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Senate

State of Minnesota

S.F. No. 2898 - Long-Term Care Partnership Program (second engrossment)

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Date: April 25, 2006

S.F. No. 2898 modifies state law as required by recent federal legislation in order to allow implementation of a Long-Term Care Partnership Program under which persons who exhaust the benefits of a qualifying long-term care insurance policy are permitted, when applying for Medical Assistance (MA) payment of long-term care services, to protect from MA recovery an amount of assets equal to the policy benefits utilized.

Article 1

Qualified Long-Term Care Insurance Regulatory Changes

This article modifies Chapter 62S, which regulates long-term care insurance in Minnesota. All of the changes are mandated by federal law in order to permit the state to implement the long-term care partnership program. The most significant changes are to (1) increase consumer disclosures; (2) require development of product suitability standards; and (3) require new insurance agent training. Numerous technical regulatory changes are made to reflect the current National Association of Insurance Commissioners (NAIC) model law.

Section 1 (62S.05, subdivision 4) allows the Commissioner of Commerce to extend the six-month pre-existing condition limitations period as to specific age group categories upon finding the extension is in the best interest of the public.

Section 2 (62S.08, subdivision 3) adds language to the standard format outline of coverage related to policy renewability provisions and terms under which the company may change premiums. Also gives resources for consumer questions.

Section 3 (62S.081, subdivision 4) names the referenced forms.

Section 4 (62S.10, subdivision 2) specifies that a summary for an individual life insurance policy that provides long-term care benefits by rider must include a statement that the long-term care inflation protection option required by section 62S.23 is not available under that policy.

Section 5 (62S.13, subdivision 6) provides that the contestability provisions of this section shall not apply to the remaining death benefit of a life insurance policy that accelerates benefits for long-term care. In that situation, the remaining death benefits are governed by the contestability provisions of the life insurance statutes.

Section 6 (62S.14, subdivision 2) provides that the term “level premium” may only be used when the insurer does not have the right to change the premium.

Section 7 (62S.15) specifies that a policy may exclude coverage for expenses for services or items available or paid under another long-term care insurance policy or health insurance policy.

Section 8 (62S.20, subdivision 1) requires a long-term care insurance policy to include a statement that coverage is guaranteed renewable or noncancelable and a statement that premium rates may change if the insurer has the right to change the premium.

Section 9 (62S.24, subdivision 1) modifies required questions on the application form.

Section 10 (62S.24, subdivision 1a) requires agents to list on the application form all other health insurance policies they have sold to the applicant that are still in force or were sold in the past five years and are no longer in force.

Sections 11 (62S.24, subdivision 3) and 12 (62S.24, subdivision 4) modify language in the notice required if replacement coverage is involved in a sale of long-term care insurance.

Section 13 (62S.24, subdivision 7) requires that life insurance policies that accelerate benefits for long-term care comply with the section related to application forms and replacement coverage if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer shall comply with replacement requirements of the life insurance statutes. If a life insurance policy that accelerates benefits for long-term care is replaced by another policy, the insurer must comply with both the long-term care and the life insurance replacement requirements.

Section 14 (62S.25, subdivision 6) provides a definition of “claim” for purposes of insurer reporting.

Section 15 (62S.25, subdivision 7) specifies the form of required reports on claim denial and replacement and lapse.

Section 16 (62S.26) provides that minimum loss ratio requirements do not apply to life insurance policies that accelerate benefits for long-term care if the policy complies with specified provisions, including the filing of an actuarial memorandum with the commissioner.

Section 17 (62S.266, subdivision 2) specifies nonforfeiture benefit offer requirements for group long-term care policies.

Section 18 (62S.29, subdivision 1) requires insurers to establish agent training requirements to assure that marketing activities are fair and accurate. Requires copies of specified disclosure forms be provided to the applicant along with an explanation of contingent benefit upon lapse.

Section 19 (62S.30) requires every insurer marketing long-term care insurance to develop and use suitability standards to determine whether the purchase of long-term care insurance is appropriate for the needs of the applicant and to train its agents in the use of the standards. Requires the agent to obtain detailed information from the applicant and fill out a long-term care insurance personal worksheet. Requires insurer reporting.

Section 20 (62S.315) requires the Commissioner of Commerce to approve insurer and producer training requirements in accordance with the NAIC Model Act.

Section 21 makes article 1 effective July 1, 2006.

Article 2 Long-Term Care Partnership Program

Section 1 (256B.0571) modifies the Partnership Program adopted last year in order to comply with recent federal law.

Subdivisions 1 to 7a delete several unneeded definitions; clarify that a Partnership Policy must be issued on or after the effective date of the state plan amendment, and add a definition of "protected assets."

Subdivision 8 clarifies that in order to participate in the Partnership Program, a person must be a Minnesota resident at the time coverage first becomes effective under a partnership policy and that the policy must be issued no earlier than July 1, 2006. This subdivision deletes a reference to minimum policy benefits, which are removed later in this section, and requires a person to exhaust all policy benefits in order to receive asset protection under the MA program.

Subdivision 9 establishes procedures for allowing qualifying individuals, when applying for MA payment of long-term care services, to designate protected assets, including the determination of market value, valuation of life estates and joint tenancies, and the extent of and limits on the right to protect assets. Protection does not apply to recovery from trusts or annuities and similar legal instruments.

Subdivision 10 deletes policy requirements not allowed under federal law and establishes inflation protection required by federal law.

Subdivision 11 is stricken. It authorized “total asset protection policies,” which are not permitted under federal law.

Subdivision 12 updates a reference to applicable federal law.

Subdivision 13 modifies the language placing limits on MA estate recovery. It states that protected assets are not subject to MA estate claims nor to the collection procedure for small claims under the uniform probate code. However, protected assets do not continue to be protected in the surviving spouse’s estate if the surviving spouse also receives MA benefits. This subdivision requires personal representatives to use the value of available asset protection to protect the full value of each protected asset to the extent possible, rather than partially protecting a larger number of assets. The asset protection expires when the estate distributes an asset or if the estate is not probated within one year of death.

Subdivision 14 requires DHS to submit a state plan amendment to the federal government to implement the Partnership Program in accordance with this section.

Subdivision 15 exempts protected assets from the MA lien law to the extent the heir owns the property in the heir’s own name. This protection does not apply once the heir disposes of the property or dies.

Subdivision 16 places the burden of proof on the individual or the individual’s estate to document that an asset has been protected and remains protected.

DG/CBS:rdr/cs

Consolidated Fiscal Note – 2005-06 Session

Bill #: S2898-1A Complete Date: 04/03/06

Chief Author: BERGLIN, LINDA

Title: LONG-TERM CARE INS & PARTNERSHIP

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Human Services Dept (04/03/06)

Commerce (03/24/06)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
General Fund		0	2,051	177	177
Human Services Dept		0	2,051	177	177
Revenues					
General Fund		0	67	64	64
Human Services Dept		0	67	64	64
Net Cost <Savings>					
General Fund		0	1,984	113	113
Human Services Dept		0	1,984	113	113
Total Cost <Savings> to the State		0	1,984	113	113

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		0.00	2.50	2.50	2.50
Human Services Dept		0.00	2.50	2.50	2.50
Total FTE		0.00	2.50	2.50	2.50

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/03/06 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S2898-1A Complete Date: 04/03/06

Chief Author: BERGLIN, LINDA

Title: LONG-TERM CARE INS & PARTNERSHIP

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
General Fund		0	2,051	177	177
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
General Fund		0	2,051	177	177
Revenues					
General Fund		0	67	64	64
Net Cost <Savings>					
General Fund		0	1,984	113	113
Total Cost <Savings> to the State		0	1,984	113	113

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
General Fund		0.00	2.50	2.50	2.50
Total FTE		0.00	2.50	2.50	2.50

Narrative: SF 2898-1A

Bill Description

This bill provides conforming regulations in §62S for long-term care insurance to requirements for state participation in the federal long-term care (LTC) partnership program and amends the state long-term care partnership program requirements in §256B.0571 to conform to federal requirements under Public Law 109-171. The LTC partnership program allows an individual to disregard assets in an amount equal to the benefits utilized under a qualified LTC insurance policy from consideration at the time they request Medical Assistance (MA) payment of LTC services. The same assets disregarded from consideration for purposes of eligibility for MA payment of LTC services is also disregarded for estate recovery purposes.

Section 1, Subd. 14 is amended to delete all previous instructions related to implementation of a partnership program upon federal approval and substitutes the requirement that the commissioner submit a state plan amendment by September 30, 2006.

Assumptions

Based on the fact that an individual must first purchase, exhaust benefits, and then apply for MA, there are unlikely to be consequential effects by FY 2009, the latest year of the fiscal note horizon. This view appears to be held at the federal level as well as the CBO showed this legislation as cost neutral.

Effective date is assumed to be July 1, 2006. Therefore, a four month HealthMatch delay is assumed as part of the fiscal note cost. Each month of delay is costed at \$1,327,000 total or \$464,000 state share. The assumption of showing a HealthMatch delay on bills effective before Healthmatch implementation will be the DHS policy per the March 16 memo to the Chairs. That memo also provided that an alternative administrative cost could be determined as an alternative to the HealthMatch delay, if the provisions become part of the committee's package.

Long Term Care Partnership is also a part of the DEFRA related provisions in the Governor's budget bill. To avoid delaying HealthMatch implementation beyond the current timeline, the Department has proposed to conduct a non-systems work-around for all of the federally mandated changes until after HealthMatch implementation. The portion of costs associated with the LTC Partnership provision includes costs of:

2 FTE's – FY'07: \$150,000; FY'08: \$166,000; FY '09: \$77,000

Following statewide implementation of the HealthMatch system, this provision would then be incorporated into HealthMatch at a cost of \$11,000.

Expenditure and/or Revenue Formula

General Fund	Description	FY07	FY08	FY09
BACT				
36-Children & Econ. Asst.	MAXIS (state SH)	6	0	0
50-HC Admin.	1 FTE for Eligibility Policy *	75	77	77
51-HC Operations	.50 FTE for Benefit Recovery (state SH)	19	17	17
51-HC Operations	HealthMatch-4 month delay (state SH)	1,858	0	0
85-Cont. Care Mang.	1 FTE for Cont. Care Policy	93	83	83
General Fund Totals		2,051	177	177
Non-Dedicated FFP @ 40%		67	64	64
Net Cost to General Fund:		1,984	113	113

*This is the number reflected in the Governor's budget bill. We estimate that at least 50% of the work of this position will be related solely to the LTC partnership program.

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: Steve Nelson 651-431-2202
FN Coord Signature: STEVE BARTA
Date: 03/22/06 Phone: 431-2916

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 04/03/06 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S2898-1A Complete Date: 03/24/06

Chief Author: BERGLIN, LINDA

Title: LONG-TERM CARE INS & PARTNERSHIP

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Commerce

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

ARTICLE 1 - QUALIFIED LONG TERM CARE INSURANCE REGULATORY CHANGES

Authorizes the commissioner of commerce to extend the limitation periods relating to specific age categories in specific policy forms upon finding extensions are in the best interest of the public. This bill modifies the mandatory format; providing for the death of the insured; providing for the use of level premium; providing an exception for authorized limitations and exclusions for expenses for services or items available or paid to another long term care insurance or health insurance policy. This bill also modifies certain required question provisions; requiring agents to list all other health insurance policies sold to applicants and still in force or sold within a certain period of time and no longer in force; requiring life insurance policies; defining claim; modifying reporting requirements; excluding life insurance policies from minimum loss ratio; providing for the nonforfeiture benefit requirement for group long-term care insurance policy; modifying standards for marketing requirements; requiring and providing for the development and use of suitability standards, specifying procedures, requiring annual reports to the commissioner of commerce; requiring insurers and entities providing long term care insurance to complete certain training requirements.

ARTICLE 2 - LONG TERM CARE PARTNERSHIP PROGRAM

Modifying provisions relating to the long term care partnership program; providing for a long term care partnership policy; requiring the commissioner of human services to submit a state plan amendment to the federal government by a certain date to implement the long term care partnership program.

SF2898 and HF3283 are known as the LTC Partnership Program bills.

They permit MN residents who purchase a Qualified Long-Term Care Partnership Program policy to be able to keep certain assets when they apply for Medical Assistance (MA). For example, individual purchases policy with \$250,000 of coverage, exhausts policy's benefits, applies for MA, MA will permit individual to keep \$250,000 of certain assets and be eligible for MA.

Article 1 of bill updates MN LTC statutes (Chapter 62S) to conform to the federal LTC Partnership Program requirements (NAIC LTC Model Act and Regulations). We only updated the minimum changes the partnership program required, and did not update Chapter 62S to all other current NAIC model act and regulations requirements. An additional bill will be drafted in 2007 to do the remaining updates.

Article 2 describes the type of assets that will be excluded by MA.

Minnesota has to pass this legislation. Then the commissioner of Commerce will certify with the Secretary of Health and Human Services (HHS) that our LTC policies meet applicable federal requirements. DHS and Commerce have to ensure that agents marketing these products receive the necessary training about the Partnership program and MN MA benefits. DHS & Commerce are currently working with insurers, agent associations and NAIC to achieve this assurance, but current bill requires the LTC insurer to provide this training. Local agent associations will also do this.

Once we receive approval from the secretary of HHS and agents have been trained, products can be marketed in Minnesota.

Assumptions

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: John Gross 651-297-2319
FN Coord Signature: DENNIS MUNKWITZ
Date: 03/24/06 Phone: 297-1335

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/24/06 Phone: 296-7642

1.1 A bill for an act
 1.2 relating to insurance; conforming regulation of qualified long-term care insurance
 1.3 to requirements for state participation in the federal long-term care partnership
 1.4 program; amending state long-term care partnership program requirements;
 1.5 amending Minnesota Statutes 2004, sections 62S.05, by adding a subdivision;
 1.6 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13,
 1.7 by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1;
 1.8 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6,
 1.9 by adding a subdivision; 62S.26; 62S.266, subdivision 2; 62S.29, subdivision
 1.10 1; 62S.30; Minnesota Statutes 2005 Supplement, section 256B.0571; proposing
 1.11 coding for new law in Minnesota Statutes, chapter 62S.

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

1.13 **ARTICLE 1**
 1.14 **QUALIFIED LONG-TERM CARE INSURANCE REGULATORY CHANGES**

1.15 Section 1. Minnesota Statutes 2004, section 62S.05, is amended by adding a
 1.16 subdivision to read:

1.17 Subd. 4. Extension of limitation periods. The commissioner may extend the
 1.18 limitation periods set forth in subdivisions 1 and 2 as to specific age group categories in
 1.19 specific policy forms upon finding that the extension is in the best interest of the public.

1.20 Sec. 2. Minnesota Statutes 2004, section 62S.08, subdivision 3, is amended to read:

1.21 Subd. 3. **Mandatory format.** The following standard format outline of coverage
 1.22 must be used, unless otherwise specifically indicated:

1.23 COMPANY NAME
 1.24 ADDRESS - CITY AND STATE
 1.25 TELEPHONE NUMBER
 1.26 LONG-TERM CARE INSURANCE
 1.27 OUTLINE OF COVERAGE

2.1 Policy Number or Group Master Policy and Certificate Number

2.2 (Except for policies or certificates which are guaranteed issue, the following caution
2.3 statement, or language substantially similar, must appear as follows in the outline of
2.4 coverage.)

2.5 CAUTION: The issuance of this long-term care insurance (policy) (certificate)
2.6 is based upon your responses to the questions on your application. A copy of your
2.7 (application) (enrollment form) (is enclosed) (was retained by you when you applied).
2.8 If your answers are incorrect or untrue, the company has the right to deny benefits or
2.9 rescind your policy. The best time to clear up any questions is now, before a claim
2.10 arises. If, for any reason, any of your answers are incorrect, contact the company at this
2.11 address: (insert address).

2.12 (1) This policy is (an individual policy of insurance) (a group policy) which was
2.13 issued in the (indicate jurisdiction in which group policy was issued).

2.14 (2) PURPOSE OF OUTLINE OF COVERAGE. This outline of coverage provides
2.15 a very brief description of the important features of the policy. You should compare
2.16 this outline of coverage to outlines of coverage for other policies available to you. This
2.17 is not an insurance contract, but only a summary of coverage. Only the individual or
2.18 group policy contains governing contractual provisions. This means that the policy or
2.19 group policy sets forth in detail the rights and obligations of both you and the insurance
2.20 company. Therefore, if you purchase this coverage, or any other coverage, it is important
2.21 that you READ YOUR POLICY (OR CERTIFICATE) CAREFULLY.

2.22 (3) THIS PLAN IS INTENDED TO BE A QUALIFIED LONG-TERM CARE
2.23 INSURANCE CONTRACT AS DEFINED UNDER SECTION 7702(B)(b) OF THE
2.24 INTERNAL REVENUE CODE OF 1986.

2.25 (4) TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE
2.26 CONTINUED IN FORCE OR DISCONTINUED.

2.27 (a) (For long-term care health insurance policies or certificates describe one of the
2.28 following permissible policy renewability provisions:

2.29 (1) Policies and certificates that are guaranteed renewable shall contain the following
2.30 statement:) RENEWABILITY: THIS POLICY (CERTIFICATE) IS GUARANTEED
2.31 RENEWABLE. This means you have the right, subject to the terms of your policy,
2.32 (certificate) to continue this policy as long as you pay your premiums on time. (company
2.33 name) cannot change any of the terms of your policy on its own, except that, in the future,
2.34 IT MAY INCREASE THE PREMIUM YOU PAY.

2.35 (2) (Policies and certificates that are noncancelable shall contain the following
2.36 statement:) RENEWABILITY: THIS POLICY (CERTIFICATE) IS NONCANCELABLE.

3.1 This means that you have the right, subject to the terms of your policy, to continue this
3.2 policy as long as you pay your premiums on time. (company name) cannot change any
3.3 of the terms of your policy on its own and cannot change the premium you currently
3.4 pay. However, if your policy contains an inflation protection feature where you choose
3.5 to increase your benefits, (company name) may increase your premium at that time for
3.6 those additional benefits.

3.7 (b) (For group coverage, specifically describe continuation/conversion provisions
3.8 applicable to the certificate and group policy.)

3.9 (c) (Describe waiver of premium provisions or state that there are not such
3.10 provisions.)

3.11 (5) TERMS UNDER WHICH THE COMPANY MAY CHANGE PREMIUMS.

3.12 (In bold type larger than the maximum type required to be used for the other
3.13 provisions of the outline of coverage, state whether or not the company has a right to
3.14 change the premium and, if a right exists, describe clearly and concisely each circumstance
3.15 under which the premium may change.)

3.16 (6) TERMS UNDER WHICH THE POLICY OR CERTIFICATE MAY BE
3.17 RETURNED AND PREMIUM REFUNDED.

3.18 (a) (Provide a brief description of the right to return – "free look" provision of
3.19 the policy.)

3.20 (b) (Include a statement that the policy either does or does not contain provisions
3.21 providing for a refund or partial refund of premium upon the death of an insured or
3.22 surrender of the policy or certificate. If the policy contains such provisions, include a
3.23 description of them.)

3.24 ~~(5)~~ (7) THIS IS NOT MEDICARE SUPPLEMENT COVERAGE. If you are
3.25 eligible for Medicare, review the Medicare Supplement Buyer's Guide available from
3.26 the insurance company.

3.27 (a) (For agents) neither (insert company name) nor its agents represent Medicare, the
3.28 federal government, or any state government.

3.29 (b) (For direct response) (insert company name) is not representing Medicare, the
3.30 federal government, or any state government.

3.31 ~~(6)~~ (8) LONG-TERM CARE COVERAGE. Policies of this category are designed to
3.32 provide coverage for one or more necessary or medically necessary diagnostic, preventive,
3.33 therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting
3.34 other than an acute care unit of a hospital, such as in a nursing home, in the community,
or in the home.

4.1 This policy provides coverage in the form of a fixed dollar indemnity benefit for
 4.2 covered long-term care expenses, subject to policy (limitations), (waiting periods), and
 4.3 (coinsurance) requirements. (Modify this paragraph if the policy is not an indemnity
 4.4 policy.)

4.5 ~~(7)~~ (9) BENEFITS PROVIDED BY THIS POLICY.

4.6 (a) (Covered services, related deductible(s), waiting periods, elimination periods,
 4.7 and benefit maximums.)

4.8 (b) (Institutional benefits, by skill level.)

4.9 (c) (Noninstitutional benefits, by skill level.)

4.10 (d) (Eligibility for payment of benefits.)

4.11 (Activities of daily living and cognitive impairment shall be used to measure an
 4.12 insured's need for long-term care and must be defined and described as part of the outline
 4.13 of coverage.)

4.14 (Any benefit screens must be explained in this section. If these screens differ for
 4.15 different benefits, explanation of the screen should accompany each benefit description. If
 4.16 an attending physician or other specified person must certify a certain level of functional
 4.17 dependency in order to be eligible for benefits, this too must be specified. If activities of
 4.18 daily living (ADLs) are used to measure an insured's need for long-term care, then these
 4.19 qualifying criteria or screens must be explained.)

4.20 ~~(8)~~ (10) LIMITATIONS AND EXCLUSIONS:

4.21 Describe:

4.22 (a) preexisting conditions;

4.23 (b) noneligible facilities/provider;

4.24 (c) noneligible levels of care (e.g., unlicensed providers, care or treatment provided
 4.25 by a family member, etc.);

4.26 (d) exclusions/exceptions; and

4.27 (e) limitations.

4.28 (This section should provide a brief specific description of any policy provisions
 4.29 which limit, exclude, restrict, reduce, delay, or in any other manner operate to qualify
 4.30 payment of the benefits described in paragraph ~~(6)~~ (8).)

4.31 THIS POLICY MAY NOT COVER ALL THE EXPENSES ASSOCIATED WITH
 4.32 YOUR LONG-TERM CARE NEEDS.

4.33 ~~(9)~~ (11) RELATIONSHIP OF COST OF CARE AND BENEFITS. Because the costs
 4.34 of long-term care services will likely increase over time, you should consider whether and
 4.35 how the benefits of this plan may be adjusted. As applicable, indicate the following:

4.36 (a) that the benefit level will not increase over time;

5.1 (b) any automatic benefit adjustment provisions;

5.2 (c) whether the insured will be guaranteed the option to buy additional benefits and
5.3 the basis upon which benefits will be increased over time if not by a specified amount
5.4 or percentage;

5.5 (d) if there is such a guarantee, include whether additional underwriting or health
5.6 screening will be required, the frequency and amounts of the upgrade options, and any
5.7 significant restrictions or limitations; and

5.8 (e) whether there will be any additional premium charge imposed and how that
5.9 is to be calculated.

5.10 ~~(10)~~ (12) ALZHEIMER'S DISEASE AND OTHER ORGANIC BRAIN
5.11 DISORDERS. (State that the policy provides coverage for insureds clinically diagnosed as
5.12 having Alzheimer's disease or related degenerative and dementing illnesses. Specifically,
5.13 describe each benefit screen or other policy provision which provides preconditions to the
5.14 availability of policy benefits for such an insured.)

5.15 ~~(11)~~ (13) PREMIUM.

5.16 (a) State the total annual premium for the policy.

5.17 (b) If the premium varies with an applicant's choice among benefit options, indicate
5.18 the portion of annual premium which corresponds to each benefit option.

5.19 ~~(12)~~ (14) ADDITIONAL FEATURES.

5.20 (a) Indicate if medical underwriting is used.

5.21 (b) Describe other important features.

5.22 (15) CONTACT THE STATE DEPARTMENT OF COMMERCE OR SENIOR
5.23 LINKAGE LINE IF YOU HAVE GENERAL QUESTIONS REGARDING LONG-TERM
5.24 CARE INSURANCE. CONTACT THE INSURANCE COMPANY IF YOU HAVE
5.25 SPECIFIC QUESTIONS REGARDING YOUR LONG-TERM CARE INSURANCE
5.26 POLICY OR CERTIFICATE.

5.27 Sec. 3. Minnesota Statutes 2004, section 62S.081, subdivision 4, is amended to read:

5.28 Subd. 4. **Forms.** An insurer shall use the forms in Appendices B (Personal
5.29 Worksheet) and F (Potential Rate Increase Disclosure Form) of the Long-term Care
5.30 Insurance Model Regulation adopted by the National Association of Insurance
5.31 Commissioners to comply with the requirements of subdivisions 1 and 2.

5.32 Sec. 4. Minnesota Statutes 2004, section 62S.10, subdivision 2, is amended to read:

Subd. 2. **Contents.** The summary must include the following information:

- 6.1 (1) an explanation of how the long-term care benefit interacts with other components
6.2 of the policy, including deductions from death benefits;
- 6.3 (2) an illustration of the amount of benefits, the length of benefits, and the guaranteed
6.4 lifetime benefits, if any, for each covered person; ~~and~~
- 6.5 (3) any exclusions, reductions, and limitations on benefits of long-term care; and
- 6.6 (4) a statement that any long-term care inflation protection option required by section
6.7 62S.23 is not available under this policy.

6.8 Sec. 5. Minnesota Statutes 2004, section 62S.13, is amended by adding a subdivision
6.9 to read:

6.10 Subd. 6. Death of insured. In the event of the death of the insured, this section shall
6.11 not apply to the remaining death benefit of a life insurance policy that accelerates benefits
6.12 for long-term care. In this situation, the remaining death benefits under these policies shall
6.13 be governed by section 61A.03, subdivision 1, paragraph (c). In all other situations, this
6.14 section shall apply to life insurance policies that accelerate benefits for long-term care.

6.15 Sec. 6. Minnesota Statutes 2004, section 62S.14, subdivision 2, is amended to read:

6.16 Subd. 2. Terms. The terms "guaranteed renewable" and "noncancelable" may not
6.17 be used in an individual long-term care insurance policy without further explanatory
6.18 language that complies with the disclosure requirements of section 62S.20. The term
6.19 "level premium" may only be used when the insurer does not have the right to change
6.20 the premium.

6.21 Sec. 7. Minnesota Statutes 2004, section 62S.15, is amended to read:

6.22 **62S.15 AUTHORIZED LIMITATIONS AND EXCLUSIONS.**

6.23 No policy may be delivered or issued for delivery in this state as long-term care
6.24 insurance if the policy limits or excludes coverage by type of illness, treatment, medical
6.25 condition, or accident, except as follows:

- 6.26 (1) preexisting conditions or diseases;
- 6.27 (2) mental or nervous disorders; except that the exclusion or limitation of benefits on
6.28 the basis of Alzheimer's disease is prohibited;
- 6.29 (3) alcoholism and drug addiction;
- 6.30 (4) illness, treatment, or medical condition arising out of war or act of war;
6.31 participation in a felony, riot, or insurrection; service in the armed forces or auxiliary
6.32 units; suicide, attempted suicide, or intentionally self-inflicted injury; or non-fare-paying
6.33 aviation; ~~and~~

7.1 (5) treatment provided in a government facility unless otherwise required by
7.2 law, services for which benefits are available under Medicare or other government
7.3 program except Medicaid, state or federal workers' compensation, employer's liability
7.4 or occupational disease law, motor vehicle no-fault law; services provided by a member
7.5 of the covered person's immediate family; and services for which no charge is normally
7.6 made in the absence of insurance; and

7.7 (6) expenses for services or items available or paid under another long-term care
7.8 insurance or health insurance policy.

