

**Senate Counsel, Research,
and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 1360 - Unclaimed Property

Author: Senator William Belanger, Jr.

Prepared by: Christopher B. Stang, ^{CBS} Senate Counsel (651/296-0539)

Date: April 4, 2005

Section 1 amends an existing provision involving unclaimed property held by cooperatives to include a requirement that cooperatives notify the owner of abandoned property before donating it to a tax-exempt organization. The cooperative is permitted in this way to extinguish the rights of the owner, without being subject to the unclaimed property program administered by the commissioner of commerce.

Section 2 eliminates the requirement that the commissioner publish the name of owners of unclaimed property in newspapers and instead gives the commissioner discretion as to how best to provide public notice to the owners.

Section 3 provides broader language than in current law to avoid the effect of certain time limits on the right of an owner of abandoned property to recover it. Provides that the commissioner may not enforce this section against a holder of unclaimed property if ten years have passed since the holder identified the property in a report to the commissioner or indicated that the property was subject to a dispute.

Section 4 repeals provisions relating to unclaimed property held by cooperatives, newspaper advertising, mailed notices to owners, and an exemption involving traveler's checks and money orders.

CBS:dv

Senators Belanger, Michel, Scheid, Sams and Metzen introduced--
S.F. No. 1360: Referred to the Committee on Commerce.

1 A bill for an act

2 relating to commerce; regulating unclaimed property
3 held by cooperatives and the right to receive or
4 recover unclaimed property; modifying public notice
5 requirements; amending Minnesota Statutes 2004,
6 section 308A.711, subdivision 3; 345.42, subdivision
7 1; 345.46; repealing Minnesota Statutes 2004, sections
8 308A.711, subdivisions 1, 2; 345.39, subdivision 2;
9 345.42, subdivisions 2, 3, 4.

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

11 Section 1. Minnesota Statutes 2004, section 308A.711,
12 subdivision 3, is amended to read:

13 Subd. 3. [OWNER'S RIGHT EXTINGUISHED ON DISBURSEMENT.] The
14 right of an owner to unclaimed property held by a cooperative is
15 extinguished when the property is disbursed by the cooperative
16 to a tax-exempt organization ~~in accordance with this~~
17 section: if: (1) notice that the payment is available has been
18 mailed to the last known address of the person shown by the
19 records to be entitled to the property; or (2) the address is
20 unknown, notice is published in an official publication of the
21 cooperative.

22 A participating patron of the cooperative shall receive
23 notice pursuant to this subdivision if any profit, distribution,
24 or other sum held or owing by a cooperative has remained
25 unclaimed by the owner for more than seven years after it became
26 payable or distributable.

27 Sec. 2. Minnesota Statutes 2004, section 345.42,

1 subdivision 1, is amended to read:

2 Subdivision 1. [COMMISSIONER'S DUTY TO PUBLISH.] Within
 3 the calendar year next following the year in which abandoned
 4 property has been paid or delivered to the commissioner, the
 5 commissioner shall ~~cause notice to be published at least once~~
 6 ~~but not more than twice in an English language newspaper of~~
 7 ~~general circulation in the county in this state in which is~~
 8 ~~located the last known address of any person to be named in the~~
 9 ~~notice. If no address is listed or if the address is outside~~
 10 ~~this state, the notice shall be published in the county in which~~
 11 ~~the holder of the abandoned property has a principal place of~~
 12 ~~business within this state~~ provide public notice of the
 13 abandoned property in the manner and frequency the commissioner
 14 determines to be most effective and efficient in communicating
 15 to the persons appearing to be owners of this property. Public
 16 notice may include the use of print, broadcast, or electronic
 17 media.

18 Sec. 3. Minnesota Statutes 2004, section 345.46, is
 19 amended to read:

20 345.46 [PERIOD OF LIMITATION NOT A BAR.]

21 (a) The expiration of any a period of time specified by
 22 statute or court order, during which an action or proceeding may
 23 be commenced or enforced to obtain payment of a claim for money
 24 or recovery of property, shall not prevent the money or property
 25 from being presumed abandoned property, nor affect any duty to
 26 file a report required by sections 345.31 to 345.60 or to pay or
 27 deliver abandoned property to the commissioner. limitation on
 28 the owner's right to receive or recover property, whether
 29 specified by contract, statute, or court order, does not
 30 preclude the property from being presumed abandoned or affect a
 31 duty to file a report or to pay or deliver or transfer property
 32 to the administrator as required by sections 345.31 to 345.60.
 33 This paragraph applies to any expiration of a period of
 34 limitations that occurs whether before or after the effective
 35 date of sections 345.31 to 345.60.

36 (b) An action or proceeding may not be maintained by the

1 administrator to enforce sections 345.31 to 345.60 in regard to
2 the reporting, delivery, or payment of property more than ten
3 years after the holder specifically identified the property in a
4 report filed with the administrator or gave express notice to
5 the administrator of a dispute regarding the property. In the
6 absence of such a report or other express notice, the period of
7 limitation is tolled. The period of limitation is also tolled
8 by the filing of a report that is fraudulent.

9 Sec. 4. [REPEALER.]

10 Minnesota Statutes 2004, sections 308A.711, subdivisions 1
11 and 2; 345.39, subdivision 2; and 345.42, subdivisions 2, 3, and
12 4, are repealed.

APPENDIX
Repealed Minnesota Statutes for 05-2192

308A.711 DISTRIBUTION OF UNCLAIMED PROPERTY.

Subdivision 1. Alternate procedure to disburse property. Notwithstanding the provisions of section 345.43, a cooperative may, in lieu of paying or delivering to the commissioner of commerce the unclaimed property specified in its report of unclaimed property, distribute the unclaimed property to a corporation or organization that is exempt from taxation under section 290.05, subdivision 1, paragraph (b), or 2. A cooperative making the election to distribute unclaimed property shall, within 85 days following the publication of lists of abandoned property, file with the commissioner of commerce:

- (1) a verified written explanation of the proof of claim of an owner establishing a right to receive the abandoned property;
- (2) any errors in the presumption of abandonment;
- (3) the name, address, and exemption number of the corporation or organization to which the property was or is to be distributed; and
- (4) the approximate date of distribution.

Subd. 2. Reporting and claiming procedure not affected. This subdivision does not alter the procedure provided in sections 345.41 and 345.42 for cooperatives to report unclaimed property to the commissioner of commerce and the requirement that claims of owners are made to the cooperatives for a period of 65 days following the publication of lists of abandoned property.

345.39 MISCELLANEOUS PERSONAL PROPERTY HELD FOR ANOTHER PERSON.

Subd. 2. Cooperative property. Notwithstanding subdivision 1, any profit, distribution, or other sum held or owing by a cooperative for or to a participating patron of the cooperative is presumed abandoned only if it has remained unclaimed by the owner for more than seven years after it became payable or distributable.

345.42 NOTICE AND PUBLICATION OF LISTS OF ABANDONED PROPERTY.

Subd. 2. Contents of published notice. The published notice shall be entitled "notice of names of persons appearing to be owners of abandoned property," and shall contain:

- (a) the names in alphabetical order and last known addresses, if any, of persons listed in the report and entitled to notice within the county as hereinbefore specified;
- (b) a statement explaining that property of the owner has been presumed to be abandoned and has been taken into the protective custody of the commissioner; and
- (c) a statement that information about the abandoned property and its return to the apparent owner may be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the commissioner.

The commissioner is not required to publish in such notice any item of less than \$100 unless the commissioner deems such publication to be in the public interest.

Subd. 3. Mailed notice. Within the calendar year next following the year in which abandoned property has been paid or delivered to the commissioner, the commissioner may mail a notice to each person having an address listed therein who appears to be entitled to property of the value of \$100 or more presumed abandoned under sections 345.31 to 345.60. Said notice shall contain:

APPENDIX
Repealed Minnesota Statutes for 05-2192

(a) a statement that, according to a report filed with the commissioner, property is being held to which the addressee appears entitled;

(b) a statement explaining that property of the owner has been presumed to be abandoned and has been taken into the protective custody of the commissioner; and

(c) a statement that information about the abandoned property and its return to the apparent owner may be obtained at any time by a person having a legal or beneficial interest in that property by making an inquiry to the commissioner.

Subd. 4. Exceptions. This section is not applicable to sums payable on traveler's checks or money orders presumed abandoned under section 345.32.

1 Senator ^{Belanger} moves to amend S.F. No. 1360 as follows:

2 Delete everything after the enacting clause and insert:

3 "Section 1. Minnesota Statutes 2004, section 308A.711,
4 subdivision 1, is amended to read:

5 Subdivision 1. [ALTERNATE PROCEDURE TO DISBURSE PROPERTY.]

6 Notwithstanding the provisions of section 345.43, a cooperative
7 may, in lieu of paying or delivering to the commissioner of
8 commerce the unclaimed property specified in its report of
9 unclaimed property, distribute the unclaimed property to a
10 corporation or organization that is exempt from taxation under
11 section 290.05, subdivision 1, paragraph (b), or 2. A

12 ~~cooperative-making-the-election-to-distribute-unclaimed-property~~
13 ~~shall, within 85 days following the publication of lists of~~
14 ~~abandoned property, file with the commissioner of commerce:~~

15 ~~(1) a verified written explanation of the proof of claim of~~
16 ~~an owner establishing a right to receive the abandoned property;~~

17 ~~(2) any errors in the presumption of abandonment;~~

18 ~~(3) the name, address, and exemption number of the~~
19 ~~corporation or organization to which the property was or is to~~
20 ~~be distributed; and~~

21 ~~(4) the approximate date of distribution.~~

22 Sec. 2. Minnesota Statutes 2004, section 308A.711,
23 subdivision 3, is amended to read:

24 Subd. 3. [OWNER'S RIGHT EXTINGUISHED ON DISBURSEMENT.] The
25 right of an owner to unclaimed property held by a cooperative is
26 extinguished when the property is disbursed by the cooperative
27 to a tax-exempt organization ~~in accordance with this~~
28 ~~section:~~ if: (1) notice that the payment is available has been
29 mailed to the last known address of the person shown by the
30 records to be entitled to the property; or (2) the address is
31 unknown, notice is published in an official publication of the
32 cooperative.

33 Sec. 3. Minnesota Statutes 2004, section 308B.735,
34 subdivision 1, is amended to read:

35 Subdivision 1. [ALTERNATE PROCEDURE TO DISBURSE PROPERTY.]

36 A cooperative may, in lieu of paying or delivering to the state

1 the unclaimed property specified in its report of unclaimed
 2 property, distribute the unclaimed property to a business entity
 3 or organization that is exempt from taxation. ~~A cooperative~~
 4 ~~making the election to distribute unclaimed property shall file~~
 5 ~~with the Department of Commerce:~~

6 ~~(1) a verified written explanation of the proof of claim of~~
 7 ~~an owner establishing a right to receive the abandoned property;~~

8 ~~(2) any error in the presumption of abandonment;~~

9 ~~(3) the name, address, and exemption number of the business~~
 10 ~~entity or organization to which the property was or is to be~~
 11 ~~distributed; and~~

12 ~~(4) the approximate date of distribution.~~

13 Sec. 4. Minnesota Statutes 2004, section 308B.735,
 14 subdivision 3, is amended to read:

15 Subd. 3. [OWNER'S RIGHT EXTINGUISHED ON DISBURSEMENT.] The
 16 right of an owner to unclaimed property held by a cooperative is
 17 extinguished when the property is disbursed by the cooperative
 18 to a tax exempt organization ~~in accordance with this~~
 19 ~~section.~~ if: (1) notice that the payment is available has been
 20 mailed to the last known address of the person shown by the
 21 records to be entitled to the property; or (2) the address is
 22 unknown, notice is published in an official publication of the
 23 cooperative.

24 Sec. 5. Minnesota Statutes 2004, section 345.42,
 25 subdivision 1, is amended to read:

26 Subdivision 1. [COMMISSIONER'S DUTY ~~TO PUBLISH.~~] Within
 27 the calendar year next following the year in which abandoned
 28 property has been paid or delivered to the commissioner, the
 29 commissioner shall ~~cause notice to be published at least once~~
 30 ~~but not more than twice in an English language newspaper of~~
 31 ~~general circulation in the county in this state in which is~~
 32 ~~located the last known address of any person to be named in the~~
 33 ~~notice. -- If no address is listed or if the address is outside~~
 34 ~~this state, the notice shall be published in the county in which~~
 35 ~~the holder of the abandoned property has a principal place of~~
 36 ~~business within this state~~ provide public notice of the

1 abandoned property in the manner and frequency the commissioner
2 determines to be most effective and efficient in communicating
3 to the persons appearing to be owners of this property. Public
4 notice may include the use of print, broadcast, or electronic
5 media.

6 Sec. 6. Minnesota Statutes 2004, section 345.46, is
7 amended to read:

8 345.46. [PERIOD OF LIMITATION NOT-A-BAR.]

9 (a) The expiration of any a period of time-specified-by
10 statute-or-court-order,-during-which-an-action-or-proceeding-may
11 be-commenced-or-enforced-to-obtain-payment-of-a-claim-for-money
12 or-recovery-of-property,-shall-not-prevent-the-money-or-property
13 from-being-presumed-abandoned-property,-nor-affect-any-duty-to
14 file-a-report-required-by-sections-345.31-to-345.60-or-to-pay-or
15 deliver-abandoned-property-to-the-commissioner. limitation on
16 the owner's right to receive or recover property, whether
17 specified by contract, statute, or court order, does not
18 preclude the property from being presumed abandoned or affect a
19 duty to file a report or to pay or deliver or transfer property
20 to the administrator as required by sections 345.31 to 345.60.
21 This paragraph applies to any expiration of a period of
22 limitations that occurs whether before or after the effective
23 date of sections 345.31 to 345.60.

24 (b) An action or proceeding may not be maintained by the
25 administrator to enforce sections 345.31 to 345.60 in regard to
26 the reporting, delivery, or payment of property more than ten
27 years after the holder specifically identified the property in a
28 report filed with the administrator or gave express notice to
29 the administrator of a dispute regarding the property. In the
30 absence of such a report or other express notice, the period of
31 limitation is tolled. The period of limitation is also tolled
32 by the filing of a report that is fraudulent.

33 Sec. 7. [REPEALER.]

34 Minnesota Statutes 2004, sections 308A.711, subdivision 2;
35 308B.735, subdivision 2; and 345.42, subdivisions 2, 3, and 4,
36 are repealed."

1 Delete the title and insert:

2 "A bill for an act relating to commerce; regulating
3 unclaimed property held by cooperatives and the right to receive
4 or recover unclaimed property; modifying public notice
5 requirements; amending Minnesota Statutes 2004, sections
6 308A.711, subdivisions 1, 3; 308B.735, subdivisions 1, 3;
7 345.42, subdivision 1; 345.46; repealing Minnesota Statutes
8 2004, sections 308A.711, subdivision 2; 308B.735, subdivision 2;
9 345.42, subdivisions 2, 3, 4."

