

Sec. 7. VALIDATION OF CURRENT BENEFIT PLANS AND PRIOR ACTIONS.

Notwithstanding any provisions of Laws 1969, chapter 1088, as amended by Laws 1978, chapters 562, section 32, and 753; Laws 1979, chapter 201, section 44; or Laws 1981, chapter 224, section 250; or Laws 1971, chapter 114, as amended by Laws 1979, chapters 97, and 201, sections 27 and 44; and Laws 1981, chapter 224, section 254, the benefit plans of the Crystal volunteer firefighters relief association and of the New Hope volunteer firefighters relief association as reflected in each relief association's articles of incorporation and bylaws as of December 15, 1993, are hereby ratified and validated. Any acts previously taken by the Crystal volunteer firefighters relief association and by the New Hope volunteer firefighters relief association with those ratified articles of incorporation and bylaws are also ratified and validated.

Sec. 8. REPEALER OF PRIOR SPECIAL LAWS.

Laws 1969, chapter 1088; Laws 1971, chapter 114; Laws 1978, chapters 562, section 32, and 753; Laws 1979, chapters 97, and 201, section 27; and Laws 1981, chapter 224, sections 250 and 254, are repealed.

Sec. 9. EFFECTIVE DATE.

Sections 1 to 7 are effective on the day following final approval by the city council of the city of Crystal and by the city council of the city of New Hope and compliance with Minnesota Statutes, section 645.021, subdivision 3. Section 8 is effective on the effective date of consolidation of the Crystal volunteer firefighters relief association and the New Hope volunteer firefighters relief association.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 1:57 p.m.

CHAPTER 263—S.F.No. 1705

An act relating to legislative enactments; correcting miscellaneous noncontroversial oversights, inconsistencies, ambiguities, unintended results, and technical errors; amending Minnesota Statutes 1994, section 144A.071, subdivision 4a, as amended; 256B.0625, subdivision 13, as amended; 256B.0913, subdivision 15, as added; 256B.0915, subdivision 3a, as added; 256D.44, subdivision 3, as amended; and 323.02, subdivision 9, as amended; Laws 1995, chapter 68, section 14; Senate File 106, sections 16 and 142; Senate File 1110, articles 2, section 40; 5, section 41; 6, sections 123 and 125; 7, section 8; and 10, section 26; House File 1856, articles 2, section 22; and 4, section 4, subdivision 5; and House File 1864, article 6, section 2, subdivision 1.

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

Section 1. Minnesota Statutes 1994, section 323.02, subdivision 9, as added by Laws 1995, chapter 128, section 11, is amended to read:

Subd. 9. **FOREIGN LIMITED LIABILITY PARTNERSHIP.** "Foreign limited liability partnership" means a general partnership organized under laws other than the laws of this state with status as a limited liability partnership in its home jurisdiction.

Sec. 2. **CORRECTION 1.** Minnesota Statutes 1994, section 144A.071, subdivision 4a, as amended by 1995 S.F. No. 1110, article 7, section 11, if enacted, is amended to read:

Sec. 11. Minnesota Statutes 1994, 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 new facility is constructed on the same site as the destroyed facility or on another site subject to the restrictions in section 144A.073, subdivision 5;

(v) 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

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

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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 25 percent of the appraised value of the facility or \$500,000, whichever is less;

(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 25 percent of the appraised value of the facility or \$500,000, whichever is less. 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

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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 condemned as part of an economic redevelopment plan in a city of the first class, provided the new facility is located within one mile of the site of the old facility. Operating and property costs for the new facility must be determined and allowed under existing reimbursement rules;

(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 25 percent of the appraised value of the facility or \$500,000, whichever is less;

(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, 1997;

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(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 (d). 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 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

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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 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;

(s) 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 under section 256B.431, subdivision 2 ~~2j~~, 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;

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

(u) 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

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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 (d). 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; or

(v) 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.