7.9 This subdivision does not prohibit exclusions and limitations by type of provider or
7.10 territorial limitations.

7.11 Sec. 8. Minnesota Statutes 2004, section 62S.20, subdivision 1, is amended to read:

7.12 Subdivision 1. **Renewability.** (a) Individual long-term care insurance policies
7.13 must contain a renewability provision that is appropriately captioned, appears on the first
7.14 page of the policy, and clearly states the duration, where limited, of renewability and the
7.15 duration of the term of coverage for which the policy is issued and for which it may be
7.16 renewed that the coverage is guaranteed renewable or noncancelable. This subdivision
7.17 does not apply to policies which are part of or combined with life insurance policies
7.18 which do not contain a renewability provision and under which the right to nonrenew is
7.19 reserved solely to the policyholder.

7.20 (b) A long-term care insurance policy or certificate, other than one where the insurer
7.21 does not have the right to change the premium, shall include a statement that premium
7.22 rates may change.

7.23 Sec. 9. Minnesota Statutes 2004, section 62S.24, subdivision 1, is amended to read:

7.24 Subdivision 1. **Required questions.** An application form must include the following
7.25 questions designed to elicit information as to whether, as of the date of the application, the
7.26 applicant has another long-term care insurance policy or certificate in force or whether a
7.27 long-term care policy or certificate is intended to replace any other accident and sickness
7.28 or long-term care policy or certificate presently in force. A supplementary application
7.29 or other form to be signed by the applicant and agent, except where the coverage is sold
7.30 without an agent, containing the following questions may be used. If a replacement policy
7.31 is issued to a group as defined under section 62S.01, subdivision 15, clause (1), the
7.32 following questions may be modified only to the extent necessary to elicit information
7.33 about long-term care insurance policies other than the group policy being replaced;
7.34 provided, however, that the certificate holder has been notified of the replacement:

8.1 (1) do you have another long-term care insurance policy or certificate in force
8.2 (including health care service contract or health maintenance organization contract)?;

8.3 (2) did you have another long-term care insurance policy or certificate in force
8.4 during the last 12 months?;

8.5 (i) if so, with which company?; and

8.6 (ii) if that policy lapsed, when did it lapse?; ~~and~~

8.7 (3) are you covered by Medicaid?; and

8.8 (4) do you intend to replace any of your medical or health insurance coverage with
8.9 this policy (certificate)?

8.10 Sec. 10. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision
8.11 to read:

8.12 Subd. 1a. Other health insurance policies sold by agent. Agents shall list all other
8.13 health insurance policies they have sold to the applicant that are still in force or were sold
8.14 in the past five years and are no longer in force.

8.15 Sec. 11. Minnesota Statutes 2004, section 62S.24, subdivision 3, is amended to read:

8.16 Subd. 3. **Solicitations other than direct response.** After determining that a
8.17 sale will involve replacement, an insurer, other than an insurer using direct response
8.18 solicitation methods or its agent, shall furnish the applicant, before issuance or delivery of
8.19 the individual long-term care insurance policy, a notice regarding replacement of accident
8.20 and sickness or long-term care coverage. One copy of the notice must be retained by the
8.21 applicant and an additional copy signed by the applicant must be retained by the insurer.

8.22 The required notice must be provided in the following manner:

8.23 NOTICE TO APPLICANT REGARDING REPLACEMENT OF
8.24 INDIVIDUAL ACCIDENT AND SICKNESS OR LONG-TERM
8.25 CARE INSURANCE

8.26 (Insurance company's name and address)

8.27 **SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE FUTURE.**

8.28 According to (your application) (information you have furnished), you intend to
8.29 lapse or otherwise terminate existing accident and sickness or long-term care insurance
8.30 and replace it with an individual long-term care insurance policy to be issued by (company
8.31 name) insurance company. Your new policy provides 30 days within which you may
8.32 decide, without cost, whether you desire to keep the policy. For your own information and
8.33 protection, you should be aware of and seriously consider certain factors which may affect
8.34 the insurance protection available to you under the new policy.

9.1 You should review this new coverage carefully, comparing it with all accident
 9.2 and sickness or long-term care insurance coverage you now have, and terminate your
 9.3 present policy only if, after due consideration, you find that purchase of this long-term
 9.4 care coverage is a wise decision.

9.5 STATEMENT TO APPLICANT BY AGENT
 9.6 (BROKER OR OTHER REPRESENTATIVE):
 9.7 (Use additional sheets, as necessary.)

9.8 I have reviewed your current medical health insurance coverage. I believe the
 9.9 replacement of insurance involved in this transaction materially improves your position.
 9.10 My conclusion has taken into account the following considerations, which I call to your
 9.11 attention:

9.12 (a) Health conditions which you presently have (preexisting conditions) may not
 9.13 be immediately or fully covered under the new policy. This could result in denial or
 9.14 delay in payment of benefits under the new policy, whereas a similar claim might have
 9.15 been payable under your present policy.

9.16 (b) State law provides that your replacement policy or certificate may not contain
 9.17 new preexisting conditions or probationary periods. The insurer will waive any time
 9.18 periods applicable to preexisting conditions or probationary periods in the new policy (or
 9.19 coverage) for similar benefits to the extent such time was spent (depleted) under the
 9.20 original policy.

9.21 (c) If you are replacing existing long-term care insurance coverage, you may wish to
 9.22 secure the advice of your present insurer or its agent regarding the proposed replacement of
 9.23 your present policy. This is not only your right, but it is also in your best interest to make
 9.24 sure you understand all the relevant factors involved in replacing your present coverage.

9.25 (d) If, after due consideration, you still wish to terminate your present policy and
 9.26 replace it with new coverage, be certain to truthfully and completely answer all questions
 9.27 on the application concerning your medical health history. Failure to include all material
 9.28 medical information on an application may provide a basis for the company to deny any
 9.29 future claims and to refund your premium as though your policy had never been in force.
 9.30 After the application has been completed and before you sign it, reread it carefully to be
 9.31 certain that all information has been properly recorded.

9.32
 9.33 (Signature of Agent, Broker, or Other Representative)
 9.34 (Typed Name and Address of Agency or Broker)

9.35 The above "Notice to Applicant" was delivered to me on:

9.36
 9.37 (Date)

10.1
10.2 (Applicant's Signature)

10.3 Sec. 12. Minnesota Statutes 2004, section 62S.24, subdivision 4, is amended to read:

10.4 Subd. 4. **Direct response solicitations.** Insurers using direct response solicitation
10.5 methods shall deliver a notice regarding replacement of long-term care coverage to
10.6 the applicant upon issuance of the policy. The required notice must be provided in the
10.7 following manner:

10.8 NOTICE TO APPLICANT REGARDING REPLACEMENT OF
10.9 ACCIDENT AND SICKNESS OR
10.10 LONG-TERM CARE INSURANCE

10.11 (Insurance company's name and address)

10.12 SAVE THIS NOTICE! IT MAY BE
10.13 IMPORTANT TO YOU IN THE FUTURE.

10.14 According to (your application) (information you have furnished), you intend to
10.15 lapse or otherwise terminate existing accident and sickness or long-term care insurance
10.16 and replace it with the long-term care insurance policy delivered herewith issued by
10.17 (company name) insurance company.

10.18 Your new policy provides 30 days within which you may decide, without cost,
10.19 whether you desire to keep the policy. For your own information and protection, you
10.20 should be aware of and seriously consider certain factors which may affect the insurance
10.21 protection available to you under the new policy.

10.22 You should review this new coverage carefully, comparing it with all long-term care
10.23 insurance coverage you now have, and terminate your present policy only if, after due
10.24 consideration, you find that purchase of this long-term care coverage is a wise decision.

10.25 (a) Health conditions which you presently have (preexisting conditions) may not
10.26 be immediately or fully covered under the new policy. This could result in denial or
10.27 delay in payment of benefits under the new policy, whereas a similar claim might have
10.28 been payable under your present policy.

10.29 (b) State law provides that your replacement policy or certificate may not contain
10.30 new preexisting conditions or probationary periods. Your insurer will waive any time
10.31 periods applicable to preexisting conditions or probationary periods in the new policy (or
10.32 coverage) for similar benefits to the extent such time was spent (depleted) under the
10.33 original policy.

10.34 (c) If you are replacing existing long-term care insurance coverage, you may wish to
10.35 secure the advice of your present insurer or its agent regarding the proposed replacement of

11.1 your present policy. This is not only your right, but it is also in your best interest to make
11.2 sure you understand all the relevant factors involved in replacing your present coverage.

11.3 (d) (To be included only if the application is attached to the policy.)

11.4 If, after due consideration, you still wish to terminate your present policy and replace
11.5 it with new coverage, read the copy of the application attached to your new policy and be
11.6 sure that all questions are answered fully and correctly. Omissions or misstatements in
11.7 the application could cause an otherwise valid claim to be denied. Carefully check the
11.8 application and write to (company name and address) within 30 days if any information is
11.9 not correct and complete, or if any past medical history has been left out of the application.

11.10
11.11 (Company Name)

11.12 Sec. 13. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision
11.13 to read:

11.14 Subd. 7. Life insurance policies. Life insurance policies that accelerate benefits for
11.15 long-term care shall comply with this section if the policy being replaced is a long-term
11.16 care insurance policy. If the policy being replaced is a life insurance policy, the insurer
11.17 shall comply with the replacement requirements of sections 61A.53 to 61A.60. If a
11.18 life insurance policy that accelerates benefits for long-term care is replaced by another
11.19 such policy, the replacing insurer shall comply with both the long-term care and the life
11.20 insurance replacement requirements.

11.21 Sec. 14. Minnesota Statutes 2004, section 62S.25, subdivision 6, is amended to read:

11.22 Subd. 6. Claims denied. Each insurer shall report annually by June 30 the number
11.23 of claims denied for any reason during the reporting period for each class of business,
11.24 expressed as a percentage of claims denied, other than claims denied for failure to meet
11.25 the waiting period or because of any applicable preexisting condition. For purposes of
11.26 this subdivision, "claim" means a request for payment of benefits under an in-force policy
11.27 regardless of whether the benefit claimed is covered under the policy or any terms or
11.28 conditions of the policy have been met.

11.29 Sec. 15. Minnesota Statutes 2004, section 62S.25, is amended by adding a subdivision
11.30 to read:

11.31 Subd. 7. Reports. Reports under this section shall be done on a statewide basis and
11.32 filed with the commissioner. They shall include, at a minimum, the information in the
11.33 format contained in Appendix E (Claim Denial Reporting Form) and in Appendix G

12.1 (Replacement and Lapse Reporting Form) of the Long-Term Care Model Regulation
12.2 adopted by the National Association of Insurance Commissioners.

12.3 Sec. 16. Minnesota Statutes 2004, section 62S.26, is amended to read:

12.4 **62S.26 LOSS RATIO.**

12.5 Subdivision 1. Minimum loss ratio. (a) The minimum loss ratio must be at least 60
12.6 percent, calculated in a manner which provides for adequate reserving of the long-term
12.7 care insurance risk. In evaluating the expected loss ratio, the commissioner shall give
12.8 consideration to all relevant factors, including:

- 12.9 (1) statistical credibility of incurred claims experience and earned premiums;
- 12.10 (2) the period for which rates are computed to provide coverage;
- 12.11 (3) experienced and projected trends;
- 12.12 (4) concentration of experience within early policy duration;
- 12.13 (5) expected claim fluctuation;
- 12.14 (6) experience refunds, adjustments, or dividends;
- 12.15 (7) renewability features;
- 12.16 (8) all appropriate expense factors;
- 12.17 (9) interest;
- 12.18 (10) experimental nature of the coverage;
- 12.19 (11) policy reserves;
- 12.20 (12) mix of business by risk classification; and
- 12.21 (13) product features such as long elimination periods, high deductibles, and high
12.22 maximum limits.

12.23 Subd. 2. Life insurance policies. Subdivision 1 shall not apply to life insurance
12.24 policies that accelerate benefits for long-term care. A life insurance policy that funds
12.25 long-term care benefits entirely by accelerating the death benefit is considered to provide
12.26 reasonable benefits in relation to premiums paid, if the policy complies with all of the
12.27 following provisions:

- 12.28 (1) the interest credited internally to determine cash value accumulations, including
12.29 long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest
12.30 rate for cash value accumulations without long-term care set forth in the policy;
- 12.31 (2) the portion of the policy that provides life insurance benefits meets the
12.32 nonforfeiture requirements of section 61A.24;
- 12.33 (3) the policy meets the disclosure requirements of sections 62S.09, 62S.10, and
12.34 62S.11; and
- 12.35 (4) an actuarial memorandum is filed with the commissioner that includes:

- 13.1 (i) a description of the basis on which the long-term care rates were determined;
 13.2 (ii) a description of the basis for the reserves;
 13.3 (iii) a summary of the type of policy, benefits, renewability, general marketing
 13.4 method, and limits on ages of issuance;
 13.5 (iv) a description and a table of each actuarial assumption used. For expenses,
 13.6 an insurer must include percentage of premium dollars per policy and dollars per unit
 13.7 of benefits, if any;
 13.8 (v) a description and a table of the anticipated policy reserves and additional reserves
 13.9 to be held in each future year for active lives;
 13.10 (vi) the estimated average annual premium per policy and the average issue age;
 13.11 (vii) a statement as to whether underwriting is performed at the time of application.
 13.12 The statement shall indicate whether underwriting is used and, if used, the statement
 13.13 shall include a description of the type or types of underwriting used, such as medical
 13.14 underwriting or functional assessment underwriting. Concerning a group policy, the
 13.15 statement shall indicate whether the enrollee or any dependent will be underwritten and
 13.16 when underwriting occurs; and
 13.17 (viii) a description of the effect of the long-term care policy provision on the required
 13.18 premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both
 13.19 for active lives and those in long-term care claim status.
 13.20 Subd. 3. Nonapplication. ~~(b)~~ This section does not apply to policies or certificates
 13.21 that are subject to sections 62S.021, 62S.081, and 62S.265, and that comply with those
 13.22 sections.

13.23 Sec. 17. Minnesota Statutes 2004, section 62S.266, subdivision 2, is amended to read:

13.24 Subd. 2. **Requirement.** (a) An insurer must offer each prospective policyholder a
 13.25 nonforfeiture benefit in compliance with the following requirements:

13.26 (1) a policy or certificate offered with nonforfeiture benefits must have coverage
 13.27 elements, eligibility, benefit triggers, and benefit length that are the same as coverage to be
 13.28 issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer must
 13.29 be the benefit described in subdivision 5; and

13.30 (2) the offer must be in writing if the nonforfeiture benefit is not otherwise described
 13.31 in the outline of coverage or other materials given to the prospective policyholder,

13.32 (b) When a group long-term care insurance policy is issued, the offer required in
 13.33 paragraph (a) shall be made to the group policy holder. However, if the policy is issued as
 13.34 group long-term care insurance as defined in section 62S.01, subdivision 15, clause (4),

14.1 other than to a continuing care retirement community or other similar entity, the offering
14.2 shall be made to each proposed certificate holder.

14.3 Sec. 18. Minnesota Statutes 2004, section 62S.29, subdivision 1, is amended to read:

14.4 Subdivision 1. **Requirements.** An insurer or other entity marketing long-term care
14.5 insurance coverage in this state, directly or through its producers, shall:

14.6 (1) establish marketing procedures and agent training requirements to assure that ~~a~~
14.7 any marketing activities, including any comparison of policies by its agents or other
14.8 producers, are fair and accurate;

14.9 (2) establish marketing procedures to assure excessive insurance is not sold or issued;

14.10 (3) display prominently by type, stamp, or other appropriate means, on the first page
14.11 of the outline of coverage and policy, the following:

14.12 "Notice to buyer: This policy may not cover all of the costs associated with
14.13 long-term care incurred by the buyer during the period of coverage. The buyer is advised
14.14 to review carefully all policy limitations.";

14.15 (4) provide copies of the disclosure forms required in section 62S.081, subdivision
14.16 4, to the applicant;

14.17 (5) inquire and otherwise make every reasonable effort to identify whether a
14.18 prospective applicant or enrollee for long-term care insurance already has long-term care
14.19 insurance and the types and amounts of the insurance;

14.20 ~~(5) (6)~~ establish auditable procedures for verifying compliance with this subdivision;
14.21 ~~and~~

14.22 ~~(6) (7)~~ if applicable, provide written notice to the prospective policyholder and
14.23 certificate holder, at solicitation, that a senior insurance counseling program approved
14.24 by the commissioner is available and the name, address, and telephone number of the
14.25 program;

14.26 (8) use the terms "noncancelable" or "level premium" only when the policy or
14.27 certificate conforms to section 62S.14; and

14.28 (9) provide an explanation of contingent benefit upon lapse provided for in section
14.29 62S.266.

14.30 Sec. 19. Minnesota Statutes 2004, section 62S.30, is amended to read:

14.31 ~~62S.30 APPROPRIATENESS OF RECOMMENDED PURCHASE~~
14.32 ~~SUITABILITY.~~

14.33 ~~In recommending the purchase or replacement of a long-term care insurance policy~~
14.34 ~~or certificate, an agent shall comply with section 60K.46, subdivision 4.~~

15.1 Subdivision 1. Standards. Every insurer or other entity marketing long-term care
15.2 insurance shall:

15.3 (1) develop and use suitability standards to determine whether the purchase or
15.4 replacement of long-term care insurance is appropriate for the needs of the applicant;

15.5 (2) train its agents in the use of its suitability standards; and

15.6 (3) maintain a copy of its suitability standards and make them available for
15.7 inspection upon request by the commissioner.

15.8 Subd. 2. Procedures. (a) To determine whether the applicant meets the standards
15.9 developed by the insurer or other entity marketing long-term care insurance, the agent
15.10 and insurer or other entity marketing long-term care insurance shall develop procedures
15.11 that take the following into consideration:

15.12 (1) the ability to pay for the proposed coverage and other pertinent financial
15.13 information related to the purchase of the coverage;

15.14 (2) the applicant's goals or needs with respect to long-term care and the advantages
15.15 and disadvantages of insurance to meet those goals or needs; and

15.16 (3) the values, benefits, and costs of the applicant's existing insurance, if any, when
15.17 compared to the values, benefits, and costs of the recommended purchase or replacement.

15.18 (b) The insurer or other entity marketing long-term care insurance, and where an
15.19 agent is involved, the agent, shall make reasonable efforts to obtain the information set
15.20 forth in paragraph (a). The efforts shall include presentation to the applicant, at or prior
15.21 to application, of the "Long-Term Care Insurance Personal Worksheet." The personal
15.22 worksheet used by the insurer or other entity marketing long-term care insurance shall
15.23 contain, at a minimum, the information in the format contained in Appendix B of the
15.24 Long-Term Care Model Regulation adopted by the National Association of Insurance
15.25 Commissioners, in not less than 12-point type. The insurer or other entity marketing
15.26 long-term care insurance may request the applicant to provide additional information to
15.27 comply with its suitability standards. The insurer or other entity marketing long-term care
15.28 insurance shall file a copy of its personal worksheet with the commissioner.

15.29 (c) A completed personal worksheet shall be returned to the insurer or other entity
15.30 marketing long-term care insurance prior to consideration of the applicant for coverage,
15.31 except the personal worksheet need not be returned for sales of employer group long-term
15.32 care insurance to employees and their spouses. The sale or dissemination by the insurer
15.33 or other entity marketing long-term care insurance, or the agent, of information obtained
15.34 through the personal worksheet, is prohibited.

15.35 (d) The insurer or other entity marketing long-term care insurance shall use the
15.36 suitability standards it has developed under this section in determining whether issuing

16.1 long-term care insurance coverage to an applicant is appropriate. Agents shall use the
16.2 suitability standards developed by the insurer or other entity marketing long-term care
16.3 insurance in marketing long-term care insurance.

16.4 (e) At the same time as the personal worksheet is provided to the applicant, the
16.5 disclosure form entitled "Things You Should Know Before You Buy Long-Term Care
16.6 Insurance" shall be provided. The form shall be in the format contained in Appendix C of
16.7 the Long-Term Care Insurance Model Regulation adopted by the National Association of
16.8 Insurance Commissioners in not less than 12-point type.

16.9 (f) If the insurer or other entity marketing long-term care insurance determines
16.10 that the applicant does not meet its financial suitability standards, or if the applicant has
16.11 declined to provide the information, the insurer or other entity marketing long-term
16.12 care insurance may reject the application. In the alternative, the insurer or other entity
16.13 marketing long-term care insurance shall send the applicant a letter similar to Appendix D
16.14 of the Long-Term Care Insurance Model Regulation adopted by the National Association
16.15 of Insurance Commissioners. However, if the applicant has declined to provide financial
16.16 information, the insurer or other entity marketing long-term care insurance may use some
16.17 other method to verify the applicant's intent. The applicant's returned letter or a record of
16.18 the alternative method of verification shall be made part of the applicant's file.

16.19 Subd. 3. Reports. The insurer or other entity marketing long-term care insurance
16.20 shall report annually to the commissioner the total number of applications received from
16.21 residents of this state, the number of those who declined to provide information on the
16.22 personal worksheet, the number of applicants who did not meet the suitability standards,
16.23 and the number of those who chose to confirm after receiving a suitability letter.

16.24 Subd. 4. Application. This section shall not apply to life insurance policies that
16.25 accelerate benefits for long-term care.

16.26 **Sec. 20. [62S.315] PRODUCER TRAINING.**

16.27 The commissioner shall approve insurer and producer training requirements in
16.28 accordance with the NAIC Long-Term Care Insurance Model Act provisions. The
16.29 commissioner of human services shall provide technical assistance and information to the
16.30 commissioner in accordance with Public Law 109-171, section 6021.

16.31 **Sec. 21. EFFECTIVE DATE.**

16.32 Sections 1 to 20 are effective July 1, 2006.

ARTICLE 2

LONG-TERM CARE PARTNERSHIP PROGRAM

Section 1. Minnesota Statutes 2005 Supplement, section 256B.0571, is amended to read:

256B.0571 LONG-TERM CARE PARTNERSHIP PROGRAM.

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the meanings given them.

~~Subd. 2. **Home care service.** "Home care service" means care described in section 144A.43.~~

Subd. 3. **Long-term care insurance.** "Long-term care insurance" means a policy described in section 62S.01.

Subd. 4. **Medical assistance.** "Medical assistance" means the program of medical assistance established under section 256B.01.

~~Subd. 5. **Nursing home.** "Nursing home" means a nursing home as described in section 144A.01.~~

Subd. 6. **Partnership policy.** "Partnership policy" means a long-term care insurance policy that meets the requirements under subdivision 10 ~~or 11, regardless of when the policy and was first issued on or after the effective date of the state plan amendment.~~

Subd. 7. **Partnership program.** "Partnership program" means the Minnesota partnership for long-term care program established under this section.

Subd. 7a. **Protected assets.** "Protected assets" means assets or proceeds of assets that are protected from recovery under subdivisions 13 and 15.

Subd. 8. **Program established.** (a) The commissioner, in cooperation with the commissioner of commerce, shall establish the Minnesota partnership for long-term care program to provide for the financing of long-term care through a combination of private insurance and medical assistance.

(b) An individual who meets the requirements in this paragraph is eligible to participate in the partnership program. The individual must:

(1) be a Minnesota resident at the time coverage first became effective under the partnership policy;

~~(2) purchase a partnership policy that is delivered, issued for delivery, or renewed on or after the effective date of Laws 2005, First Special Session chapter 4, article 7, section 5, and maintain the partnership policy in effect throughout the period of participation in the partnership program~~ be a beneficiary of a partnership policy issued no earlier than July 1, 2006; and

18.1 (3) ~~exhaust the minimum~~ have exhausted all of the benefits under the partnership
18.2 policy as described in this section. Benefits received under a long-term care insurance
18.3 policy before ~~the effective date of Laws 2005, First Special Session chapter 4, article 7,~~
18.4 ~~section 5 July 1, 2006,~~ do not count toward the exhaustion of benefits required in this
18.5 subdivision.

18.6 Subd. 9. **Medical assistance eligibility.** (a) Upon application ~~of~~ for medical
18.7 assistance program payment of long-term care services by an individual who meets the
18.8 requirements described in subdivision 8, the commissioner shall determine the individual's
18.9 eligibility for medical assistance according to paragraphs (b) ~~and (c)~~ to (i).

18.10 (b) After ~~disregarding financial~~ determining assets ~~exempted under medical~~
18.11 ~~assistance eligibility requirements~~ subject to the asset limit under section 256B.056,
18.12 subdivision 3 or 3c, or section 256B.057, subdivision 9 or 10, the commissioner shall
18.13 ~~disregard an additional amount of financial assets equal~~ allow the individual to designate
18.14 assets to be protected from recovery under subdivisions 13 and 15 of this section up
18.15 to the dollar amount of coverage the benefits utilized under the partnership policy.
18.16 Designated assets shall be disregarded for purposes of determining eligibility for payment
18.17 of long-term care services.

18.18 (c) ~~The commissioner shall consider the individual's income according to medical~~
18.19 ~~assistance eligibility requirements.~~ The individual shall identify the designated assets and
18.20 the full fair market value of those assets and designate them as assets to be protected at
18.21 the time of initial application for medical assistance. The full fair market value of real
18.22 property or interests in real property shall be based on the most recent full assessed value
18.23 for property tax purposes for the real property, unless the individual provides a complete
18.24 professional appraisal by a licensed appraiser to establish the full fair market value. The
18.25 extent of a life estate in real property shall be determined using the life estate table in the
18.26 health care program's manual. Ownership of any asset in joint tenancy shall be treated as
18.27 ownership as tenants in common for purposes of its designation as a disregarded asset.
18.28 The unprotected value of any protected asset is subject to estate recovery according to
18.29 subdivisions 13 and 15.

18.30 (d) The right to designate assets to be protected is personal to the individual and
18.31 ends when the individual dies, except as otherwise provided in subdivisions 13 and
18.32 15. It does not include the increase in the value of the protected asset and the income,
18.33 dividends, or profits from the asset. It may be exercised by the individual or by anyone
18.34 with the legal authority to do so on the individual's behalf. It shall not be sold, assigned,
18.35 transferred, or given away.

19.1 (e) If the dollar amount of the benefits utilized under a partnership policy is greater
19.2 than the full fair market value of all assets protected at the time of the application for
19.3 medical assistance long-term care services, the individual may designate additional assets
19.4 that become available during the individual's lifetime for protection under this section.
19.5 The individual must make the designation in writing to the county agency no later than
19.6 the last date on which the individual must report a change in circumstances to the county
19.7 agency, as provided for under the medical assistance program. Any excess used for this
19.8 purpose shall not be available to the individual's estate to protect assets in the estate from
19.9 recovery under section 256B.15, section 524.3-1202, or otherwise.