1 Senator Scheid from the Committee on Commerce, to which was
2 referred

3 S.F. No. 1360: A bill for an act relating to commerce;
4 regulating unclaimed property held by cooperatives and the right
5 to receive or recover unclaimed property; modifying public
6 notice requirements; amending Minnesota Statutes 2004, section
7 308A.711, subdivision 3; 345.42, subdivision 1; 345.46;
8 repealing Minnesota Statutes 2004, sections 308A.711,
9 subdivisions 1, 2; 345.39, subdivision 2; 345.42, subdivisions
10 2, 3, 4.

11 Reports the same back with the recommendation that the bill
12 be amended as follows:

13 Delete everything after the enacting clause and insert:

14 "Section 1. Minnesota Statutes 2004, section 308A.711,
15 subdivision 1, is amended to read:

16 Subdivision 1. [ALTERNATE PROCEDURE TO DISBURSE PROPERTY.]

17 Notwithstanding the provisions of section 345.43, a cooperative
18 may, in lieu of paying or delivering to the commissioner of
19 commerce the unclaimed property specified in its report of
20 unclaimed property, distribute the unclaimed property to a
21 corporation or organization that is exempt from taxation under
22 section 290.05, subdivision 1, paragraph (b), or 2. A

23 ~~cooperative-making-the-election-to-distribute-unclaimed-property~~
24 ~~shall, within 85 days following the publication of lists of~~
25 ~~abandoned property, file with the commissioner of commerce:~~

26 ~~(1) a verified written explanation of the proof of claim of~~
27 ~~an owner establishing a right to receive the abandoned property;~~

28 ~~(2) any errors in the presumption of abandonment;~~

29 ~~(3) the name, address, and exemption number of the~~
30 ~~corporation or organization to which the property was or is to~~
31 ~~be distributed; and~~

32 ~~(4) the approximate date of distribution.~~

33 Sec. 2. Minnesota Statutes 2004, section 308A.711,
34 subdivision 3, is amended to read:

35 Subd. 3. [OWNER'S RIGHT EXTINGUISHED ON DISBURSEMENT.] The
36 right of an owner to unclaimed property held by a cooperative is
37 extinguished when the property is disbursed by the cooperative
38 to a tax-exempt organization ~~in accordance with this~~

39 ~~section. if:~~ (1) notice that the payment is available has been
40 mailed to the last known address of the person shown by the

1 records to be entitled to the property; or (2) the address is
 2 unknown, notice is published in an official publication of the
 3 cooperative.

4 Sec. 3. Minnesota Statutes 2004, section 308B.735,
 5 subdivision 1, is amended to read:

6 Subdivision 1. [ALTERNATE PROCEDURE TO DISBURSE PROPERTY.]

7 A cooperative may, in lieu of paying or delivering to the state
 8 the unclaimed property specified in its report of unclaimed
 9 property, distribute the unclaimed property to a business entity
 10 or organization that is exempt from taxation. ~~A cooperative~~
 11 ~~making-the-election-to-distribute-unclaimed-property-shall-file~~
 12 ~~with-the-Department-of-Commerce:~~

13 ~~(1)-a-verified-written-explanation-of-the-proof-of-claim-of~~
 14 ~~an-owner-establishing-a-right-to-receive-the-abandoned-property;~~

15 ~~(2)-any-error-in-the-presumption-of-abandonment;~~

16 ~~(3)-the-name,-address,-and-exemption-number-of-the-business~~
 17 ~~entity-or-organization-to-which-the-property-was-or-is-to-be~~
 18 ~~distributed;-and~~

19 ~~(4)-the-approximate-date-of-distribution.~~

20 Sec. 4. Minnesota Statutes 2004, section 308B.735,
 21 subdivision 3, is amended to read:

22 Subd. 3. [OWNER'S RIGHT EXTINGUISHED ON DISBURSEMENT.] The
 23 right of an owner to unclaimed property held by a cooperative is
 24 extinguished when the property is disbursed by the cooperative
 25 to a tax exempt organization ~~in-accordance-with-this~~

26 ~~section:~~ if: (1) notice that the payment is available has been
 27 mailed to the last known address of the person shown by the
 28 records to be entitled to the property; or (2) the address is
 29 unknown, notice is published in an official publication of the
 30 cooperative.

31 Sec. 5. Minnesota Statutes 2004, section 345.42,
 32 subdivision 1, is amended to read:

33 Subdivision 1. [COMMISSIONER'S DUTY TO PUBLISH.] Within
 34 the calendar year next following the year in which abandoned
 35 property has been paid or delivered to the commissioner, the
 36 commissioner shall ~~cause-notice-to-be-published-at-least-once~~

1 ~~but-not-more-than-twice-in-an-English-language-newspaper-of~~
2 ~~general-circulation-in-the-county-in-this-state-in-which-is~~
3 ~~located-the-last-known-address-of-any-person-to-be-named-in-the~~
4 ~~notice.--If-no-address-is-listed-or-if-the-address-is-outside~~
5 ~~this-state,-the-notice-shall-be-published-in-the-county-in-which~~
6 ~~the-holder-of-the-abandoned-property-has-a-principal-place-of~~
7 ~~business-within-this-state~~ provide public notice of the
8 abandoned property in the manner and frequency the commissioner
9 determines to be most effective and efficient in communicating
10 to the persons appearing to be owners of this property. Public
11 notice may include the use of print, broadcast, or electronic
12 media.

13 Sec. 6. Minnesota Statutes 2004, section 345.46, is
14 amended to read:

15 345.46 [PERIOD OF LIMITATION NOT-A-BAR.]

16 (a) The expiration of any a period of time-specified-by
17 statute-or-court-order,-during-which-an-action-or-proceeding-may
18 be-commenced-or-enforced-to-obtain-payment-of-a-claim-for-money
19 or-recovery-of-property,-shall-not-prevent-the-money-or-property
20 from-being-presumed-abandoned-property,-nor-affect-any-duty-to
21 file-a-report-required-by-sections-345.31-to-345.60-or-to-pay-or
22 deliver-abandoned-property-to-the-commissioner. limitation on
23 the owner's right to receive or recover property, whether
24 specified by contract, statute, or court order, does not
25 preclude the property from being presumed abandoned or affect a
26 duty to file a report or to pay or deliver or transfer property
27 to the administrator as required by sections 345.31 to 345.60.
28 This paragraph applies to any expiration of a period of
29 limitations that occurs whether before or after the effective
30 date of sections 345.31 to 345.60.

31 (b) An action or proceeding may not be maintained by the
32 administrator to enforce sections 345.31 to 345.60 in regard to
33 the reporting, delivery, or payment of property more than ten
34 years after the holder specifically identified the property in a
35 report filed with the administrator or gave express notice to
36 the administrator of a dispute regarding the property. In the

1 absence of such a report or other express notice, the period of
2 limitation is tolled. The period of limitation is also tolled
3 by the filing of a report that is fraudulent.

4 Sec. 7. [REPEALER.]

5 Minnesota Statutes 2004, sections 308A.711, subdivision 2;
6 308B.735, subdivision 2; and 345.42, subdivisions 2, 3, and 4,
7 are repealed."

8 Delete the title and insert:

9 "A bill for an act relating to commerce; regulating
10 unclaimed property held by cooperatives and the right to receive
11 or recover unclaimed property; modifying public notice
12 requirements; amending Minnesota Statutes 2004, sections
13 308A.711, subdivisions 1, 3; 308B.735, subdivisions 1, 3;
14 345.42, subdivision 1; 345.46; repealing Minnesota Statutes
15 2004, sections 308A.711, subdivision 2; 308B.735, subdivision 2;
16 345.42, subdivisions 2, 3, 4."

17 And when so amended the bill do pass and be re-referred to
18 the Committee on Judiciary. Amendments adopted. Report adopted.

19
20
21
22
23
24

Linda Scheid
.....
(Committee Chair)

April 6, 2005.....
(Date of Committee recommendation)

**Senate Counsel, Research,
and Fiscal Analysis**

G-17 STATE CAPITOL
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Senate

State of Minnesota

S.F. No. 1274 - Flexible Health Benefits for Small Employers

Author: Senator Linda Scheid

Prepared by: Christopher B. Stang^{CR}, Senate Counsel (651/296-0539)

Date: April 5, 2005

Section 1 would permit group health plans issued to small employers to exclude or modify benefits otherwise mandated by state law.

Paragraph (a) permits insurers to issue flexible health plans if the following conditions are met:

- (1) the insurer accounts for less than ten percent of premiums in the Minnesota health insurance market;
- (2) the plan complies with chapter 62L, except as otherwise permitted by this section;
- (3) the plan must include consumer cost-sharing, such as deductibles and co-pays;
- (4) the plan must not exclude less healthy persons from group coverage and provide for them to be covered instead by the Minnesota Comprehensive Health Association;
- (5) the plan need not comply with the usual loss ratio requirements;
- (6) the plan may exclude or modify coverage for otherwise mandated benefits, except for maternity and other coverages required under federal law;
- (7) the plan may exclude or modify coverage for otherwise mandated coverage of care when provided by specific types of providers;

(8) the plan must be approved by the Commissioner of Commerce, who must not disapprove a plan because it omits a mandate; and

(9) prior to sale of the plan, the employer must be given a list of the mandates that are modified or excluded in the plan.

Paragraph (b) Provides that the definitions used in chapter 62L apply to this section, unless modified by this section.

Paragraph (c) Provides that it is legal under Minnesota law for an employer to provide to its employees a plan permitted by this section.

Section 2 makes the bill effective immediately.

CBS:cs

Senators Scheid, Moua, Sparks, LeClair and Kiscaden introduced--
S.F. No. 1274: Referred to the Committee on Commerce.

1

A bill for an act

2

relating to insurance; permitting flexible benefits

3

plans for small employer group health coverage;

4

proposing coding for new law in Minnesota Statutes,

5

chapter 62L.

6

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

7

Section 1. [62L.056] [SMALL EMPLOYER FLEXIBLE BENEFITS

8

PLANS.]

9

(a) Notwithstanding any provision of this chapter, chapter

10

363A, or any other law to the contrary, a health carrier may

11

offer, sell, issue, and renew a health benefit plan that is a

12

flexible benefits plan under this section to a small employer if

13

the following requirements are satisfied:

14

(1) the health carrier is assessed less than ten percent of

15

the total amount assessed by the Minnesota Comprehensive Health

16

Association;

17

(2) the health benefit plan must be offered in compliance

18

with this chapter, except as otherwise permitted in this

19

section;

20

(3) the health benefit plan to be offered must be designed

21

to enable employers and covered persons to better manage costs

22

and coverage options through the use of co-pays, deductibles,

23

and other cost-sharing arrangements;

24

(4) the health benefit plan must be issued and administered

25

in compliance with sections 62E.141; 62L.03, subdivision 6; and

1 62L.12, subdivisions 3 and 4, relating to prohibitions against
2 enrolling in the Minnesota Comprehensive Health Association
3 persons eligible for employer group coverage;

4 (5) loss-ratio requirements do not apply to a health
5 benefit plan issued under this section;

6 (6) the health benefit plan may modify or exclude any or
7 all coverages of benefits that would otherwise be required by
8 law, except for maternity benefits and other benefits required
9 under federal law;

10 (7) the health benefit plan may modify or exclude any or
11 all coverages of services when provided by specific types of
12 health care providers otherwise required by law, except as
13 required by federal law;

14 (8) each health benefit plan must be approved by the
15 commissioner of commerce, but the commissioner may not
16 disapprove a plan on the grounds of a modification or exclusion
17 permitted under clause (6) or (7); and

18 (9) prior to sale of the health benefit plan, the small
19 employer must be given a written list of the coverages otherwise
20 required by law that are modified or excluded in the health
21 benefit plan. The list must include a description of each
22 coverage in the list and indicate whether the coverage is
23 modified or excluded. If a coverage is modified, the list must
24 describe the modification. The list may, but need not, also
25 list any or all coverages otherwise required by law that are
26 included in the health benefit plan and indicate that they are
27 included.

28 (b) The definitions in section 62L.02 apply to this section
29 as modified by this section.

30 (c) An employer may provide a health benefit plan permitted
31 under this section to its employees, the employees' dependents,
32 and other persons eligible for coverage under the employer's
33 plan, notwithstanding chapter 363A or any other law to the
34 contrary.

35 Sec. 2. [EFFECTIVE DATE.]

36 Section 1 is effective the day following final enactment.

MINNESOTA

KEY VOTE

**Support Small Employer Alternative Health Insurance Benefit Plans
SF 1274 (Scheid)**

- The bill allows small business to purchase a health insurance product that does not include the state mandated benefit set. The bill would give small business the flexibility to exempt all the mandated coverages they feel are unnecessary, similar to the flexibility that large businesses have under the federal ERISA law.
- In future years, coverages could be added or dropped.
- Currently, Minnesota has 62 mandated coverages, which is more than any other state in the country. The Alternative Health Insurance Benefit Plans could reduce premium by 20% or more.
- Since small employers would have the flexibility to pick and choose different mandated coverages upon renewal each year, certain specialty benefits geared toward a certain age or gender may not be necessary such as diabetic self-management and supplies, hearing aids and prostate screening.
- **A recent study by the Minnesota Department of Health and the University of Minnesota found that the uninsurance rate in Minnesota has increased. The results of the study show the uninsurance rate has increased from 5.4% in 2001 to 6.7% in 2004. Roughly 343,000 Minnesotans were uninsured in 2004. Small business needs relief from large premium increases and as much flexibility as possibly as they try to continue to offer critical health insurance benefits to their employees.**

Like large employers, small employers deserve the same flexibility to design benefit plans that meet the needs of their workforce. SF 1274 will give them that flexibility. The Small Employer Alternative Benefits Health Insurance Benefit Plan legislation is the number one priority for small business in the 2005 session and we urge your support.

1 Senator Scheid from the Committee on Commerce, to which was
2 referred

3 S.F. No. 1274: A bill for an act relating to insurance;
4 permitting flexible benefits plans for small employer group
5 health coverage; proposing coding for new law in Minnesota
6 Statutes, chapter 62L.

7 Reports the same back with the recommendation that the bill
8 do pass and be re-referred to the Committee on Health and Family
9 Security. Report adopted.

10

11

Anda Scheid
.....
(Committee Chair)

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14

15

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April 6, 2005.....
(Date of Committee recommendation)

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Minnesota Statutes 2004, 62L.05

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Minnesota Statutes 2004, Table of ChaptersTable of contents for Chapter 62L**62L.05 Small employer plan benefits.**

Subdivision 1. **Two small employer plans.** Each health carrier in the small employer market must make available, on a guaranteed issue basis, to any small employer that satisfies the contribution and participation requirements of section 62L.03, subdivision 3, both of the small employer plans described in subdivisions 2 and 3. Under subdivisions 2 and 3, coinsurance and deductibles do not apply to child health supervision services and prenatal services, as defined by section 62A.047. The maximum out-of-pocket costs for covered services must be \$3,000 per individual and \$6,000 per family per year. The maximum lifetime benefit must be not less than \$1,000,000.