Sec. 3. **CORRECTION 2.** 1995 S.F. No. 1110, article 2, section 40, if enacted, is amended to read:

Sec. 40. **EFFECTIVE DATES.**

Subdivision 1. Sections 5 (245A.03, subdivision 2a), 6 (245A.035, subdivisions 1 to 6), 7 to 10 (245A.04, subdivisions 3, 3b, 7, and 9), 11 to 13 (245A.06, subdivisions 2, 4, and 7), 14 (245A.07, subdivision 3), and 20 (245A.14, subdivision 6), are effective the day following final enactment.

Subd. 2. Under Minnesota Statutes, section 645.023, subdivision 1, clause (a), section ~~32~~ 37, takes effect, without local approval, the day following final enactment.

Sec. 4. **CORRECTION 3.** Minnesota Statutes 1994, section 256D.44, subdivision 3, as amended by S.F. No. 1110, if enacted, is amended to read:

Subd. 3. **STANDARD OF ASSISTANCE FOR BASIC NEEDS.** Except as provided in subdivision 4, the monthly state standard of assistance for basic needs is as follows:

(a) If an applicant or recipient does not reside with another person or persons, the state standard of assistance is \$519.

(b) If an applicant married couple or recipient married couple who live together, does not reside with others, the state standard of assistance is \$778.

(c) If an applicant or recipient resides with another person or persons, the state standard of assistance is \$395.

(d) If an applicant married couple or recipient married couple who live together, resides with others, the state standard of assistance is \$519.

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(e) Married couples, living together who do not reside with others and were receiving MSA prior to January 1, 1994, and whose eligibility has not been terminated a full calendar month, the state standard of assistance is \$793.

(f) Married couples living together who reside with others and were receiving MSA prior to January 1, 1994, and whose eligibility has not been terminated a full calendar month, the state standard of assistance is ~~\$682~~ \$782.

(g) For an individual who is a resident of a nursing home, a regional treatment center or a group residential housing facility, the state standard of assistance is the personal needs allowance for medical assistance recipients under section 256B.35.

Sec. 5. **CORRECTION 4.** 1995 S.F. No. 1110, article 5, section 41, if enacted, is amended to read:

Sec. 41. **EFFECTIVE DATES.**

Section 31 (~~256L.04, subdivision 3~~), the amendment to section 256L.04, subdivision 3, paragraph (a), clause (5), is effective July 1, 1996.

Sec. 6. **CORRECTION 5.** 1995 S.F. No. 1110, article 6, section 125, if enacted, is amended to read:

Sec. 125. **EFFECTIVE DATE.**

Subdivision 1. Sections 79 and 80, the amendments to section 256B.15, subdivisions 1a and 2, relating only to the age of a medical assistance recipient for purposes of estate claims, are effective for persons who are between the ages of 55 and 64 on or after July 1, 1995, for the total amount of medical assistance rendered on or after July 1, 1995.

Subd. 2. Sections 34 to 37, section 256B.0595, subdivisions 1, 2, 3, and 4, are effective retroactive to August 11, 1993, except that portion amending subdivision 2, paragraph (c), is effective retroactive to transfers of income or assets made on or after September 1, 1994.

Subd. 3. Sections 28, 108, and 109, sections 256B.056, subdivision 3b, and 501B.89, subdivisions 1 and 3, are effective retroactive to August 11, 1993.

Subd. 4. Sections 14, 49, 84, and 86, sections 256.9657, subdivision 3, 256B.0625, subdivision 38, 256B.19, subdivision 1d, and 256B.431, subdivision 23, are effective the day following final enactment.

Subd. 5. Section 30, the amendment to section 256B.0575, paragraph (a), clause (5), is effective retroactive to January 1, 1994.

Subd. 6. Section 91, the amendment to section 256B.69, subdivision 4, requiring children eligible for medical assistance under section 256B.055, subdivision 12, to participate in managed care, is effective July 1, 1996.

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Subd. 7. Section 96, the amendment to section 256B.69, subdivision 6, expanding services under managed care to include home care services and personal care assistant services for certain recipients, is effective July 1, 1996.