19.10 (f) This section applies only to estate recovery under United States Code, title 42,
19.11 section 1496p, subsections (a) and (b), and does not apply to recovery authorized by other
19.12 provisions of federal law, including, but not limited to, recovery from trusts under United
19.13 States Code, title 42, section 1396p, subsection (d)(4)(A) and (C), or to recovery from
19.14 annuities, or similar legal instruments, subject to section 6012, subsections (a) and (b), of
19.15 the Deficit Reduction Act of 2005, Public Law 109-171.

19.16 (g) An individual's protected assets owned by the individual's spouse who applies
19.17 for payment of medical assistance long-term care services shall not be protected assets or
19.18 disregarded for purposes of eligibility of the individual's spouse solely because they were
19.19 protected assets of the individual.

19.20 (h) Assets designated under this subdivision shall not be subject to penalty under
19.21 section 256B.0595.

19.22 (i) The commissioner shall otherwise determine the individual's eligibility
19.23 for payment of long-term care services according to medical assistance eligibility
19.24 requirements.

19.25 **Subd. 10. ~~Dollar-for-dollar asset protection policies~~ Long-term care partnership**
19.26 **policy inflation protection.** ~~(a) A dollar-for-dollar asset protection policy must meet all~~
19.27 ~~of the requirements in paragraphs (b) to (c).~~

19.28 ~~(b) The policy must satisfy the requirements of chapter 62S.~~

19.29 ~~(c) The policy must offer an elimination period of not more than 180 days for an~~
19.30 ~~adjusted premium.~~

19.31 ~~(d) The policy must satisfy the requirements established by the commissioner of~~
19.32 ~~human services under subdivision 14.~~

19.33 ~~(e) Minimum daily benefits shall be \$130 for nursing home care or \$65 for home~~
19.34 ~~care, with inflation protection provided in the policy as described in section 62S.23,~~
19.35 ~~subdivision 1, clause (1). These minimum daily benefit amounts shall be adjusted by the~~
19.36 ~~commissioner on October 1 of each year by a percentage equal to the inflation protection~~

20.1 ~~feature described in section 62S.23, subdivision 1, clause (1), for purposes of setting~~
20.2 ~~minimum requirements that a policy must meet in future years in order to initially qualify~~
20.3 ~~as an approved policy under this subdivision. Adjusted minimum daily benefit amounts~~
20.4 ~~shall be rounded to the nearest whole dollar. A long-term care partnership policy must~~
20.5 ~~provide the inflation protection described in this subdivision. If the policy is sold to an~~
20.6 ~~individual who:~~

20.7 (1) has not attained age 61 as of the date of purchase, the policy must provide
20.8 compound annual inflation protection;

20.9 (2) has attained age 61, but has not attained age 76 as of such date, the policy must
20.10 provide some level of inflation protection; and

20.11 (3) has attained age 76 as of such date, the policy may, but is not required to, provide
20.12 some level of inflation protection.

20.13 ~~Subd. 11. **Total asset protection policies.** (a) A total asset protection policy must~~
20.14 ~~meet all of the requirements in subdivision 10, paragraphs (b) to (d), and this subdivision.~~

20.15 ~~(b) Minimum coverage shall be for a period of not less than three years and for a~~
20.16 ~~dollar amount equal to 36 months of nursing home care at the minimum daily benefit rate~~
20.17 ~~determined and adjusted under paragraph (c).~~

20.18 ~~(c) Minimum daily benefits shall be \$150 for nursing home care or \$75 for home~~
20.19 ~~care, with inflation protection provided in the policy as described in section 62S.23,~~
20.20 ~~subdivision 1, clause (1). These minimum daily benefit amounts shall also be adjusted~~
20.21 ~~by the commissioner on October 1 of each year by a percentage equal to the inflation~~
20.22 ~~protection feature described in section 62S.23, subdivision 1, clause (1), for purposes of~~
20.23 ~~setting minimum requirements that a policy must meet in future years in order to initially~~
20.24 ~~qualify as an approved policy under this subdivision. Adjusted minimum daily benefit~~
20.25 ~~amounts shall be rounded to the nearest whole dollar.~~

20.26 ~~(d) The policy must cover all of the following services:~~

20.27 ~~(1) nursing home stay;~~

20.28 ~~(2) home care service; and~~

20.29 ~~(3) care management.~~

20.30 **Subd. 12. Compliance with federal law.** An issuer of a partnership policy must
20.31 comply with ~~any federal law authorizing partnership policies in Minnesota~~ Public Law
20.32 109-171, section 6021, including any federal regulations, as amended, adopted under that
20.33 law. ~~This subdivision does not require compliance with any provision of this federal~~
20.34 ~~law until the date upon which the law requires compliance with the provision. The~~
20.35 ~~commissioner has authority to enforce this subdivision.~~

21.1 Subd. 13. **Limitations on estate recovery.** (a) ~~For an individual who exhausts the~~
21.2 ~~minimum benefits of a dollar-for-dollar asset protection policy under subdivision 10, and~~
21.3 ~~is determined eligible for medical assistance under subdivision 9, the state shall limit~~
21.4 ~~recovery under the provisions of section 256B.15 against the estate of the individual~~
21.5 ~~or individual's spouse for medical assistance benefits received by that individual to an~~
21.6 ~~amount that exceeds the dollar amount of coverage utilized under the partnership policy.~~
21.7 Protected assets of the individual shall not be subject to recovery under section 256B.15
21.8 or section 524.3-1201 for medical assistance or alternative care paid on behalf of the
21.9 individual. Protected assets of the individual in the estate of the individual's surviving
21.10 spouse shall not be liable to pay a claim for recovery of medical assistance paid for the
21.11 predeceased individual that is filed in the estate of the surviving spouse under section
21.12 256B.15. Protected assets of the individual shall not be protected assets in the surviving
21.13 spouse's estate by reason of the preceding sentence and shall be subject to recovery
21.14 under section 256B.15 or section 524.3-1201 for medical assistance paid on behalf of
21.15 the surviving spouse.

21.16 (b) ~~For an individual who exhausts the minimum benefits of a total asset protection~~
21.17 ~~policy under subdivision 11, and is determined eligible for medical assistance under~~
21.18 ~~subdivision 9, the state shall not seek recovery under the provisions of section 256B.15~~
21.19 ~~against the estate of the individual or individual's spouse for medical assistance benefits~~
21.20 ~~received by that individual. The personal representative may protect the full fair market~~
21.21 value of an individual's unprotected assets in the individual's estate in an amount equal
21.22 to the unused amount of asset protection the individual had on the date of death. The
21.23 personal representative shall apply the asset protection so that the full fair market value of
21.24 any unprotected asset in the estate is protected. When or if the asset protection available
21.25 to the personal representative is or becomes less than the full fair market value of any
21.26 remaining unprotected asset, it shall be applied to partially protect one unprotected asset.

21.27 (c) The asset protection described in paragraph (a) terminates with respect to an asset
21.28 includable in the individual's estate under chapter 524 or section 256B.15:

21.29 (1) when the estate distributes the asset; or

21.30 (2) if the estate of the individual has not been probated within one year from the
21.31 date of death.

21.32 (d) If an individual owns a protected asset on the date of death and the estate is
21.33 opened for probate more than one year after death, the state or a county agency may file
21.34 and collect claims in the estate under section 256B.15, and no statute of limitations in
21.35 chapter 524 that would otherwise limit or bar the claim shall apply.

22.1 (e) Except as otherwise provided, nothing in this section shall limit or prevent
22.2 recovery of medical assistance.

22.3 Subd. 14. **Implementation.** ~~(a) If federal law is amended or a federal waiver is~~
22.4 ~~granted to permit implementation of this section, the commissioner, in consultation with~~
22.5 ~~the commissioner of commerce, may alter the requirements of subdivisions 10 and 11,~~
22.6 ~~and may establish additional requirements for approved policies in order to conform with~~
22.7 ~~federal law or waiver authority. In establishing these requirements, the commissioner shall~~
22.8 ~~seek to maximize purchase of qualifying policies by Minnesota residents while controlling~~
22.9 ~~medical assistance costs.~~

22.10 ~~(b) The commissioner is authorized to suspend implementation of this section~~
22.11 ~~until the next session of the legislature if the commissioner, in consultation with the~~
22.12 ~~commissioner of commerce, determines that the federal legislation or federal waiver~~
22.13 ~~authorizing a partnership program in Minnesota is likely to impose substantial unforeseen~~
22.14 ~~costs on the state budget.~~

22.15 ~~(c) The commissioner must take action under paragraph (a) or (b) within 45 days of~~
22.16 ~~final federal action authorizing a partnership policy in Minnesota.~~

22.17 ~~(d) The commissioner must notify the appropriate legislative committees of~~
22.18 ~~action taken under this subdivision within 50 days of final federal action authorizing a~~
22.19 ~~partnership policy in Minnesota.~~

22.20 ~~(e) The commissioner must publish a notice in the State Register of implementation~~
22.21 ~~decisions made under this subdivision as soon as practicable. The commissioner shall~~
22.22 submit a state plan amendment to the federal government to implement the long-term care
22.23 partnership program in accordance with this section.

22.24 **Subd. 15. Limitations on liens.** (a) If the interest of an individual in real property is
22.25 designated as protected under subdivision 9 or is protected property in the estate of the
22.26 individual and is subject to a medical assistance lien under sections 514.980 to 514.985, or
22.27 a lien arising under section 256B.15, the gross proceeds from the gross sale price of any
22.28 sale of the property by that individual or the individual's estate that are allocable to the
22.29 protected interest are not subject to recovery of medical assistance under the lien.

22.30 (b) Paragraph (a) applies to protected real property to the extent an heir or devisee
22.31 of the estate of the individual owns the protected property or an interest in the protected
22.32 property in the individual's own name when the individual sells it. Paragraph (a) does not
22.33 apply to any of the heirs, successors, assigns, or transferees of those individuals.

22.34 **Subd. 16. Burden of proof.** Any individual or the personal representative of the
22.35 individual's estate who asserts that an asset is a disregarded or protected asset under
22.36 this section in connection with any determination of eligibility for benefits under the

- 23.1 medical assistance program or any appeal, case, controversy, or other proceedings, shall
23.2 have the initial burden of:
- 23.3 (1) documenting and proving by convincing evidence that the asset or source of
23.4 funds for the asset in question was designated as disregarded or protected;
- 23.5 (2) tracing the asset and the proceeds of the asset from that time forward; and
23.6 (3) documenting that the asset or proceeds of the asset remained disregarded or
23.7 protected at all relevant times.
- 23.8 **EFFECTIVE DATE.** This section is effective July 1, 2006.

1.1 Senator moves to amend S.F. No. 2898 as follows:

1.2 Page 22, line 21, after the period, insert:"

1.3 (a) The commissioner, in cooperation with the commissioner of commerce, shall
1.4 pursue any federal law changes or waiver necessary to implement the long-term care
1.5 partnership program requirements of Public Law 109-171, section 6021.

1.6 (b)"

1.1 To: Senator Cohen, Chair

1.2 Committee on Finance

1.3 Senator Berglin,

1.4 Chair of the Health and Human Services Budget Division, to which was referred

1.5 **S.F. No. 2898:** A bill for an act relating to insurance; conforming regulation
 1.6 of qualified long-term care insurance to requirements for state participation in the
 1.7 federal long-term care partnership program; amending state long-term care partnership
 1.8 program requirements; amending Minnesota Statutes 2004, sections 62S.05, by adding
 1.9 a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2;
 1.10 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision
 1.11 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by
 1.12 adding a subdivision; 62S.26; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30;
 1.13 Minnesota Statutes 2005 Supplement, section 256B.0571; proposing coding for new
 1.14 law in Minnesota Statutes, chapter 62S.

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

1.16 Page 17, line 34, delete "issued no earlier than"

1.17 Page 17, line 35, delete "July 1, 2006" and insert "that (i) is issued on or after the
 1.18 effective date of the state plan amendment implementing the partnership program in
 1.19 Minnesota, or (ii) qualifies as a partnership policy under the provisions of subdivision 8a"

1.20 Page 18, after line 5, insert:

1.21 "**Subd. 8a. Exchange for long-term care partnership policy; addition of policy**
 1.22 **rider. (a) If federal law is amended or federal approval is granted with respect to the**
 1.23 **partnership program established in this section, a long-term care insurance policy that**
 1.24 **was issued before the effective date of the state plan amendment implementing the**
 1.25 **partnership program in Minnesota that was exchanged after the effective date of the state**
 1.26 **plan amendment for a long-term care partnership policy that meets the requirements**
 1.27 **of Public Law 109-171, section 6021, qualifies as a long-term care partnership policy**
 1.28 **under this section.**

1.29 **(b) If federal law is amended or federal approval is granted with respect to the**
 1.30 **partnership program established in this section, a long-term care insurance policy that was**
 1.31 **issued before the effective date of the state plan amendment implementing the partnership**
 1.32 **program in Minnesota that has a rider added after the effective date of the state plan**
 1.33 **amendment that meets the requirements of Public Law 109-171, section 6021, qualifies**
 1.34 **as a long-term care partnership policy under this section.**

1.35 Page 19, line 11, delete "1496p" and insert "1396p"

1.36 Page 22, delete subdivision 15 and insert:

1.37 "**Subd. 15. Limitation on liens. (a) An individual's interest in real property shall**
 1.38 **not be subject to a medical assistance lien or a notice of potential claim while it is**
 1.39 **protected under subdivision 9 to the extent it is protected.**

1.40 (b) Medical assistance liens or liens arising under notices of potential claims against
 1.41 an individual's interests in real property in the individual's estate that are designated as
 2.1 protected under subdivision 13, paragraph (b), shall be released to the extent of the dollar
 2.2 value of the protection applied to the interest.

2.3 (c) If an interest in real property is protected from a lien for recovery of medical
 2.4 assistance paid on behalf of the individual under paragraph (a) or (b), no lien for recovery
 2.5 of medical assistance paid on behalf of that individual shall be filed against the protected
 2.6 interest in real property after it is distributed to the individual's heirs or devisees."

2.7 Amend the title accordingly

2.8 And when so amended that the bill be recommended to pass and be referred to
 2.9 the full committee.

2.10
 2.11

Linda Berghin

 (Division Chair)

2.12
 2.13

April 5, 2006
 (Date of Division action)

1.1 **Senator Cohen from the Committee on Finance, to which was re-referred**

1.2 **S.F. No. 2898:** A bill for an act relating to insurance; conforming regulation
 1.3 of qualified long-term care insurance to requirements for state participation in the
 1.4 federal long-term care partnership program; amending state long-term care partnership
 1.5 program requirements; amending Minnesota Statutes 2004, sections 62S.05, by adding
 1.6 a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2;
 1.7 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision
 1.8 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by
 1.9 adding a subdivision; 62S.26; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30;
 1.10 Minnesota Statutes 2005 Supplement, section 256B.0571; proposing coding for new
 1.11 law in Minnesota Statutes, chapter 62S.

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

1.13 Page 17, line 34, delete "issued no earlier than"

1.14 Page 17, line 35, delete "July 1, 2006" and insert "that (i) is issued on or after the
 1.15 effective date of the state plan amendment implementing the partnership program in
 1.16 Minnesota, or (ii) qualifies as a partnership policy under the provisions of subdivision 8a"

1.17 Page 18, after line 5, insert:

1.18 "Subd. 8a. Exchange for long-term care partnership policy; addition of policy
 1.19 rider. (a) If federal law is amended or federal approval is granted with respect to the
 1.20 partnership program established in this section, a long-term care insurance policy that
 1.21 was issued before the effective date of the state plan amendment implementing the
 1.22 partnership program in Minnesota that was exchanged after the effective date of the state
 1.23 plan amendment for a long-term care partnership policy that meets the requirements
 1.24 of Public Law 109-171, section 6021, qualifies as a long-term care partnership policy
 1.25 under this section.

1.26 (b) If federal law is amended or federal approval is granted with respect to the
 1.27 partnership program established in this section, a long-term care insurance policy that was
 28 issued before the effective date of the state plan amendment implementing the partnership
 1.29 program in Minnesota that has a rider added after the effective date of the state plan
 1.30 amendment that meets the requirements of Public Law 109-171, section 6021, qualifies
 1.31 as a long-term care partnership policy under this section."

1.32 Page 19, line 11, delete "1496p" and insert "1396p"

1.33 Page 22, line 21, delete the new language

1.34 Page 22, delete lines 22 to 23 and insert:

1.35 "(a) The commissioner, in cooperation with the commissioner of commerce, shall
 1.36 pursue any federal law changes or waiver necessary to implement the long-term care
 1.37 partnership program requirements of Public Law 109-171, section 6021.

1.38 (b) The commissioner shall submit a state plan amendment to the federal government
 1.39 to implement the long-term care partnership program in accordance with this section."

1.40 Page 22, delete subdivision 15 and insert:

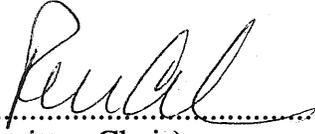
2.1 "Subd. 15. Limitation on liens. (a) An individual's interest in real property shall
 2.2 not be subject to a medical assistance lien or a notice of potential claim while it is
protected under subdivision 9 to the extent it is protected.

2.4 (b) Medical assistance liens or liens arising under notices of potential claims against
 2.5 an individual's interests in real property in the individual's estate that are designated as
 2.6 protected under subdivision 13, paragraph (b), shall be released to the extent of the dollar
 2.7 value of the protection applied to the interest.

2.8 (c) If an interest in real property is protected from a lien for recovery of medical
 2.9 assistance paid on behalf of the individual under paragraph (a) or (b), no lien for recovery
 2.10 of medical assistance paid on behalf of that individual shall be filed against the protected
 2.11 interest in real property after it is distributed to the individual's heirs or devisees."

2.12 Amend the title accordingly

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

2.14 
 2.15
 (Committee Chair)

2.16 April 26, 2006 ⁴⁻²⁶⁻⁰⁶.....
 2.17 (Date of Committee recommendation)

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

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Senate

State of Minnesota

S.F. No. 2888 - Establishing Requirements for Assisted Living Services (The First Engrossment)

Author: Senator Linda Berglin

Prepared by: David Giel, Senate Research (296-7178)

Date: April 25, 2006

S.F. No. 2888 establishes minimum requirements for assisted living services in a new chapter of state law, Chapter 144G. It allows assisted living services to be provided only in a registered housing with services establishment. It modifies the home care bill of rights for assisted living clients with respect to certain advance notice requirements. It establishes a Class F home care provider category and eliminates the Class E assisted living program license. These provisions are effective January 1, 2007.

Section 1 (144A.441) modifies the home care bill of rights to require that assisted living clients receive 30 days of advance notice, rather than ten days, regarding the termination of a service by a provider, except in certain unusual circumstances.

Section 2 (144A.442) requires that when a non-Medicare-certified provider of home care services terminates services to an assisted living client, the provider must give the client a written notice that includes certain required information, including the date of termination, reason for termination, contact information for other service providers, and an offer to coordinate the transfer of care.

Section 3 (144A.4605) changes the title of licensed providers that offer home care services to residents of housing with services establishments. These providers are referred to as "class F home care providers" rather than "assisted living home care providers."

Section 4 (144D.01, subdivision 2a) adds a definition of "arranged home care provider" to the statute regulating housing with services establishments.

Section 5 (144D.015) clarifies the definition of “assisted living facility” and “assisted living residence” for purposes of consistency with long-term care insurance terminology.

Section 6 (144D.02) deletes outdated language.

Section 7 (144D.03, subdivision 2) deletes outdated language.

Section 8 (144D.04) modifies the contents of a housing with services contract. It clarifies language and requires the contract to include contact information for long-term care consultation services.

Section 9 (144D.045) outlines the information a housing with services establishment must provide to prospective residents regarding assisted living service providers that offer services in the establishment.

Section 10 (144D.05) deletes outdated language.

Section 11 (144D.065) corrects terminology.

Sections 12 to 17 establish a new Chapter 144G regulating assisted living services.

Section 12 (144G.01) defines terms.

Section 13 (144G.02) prohibits a person or entity from using the phrase “assisted living” to advertise or describe itself unless the entity is a housing with services establishment that meets the requirements of Chapter 144G or the person or entity provides some or all components of assisted living that meet these requirements. An establishment that only offers assisted living services in a portion of its housing units must identify the number or location of those units and may not use the term “assisted living” in its name. This section also authorizes the Commissioner of the Minnesota Department of Health (MDH) to enforce this chapter.

Section 14 (144G.03) requires that assisted living services be provided only to individuals living in a registered housing with services establishment. This section also establishes minimum requirements for assisted living services. A housing with services establishment using the phrase “assisted living” to identify or market itself must register annually with MDH to verify compliance with this chapter. Minimum assisted living service requirements include:

- the provision of health-related services, including medication administration or assistance with self-administration and assistance with at least three of seven listed activities of daily living;
- provision of necessary client assessments by a registered nurse;
- a system to supervise and evaluate the delegation of health care activities to unlicensed health care personnel;

- staff access to an on-call registered nurse at all times;
- a system to check at least daily on each client;
- a person available at all times to respond to client requests who is awake, located in the same building or nearby, and capable of understanding and responding to requests for assistance;
- the provision of, or offer to provide, two meals each day, weekly housekeeping and laundry service, and assistance in accessing other services; and
- provision of a consumer information guide as required under section 17.

This section also regulates the provision of nurse assessments prior to move in, the provision of information to help a resident who has concerns about assisted living services being provided, and the provision of notice to a resident when the establishment terminates the client's housing contract.

Section 15 (144G.04) protects a client from having to utilize any assisted living services made available in the establishment and protects the rights of the establishment to terminate contracts under certain circumstances; to decline to serve a client whose needs cannot be met; to refuse to fundamentally alter the operation of the establishment to accommodate a resident; and to require a resident, as a condition of residency, to pay for a package of assisted living services even if the client chooses not to utilize every service.

Section 16 (144G.05) allows providers who do not meet the requirements of this chapter to continue to receive payment for assisted living services under several waiver programs if they continue to satisfy federal standards.

Section 17 (144G.06) requires MDH, after receiving the recommendations of an advisory committee, to adopt a uniform format and required components for a consumer information guide and make them available to assisted living providers.

Section 18 is a Revisor's instruction.

Section 19 is a repealer.

DG:rdr

Consolidated Fiscal Note – 2005-06 Session

Bill #: S2888-1A Complete Date: 03/30/06

Chief Author: BERGLIN, LINDA

Title: ASSISTED LIVING RQRMNT; LIC & REG

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agencies: Health Dept (03/29/06)

Human Services Dept (03/30/06)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
State Govt Special Revenue Fund			140	280	280
Health Dept			140	280	280
Revenues					
-- No Impact --					
Net Cost <Savings>					
State Govt Special Revenue Fund			140	280	280
Health Dept			140	280	280
Total Cost <Savings> to the State			140	280	280

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 03/30/06 Phone: 286-5618

Fiscal Note – 2005-06 Session

Bill #: S2888-1A **Complete Date:** 03/29/06

Chief Author: BERGLIN, LINDA

Title: ASSISTED LIVING RQRMNT; LIC & REG

Fiscal Impact	Yes	No
State	X	
Local		X
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Health Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
State Govt Special Revenue Fund			140	280	280
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
State Govt Special Revenue Fund			140	280	280
Revenues					
-- No Impact --					
Net Cost <Savings>					
State Govt Special Revenue Fund			140	280	280
Total Cost <Savings> to the State			140	280	280

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

Limits the use of the term assisted living; specifies procedures for terminating services for assisted living clients; modifies the home care bill of rights for purposes of assisted living; establishes the Class F home care provider category; eliminates the Class E assisted living programs license; and requires the use of a uniform format for presenting information on assisted living and informing assisted living clients of legal rights.

Assumptions

Section 1. through Section 12: No Fiscal Impact

Section 13. Assisted Living; Protected Title; Restriction on Use; Regulatory Functions:

Subd1. Protected Title:

Training workshops will be conducted for Registered Housing With Services Establishments (1058 registered), Assisted Living Home Care Providers (478 licensed), Class A Home Care Providers (322 licensed), Advocates and Ombudsman concerning the provisions of the new requirements to use the term assisted living. It is estimated that approximately 1,500 interested individuals will attend. The workshops will be conducted statewide with 4 out-state and 2 metro sites identified. A registration fee of \$20 will be charged, to cover the costs of the workshop facilities, development and printing of materials, and staff development time. These dedicated receipts will be deposited to the Miscellaneous Special Revenue Fund. Workshop materials will be placed on the MDH website. No additional funding will be requested for these training workshops.

Subd2. Authority of Commissioner:

There are approximately 1,050 entities registered as "housing with services". It is estimated that at least 500 of these will be subject to the new requirements. The enforcement mechanism provided in the bill is that MDH may seek injunctive relief in District Court. MDH will need to establish criteria for possible violations and determine when to proceed. It is estimated that during the time period from January 1, 2007 through June 30, 2007 that approximately 10 actions will proceed forward with injunctive relief.

MDH estimates that approximately 5 cases will be identified during the survey process and that an additional 5 will be the result of complaints received by the Office of Health Facility Complaints. The estimated average cost for attorney general involvement is \$14,000 for a total of \$140,000. The SGSR appropriation will need to be increased by \$140,000.

There is currently sufficient fee revenue in the Home Care SGSR account to support the increased appropriation of \$140,000. MDH would have the funds available to proceed with the necessary enforcement actions for the current biennium. Home Care licensure and/or Housing With Services registration fees would need to be adjusted to cover these costs in the 2008-2009 biennium.

Section 14. Assisted Living Requirements: No Fiscal Impact

Subd. 1. The application will be modified to incorporate the new verification requirements. Data system modifications will be scheduled to allow for development, testing and implementation in ample time for the licensure and renewal cycle.

Subd. 2,3,4 and 5. The new survey requirements can be implemented by updating the assisted living licensure forms and when providers are renewing or applying for a new license there will be a check off list of the new requirements that will be verified during the survey. These requirements will be incorporated into the survey process by slightly increasing survey time by approximately 1 hour. The current average survey and follow-up time will be monitored closely to ensure that the number of surveys performed can be maintained within the number of available hours. No additional funding will be requested for these requirements.

Section 15 through 19: No Fiscal Impact

Expenditure and/or Revenue Formula

MDH estimates that approximately 5 cases will be identified during the survey process and that an additional 5 will be the result of complaints received by the Office of Health Facility Complaints. The estimated average cost for attorney general involvement is \$14,000 for a total of \$140,000 for 6 months during SFY 2007.

Beginning in SFY 2008, the annual anticipated cost is \$280,000.

Long-Term Fiscal Considerations

Annual costs of \$280,000 will be ongoing.