Subd. 2. **Deductible-type small employer plan.** The benefits of the deductible-type small employer plan offered by a health carrier must be equal to 80 percent of the charges, as specified in subdivision 10, for health care services, supplies, or other articles covered under the small employer plan, in excess of an annual deductible which must be \$2,250 per individual and \$4,500 per family.

Subd. 3. **Co-payment-type small employer plan.** The benefits of the co-payment-type small employer plan offered by a health carrier must be equal to 80 percent of the charges, as specified in subdivision 10, for health care services, supplies, or other articles covered under the small employer plan, in excess of the following co-payments:

- (1) \$15 per outpatient visit, including visits to an urgent care center but not including visits to a hospital outpatient department or emergency room, or similar facility;
- (2) \$15 per visit for the services of a home health agency or private duty registered nurse;
- (3) \$50 per outpatient visit to a hospital outpatient department or emergency room, or similar facility; and
- (4) \$300 per inpatient admission to a hospital.

Subd. 4. **Benefits.** The medical services and supplies listed in this subdivision are the benefits that must be covered by the small employer plans described in subdivisions 2 and 3. Benefits under this subdivision may be provided through the

managed care procedures practiced by health carriers:

(1) inpatient and outpatient hospital services, excluding services provided for the diagnosis, care, or treatment of chemical dependency or a mental illness or condition, other than those conditions specified in clauses (10), (11), and (12). The health care services required to be covered under this clause must also be covered if rendered in a nonhospital environment, on the same basis as coverage provided for those same treatments or services if rendered in a hospital, provided, however, that this sentence must not be interpreted as expanding the types or extent of services covered;

(2) physician, chiropractor, and nurse practitioner services for the diagnosis or treatment of illnesses, injuries, or conditions;

(3) diagnostic x-rays and laboratory tests;

(4) ground transportation provided by a licensed ambulance service to the nearest facility qualified to treat the condition, or as otherwise required by the health carrier;

(5) services of a home health agency if the services qualify as reimbursable services under Medicare;

(6) services of a private duty registered nurse if medically necessary, as determined by the health carrier;

(7) the rental or purchase, as appropriate, of durable medical equipment, other than eyeglasses and hearing aids, unless coverage is required under section 62Q.675;

(8) child health supervision services up to age 18, as defined in section 62A.047;

(9) maternity and prenatal care services, as defined in sections 62A.041 and 62A.047;

(10) inpatient hospital and outpatient services for the diagnosis and treatment of certain mental illnesses or conditions, as defined by the International Classification of Diseases-Clinical Modification (ICD-9-CM), seventh edition (1990) and as classified as ICD-9 codes 295 to 299;

(11) ten hours per year of outpatient mental health diagnosis or treatment for illnesses or conditions not described in clause (10);

(12) 60 hours per year of outpatient treatment of chemical dependency; and

(13) 50 percent of eligible charges for prescription drugs, up to a separate annual maximum out-of-pocket expense of \$1,000 per individual for prescription drugs, and 100 percent of eligible charges thereafter.

Subd. 4a. **Alternative benefit plan.** In addition to the small employer benefit plans described in subdivisions 1 to 4, a health carrier may offer to a small employer a benefit plan

that differs from those plans in the following respects:

(1) the plan may include different co-payments and deductibles; and

(2) the plan may offer coverage on a per diem, fixed indemnity, or nonexpense incurred basis.

Subd. 5. **Plan variations.** (a) No health carrier shall offer to a small employer a health benefit plan that differs from the small employer plans described in subdivisions 1 to 4a, unless the health benefit plan complies with all provisions of chapters 62A, 62C, 62D, 62E, 62H, 62N, 62Q, and 64B that otherwise apply to the health carrier, except as expressly permitted by paragraph (b).

(b) As an exception to paragraph (a), a health benefit plan is deemed to be a small employer plan and to be in compliance with paragraph (a) if it differs from one of the two small employer plans described in subdivisions 1 to 4 only by providing benefits in addition to those described in subdivision 4, provided that the health benefit plan has an actuarial value that exceeds the actuarial value of the benefits described in subdivision 4 by no more than two percent. "Benefits in addition" means additional units of a benefit listed in subdivision 4 or one or more benefits not listed in subdivision 4.

Subd. 6. **Choice products exception.** Nothing in subdivision 1 prohibits a health carrier from offering a small employer plan which provides for different benefit coverages based on whether the benefit is provided through a primary network of providers or through a secondary network of providers so long as the benefits provided in the primary network equal the benefit requirements of the small employer plan as described in this section. For purposes of products issued under this subdivision, out-of-pocket costs in the secondary network may exceed the out-of-pocket limits described in subdivision 1. A secondary network must not be used to provide "benefits in addition" as defined in subdivision 5, except in compliance with that subdivision.

Subd. 7. **Benefit exclusions.** No medical, hospital, or other health care benefits, services, supplies, or articles not expressly specified in subdivision 4 are required to be included in a small employer plan. Nothing in subdivision 4 restricts the right of a health carrier to restrict coverage to those services, supplies, or articles which are medically necessary. Health carriers may exclude a benefit, service, supply, or article not expressly specified in subdivision 4 from a small employer plan.

Subd. 8. **Continuation coverage.** Small employer plans must include the continuation of coverage provisions required by the Consolidated Omnibus Budget Reconciliation Act of 1985 (COBRA), Public Law 99-272, as amended, and by state law.

Subd. 9. **Dependent coverage.** Other state law and rules applicable to health plan coverage of newborn infants, dependent children who do not reside with the eligible employee,

handicapped children and dependents, and adopted children apply to a small employer plan. Health benefit plans that provide dependent coverage must define "dependent" no more restrictively than the definition provided in section 62L.02.

Subd. 10. **Medical expense reimbursement.** Health carriers may reimburse or pay for medical services, supplies, or articles provided under a small employer plan in accordance with the health carrier's provider contract requirements including, but not limited to, salaried arrangements, capitation, the payment of usual and customary charges, fee schedules, discounts from fee-for-service, per diems, diagnosis-related groups (DRGs), and other payment arrangements. Nothing in this chapter requires a health carrier to develop, implement, or change its provider contract requirements for a small employer plan. Coinsurance, deductibles, out-of-pocket maximums, and maximum lifetime benefits must be calculated and determined in accordance with each health carrier's standard business practices.

Subd. 11. **Plan design.** Notwithstanding any other law, regulation, or administrative interpretation to the contrary, health carriers may offer small employer plans through any provider arrangement, including, but not limited to, the use of open, closed, or limited provider networks. A health carrier may only use product and network designs currently allowed under existing statutory requirements. The provider networks offered by any health carrier may be specifically designed for the small employer market and may be modified at the carrier's election so long as all otherwise applicable regulatory requirements are met. Health carriers may use professionally recognized provider standards of practice when they are available, and may use utilization management practices otherwise permitted by law, including, but not limited to, second surgical opinions, prior authorization, concurrent and retrospective review, referral authorizations, case management, and discharge planning. A health carrier may contract with groups of providers with respect to health care services or benefits, and may negotiate with providers regarding the level or method of reimbursement provided for services rendered under a small employer plan.

Subd. 12. **Demonstration projects.** Nothing in this chapter prohibits a health maintenance organization from offering a demonstration project authorized under section 62D.30. The commissioner of health may approve a demonstration project which offers benefits that do not meet the requirements of a small employer plan if the commissioner finds that the requirements of section 62D.30 are otherwise met.

HIST: 1992 c 549 art 2 s 5; 1993 c 247 art 2 s 8; 1993 c 345 art 7 s 7-10; 1994 c 625 art 10 s 35-37; 1999 c 177 s 54; 1999 c 181 s 2,3; 2001 c 215 s 21,22; 1Sp2003 c 14 art 7 s 21

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State of Minnesota

S.F. No. 664 - Omnibus Liquor Bill (Subcommittee Report)

Author: Senator Sandra L. Pappas
Prepared by: Christopher B. Stang, Senate Counsel (651/296-0539)
Date: March 22, 2005

Section 1 (Pappas) would permit brewpubs whose total off-sales in any 12-month period amount to less than ten percent of their total on premises malt beverage production or 100 barrels, whichever is less, to use wort produced outside Minnesota. Current law prohibits brewpubs from using wort produced outside Minnesota.

Section 2 (Pogemiller) allows Minneapolis to issue an on-sale intoxicating liquor license to the Guthrie Theater's concessionaire for a restaurant at the Guthrie Theater.

Section 3 (Ourada) allows a wine tasting to take place for more than four hours duration at a large convention of fine wine and gourmet food exhibitors.

Section 4 (Anderson) requires an authority issuing a retail liquor license or operating a municipal liquor store to impose specified minimum penalties for sales to underage persons. Two annual mandatory compliance checks on each retail license holder or municipal liquor store are also required.

Section 5 (Ourada) allows on-sales of 3.2 malt liquor at 10:00 a.m. on Sundays.

Section 6 (Ourada) allows on-sale of intoxicating liquor at 10:00 a.m. on Sundays without requiring that a municipality hold a public hearing and pass an ordinance.

Section 7 (Ourada) provides for a uniform time statewide of 10:00 p.m. for off-sale of intoxicating liquor on Mondays through Saturdays.

*as amended
3/30 & 4/6 A-8
A-9*

1 To: Senator Scheid, Chair
2 Committee on Commerce
3 Senator Pappas,
4 Chair of the Subcommittee on Liquor, to which was referred

5 S.F. No. 664: A bill for an act relating to alcoholic
6 beverages; allowing a brewer who manufactures beer on the
7 premises where the brewer also holds an on-sale intoxicating
8 liquor license to use wort produced outside Minnesota under
9 certain circumstances; amending Minnesota Statutes 2004, section
10 340A.301, subdivision 6.

11 Reports the same back with the recommendation that the bill
12 be amended as follows:

13 Delete everything after the enacting clause and insert:

14 "Section 1. Minnesota Statutes 2004, section 340A.301,
15 subdivision 6, is amended to read:

16 Subd. 6. [FEES.] The annual fees for licenses under this
17 section are as follows:

18 (a) Manufacturers (except as provided
19 in clauses (b) and (c)) \$15,000
20 Duplicates \$ 3,000

21 (b) Manufacturers of wines of not more
22 than 25 percent alcohol by volume \$ 500

23 (c) Brewers other than those described
24 in clauses (d) and (i) \$ 2,500

25 (d) Brewers who also hold one or more
26 retail on-sale licenses and who
27 manufacture fewer than 3,500 barrels
28 of malt liquor in a year, at any one
29 licensed premises, using only wort produced
30 in Minnesota except as otherwise provided
31 in this clause, the entire
32 production of which is solely
33 for consumption on tap on the
34 licensed premises or for off-sale
35 from that licensed premises.

36 A brewer licensed
37 under this clause:
38 (1) must obtain a separate
39 license for each licensed premises where

1 the brewer brews malt liquor:---A-brewer
 2 ~~licensed under this clause;~~ (2) may not be
 3 licensed as an importer under this chapter; and
 4 (3) may use wort produced outside Minnesota if (i)
 5 its total sales at off-sale under section 340A.301,
 6 subdivision 7, paragraph (b), in any 12-month
 7 period do not exceed ten percent of the total
 8 production of beer on the premises or 100 barrels,
 9 whichever is less, or (ii) in the case of a brewer who
 10 has been licensed under this clause for fewer than
 11 12 months, if the commissioner reasonably
 12 determines that the brewer will not sell amounts at
 13 off-sale in excess of the amounts specified in
 14 item (i) during the first 12 months of
 15 licensing \$ 500

- 16 (e) Wholesalers (except as provided in
- 17 clauses (f), (g), and (h)) \$15,000
- 18 Duplicates \$ 3,000
- 19 (f) Wholesalers of wines of not more
- 20 than 25 percent alcohol by volume \$ 2,000
- 21 (g) Wholesalers of intoxicating
- 22 malt liquor \$ 600
- 23 Duplicates \$ 25
- 24 (h) Wholesalers of 3.2 percent
- 25 malt liquor \$ 10
- 26 (i) Brewers who manufacture fewer than
- 27 2,000 barrels of malt liquor in a year \$ 150

28 If a business licensed under this section is destroyed, or
 29 damaged to the extent that it cannot be carried on, or if it
 30 ceases because of the death or illness of the licensee, the
 31 commissioner may refund the license fee for the balance of the
 32 license period to the licensee or to the licensee's estate.

33 Sec. 2. Minnesota Statutes 2004, section 340A.404,
 34 subdivision 2, is amended to read:

35 Subd. 2. [SPECIAL PROVISION; CITY OF MINNEAPOLIS.] (a) The
 36 city of Minneapolis may issue an on-sale intoxicating liquor

1 license to the Guthrie Theater, the Cricket Theatre, the Orpheum
2 Theatre, the State Theatre, and the Historic Pantages Theatre,
3 notwithstanding the limitations of law, or local ordinance, or
4 charter provision relating to zoning or school or church
5 distances. The licenses authorize sales on all days of the week
6 to holders of tickets for performances presented by the theaters
7 and to members of the nonprofit corporations holding the
8 licenses and to their guests.

9 (b) The city of Minneapolis may issue an intoxicating
10 liquor license to 510 Groveland Associates, a Minnesota
11 cooperative, for use by a restaurant on the premises owned by
12 510 Groveland Associates, notwithstanding limitations of law, or
13 local ordinance, or charter provision.

4 (c) The city of Minneapolis may issue an on-sale
15 intoxicating liquor license to Zuhrah Shrine Temple for use on
16 the premises owned by Zuhrah Shrine Temple at 2540 Park Avenue
17 South in Minneapolis, and to the American Swedish Institute for
18 use on the premises owned by the American Swedish Institute at
19 2600 Park Avenue South, notwithstanding limitations of law, or
20 local ordinances, or charter provision relating to zoning or
21 school or church distances.

22 (d) The city of Minneapolis may issue an on-sale
23 intoxicating liquor license to the American Association of
24 University Women, Minneapolis branch, for use on the premises
25 owned by the American Association of University Women,
26 Minneapolis branch, at 2115 Stevens Avenue South in Minneapolis,
27 notwithstanding limitations of law, or local ordinances, or
28 charter provisions relating to zoning or school or church
29 distances.

30 (e) The city of Minneapolis may issue an on-sale wine
31 license and an on-sale 3.2 percent malt liquor license to a
32 restaurant located at 5000 Penn Avenue South, and an on-sale
33 wine license and an on-sale malt liquor license to a restaurant
34 located at 1931 Nicollet Avenue South, notwithstanding any law
35 or local ordinance or charter provision.

36 (f) The city of Minneapolis may issue an on-sale wine

1 license and an on-sale malt liquor license to the Brave New
2 Workshop Theatre located at 3001 Hennepin Avenue South, the
3 Theatre de la Jeune Lune, the Illusion Theatre located at 528
4 Hennepin Avenue South, the Hollywood Theatre located at 2815
5 Johnson Street Northeast, the Loring Playhouse located at 1633
6 Hennepin Avenue South, the Jungle Theater located at 2951
7 Lyndale Avenue South, Brave New Institute located at 2605
8 Hennepin Avenue South, the Guthrie Lab located at 700 North
9 First Street, and the Southern Theatre located at 1420
10 Washington Avenue South, notwithstanding any law or local
11 ordinance or charter provision. The license authorizes sales on
12 all days of the week.