Subd. 8. Section 48, section 256B.0625, subdivision 19a, is effective July 1, 1996.

Subd. 9. Section 52, section 256B.0627, subdivision 1, paragraph (c), is effective January 1, 1996; paragraph (d) is effective January 1, 1996, except the deletions relating to responsible party are effective July 1, 1996; and the stricken paragraph (d), the deletion of the definition of responsible party, is effective July 1, 1996.

Subd. 10. Section 53, section 256B.0627, subdivision 2, clause (6), is effective January 1, 1996.

Subd. 11. Section 54, section 256B.0627, subdivision 4, paragraph (a), is effective July 1, 1996; and paragraph (b), clauses (2) and (3), are effective January 1, 1996; and the stricken language in clause (1) and the stricken language in the stricken clause (4), are effective July 1, 1996.

Subd. 12. Section 55, section 256B.0627, subdivision 5, paragraph (a), clause (2), is effective January 1, 1996; paragraph (d) is effective January 1, 1996; paragraph (e), clause (2)(i), the new language relating to the registered nurse supervision is effective January 1, 1996; paragraph (e), clause (2)(i)A, B, C, D, and E, are effective July 1, 1996; paragraph (e), clause (2)(ii), is effective July 1, 1996; paragraph (e), clause (2)(iii), the new language relating to county public health nurse, is effective January 1, 1996, and the stricken language relating to the seizure activity provision, is effective July 1, 1996; paragraph (e), clause (2), the language striking items (v) to (viii), is effective July 1, 1996; paragraph (h), is effective January 1, 1996; and paragraph (i), clause (2), the stricken language relating to the foster care license holder, and the language in the stricken clause (3) relating to the responsible party, is effective July 1, 1996.

Sec. 7. **CORRECTION 6.** 1995 S.F. No. 1110, article 10, section 26, if enacted, is amended to read:

Sec. 26. **EFFECTIVE DATE.**

Sections 1 to ~~6~~ 4 and 14 to 19 (62A.045; 62A.046; 62A.048; 62A.27; ~~256.74~~, ~~subdivision 6~~; ~~256.76~~, ~~subdivision 1~~; 257.69, subdivision 2; 518.171, subdivisions 1, 3, 4, 5, and 7) are effective retroactive to August 10, 1993.

Sec. 8. **CORRECTION 7.** Minnesota Statutes 1994, section 256B.0913, subdivision 15a, as added by S.F. No. 1110, if enacted, is amended to read:

Subd. 15a. **REIMBURSEMENT RATE; ANOKA COUNTY.** Notwithstanding subdivision 14, paragraph (e), or any other law to the contrary, for services rendered on or after January 1, 1996, Anoka county may pay vendors, and the commissioner shall reimburse the county, for actual costs up to a limit which

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is the maximum rate in effect on December 31, 1995, plus half the difference between that rate and the maximum allowed state rate for home health aide and homemaker services.

Sec. 9. **CORRECTION 8.** Minnesota Statutes 1994, section 256B.0915, subdivision 3a, as added by 1995 S.F. No. 1110, if enacted, is amended to read:

Subd. 3a. **REIMBURSEMENT RATE; ANOKA COUNTY.** Notwithstanding subdivision 3, paragraph (h), or any other law to the contrary, for services rendered on or after January 1, 1996, Anoka county may pay vendors, and the commissioner shall reimburse the county, for actual costs up to a limit which is the maximum rate in effect on December 31, 1995, plus half the difference between that rate and the maximum allowed state rate for home health aide and homemaker services.

Sec. 10. **CORRECTION 11.** Minnesota Statutes 1994, section 256B.0625, subdivision 13, as amended by 1995 S.F. No. 1110, if enacted, is amended to read:

Subd. 13. **DRUGS.** (a) Medical assistance covers drugs if prescribed by a licensed practitioner and dispensed by a licensed pharmacist, by a physician enrolled in the medical assistance program as a dispensing physician, or by a physician or a nurse practitioner employed by or under contract with a community health board as defined in section 145A.02, subdivision 5, for the purposes of communicable disease control. The commissioner, after receiving recommendations from professional medical associations and professional pharmacist associations, shall designate a formulary committee to advise the commissioner on the names of drugs for which payment is made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of human services, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve three-year terms and shall serve without compensation. Members may be reappointed once.