References/Sources

David Giese, Division Director
Compliance Monitoring Division
651-201-3700

Agency Contact Name: David Giese (651-201-3700)
FN Coord Signature: MARGARET KELLY
Date: 03/22/06 Phone: 201-5812

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER
Date: 03/29/06 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S2888-1A **Complete Date:** 03/30/06

Chief Author: BERGLIN, LINDA

Title: ASSISTED LIVING RQRMNT; LIC & REG

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

NARRATIVE: SF 2888-1A

Bill Description

The provisions in the previous version of this bill that had fiscal implications have been removed or changed. The amendment eliminated the additional duties of the Office of the Ombudsman for older Minnesotans, and the absence of "grandfathering" of existing assisted living providers paid by home and community based waiver programs. As a result, the amended bill does not have a fiscal impact.

Assumptions

1. The amended version of the bill addresses the areas which previously had fiscal implications.

Expenditure and/or Revenue Formula
Not Applicable

Long-Term Fiscal Considerations

None

Local Government Costs

None

References/Sources

Continuing Care Research and Analysis
Office of the Ombudsman for Older Minnesotans

Agency Contact Name: Bob Meyer 431-2383
FN Coord Signature: STEVE BARTA
Date: 03/20/06 Phone: 431-2916

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: DOUG GREEN
Date: 03/30/06 Phone: 286-5618

1.1 A bill for an act
1.2 relating to health; establishing requirements for assisted living services; limiting
1.3 use of the term assisted living; specifying procedures for terminating services
1.4 for assisted living clients; modifying the home care bill of rights for purposes
1.5 of assisted living; establishing the Class F home care provider category;
1.6 eliminating the Class E assisted living programs license; requiring the provision
1.7 of information on assisted living and the legal rights of assisted living clients;
1.8 amending Minnesota Statutes 2004, sections 144A.4605; 144D.01, by adding a
1.9 subdivision; 144D.015; 144D.02; 144D.03, subdivision 2; 144D.04; 144D.05;
1.10 144D.065; proposing coding for new law in Minnesota Statutes, chapters 144A;
1.11 144D; proposing coding for new law as Minnesota Statutes, chapter 144G;
1.12 repealing Minnesota Rules, part 4668.0215.

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

1.14 Section 1. [144A.441] ASSISTED LIVING BILL OF RIGHTS ADDENDUM.

1.15 Assisted living clients, as defined in section 144G.01, subdivision 3, shall be
1.16 provided with the home care bill of rights required by section 144A.44, except that the
1.17 home care bill of rights provided to these clients must include the following provision in
1.18 place of the provision in section 144A.44, subdivision 1, clause (16):

1.19 "(16) the right to reasonable, advance notice of changes in services or charges,
1.20 including at least 30 days' advance notice of the termination of a service by a provider,
1.21 except in cases where:

1.22 (i) the recipient of services engages in conduct that alters the conditions of
1.23 employment as specified in the employment contract between the home care provider
1.24 and the individual providing home care services, or creates an abusive or unsafe work
environment for the individual providing home care services;

2.1 (ii) an emergency for the informal caregiver or a significant change in the recipient's
2.2 condition has resulted in service needs that exceed the current service provider agreement
2.3 and that cannot be safely met by the home care provider; or

2.4 (iii) the provider has not received payment for services, for which at least ten days'
2.5 advance notice of the termination of a service shall be provided."

2.6 **EFFECTIVE DATE.** This section is effective January 1, 2007.

2.7 **Sec. 2. [144A.442] TERMINATION OF HOME CARE SERVICES FOR**
2.8 **ASSISTED LIVING CLIENTS.**

2.9 If an arranged home care provider, as defined in section 144D.01, subdivision 2a,
2.10 who is not also Medicare certified terminates a service agreement or service plan with
2.11 an assisted living client, as defined in section 144G.01, subdivision 3, the home care
2.12 provider shall provide the assisted living client and the legal or designated representatives
2.13 of the client, if any, with a written notice of termination which includes the following
2.14 information:

2.15 (1) the effective date of termination;

2.16 (2) the reason for termination;

2.17 (3) without extending the termination notice period, an affirmative offer to meet with
2.18 the assisted living client or client representatives within no more than five business days of
2.19 the date of the termination notice to discuss the termination;

2.20 (4) contact information for a reasonable number of other home care providers in
2.21 the geographic area of the assisted living client, as required by Minnesota Rules, part
2.22 4668.0050;

2.23 (5) a statement that the provider will participate in a coordinated transfer of the care
2.24 of the client to another provider or caregiver, as required by section 144A.44, subdivision
2.25 1, clause (17);

2.26 (6) the name and contact information of a representative of the home care provider
2.27 with whom the client may discuss the notice of termination;

2.28 (7) a copy of the home care bill of rights; and

2.29 (8) a statement that the notice of termination of home care services by the home care
2.30 provider does not constitute notice of termination of the housing with services contract
2.31 with a housing with services establishment.

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

3.1 Sec. 3. Minnesota Statutes 2004, section 144A.4605, is amended to read:

3.2 **144A.4605 ~~ASSISTED LIVING HOME CARE CLASS F PROVIDER.~~**

3.3 Subdivision 1. **Definitions.** For purposes of this section, the term "~~assisted~~
3.4 living class F home care provider" means a home care provider who provides nursing
3.5 services, delegated nursing services, other services performed by unlicensed personnel, or
3.6 central storage of medications solely for residents of one or more housing with services
3.7 establishments registered under chapter 144D.

3.8 Subd. 2. ~~Assisted living Class F~~ home care license established. A home care
3.9 provider license category entitled ~~assisted living class F~~ home care provider is hereby
3.10 established. A home care provider may obtain ~~an assisted living a class F~~ license if the
3.11 program meets the following requirements:

3.12 (a) nursing services, delegated nursing services, other services performed by
3.13 unlicensed personnel, or central storage of medications under the ~~assisted living class~~
3.14 F license are provided solely for residents of one or more housing with services
3.15 establishments registered under chapter 144D;

3.16 (b) unlicensed personnel perform home health aide and home care aide tasks
3.17 identified in Minnesota Rules, parts 4668.0100, subparts 1 and 2, and 4668.0110, subpart 1.
3.18 Qualifications to perform these tasks shall be established in accordance with subdivision 3;

3.19 (c) periodic supervision of unlicensed personnel is provided as required by rule;

3.20 (d) notwithstanding Minnesota Rules, part 4668.0160, subpart 6, item D, client
3.21 records shall include:

3.22 (1) daily records or a weekly summary of home care services provided;

3.23 (2) documentation each time medications are administered to a client; and

3.24 (3) documentation on the day of occurrence of any significant change in the client's
3.25 status or any significant incident, such as a fall or refusal to take medications.

3.26 All entries must be signed by the staff providing the services and entered into the
3.27 record no later than two weeks after the end of the service day, except as specified in
3.28 clauses (2) and (3);

3.29 (e) medication and treatment orders, if any, are included in the client record and
3.30 are renewed at least every 12 months, or more frequently when indicated by a clinical
3.31 assessment;

3.32 (f) the central storage of medications in a housing with services establishment
3.33 registered under chapter 144D is managed under a system that is established by a
3.34 registered nurse and addresses the control of medications, handling of medications,
3.35 medication containers, medication records, and disposition of medications; and

4.1 (g) in other respects meets the requirements established by rules adopted under
4.2 sections 144A.45 to 144A.47.

4.3 **Subd. 3. Training or competency evaluations required.** (a) Unlicensed personnel
4.4 must:

4.5 (1) satisfy the training or competency requirements established by rule under
4.6 sections 144A.45 to 144A.47; or

4.7 (2) be trained or determined competent by a registered nurse in each task identified
4.8 under Minnesota Rules, part 4668.0100, subparts 1 and 2, when offered to clients in a
4.9 housing with services establishment as described in paragraphs (b) to (e).

4.10 (b) Training for tasks identified under Minnesota Rules, part 4668.0100, subparts
4.11 1 and 2, shall use a curriculum which meets the requirements in Minnesota Rules, part
4.12 4668.0130.

4.13 (c) Competency evaluations for tasks identified under Minnesota Rules, part
4.14 4668.0100, subparts 1 and 2, must be completed and documented by a registered nurse.

4.15 (d) Unlicensed personnel performing tasks identified under Minnesota Rules, part
4.16 4668.0100, subparts 1 and 2, shall be trained or demonstrate competency in the following
4.17 topics:

4.18 (1) an overview of sections 144A.43 to 144A.47 and rules adopted thereunder;

4.19 (2) recognition and handling of emergencies and use of emergency services;

4.20 (3) reporting the maltreatment of vulnerable minors or adults under sections 626.556
4.21 and 626.557;

4.22 (4) home care bill of rights;

4.23 (5) handling of clients' complaints and reporting of complaints to the Office of
4.24 Health Facility Complaints;

4.25 (6) services of the ombudsman for older Minnesotans;

4.26 (7) observation, reporting, and documentation of client status and of the care or
4.27 services provided;

4.28 (8) basic infection control;

4.29 (9) maintenance of a clean, safe, and healthy environment;

4.30 (10) communication skills;

4.31 (11) basic elements of body functioning and changes in body function that must be
4.32 reported to an appropriate health care professional; and

4.33 (12) physical, emotional, and developmental needs of clients, and ways to work with
4.34 clients who have problems in these areas, including respect for the client, the client's
4.35 property, and the client's family.

5.1 (e) Unlicensed personnel who administer medications must comply with rules
5.2 relating to the administration of medications in Minnesota Rules, part 4668.0100, subpart
5.3 2, except that unlicensed personnel need not comply with the requirements of Minnesota
5.4 Rules, part 4668.0100, subpart 5.

5.5 Subd. 4. **License required.** (a) A housing with services establishment registered
5.6 under chapter 144D that is required to obtain a home care license must obtain ~~an assisted~~
5.7 ~~living~~ a class F home care license according to this section or a class A or class ~~E~~ B license
5.8 according to rule. A housing with services establishment that obtains a class ~~E~~ B license
5.9 under this subdivision remains subject to the payment limitations in sections 256B.0913,
5.10 subdivision 5f, paragraph (b), and 256B.0915, subdivision 3d.

5.11 (b) A board and lodging establishment registered for special services as of December
5.12 31, 1996, and also registered as a housing with services establishment under chapter
5.13 144D, must deliver home care services according to sections 144A.43 to 144A.47, and
5.14 may apply for a waiver from requirements under Minnesota Rules, parts 4668.0002 to
5.15 4668.0240, to operate a licensed agency under the standards of section 157.17. Such
5.16 waivers as may be granted by the department will expire upon promulgation of home care
5.17 rules implementing section 144A.4605.

5.18 ~~(c) An adult foster care provider licensed by the Department of Human Services and~~
5.19 ~~registered under chapter 144D may continue to provide health-related services under its~~
5.20 ~~foster care license until the promulgation of home care rules implementing this section.~~

5.21 ~~(d) An assisted living~~ (c) A class F home care provider licensed under this section
5.22 must comply with the disclosure provisions of section 325F.72 to the extent they are
5.23 applicable.

5.24 Subd. 5. **License fees.** The license fees for ~~assisted living~~ class F home care
5.25 providers shall be as follows:

5.26 (1) \$125 annually for those providers serving a monthly average of 15 or fewer
5.27 clients, and for ~~assisted living~~ class F providers of all sizes during the first year of
5.28 operation;

5.29 (2) \$200 annually for those providers serving a monthly average of 16 to 30 clients;

5.30 (3) \$375 annually for those providers serving a monthly average of 31 to 50 clients;

5.31 and

5.32 (4) \$625 annually for those providers serving a monthly average of 51 or more
5.33 clients.

5.34 Subd. 6. **Waiver.** Upon request of the home care provider, the commissioner may
5.35 waive the provisions of this section relating to registered nurse duties.

5.36 **EFFECTIVE DATE.** This section is effective January 1, 2007.

6.1 Sec. 4. Minnesota Statutes 2004, section 144D.01, is amended by adding a subdivision
6.2 to read:

6.3 Subd. 2a. Arranged home care provider. "Arranged home care provider" means a
6.4 home care provider licensed under Minnesota Rules, chapter 4668, that provides services
6.5 to some or all of the residents of a housing with services establishment and that is either
6.6 the establishment itself or another entity with which the establishment has an arrangement.

6.7 EFFECTIVE DATE. This section is effective January 1, 2007.

6.8 Sec. 5. Minnesota Statutes 2004, section 144D.015, is amended to read:

6.9 **144D.015 ASSISTED LIVING FACILITY OR ASSISTED LIVING**
6.10 **RESIDENCE DEFINITION FOR PURPOSES OF LONG-TERM CARE**
6.11 **INSURANCE.**

6.12 For purposes of consistency with terminology commonly used in long-term
6.13 care insurance policies and notwithstanding chapter 144G, a housing with services
6.14 establishment that is registered under section 144D.03 and that holds, or ~~contracts~~ makes
6.15 arrangements with an individual or entity that holds, ~~a~~ any type of home care license and
6.16 all other licenses, permits, registrations, or other governmental approvals legally required
6.17 for delivery of the services the establishment offers or provides to its residents, constitutes
6.18 an "assisted living facility" or "assisted living residence."

6.19 EFFECTIVE DATE. This section is effective January 1, 2007.

6.20 Sec. 6. Minnesota Statutes 2004, section 144D.02, is amended to read:

6.21 **144D.02 REGISTRATION REQUIRED.**

6.22 No entity may establish, operate, conduct, or maintain ~~an elderly~~ a housing with
6.23 services establishment in this state without registering and operating as required in
6.24 sections 144D.01 to 144D.06.

6.25 EFFECTIVE DATE. This section is effective January 1, 2007.

6.26 Sec. 7. Minnesota Statutes 2004, section 144D.03, subdivision 2, is amended to read:

6.27 Subd. 2. **Registration information.** The establishment shall provide the following
6.28 information to the commissioner in order to be registered:

6.29 (1) the business name, street address, and mailing address of the establishment;

6.30 (2) the name and mailing address of the owner or owners of the establishment and, if

6.31 the owner or owners are not natural persons, identification of the type of business entity

7.1 of the owner or owners, and the names and addresses of the officers and members of the
7.2 governing body, or comparable persons for partnerships, limited liability corporations, or
7.3 other types of business organizations of the owner or owners;

7.4 (3) the name and mailing address of the managing agent, whether through
7.5 management agreement or lease agreement, of the establishment, if different from the
7.6 owner or owners, and the name of the on-site manager, if any;

7.7 (4) verification that the establishment has entered into ~~an elderly~~ a housing with
7.8 services contract, as required in section 144D.04, with each resident or resident's
7.9 representative;

7.10 (5) verification that the establishment is complying with the requirements of section
7.11 325F.72, if applicable;

7.12 (6) the name and address of at least one natural person who shall be responsible
7.13 for dealing with the commissioner on all matters provided for in sections 144D.01 to
7.14 144D.06, and on whom personal service of all notices and orders shall be made, and who
7.15 shall be authorized to accept service on behalf of the owner or owners and the managing
7.16 agent, if any; and

7.17 (7) the signature of the authorized representative of the owner or owners or, if
7.18 the owner or owners are not natural persons, signatures of at least two authorized
7.19 representatives of each owner, one of which shall be an officer of the owner.

7.20 Personal service on the person identified under clause (6) by the owner or owners in
7.21 the registration shall be considered service on the owner or owners, and it shall not be a
7.22 defense to any action that personal service was not made on each individual or entity. The
7.23 designation of one or more individuals under this subdivision shall not affect the legal
7.24 responsibility of the owner or owners under sections 144D.01 to 144D.06.

7.25 **EFFECTIVE DATE.** This section is effective January 1, 2007.

7.26 Sec. 8. Minnesota Statutes 2004, section 144D.04, is amended to read:

7.27 **144D.04 ~~ELDERLY~~ HOUSING WITH SERVICES CONTRACTS.**

7.28 Subdivision 1. **Contract required.** No ~~elderly~~ housing with services establishment
7.29 may operate in this state unless a written ~~elderly~~ housing with services contract, as defined
7.30 in subdivision 2, is executed between the establishment and each resident or resident's
7.31 representative and unless the establishment operates in accordance with the terms of the
7.32 contract. The resident or the resident's representative shall be given a complete copy of
7.33 the contract and all supporting documents and attachments and any changes whenever
7.34 changes are made.

8.1 Subd. 2. **Contents of contract.** ~~An elderly~~ A housing with services contract, which
8.2 need not be entitled as such to comply with this section, shall include at least the following
8.3 elements in itself or through supporting documents or attachments:

8.4 (1) the name, street address, and mailing address of the establishment;

8.5 (2) the name and mailing address of the owner or owners of the establishment and, if
8.6 the owner or owners is not a natural person, identification of the type of business entity
8.7 of the owner or owners;

8.8 (3) the name and mailing address of the managing agent, through management
8.9 agreement or lease agreement, of the establishment, if different from the owner or owners;

8.10 (4) the name and address of at least one natural person who is authorized to accept
8.11 service of process on behalf of the owner or owners and managing agent;

8.12 (5) a statement describing the registration and licensure status of the establishment
8.13 and any provider providing health-related or supportive services under an arrangement
8.14 with the establishment;

8.15 (6) the term of the contract;

8.16 (7) a description of the services to be provided to the resident in the base rate to
8.17 be paid by resident;

8.18 (8) a description of any additional services, including home care services, available
8.19 for an additional fee from the establishment directly or through arrangements with the
8.20 establishment, and a schedule of fees charged for these services;

8.21 ~~(9) fee schedules outlining the cost of any additional services;~~

8.22 ~~(10)~~ (9) a description of the process through which the contract may be modified,
8.23 amended, or terminated;

8.24 ~~(11)~~ (10) a description of the establishment's complaint resolution process available
8.25 to residents including the toll-free complaint line for the Office of Ombudsman for Older
8.26 Minnesotans;

8.27 ~~(12)~~ (11) the resident's designated representative, if any;

8.28 ~~(13)~~ (12) the establishment's referral procedures if the contract is terminated;

8.29 ~~(14) criteria~~ (13) requirements of residency used by the establishment to determine
8.30 who may reside or continue to reside in the ~~elderly~~ housing with services establishment;

8.31 ~~(15)~~ (14) billing and payment procedures and requirements;

8.32 ~~(16)~~ (15) a statement regarding the ability of residents to receive services from
8.33 service providers with whom the establishment does not have an arrangement; ~~and~~

8.34 ~~(17)~~ (16) a statement regarding the availability of public funds for payment for
8.35 residence or services in the establishment; and

9.1 (17) a statement regarding the availability of and contact information for long-
 9.2 term care consultation services under section 256B.0911 in the county in which the
 9.3 establishment is located.

9.4 Subd. 3. **Contracts in permanent files.** Elderly Housing with services contracts
 9.5 and related documents executed by each resident or resident's representative shall be
 9.6 maintained by the establishment in files from the date of execution until three years after
 9.7 the contract is terminated. The contracts and the written disclosures required under section
 9.8 325F.72, if applicable, shall be made available for on-site inspection by the commissioner
 9.9 upon request at any time.

9.10 **EFFECTIVE DATE.** This section is effective January 1, 2007.

9.11 Sec. 9. **[144D.045] INFORMATION CONCERNING ARRANGED HOME**
 9.12 **CARE PROVIDERS.**

9.13 If a housing with services establishment has one or more arranged home care
 9.14 providers, the establishment shall arrange to have that arranged home care provider deliver
 9.15 the following information in writing to a prospective resident, prior to the date on which
 9.16 the prospective resident executes a contract with the establishment or the prospective
 9.17 resident's move-in date, whichever is earlier:

9.18 (1) the name, mailing address, and telephone number of the arranged home care
 9.19 provider;

9.20 (2) the name and mailing address of at least one natural person who is authorized to
 9.21 accept service of process on behalf of the entity described in clause (1);

9.22 (3) a description of the process through which a home care service agreement or
 9.23 service plan between a resident and the arranged home care provider, if any, may be
 9.24 modified, amended, or terminated;

9.25 (4) the arranged home care provider's billing and payment procedures and
 9.26 requirements; and

9.27 (5) any limits to the services available from the arranged provider.

9.28 **EFFECTIVE DATE.** This section is effective January 1, 2007.

9.29 Sec. 10. Minnesota Statutes 2004, section 144D.05, is amended to read:

9.30 **144D.05 AUTHORITY OF COMMISSIONER.**

9.31 The commissioner shall, upon receipt of information which may indicate the failure
 9.32 of the elderly housing with services establishment, a resident, a resident's representative,
 9.33 or a service provider to comply with a legal requirement to which one or more of them

10.1 may be subject, make appropriate referrals to other governmental agencies and entities
 10.2 having jurisdiction over the subject matter. The commissioner may also make referrals
 10.3 to any public or private agency the commissioner considers available for appropriate
 10.4 assistance to those involved.

10.5 The commissioner shall have standing to bring an action for injunctive relief
 10.6 in the district court in the district in which an establishment is located to compel the
 10.7 ~~elderly~~ housing with services establishment to meet the requirements of this chapter or
 10.8 other requirements of the state or of any county or local governmental unit to which the
 10.9 establishment is otherwise subject. Proceedings for securing an injunction may be brought
 10.10 by the commissioner through the attorney general or through the appropriate county
 10.11 attorney. The sanctions in this section do not restrict the availability of other sanctions.

10.12 **EFFECTIVE DATE.** This section is effective January 1, 2007.

10.13 Sec. 11. Minnesota Statutes 2004, section 144D.065, is amended to read:

10.14 **144D.065 ESTABLISHMENTS THAT SERVE PERSONS WITH**
 10.15 **ALZHEIMER'S DISEASE OR RELATED DISORDERS.**

10.16 (a) If a housing with services establishment registered under this chapter markets or
 10.17 otherwise promotes services for persons with Alzheimer's disease or related disorders,
 10.18 whether in a segregated or general unit, the ~~facility's~~ establishment's direct care staff and
 10.19 their supervisors must be trained in dementia care.

10.20 (b) Areas of required training include:

- 10.21 (1) an explanation of Alzheimer's disease and related disorders;
 10.22 (2) assistance with activities of daily living;
 10.23 (3) problem solving with challenging behaviors; and
 10.24 (4) communication skills.

10.25 (c) The establishment shall provide to consumers in written or electronic form a
 10.26 description of the training program, the categories of employees trained, the frequency
 10.27 of training, and the basic topics covered. This information satisfies the disclosure
 10.28 requirements of section 325F.72, subdivision 2, clause (4).

10.29 **EFFECTIVE DATE.** This section is effective January 1, 2007.

10.30 Sec. 12. **[144G.01] DEFINITIONS.**

10.31 **Subdivision 1. Scope; other definitions.** For purposes of sections 144G.01 to
 10.32 144G.05, the following definitions apply. In addition, the definitions provided in section
 10.33 144D.01 also apply to sections 144G.01 to 144G.05.

11.1 Subd. 2. Assisted living. "Assisted living" means a service or package of services
11.2 advertised, marketed, or otherwise described, offered, or promoted using the phrase
11.3 "assisted living" either alone or in combination with other words, whether orally or in
11.4 writing, and which is subject to the requirements of this chapter.

11.5 Subd. 3. Assisted living client. "Assisted living client" or "client" means a housing
11.6 with services resident who receives assisted living that is subject to the requirements
11.7 of this chapter.

11.8 Subd. 4. Commissioner. "Commissioner" means the commissioner of health.

11.9 EFFECTIVE DATE. This section is effective January 1, 2007.

11.10 **Sec. 13. [144G.02] ASSISTED LIVING; PROTECTED TITLE; RESTRICTION**
11.11 **ON USE; REGULATORY FUNCTIONS.**

11.12 Subdivision 1. Protected title; restriction on use. No person or entity may use the
11.13 phrase "assisted living," whether alone or in combination with other words and whether
11.14 orally or in writing, to advertise, market, or otherwise describe, offer, or promote itself, or
11.15 any housing, service, service package, or program that it provides within this state, unless
11.16 the person or entity is a housing with services establishment that meets the requirements of
11.17 this chapter, or is a person or entity that provides some or all components of assisted living
11.18 that meet the requirements of this chapter. A person or entity entitled to use the phrase
11.19 "assisted living" shall use the phrase only in the context of its participation in assisted
11.20 living that meets the requirements of this chapter. A housing with services establishment
11.21 offering or providing assisted living that is not made available to residents in all of its
11.22 housing units shall identify the number or location of the units in which assisted living
11.23 is available, and may not use the term "assisted living" in the name of the establishment
11.24 registered with the commissioner under chapter 144D, or in the name the establishment
11.25 uses to identify itself to residents or the public.

11.26 Subd. 2. Authority of commissioner. (a) The commissioner, upon receipt of
11.27 information that may indicate the failure of a housing with services establishment, the
11.28 arranged home care provider, an assisted living client, or an assisted living client's
11.29 representative to comply with a legal requirement to which one or more of the entities may
11.30 be subject, shall make appropriate referrals to other governmental agencies and entities
11.31 having jurisdiction over the subject matter. The commissioner may also make referrals
11.32 to any public or private agency the commissioner considers available for appropriate
11.33 assistance to those involved.

11.34 (b) In addition to the authority with respect to licensed home care providers under
11.35 sections 144A.45 and 144A.46 and with respect to housing with services establishments

12.1 under chapter 144D, the commissioner shall have standing to bring an action for injunctive
12.2 relief in the district court in the district in which a housing with services establishment
12.3 is located to compel the housing with services establishment or the arranged home care
12.4 provider to meet the requirements of this chapter or other requirements of the state or of
12.5 any county or local governmental unit to which the establishment or arranged home care
12.6 provider is otherwise subject. Proceedings for securing an injunction may be brought by
12.7 the commissioner through the attorney general or through the appropriate county attorney.
12.8 The sanctions in this section do not restrict the availability of other sanctions.

12.9 **EFFECTIVE DATE.** This section is effective January 1, 2007.

12.10 **Sec. 14. [144G.03] ASSISTED LIVING REQUIREMENTS.**

12.11 **Subdivision 1. Verification in annual registration.** A registered housing with
12.12 services establishment using the phrase "assisted living," pursuant to section 144G.02,
12.13 subdivision 1, shall verify to the commissioner in its annual registration pursuant to chapter
12.14 144D that the establishment is complying with sections 144G.01 to 144G.05, as applicable.

12.15 **Subd. 2. Minimum requirements for assisted living.** (a) Assisted living shall
12.16 be provided or made available only to individuals residing in a registered housing with
12.17 services establishment. Except as expressly stated in this chapter, a person or entity
12.18 offering assisted living may define the available services and may offer assisted living to
12.19 all or some of the residents of a housing with services establishment. The services that
12.20 comprise assisted living may be provided or made available directly by a housing with
12.21 services establishment or by persons or entities with which the housing with services
12.22 establishment has made arrangements.

12.23 (b) A person or entity entitled to use the phrase "assisted living," according to
12.24 section 144G.02, subdivision 1, shall do so only with respect to a housing with services
12.25 establishment, or a service, service package, or program available within a housing with
12.26 services establishment that, at a minimum:

12.27 (1) provides or makes available health related services under a class A or class F
12.28 home care license. At a minimum, health related services must include:

12.29 (i) assistance with self-administration of medication as defined in Minnesota Rules,
12.30 part 4668.0003, subpart 2a, or medication administration as defined in Minnesota Rules,
12.31 part 4668.0003, subpart 21a; and

12.32 (ii) assistance with at least three of the following seven activities of daily living:
12.33 bathing, dressing, grooming, eating, transferring, continence care, and toileting.