13 (g) The city of Minneapolis may issue an on-sale
14 intoxicating liquor license to University Gateway Corporation, a
15 Minnesota nonprofit corporation, for use by a restaurant or
16 catering operator at the building owned and operated by the
17 University Gateway Corporation on the University of Minnesota
18 campus, notwithstanding limitations of law, or local ordinance
19 or charter provision. The license authorizes sales on all days
20 of the week.

21 (h) The city of Minneapolis may issue an on-sale
22 intoxicating liquor license to the Guthrie Theater's
23 concessionaire or operator for a restaurant and catering
24 operator on the premises of the Guthrie Theater, notwithstanding
25 limitations of law, local ordinance, or charter provisions. The
26 license authorizes sales on all days of the week.

27 [EFFECTIVE DATE.] This section is effective the day
28 following final enactment.

29 Sec. 3. Minnesota Statutes 2004, section 340A.418, is
30 amended to read:

31 340A.418 [WINE TASTINGS.]

32 Subdivision 1. [DEFINITION.] For purposes of this section,
33 a "wine tasting" is an event ~~of not more than four hours~~
34 ~~duration~~ at which persons pay a fee or donation to participate,
35 and are allowed to consume wine by the glass without paying a
36 separate charge for each glass.

1 Subd. 2. [TASTINGS AUTHORIZED.] (a) A charitable,
2 religious, or other nonprofit organization may conduct a wine
3 tasting of not more than four hours duration on premises the
4 organization owns or leases or has use donated to it, or on the
5 licensed premises of a holder of an on-sale intoxicating liquor
6 license that is not a temporary license, if the organization
7 holds a temporary on-sale intoxicating liquor license under
8 section 340A.404, subdivision 10, and complies with this
9 section. An organization holding a temporary license may be
10 assisted in conducting the wine tasting by another nonprofit
11 organization.

12 (b) An organization that conducts a wine tasting under this
13 section may use the net proceeds from the wine tasting only for:

- 14 (1) the organization's primary nonprofit purpose; or
15 (2) donation to another nonprofit organization assisting in
16 the wine tasting, if the other nonprofit organization uses the
17 donation only for that organization's primary nonprofit purpose.

18 (c) No wine at a wine tasting under this section may be
19 sold, or orders taken, for off-premises consumption.

20 (d) Notwithstanding any other law, an organization may
21 purchase or otherwise obtain wine for a wine tasting conducted
22 under this section from a wholesaler licensed to sell wine, and
23 the wholesaler may sell or give wine to an organization for a
24 wine tasting conducted under this section and may provide
25 personnel to assist in the wine tasting. A wholesaler who sells
26 or gives wine to an organization for a wine tasting under this
27 section must deliver the wine directly to the location where the
28 wine tasting is conducted.

29 (e) This section does not prohibit or restrict a wine
30 tasting that is:

- 31 (1) located on on-sale premises where no charitable
32 organization is participating; or
33 (2) located on on-sale premises where the proceeds are for
34 a designated charity but where the tasting is primarily for
35 educational purposes.

36 (f) The four-hour limitation specified in paragraph (a)

1 shall not apply to a wine tasting at a convention of fine wine
2 and gourmet food exhibitors, provided the convention has at
3 least 100 exhibitors and takes place over not more than three
4 days.

5 Sec. 4. [340A.5035] [MANDATORY PENALTIES AND COMPLIANCE
6 CHECKS; SALE TO PERSONS UNDER AGE 21.]

7 (a) The authority issuing a retail license or operating a
8 municipal liquor store must impose at a minimum the following
9 civil penalties:

10 (1) for a first violation of section 340A.503 within a
11 two-year period at the same location, \$500 or training of
12 establishment managers and servers approved by the authority, or
13 both;

14 (2) for a second violation of section 340A.503 within a
15 two-year period at the same location, \$750;

16 (3) for a third violation of section 340A.503 within a
17 two-year period at the same location, \$750 plus a three-day
18 suspension of the violator's retail license or three-day
19 shutdown of the municipal liquor store; and

20 (4) for a fourth violation of section 340A.503 within a
21 two-year period at the same location, the authority must revoke
22 the violator's retail license or shut down the municipal liquor
23 store.

24 (b) The commissioner may impose the penalties under
25 paragraph (a) if the commissioner determines that the licensing
26 authority or operator of the municipal liquor store has, after a
27 reasonable period of time, failed to impose the penalties when
28 required to do so under that paragraph.

29 (c) No suspension or penalty may take effect until the
30 licensee has been given an opportunity for a hearing as provided
31 in section 340A.415.

32 (d) After a violation of section 340A.503 is found, the
33 authority must perform a compliance check on the violating
34 retail license holder or municipal liquor store within 90 days
35 of the violation.

36 (e) An authority issuing a retail license or operating a

ADOPTED 3/30/05

1 Senator moves to amend the Report of the Subcommittee
2 on Liquor (SS0664SUB1) to S.F. No. 664 as follows:

3 Page 9, after line 25, insert:

4 "Sec. 9. [CITY OF DULUTH; ON-SALE LICENSE.]

5 Notwithstanding any other law, local ordinance, or charter
6 provision, the city of Duluth may issue an on-sale intoxicating
7 liquor license for the premises known and used as the Enger Park
8 golf course, or for any portion of the premises as described in
9 the approved license application. The license may be issued to
10 the city or to any person or corporation under contract or
11 agreement with the city with respect to operation of the golf
12 course. All provisions of Minnesota Statutes, chapter 340A, not
13 inconsistent herewith, apply to the license authorized under
14 this section.

15 [EFFECTIVE DATE.] This section is effective the day
16 following final enactment."

17 Renumber the sections in sequence and correct the internal
18 references

19 Amend the title accordingly

1 Senator Scheid from the Committee on Commerce, to which was
2 referred

3 S.F. No. 1998: A bill for an act relating to health;
4 assessing health maintenance organizations for purposes of the
5 insurance fraud prevention account; regulating certain rates,
6 claims, filing, and reporting practices; eliminating expanded
7 provider network requirements; amending Minnesota Statutes 2004,
8 sections 45.0135, subdivision 7; 62E.05, subdivision 2; 62L.08,
9 subdivision 8; 62Q.75, subdivision 2, by adding a subdivision;
10 72A.201, subdivision 4; 256B.692, subdivision 2; 295.582;
11 repealing Minnesota Statutes 2004, sections 62E.035; 62Q.095;
12 62Q.64.

13 Reports the same back with the recommendation that the bill
14 be amended as follows:

15 Page 3, delete lines 18 and 19 and insert:

16 "Sec. 4. Minnesota Statutes 2004, section 62Q.75, is
17 amended to read:

18 62Q.75 [PROMPT PAYMENT REQUIRED.]

19 Subdivision 1. [DEFINITIONS.] (a) For purposes of this
20 section, the following terms have the meanings given to them.

21 (b) "Clean claim" means a claim that has no defect or
22 impropriety, including any lack of any required substantiating
23 documentation, including, but not limited to, coordination of
24 benefits information, or particular circumstance requiring
25 special treatment that prevents timely payment from being made
26 on a claim under this section. Nothing in this section alters
27 an enrollee's obligation to disclose information as required by
28 law.

29 (c) "Third-party administrator" means a third-party
30 administrator or other entity subject to section 60A.23,
31 subdivision 8, and Minnesota Rules, chapter 2767."

32 Page 4, delete lines 28 and 29

33 Page 5, line 5, after the period, insert "The six-month
34 submission requirement may be extended to 12 months in cases
35 where a health care provider or facility specified in
36 subdivision 2 has determined and can substantiate that it has
37 experienced a significant disruption to normal operations that
38 materially affects the ability to conduct business in a normal
39 manner and to submit claims on a timely basis."

40 Page 5, line 8, before the period, insert ", or to
41 reparation obligors for treatment of an injury compensable under

- 1 chapter 65B"
- 2 Page 5, line 15, reinstate the stricken language
- 3 Page 5, line 16, delete the new language
- 4 Page 6, line 17, delete the new language and reinstate the
- 5 stricken language
- 6 Page 6, line 18, delete the new language
- 7 Page 6, line 19, after "a" insert "health" and delete "of
- 8 accident and"
- 9 Page 6, line 20, delete "sickness insurance"
- 10 Page 6, line 21, delete everything after "62Q.75" and
- 11 insert a semicolon
- 12 Page 6, delete lines 22 and 23
- 13 Page 6, line 24, after "a" insert "health" and delete "of
- 14 accident and"
- 15 Page 6, line 25, delete "sickness insurance"
- 16 Renumber the sections in sequence
- 17 Amend the title as follows:
- 18 Page 1, lines 8 and 9, delete ", subdivision 2, by adding a
- 19 subdivision"

20 And when so amended the bill do pass. Amendments adopted.
 21 Report adopted.

.....
Anda Scheig
 (Committee Chair)

April 6, 2005.....
 (Date of Committee recommendation)

Withdraw

~~AMENDED~~ 4-6-05

Anderson

1 Senator moves to amend the Report of the Subcommittee
2 on Liquor (SS0664SUB1) to S.F. No. 664 as follows:

3 Page 6, line 36, after "(e)" insert "Beginning January 1,
4 2008,"

5 Page 7, after line 4, insert:

6 "(f) Cities shall report to the commissioner by January 15,
7 2006, and each year thereafter, on the nature and extent of any
8 compliance check program conducted by the city. The
9 commissioner shall review the reports and determine which cities
10 meet minimum standards for compliance checks, as determined by
11 the commissioner. Any city determined by the commissioner to
12 meet minimum standards for compliance checks is exempt from the
13 requirements of paragraph (e).

14 (g) Cities of the first class shall be exempt from the
15 requirements of this section."

Adopted 4-6-05

1 Senator *Fappus* moves to amend the Report of the Subcommittee
2 on Liquor (SS0664SUB1) to S.F. No. 664 as follows:

3 Page 2, after line 32, insert:

4 "Sec. 2. Minnesota Statutes 2004, section 340A.301,
5 subdivision 7, is amended to read:

6 Subd. 7. [INTEREST IN OTHER BUSINESS.] (a) Except as
7 provided in this subdivision, a holder of a license as a
8 manufacturer, brewer, importer, or wholesaler may not have any
9 ownership, in whole or in part, in a business holding a retail
10 intoxicating liquor or 3.2 percent malt liquor license. The
11 commissioner may not issue a license under this section to a
12 manufacturer, brewer, importer, or wholesaler if a retailer of
13 intoxicating liquor has a direct or indirect interest in the
14 manufacturer, brewer, importer, or wholesaler. A manufacturer
15 or wholesaler of intoxicating liquor may use or have property
16 rented for retail intoxicating liquor sales only if the
17 manufacturer or wholesaler has owned the property continuously
18 since November 1, 1933. A retailer of intoxicating liquor may
19 not use or have property rented for the manufacture or
20 wholesaling of intoxicating liquor.

21 (b) A brewer licensed under subdivision 6, clause (d), may
22 be issued an on-sale intoxicating liquor or 3.2 percent malt
23 liquor license by a municipality for a restaurant operated in
24 the place of manufacture. Notwithstanding section 340A.405, a
25 brewer who holds an on-sale license issued pursuant to this
26 paragraph may, with the approval of the commissioner, be issued
27 a license by a municipality for off-sale of malt liquor produced
28 and packaged on the licensed premises. Off-sale of malt liquor
29 shall be limited to the legal hours for off-sale at exclusive
30 liquor stores in the jurisdiction in which the brewer is
31 located, and the malt liquor sold off-sale must be removed from
32 the premises before the applicable off-sale closing time at
33 exclusive liquor stores. The malt liquor shall be packaged in
34 64-ounce containers commonly known as "growlers." The
35 containers shall bear a twist-type closure, cork, stopper, or
36 plug. At the time of the sale, a paper or plastic adhesive

1 band, strip, or sleeve shall be applied to the container and
2 extend over the top of the twist-type closure, cork, stopper, or
3 plug forming a seal that must be broken upon opening of the
4 container. The adhesive band, strip, or sleeve shall bear the
5 name and address of the brewer. The containers shall be
6 identified as malt liquor, contain the name of the malt liquor,
7 bear the name and address of the brewer selling the malt liquor,
8 and shall be considered intoxicating liquor unless the alcoholic
9 content is labeled as otherwise in accordance with the
10 provisions of Minnesota Rules, part 7515.1100. A brewer's total
11 retail sales at on- or off-sale under this paragraph may not
12 exceed 3,500 barrels per year, provided that off-sales may not
13 total more than ~~50-percent-of-the-brewer's-production-or~~ 500
14 barrels, ~~whichever-is-less~~. A brewer licensed under subdivision
15 6, clause (d), may hold or have an interest in other retail
16 on-sale licenses, but may not have an ownership interest in
17 whole or in part, or be an officer, director, agent, or employee
18 of, any other manufacturer, brewer, importer, or wholesaler, or
19 be an affiliate thereof whether the affiliation is corporate or
20 by management, direction, or control. Notwithstanding this
21 prohibition, a brewer licensed under subdivision 6, clause (d),
22 may be an affiliate or subsidiary company of a brewer licensed
23 in Minnesota or elsewhere if that brewer's only manufacture of
24 malt liquor is:

25 (i) manufacture licensed under subdivision 6, clause (d);

26 (ii) manufacture in another state for consumption
27 exclusively in a restaurant located in the place of manufacture;
28 or

29 (iii) manufacture in another state for consumption
30 primarily in a restaurant located in or immediately adjacent to
31 the place of manufacture if the brewer was licensed under
32 subdivision 6, clause (d), on January 1, 1995.

33 (c) Except as provided in subdivision 7a, no brewer as
34 defined in subdivision 7a or importer may have any interest, in
35 whole or in part, directly or indirectly, in the license,
36 business, assets, or corporate stock of a licensed malt liquor

1 wholesaler."

2 Renumber the sections in sequence and correct the internal
3 references

4 Amend the title accordingly

- 1 Senator *Pappas* moves to amend the Report of the Subcommittee
2 on Liquor (SS0664SUB1) to S.F. No. 664 as follows:
- 3 Page 1, line 29, strike everything after the comma
- 4 Page 1, line 30 strike "in Minnesota" and delete the new
5 language
- 6 Page 1, line 31, delete the new language and strike the
7 comma
- 8 Page 1, lines 37 and 38, delete the new language
- 9 Page 2, line 1, reinstate the stricken language
- 10 Page 2, line 2, reinstate the stricken language and delete
11 the new language
- 12 Page 2, lines 3 to 15, delete the new language

**Senate Counsel, Research,
and Fiscal Analysis**

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State of Minnesota

S.F. No. 1998 - Health Plan Company Regulatory Changes

Author: Senator Brian LeClair

Prepared by: Christopher B. Stang^{ins}, Senate Counsel (651/296-0539)

Date: April 5, 2005

Section 1 eliminates a provision exempting health maintenance organizations from assessment for the insurance fraud prevention account.

