nursing  
5.17 assistant for whom at least 75 percent of work hours are spent on direct care to patients.

5.18 (c) Nursing facilities shall apply to the commissioner for a rate increase by  
5.19 submitting an application form developed by the commissioner. In granting requests for  
5.20 rate adjustments, the commissioner shall give preference to nursing facilities that have low  
5.21 ratios of direct care staff to residents, or that demonstrate that an increase in direct care  
5.22 staff will lead to a significant improvement in the quality of care provided.

5.23 (d) The commissioner shall require nursing facilities to report information on the use  
5.24 of the rate adjustment, and shall monitor nursing facility compliance with the requirements  
5.25 of paragraph (b). The commissioner may recover money that the commissioner determines  
5.26 was spent inappropriately by reducing nursing facility operating payment rates in future  
5.27 rate years.

5.28 Sec. 6. Minnesota Statutes 2006, section 256B.434, is amended by adding a  
5.29 subdivision to read:

5.30 Subd. 21. **Adjustments for low-payment rate facilities.** (a) For the rate years  
5.31 beginning October 1, 2007, and October 1, 2008, the commissioner shall adjust operating  
5.32 payment rates for low-payment rate nursing facilities reimbursed under this section and  
5.33 licensed under chapter 144A in accordance with this subdivision.

6.1 (b) The commissioner shall determine for each rate year a value for an operating  
6.2 payment rate with a RUG index of 1.00, such that the cost to increase the operating  
6.3 payment rate for all nursing facilities with operating payment rates less than that value by  
6.4 an amount equal to 50 percent of the difference between their operating payment rate with  
6.5 a RUG index equal to 1.00 and the value determined under this paragraph not to exceed an  
6.6 increase of six percent of a facility's operating payment rate with a RUG index equal to  
6.7 1.00, does not exceed the amount appropriated for this purpose.

6.8 (c) Effective September 30, 2007, and September 30, 2008, the commissioner shall  
6.9 identify all nursing facilities with operating payment rates with a RUG index equal to  
6.10 1.00, that are less than the value determined in paragraph (b).

6.11 (d) Effective October 1, 2007, and October 1, 2008, the commissioner shall provide  
6.12 each nursing facility identified in paragraph (c) with an increase in its operating payment  
6.13 rate with a RUG index of 1.00 that is equal to 50 percent of the difference between its  
6.14 operating payment rate with a RUG index equal to 1.00, and the value determined in  
6.15 paragraph (b), but not to exceed an increase of six percent of the operating payment rate  
6.16 with a RUG index equal to 1.00.

6.17 (e) The commissioner shall apportion the amount of the RUG index equal to 1.00  
6.18 computed in paragraph (d) between case mix and noncase mix per diems in proportion to  
6.19 the amounts in effect on the September 30 immediately preceding the start of the rate year.  
6.20 The commissioner shall multiply the case mix portion by the RUG indices and add the  
6.21 noncase mix portion to that product to determine the other RUG operating rates.

6.22 (f) The rate adjustment provided in paragraph (d) shall be added after any other  
6.23 rate adjustments effective on the same day.

6.24 Sec. 7. Minnesota Statutes 2006, section 256B.438, is amended by adding a  
6.25 subdivision to read:

6.26 Subd. 8. **New case mix indices.** (a) Effective with rates for the rate year beginning  
6.27 October 1, 2007, the commissioner shall implement the case mix indices recommended  
6.28 by the time study conducted under Laws 2001, First Special Session chapter 9, article 5,  
6.29 section 35, paragraph (e). The commissioner shall implement the new case mix indices  
6.30 as follows:

6.31 (1) the September 30, 2006, case mix component of the nursing facility operating  
6.32 payment rate is multiplied by the new case mix indices to create 36 case mix adjusted rates;

6.33 (2) the 36 case mix adjusted rates determined in clause (1), plus the noncase mix  
6.34 component, shall be the 36 nursing facility operating payment rates; and

7.1 (3) any rate increases authorized by the legislature to take effect October 1, 2007,  
7.2 shall be applied to the rates determined under clause (2).