13.1 All health related services shall be provided in a manner that complies with applicable
13.2 home care licensure requirements in chapter 144A and Minnesota Rules, chapter 4668,
13.3 and with sections 148.171 to 148.285;

13.4 (2) provides necessary assessments of the physical and cognitive needs of assisted
13.5 living clients by a registered nurse, as required by applicable home care licensure
13.6 requirements in chapter 144A and Minnesota Rules, chapter 4668, and by sections
13.7 148.171 to 148.285;

13.8 (3) has and maintains a system for delegation of health care activities to unlicensed
13.9 assistive health care personnel by a registered nurse, including supervision and evaluation
13.10 of the delegated activities as required by applicable home care licensure requirements in
13.11 chapter 144A and Minnesota Rules, chapter 4668, and by sections 148.171 to 148.285;

13.12 (4) provides staff access to an on-call registered nurse 24 hours per day, seven
13.13 days per week;

13.14 (5) has and maintains a system to check on each assisted living client at least daily;

13.15 (6) provides a means for assisted living clients to request assistance for health and
13.16 safety needs 24 hours per day, seven days per week, from the establishment or a person or
13.17 entity with which the establishment has made arrangements;

13.18 (7) has a person or persons available 24 hours per day, seven days per week, to
13.19 respond to the requests of assisted living clients for assistance with health or safety needs,
13.20 who shall be:

13.21 (i) awake;

13.22 (ii) located in the same building, in an attached building, or on a contiguous campus
13.23 with the housing with services establishment in order to respond within a reasonable
13.24 amount of time;

13.25 (iii) capable of communicating with assisted living clients;

13.26 (iv) capable of recognizing the need for assistance;

13.27 (v) capable of providing either the assistance required or summoning the appropriate
13.28 assistance; and

13.29 (vi) capable of following directions;

13.30 (8) offers to provide or make available at least the following supportive services
13.31 to assisted living clients:

13.32 (i) two meals per day;

13.33 (ii) weekly housekeeping;

13.34 (iii) weekly laundry service;

13.35 (iv) upon the request of the client, reasonable assistance with arranging for

13.36 transportation to medical and social services appointments, and the name of or other

14.1 identifying information about the person or persons responsible for providing this
14.2 assistance;

14.3 (v) upon the request of the client, reasonable assistance with accessing community
14.4 resources and social services available in the community, and the name of or other
14.5 identifying information about the person or persons responsible for providing this
14.6 assistance; and

14.7 (vi) periodic opportunities for socialization; and

14.8 (9) makes available to all prospective and current assisted living clients information
14.9 consistent with the uniform format and the required components adopted by the
14.10 commissioner under section 144G.06. This information must be made available beginning
14.11 no later than six months after the commissioner makes the uniform format and required
14.12 components available to providers according to section 144G.06.

14.13 Subd. 3. Nursing assessment. (a) A housing with services establishment offering or
14.14 providing assisted living shall:

14.15 (1) offer to have the arranged home care provider conduct a nursing assessment by
14.16 a registered nurse of the physical and cognitive needs of the prospective resident and
14.17 propose a service agreement or service plan prior to the date on which a prospective
14.18 resident executes a contract with a housing with services establishment or the date on
14.19 which a prospective resident moves in, whichever is earlier; and

14.20 (2) inform the prospective resident of the availability of and contact information for
14.21 long-term care consultation services under section 256B.0911, prior to the date on which a
14.22 prospective resident executes a contract with a housing with services establishment or the
14.23 date on which a prospective resident moves in, whichever is earlier.

14.24 (b) An arranged home care provider is not obligated to conduct a nursing assessment
14.25 by a registered nurse when requested by a prospective resident if either the geographic
14.26 distance between the prospective resident and the provider, or urgent or unexpected
14.27 circumstances, do not permit the assessment to be conducted prior to the date on which
14.28 the prospective resident executes a contract or moves in, whichever is earlier. When such
14.29 circumstances occur, the arranged home care provider shall offer to conduct a telephone
14.30 conference whenever reasonably possible.

14.31 (c) The arranged home care provider shall comply with applicable home care
14.32 licensure requirements in chapter 144A and Minnesota Rules, chapter 4668, and with
14.33 sections 148.171 to 148.285 with respect to the provision of a nursing assessment prior
14.34 to the delivery of nursing services and the execution of a home care service plan or
14.35 service agreement.

15.1 Subd. 4. Assistance with arranged home care provider. The housing with services
15.2 establishment shall provide each assisted living client with identifying information about a
15.3 person or persons reasonably available to assist the client with concerns the client may
15.4 have with respect to the services provided by the arranged home care provider. The
15.5 establishment shall keep each assisted living client reasonably informed of any changes in
15.6 the personnel referenced in this subdivision. Upon request of the assisted living client,
15.7 such personnel or designee shall provide reasonable assistance to the assisted living client
15.8 in addressing concerns regarding services provided by the arranged home care provider.

15.9 Subd. 5. Termination of housing with services contract. If a housing with
15.10 services establishment terminates a housing with services contract with an assisted living
15.11 client, the establishment shall provide the assisted living client, and the legal or designated
15.12 representative of the assisted living client, if any, with a written notice of termination
15.13 which includes the following information:

15.14 (1) the effective date of termination;

15.15 (2) the section of the contract that authorizes the termination;

15.16 (3) without extending the termination notice period, an affirmative offer to meet with
15.17 the assisted living client and, if applicable, client representatives, within no more than five
15.18 business days of the date of the termination notice to discuss the termination;

15.19 (4) an explanation that:

15.20 (i) the assisted living client must vacate the apartment, along with all personal
15.21 possessions, on or before the effective date of termination;

15.22 (ii) failure to vacate the apartment by the date of termination may result in the filing
15.23 of an eviction action in court by the establishment, and that the assisted living client may
15.24 present a defense, if any, to the court at that time; and

15.25 (iii) the assisted living client may seek legal counsel in connection with the notice
15.26 of termination;

15.27 (5) a statement that, with respect to the notice of termination, reasonable
15.28 accommodation is available for the disability of the assisted living client, if any; and

15.29 (6) the name and contact information of the representative of the establishment
15.30 with whom the assisted living client or client representatives may discuss the notice of
15.31 termination.

15.32 EFFECTIVE DATE. This section is effective January 1, 2007.

15.33 Sec. 15. [144G.04] RESERVATION OF RIGHTS.

15.34 Subdivision 1. Use of services. Nothing in this chapter requires an assisted living
15.35 client to utilize any service provided or made available in assisted living.

16.1 Subd. 2. Housing with services contracts. Nothing in this chapter requires a
16.2 housing with services establishment to execute or refrain from terminating a housing with
16.3 services contract with a prospective or current resident who is unable or unwilling to meet
16.4 the requirements of residency, with or without assistance.

16.5 Subd. 3. Provision of services. Nothing in this chapter requires the arranged home
16.6 care provider to offer or continue to provide services under a service agreement or service
16.7 plan to a prospective or current resident of the establishment whose needs cannot be
16.8 met by the arranged home care provider.

16.9 Subd. 4. Altering operations; service packages. Nothing in this chapter requires
16.10 a housing with services establishment or arranged home care provider offering assisted
16.11 living to fundamentally alter the nature of the operations of the establishment or the
16.12 provider in order to accommodate the request or need for facilities or services by any
16.13 assisted living client, or to refrain from requiring, as a condition of residency, that an
16.14 assisted living client pay for a package of assisted living services even if the client does
16.15 not choose to utilize all or some of the services in the package.

16.16 EFFECTIVE DATE. This section is effective January 1, 2007.

16.17 **Sec. 16. [144G.05] REIMBURSEMENT UNDER ASSISTED LIVING SERVICE**
16.18 **PACKAGES.**

16.19 Notwithstanding the provisions of this chapter, the requirements for the Elderly
16.20 Waiver program's assisted living payment rates under section 256B.0915, subdivision
16.21 3e, shall continue to be effective and providers who do not meet the requirements of
16.22 this chapter may continue to receive payment under section 256B.0915, subdivision 3e,
16.23 as long as they continue to meet the definitions and standards for assisted living and
16.24 assisted living plus set forth in the federally approved Elderly Home and Community
16.25 Based Services Waiver Program (Control Number 0025.91).

16.26 Providers of assisted living for the Community Alternatives for Disabled Individuals
16.27 (CADI) and Traumatic Brain Injury (TBI) waivers shall continue to receive payment as
16.28 long as they continue to meet the definitions and standards for assisted living and assisted
16.29 living plus set forth in the federally approved CADI and TBI waiver plans.

16.30 EFFECTIVE DATE. This section is effective January 1, 2007.

16.31 **Sec. 17. [144G.06] UNIFORM CONSUMER INFORMATION GUIDE.**

16.32 (a) The commissioner of health shall establish an advisory committee consisting
16.33 of representatives of consumers, providers, county and state officials, and other

17.1 groups the commissioner considers appropriate. The advisory committee shall present
17.2 recommendations to the commissioner on:

17.3 (1) a format for a guide to be used by individual providers of assisted living, as
17.4 defined in Minnesota Statutes, section 144G.01, that includes information about services
17.5 offered by that provider, service costs, and other relevant provider-specific information, as
17.6 well as a statement of philosophy and values associated with assisted living, presented in
17.7 uniform categories that facilitate comparison with guides issued by other providers; and

17.8 (2) requirements for informing assisted living clients, as defined in Minnesota
17.9 Statutes, section 144G.01, of their applicable legal rights.

17.10 (b) The commissioner, after reviewing the recommendations of the advisory
17.11 committee, shall adopt a uniform format for the guide to be used by individual providers,
17.12 and the required components of materials to be used by providers to inform assisted
17.13 living clients of their legal rights, and shall make the uniform format and the required
17.14 components available to assisted living providers.

17.15 **Sec. 18. REVISOR'S INSTRUCTION.**

17.16 (a) The revisor of statutes shall strike all references to the "Class E assisted living
17.17 home care programs license, "Class E license," and similar terms in Minnesota Rules,
17.18 chapters 4668 and 4669. In sections affected by this instruction, the revisor may make
17.19 changes necessary to correct the punctuation, grammar, or structure of the remaining text
17.20 and preserve its meaning.

17.21 (b) The revisor of statutes shall change the term "assisted living home care provider,"
17.22 "assisted living license," and similar terms to "Class F home care provider," "Class F
17.23 license," and similar terms to "Class F home care provider," "Class F license," and similar
17.24 terms, in Minnesota Rules, chapter 4668. In sections affected by this instruction, the
17.25 revisor may make changes necessary to correct the punctuation, grammar, or structure of
17.26 the remaining text and preserve its meaning.

17.27 **EFFECTIVE DATE. This section is effective January 1, 2007.**

17.28 **Sec. 19. REPEALER.**

17.29 Minnesota Rules, part 4668.0215, is repealed, effective January 1, 2007.

1.1 To: Senator Cohen, Chair

1.2 Committee on Finance

1.3 Senator Berglin,

1.4 Chair of the Health and Human Services Budget Division, to which was referred

1.5 **S.F. No. 2888:** A bill for an act relating to health; establishing requirements for
1.6 assisted living services; limiting use of the term assisted living; specifying procedures
1.7 for terminating services for assisted living clients; modifying the home care bill of rights
1.8 for purposes of assisted living; establishing the Class F home care provider category;
1.9 eliminating the Class E assisted living programs license; requiring the provision of
1.10 information on assisted living and the legal rights of assisted living clients; amending
1.11 Minnesota Statutes 2004, sections 144A.4605; 144D.01, by adding a subdivision;
1.12 144D.015; 144D.02; 144D.03, subdivision 2; 144D.04; 144D.05; 144D.065; proposing
1.13 coding for new law in Minnesota Statutes, chapters 144A; 144D; proposing coding for
1.14 new law as Minnesota Statutes, chapter 144G; repealing Minnesota Rules, part 4668.0215.

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

1.16 Page 13, line 18, delete "to"

1.17 Page 13, line 19, delete "respond" and insert "who is responsible for responding"

1.18 Page 14, after line 12, insert:

1.19 "Subd. 3. Exemption from awake-staff requirement. A housing with services
1.20 establishment that offers or provides assisted living is exempt from the requirement in
1.21 subdivision 2, paragraph (b), clause (7), item (i), that the person or persons available and
1.22 responsible for responding to requests for assistance must be awake, if the establishment
1.23 meets the following requirements:

1.24 (1) the establishment has a maximum capacity to serve 12 or fewer assisted living
1.25 clients;

1.26 (2) the person or persons available and responsible for responding to requests for
1.27 assistance are physically present within the housing with services establishment in which
1.28 the assisted living clients reside;

1.29 (3) the establishment has a system in place that is compatible with the health, safety,
1.30 and welfare of the establishment's assisted living clients;

1.31 (4) the establishment's housing with services contract, as required by section
1.32 144D.04, includes a statement disclosing the establishment's qualification for, and
1.33 intention to rely upon, this exemption;

1.34 (5) the establishment files with the commissioner, for purposes of public information
1.35 but not review or approval by the commissioner, a statement describing how the
1.36 establishment meets the conditions in clauses (1) to (4), and makes a copy of this statement
1.37 available to actual and prospective assisted living clients; and

1.38 (6) the establishment indicates on its housing with services registration, under
1.39 section 144D.02 or 144D.03, as applicable, that it qualifies for and intends to rely upon the
1.40 exemption under this subdivision."

1.41 Page 14, line 13, delete "3" and insert "4"

2.1 Page 15, line 1, delete "4" and insert "5"

2.2 Page 15, line 9, delete "5" and insert "6"

2.3 Page 17, after line 14, insert:

2.4 "Sec. 18. APPROPRIATION.

2.5 \$140,000 is appropriated from the state government special revenue fund to the
2.6 commissioner of health for the biennium ending June 30, 2007, to enforce the standards
2.7 established in sections 1 to 17. This appropriation shall not become part of base level
2.8 funding for the biennium beginning July 1, 2007."

2.9 Renumber the sections in sequence

2.10 Amend the title accordingly

2.11 And when so amended that the bill be recommended to pass and be referred to
2.12 the full committee.

2.13
2.14

Jinda Berglin
.....
(Division Chair)

2.15
2.16

March 30, 2006
(Date of Division action)

1.1 **Senator Cohen from the Committee on Finance, to which was re-referred**

1.2 **S.F. No. 2888:** A bill for an act relating to health; establishing requirements for
 1.3 assisted living services; limiting use of the term assisted living; specifying procedures
 1.4 for terminating services for assisted living clients; modifying the home care bill of rights
 1.5 for purposes of assisted living; establishing the Class F home care provider category;
 1.6 eliminating the Class E assisted living programs license; requiring the provision of
 1.7 information on assisted living and the legal rights of assisted living clients; amending
 1.8 Minnesota Statutes 2004, sections 144A.4605; 144D.01, by adding a subdivision;
 1.9 144D.015; 144D.02; 144D.03, subdivision 2; 144D.04; 144D.05; 144D.065; proposing
 1.10 coding for new law in Minnesota Statutes, chapters 144A; 144D; proposing coding for
 1.11 new law as Minnesota Statutes, chapter 144G; repealing Minnesota Rules, part 4668.0215.

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 1.22 clients;

1.23 (2) the person or persons available and responsible for responding to requests for
 1.24 assistance are physically present within the housing with services establishment in which
 1.25 the assisted living clients reside;

1.26 (3) the establishment has a system in place that is compatible with the health, safety,
 1.27 and welfare of the establishment's assisted living clients;

1.28 (4) the establishment's housing with services contract, as required by section
 1.29 144D.04, includes a statement disclosing the establishment's qualification for, and
 1.30 intention to rely upon, this exemption;

1.31 (5) the establishment files with the commissioner, for purposes of public information
 1.32 but not review or approval by the commissioner, a statement describing how the
 1.33 establishment meets the conditions in clauses (1) to (4), and makes a copy of this statement
 1.34 available to actual and prospective assisted living clients; and

1.35 (6) the establishment indicates on its housing with services registration, under
 1.36 section 144D.02 or 144D.03, as applicable, that it qualifies for and intends to rely upon the
 1.37 exemption under this subdivision."

Page 14, line 13, delete "3" and insert "4"

1.38 Page 15, line 1, delete "4" and insert "5"

1.40 Page 15, line 9, delete "5" and insert "6"

1.41 Page 17, after line 14, insert:

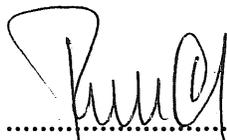
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2.3 commissioner of health for the biennium ending June 30, 2007, to enforce the standards
2.4 established in sections 1 to 17. This appropriation shall not become part of base level
2.5 funding for the biennium beginning July 1, 2007."

2.6 Renumber the sections in sequence

2.7 Amend the title accordingly

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



.....
(Committee Chair)

2.9
2.10

2.11 April 26, 2006
2.12 (Date of Committee recommendation)

MINNESOTA - REVENUE

SALES AND USE TAX U of M Football Stadium

April 26, 2006

Department of Revenue
Analysis of S.F. 2460 (Pogemiller) As Amended (ss2460ce)

	Yes	No
DOR Administrative Costs/Savings		X

	<u>F.Y. 2006</u>	<u>Fund Impact</u>		<u>F.Y. 2009</u>
		<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	
		(000's)		
Construction Sales Tax Exemption - Stadium	\$0	\$0	(\$2,000)	(\$3,000)
Appropriation to U of M Board of Regents	<u>\$0</u>	<u>\$0</u>	<u>(\$9,400)</u>	<u>(\$9,400)</u>
General Fund Total	\$0	\$0	(\$11,400)	(\$12,400)

Effective the day following final enactment.

EXPLANATION OF THE BILL

Current Law: Sales of building materials and supplies incorporated into a construction project are normally considered taxable retail sales and subject to sales or use tax.

Proposed Law: The bill provides an annual appropriation to the Board of Regents of the University of Minnesota. The \$9,400,000 annual appropriation is to support payment of bonds, not to exceed \$124,000,000, for a \$248,000,000 University of Minnesota football stadium. The appropriation starts when the Commissioner of Finance certifies that the Board of Regents has commitments of \$124,000,000 in pledges, gifts, sponsorships, and other nonstate general fund revenue support for the construction of the stadium, but no earlier than July 1, 2007.

In meeting the requirement for the amount of commitments of non-state general revenue support, the bill prohibits use of money received for naming rights from a nonpublic entity and prohibits increased fees or charges on U of M students. Additionally, provision must be made for affordable student access to University sporting events at the stadium.

The bill provides an exemption from sales or use tax for materials, supplies, or equipment used or consumed in connection with the construction, equipping, or improvement of a football stadium constructed for use by the University of Minnesota.

There is a provision for early termination of the Metrodome lease between the Regents of the University of Minnesota and the Metropolitan Sports Facilities Commission. The lease was entered into in 1982 and extends to July 2012.

REVENUE ANALYSIS DETAIL

Appropriation to the University of Minnesota Board of Regents

- It is assumed that the Commissioner of Finance will certify that the Board of Regents has received \$124,000,000 of nonstate general fund revenue support for the stadium construction prior to July 1, 2007.

Sales and Use Tax Exemption

- Preliminary cost projections were received from a University Budget and Finance representative and the stadium feasibility study located on the University of Minnesota website.
- The total cost of the project is estimated to be \$248 million.
- Based on information from the stadium feasibility study (updated in 2006), the construction costs for the stadium project will be \$186 million. It is estimated that 41% of the \$186 million would be for materials, supplies, and equipment incorporated into the stadium that would normally be subject to sales or use tax.
- The construction project is estimated to be a two-year project with a construction start date of April 2007 and an estimated project completion date of August 2009.
- Fiscal year impacts are distributed based on the construction timelines in the stadium feasibility study. Taxable purchases prior to July 2007 are expected to be minimal. It is estimated that 40% of the exempted purchases will occur in fiscal year 2008 and 60% in fiscal year 2009.
- The sales and use tax exemption on construction materials expires one year after substantial completion of the project.

Note: The estimates assume that the sales tax exemption is limited to materials, supplies, and equipment that are incorporated into the football stadium project. As drafted, the exemption could be interpreted to include equipment that is used for the project, such as construction equipment.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

MINNESOTA - REVENUE

SALES AND USE TAX U of M Football Stadium Higher Education Funding

March 20, 2006

Department of Revenue
Analysis of S.F. 2460 (Pogemiller) / H.F. 3423 (Abrams)

	Yes	No
DOR Administrative Costs/Savings		X

	<u>F.Y. 2006</u>	<u>Fund Impact</u>		<u>F.Y. 2009</u>
		<u>F.Y. 2007</u>	<u>F.Y. 2008</u>	
		(000's)		
Construction Sales Tax Exemption – Stadium Appropriations to U of M Board of Regents	\$0	\$0	(\$2,000)	(\$3,000)
- Joint Partnership with the Mayo Foundation	(\$19,000)	(\$18,000)	(\$18,000)	\$0
- Academic Programs at Rochester	(\$5,000)	\$0	\$0	\$0
General Fund Total*	(\$24,000)	(\$18,000)	(\$20,000)	(\$3,000)

* In addition, the bill makes two annual appropriations, with the amounts left blank. The appropriations are to the U of M Board of Regents for funding a football stadium and for grants to students to study abroad.

Effective the day following final enactment.

EXPLANATION OF THE BILL

Current Law: Sales of building materials and supplies incorporated into a construction project are normally considered taxable retail sales and subject to sales or use tax.

Proposed Law: The bill provides an unspecified annual appropriation to the Board of Regents of the University of Minnesota. The appropriation is to support payment of bonds, not to exceed an unspecified amount, for a University of Minnesota football stadium. The appropriation starts when the Commissioner of Finance certifies that the Board of Regents has commitments of an unspecified amount in non-state general revenue support for the construction of the stadium, but no earlier than July 1, 2007. The appropriation continues annually on the first day of July for subsequent years and for as long thereafter as any bonds issued by the Board of Regents for the construction of the stadium are outstanding.

In meeting the requirement for the amount of commitments of non-state general revenue support, the bill prohibits use of money received for naming rights from a nonpublic entity and prohibits increased fees or charges on U of M students. Additionally, provision must be made for affordable student access to University sporting events at the stadium.

The bill provides an exemption from sales or use tax for materials, supplies, or equipment used or consumed in connection with the construction, equipping, or improvement of a football stadium constructed for use by the University of Minnesota.

EXPLANATION OF THE BILL (Continued)

There is a provision for early termination of the Metrodome lease between the Regents of the University of Minnesota and the Metropolitan Sports Facilities Commission. The lease was entered into in 1982 and extends to July 2012.

Article 2 establishes a grant program for higher education students to study abroad. A direct appropriation is made from the general fund for the program, but the amount is left blank.

Article 3 makes direct appropriations to the Board of Regents of the University of Minnesota for a joint partnership with the Mayo Foundation for research in biotechnology and medical genomics. Also, an appropriation of \$5 million is made in fiscal year 2006 for academic programs at the University of Minnesota-Rochester.

REVENUE ANALYSIS DETAIL

Sales and Use Tax Exemption

- Preliminary cost projections were received from a University Budget and Finance representative and the stadium feasibility study located on the University of Minnesota website.
- The total cost of the project is estimated to be \$248 million.
- Based on information from the stadium feasibility study (updated in 2006), the construction costs for the stadium project will be \$186 million. It is estimated that 41% of the \$186 million would be for materials, supplies, and equipment incorporated into the stadium that would normally be subject to sales or use tax.
- The construction project is estimated to be a two-year project with a construction start date of April 2007 and an estimated project completion date of August 2009.
- Fiscal year impacts are distributed based on the construction timelines in the stadium feasibility study. Taxable purchases prior to July 2007 are expected to be minimal. It is estimated that 40% of the exempted purchases will occur in fiscal year 2008 and 60% in fiscal year 2009.
- The sales and use tax exemption on construction materials expires one year after substantial completion of the project.

Note: The estimates assume that the sales tax exemption is limited to materials, supplies, and equipment that are incorporated into the football stadium project. As drafted, the exemption could be interpreted to include equipment that is used for the project, such as construction equipment.

Source: Minnesota Department of Revenue
Tax Research Division
http://www.taxes.state.mn.us/taxes/legal_policy

University of Minnesota Buildings Named for Donors

Twin Cities Campus

Bell Museum of Natural History
Cargill Building–Microbial & Plant Genomics
Carlson School of Management
Cowles Stadium, Jane Sage
Dwan Variety Club Cardiovascular Research
Gibson–Nagurski Football Practice Facility
Honeywell Auditorium, Carlson School of Management
Lions Research Bldg/McGuire Translational Research Facility
Masonic Cancer Center
McNamara Alumni Center
Landscape Arboretum–Oswald Visitor Center
Phillips-Wangensteen Building
Regis Center for Art
Ridder Arena & Baseline Tennis Facility
Robbie Stadium, Elizabeth Lyle
Taylor Academic Center, Lind Hall
Ted Mann Concert Hall
3M Auditorium, Carlson School of Management
Toyota Plaza, Mondale Hall
Variety Club Research Center
VFW Cancer Research Center
Weisman Art Museum, The Frederick R.

Duluth Campus

James I. Swenson Life Science Building
Kirby Student Center
Marshall W. Alworth Hall
Marshall W. Alworth Planetarium
Marshall Performing Arts Center
Weber Music Hall

TCF Bank University?

Students should examine the stadium deal as closely as their checking accounts.

Amid the excitement of freshman orientation — registering for classes for the first time and meeting future classmates — all students were told the benefits of opening a TCF Bank “free” checking account and given the option to do so at a University U Card office that also facilitated TCF Bank transactions. However, the so-called “convenience” becomes more of a headache for many students and brings into question the University’s relationship with the institution.

The intimacies between banks and universities are a nationwide trend that broadens financial institutions’ presence on campuses. Banks hope to foster lifelong customers while they are young, while the universities benefit from sponsorships, scholarships and ad royalties that banks provide.

Since 1995 TCF Bank has been the exclusive provider of banking services tied to the campus student card — the U Card — at the University’s Twin Cities and Duluth campuses, but the University is unique in its relationship with TCF in that it would name its own football stadium after the financial institution.

Under the naming rights deal with TCF, the University certainly is looking to take their relationship a step further, but is this a good thing for students?

TCF is notorious for frequent complaints that the bank takes advantage of students through overdraft fees and poor customer service. If these accusations are true, it calls into question the idea of naming the Gophers stadium after such a business. State Sen. Larry Pogemiller, a DFLer who represents the University, would like to see a bill passed that would prevent any corporate naming deals and prohibit the University from paying for the building with student fees.

In a time when everything seems to be up for sale, it is mandatory for the University to make sure that it does not lose its identity in the money shuffle. Making fair and responsible deals includes taking into consideration what is best for the students that make up the University. The stadium indeed will represent the University, but will TCF?