Section 2 eliminates an annual report required of health plan companies, stating how many people were covered in the preceding year by its qualified plans and by each of its unqualified plans.

Section 3 eliminates obsolete language.

Section 4 prohibits health plan companies and third-party administrators (TPAs) from requiring a health care provider to bill a health plan company for interest before an interest payment is made for late payment of claims.

Section 5 requires health care providers to bill health plan companies and TPAs no later than six months after providing the service or learning the identity and address of the applicable health plan company or TPA, whichever is later. A provider who fails to comply may not collect the charge from the patient or third-party payer.

Section 6 clarifies what is meant by a health insurance policy for purposes of this law regulating claims handling. Requires health insurers to comply with the prompt payment law, and prohibits the commissioner from imposing an administrative financial penalty for failing to do so. Permits health insurers to not send an explanation of benefits (EOB) when there is a zero balance (meaning the enrollee does not owe the provider anything in addition to a copayment already paid). Requires an insurer that does not send zero balance EOBs to send the enrollee a summary every six months.

Section 7 eliminates a reference to a section repealed in this bill.

Section 8 eliminates a requirement that health insurers and other third-party payers document their compliance with the 2 percent provider tax pass-through requirement.

Section 9 repeals (a) a law requiring reporting by self-insured employer health plans; (b) a law requiring health plan companies to maintain expanded provider networks of non-physician providers; and (c) a law requiring health plan companies to annually file a report on their compensation of their five most highly compensated employees with the Consumer Advisory Board, which no longer exists.

CBS:cs

Senator LeClair introduced--

S.F. No. 1998: Referred to the Committee on Commerce.

1 A bill for an act

2 relating to health; assessing health maintenance
3 organizations for purposes of the insurance fraud
4 prevention account; regulating certain rates, claims,
5 filing, and reporting practices; eliminating expanded
6 provider network requirements; amending Minnesota
7 Statutes 2004, sections 45.0135, subdivision 7;
8 62E.05, subdivision 2; 62L.08, subdivision 8; 62Q.75,
9 subdivision 2, by adding a subdivision; 72A.201,
10 subdivision 4; 256B.692, subdivision 2; 295.582;
11 repealing Minnesota Statutes 2004, sections 62E.035;
12 62Q.095; 62Q.64.

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

14 Section 1. Minnesota Statutes 2004, section 45.0135,
15 subdivision 7, is amended to read:

16 Subd. 7. [ASSESSMENT.] Each insurer authorized to sell
17 insurance in the state of Minnesota shall remit an assessment to
18 the commissioner for deposit in the insurance fraud prevention
19 account on or before June 1 of each year. The amount of the
20 assessment shall be based on the insurer's total assets and on
21 the insurer's total written Minnesota premium, for the preceding
22 fiscal year, as reported pursuant to section 60A.13. The
23 assessment is calculated as follows:

Total Assets	Assessment
Less than \$100,000,000	\$ 200
\$100,000,000 to \$1,000,000,000	\$ 750
Over \$1,000,000,000	\$2,000

Minnesota Written Premium	Assessment
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1	Less than \$10,000,000	\$ 200
2	\$10,000,000 to \$100,000,000	\$ 750
3	Over \$100,000,000	\$2,000

4 For purposes of this subdivision, the following entities
5 are not considered to be insurers authorized to sell insurance
6 in the state of Minnesota: risk retention groups; or township
7 mutuals organized under chapter 67A; ~~or health-maintenance~~
8 ~~organizations-organized-under-chapter-62B.~~

9 Sec. 2. Minnesota Statutes 2004, section 62E.05,
10 subdivision 2, is amended to read:

11 Subd. 2. [ANNUAL REPORT.] ~~{a}-All-health-plan-companies,~~
12 ~~as-defined-in-section-62Q.01,-shall-annually-report-to-the~~
13 ~~commissioner-responsible-for-their-regulation;--The-following~~
14 ~~information-shall-be-reported-to-the-appropriate-commissioner-on~~
15 ~~February-1-of-each-year;~~

16 ~~{1}-the-number-of-individuals-and-groups-who-received~~
17 ~~coverage-in-the-prior-year-through-the-qualified-plans;-and~~
18 ~~{2}-the-number-of-individuals-and-groups-who-received~~
19 ~~coverage-in-the-prior-year-through-each-of-the-unqualified-plans~~
20 ~~sold-by-the-company;~~

21 {b} The state of Minnesota or any of its departments,
22 agencies, programs, instrumentalities, or political
23 subdivisions, shall report in writing to the association and to
24 the commissioner of commerce no later than September 15 of each
25 year regarding the number of persons and the amount of premiums,
26 deductibles, co-payments, or coinsurance that it paid for on
27 behalf of enrollees in the Comprehensive Health Association.
28 This report must contain only summary information and must not
29 include any individually identifiable data. The report must
30 cover the 12-month period ending the preceding June 30.

31 Sec. 3. Minnesota Statutes 2004, section 62L.08,
32 subdivision 8, is amended to read:

33 Subd. 8. [FILING REQUIREMENT.] ~~No-later-than-July-17-1993,~~
34 ~~and-each-year-thereafter,~~ A health carrier that offers, sells,
35 issues, or renews a health benefit plan for small employers
36 shall file with the commissioner the index rates and must

1 demonstrate that all rates shall be within the rating
 2 restrictions defined in this chapter. Such demonstration must
 3 include the allowable range of rates from the index rates and a
 4 description of how the health carrier intends to use demographic
 5 factors including case characteristics in calculating the
 6 premium rates. The rates shall not be approved, unless the
 7 commissioner has determined that the rates are reasonable. In
 8 determining reasonableness, the commissioner shall consider the
 9 growth rates applied under section 62J.04, subdivision 1,
 10 paragraph (b), to the calendar year or years that the proposed
 11 premium rate would be in effect, actuarially valid changes in
 12 risk associated with the enrollee population, and actuarially
 13 valid changes as a result of statutory changes in Laws 1992,
 14 chapter 549. ~~For-premium-rates-proposed-to-go-into-effect~~
 15 ~~between-July-17-1993-and-December-31-1993,-the-pertinent-growth~~
 16 ~~rate-is-the-growth-rate-applied-under-section-62J.04,~~
 17 ~~subdivision-1,-paragraph-(b),-to-calendar-year-1994-~~

18 Sec. 4. Minnesota Statutes 2004, section 62Q.75,
 19 subdivision 2, is amended to read:

20 Subd. 2. [CLAIMS PAYMENTS.] (a) This section applies to
 21 clean claims submitted to a health plan company or third-party
 22 administrator for services provided by any:

23 (1) health care provider, as defined in section 62Q.74, but
 24 does not include a provider licensed under chapter 151;

25 (2) home health care provider, as defined in section
 26 144A.43, subdivision 4; or

27 (3) health care facility.

28 All health plan companies and third-party administrators must
 29 pay or deny claims that are clean claims within 30 calendar days
 30 after the date upon which the health plan company or third-party
 31 administrator received the claim.

32 (b) The health plan company or third-party administrator
 33 shall, upon request, make available to the provider information
 34 about the status of a claim submitted by the provider consistent
 35 with section 62J.581.

36 (c) If a health plan company or third-party administrator

1 does not pay or deny a clean claim within the period provided in
2 paragraph (a), the health plan company or third-party
3 administrator must pay interest on the claim for the period
4 beginning on the day after the required payment date specified
5 in paragraph (a) and ending on the date on which the health plan
6 company or third-party administrator makes the payment or denies
7 the claim. In any payment, the health plan company or
8 third-party administrator must itemize any interest payment
9 being made separately from other payments being made for
10 services provided. The health plan company or third-party
11 administrator shall not require the health care provider to bill
12 the health plan company or third-party administrator for the
13 interest required under this section before any interest payment
14 is made. Interest payments must be made to the health care
15 provider no less frequently than quarterly.

16 (d) The rate of interest paid by a health plan company or
17 third-party administrator under this subdivision shall be 1.5
18 percent per month or any part of a month.

19 (e) A health plan company or third-party administrator is
20 not required to make an interest payment on a claim for which
21 payment has been delayed for purposes of reviewing potentially
22 fraudulent or abusive billing practices.

23 (f) The commissioner may assess a financial administrative
24 penalty against a health plan company for violation of this
25 subdivision when there is a pattern of abuse that demonstrates a
26 lack of good faith effort and a systematic failure of the health
27 plan company to comply with this subdivision.

28 Sec. 5. Minnesota Statutes 2004, section 62Q.75, is
29 amended by adding a subdivision to read:

30 Subd. 3. [CLAIMS FILING.] Unless otherwise provided by
31 contract, by section 16A.124, subdivision 4a, or by federal law,
32 the health care providers and facilities specified in
33 subdivision 2, must submit their charges to a health plan
34 company or third-party administrator within six months from the
35 date of service or the date the health care provider knew or was
36 informed of the correct name and address of the responsible

1 health plan company or third-party administrator, whichever is
2 later. A health care provider or facility that does not submit
3 charges within the six-month period shall not be reimbursed for
4 the charge and may not collect the charge from the recipient of
5 the service or any other payer. This subdivision also applies
6 to all health care providers and facilities that submit charges
7 to workers' compensation payers for treatment of a workers'
8 compensation injury compensable under chapter 176.

9 Sec. 6. Minnesota Statutes 2004, section 72A.201,
10 subdivision 4, is amended to read:

11 Subd. 4. [STANDARDS FOR CLAIM FILING AND HANDLING.] The
12 following acts by an insurer, an adjuster, a self-insured, or a
13 self-insurance administrator constitute unfair settlement
14 practices:

15 (1) except for claims made under a health-insurance policy
16 of accident and sickness insurance, after receiving notification
17 of claim from an insured or a claimant, failing to acknowledge
18 receipt of the notification of the claim within ten business
19 days, and failing to promptly provide all necessary claim forms
20 and instructions to process the claim, unless the claim is
21 settled within ten business days. The acknowledgment must
22 include the telephone number of the company representative who
23 can assist the insured or the claimant in providing information
24 and assistance that is reasonable so that the insured or
25 claimant can comply with the policy conditions and the insurer's
26 reasonable requirements. If an acknowledgment is made by means
27 other than writing, an appropriate notation of the
28 acknowledgment must be made in the claim file of the insurer and
29 dated. An appropriate notation must include at least the
30 following information where the acknowledgment is by telephone
31 or oral contact:

32 (i) the telephone number called, if any;

33 (ii) the name of the person making the telephone call or
34 oral contact;

35 (iii) the name of the person who actually received the
36 telephone call or oral contact;

1 (iv) the time of the telephone call or oral contact; and

2 (v) the date of the telephone call or oral contact;

3 (2) failing to reply, within ten business days of receipt,
4 to all other communications about a claim from an insured or a
5 claimant that reasonably indicate a response is requested or
6 needed;

7 (3)(i) unless provided otherwise by clause (ii) or (iii),
8 other law, or in the policy, failing to complete its
9 investigation and inform the insured or claimant of acceptance
10 or denial of a claim within 30 business days after receipt of
11 notification of claim unless the investigation cannot be
12 reasonably completed within that time. In the event that the
13 investigation cannot reasonably be completed within that time,
14 the insurer shall notify the insured or claimant within the time
15 period of the reasons why the investigation is not complete and
16 the expected date the investigation will be complete. For
17 claims made under a health policy of accident and sickness
18 insurance, the notification of claim must be in writing;

19 (ii) for claims submitted under a policy of accident and
20 sickness insurance, the insurer must comply with all of the
21 requirements of section 62Q.75. The commissioner may not assess
22 a financial administrative penalty against a health plan company
23 for violation of that section;

24 (iii) for claims submitted under a policy of accident and
25 sickness insurance that are accepted, the insurer must notify
26 the insured or claimant no less than semiannually of the
27 disposition of claims of the insured or claimant. For purposes
28 of this clause, acceptance of a claim means that there is no
29 additional financial liability for the insured or claimant,
30 either because there is a flat co-payment amount specified in
31 the health plan or because there is no co-payment, deductible,
32 or coinsurance owed;

33 (4) where evidence of suspected fraud is present, the
34 requirement to disclose their reasons for failure to complete
35 the investigation within the time period set forth in clause (3)
36 need not be specific. The insurer must make this evidence

1 available to the Department of Commerce if requested;

2 (5) failing to notify an insured who has made a
3 notification of claim of all available benefits or coverages
4 which the insured may be eligible to receive under the terms of
5 a policy and of the documentation which the insured must supply
6 in order to ascertain eligibility;

7 (6) unless otherwise provided by law or in the policy,
8 requiring an insured to give written notice of loss or proof of
9 loss within a specified time, and thereafter seeking to relieve
10 the insurer of its obligations if the time limit is not complied
11 with, unless the failure to comply with the time limit
12 prejudices the insurer's rights and then only if the insurer
13 gave prior notice to the insured of the potential prejudice;

14 (7) advising an insured or a claimant not to obtain the
15 services of an attorney or an adjuster, or representing that
16 payment will be delayed if an attorney or an adjuster is
17 retained by the insured or the claimant;

18 (8) failing to advise in writing an insured or claimant who
19 has filed a notification of claim known to be unresolved, and
20 who has not retained an attorney, of the expiration of a statute
21 of limitations at least 60 days prior to that expiration. For
22 the purposes of this clause, any claim on which the insurer has
23 received no communication from the insured or claimant for a
24 period of two years preceding the expiration of the applicable
25 statute of limitations shall not be considered to be known to be
26 unresolved and notice need not be sent pursuant to this clause;

27 (9) demanding information which would not affect the
28 settlement of the claim;

29 (10) unless expressly permitted by law or the policy,
30 refusing to settle a claim of an insured on the basis that the
31 responsibility should be assumed by others;

32 (11) failing, within 60 business days after receipt of a
33 properly executed proof of loss, to advise the insured of the
34 acceptance or denial of the claim by the insurer. No insurer
35 shall deny a claim on the grounds of a specific policy
36 provision, condition, or exclusion unless reference to the

1 provision, condition, or exclusion is included in the denial.
2 The denial must be given to the insured in writing with a copy
3 filed in the claim file;

4 (12) denying or reducing a claim on the basis of an
5 application which was altered or falsified by the agent or
6 insurer without the knowledge of the insured;

7 (13) failing to notify the insured of the existence of the
8 additional living expense coverage when an insured under a
9 homeowners policy sustains a loss by reason of a covered
10 occurrence and the damage to the dwelling is such that it is not
11 habitable;

12 (14) failing to inform an insured or a claimant that the
13 insurer will pay for an estimate of repair if the insurer
14 requested the estimate and the insured or claimant had
15 previously submitted two estimates of repair.

16 Sec. 7. Minnesota Statutes 2004, section 256B.692,
17 subdivision 2, is amended to read:

18 Subd. 2. [DUTIES OF THE COMMISSIONER OF HEALTH.] (a)
19 Notwithstanding chapters 62D and 62N, a county that elects to
20 purchase medical assistance and general assistance medical care
21 in return for a fixed sum without regard to the frequency or
22 extent of services furnished to any particular enrollee is not
23 required to obtain a certificate of authority under chapter 62D
24 or 62N. The county board of commissioners is the governing body
25 of a county-based purchasing program. In a multicounty
26 arrangement, the governing body is a joint powers board
27 established under section 471.59.