7.3 (b) The commissioner shall adjust the October 1, 2007, operating rates in paragraph  
7.4 (a) for nursing facilities estimated to receive a decrease in operating revenue. The rate  
7.5 interim adjustment is established as follows:

7.6 (1) the commissioner shall use the minimum data set to classify private and medical  
7.7 assistance patient days by resource utilization group (RUG) classification for the rate year  
7.8 ending June 30, 2007, according to the case mix indices to be used on September 30, 2007,  
7.9 and the case mix indices to be used on October 1, 2007;

7.10 (2) the commissioner shall use the resident days in clause (1) and the nursing  
7.11 facility's October 1, 2007, unadjusted operating payment rate to estimate operating  
7.12 revenue according to the case mix indices to be used on September 30, 2007, and the case  
7.13 mix indices to be used on October 1, 2007;

7.14 (3) the estimated operating revenue determined with the case mix indices to be used  
7.15 on September 30, 2007, minus the operating revenue determined with the case mix indices  
7.16 to be used on October 1, 2007, is equal to the difference between the decrease in medical  
7.17 assistance and private pay operating revenue;

7.18 (4) facilities with an estimated difference that is negative in clause (3) receive an  
7.19 interim rate adjustment equal to the value determined in clause (3) divided by the medical  
7.20 assistance and private pay resident days in clause (1);

7.21 (5) the interim rate adjustment is in effect from October 1, 2007, through June  
7.22 30, 2008, and does not become part of a facility's operating payment rate after June 30,  
7.23 2008. The interim rate adjustment shall be applied to the case mix portion of the facility  
7.24 operating rate, at a RUG weight of 1.00 and all RUG adjusted by their indices; and

7.25 (6) the commissioner, by August 15, 2007, shall provide nursing facilities which the  
7.26 commissioner has estimated will experience a decrease in operating revenue, with written  
7.27 notice that specifies the amount of the estimated decrease in operating revenue and the  
7.28 amount of the interim rate adjustment. Nursing facilities have 30 days to decline the  
7.29 interim rate adjustment.

7.30 (c) The commissioner shall adjust the July 1, 2008, operating rates of facilities  
7.31 receiving the interim rate adjustments in paragraph (b) and facilities that demonstrate a  
7.32 decrease in operating revenue from the implementation of the case mix indices. The  
7.33 adjustment is calculated as follows:

7.34 (1) facilities that received the interim rate adjustment in paragraph (b) shall report to  
7.35 the commissioner the number of medical assistance and private pay resident days by RUG  
7.36 classification for the six-month period October 1, 2007, through March 31, 2008, according

8.1 to the case mix indices used on September 30, 2007, and the case mix indices used on  
 8.2 October 1, 2007. A facility not receiving the rate adjustment in paragraph (b) that had a  
 8.3 decrease in operating revenue resulting from implementation of the new case mix indices  
 8.4 may report to the commissioner the number of medical assistance and private pay resident  
 8.5 days by RUG classification for the six-month period October 1, 2007, through March 31,  
 8.6 2008, according to the case mix indices used on September 30, 2007, and the case mix  
 8.7 indices used on October 1, 2007. Nursing facilities shall submit the required information  
 8.8 to the commissioner by May 15, 2008, in the manner specified by the commissioner;

8.9 (2) the commissioner shall use the resident days reported in clause (1) and the  
 8.10 nursing facility's October 1, 2007, unadjusted operating payment rate to determine  
 8.11 operating revenue under the case mix indices used on September 30, 2007, and the case  
 8.12 mix indices used on October 1, 2007;

8.13 (3) the operating revenue determined using the case mix indices used on September  
 8.14 30, 2007, minus the operating revenue determined using the case mix indices used on  
 8.15 October 1, 2007, must equal the difference that is negative in operating revenue;

8.16 (4) the July 1, 2008, operating payment rate adjustment is the decrease in operating  
 8.17 revenue determined in clause (3) divided by the total medical assistance and private pay  
 8.18 days reported in clause (1) for the six-month period October 1, 2007, through March 31,  
 8.19 2008. The operating payment rate adjustment is applied to the case mix portion of the  
 8.20 facility operating rate; and

8.21 (5) if the amount determined in clause (4) is greater than the amount determined  
 8.22 under paragraph (b), clause (4), the commissioner shall retroactively pay to nursing  
 8.23 facilities the difference between the two amounts for all paid medical assistance days  
 8.24 between October 1, 2007, and June 30, 2008.