BRINGING GOPHER FOOTBALL BACK TO CAMPUS

www.umn.edu/stadium

WHY A STADIUM?

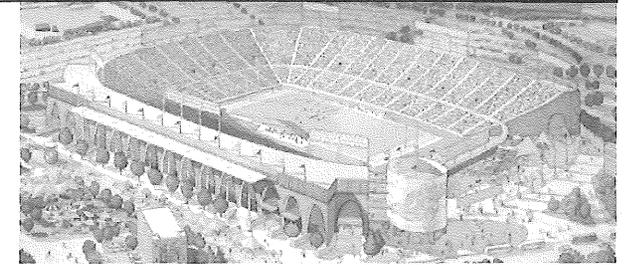
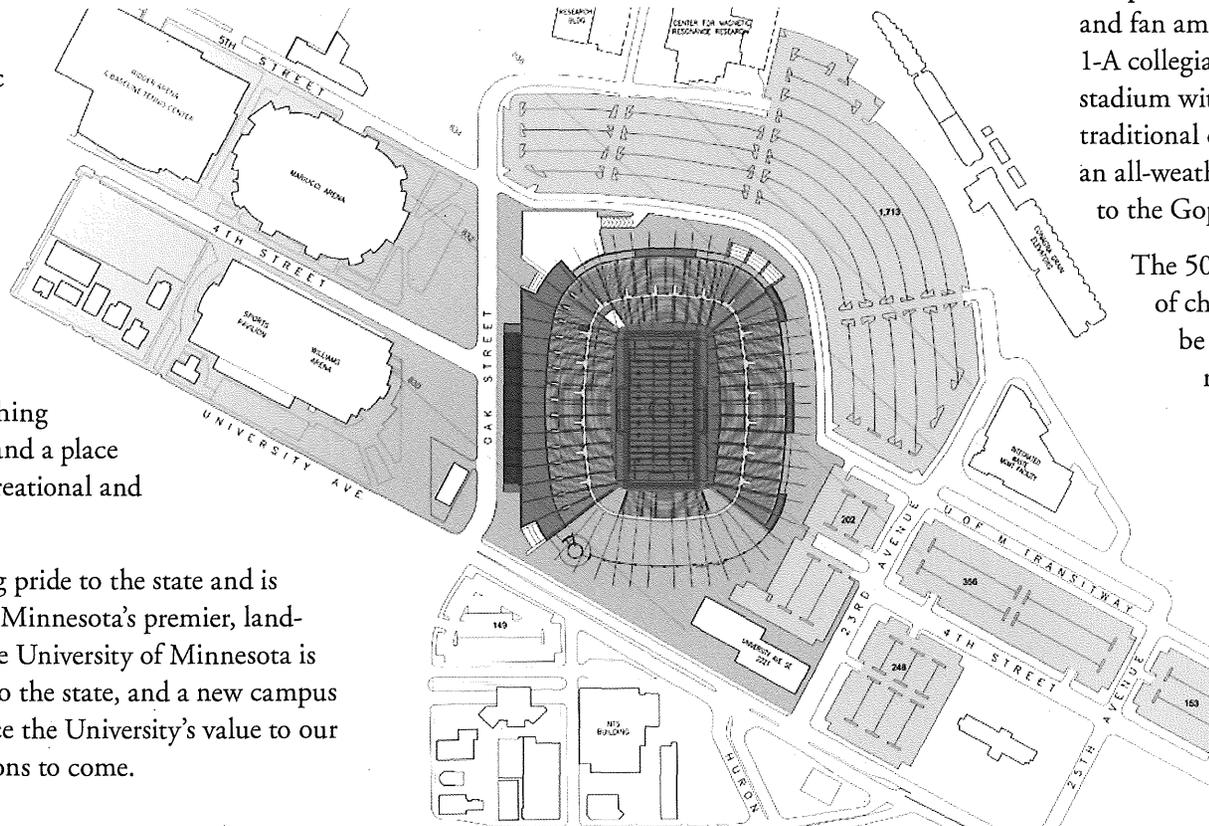
An on campus football stadium will encourage and strengthen connections to the University, build campus community for students, and be an invaluable, enduring asset for the citizens of Minnesota. Fully 50 percent of Minnesotans who connect with the University do so through athletics and cultural events. The events in a campus stadium will help connect Minnesotans with the University.

The stadium will become an important, symbolic center of campus life. The stadium will be a place for students to gather with friends, faculty, and family for all-University events, a place for the marching band to call home, and a place to participate in recreational and intramural sports.

A stadium will bring pride to the state and is a fitting addition to Minnesota's premier, land-grant university. The University of Minnesota is an invaluable asset to the state, and a new campus stadium will enhance the University's value to our citizens for generations to come.

LOCATION

The University's Huron Avenue parking complex is the proposed site for the stadium. The site, approximately 32 acres, is in close proximity to existing major athletics venues—including Williams Arena/Sports Pavilion and Mariucci Arena—and meets the University's requirement for a large East Bank location where stadium activities could be well integrated into the residential campus environment.

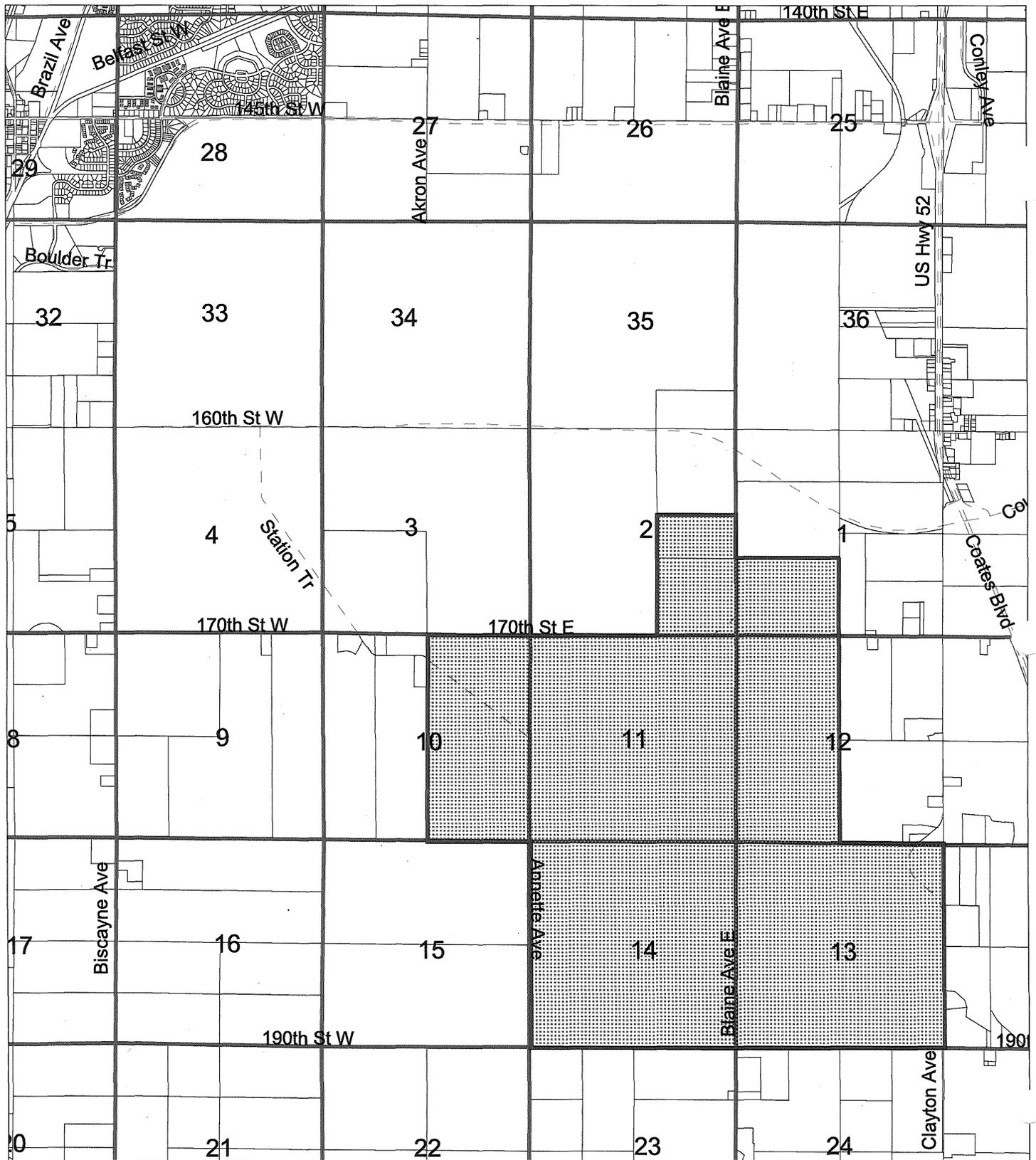


DESIGN

The proposed stadium design complements the campus environment and meets all of the revenue and fan amenity requirements of a modern Division 1-A collegiate football stadium. It will be an open-air stadium with a horseshoe-shaped bowl and have a traditional collegiate look and feel. The field will be an all-weather artificial playing surface comparable to the Gophers existing indoor practice field.

The 50,000-seat stadium will include a mix of chair-back seats and benches, and will be designed to expand to 80,000 seats if needed in the future. Proposed premium amenities will include 39 suites, 750 loge seats (outdoor, rail-enclosed, small group seating area), 300 indoor club seats, 1,250 outdoor club seats, and a 30,000 square foot indoor club.

The stadium will provide a new home for the marching band, a hall of fame, and a feature to honor Minnesota veterans.



as of 3/21/06

University of
Minnesota
Real Estate Office

Environmental
Research & Enhancement
(UMore Park)
2,840 Acres

This map is intended
to be used for planning
puposes only and
should not be used if
a survey is required.

Fiscal Note Request Worksheet

Bill #: SF2898 Title: Federal Long term care Partnership (insurance)
 Companion HF3283 Author: Berglin Agency: Human Services
 #: Urgent: Due Date: Committee:
 Consolidated: Lead Agency: Contact Person: Steve Nelson 651-431-2201

What version of the bill are you working on? 3-A
 (Changing the version of the bill will automatically create a new fiscal note request.)

(The following four fiscal impact questions must be answered before an agency can sign off on a fiscal note.)

Fiscal Impact	Yes	No
State (Does this bill have a fiscal impact to your Agency?)	X	
Local (Does this bill have a fiscal impact to a Local Gov Body?)		X
Fee/Dept Earnings (Does this bill impact a Fee or Dept Earning?)		X
Tax Revenue (Does this bill impact Tax Revenues?)		X

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Fund-General			343	343	264
Fund					
Fund					
Less Agency Can Absorb					
Fund					
Fund					
Fund					
Net Expenditures					
Fund-General			343	343	264
Fund					
Fund					
Revenues					
Fund-General			127	130	95
Fund					
Fund					
Net Cost <Savings>					
Fund-General			216	213	169
Fund					
Fund					
Total Cost <Savings> to the State			216	213	169

	FY05	FY06	FY07	FY08	FY09
Full-Time Equivalent					
Fund-General			4.5	4.5	4.5
Fund					
Fund					

Total FTE			4.50	4.50	4.50
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Bill Description

This bill provides conforming regulations in §62S for long-term care insurance to requirements for state participation in the federal long-term care (LTC) partnership program and amends the state long-term care partnership program requirements in §256B.0571 to conform to federal requirements under Public Law 109-171. The LTC partnership program allows an individual to disregard assets in an amount equal to the benefits utilized under a qualified LTC insurance policy from consideration at the time they request Medical Assistance (MA) payment of LTC services. The same assets disregarded from consideration for purposes of eligibility for MA payment of LTC services is also disregarded for estate recovery purposes.

Section 1, Subd. 14 is amended to delete all previous instructions related to implementation of a partnership program upon federal approval and substitutes the requirement that the commissioner submit a state plan amendment by September 30, 2006.

Assumptions

Based on the fact that an individual must first purchase, exhaust benefits, and then apply for MA, there are unlikely to be consequential effects by FY 2009, the latest year of the fiscal note horizon. This view appears to be held at the federal level as well as the CBO showed this legislation as cost neutral.

Effective date is assumed to be July 1, 2006.

This piece of legislation is also a part of the DEFRA related provisions in the Governor's budget bill. To avoid delaying HealthMatch implementation beyond the current timeline, the Department proposed to conduct a non-systems work-around for all of the federally mandated changes until after HealthMatch implementation. The non-systems work-around associated with the LTC Partnership provision includes costs of:

2 FTE's – FY'07: \$150,000; FY'08: \$166,000; FY '09: \$77,000

Following statewide implementation of the HealthMatch system, this provision will be incorporated into HealthMatch at a total state cost of \$11,000.

Expenditure and/or Revenue Formula

General Fund				
<u>BACT</u>	<u>Description</u>	<u>FY07</u>	<u>FY08</u>	<u>FY09</u>
36-Children & Econ. Asst.	MAXIS (state SH)	6	0	0
50-HC Admin	2 FTE's For work around	150	166	77
50-HC Admin.	1 FTE for Eligibility Policy *	75	77	77
51-HC Operations	.50 FTE for Benefit Recovery (state SH)	19	17	17
51-HC Operations	Post HM inclusion (state share)	0	0	11
85-Cont. Care Mang.	1 FTE for Cont. Care Policy	<u>93</u>	<u>83</u>	<u>83</u>
General Fund Totals		343	343	264
Non-Dedicated FFP @ 40%		<u>127</u>	<u>130</u>	<u>95</u>
Net Cost to General Fund:		216	213	169

*This is the number reflected in the Governor's budget bill. We estimate that at least 50% of the work of this position will be related solely to the LTC partnership program.

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

I have reviewed the content of this fiscal note and believe it is a reasonable estimate of the expenditures and revenues associated with this proposed legislation.

Fiscal Note Coordinator Signature: _____ Date: _____

Senator Pogemiller introduced—

S.F. No. 2460: Referred to the Committee on Finance.

1.1 A bill for an act
 1 relating to higher education; providing a process for state support of a football
 1.3 stadium at the University of Minnesota; providing funding to the Board of
 1.4 Regents of the University of Minnesota for biotechnology and medical genomics
 1.5 research and academic programs at the University of Minnesota-Rochester;
 1.6 establishing a study abroad program; appropriating money; amending Minnesota
 1.7 Statutes 2004, sections 297A.71, by adding a subdivision; 340A.404, subdivision
 1.8 4a; proposing coding for new law in Minnesota Statutes, chapters 136A; 473.

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

1.10 ARTICLE 1
 1.11 UNIVERSITY OF MINNESOTA FOOTBALL STADIUM

1.12 Section 1. **PURPOSE; FINDINGS.**

1 The legislature finds that construction of a new football stadium by the Board of
 1.14 Regents of the University of Minnesota on the university’s east bank campus in the
 1.15 city of Minneapolis serves statewide public purposes. The legislature finds that the
 1.16 public purposes served include, but are not limited to, providing an on-campus outdoor
 1.17 intercollegiate football stadium as a public amenity for Minnesota’s citizens, enhancing
 1.18 the enjoyment of its citizens, and enhancing the university experience for students,
 1.19 alumni, faculty, staff, and other supporters of the university. The legislature finds that
 1.20 the university intends to join together with its students, alumni, faculty, staff, and other
 1.21 supporters to raise funds to build a stadium to return college football to the university
 1.22 campus. Further, the legislature finds that construction of a University of Minnesota
 1.24 football stadium should be supported by the state and that the support should not detract
 1.25 from or be a substitute for other operating and capital support by the state for the
university; however, state financial support for the stadium should be conditioned upon

2.1 the university providing for payment of a significant portion of the stadium's cost from
 2.2 nonstate general revenue fund sources. The purpose of this act is to provide a firm 40
 2.3 percent level of funding for a new university football stadium to be constructed and owned
 2.4 by the Board of Regents of the University of Minnesota.

2.5 **Sec. 2. DEFINITIONS.**

2.6 Subdivision 1. **Applicability.** The definitions in this section apply to sections 2 to 7.

2.7 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of finance.

2.8 Subd. 3. **Stadium.** "Stadium" means an athletic stadium suitable for intercollegiate
 2.9 National Collegiate Athletic Association (NCAA) Division I football games and related
 2.10 infrastructure improvements constructed on the University of Minnesota's east bank
 2.11 campus in the city of Minneapolis.

2.12 Subd. 4. **Board.** "Board" means the Board of Regents of the University of
 2.13 Minnesota.

2.14 Subd. 5. **Commission.** "Commission" means the Metropolitan Sports Facilities
 2.15 Commission.

2.16 **Sec. 3. ACTIVITIES; CONTRACTS.**

2.17 The legislature recognizes that the board has all powers necessary or convenient for
 2.18 designing, constructing, equipping, improving, controlling, operating, and maintaining the
 2.19 stadium and may enter into contracts that are, in its judgment, in the best interests of the
 2.20 public for those purposes. Notwithstanding contrary law, the board may adopt the fair
 2.21 and competitive design and construction procurement procedures in connection with the
 2.22 stadium that it considers to be in the public interest. The total cost of the stadium must
 2.23 not exceed \$..... The board must ensure to the greatest extent practicable, that materials
 2.24 derived from American-made steel are used in the construction of the stadium. Minnesota
 2.25 Statutes, sections 16B.33 and 16B.335, do not apply to the stadium.

2.26 **Sec. 4. ENVIRONMENTAL REVIEW.**

2.27 The legislature requests that the board complete an environmental review of the
 2.28 stadium project and perform the duties of the responsible governmental unit as prescribed
 2.29 in the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D, and the
 2.30 rules adopted under that chapter. The legislature ratifies the Environmental Quality
 2.31 Board's designation of the board as a responsible governmental unit.

2.32 **Sec. 5. CONDITIONS FOR PAYMENT TO THE UNIVERSITY.**

3.1 Subdivision 1. Nonstate revenues required. Before the commissioner may make
 3.2 the first payment to the board authorized in this section, the commissioner must certify that
 3.3 the board has received at least \$..... in pledges, gifts, sponsorships, and other nonstate
 3.4 general fund revenue support for the construction of the stadium.

3.5 Subd. 2. Prohibited funding sources. No part of the money required to be obtained
 3.6 by the board under subdivision 1 may be derived from:

3.7 (1) increased fees or charges imposed on students attending the University of
 3.8 Minnesota; or

3.9 (2) money paid by any nonpublic entity as consideration for the right to determine
 3.10 the name of the stadium.

3.11 Subd. 3. Annual state payments; appropriation. On July 1 of each year after
 3.12 certification by the commissioner, but no earlier than July 1, 2007, and for so long
 3.13 thereafter as any bonds issued by the board for the construction of the stadium are
 3.14 outstanding, the state must transfer to the board \$..... to reimburse the board for its
 3.15 stadium costs, provided that bonds issued to pay the state's share of such costs shall
 3.16 not exceed \$.....

3.17 \$..... is appropriated annually from the general fund for the purpose of this section.
 3.18 Except to the extent of the annual appropriation described in this section, the state is not
 3.19 required to pay any part of the cost of designing or constructing the stadium.

3.20 Subd. 4. Affordable student access. Before the first payment is made under
 3.21 subdivision 3, the board must certify to the commissioner that a provision for affordable
 3.22 access for university students to the university sporting events held at the football stadium
 3.23 has been made.

3.24 **Sec. 6. NO FULL FAITH AND CREDIT.**

3.25 Any bonds or other obligations issued by the board under this act are not public debt
 3.26 of the state, and the full faith and credit and the taxing powers of the state are not pledged
 3.27 for their payment, or of any payments that the state agrees to make under this act.

3.28 **Sec. 7. Minnesota Statutes 2004, section 297A.71, is amended by adding a subdivision**
 3.29 **to read:**

3.30 **Subd. 37. Construction materials; University of Minnesota football stadium.**
 3.31 **Materials, supplies, or equipment used or consumed in connection with the construction,**
 3 **equipping, or improvement of a football stadium constructed for use by the University**
 3.33 **of Minnesota are exempt. This subdivision expires one year after substantial completion**
 3.34 **of the football stadium.**

4.1 Sec. 8. Minnesota Statutes 2004, section 340A.404, subdivision 4a, is amended to read:

4.2 Subd. 4a. **State-owned recreation; entertainment facilities.** Notwithstanding any
4.3 other law, local ordinance, or charter provision, the commissioner may issue on-sale
4.4 intoxicating liquor licenses:

4.5 (1) to the state agency administratively responsible for, or to an entity holding a
4.6 concession or facility management contract with such agency for beverage sales at, the
4.7 premises of any Giants Ridge Recreation Area building or recreational improvement area
4.8 owned by the state in the town of White, St. Louis County;

4.9 (2) to the state agency administratively responsible for, or to an entity holding a
4.10 concession or facility management contract with such agency for beverage sales at, the
4.11 premises of any Ironworld Discovery Center building or facility owned by the state at
4.12 Chisholm; and

4.13 (3) to the Board of Regents of the University of Minnesota for events at Northrop
4.14 Auditorium and spectator suites and clubs in any intercollegiate football stadium
4.15 constructed by the university on its Minneapolis campus.

4.16 The commissioner shall charge a fee for licenses issued under this subdivision in an
4.17 amount comparable to the fee for comparable licenses issued in surrounding cities.

4.18 Sec. 9. [473.5955] TERMINATION OF LEASE.

4.19 The lease between the Board of Regents of the University of Minnesota and the
4.20 commission dated May 19, 1982, that requires the University of Minnesota football team
4.21 to play its home football games at the Hubert H. Humphrey Metrodome until July 1, 2012,
4.22 may be terminated by the board effective on or after the date designated by the board as
4.23 the date of completion of the stadium on the University of Minnesota's east bank campus
4.24 in the city of Minneapolis.

4.25 Sec. 10. EFFECTIVE DATE.

4.26 Sections 1 to 9 are effective the day following final enactment.

4.27 **ARTICLE 2**
4.28 **STUDY ABROAD GRANTS**

4.29 Section 1. [136A.89] GRANTS FOR STUDY ABROAD.

4.30 Subdivision 1. Definition; eligible institution. For the purposes of this section, an
4.31 "eligible institution" is an accredited public or private not-for-profit higher education
4.32 institution located in Minnesota that awards primarily four-year academic degrees.

5.1 Subd. 2. Grants. The Office of Higher Education may provide grants to Minnesota
 5.2 resident students enrolled at eligible institutions to study abroad for at least one semester
 5.3 and not more than one year. Grants must be awarded to eligible students who apply for
 5.4 the grant. The number of grants an institution may apply for is limited to the number
 5.5 of foreign students enrolled on a full-time basis in a four-year degree program at the
 5.6 institution in the previous year. Grants may be awarded only for study-abroad destinations
 5.7 that are directly related to the country of citizenship of a foreign student enrolled at the
 5.8 institution. An institution, on behalf of the student, must request payment of the grant
 5.9 from the Office of Higher Education. The maximum grant amount is \$10,000 per student.
 5.10 Grants may be awarded only to the extent appropriations are available.

5.11 Subd. 3. Eligibility. A student is eligible for a study-abroad grant if the student is a
 5.12 Minnesota resident and enrolled in a four-year degree program at an eligible institution.
 5.13 Students in graduate or postgraduate degree programs are eligible for a study-abroad grant.
 5.14 To be eligible for a study-abroad grant, a student must demonstrate proficiency in the
 5.15 foreign language spoken in the country in which the study-abroad experience will occur
 5.16 or have successfully completed at least four semesters of foreign language study in the
 5.17 language spoken in the country in which the study-abroad experience will occur. A foreign
 5.18 language is a language other than English and which is not the student's primary language.

5.19 Subd. 4. Use of grant. A grant under this section may only be used to support study
 5.20 abroad in a program that is approved by the student's school. The grant may be used to
 5.21 support study only in countries where English is not the primary language, except that a
 5.22 student may receive a grant to study in developing countries as defined by the World Bank.

5.23 Subd. 5. Reporting. Participating institutions must provide to the Office of Higher
 5.24 Education the following information each year:

- 5.25 (1) aggregate data on the number of international students enrolled at the institution;
 5.26 (2) the number of its foreign students by country of citizenship;
 5.27 (3) the students' level of academic progress; and
 5.28 (4) the students' enrollment status.

5.29 Institutions must also provide aggregate data on students participating in a
 5.30 study-abroad program supported by a grant under this section, including the countries in
 5.31 which the study is taking place, academic status, and the number of successful completions
 5.32 of the study-abroad program.

5.33 Sec. 2. APPROPRIATION.

5.34 \$..... is appropriated from the general fund in each fiscal year that the state makes a
 5.35 transfer to reimburse the Board of Regents of the University of Minnesota under article

6.1 1, section 5, subdivision 3, to the Office of Higher Education for study-abroad grants
6.2 under section 1.

6.3 **Sec. 3. EFFECTIVE DATE.**

6.4 Section 1 is effective for study-abroad enrollment beginning in the fall 2007
6.5 semester or its equivalent and thereafter.

6.6 **ARTICLE 3**

6.7 **UNIVERSITY OF MINNESOTA-ROCHESTER**

6.8 **Section 1. APPROPRIATIONS.**

6.9 (a) \$19,000,000 in fiscal year 2006, \$18,000,000 in fiscal year 2007, and \$18,000,000
6.10 in fiscal year 2008 are appropriated from the general fund to the Board of Regents of the
6.11 University of Minnesota to fund a joint partnership with the University of Minnesota
6.12 and the Mayo Foundation for research in biotechnology and medical genomics. This
6.13 appropriation funds operating cost of the partnership on a reimbursement basis, including
6.14 salaries, and indirect operating costs at the federally negotiated rate of each institution, but
6.15 does not include reimbursement for capital cost.

6.16 (b) \$5,000,000 in fiscal year 2006 is appropriated to the Board of Regents of the
6.17 University of Minnesota for academic programs at the University of Minnesota-Rochester.

- 1.1 Senator moves to amend the committee engrossment of S.F. No. 2460
1.2 (SS2460CE) as follows:
- 1.3 Page 1, delete section 1
- 1.4 Page 2, line 4, delete "9" and insert "7"
- 1.5 Page 2, delete subdivisions 6 to 9
- 1.6 Page 3, line 6, after the second "stadium" insert ", including the costs of issuing
1.7 bonds and purchasing bond insurance or other credit enhancements or funding reserves,
1.8 plus the costs of mitigation required by section 6, "
- 1.9 Page 3, line 11, delete everything before "an" and insert "The commissioner must
1.10 not make an annual payment required by this act until the board has completed"
- 1.11 Page 3, line 12, delete "perform" and insert "the commissioner determines that
1.12 the board is performing"
- 1.13 Page 3, line 19, delete "\$124,000,000" and insert "\$62,500,000"
- 1.14 Page 3, lines 30 and 33, delete "\$9,400,000" and insert "\$13,900,000"
- 1.15 Page 3, line 31, delete "such" and insert "the"
- 1.16 Page 3, line 32, delete "\$124,000,000" and insert "\$185,500,000"
- 1.17 Page 4, line 3, delete "shall" and insert "must"
- 1.18 Page 4, line 4, delete "such" and insert "the"
- 1.19 Page 4, delete section 6
- 1.20 Page 5, line 25, delete "\$..... is appropriated to the board" and insert "The
1.21 commissioner must not make an annual payment required by this act until the board has
1.22 created an endowment fund of at least \$1,000,000, the income from which is required"
- 1.23 Page 5, line 27, delete "This appropriation remains available until expended."
- 1.24 Page 5, after line 31, insert:
1.25 "Sec. 7. EMINENT DOMAIN.
1.26 The board may not acquire the fire station number 19 building for the construction
1.27 of the stadium and related infrastructure, either directly or indirectly, through the exercise
1.28 of the power of eminent domain."
- 1.29 Page 6, line 28, after "board" insert "and the commission"
- 1.30 Renumber the sections in sequence and correct the internal references
- 1.31 Amend the title accordingly

1.1 Senator moves to amend S.F. No. 2460 as follows:

1.2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **DEFINITIONS.**

1.4 Subdivision 1. **Applicability.** The definitions in this section apply to sections 2 to 7.

1.5 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of finance.