28 (b) A county that elects to purchase medical assistance and
29 general assistance medical care services under this section must
30 satisfy the commissioner of health that the requirements for
31 assurance of consumer protection, provider protection, and
32 fiscal solvency of chapter 62D, applicable to health maintenance
33 organizations, or chapter 62N, applicable to community
34 integrated service networks, will be met.

35 (c) A county must also assure the commissioner of health
36 that the requirements of sections 62J.041; 62J.48; 62J.71 to

1 62J.73; 62M.01 to 62M.16; all applicable provisions of chapter
 2 62Q, including sections 62Q.075; 62Q.1055; 62Q.106; 62Q.12;
 3 62Q.135; 62Q.14; 62Q.145; 62Q.19; 62Q.23, paragraph (c); 62Q.43;
 4 62Q.47; 62Q.50; 62Q.52 to 62Q.56; 62Q.58; ~~62Q.64~~; 62Q.68 to
 5 62Q.72; and 72A.201 will be met.

6 (d) All enforcement and rulemaking powers available under
 7 chapters 62D, 62J, 62M, 62N, and 62Q are hereby granted to the
 8 commissioner of health with respect to counties that purchase
 9 medical assistance and general assistance medical care services
 10 under this section.

11 (e) The commissioner, in consultation with county
 12 government, shall develop administrative and financial reporting
 13 requirements for county-based purchasing programs relating to
 14 sections 62D.041, 62D.042, 62D.045, 62D.08, 62N.28, 62N.29, and
 15 62N.31, and other sections as necessary, that are specific to
 16 county administrative, accounting, and reporting systems and
 17 consistent with other statutory requirements of counties.

18 Sec. 8. Minnesota Statutes 2004, section 295.582, is
 19 amended to read:

20 295.582 [AUTHORITY.]

21 (a) A hospital, surgical center, or health care provider
 22 that is subject to a tax under section 295.52, or a pharmacy
 23 that has paid additional expense transferred under this section
 24 by a wholesale drug distributor, may transfer additional expense
 25 generated by section 295.52 obligations on to all third-party
 26 contracts for the purchase of health care services on behalf of
 27 a patient or consumer. The additional expense transferred to
 28 the third-party purchaser must not exceed the tax percentage
 29 specified in section 295.52 multiplied against the gross
 30 revenues received under the third-party contract, and the tax
 31 percentage specified in section 295.52 multiplied against
 32 co-payments and deductibles paid by the individual patient or
 33 consumer. The expense must not be generated on revenues derived
 34 from payments that are excluded from the tax under section
 35 295.53. All third-party purchasers of health care services
 36 including, but not limited to, third-party purchasers regulated

1 under chapter 60A, 62A, 62C, 62D, 62H, 62N, 64B, 65A, 65B, 79,
2 or 79A, or under section 471.61 or 471.617, must pay the
3 transferred expense in addition to any payments due under
4 existing contracts with the hospital, surgical center, pharmacy,
5 or health care provider, to the extent allowed under federal
6 law. A third-party purchaser of health care services includes,
7 but is not limited to, a health carrier or community integrated
8 service network that pays for health care services on behalf of
9 patients or that reimburses, indemnifies, compensates, or
10 otherwise insures patients for health care services. A
11 third-party purchaser shall comply with this section regardless
12 of whether the third-party purchaser is a for-profit,
13 not-for-profit, or nonprofit entity. A wholesale drug
14 distributor may transfer additional expense generated by section
15 295.52 obligations to entities that purchase from the
16 wholesaler, and the entities must pay the additional expense.
17 Nothing in this section limits the ability of a hospital,
18 surgical center, pharmacy, wholesale drug distributor, or health
19 care provider to recover all or part of the section 295.52
20 obligation by other methods, including increasing fees or
21 charges.

22 ~~(b) Each third-party purchaser regulated under any chapter~~
23 ~~cited in paragraph (a) shall include with its annual renewal for~~
24 ~~certification of authority or licensure documentation indicating~~
25 ~~compliance with paragraph (a).~~

26 ~~(c)~~ Any hospital, surgical center, or health care provider
27 subject to a tax under section 295.52 or a pharmacy that has
28 paid additional expense transferred under this section by a
29 wholesale drug distributor may file a complaint with the
30 commissioner responsible for regulating the third-party
31 purchaser if at any time the third-party purchaser fails to
32 comply with paragraph (a).

33 ~~(d)~~ (c) If the commissioner responsible for regulating the
34 third-party purchaser finds at any time that the third-party
35 purchaser has not complied with paragraph (a), the commissioner
36 may take enforcement action against a third-party purchaser

1 which is subject to the commissioner's regulatory jurisdiction
2 and which does not allow a hospital, surgical center, pharmacy,
3 or provider to pass-through the tax. The commissioner may by
4 order fine or censure the third-party purchaser or revoke or
5 suspend the certificate of authority or license of the
6 third-party purchaser to do business in this state if the
7 commissioner finds that the third-party purchaser has not
8 complied with this section. The third-party purchaser may
9 appeal the commissioner's order through a contested case hearing
10 in accordance with chapter 14.

11 Sec. 9. [REPEALER.]

12 Minnesota Statutes 2004, sections 62E.035; 62Q.095; and
13 62Q.64, are repealed.

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62E.035 SELF-INSURER IDENTIFICATION AND REPORTING.

The commissioner shall require self-insurers to report annually that they are engaged in self-insurance business. These reports shall be for the previous calendar year and shall include the self-insurer's total cost of self-insurance and other information the commissioner may by rule require relating to the self-insurer's plan of health coverage. Upon request of the commissioner, the commissioner of revenue shall cooperate with the commissioner in the identification of self-insurers, and shall modify forms and promulgate rules as may be necessary to identify self-insurers. In adopting the forms and rules promulgated pursuant to this section the commissioner of revenue shall consult with the commissioner.

62Q.095 EXPANDED PROVIDER NETWORKS.

Subdivision 1. **Provider acceptance required.** Each health plan company, with the exception of any health plan company with 50,000 or fewer enrollees in its commercial health plan products and health plan companies that are exempt under subdivision 6, shall establish an expanded network of allied independent health providers, in addition to a preferred network. A health plan company shall accept as a provider in the expanded network any allied independent health provider who: (1) meets the health plan company's credentialing standards; (2) agrees to the terms of the health plan company's provider contract; and (3) agrees to comply with all managed care protocols of the health plan company. A preferred network shall be considered an expanded network if all allied independent health providers who meet the requirements of clauses (1), (2), and (3) are accepted into the preferred network. A community integrated service network may offer to its enrollees an expanded network of allied independent health providers as described under this section.

Subd. 2. **Managed care.** The managed care protocols used by the health plan company may include: (1) a requirement that an enrollee obtain a referral from the health plan company before obtaining services from an allied independent health provider in the expanded network; (2) limits on the number and length of visits to allied independent health providers in the expanded network allowed by each referral, as long as the number and length of visits allowed is not less than the number and length allowed for comparable referrals to allied independent health providers in the preferred network; and (3) ongoing management and review by the health plan company of the care provided by an allied independent health provider in the expanded network after a referral is made.

Subd. 3. **Mandatory offering to enrollees.** (a) Each health plan company shall offer to enrollees the option of receiving covered services through the expanded network of allied independent health providers established under subdivisions 1 and 2. This expanded network option may be offered as a separate health plan. The network may establish separate premium rates and cost-sharing requirements for this expanded network plan, as long as these premium rates and cost-sharing requirements are actuarially justified and approved by the commissioner. This subdivision does not apply to Medicare, medical assistance, general assistance medical care, and MinnesotaCare.

(b) Information on this expanded provider network option must be provided by each health plan company during open

APPENDIX
Repealed Minnesota Statutes for 05-0345

enrollment and upon enrollment.

Subd. 4. **Provider reimbursement.** A health plan company shall pay each allied independent health provider in the expanded network the same rate per unit of service as paid to allied independent health providers in the preferred network.

Subd. 5. **Definitions.** (a) For purposes of this section, the following definitions apply.

(b) "Allied independent health provider" means an independently enrolled audiologist, chiropractor, dietitian, home health care provider, licensed marriage and family therapist, nurse practitioner or advanced practice nurse, occupational therapist, optometrist, optician, outpatient chemical dependency counselor, pharmacist who is not employed by and based on the premises of a health plan company, physical therapist, podiatrist, licensed psychologist, psychological practitioner, licensed social worker, or speech therapist.

(c) "Home health care provider" means a provider of personal care assistance, home health aide, homemaker, respite care, adult day care, or home therapies and home health nursing services.

(d) "Independently enrolled" means that a provider can bill, and receive direct payment for services from, a third-party payer or patient.

Subd. 6. **Exemption.** A health plan company, to the extent that it operates as a staff model health plan company as defined in section 295.50, subdivision 12b, by employing allied independent health care providers to deliver health care services to enrollees, is exempt from this section.

62Q.64 DISCLOSURE OF EXECUTIVE COMPENSATION.

(a) Each health plan company doing business in this state shall annually file with the Consumer Advisory Board created in section 62J.75:

(1) a copy of the health plan company's form 990 filed with the federal Internal Revenue Service; or

(2) if the health plan company did not file a form 990 with the federal Internal Revenue Service, a list of the amount and recipients of the health plan company's five highest salaries, including all types of compensation, in excess of \$50,000.

(b) A filing under this section is public data under section 13.03.

Leclair

- 1 Senator moves to amend S.F. No. 1998 as follows:
- 2 Page 5, line 15, reinstate the stricken language
- 3 Page 5, line 16, delete the new language
- 4 Page 6, line 17, reinstate the stricken language and delete
- 5 the new language
- 6 Page 6, line 18, delete the new language
- 7 Page 6, line 19, after "a" insert "health" and delete "of
- 8 accident and"
- 9 Page 6, line 20, delete "sickness insurance"
- 10 Page 6, line 21, delete everything after the period
- 11 Page 6, delete lines 22 and 23
- 12 Page 6, line 24, after "a" insert "health" and delete "of
- 13 accident and"
- 14 Page 6, line 25, delete "sickness insurance"

Adopted 4-6-05

Leclair

1 Senator moves to amend S.F. No. 1998 as follows:

2 Page 3, after line 17, insert:

3 "Sec. 4. Minnesota Statutes 2004, section 62Q.75, is
4 amended to read:

5 62Q.75 [PROMPT PAYMENT REQUIRED.]

6 Subdivision 1. [DEFINITIONS.] (a) For purposes of this
7 section, the following terms have the meanings given to them.

8 (b) "Clean claim" means a claim that has no defect or
9 impropriety, including any lack of any required substantiating
10 documentation, including, but not limited to, coordination of
11 benefits information, or particular circumstance requiring
12 special treatment that prevents timely payment from being made
13 on a claim under this section. Nothing in this section alters
14 an enrollee's obligation to disclose information as required by
15 law.

16 (c) "Third-party administrator" means a third-party
17 administrator or other entity subject to section 60A.23,
18 subdivision 8, and Minnesota Rules, chapter 2767."

19 Page 3, delete lines 18 and 19

20 Page 4, delete lines 28 and 29

21 Renumber the sections in sequence and correct the internal
22 references

23 Amend the title accordingly

1 Senator *Leclair* moves to amend S.F. No. 1998 as follows:
2 Page 5, line 5, after the period, insert "The six-month
3 submission requirement may be extended to 12 months in cases
4 where a health care provider or facility specified in
5 subdivision 2 has determined and can substantiate that it has
6 experienced a significant disruption to normal operations that
7 materially affects the ability to conduct business in a normal
8 manner and to submit claims on a timely basis."

04/06/05

[COUNSEL] CBS

SCS1998A-5

Adopted

46-05

- 1 Senator *Michel* moves to amend S.F. No. 1998 as follows:
- 2 Page 5, line 8, before the period, insert ", or to
- 3 reparation obligors for treatment of an injury compensable under
- 4 chapter 65B"

**Senate Counsel, Research,
and Fiscal Analysis**

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Senate

State of Minnesota

S.F. No. 1462 - Insurance Regulation

Author: Senator Linda Scheid
Prepared by: Christopher B. Stang, Senate Counsel (651/296-0539)
Date: April 4, 2005

Section 1 requires that an insurance company post the policy form on its Web site, rather than issue a new policy once every five years, if the policy has been renewed continuously without any changes in the policy form.

Section 2 requires a \$75 filing fee for filing the new compliance certification provided for in section 3 of this bill.

Section 3 governs expedited form and rate filing.

Subdivision 1 permits an insurer or rate service organization that is otherwise required to file policy forms and premium rates for homeowners and personal auto insurance policies with the Department of Commerce to instead use the expedited procedure permitted under this section.

Subdivision 2 permits insurers (as an alternative to filing the policy form and premium rates) to file with the department a description of the insurance product and a written certification, signed by an officer of the company, stating that the product and the premium rates to be used with it comply with state law. If the filing affects premium rates, the filing must identify the rates and the rating rules that apply to them. The insurer may use the forms and rates covered by this certification as soon as the department receives the certification. This procedure may be used for a new product or for a change in an existing product.

Subdivision 3 requires that the applicable filing fee be paid in order for the filing of the certification to be effective.

Subdivision 4 requires the insurer or rate service organization that files the certification under this section to keep the actual form for one year after it is no longer used and to provide a copy of it to the department upon request.

Subdivision 5 permits the department to review any premium rate used or filed to determine whether it is excessive, inadequate, or unfairly discriminatory.

Section 4 eliminates a requirement that, before terminating its relationship with a property and casualty insurance agent, an insurance company must attempt to work out a plan to “rehabilitate” the agent. Reduces the notice of termination period from 90 days to 60 days.

Section 5 provides that in a termination situation described in the preceding section, the insurer is required to renew existing insurance policies written by that agent for an additional 18 months, instead of the current nine months. Prohibits reducing the terminated agent’s commissions on the renewal business, unless the company is doing so for other agents at the same time.

Section 6 provides that commercial insurance policies that include coverage under the federal Terrorism Risk Insurance Act are not subject to a law that requires 60-day notice if a renewal is going to be on less favorable terms than the existing policy.

Section 7 permits an insurance agent who orally agrees to provide insurance coverage to issue a binder of coverage to the insured electronically instead of in traditional paper form. Changes the time requirement from three business days to five. Provides that the agent does not have to issue the binder if the insurer does it. Requires the insurer to provide a binder to the insured upon request.

Section 8 provides that life insurance companies do not need to file life insurance policies and annuity contract forms with the department for the standard prior approval process if the insurer chooses instead to use the expedited procedure created in the next section.