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

8.26 Sec. 8. Minnesota Statutes 2006, section 256B.441, subdivision 1, is amended to read:

8.27 Subdivision 1. **Rate determination rebasing.** (a) The commissioner shall ~~establish~~  
 8.28 ~~a value-based nursing facility reimbursement system which will provide facility-specific,~~  
 8.29 ~~prospective rates for nursing facilities participating in the medical assistance program.~~  
 8.30 ~~The rates shall be determined using an annual statistical and cost report filed by each~~  
 8.31 ~~nursing facility. The total payment rate shall be composed of four rate components: direct~~  
 8.32 ~~care services, support services, external fixed, and property-related rate components.~~  
 8.33 ~~The payment rate shall be derived from statistical measures of actual costs incurred in~~  
 8.34 ~~facility operation of nursing facilities. From this cost basis, the components of the total~~  
 8.35 ~~payment rate shall be adjusted for quality of services provided, recognition of staffing~~

9.1 ~~levels, geographic variation in labor costs, and resident acuity~~ rebase nursing facility rates  
9.2 for the rate year beginning October 1, 2008, and shall collect all data necessary to rebase  
9.3 rates. Nursing facilities shall submit this data in the form and manner specified by the  
9.4 commissioner. The rebasing methodology shall recognize increased expenses incurred  
9.5 by facilities that are not reflected in current payments and shall not be constrained by a  
9.6 state budget neutrality factor or method.

9.7 ~~(b) Rates shall be rebased annually. Each cost reporting year shall begin on October~~  
9.8 ~~1 and end on the following September 30. Beginning in 2006, a statistical and cost report~~  
9.9 ~~shall be filed by each nursing facility by January 15. Notice of rates shall be distributed by~~  
9.10 ~~August 15 and the rates shall go into effect on October 1 for one year.~~

9.11 ~~(c) The commissioner shall begin to phase in the new reimbursement system~~  
9.12 ~~beginning October 1, 2007. Full phase-in shall be completed by October 1, 2011.~~

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

9.14 Sec. 9. Minnesota Statutes 2006, section 256B.441, subdivision 46, is amended to read:

9.15 Subd. 46. **Calculation of quality add-on.** The payment rate for the quality add-on  
9.16 shall be a variable amount based on each facility's quality score.

9.17 (a) For the rate year beginning October 1, 2006, the maximum quality add-on percent  
9.18 shall be 2.4 percent and this add-on shall not be subject to a phase-in. The determination  
9.19 of the quality score to be used in calculating the quality add-on for October 1, 2006,  
9.20 shall be based on a report which must be filed with the commissioner, according to the  
9.21 requirements in subdivision 43, for a six-month period ending January 31, 2006. This  
9.22 report shall be filed with the commissioner by February 28, 2006. The commissioner shall  
9.23 prorate the six months of data to a full year. When new quality measures are incorporated  
9.24 into the quality score methodology and when existing quality measures are updated or  
9.25 improved, the commissioner may increase the maximum quality add-on percent.

9.26 (b) For each facility, determine the operating payment rate.

9.27 (c) For each facility determine a ratio of the quality score of the facility determined  
9.28 in subdivision 44, less 40 and then divided by 60. If this value is less than zero, use  
9.29 the value zero.

9.30 (d) For each facility, the quality add-on shall be the value determined in paragraph  
9.31 (b) times the value determined in paragraph (c) times the maximum quality add-on percent.

9.32 (e) For rate years beginning on or after October 1, 2007, the maximum quality  
9.33 add-on percent shall be four percent. The commissioner shall determine the quality add-on  
9.34 using the methodology described in paragraphs (b) to (d).

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

10.2 Sec. 10. Minnesota Statutes 2006, section 256B.5012, is amended by adding a  
10.3 subdivision to read:

10.4 **Subd. 7. ICF/MR rate increases October 1, 2007, and October 1, 2008.** (a)

10.5 For the rate periods beginning October 1, 2007, and October 1, 2008, the commissioner  
10.6 shall make available to each facility reimbursed under this section an adjustment to the  
10.7 total operating payment rate of five percent.

10.8 (b) Seventy-five percent of the money resulting from the rate adjustment under  
10.9 paragraph (a) must be used to increase wages and benefits and pay associated costs for  
10.10 employees, except for administrative and central office employees. Seventy-five percent  
10.11 of the money received by a facility as a result of the rate adjustment provided in paragraph  
10.12 (a) must be used only for wage, benefit, and staff increases implemented on or after  
10.13 the effective date of the rate increase each year, and must not be used for increases  
10.14 implemented prior to that date. The wage adjustment eligible employees may receive may  
10.15 vary based on merit, seniority, or other factors determined by the provider.