1.6 Subd. 3. **Stadium.** "Stadium" means an athletic stadium suitable for intercollegiate
1.7 National Collegiate Athletic Association (NCAA) Division I football games and related
1.8 infrastructure improvements constructed on the University of Minnesota's east bank
1.9 campus in the city of Minneapolis.

1.10 Subd. 4. **Board.** "Board" means the Board of Regents of the University of
1.11 Minnesota.

1.12 Subd. 5. **Commission.** "Commission" means the Metropolitan Sports Facilities
1.13 Commission.

1.14 Sec. 2. **ACTIVITIES; CONTRACTS.**

1.15 The legislature recognizes that the board has all powers necessary or convenient for
1.16 designing, constructing, equipping, improving, controlling, operating, and maintaining the
1.17 stadium and may enter into contracts that are, in its judgment, in the best interests of the
1.18 public for those purposes. Notwithstanding contrary law, the board may adopt the fair
1.19 and competitive design and construction procurement procedures in connection with
1.20 the stadium that it considers to be in the public interest. The total cost of the stadium,
1.21 including the costs of issuing bonds and purchasing bond insurance or other credit
1.22 enhancements or funding reserves, plus the costs of mitigation required by section 6, must
1.23 not exceed \$248,000,000. The board must ensure to the greatest extent practicable, that
1.24 materials derived from American-made steel are used in the construction of the stadium.
1.25 Minnesota Statutes, sections 16B.33 and 16B.335, do not apply to the stadium.

1.26 Sec. 3. **ENVIRONMENTAL REVIEW.**

1.27 The commissioner must not make an annual payment required by this act until the
1.28 board has completed an environmental review of the stadium project and the commissioner
1.29 determines that the board is performing the duties of the responsible governmental unit
1.30 as prescribed in the Minnesota Environmental Policy Act, Minnesota Statutes, chapter
1.31 116D, and the rules adopted under that chapter. The legislature ratifies the Environmental
1.32 Quality Board's designation of the board as a responsible governmental unit.

1.33 Sec. 4. **CONDITIONS FOR PAYMENT TO THE UNIVERSITY.**

2.1 Subdivision 1. Nonstate revenues required. Before the commissioner may make
2.2 the first payment to the board authorized in this section, the commissioner must certify
2.3 that the board has received at least \$62,500,000 in pledges, gifts, sponsorships, and other
2.4 nonstate general fund revenue support for the construction of the stadium.

2.5 Subd. 2. Prohibited funding sources. No part of the money required to be obtained
2.6 by the board under subdivision 1 may be derived from:

2.7 (1) increased fees or charges imposed on students attending the University of
2.8 Minnesota; or

2.9 (2) money paid by any nonpublic entity as consideration for the right to determine
2.10 the name of the stadium.

2.11 Subd. 3. Annual state payments; appropriation. On July 1 of each year after
2.12 certification by the commissioner, but no earlier than July 1, 2007, and for so long
2.13 thereafter as any bonds issued by the board for the construction of the stadium are
2.14 outstanding, the state must transfer to the board up to \$13,900,000 to reimburse the board
2.15 for its stadium costs, provided that bonds issued to pay the state's share of the costs shall
2.16 not exceed \$185,500,000.

2.17 Up to \$13,900,000 is appropriated annually from the general fund for the purpose
2.18 of this section. The board must certify to the commissioner the amount of the annual
2.19 payments of principal and interest required to service bonds issued by the university for
2.20 the construction of the stadium, and the actual amount of the state's annual payment to the
2.21 university must equal the amount required to service the bonds representing the state's
2.22 share of the costs. Except to the extent of the annual appropriation described in this section,
2.23 the state is not required to pay any part of the cost of designing or constructing the stadium.

2.24 Subd. 4. Affordable student access. Before the first payment is made under
2.25 subdivision 3, the board must certify to the commissioner that a provision for affordable
2.26 access for university students to the university sporting events held at the football stadium
2.27 has been made.

2.28 Sec. 5. NO FULL FAITH AND CREDIT.

2.29 Any bonds or other obligations issued by the board under this act are not public debt
2.30 of the state, and the full faith and credit and the taxing powers of the state are not pledged
2.31 for their payment, or of any payments that the state agrees to make under this act.

2.32 Sec. 6. MITIGATION FUND.

2.33 The board shall organize an advisory group made up of representatives of the
2.34 surrounding residential and business areas to develop proposals to mitigate the impact
2.35 of the construction and operation of the stadium. The commissioner must not make an

3.1 annual payment required by this act until the board has created an endowment fund of
3.2 at least \$1,000,000, the income from which is required to be used, upon advice of the
3.3 advisory group, to mitigate the direct effects of construction of the stadium. For purposes
3.4 of this section, "mitigation" includes, but is not limited to, protection of parking facilities
3.5 and amenities, neighborhood landscaping and beautification projects and financial grants
3.6 for neighborhood and business-developed programs intended to mitigate adverse impacts
3.7 cause by the operation of the stadium.

3.8 Sec. 7. **EMINENT DOMAIN.**

3.9 The board may not acquire the fire station number 19 building for the construction
3.10 of the stadium and related infrastructure, either directly or indirectly, through the exercise
3.11 of the power of eminent domain.

3.12 Sec. 8. Minnesota Statutes 2004, section 297A.71, is amended by adding a subdivision
3.13 to read:

3.14 **Subd. 37. Construction materials; University of Minnesota football stadium.**
3.15 Materials, supplies, or equipment used or consumed in connection with the construction,
3.16 equipping, or improvement of a football stadium constructed for use by the University
3.17 of Minnesota are exempt. This subdivision expires one year after substantial completion
3.18 of the football stadium.

3.19 Sec. 9. Minnesota Statutes 2004, section 340A.404, subdivision 4a, is amended to read:

3.20 **Subd. 4a. State-owned recreation; entertainment facilities.** Notwithstanding any
3.21 other law, local ordinance, or charter provision, the commissioner may issue on-sale
3.22 intoxicating liquor licenses:

3.23 (1) to the state agency administratively responsible for, or to an entity holding a
3.24 concession or facility management contract with such agency for beverage sales at, the
3.25 premises of any Giants Ridge Recreation Area building or recreational improvement area
3.26 owned by the state in the town of White, St. Louis County;

3.27 (2) to the state agency administratively responsible for, or to an entity holding a
3.28 concession or facility management contract with such agency for beverage sales at, the
3.29 premises of any Ironworld Discovery Center building or facility owned by the state at
3.30 Chisholm; and

3.31 (3) to the Board of Regents of the University of Minnesota for events at Northrop
3.32 Auditorium and spectator suites and clubs in any intercollegiate football stadium
3.33 constructed by the university on its Minneapolis campus.

3.34 The commissioner shall charge a fee for licenses issued under this subdivision in an
3.35 amount comparable to the fee for comparable licenses issued in surrounding cities.

4.1 Sec. 10. **[473.5955] TERMINATION OF LEASE.**

4.2 The lease between the Board of Regents of the University of Minnesota and the
4.3 commission dated May 19, 1982, that requires the University of Minnesota football team
4.4 to play its home football games at the Hubert H. Humphrey Metrodome until July 1,
4.5 2012, may be terminated by the board and the commission effective on or after the date
4.6 designated by the board as the date of completion of the stadium on the University of
4.7 Minnesota's east bank campus in the city of Minneapolis.

4.8 Sec. 11. **EFFECTIVE DATE.**

4.9 Sections 1 to 11 are effective the day following final enactment."

4.10 Amend the title accordingly

1.1 To: Senator Cohen, Chair
 1.2 Committee on Finance
 1.3 Senator Pappas,
 1.4 Chair of the Higher Education Budget Division, to which was referred

1.5 **S.F. No. 2460:** A bill for an act relating to higher education; providing a process
 1.6 for state support of a football stadium at the University of Minnesota; providing funding
 1.7 to the Board of Regents of the University of Minnesota for biotechnology and medical
 1.8 genomics research and academic programs at the University of Minnesota-Rochester;
 1.9 establishing a study abroad program; appropriating money; amending Minnesota Statutes
 1.10 2004, sections 297A.71, by adding a subdivision; 340A.404, subdivision 4a; proposing
 1.11 coding for new law in Minnesota Statutes, chapters 136A; 473.

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

1.13 Page 1, delete lines 10 to 11

1.14 Page 2, line 2, delete "40" and insert "50"

1.15 Page 2, line 6, delete "7" and insert "9"

6 Page 2, after line 15, insert:

1.17 "Subd. 6. **University land.** "University land" means approximately 2,840 acres
 1.18 owned by the University of Minnesota and lying within the area legally described as
 1.19 approximately the Southerly 3/4 of the Southwest 1/4 of Section 1 (comprising 120 acres),
 1.20 approximately the Southeast 1/4 of Section 2 (comprising 160 acres), the East 1/2 of
 1.21 Section 10, Section 11, the West 1/2 of Section 12, Section 13 and Section 14, all in Twp.
 1.22 114 North, Range 19 West, Dakota County, Minnesota.

1.23 Subd. 7. **Permitted university uses.** "Permitted university uses" means university
 1.24 educational, research, outreach, scientific, and agricultural uses, including, undiminished,
 1.25 all of the present uses of the university land, all of the present uses of university real
 6 property that adjoins the university land, all similar uses made of comparable property by
 1.27 other land grant universities, any uses related to the uses described in this subdivision,
 1.28 and the making of improvements incidental to those uses.

1.29 Subd. 8. **Other permitted uses.** "Other permitted uses" means agricultural, outdoor
 1.30 recreational and open space management uses, and the making of improvements incidental
 1.31 to those uses, provided the improvements have been agreed to in writing by the university
 1.32 and the commissioner of natural resources.

1.33 Subd. 9. **Prohibited uses.** "Prohibited uses" means use of the university land for
 1.34 residential, commercial, or industrial uses, unless those uses are permitted by this act,
 1.35 or are presently being conducted under existing university leases, easements, or use
agreements, or are utility uses within defined corridors."

1.37 Page 2, line 23, delete "\$....." and insert "\$248,000,000"

1.38 Page 3, line 3, delete "\$....." and insert "\$124,000,000"

2.1 Page 3, line 14, delete "\$....." and insert "up to \$9,400,000"

2.2 Page 3, line 16, delete "\$....." and insert "\$124,000,000"

2.3 Page 3, line 17, delete everything before "is" and insert "Up to \$9,400,000" and after
2.4 the period, insert "The board must certify to the commissioner the amount of the annual
2.5 payments of principal and interest required to service bonds issued by the university for
2.6 the construction of the stadium, and the actual amount of the state's annual payment to the
2.7 university shall equal the amount required to service the bonds representing the state's
2.8 share of such costs."

2.9 Page 3, after line 23, insert:

2.10 "Sec. 6. LAND PROTECTION AND TRANSFER.

2.11 Subdivision 1. Land protection. The obligation of the state of Minnesota to make
2.12 the payments required under section 5 is expressly conditioned upon the university's
2.13 covenant in perpetuity, subject to subdivision 3, limiting the use of the university land to
2.14 the permitted university uses and the other permitted uses and proscribing the use of the
2.15 university land for any of the prohibited uses. A declaration imposing those restrictions
2.16 and granting to the Department of Natural Resources the right to enforce the same, which
2.17 has been executed by the university and filed in the office of the Dakota County recorder
2.18 shall satisfy this condition. In furtherance of the purposes of this subdivision, the university
2.19 and the Department of Natural Resources shall promptly endeavor to enter into a joint
2.20 powers agreement under Minnesota Statutes, section 471.59, or a conservation easement
2.21 held by a qualified conservation organization or by a conservation easement holder as
2.22 described in applicable Minnesota law embodying the restrictions, which agreement or
2.23 easement shall provide for cooperative oversight of the use of the university land. Nothing
2.24 in this subdivision or in any declaration, agreement, or easement made or entered into
2.25 pursuant to this subdivision shall impair the rights of third parties under presently existing
2.26 leases, easements, or use agreements. Except as limited in any declaration, agreement or
2.27 conservation easement made, entered into, or granted as provided in this subdivision, the
2.28 rights of the university with respect to the university land are not affected by this section.

2.29 Subd. 2. Land transfer. No later than the date on which the state of Minnesota
2.30 makes the last of the payments required under section 5, the Board of Regents of the
2.31 University of Minnesota shall offer to convey the university land to the state of Minnesota
2.32 in its "as is" condition by quit claim for the sum of \$1. Upon agreement of the university
2.33 and the state, all or part of the university land may be transferred to another governmental
2.34 unit of the state. Any conveyance shall be subject to the perpetual right of the university
2.35 to use the university land for the permitted university uses and to the rights of third
2.36 parties under presently existing leases, easements, and use agreements. The instruments

3.1 of transfer shall otherwise limit the use of the university land to the other permitted uses
 3.2 and subject those uses to restrictions as may be provided in any agreement between the
 3.3 university and the state or any conservation easement granted pursuant to subdivision 1, as
 3.4 applicable and proscribe its use for the prohibited purposes. The University of Minnesota
 3.5 shall have the right to enforce those limitations and restrictions. The quit claim deed shall
 3.6 provide that the state will assume full responsibility for, and will indemnify, defend, and
 3.7 hold the university harmless with respect to any environmental contamination or pollution
 3.8 resulting from hazardous substances, pollutants, or contaminants that were discharged,
 3.9 disposed of, deposited, or otherwise came to be located on or adjacent to the university
 3.10 land prior to August 1, 1947.

3.11 Subd. 3. Termination of use restrictions. In the event the state of Minnesota
 3.12 fails to make any payment required by section 5, the restrictions in this section on
 3.13 the university's use of the university land, any declaration, agreement, or conservation
 3.14 easement containing those restrictions, and the university's obligation to offer the
 3.15 university land to the state of Minnesota shall be null and void."

3.16 Page 3, after line 27, insert:

3.17 "Sec. 8. MITIGATION FUND.

3.18 The board shall organize an advisory group made up of representatives of the
 3.19 surrounding residential and business areas to develop proposals to mitigate the impact of
 3.20 the construction and operation of the stadium. \$..... is appropriated to the board to be
 3.21 used, upon advice of the advisory group, to mitigate the direct effects of construction of
 3.22 the stadium. This appropriation remains available until expended. For purposes of this
 3.23 section, "mitigation" includes, but is not limited to, protection of parking facilities and
 3.24 amenities, neighborhood landscaping and beautification projects and financial grants for
 3.25 neighborhood and business-developed programs intended to mitigate adverse impacts
 3.26 cause by the operation of the stadium."

3.27 Page 4, line 26, delete "9" and insert "11"

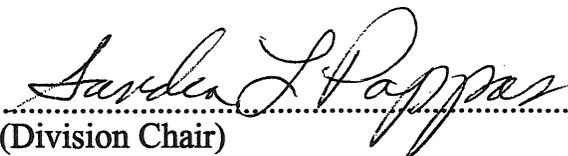
3.28 Page 4, delete article 2

3.29 Page 6, delete article 3

3.30 Renumber the sections in sequence

3.31 Amend the title accordingly

3.32 And when so amended that the bill be recommended to pass and be referred to
 3.33 the full committee.

3.35 
 (Division Chair)

3.36 March 28, 2006
 3.37 (Date of Division action)

1.1 **Senator Cohen from the Committee on Finance, to which was referred**

1.2 **S.F. No. 2460:** A bill for an act relating to higher education; providing a process
1.3 for state support of a football stadium at the University of Minnesota; providing funding
1.4 to the Board of Regents of the University of Minnesota for biotechnology and medical
1.5 genomics research and academic programs at the University of Minnesota-Rochester;
1.6 establishing a study abroad program; appropriating money; amending Minnesota Statutes
1.7 2004, sections 297A.71, by adding a subdivision; 340A.404, subdivision 4a; proposing
1.8 coding for new law in Minnesota Statutes, chapters 136A; 473.

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

1.10 Delete everything after the enacting clause and insert:

1.11 **"Section 1. DEFINITIONS.**

1.12 **Subdivision 1. Applicability.** The definitions in this section apply to sections 2 to 7.

1.13 **Subd. 2. Commissioner.** "Commissioner" means the commissioner of finance.

1.14 **Subd. 3. Stadium.** "Stadium" means an athletic stadium suitable for intercollegiate

1.15 National Collegiate Athletic Association (NCAA) Division I football games and related

1.16 infrastructure improvements constructed on the University of Minnesota's east bank

1.17 campus in the city of Minneapolis.

1.18 **Subd. 4. Board.** "Board" means the Board of Regents of the University of

1.19 Minnesota.

1.20 **Subd. 5. Commission.** "Commission" means the Metropolitan Sports Facilities

1.21 Commission.

1.22 **Sec. 2. ACTIVITIES; CONTRACTS.**

1.23 The legislature recognizes that the board has all powers necessary or convenient for

1.24 designing, constructing, equipping, improving, controlling, operating, and maintaining the

1.25 stadium and may enter into contracts that are, in its judgment, in the best interests of the

1.26 public for those purposes. Notwithstanding contrary law, the board may adopt the fair

1.27 and competitive design and construction procurement procedures in connection with

1.28 the stadium that it considers to be in the public interest. The total cost of the stadium,

1.29 including the costs of issuing bonds and purchasing bond insurance or other credit

1.30 enhancements or funding reserves, plus the costs of mitigation required by section 6, must

1.31 not exceed \$248,000,000. The board must ensure to the greatest extent practicable, that

1.32 materials derived from American-made steel are used in the construction of the stadium.

1.33 Minnesota Statutes, sections 16B.33 and 16B.335, do not apply to the stadium.

1.34 **Sec. 3. ENVIRONMENTAL REVIEW.**

1.35 The commissioner must not make an annual payment required by this act until the

1.36 board has completed an environmental review of the stadium project and the commissioner

1.37 determines that the board is performing the duties of the responsible governmental unit

1.38 as prescribed in the Minnesota Environmental Policy Act, Minnesota Statutes, chapter

2.1 116D, and the rules adopted under that chapter. The legislature ratifies the Environmental
2.2 Quality Board's designation of the board as a responsible governmental unit.

2.3 **Sec. 4. CONDITIONS FOR PAYMENT TO THE UNIVERSITY.**

2.4 **Subdivision 1. Nonstate revenues required.** Before the commissioner may make
2.5 the first payment to the board authorized in this section, the commissioner must certify
2.6 that the board has received at least \$75,300,000 in pledges, gifts, sponsorships, and other
2.7 nonstate general fund revenue support for the construction of the stadium.

2.8 **Subd. 2. Prohibited funding sources.** No part of the money required to be obtained
2.9 by the board under subdivision 1 may be derived from:

2.10 (1) increased fees or charges imposed on students attending the University of
2.11 Minnesota; or

2.12 (2) money paid by any nonpublic entity as consideration for the right to determine
2.13 the name of the stadium.

2.14 **Subd. 3. Annual state payments; appropriation.** On July 1 of each year after
2.15 certification by the commissioner, but no earlier than July 1, 2007, and for so long
2.16 thereafter as any bonds issued by the board for the construction of the stadium are
2.17 outstanding, the state must transfer to the board up to \$12,900,000 to reimburse the board
2.18 for its stadium costs, provided that bonds issued to pay the state's share of the costs shall
2.19 not exceed \$172,700,000.

2.20 Up to \$12,900,000 is appropriated annually from the general fund for the purpose
2.21 of this section. The board must certify to the commissioner the amount of the annual
2.22 payments of principal and interest required to service bonds issued by the university for
2.23 the construction of the stadium, and the actual amount of the state's annual payment to the
2.24 university must equal the amount required to service the bonds representing the state's
2.25 share of the costs. Except to the extent of the annual appropriation described in this section,
2.26 the state is not required to pay any part of the cost of designing or constructing the stadium.

2.27 **Subd. 4. Affordable student access.** Before the first payment is made under
2.28 subdivision 3, the board must certify to the commissioner that a provision for affordable
2.29 access for university students to the university sporting events held at the football stadium
2.30 has been made.

2.31 **Sec. 5. NO FULL FAITH AND CREDIT.**

2.32 Any bonds or other obligations issued by the board under this act are not public debt
2.33 of the state, and the full faith and credit and the taxing powers of the state are not pledged
2.34 for their payment, or of any payments that the state agrees to make under this act.

2.35 **Sec. 6. MITIGATION FUND.**

3.1 The board shall organize an advisory group made up of representatives of the
3.2 surrounding residential and business areas to develop proposals to mitigate the impact
3.3 of the construction and operation of the stadium. The commissioner must not make an
3.4 annual payment required by this act until the board has created an endowment fund of
3.5 at least \$1,000,000, the income from which is required to be used, upon advice of the
3.6 advisory group, to mitigate the direct effects of construction of the stadium. For purposes
3.7 of this section, "mitigation" includes, but is not limited to, protection of parking facilities
3.8 and amenities, neighborhood landscaping and beautification projects and financial grants
3.9 for neighborhood and business-developed programs intended to mitigate adverse impacts
3.10 caused by the operation of the stadium.

3.11 Sec. 7. **EMINENT DOMAIN.**

3.12 The board may not acquire the fire station number 19 building for the construction
3.13 of the stadium and related infrastructure, either directly or indirectly, through the exercise
3.14 of the power of eminent domain.

3.15 Sec. 8. Minnesota Statutes 2004, section 297A.71, is amended by adding a subdivision
3.16 to read:

3.17 **Subd. 37. Construction materials; University of Minnesota football stadium.**
3.18 Materials, supplies, or equipment used or consumed in connection with the construction,
3.19 equipping, or improvement of a football stadium constructed for use by the University
3.20 of Minnesota are exempt. This subdivision expires one year after substantial completion
3.21 of the football stadium.

3.22 Sec. 9. Minnesota Statutes 2004, section 340A.404, subdivision 4a, is amended to read:

3.23 **Subd. 4a. State-owned recreation; entertainment facilities.** Notwithstanding any
3.24 other law, local ordinance, or charter provision, the commissioner may issue on-sale
3.25 intoxicating liquor licenses:

3.26 (1) to the state agency administratively responsible for, or to an entity holding a
3.27 concession or facility management contract with such agency for beverage sales at, the
3.28 premises of any Giants Ridge Recreation Area building or recreational improvement area
3.29 owned by the state in the town of White, St. Louis County;

3.30 (2) to the state agency administratively responsible for, or to an entity holding a
3.31 concession or facility management contract with such agency for beverage sales at, the
3.32 premises of any Ironworld Discovery Center building or facility owned by the state at
Chisholm; and

4.1 (3) to the Board of Regents of the University of Minnesota for events at Northrop
 4.2 Auditorium and spectator suites and clubs in any intercollegiate football stadium
 4.3 constructed by the university on its Minneapolis campus.

4.4 The commissioner shall charge a fee for licenses issued under this subdivision in an
 4.5 amount comparable to the fee for comparable licenses issued in surrounding cities.

4.6 Sec. 10. [473.5955] TERMINATION OF LEASE.

4.7 The lease between the Board of Regents of the University of Minnesota and the
 4.8 commission dated May 19, 1982, that requires the University of Minnesota football team
 4.9 to play its home football games at the Hubert H. Humphrey Metrodome until July 1,
 4.10 2012, may be terminated by the board and the commission effective on or after the date
 4.11 designated by the board as the date of completion of the stadium on the University of
 4.12 Minnesota's east bank campus in the city of Minneapolis.

4.13 Sec. 11. EFFECTIVE DATE.

4.14 Sections 1 to 10 are effective the day following final enactment."

4.15 Amend the title accordingly

4.16 And when so amended the bill do pass and be re-referred to the Committee on
 4.17 Taxes. Amendments adopted. Report adopted.

4.18 
 4.19
 (Committee Chair)

4.20 April 26, 2006
 4.21 (Date of Committee recommendation)

Consolidated Fiscal Note – 2005-06 Session

Bill #: S2521-0 **Complete Date:** 03/20/06

Chief Author: LARSON, CAL

Title: HOSP RESTRICTED CONSTRUCTION EXCEPT

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agencies: Human Services Dept (03/20/06)

Health Dept (03/16/06)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER

Date: 03/20/06 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S2521-0 **Complete Date:** 03/20/06

Chief Author: LARSON, CAL

Title: HOSP RESTRICTED CONSTRUCTION EXCEPT

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

NARRATIVE: HF 2854/SF 2521

Bill Description

This bill amends Minnesota Statutes section 144.551, subdivision 1, by adding a clause that will permit the Lake Region Hospital in Fergus Falls to add two beds to inpatient care by adding two beds to their rehabilitation program, and to close their 13 nursing facility beds.

Assumptions

For the 13-bed nursing facility closure, it is assumed that these beds are part of the beds carried in the forecast as closing during the biennium.

A change to the moratorium on new beds does not increase Minnesota Health Care Program costs because all medically necessary inpatient services are already being provided, but at a different location. An increase in hospital bed availability does not increase demand for inpatient services.

Expenditure and/or Revenue Formula

The Reports and Forecasts division includes in its forecast that nursing facility beds will close for reasons other than to take advantage of rate incentives that have been put in statute to encourage bed closures. For FY07 this number is 180 beds; for each FY08 and FY09 an additional 96 is in the forecast.

These 13 beds at Lake Region are not closing to receive a planned closure rate adjustment under section 256B.437 or a single-bed incentive under section 256B.431. Therefore, they are being counted as part of the forecasted non-incentive-based closure.

Long-Term Fiscal Considerations

None

Local Government Costs

None

References/Sources

DHS' forecast

Agency Contact Name: Greg Tabelle 431-2262

FN Coord Signature: STEVE BARTA

Date: 03/20/06 Phone: 431-2916

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER

Date: 03/20/06 Phone: 282-5065

Fiscal Note – 2005-06 Session

Bill #: S2521-0 **Complete Date:** 03/16/06

Chief Author: LARSON, CAL

Title: HOSP RESTRICTED CONSTRUCTION EXCEPT

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Health Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

Section 1

Amends Minnesota Statutes 2005 Supplement, section 144.551, subdivision 1, to allow for a project at an acute care hospital in Fergus Falls, Minnesota increasing bed capacity from 108 to 110 beds by increasing rehabilitation bed capacity and closing a separate skilled nursing facility.