(b) The commissioner shall establish a drug formulary. Its establishment and publication shall not be subject to the requirements of the administrative procedure act, but the formulary committee shall review and comment on the formulary contents. The formulary committee shall review and recommend drugs which require prior authorization. The formulary committee may recommend drugs for prior authorization directly to the commissioner, as long as opportunity for public input is provided. Prior authorization may be requested by the commissioner based on medical and clinical criteria before certain drugs

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are eligible for payment. Before a drug may be considered for prior authorization at the request of the commissioner:

(1) the drug formulary committee must develop criteria to be used for identifying drugs; the development of these criteria is not subject to the requirements of chapter 14, but the formulary committee shall provide opportunity for public input in developing criteria;

(2) the drug formulary committee must hold a public forum and receive public comment for an additional 15 days; and

(3) the commissioner must provide information to the formulary committee on the impact that placing the drug on prior authorization will have on the quality of patient care and information regarding whether the drug is subject to clinical abuse or misuse. Prior authorization may be required by the commissioner before certain formulary drugs are eligible for payment. The formulary shall not include:

(i) drugs or products for which there is no federal funding;

(ii) over-the-counter drugs, except for antacids, acetaminophen, family planning products, aspirin, insulin, products for the treatment of lice, vitamins for adults with documented vitamin deficiencies, and vitamins for children under the age of seven and pregnant or nursing women;

(iii) any other over-the-counter drug identified by the commissioner, in consultation with the drug formulary committee, as necessary, appropriate, and cost-effective for the treatment of certain specified chronic diseases, conditions or disorders, and this determination shall not be subject to the requirements of chapter 14;

(iv) anorectics; and

(v) drugs for which medical value has not been established.

The commissioner shall publish conditions for prohibiting payment for specific drugs after considering the formulary committee's recommendations.

(c) The basis for determining the amount of payment shall be the lower of the actual acquisition costs of the drugs plus a fixed dispensing fee; the maximum allowable cost set by the federal government or by the commissioner plus the fixed dispensing fee; or the usual and customary price charged to the public. The pharmacy dispensing fee shall be \$3.85. Actual acquisition cost includes quantity and other special discounts except time and cash discounts. The actual acquisition cost of a drug shall be estimated by the commissioner, at average wholesale price minus nine percent ~~effective January 1, 1994~~. The maximum allowable cost of a multisource drug may be set by the commissioner and it shall be comparable to, but no higher than, the maximum amount paid by other third-party payors in this state who have maximum allowable cost programs. Establishment of the amount of payment for drugs shall not be subject to the

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requirements of the administrative procedure act. An additional dispensing fee of \$.30 may be added to the dispensing fee paid to pharmacists for legend drug prescriptions dispensed to residents of long-term care facilities when a unit dose blister card system, approved by the department, is used. Under this type of dispensing system, the pharmacist must dispense a 30-day supply of drug. The National Drug Code (NDC) from the drug container used to fill the blister card must be identified on the claim to the department. The unit dose blister card containing the drug must meet the packaging standards set forth in Minnesota Rules, part 6800.2700, that govern the return of unused drugs to the pharmacy for reuse. The pharmacy provider will be required to credit the department for the actual acquisition cost of all unused drugs that are eligible for reuse. Over-the-counter medications must be dispensed in the manufacturer's unopened package. The commissioner may permit the drug clozapine to be dispensed in a quantity that is less than a 30-day supply. Whenever a generically equivalent product is available, payment shall be on the basis of the actual acquisition cost of the generic drug, unless the prescriber specifically indicates "dispense as written - brand necessary" on the prescription as required by section 151.21, subdivision 2.