10.16 (c) For each facility, the commissioner shall make available an adjustment, based  
10.17 on occupied beds, using the percentage specified in paragraph (a) multiplied by the total  
10.18 payment rate, including variable rate but excluding the property-related payment rate, in  
10.19 effect on the preceding day. The total payment rate must include the adjustment provided  
10.20 in section 256B.501, subdivision 12.

10.21 (d) A facility whose payment rates are governed by closure agreements, receivership  
10.22 agreements, or Minnesota Rules, part 9553.0075, is not eligible for an adjustment  
10.23 otherwise granted under this subdivision.

10.24 (e) A facility may apply for the portion of the payment rate adjustment provided  
10.25 under paragraph (a) for employee wages and benefits and associated costs. The application  
10.26 must be made to the commissioner and contain a plan by which the facility will distribute  
10.27 the funds according to paragraph (b). For facilities in which the employees are represented  
10.28 by an exclusive bargaining representative, an agreement negotiated and agreed to by  
10.29 the employer and the exclusive bargaining representative constitutes the plan. The  
10.30 commissioner shall not review, and shall not require changes, to the portion or portions  
10.31 of the plan covered by collective bargaining agreements. A negotiated agreement may  
10.32 constitute the plan only if the agreement is finalized after the date of enactment of all rate  
10.33 increases for the rate year. The commissioner shall review the plan to ensure that the  
10.34 payment rate adjustment per diem is used as provided in this subdivision. To be eligible, a  
10.35 facility must submit its plan by March 31, 2008, and December 31, 2008, respectively.

11.1 If a facility's plan is effective for its employees after the first day of the applicable rate  
11.2 period that the funds are available, the payment rate adjustment per diem is effective  
11.3 the same date as its plan.

11.4 (f) A copy of the approved distribution plan must be made available to all employees  
11.5 by giving each employee a copy or by posting it in an area of the facility to which all  
11.6 employees have access. If an employee does not receive the wage and benefit adjustment  
11.7 described in the facility's approved plan and is unable to resolve the problem with the  
11.8 facility's management or through the employee's union representative, the employee  
11.9 may contact the commissioner at an address or telephone number provided by the  
11.10 commissioner and included in the approved plan.

11.11 Sec. 11. Minnesota Statutes 2006, section 256L.07, subdivision 2, is amended to read:

11.12 Subd. 2. ~~Must not have access to Employer-subsidized coverage.~~ (a) To be  
11.13 eligible, a family or individual must not have access to subsidized health coverage through  
11.14 an employer and must not have had access to employer-subsidized coverage through  
11.15 a current employer for 18 months prior to application or reapplication. A family or  
11.16 individual whose employer-subsidized coverage is lost due to an employer terminating  
11.17 health care coverage as an employee benefit during the previous 18 months is not eligible.

11.18 (b) This subdivision does not apply to a family or individual who was enrolled  
11.19 in MinnesotaCare within six months or less of reapplication and who no longer has  
11.20 employer-subsidized coverage due to the employer terminating health care coverage  
11.21 as an employee benefit.

11.22 (c) For purposes of this requirement, subsidized health coverage means health  
11.23 coverage for which the employer pays at least 50 percent of the cost of coverage for  
11.24 the employee or dependent, or a higher percentage as specified by the commissioner.  
11.25 Children are eligible for employer-subsidized coverage through either parent, including  
11.26 the noncustodial parent. The commissioner must treat employer contributions to Internal  
11.27 Revenue Code Section 125 plans and any other employer benefits intended to pay  
11.28 health care costs as qualified employer subsidies toward the cost of health coverage for  
11.29 employees for purposes of this subdivision.

11.30 (d) The commissioner, for the period July 1, 2007, through June 30, 2008, shall  
11.31 exempt a family or individual from this subdivision if access to employer-subsidized  
11.32 insurance is through employment at a nursing facility licensed under chapter 144A that  
11.33 participates in the medical assistance program. The commissioner shall evaluate the extent  
11.34 to which this exemption increases access to affordable health coverage, and shall present  
11.35 recommendations to the legislature by February 1, 2008, as to whether this exemption

12.1 should be continued and whether the exemption should be extended to include families  
12.2 and individuals with access to employer-subsidized insurance through other long-term  
12.3 care providers.