Assumptions

Article 1, Section 3

Approval of increased bed capacity for this project would require no additional responsibilities for the Department and have no fiscal impact. If a public interest review were to be conducted for this project pursuant to Minnesota Statutes 144.552, there would be some additional costs to the Department, but those costs would be covered by revenues from the filing entity, as required by Minnesota Statutes 144.552, leaving no net fiscal impact.

Expenditure and/or Revenue Formula

No fiscal impact to the Department.

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: Scott Leitz (651-282-6361)
FN Coord Signature: MARGARET KELLY
Date: 03/07/06 Phone: 201-5812

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: CRAIG WIEBER
Date: 03/16/06 Phone: 282-5065

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

G-17 STATE CAPITOL
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JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

**S.F. No. 2521 - Fergus Falls Hospital Moratorium
Exception**

Author: Senator Cal Larson

Prepared by: David Giel, Senate Research (296-7178) 

Date: April 25, 2006

S.F. No. 2521 authorizes an exception to the hospital construction moratorium to allow the addition of two rehabilitation beds at a Fergus Falls hospital that closes its separately licensed 13-bed skilled nursing facility.

DG:rd

Senator Larson introduced-

S.F. No. 2521: Referred to the Committee on Health and Family Security.

1.1 A bill for an act
 1.2 relating to health; providing an exception to hospital restricted construction or
 1.3 modification; amending Minnesota Statutes 2005 Supplement, section 144.551,
 1.4 subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2005 Supplement, section 144.551, subdivision 1,
 1.7 is amended to read:

1.8 Subdivision 1. **Restricted construction or modification.** (a) The following
 1.9 construction or modification may not be commenced:

1.10 (1) any erection, building, alteration, reconstruction, modernization, improvement,
 1.11 extension, lease, or other acquisition by or on behalf of a hospital that increases the bed
 1.12 capacity of a hospital, relocates hospital beds from one physical facility, complex, or site
 1.13 to another, or otherwise results in an increase or redistribution of hospital beds within
 1.14 the state; and

1.15 (2) the establishment of a new hospital.

1.16 (b) This section does not apply to:

1.17 (1) construction or relocation within a county by a hospital, clinic, or other health
 1.18 care facility that is a national referral center engaged in substantial programs of patient
 1.19 care, medical research, and medical education meeting state and national needs that
 1.20 receives more than 40 percent of its patients from outside the state of Minnesota;

1.21 (2) a project for construction or modification for which a health care facility held
 1.22 an approved certificate of need on May 1, 1984, regardless of the date of expiration of
 1. the certificate;

- 2.1 (3) a project for which a certificate of need was denied before July 1, 1990, if a
2.2 timely appeal results in an order reversing the denial;
- 2.3 (4) a project exempted from certificate of need requirements by Laws 1981, chapter
2.4 200, section 2;
- 2.5 (5) a project involving consolidation of pediatric specialty hospital services within
2.6 the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the
2.7 number of pediatric specialty hospital beds among the hospitals being consolidated;
- 2.8 (6) a project involving the temporary relocation of pediatric-orthopedic hospital
2.9 beds to an existing licensed hospital that will allow for the reconstruction of a new
2.10 philanthropic, pediatric-orthopedic hospital on an existing site and that will not result in a
2.11 net increase in the number of hospital beds. Upon completion of the reconstruction,
2.12 the licenses of both hospitals must be reinstated at the capacity that existed on each site
2.13 before the relocation;
- 2.14 (7) the relocation or redistribution of hospital beds within a hospital building or
2.15 identifiable complex of buildings provided the relocation or redistribution does not result
2.16 in: (i) an increase in the overall bed capacity at that site; (ii) relocation of hospital beds
2.17 from one physical site or complex to another; or (iii) redistribution of hospital beds within
2.18 the state or a region of the state;
- 2.19 (8) relocation or redistribution of hospital beds within a hospital corporate system
2.20 that involves the transfer of beds from a closed facility site or complex to an existing site
2.21 or complex provided that: (i) no more than 50 percent of the capacity of the closed facility
2.22 is transferred; (ii) the capacity of the site or complex to which the beds are transferred
2.23 does not increase by more than 50 percent; (iii) the beds are not transferred outside of a
2.24 federal health systems agency boundary in place on July 1, 1983; and (iv) the relocation or
2.25 redistribution does not involve the construction of a new hospital building;
- 2.26 (9) a construction project involving up to 35 new beds in a psychiatric hospital in
2.27 Rice County that primarily serves adolescents and that receives more than 70 percent of its
2.28 patients from outside the state of Minnesota;
- 2.29 (10) a project to replace a hospital or hospitals with a combined licensed capacity
2.30 of 130 beds or less if: (i) the new hospital site is located within five miles of the current
2.31 site; and (ii) the total licensed capacity of the replacement hospital, either at the time of
2.32 construction of the initial building or as the result of future expansion, will not exceed 70
2.33 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is
2.34 less;
- 2.35 (11) the relocation of licensed hospital beds from an existing state facility operated
2.36 by the commissioner of human services to a new or existing facility, building, or complex

3.1 operated by the commissioner of human services; from one regional treatment center
3.2 site to another; or from one building or site to a new or existing building or site on the
3.3 same campus;

3.4 (12) the construction or relocation of hospital beds operated by a hospital having a
3.5 statutory obligation to provide hospital and medical services for the indigent that does not
3.6 result in a net increase in the number of hospital beds, notwithstanding section 144.552, 27
3.7 beds, of which 12 serve mental health needs, may be transferred from Hennepin County
3.8 Medical Center to Regions Hospital under this clause;

3.9 (13) a construction project involving the addition of up to 31 new beds in an existing
3.10 nonfederal hospital in Beltrami County;

3.11 (14) a construction project involving the addition of up to eight new beds in an
3.12 existing nonfederal hospital in Otter Tail County with 100 licensed acute care beds;

3.13 (15) a construction project involving the addition of 20 new hospital beds
3.14 used for rehabilitation services in an existing hospital in Carver County serving the
3.15 southwest suburban metropolitan area. Beds constructed under this clause shall not be
3.16 eligible for reimbursement under medical assistance, general assistance medical care,
3.17 or MinnesotaCare;

3.18 (16) a project for the construction or relocation of up to 20 hospital beds for the
3.19 operation of up to two psychiatric facilities or units for children provided that the operation
3.20 of the facilities or units have received the approval of the commissioner of human services;

3.21 (17) a project involving the addition of 14 new hospital beds to be used for
3.22 rehabilitation services in an existing hospital in Itasca County;

3.23 (18) a project to add 20 licensed beds in existing space at a hospital in Hennepin
3.24 County that closed 20 rehabilitation beds in 2002, provided that the beds are used only
3.25 for rehabilitation in the hospital's current rehabilitation building. If the beds are used for
3.26 another purpose or moved to another location, the hospital's licensed capacity is reduced
3.27 by 20 beds; ~~or~~

3.28 (19) a critical access hospital established under section 144.1483, clause (9), and
3.29 section 1820 of the federal Social Security Act, United States Code, title 42, section
3.30 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public
3.31 Law 105-33, to the extent that the critical access hospital does not seek to exceed the
3.32 maximum number of beds permitted such hospital under federal law; or

3.33 (20) a project for an acute care hospital in Fergus Falls that will increase the bed
3.34 capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16
3.35 and closing a separately licensed 13-bed skilled nursing facility.

1.1 To: Senator Cohen, Chair

1.2 Committee on Finance

1.3 Senator Berglin,

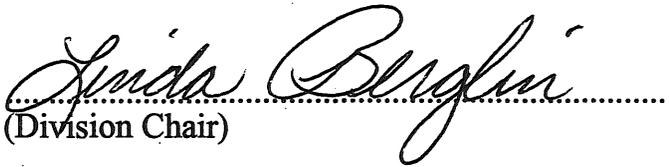
1.4 Chair of the Health and Human Services Budget Division, to which was referred

1.5 S.F. No. 2521: A bill for an act relating to health; providing an exception to hospital
1.6 restricted construction or modification; amending Minnesota Statutes 2005 Supplement,
1.7 section 144.551, subdivision 1.

1.8 Reports the same back with the recommendation that the bill do pass and be referred
1.9 to the full committee.

1.10

1.11


.....
(Division Chair)

1.12

1.13

April 5, 2006
(Date of Division action)

Senator Larson introduced-

S.F. No. 2521: Referred to the Committee on Health and Family Security.

1.1 A bill for an act
 1.2 relating to health; providing an exception to hospital restricted construction or
 1.3 modification; amending Minnesota Statutes 2005 Supplement, section 144.551,
 1.4 subdivision 1.

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

1.6 Section 1. Minnesota Statutes 2005 Supplement, section 144.551, subdivision 1,
 1.7 is amended to read:

1.8 Subdivision 1. **Restricted construction or modification.** (a) The following
 1.9 construction or modification may not be commenced:

1.10 (1) any erection, building, alteration, reconstruction, modernization, improvement,
 1.11 extension, lease, or other acquisition by or on behalf of a hospital that increases the bed
 1.12 capacity of a hospital, relocates hospital beds from one physical facility, complex, or site
 1.13 to another, or otherwise results in an increase or redistribution of hospital beds within
 1.14 the state; and

1.15 (2) the establishment of a new hospital.

1.16 (b) This section does not apply to:

1.17 (1) construction or relocation within a county by a hospital, clinic, or other health
 1.18 care facility that is a national referral center engaged in substantial programs of patient
 1.19 care, medical research, and medical education meeting state and national needs that
 1.20 receives more than 40 percent of its patients from outside the state of Minnesota;

1.21 (2) a project for construction or modification for which a health care facility held
 1.22 an approved certificate of need on May 1, 1984, regardless of the date of expiration of
 1.23 the certificate;

- 2.1 (3) a project for which a certificate of need was denied before July 1, 1990, if a
2.2 timely appeal results in an order reversing the denial;
- 2.3 (4) a project exempted from certificate of need requirements by Laws 1981, chapter
2.4 200, section 2;
- 2.5 (5) a project involving consolidation of pediatric specialty hospital services within
2.6 the Minneapolis-St. Paul metropolitan area that would not result in a net increase in the
2.7 number of pediatric specialty hospital beds among the hospitals being consolidated;
- 2.8 (6) a project involving the temporary relocation of pediatric-orthopedic hospital
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2.33 licensed hospital beds, or the combined licensed capacity of the hospitals, whichever is
2.34 less;
- 2.35 (11) the relocation of licensed hospital beds from an existing state facility operated
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3.1 operated by the commissioner of human services; from one regional treatment center
3.2 site to another; or from one building or site to a new or existing building or site on the
3.3 same campus;

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3.13 (15) a construction project involving the addition of 20 new hospital beds
3.14 used for rehabilitation services in an existing hospital in Carver County serving the
3.15 southwest suburban metropolitan area. Beds constructed under this clause shall not be
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3.17 or MinnesotaCare;

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3.20 of the facilities or units have received the approval of the commissioner of human services;

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3.23 (18) a project to add 20 licensed beds in existing space at a hospital in Hennepin
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3.26 another purpose or moved to another location, the hospital's licensed capacity is reduced
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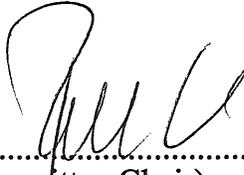
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3.29 section 1820 of the federal Social Security Act, United States Code, title 42, section
3.30 1395i-4, that delicensed beds since enactment of the Balanced Budget Act of 1997, Public
3.31 Law 105-33, to the extent that the critical access hospital does not seek to exceed the
3.32 maximum number of beds permitted such hospital under federal law; or

3.33 (20) a project for an acute care hospital in Fergus Falls that will increase the bed
3.34 capacity from 108 to 110 beds by increasing the rehabilitation bed capacity from 14 to 16
3.35 and closing a separately licensed 13-bed skilled nursing facility.

1.1 **Senator Cohen from the Committee on Finance, to which was re-referred**

1.2 **S.F. No. 2521:** A bill for an act relating to health; providing an exception to hospital
1.3 restricted construction or modification; amending Minnesota Statutes 2005 Supplement,
section 144.551, subdivision 1.

1.5 Reports the same back with the recommendation that the bill do pass. Report
1.6 adopted.



1.7
1.8 (Committee Chair)

1.9 April 26, 2006
1.10 (Date of Committee recommendation)

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

G-17 STATE CAPITOL
75 REV. DR. MARTIN LUTHER KING, JR. BLVD.
ST. PAUL, MN 55155-1606
(651) 296-4791
FAX: (651) 296-7747
JO ANNE ZOFF SELLNER
DIRECTOR

Senate

State of Minnesota

S.F. No. 2672 - Health Care Cost Payment by Large Employers (first engrossment)

Author: Senator Becky Lourey

Prepared by: John C. Fuller, Senate Counsel (651/296-3914)

Date: April 25, 2006

OVERVIEW

This bill amends the chapter of Minnesota Statutes related to labor standards and wages. It requires private employers with more than 10,000 employees in Minnesota to pay to the state for deposit in the health care access fund account the difference between eight percent of the wages paid to Minnesota employees and what the employer pays for medical costs of its employees. If the employer pays more than eight percent, there is no payment obligation.

Section 1 contains definitions.

Subdivision 2 defines "commissioner" as the Commissioner of Labor and Industry.

Subdivision 3 defines "employee" and excludes independent contractors from the definition..

Subdivision 4 defines an "employer" as an entity employing more than 10,000 individuals within the state.

Subdivision 5 defines "health care costs" as those paid for by an employer to provide health care or health insurance and that are deductible by the employer under federal tax law.

Subdivision 6 defines "wages" by reference to the definition of wages contained in the unemployment compensation law. Excluded from wages are those paid to employees enrolled in Medicare and those wages that are in excess of the state median household income.

Section 2 requires employers that pay less than eight percent of wages for health care costs to make a payment to the state for the difference between eight percent and what the employer pays for health care costs. The obligation is enforced on an annual calendar-year basis. The payment must be made to the Commissioner for deposit into the health care access fund. The first year an employer has the obligation is calendar year 2007.

Section 3 requires the Commissioner of Labor and Industry to enforce section 2. The Commissioner is authorized to engage in various activities to ensure compliance with section 2. The Commissioner of Employment and Economic Development is required to cooperate with the Commissioner in providing wage and employment count information.

JCF:cs

Consolidated Fiscal Note – 2005-06 Session

Bill #: S2672-1A **Complete Date:** 03/20/06

Chief Author: LOUREY, BECKY

Title: LARGE EMPLOYER HEALTH COST PAYMENTS

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agencies: Labor & Industry (03/20/06)
Employee Relations (03/20/06)

Employment & Economic Dev Dept (03/17/06)
Human Services Dept (03/17/06)

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Net Expenditures					
Health Care Access Fund			163	216	221
Labor & Industry			163	216	221
State Employees Insurance Fund		0	0	0	0
Employee Relations		0	0	0	0
Revenues					
-- No Impact --					
Net Cost <Savings>					
Health Care Access Fund			163	216	221
Labor & Industry			163	216	221
State Employees Insurance Fund		0	0	0	0
Employee Relations		0	0	0	0
Total Cost <Savings> to the State		0	163	216	221

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalent					
Health Care Access Fund			1.20	2.00	2.00
Labor & Industry			1.20	2.00	2.00
Total FTE			1.20	2.00	2.00

Consolidated EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/20/06 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S2672-1A Complete Date: 03/20/06

Chief Author: LOUREY, BECKY

Title: LARGE EMPLOYER HEALTH COST PAYMENTS

Fiscal Impact	Yes	No
State	X	
Local	X	
Fee/Departmental Earnings	X	
Tax Revenue		X

Agency Name: Labor & Industry

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
Health Care Access Fund			163	216	221
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
Health Care Access Fund			163	216	221
Revenues					
-- No Impact --					
Net Cost <Savings>					
Health Care Access Fund			163	216	221
Total Cost <Savings> to the State			163	216	221

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
Health Care Access Fund			1.20	2.00	2.00
Total FTE			1.20	2.00	2.00

Bill Description

This bill requires employers with more than 10,000 employees in Minnesota to make a payment to the Department of Labor and Industry (DLI) if they do not spend at least 8% of total wages paid to employees in a calendar year for health costs. The payment amount would be the difference between the actual amount spent for health care and 8% of total wages paid. The payments would be deposited into the Health Care Access Fund. DLI is allowed to retain up to 5% of the payment amount for administrative costs.

Wages are defined as the wages reported to the Department of Employment and Economic Development (DEED) for unemployment insurance purposes. Wages in excess of the state median household income as determined by the Department of Housing and Urban Development (\$68,200 for 2006) and wages paid to an employee who is enrolled in or eligible for Medicare are excluded for the health care cost calculation.

Assumptions

There are approximately 11 employers with over 10,000 employees in Minnesota. DLI would hire two Labor Standards Investigators to develop a reporting process and inspect these employer health care cost records to ensure compliance. It will also require the assistance of a Research Analyst to compare wage detail information from the DEED with Medicare information maintained by the Department of Human Services and determine the aggregate amount of wages to be included in the calculation.

It is assumed that data collection, calculation, and auditing would begin in January 2007 for the calendar year 2006.

It is also assumed that DLI administrative expenditures would be funded from the Health Care Access Fund.

Expenditure and/or Revenue Formula

Revenue:

DLI does not have any information regarding the current health care benefit levels provided by these employers, therefore is unable to estimate the amount of revenue that might be generated under this bill.

Expenditures:

	2007	2008	2009
Personnel	\$85,000	\$144,000	\$148,000
Other Operating	\$78,000	\$72,000	\$73,000
Total	\$163,000	\$216,000	\$221,000

Long-Term Fiscal Considerations

If all defined employers' health care costs exceed the 8% threshold there would be no revenue generated from which to offset DLI's administrative costs.

Local Government Costs

Local governments with more than 10,000 employees could be affected if they are not paying at least 8% of wages for employee health costs.

References/Sources

DLI Assistant Commissioner, Workplace Services
DLI Research Director
Business Journal

FN Coord Signature: CINDY FARRELL
Date: 03/17/06 Phone: 284-5528

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/20/06 Phone: 296-7642

Fiscal Note – 2005-06 Session

Bill #: S2672-1A **Complete Date:** 03/17/06

Chief Author: LOUREY, BECKY

Title: LARGE EMPLOYER HEALTH COST PAYMENTS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Human Services Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

NARRATIVE: SF 2672-1A

Bill Description

As amended, SF 2672 would require employers with 10,000 or more employees who does not spend at least 8% of total wages in a calendar year to employees for health costs to make a payment to the commissioner of labor and industry equal to the difference between what the employer spends for health costs and 8% of total wages paid to employees in the state. The definition of employer includes any corporation or other legal entity with more than 10,000 employees in the state, including the state and any of its political subdivisions.

The payments must be deposited by the commissioner of labor and industry into the Health Care Access Fund. The commissioner of labor and industry is allowed to keep up to 5% of the payment for administrative costs.

The bill is effective January 1, 2007.

The amendments to the bill do not impact DHS.

Assumptions

It is anticipated that there would be no program, systems or administrative impacts attributed to DHS.

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

Agency Contact Name: Steve Nelson 651-431-2202
FN Coord Signature: STEVE BARTA
Date: 03/17/06 Phone: 431-2916

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: LISA MUELLER
Date: 03/17/06 Phone: 296-6661

Fiscal Note – 2005-06 Session

Bill #: S2672-1A Complete Date: 03/20/06

Chief Author: LOUREY, BECKY

Title: LARGE EMPLOYER HEALTH COST PAYMENTS

Fiscal Impact	Yes	No
State		X
Local		X
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Employee Relations

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
State Employees Insurance Fund		0	0	0	0
Less Agency Can Absorb					
State Employees Insurance Fund		0	0	0	0
Net Expenditures					
State Employees Insurance Fund		0	0	0	0
Revenues					
-- No Impact --					
Net Cost <Savings>					
State Employees Insurance Fund		0	0	0	0
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

BILL DESCRIPTION:

Senate file 2672-1A requires certain health cost payments by large employers.

BACKGROUND:

The Minnesota Advantage Health Plan is a self-insured health plan offered by the State of Minnesota to state employees and their dependents. Both the employer and the employee make contributions to the cost of premiums. The bill requires large employers (10,000 + employees) who do not spend at least 8% of total wages paid to employees for health costs to make a payment to the Commissioner of Labor and Industry.

Based on 2005 data, The State of Minnesota spent approximately 18% of total wages for health care costs.

ASSUMPTIONS:

DOER has assumed that health care costs will continue to rise at a faster rate than the rate of wage increases.

DOER has assumed the Employer Contribution formula, as specified by bargaining agreements, will remain relatively stable over the next five years.

DOER therefore concludes the state will continue to spend 18% of wages or more on health care costs, and would not be required to make an additional payment.

EXPENDITURE FORMULA:

Not applicable.

LONG-TERM FISCAL CONSIDERATIONS:

Not applicable.

LOCAL GOVERNMENT COSTS:

Not applicable.

REFERENCES:

- Current premium costs from the Minnesota Advantage Health Plan.
- Current average salary calculated from report PDHR6200, *Executive Branch Appointment and Employment Statistics*, dated July 19, 2005.

Agency Contact Name: Liz Houlding (651-259-3700)
FN Coord Signature: MIKE HOPWOOD
Date: 03/20/06 Phone: 259-3780

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KRISTI SCHROEDL
Date: 03/20/06 Phone: 215-0595

Fiscal Note – 2005-06 Session

Bill #: S2672-1A **Complete Date:** 03/17/06

Chief Author: LOUREY, BECKY

Title: LARGE EMPLOYER HEALTH COST PAYMENTS

Fiscal Impact	Yes	No
State		X
Local	X	
Fee/Departmental Earnings		X
Tax Revenue		X

Agency Name: Employment & Economic Dev Dept

This table reflects fiscal impact to state government. Local government impact is reflected in the narrative only.

Dollars (in thousands)	FY05	FY06	FY07	FY08	FY09
Expenditures					
-- No Impact --					
Less Agency Can Absorb					
-- No Impact --					
Net Expenditures					
-- No Impact --					
Revenues					
-- No Impact --					
Net Cost <Savings>					
-- No Impact --					
Total Cost <Savings> to the State					

	FY05	FY06	FY07	FY08	FY09
Full Time Equivalents					
-- No Impact --					
Total FTE					

Bill Description

This agency is not involved in the administration of the program initiated by this bill. The data exchange with this agency, called for on Page 2, lines 29-31, is already authorized under MN Statutes 268.19, Subd. 1(7).

Assumptions

Expenditure and/or Revenue Formula

Long-Term Fiscal Considerations

Local Government Costs

References/Sources

FN Coord Signature: MIKE MEYER
Date: 03/17/06 Phone: 297-1978

EBO Comments

I have reviewed this Fiscal Note for accuracy and content.

EBO Signature: KEITH BOGUT
Date: 03/17/06 Phone: 296-7642

1.1 To: Senator Cohen, Chair

1.2 Committee on Finance

1.3 Senator Berglin,

1.4 Chair of the Health and Human Services Budget Division, to which was referred

1.5 **S.F. No. 2672:** A bill for an act relating to employment; requiring certain health
1.6 cost payments by large employers; proposing coding for new law in Minnesota Statutes,
1.7 chapter 177.

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

1.9 Page 2, delete lines 29 to 31

1.10 And when so amended that the bill be recommended to pass and be referred to
1.11 the full committee.

1.12
1.13

Linda Berglin
.....
(Division Chair)

1.14
1.15

March 28, 2006
(Date of Division recommendation)

1.1 A bill for an act
1.2 relating to employment; requiring certain health cost payments by large
1 employers; proposing coding for new law in Minnesota Statutes, chapter 177.

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

1.5 Section 1. [177.45] DEFINITIONS.

1.6 Subdivision 1. Applicability. For purposes of sections 177.45 to 177.47, the terms
1.7 defined in this section have the meanings given them.

1.8 Subd. 2. Commissioner. "Commissioner" means the commissioner of labor and
1.9 industry.

1.10 Subd. 3. Employee. "Employee" means a person who performs services for hire for
1.11 an employer, and includes all individuals employed at any site in Minnesota owned or
operated by an employer. Employee does not include an independent contractor.

1.13 Subd. 4. Employer. "Employer" means any corporation or other legal entity with
1.14 more than 10,000 employees in Minnesota including the state or any of its political
1.15 subdivisions.

1.16 Subd. 5. Health costs. "Health costs" means the amount paid by an employer to
1.17 provide health care or health insurance to employees to the extent the costs are deductible
1.18 by an employer under federal tax law. Health costs include payments for insurance,
1.19 medical care, prescription drugs, vision care, medical savings accounts, exercise programs,
1.20 and any other costs to provide health benefits as defined in section 213(d) of the federal
1.21 Internal Revenue Code of 1986, as amended.

1.23 Subd. 6. Wages. "Wages" has the meaning provided in section 268.035, subdivision
29.

1.24 Wages do not include:

- 2.1 (1) wages paid to any employee in excess of the state median household income as
2.2 most recently determined by the Department of Housing and Urban Development; and
2.3 (2) wages paid to an employee who is enrolled in or eligible for Medicare.

2.4 **EFFECTIVE DATE.** This section is effective January 1, 2007.

2.5 **Sec. 2. [177.46] EMPLOYER HEALTH COST PAYMENT.**

2.6 Subdivision 1. **When payment required.** An employer that does not spend at least
2.7 eight percent of the total wages paid in a calendar year to employees for health costs
2.8 must make a payment to the commissioner equal to the difference between what the
2.9 employer spends for health costs and eight percent of the total wages paid to employees
2.10 in the state. The payment must be made by December 31 of the year following the year
2.11 for which payment is required.

2.12 Subd. 2. **Use of payments.** The commissioner shall deposit payments into the health
2.13 care access fund created under section 16A.724 for the purposes of that fund, except that
2.14 the commissioner may retain up to five percent of the payment for administrative costs
2.15 related to sections 177.45 to 177.47.

2.16 Subd. 3. **Employee not responsible.** An employer may not deduct any payment
2.17 made under subdivision 1 from the wages of an employee.

2.18 **EFFECTIVE DATE.** This section is effective January 1, 2007.

2.19 **Sec. 3. [177.47] DUTIES OF COMMISSIONER.**

2.20 The commissioner shall enforce sections 177.45 to 177.47 and may, in addition to
2.21 other powers the commissioner may possess:

2.22 (1) investigate employers suspected of violating section 177.45, including inspecting
2.23 the records of employers;

2.24 (2) request and receive information from other state agencies to enforce compliance
2.25 with sections 177.45 to 177.47; and

2.26 (3) collect payments not timely made by commencing an action in district court and
2.27 by any other collection method available, including referring the debt to the commissioner
2.28 of revenue for collection under the Debt Collection Act.

2.29 The Department of Employment and Economic Development shall, upon request of
2.30 the commissioner, provide the commissioner with unemployment insurance information
2.31 related to wages and number of employees of an employer.

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