Section 9 permits an insurer to file a proposed life insurance or annuity contract form with the commissioner for review by an actuary selected by the commissioner. Requires that the review by the actuary be completed within 60 days and the cost of the review be paid by the insurer. If an insurer submits a proposed form that has been previously disapproved, requires that the cover letter say so, point out the changes the company has made in the form, and explain why the company thinks the form should now be approved. If a form is disapproved under this procedure, permits the insurer to appeal within ten days, requires the department to schedule a hearing within 20 days after receiving the appeal, requires the hearing to take place within 30 days after the date the department announces the date, and requires ten days written notice of the hearing to all interested parties. Permits the hearing officer to hold a pre-hearing conference no later than three days before the hearing. Requires that all actuaries used by the department under this procedure be members of the American Academy of Actuaries, with at least five years experience in annuity pricing. If the department does not have an actuary with the required experience, requires the department to contract with other actuaries to perform the reviews under this procedure.

Section 10 permits insurance companies to use for long-term care insurance the expedited procedure permitted under section 3 of this bill for auto and homeowner's insurance.

Section 11 is a conforming change.

Section 12 provides that an authorization given to an insurance company to collect information on an applicant for coverage, reinstatement, or a change in benefits, remains in effect so long as the person remains continually insured with the company. Under current law, the authorization ends for life and health coverage after 26 months. For property and casualty coverage, the authorization ends under current law after one year or the date the insurer approves or denies the request that led to the authorization, whichever comes first. The new paragraph (d) provides that certain portions of the Insurance Fair Information Reporting Act do not apply to consumer reports, credit scores, or insurance scores, if used by an insurance company solely for the purpose of underwriting and rating, if the company or agent informs the policyholder or prospective policyholder that the information will be used solely for that purpose. States that paragraph (d) is intended to clarify current law.

Section 13 conforms to section 4 by repealing a law relating to rehabilitation of property and casualty insurance agents.

Section 14 makes sections relating to the expedited procedures effective immediately and apply to filings made on or after that date.

CBS:dv

Senators Scheid, Sparks, Michel, Metzen and Larson introduced--
S.F. No. 1462: Referred to the Committee on Commerce.

1 A bill for an act

2 relating to insurance; regulating certain fees, rate
3 filings, and policy renewals and alterations;
4 regulating the collection of certain information;
5 amending Minnesota Statutes 2004, sections 60A.08,
6 subdivision 3; 60A.14, subdivision 1; 60A.171,
7 subdivisions 1, 2; 60A.351; 60K.46, subdivision 7;
8 61A.02, subdivision 2, by adding a subdivision;
9 62A.02, subdivision 1; 70A.06, subdivision 1; 72A.501,
10 subdivision 2; proposing coding for new law in
11 Minnesota Statutes, chapter 60A; repealing Minnesota
12 Statutes 2004, section 60A.171, subdivision 4.

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

14 Section 1. Minnesota Statutes 2004, section 60A.08,
15 subdivision 3, is amended to read:

16 Subd. 3. [RENEWAL; NEW POLICY.] Any insurance policy
17 terminating by its provisions at a specified expiration date or
18 limited as to term by any statute and not otherwise renewable
19 may be renewed or extended at the option of the insurer, at the
20 premium rate then required therefor, for a specific additional
21 period or periods by a certificate, and without requiring the
22 issuance of a new policy ~~more-than-once-in-any-five-year~~
23 period. The insurer must also post this information on its Web
24 site.

25 Sec. 2. Minnesota Statutes 2004, section 60A.14,
26 subdivision 1, is amended to read:

27 Subdivision 1. [FEES OTHER THAN EXAMINATION FEES.] In
28 addition to the fees and charges provided for examinations, the
29 following fees must be paid to the commissioner for deposit in

1 the general fund:

2 (a) by township mutual fire insurance companies;

3 (1) for filing certificate of incorporation \$25 and
4 amendments thereto, \$10;

5 (2) for filing annual statements, \$15;

6 (3) for each annual certificate of authority, \$15;

7 (4) for filing bylaws \$25 and amendments thereto, \$10;

8 (b) by other domestic and foreign companies including
9 fraternal and reciprocal exchanges;

10 (1) for filing certified copy of certificate of articles of
11 incorporation, \$100;

12 (2) for filing annual statement, \$225;

13 (3) for filing certified copy of amendment to certificate
14 or articles of incorporation, \$100;

15 (4) for filing bylaws, \$75 or amendments thereto, \$75;

16 (5) for each company's certificate of authority, \$575,
17 annually;

18 (c) the following general fees apply:

19 (1) for each certificate, including certified copy of
20 certificate of authority, renewal, valuation of life policies,
21 corporate condition or qualification, \$25;

22 (2) for each copy of paper on file in the commissioner's
23 office 50 cents per page, and \$2.50 for certifying the same;

24 (3) for license to procure insurance in unadmitted foreign
25 companies, \$575;

26 (4) for valuing the policies of life insurance companies,
27 one cent per \$1,000 of insurance so valued, provided that the
28 fee shall not exceed \$13,000 per year for any company. The
29 commissioner may, in lieu of a valuation of the policies of any
30 foreign life insurance company admitted, or applying for
31 admission, to do business in this state, accept a certificate of
32 valuation from the company's own actuary or from the
33 commissioner of insurance of the state or territory in which the
34 company is domiciled;

35 (5) for receiving and filing certificates of policies by
36 the company's actuary, or by the commissioner of insurance of

1 any other state or territory, \$50;

2 (6) for each appointment of an agent filed with the
3 commissioner, \$10;

4 (7) for filing forms and, rates, and compliance
5 certifications under section 60A.315, \$75 per filing, which may
6 be paid on a quarterly basis in response to an invoice. Billing
7 and payment may be made electronically;

8 (8) for annual renewal of surplus lines insurer license,
9 \$300;

10 (9) \$250 filing fee for a large risk alternative rating
11 option plan that meets the \$250,000 threshold requirement.

12 The commissioner shall adopt rules to define filings that
13 are subject to a fee.

14 Sec. 3. [60A.315] [EXPEDITED FORM AND RATE FILING.]

15 Subdivision 1. [AUTHORITY.] An insurer or rate service
16 organization otherwise required to file rates and forms under
17 section 70A.06 may use the expedited filing procedure under this
18 section for homeowner's insurance and automobile insurance.

19 Subd. 2. [COMPLIANCE CERTIFICATIONS.] An insurer or rate
20 service organization shall file with the Department of Commerce
21 on a prescribed form a description of the policy, amendment, or
22 endorsement and a written certification signed by an officer of
23 the insurer that the forms, policies, amendments, endorsements,
24 and rates comply with all applicable Minnesota statutes and
25 rules. If the filing will impact rates, the description must
26 identify the rate or rates and rating rules for the product.
27 Forms and rates filed under this procedure are effective upon
28 submission to and receipt by the department.

29 Subd. 3. [FEES.] In order to be effective, the filing must
30 be accompanied by payment of the filing fee applicable to the
31 policy, amendment, endorsement, or rate unless the fee is
32 remitted in accordance with an alternative procedure allowed
33 under section 60A.14.

34 Subd. 4. [RECORD KEEPING.] The insurer or rate service
35 organization shall retain the policy, amendment, or endorsement
36 for at least one year after the insurer or rate service

1 organization had ceased using the form and shall provide to the
 2 Department of Commerce upon request a copy of any form in use
 3 pursuant to these filing procedures.

4 Subd. 5. [REVIEW.] The commissioner of commerce may review
 5 any rate used or filed for use in Minnesota to determine whether
 6 it is excessive, inadequate, or unfairly discriminatory.

7 Sec. 4. Minnesota Statutes 2004, section 60A.171,
 8 subdivision 1, is amended to read:

9 Subdivision 1. [TERMINATION RIGHTS AND OBLIGATIONS.] (a)
 10 After an agency contractual relationship has been in effect for
 11 a period of three years, an insurance company writing fire or
 12 casualty loss insurance in this state may not terminate the
 13 agency contractual relationship with any appointed agent unless
 14 the company has attempted-to-rehabilitate-the-agent-as-provided
 15 in-subdivision-4.--The-insurer-shall-provide-written-notice-of
 16 intent-to-rehabilitate-

17 ~~(b)-If-the-agent-and-company-are-not-able-to-reach-a~~
 18 ~~mutually-acceptable-plan-of-rehabilitation,-the-company-may~~
 19 ~~terminate-the-agency-contractual-relationship-after-providing~~
 20 provided written notice of termination to the agent at least 90
 21 60 days in advance of the effective date of the termination.

22 ~~(c)~~ (b) The notice of termination must include the reasons
 23 for termination ~~and-a-copy-of-the-notice-of-intent-to~~
 24 rehabilitate.

25 ~~(d)~~ (c) An insurance company may not terminate an agency
 26 contract based upon any of the following:

27 (1) an adverse loss experience for a single year;

28 (2) the geographic location of the agent's auto and
 29 homeowners insurance business; or

30 (3) the performance of obligations required of an insurer
 31 under Minnesota Statutes.

32 ~~(e)~~ (d) For purposes of this section, "fire or casualty
 33 loss insurance" means any line of insurance which an insurance
 34 agent with a personal lines, property, or casualty license under
 35 sections 60K.30 to 60K.56 may write in this state.

36 Sec. 5. Minnesota Statutes 2004, section 60A.171,

1 subdivision 2, is amended to read:

2 Subd. 2. [AGENT REQUEST TO RENEW INSURANCE CONTRACT.] The
3 company shall at the request of the agent renew any insurance
4 contract written by the agent for the company for not more than
5 one year for fire or casualty loss insurance during a period
6 of ~~nine~~ 18 months after the effective date of the termination,
7 but in the event any risk does not meet current underwriting
8 standards of the company, the company may decline its renewal,
9 provided that the company shall give the agent not less than 60
10 days' notice of its intention not to renew the contract of
11 insurance. The company shall not reduce the agent's
12 commissions, unless the company is reducing the commissions for
13 other appointed agents in the state at the same time.

14 Sec. 6. Minnesota Statutes 2004, section 60A.351, is
15 amended to read:

16 60A.351 [RENEWAL OF INSURANCE POLICY WITH ALTERED RATES.]

17 If an insurance company licensed to do business in this
18 state offers or purports to offer to renew any commercial
19 liability and/or property insurance policy at less favorable
20 terms as to the dollar amount of coverage or deductibles, higher
21 rates, and/or higher rating plan, the new terms, the new rates
22 and/or rating plan may take effect on the renewal date of the
23 policy if the insurer has sent to the policyholder notice of the
24 new terms, new rates and/or rating plan at least 60 days prior
25 to the expiration date. If the insurer has not so notified the
26 policyholder, the policyholder may elect to cancel the renewal
27 policy within the 60-day period after receipt of the notice.
28 Earned premium for the period of coverage, if any, shall be
29 calculated pro rata upon the prior rate: This subdivision
30 section does not apply to ocean marine insurance, accident and
31 health insurance, and reinsurance, and coverage under the
32 federal Terrorism Risk Insurance Act.

33 This section does not apply if the change relates to guide
34 "a" rates or excess rates also known as "consent to rates" or if
35 there has been any change in the risk insured.

36 Sec. 7. Minnesota Statutes 2004, section 60K.46,

1 subdivision 7, is amended to read:

2 Subd. 7. [ALTERING EXISTING POLICIES; WRITTEN BINDERS
3 REQUIRED.] An insurance producer having express authority to
4 bind coverage, who orally agrees on behalf of an insurer to
5 provide insurance coverage, or to alter an existing insurance
6 agreement, shall execute and deliver forward a written
7 memorandum or binder containing the terms of the oral agreement
8 to the insured within three five business days from the time the
9 oral agreement is entered, unless the insurer forwards the
10 information. The memorandum of coverage or binder may be
11 forwarded by mail, facsimile, or electronically. A memorandum
12 of coverage or binder must be provided by the insurer to the
13 policyholder upon request.

14 Sec. 8. Minnesota Statutes 2004, section 61A.02,
15 subdivision 2, is amended to read:

16 Subd. 2. [APPROVAL REQUIRED.] Except as otherwise
17 authorized pursuant to subdivision 2a, no policy or certificate
18 of life insurance or annuity contract, issued to an individual,
19 group, or multiple employer trust, nor any rider of any kind or
20 description which is made a part thereof shall be issued or
21 delivered in this state, or be issued by a life insurance
22 company organized under the laws of this state, until the form
23 of the same has been approved by the commissioner. In making a
24 determination under this section, the commissioner may require
25 the insurer to provide rates and advertising materials related
26 to policies or contracts, certificates, or similar evidence of
27 coverage issued or delivered in this state.

28 Subdivisions 1 to 5 apply to a policy, certificate of
29 insurance, or similar evidence of coverage issued to a Minnesota
30 resident or issued to provide coverage to a Minnesota resident.
31 Subdivisions 1 to 5 do not apply to a certificate of insurance
32 or similar evidence of coverage that meets the conditions of
33 section 61A.093, subdivision 2.

34 Sec. 9. Minnesota Statutes 2004, section 61A.02, is
35 amended by adding a subdivision to read:

36 Subd. 2a. [EXPEDITED PROCEDURE FOR LIFE OR ANNUITY

1 CONTRACTS.] (a) An insurer may file a life or annuity contract
2 form and all related riders of any kind or description with the
3 commissioner for a review under this subdivision by an actuary
4 specified by the commissioner. The review must be completed
5 within 60 days of a completed filing. The cost of this review
6 must be paid by the insurer submitting the filing under this
7 subdivision.

8 (b) If a filing has been disapproved and is resubmitted,
9 the cover letter must note the disapproval and any changes made
10 since the earlier filing, with an explanation of why the new
11 filing should be approved. Resubmission of disapproved forms
12 should, where possible, be made within 90 days of disapproval.

13 (c) The filer may request a hearing within ten days of
14 receiving a final disapproval. Within 20 days of the receipt of
15 the request, the commissioner shall schedule a date for the
16 hearing, which must occur within 30 days of the scheduling. At
17 least ten days' written notice of the hearing must be given to
18 all interested parties.

19 (d) The hearing officer may order a prehearing conference
20 for the resolution or simplification of issues, to be held no
21 less than three days before the scheduled date of a hearing.

22 (e) All actuaries used by the commissioner to review rate
23 applications submitted by insurers pursuant to this subdivision,
24 whether employed by the department or secured by contract, must
25 be members of the American Academy of Actuaries with at least
26 five years' relevant experience in annuity pricing. If the
27 department does not have actuaries with the experience required
28 by this subdivision, the commissioner shall contract with
29 actuaries to review all rate applications submitted by insurers
30 pursuant to this subdivision.