12.4 Sec. 12. **COMMUNITY SERVICES PROVIDER RATE INCREASES.**

12.5 (a) The commissioner of human services shall increase reimbursement rates or rate  
12.6 limits, as applicable, by five percent for the rate period beginning October 1, 2007, and  
12.7 the rate period beginning October 1, 2008, effective for services rendered on or after  
12.8 those dates.

12.9 (b) The five percent annual rate increase described in this section must be provided  
12.10 to:

12.11 (1) home and community-based waived services for persons with developmental  
12.12 disabilities or related conditions under Minnesota Statutes, section 256B.501;

12.13 (2) home and community-based waived services for the elderly under Minnesota  
12.14 Statutes, section 256B.0915;

12.15 (3) waived services under community alternatives for disabled individuals under  
12.16 Minnesota Statutes, section 256B.49;

12.17 (4) community alternative care waived services under Minnesota Statutes, section  
12.18 256B.49;

12.19 (5) traumatic brain injury waived services under Minnesota Statutes, section  
12.20 256B.49;

12.21 (6) nursing services and home health services under Minnesota Statutes, section  
12.22 256B.0625, subdivision 6a;

12.23 (7) personal care services and nursing supervision of personal care services under  
12.24 Minnesota Statutes, section 256B.0625, subdivision 19a;

12.25 (8) private duty nursing services under Minnesota Statutes, section 256B.0625,  
12.26 subdivision 7;

12.27 (9) day training and habilitation services for adults with developmental disabilities  
12.28 or related conditions under Minnesota Statutes, sections 252.40 to 252.46;

12.29 (10) alternative care services under Minnesota Statutes, section 256B.0913;

12.30 (11) adult residential program grants under Minnesota Statutes, section 245.73;

12.31 (12) adult and children's mental health grants under Minnesota Rules, parts  
12.32 9535.1700 to 9535.1760;

12.33 (13) the group residential housing supplementary service rate under Minnesota  
12.34 Statutes, section 256I.05, subdivision 1a;

- 13.1 (14) adult mental health integrated fund grants under Minnesota Statutes, section  
13.2 245.4661;
- 13.3 (15) semi-independent living services (SILS) under Minnesota Statutes, section  
13.4 252.275, including SILS funding under county social services grants formerly funded  
13.5 under Minnesota Statutes, chapter 256I;
- 13.6 (16) community support services for deaf and hard-of-hearing adults with mental  
13.7 illness who use or wish to use sign language as their primary means of communication  
13.8 under Minnesota Statutes, section 256.01, subdivision 2;
- 13.9 (17) living skills training programs for persons with intractable epilepsy who need  
13.10 assistance in the transition to independent living under Laws 1988, chapter 689;
- 13.11 (18) physical therapy services under Minnesota Statutes, sections 256B.0625,  
13.12 subdivision 8, and 256D.03, subdivision 4;
- 13.13 (19) occupational therapy services under Minnesota Statutes, sections 256B.0625,  
13.14 subdivision 8a, and 256D.03, subdivision 4;
- 13.15 (20) speech-language therapy services under Minnesota Statutes, section 256D.03,  
13.16 subdivision 4, and Minnesota Rules, part 9505.0390;
- 13.17 (21) respiratory therapy services under Minnesota Statutes, section 256D.03,  
13.18 subdivision 4, and Minnesota Rules, part 9505.0295;
- 13.19 (22) aging grants under Minnesota Statutes, sections 256.975 to 256.977, 256B.0917,  
13.20 and 256B.0928;
- 13.21 (23) deaf and hard-of-hearing grants under Minnesota Statutes, sections 256C.233;  
13.22 256C.25; Laws 1985, chapter 9, article 1; and Laws 1997, First Special Session chapter  
13.23 5, section 20;
- 13.24 (24) children's therapeutic services and supports under Minnesota Statutes, section  
13.25 256B.0943;
- 13.26 (25) tier I chemical health services under Minnesota Statutes, chapter 254B;
- 13.27 (26) consumer support grants under Minnesota Statutes, section 256.476;
- 13.28 (27) family support grants under Minnesota Statutes, section 252.32;
- 13.29 (28) continuation coverage for AIDS patients under Minnesota Statutes, section  
13.30 256.9365; and
- 13.31 (29) prepayment demonstration project under Minnesota Statutes, section 256B.69.
- 13.32 (c) Providers that receive a rate increase under this section shall use 75 percent of  
13.33 the additional revenue to increase wages and benefits and pay associated costs for all  
13.34 employees, except for management fees, the administrator, and central office staff.
- 13.35 (d) For public employees, the increase for wages and benefits for certain staff is  
13.36 available and pay rates must be increased only to the extent that they comply with laws

14.1 governing public employees' collective bargaining. Money received by a provider for pay  
 14.2 increases under this section may be used only for increases implemented on or after the  
 14.3 first day of the rate period in which the increase is available and must not be used for  
 14.4 increases implemented prior to that date.