Sec. 11. **CORRECTION 12.** 1995 S.F. No. 1110, article 6, section 123, if enacted, is amended to read:

Sec. 123. TEFRA MANAGED CARE ADVISORY COMMITTEE AND PROGRESS REPORT.

Subdivision 1. **ADVISORY COMMITTEE.** The commissioner shall appoint an advisory committee to assist with the development of managed care for children eligible for medical assistance under Minnesota Statutes, section 256B.055, subdivision 12. The advisory committee shall include representatives of parents, advocates, health plan companies, health care providers serving the children, counties, and other interested persons.

Subd. 2. **PROGRESS REPORT.** The ~~commission~~ commissioner shall report to the legislature by December 15, 1995, regarding progress toward implementing managed care. The report shall make recommendations regarding the following: any law changes needed for effective implementation; how to coordinate with other insurance coverage the families may have; how managed care plans would operate as to varying coverage; what services would be available, including any gaps under managed care plans; and whether going to managed care results in cost savings to the state. The report shall also provide information by county and major diagnoses of children found eligible and ineligible for TEFRA, the services and amounts paid by the medical assistance program, name of health insurance plan, family income, and total number of TEFRA eligible children in each county.

Sec. 12. **CORRECTION 15.** 1995 S.F. No. 106, section 142, if enacted, is amended to read:

Sec. 142. EFFECTIVE DATES.

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Sections 2, 5, 7, 20, 42, 44 to 49, 56, 57, 101, 102, 117, and 141, paragraph (d), are effective the day following final enactment.

Sections 114, 115, 118, and 121 are effective January 1, 1996.

Sections 119, 120, and 141, paragraph (c), are effective July 1, 1996.

Section 141, paragraph (b), is effective June 30, 1999.

Sections 58 and 66 are effective retroactively to August 1, 1991.

Sec. 13. **CORRECTION 16.** 1995 S.F. No. 106, section 16, if enacted, is amended to read:

Sec. 16. **PUBLIC SAFETY** 50,000

\$50,000 is appropriated from the highway user tax distribution fund to the commissioner of public safety for costs of handling and manufacturing special license plates under section ~~85~~ 112.

Sec. 14. **CORRECTION 18.** 1995 S.F. No. 1110, article 7, section 8, if enacted, is amended to read:

Sec. 8. **[144.6505] SUBACUTE CARE WAIVERS.**

Subdivision 1. **SUBACUTE CARE; WAIVER FROM STATE AND FEDERAL RULES AND REGULATIONS.** The commissioners of health and human services shall work with providers to examine state and federal rules and regulations governing the provision of care in nursing facilities and apply for federal waivers and pursue state law changes to any impediments to the provision of subacute care in skilled nursing facilities.

Subd. 2. **DEFINITION OF SUBACUTE CARE.** (a) For the purpose of this section, "subacute care" means comprehensive inpatient care, as further defined in this subdivision, designed for persons who:

(1) have or have had an acute illness or accident, or an acute exacerbation of a chronic illness, and who require a moderate level of service intensity;

(2) do not require, or no longer require, technologically intensive diagnosis or management;

(3) have concurrent medical, nursing, and discharge and/or nondischarge oriented rehabilitation objectives that are expected to be achieved within a specified time; and

(4) require interdisciplinary management.

(b) Subacute care includes goal-oriented treatment rendered immediately

New language is indicated by underline, deletions by ~~strikeout~~.

after, or as an appropriate alternative to, acute hospitalization with the goal of transitioning patients towards increased independence or lower acuity level in a cost-effective environment, to treat one or more specific active complex medical conditions or to administer one or more technically complex treatments, in the context of a patient's underlying long-term conditions and overall situation.

(c) Subacute care does not generally depend heavily on high technology monitoring or complex diagnostic procedures.

(d) Subacute care requires the coordinated services of an interdisciplinary team including physicians, nurses, and other relevant professional disciplines, who are trained and knowledgeable to assess and manage these specific conditions and perform the necessary procedures.