31 Sec. 10. Minnesota Statutes 2004, section 62A.02,
32 subdivision 1, is amended to read:

33 Subdivision 1. [FILING.] For purposes of this section,
34 "health plan" means a health plan as defined in section 62A.011
35 or a policy of accident and sickness insurance as defined in
36 section 62A.01. No health plan shall be issued or delivered to

1 any person in this state, nor shall any application, rider, or
2 endorsement be used in connection with the health plan, until a
3 copy of its form and of the classification of risks and the
4 premium rates pertaining to the form have been filed with the
5 commissioner. The filing for nongroup health plan forms shall
6 include a statement of actuarial reasons and data to support the
7 rate. For health benefit plans as defined in section 62L.02,
8 and for health plans to be issued to individuals, the health
9 carrier shall file with the commissioner the information
10 required in section 62L.08, subdivision 8. For group health
11 plans for which approval is sought for sales only outside of the
12 small employer market as defined in section 62L.02, this section
13 applies only to policies or contracts of accident and sickness
14 insurance. All forms intended for issuance in the individual or
15 small employer market must be accompanied by a statement as to
16 the expected loss ratio for the form. Premium rates and forms
17 relating to specific insureds or proposed insureds, whether
18 individuals or groups, need not be filed, unless requested by
19 the commissioner. Notwithstanding the requirements of this
20 section, an insurer issuing a long-term care policy, as defined
21 in section 62A.46 or 62S.01, may elect to use the expedited form
22 and rate filing procedure under section 60A.315.

23 Sec. 11. Minnesota Statutes 2004, section 70A.06,
24 subdivision 1, is amended to read:

25 Subdivision 1. [GENERALLY.] ~~Every licensed insurer and~~
26 ~~every rate service organization licensed under section 70A.14,~~
27 and every licensed insurer except as otherwise provided in
28 section 60A.315, shall file with the commissioner all rates and
29 all changes and amendments of rates made by it for use in this
30 state not later than their effective date. No rates contained
31 in a filing shall become effective unless they have been filed
32 with the commissioner. In any filing, the commissioner may
33 require the insurer or rate service organization to file
34 supporting data and explanatory data which shall include:

35 (1) the experience and judgment of the filer, and, to the
36 extent it wishes or the commissioner requires, of other insurers

1 or rate service organizations;

2 (2) its interpretation of any statistical data relied upon;

3 (3) descriptions of the actuarial and statistical methods
4 employed; and

5 (4) any other matters deemed relevant by the commissioner
6 or the filer.

7 Notwithstanding the foregoing, if the supporting data is
8 not filed within 30 days after so requested by the commissioner,
9 the rate is no longer effective and is presumed to be an
10 excessive rate.

11 Sec. 12. Minnesota Statutes 2004, section 72A.501,
12 subdivision 2, is amended to read:

13 Subd. 2. [APPLICATION.] (a) If the authorization is signed
14 to collect information in connection with an application for a
15 property and casualty insurance policy, a policy reinstatement,
16 or a request for a change in benefits, the authorization must
17 ~~not-remain~~ is ~~valid for-longer-than-one-year-from-the-date-the~~
18 ~~authorization-is-signed-or-the-date-the-insurer-grants-or-denies~~
19 ~~coverage,-reinstatement,-or-change-in-benefits,-whichever-is~~
20 ~~sooner~~ as long as the individual is continually insured with the
21 insurer.

22 (b) If the authorization is signed to collect information
23 in connection with an application for a life, disability, and
24 health insurance policy or contract, reinstatement, or request
25 for change in benefits, the authorization ~~may-not-remain~~ is
26 ~~valid for-longer-than-26-months-from-the-date-the-authorization~~
27 ~~is-signed~~ as long as the individual is continually insured with
28 the insurer.

29 (c) This section and section 72A.502, subdivisions 1 and
30 12, do not apply to the collection and use of a numeric product
31 referred to as an insurance score or credit score that is used
32 by a licensed insurance agent exclusively for the purpose of
33 underwriting or rating an insurance policy, if the agent informs
34 the policyholder or prospective policyholder requesting the
35 insurance coverage that an insurance score or credit score will
36 be obtained for the purpose of underwriting or rating the policy.

1 (d) This section and section 72A.502, subdivisions 1 and
2 12, do not apply to the collection and use of a consumer report,
3 information from a consumer report, or a numeric product
4 referred to as an insurance score or credit score, that is used
5 by a licensed insurer exclusively for the purpose of
6 underwriting or rating an insurance policy, if the insurer or a
7 licensed insurance agent acting on behalf of the insurer informs
8 the policyholder or prospective policyholder requesting the
9 insurance coverage that a consumer report information from a
10 consumer report, or a numeric product referred to as an
11 insurance score or credit score, will be obtained for the
12 purpose of underwriting or rating the policy. This paragraph is
13 intended to clarify the provisions of this section and section
14 72A.502, subdivisions 1 and 12, which do not apply to the
15 disclosure and collection of consumer report information.

16 Sec. 13. [REPEALER.]

17 Minnesota Statutes 2004, section 60A.171, subdivision 4, is
18 repealed.

19 Sec. 14. [EFFECTIVE DATE; APPLICATION.]

20 Sections 2, 3, 9, 10, and 11 are effective the day
21 following final enactment and apply to filings made on or after
22 that date.

APPENDIX
Repealed Minnesota Statutes for 05-1916

60A.171 REHABILITATION AND CANCELLATION OF INDEPENDENT AGENT CONTRACTS BY INSURANCE COMPANIES.

Subd. 4. Rehabilitation plan. (a) Before notice of termination of the agency contract, the company shall negotiate in good faith in an effort to reach mutual agreement with the agent on a written plan for rehabilitation.

(b) The rehabilitation plan must be in writing and must contain the following elements:

(1) identification by the company of the problem areas which need rehabilitation;

(2) what the agent must do to avoid termination;

(3) how the company intends to assist the agent to avoid termination;

(4) the mutually agreed upon corrective action to be undertaken by the agent and the specific target dates for accomplishment;

(5) periodic meeting dates at which the status of rehabilitation will be reviewed; and

(6) the term of the written plan which must extend for at least one year.

(c) All agency contracts in existence on May 13, 1987, are subject to the rehabilitation requirement under subdivision 1. The rehabilitation plan need not be incorporated into the agency contract.

Scheid

1 Senator moves to amend S.F. No. 1462 as follows:

2 Page 1, delete lines 16 to 24, and insert:

3 "Subd. 3. [RENEWAL; NEW POLICY.] Any insurance policy
4 terminating by its provisions at a specified expiration date or
5 limited as to term by any statute and not otherwise renewable
6 may be renewed or extended at the option of the insurer, at the
7 premium rate then required therefor, for a specific additional
8 period or periods by a certificate, and without requiring the
9 issuance of a new policy ~~more-than-once-in-any-five-year~~
10 period. The insurer must also post the current policy form on
11 its Web site, or must inform the policyholder annually in
12 writing that a copy of the current policy form is available on
13 request."

14 Page 3, line 16, delete "under"

15 Page 3, line 17, delete "section 70A.06"

16 Page 3, line 23, after "insurer" insert "or the rate
17 service organization" and delete everything after "amendments,"
18 and insert "and endorsements"

19 Page 3, line 24, delete "and rates" and delete everything
20 after "statutes"

21 Page 3, delete lines 25 to 28 and insert "rules, and case
22 law. If the filing will impact rates, the filing must comply
23 with section 70A.06, subdivisions 1 and 1a. Forms and rates
24 filed under this procedure are effective upon receipt by the
25 department. Anyone using the expedited filing procedures
26 authorized by this section must provide copies of the form
27 filings within 24 hours of receiving a request from the
28 commissioner. Insurers may comply with this requirement by
29 providing the form filings in paper or electronic format.

30 Subd. 3. [APPLICATION OF LAW.] If an insurer uses the
31 services of a rate service organization for purposes of filing a
32 certificate of compliance under this section, the certification
33 by the rate service organization under subdivision 2 does not
34 excuse the insurer from its obligation to ensure that its filing
35 complies with all applicable Minnesota statutes, rules, and case
36 law."

1 Page 3, line 36, delete "one year" and insert "five years"

2 Page 4, delete lines 4 to 6, and insert:

3 "Subd. 5. [AUDITS; PENALTIES.] The commissioner is
4 authorized to conduct audits and investigations under section
5 45.027 and this chapter to determine if the insurers are
6 complying with Minnesota law in the issuance of policies
7 described under this section. If the policy filings contain
8 provisions that are inconsistent with or violate Minnesota law,
9 the commissioner may take action against the insurer under
10 section 45.027. ~~If a violation of Minnesota law is found, the~~
11 commissioner shall assess the insurer for the costs of the
12 investigation performed by the department and shall deposit all
13 such assessments into the revolving fund established under
14 section 60A.03."

15 Page 7, delete lines 1 to 5 and insert "CONTRACTS; FORM AND
16 RATE FILING REVIEWS.] (a) An insurer may file a life or annuity
17 contract, rates, or forms and all related riders of any kind or
18 description with the commissioner for a review under this
19 subdivision. Any review must be completed within 60 days of
20 receipt of a completed filing. The cost of any actuarial review"

21 Page 7, line 18, after the period, insert "All hearings
22 must be conducted in accordance with chapter 14."

23 Page 7, delete lines 25 to 30 and insert "be members of the
24 American Academy of Actuaries. The commissioner may contract
25 with actuaries to review rate applications submitted by insurers
26 under this subdivision, and shall assess the applicant for the
27 costs of this review. Payments received by the commissioner
28 under this subdivision shall be deposited in the revolving fund
29 established under section 60A.03."

30 Pages 7 to 10, delete sections 10 to 12

31 Renumber the sections in sequence and correct the internal
32 references

33 Amend the title accordingly



Insurance Regulatory Modernization Act

H.F. 1669 (Wilkin, R-Eagan)/S.F. 1462 (Scheid, DFL-Brooklyn Park)

Minnesota's insurance industry, both companies and agents, have joined forces to introduce this bill, aimed at modernizing and updating key areas of our insurance laws. There are a significant number of insurance jobs in our state, more than 65,000, that are vitally important to the health of our state's economy. Competition for those jobs has become very intense.

Minnesota has experienced significant job losses in recent years. Neighboring states are aggressively trying to recruit jobs out of Minnesota. One key area that is increasingly important is the status of the state insurance laws impacting product development and competition.

Minnesota's current law has weaknesses that must be addressed to help maintain the strength and size of the insurance industry in our state.

H.F. 1669/S.F. 1462 contains reforms that target regulatory modernizations without diminishing the strong and often unique consumer protections that have been part of our insurance laws for years. A number of our laws were enacted before the evolution to electronic commerce and the nationwide deregulation of the financial services marketplace, which today bears little resemblance to what existed 10 years ago.

H.F. 1669/S.F. 1462 contains a 'file and use' system for auto and homeowners insurance, optional expedited filing procedure for life, annuity and long-term care insurance where the insurer pays for outside expertise that the Commerce Department would contract with, electronic insurance binders and a new simplified procedure for terminating independent agents.

1 Senator Scheid from the Committee on Commerce, to which was
2 referred

3 S.F. No. 1462: A bill for an act relating to insurance;
4 regulating certain fees, rate filings, and policy renewals and
5 alterations; regulating the collection of certain information;
6 amending Minnesota Statutes 2004, sections 60A.08, subdivision
7 3; 60A.14, subdivision 1; 60A.171, subdivisions 1, 2; 60A.351;
8 60K.46, subdivision 7; 61A.02, subdivision 2, by adding a
9 subdivision; 62A.02, subdivision 1; 70A.06, subdivision 1;
10 72A.501, subdivision 2; proposing coding for new law in
11 Minnesota Statutes, chapter 60A; repealing Minnesota Statutes
12 2004, section 60A.171, subdivision 4.

13 Reports the same back with the recommendation that the bill
14 be amended as follows:

15 Page 1, delete lines 16 to 24 and insert:

16 "Subd. 3. [RENEWAL; NEW POLICY.] Any insurance policy
17 terminating by its provisions at a specified expiration date or
18 limited as to term by any statute and not otherwise renewable
19 may be renewed or extended at the option of the insurer, at the
20 premium rate then required therefor, for a specific additional
21 period or periods by a certificate, and without requiring the
22 issuance of a new policy ~~more-than-once-in-any-five-year~~
23 period. The insurer must also post the current policy form on
24 its Web site, or must inform the policyholder annually in
25 writing that a copy of the current policy form is available on
26 request."

27 Page 3, line 16, delete "under"

28 Page 3, line 17, delete "section 70A.06"

29 Page 3, line 23, after "insurer" insert "or the rate
30 service organization" and delete everything after "amendments,"
31 and insert "and endorsements"

32 Page 3, line 24, delete "and rates" and delete everything
33 after "statutes"

34 Page 3, delete lines 25 to 28 and insert ", rules, and case
35 law. If the filing will impact rates, the filing must comply
36 with section 70A.06, subdivisions 1 and 1a. Forms and rates
37 filed under this procedure are effective upon receipt by the
38 department. Anyone using the expedited filing procedures
39 authorized by this section must provide copies of the form
40 filings within 24 hours of receiving a request from the
41 commissioner. Insurers may comply with this requirement by

1 providing the form filings in paper or electronic format.

2 Subd. 3. [APPLICATION OF LAW.] If an insurer uses the
3 services of a rate service organization for purposes of filing a
4 certificate of compliance under this section, the certification
5 by the rate service organization under subdivision 2 does not
6 excuse the insurer from its obligation to ensure that its filing
7 complies with all applicable Minnesota statutes, rules, and case
8 law."

9 Page 3, line 29, delete "3" and insert "4"

10 Page 3, line 34, delete "4" and insert "5"

11 Page 3, line 36, delete "one year" and insert "five years"

12 Page 4, delete lines 4 to 6 and insert:

13 "Subd. 6. [AUDITS; PENALTIES.] The commissioner is
14 authorized to conduct audits and investigations under section
15 45.027 and this chapter to determine if the insurers are
16 complying with Minnesota law in the issuance of policies
17 described under this section. If the policy filings contain
18 provisions that are inconsistent with or violate Minnesota law,
19 the commissioner may take action against the insurer under
20 section 45.027. The commissioner shall assess the insurer for
21 the costs of the investigation performed by the department and
22 shall deposit all such assessments into the revolving fund
23 established under section 60A.03."

24 Page 7, delete lines 1 to 5 and insert "CONTRACTS; FORM AND
25 RATE FILING REVIEWS.] (a) An insurer may file a life or annuity
26 contract, rates, or forms and all related riders of any kind or
27 description with the commissioner for a review under this
28 subdivision. Any review must be completed within 60 days of
29 receipt of a completed filing. The cost of any actuarial review"

30 Page 7, line 18, after the period, insert "All hearings
31 must be conducted in accordance with chapter 14."

32 Page 7, delete lines 25 to 30 and insert "be members of the
33 American Academy of Actuaries. The commissioner may contract
34 with actuaries to review rate applications submitted by insurers
35 under this subdivision, and shall assess the applicant for the
36 costs of this review. Payments received by the commissioner

1 under this subdivision shall be deposited in the revolving fund
2 established under section 60A.03."

3 Pages 7 to 10, delete sections 10 to 12

4 Page 10, line 20, delete ", 9, 10, and 11" and insert "and
5 9"

6 Renumber the sections in sequence

7 Amend the title as follows:

8 Page 1, delete line 9

9 Page 1, line 10, delete "subdivision 2;"

10 And when so amended the bill do pass. Amendments adopted.
11 Report adopted.

Amida Scheig.....
(Committee Chair)

April 6, 2005.....
(Date of Committee recommendation)

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