14.5 (e) A copy of the provider's plan for complying with paragraph (c) must be made  
 14.6 available to all employees by giving each employee a copy or by posting a copy in an area  
 14.7 of the provider's operation to which all employees have access. If an employee does not  
 14.8 receive the adjustment, if any, described in the plan and is unable to resolve the problem  
 14.9 with the provider, the employee may contact the employee's union representative. If the  
 14.10 employee is not covered by a collective bargaining agreement, the employee may contact  
 14.11 the commissioner at a telephone number provided by the commissioner and included in  
 14.12 the provider's plan.

14.13 (f) The commissioner and each county agency shall take steps necessary to  
 14.14 implement the increases required by this section on the dates specified, and the increases  
 14.15 must be effective on the dates specified, regardless of the client's service authorization date  
 14.16 and notwithstanding the terms of any provider contract, service agreement, or schedule  
 14.17 that limits when a county may increase payment rates.

14.18 **Sec. 13. APPROPRIATION.**

14.19 \$..... in the fiscal year beginning July 1, 2007, and \$..... in the fiscal year beginning  
 14.20 July 1, 2008, are appropriated from the general fund to the commissioner of human  
 14.21 services to provide rate adjustments to low-payment rate nursing facilities under section 6.

14.22 **ARTICLE 2**

14.23 **NURSING HOME MORATORIUM; PROPERTY REIMBURSEMENT**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15.33 (9) the extent to which the applicant demonstrates the continuing need for nursing  
15.34 facility care in the community and adjoining communities; and

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

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

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

16.7 Subd. 17a. **Allowable interest expense.** (a) Notwithstanding Minnesota Rules, part  
16.8 9549.0060, subparts 5, item A, subitems (1) and (3), and 7, item D, allowable interest  
16.9 expense on debt shall include:

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

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

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

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

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

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

16.27 Subd. 17e. **Replacement-costs-new per bed limit effective ~~July 1, 2001~~ October**  
16.28 **1, 2007.** Notwithstanding Minnesota Rules, part 9549.0060, subpart 11, item C, subitem  
16.29 (2), for a total replacement, as defined in paragraph (f), authorized under section 144A.071  
16.30 or 144A.073 after July 1, 1999, or any building project that is ~~a relocation, renovation,~~  
16.31 ~~upgrading, or conversion completed on or after July 1, 2001~~ eligible for reimbursement  
16.32 under section 256B.434, subdivision 4f, the replacement-costs-new per bed limit effective  
16.33 October 1, 2007, shall be ~~\$74,280~~ \$165,000 per licensed bed in multiple-bed rooms,

17.1 ~~\$92,850~~ \$195,000 per licensed bed in semiprivate rooms with a fixed partition separating  
17.2 the resident beds, and ~~\$111,420~~ \$225,000 per licensed bed in single rooms. Minnesota  
17.3 Rules, part 9549.0060, subpart 11, item C, subitem (2), does not apply. These amounts  
17.4 must be adjusted annually as specified in subdivision 3f, paragraph (a), beginning ~~January~~  
17.5 ~~1, 2000~~ January 1, 2008.

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

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

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

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

17.16 (2) the costs were not otherwise reimbursed under subdivision 4f or section  
17.17 144A.071 or 144A.073; and

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

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

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

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

17.26 During fiscal year 2008, the commissioner of health may approve moratorium  
17.27 exception projects under Minnesota Statutes, section 144A.073, for which the full  
17.28 annualized state share of medical assistance costs does not exceed \$10,000,000. During  
17.29 fiscal year 2009, the commissioner of health may approve moratorium exception projects  
17.30 under Minnesota Statutes, section 144A.073, for which the full annualized state share of  
17.31 medical assistance costs does not exceed \$10,000,000 less the amount approved during  
17.32 the first year.

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