(e) Subacute care is provided as part of a specifically defined program.

(f) Subacute care includes more intensive care than traditional nursing facility care and less intensive care than acute care and may be provided at a variety of sites, including hospitals and skilled nursing facilities.

(g) Subacute care requires recurrent patient assessment on a daily to weekly basis and review of the clinical course and treatment plan for a limited time period ranging from several days to several months, until the condition is stabilized or a predetermined treatment course is completed.

Sec. 15. **CORRECTION 19.** 1995 H.F. No. 1864, article 6, section 2, subdivision 1, if enacted, is amended to read:

Subdivision 1. **AUTHORIZATION.** The commissioner of finance, upon request of the governor, is authorized to sell and issue state bonds to fund the judgment rendered against the state by the Minnesota supreme court in Cambridge State Bank et. al. v. James, 514 N.W. 2d 565, on April 1, 1994, and related claims, and interest accrued ~~thereon~~ on the judgment and related claims, to fund any bond reserve determined to be necessary, and to pay costs of issuance of the bonds. The proceeds of the bonds are appropriated for these purposes. The principal amount of the bonds shall not exceed \$400,000,000. The bonds shall be sold and issued upon such terms and in such manner as the commissioner shall determine to be in the best interests of the state. The final maturity of the bonds shall be not later than June 30, 2005.

Sec. 16. **CORRECTION 13.** 1995 H.F. No. 1856, article 2, section 22, if enacted, is amended to read:

Sec. 22. **REPEALER.**

Minnesota Statutes 1994, sections 136A.16, subdivision 11; 137.31, subdivision 6; 137.35, subdivision 4; and 137.38, subdivision 5, are repealed.

Sec. 17. **CORRECTION 13.** 1995 H.F. No. 1856, article 4, section 4, subdivision 5, if enacted, is amended to read:

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Subd. 5. **BOARD ACTION.** In accordance with the principles in this section 136F.011, the board shall review the proposed structure of the system office with the objective of further reducing or eliminating those functions that are unnecessary. Savings that occur shall be redirected to support instruction on the campuses.

Sec. 18. **CORRECTION 17.** Laws 1995, chapter 68, section 14, is amended to read:

Sec. 14. **EFFECTIVE DATE.**

Sections 1 to 8 and 13 are effective the day following final enactment.

Sections 9 to 12 are effective July 1, 1995.

Sec. 19. **CORRECTION 14.**

Sec. 2. **LIMITATION OF INFRASTRUCTURE REINVESTMENT.**

None of the \$750,000 made available by S.F. 1110, article 1, section 2, subdivision 7, from the public facilities authority under Minnesota Statutes, section 446A.071, for grant funds to a local unit of government for the development of infrastructure and planning for redevelopment, in response to the memorandum of understanding for the regional treatment centers, may be used to purchase land on which prison buildings will be placed or to pay for utilities to the prison site and hazardous waste issues or other subgrade condition costs.

Sec. 20. **EFFECTIVE DATE.**

Unless provided otherwise, each section of this act takes effect at the time that the section of law enacted in 1995 that it amends or cites takes effect.

Presented to the governor May 30, 1995

Signed by the governor June 1, 1995, 11:45 a.m.

CHAPTER 264—H.F.No. 1864

An act relating to the financing and operation of government in this state; adopting federal income tax law changes; modifying certain tax rates, credits, refunds, bases, and exemptions; modifying property tax exemption, valuation, and classification provisions; providing for deduction of property tax refunds from property taxes; modifying or restricting certain requirements or uses of tax increment financing; modifying certain motor vehicle registration taxes; establishing a sales tax advisory council; authorizing certain local taxes, special districts and other local authority; modifying provisions relating to local excise taxes; modifying certain duties imposed on local units of government and the department of revenue; authorizing issuance of bonds and tax anticipation certificates; modifying certain taconite occupation

New language is indicated by underline, deletions by ~~strikeout~~.