

## STATE OF MINNESOTA

## EIGHTY-FOURTH SESSION — 2006

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 ONE HUNDRED FIFTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, MAY 11, 2006

Prior to the convening of session, Gemma Bulos, a musician and composer, performed "We Rise," a song she composed in response to the September 11, 2001, tragedy.

The House of Representatives convened at 10:00 a.m. and was called to order by Erik Paulsen, Speaker pro tempore.

Prayer was offered by the Reverend Lonnie E. Titus, House Chaplain.

The members of the House gave the pledge of allegiance to the flag of the United States of America.

The roll was called and the following members were present:

Abeler	Dittrich	Hilstrom	Latz	Paulsen	Smith
Abrams	Dorman	Hilty	Lenczewski	Paymar	Soderstrom
Anderson, B.	Dorn	Holberg	Lesch	Pelowski	Solberg
Atkins	Eastlund	Hoppe	Liebling	Penas	Sykora
Beard	Eken	Hornstein	Lieder	Peppin	Thao
Bernardy	Ellison	Hortman	Lillie	Peterson, A.	Thissen
Blaine	Emmer	Hosch	Loeffler	Peterson, N.	Tingelstad
Bradley	Entenza	Howes	Magnus	Peterson, S.	Urdahl
Brod	Erhardt	Huntley	Mahoney	Poppe	Vandever
Buesgens	Erickson	Jaros	Mariani	Powell	Wagenius
Carlson	Finstad	Johnson, J.	Marquart	Rukavina	Walker
Charron	Fritz	Johnson, R.	McNamara	Ruth	Wardlow
Clark	Garofalo	Johnson, S.	Meslow	Ruud	Walti
Cornish	Gazelka	Juhnke	Moe	Sailer	Westerberg
Cox	Goodwin	Kahn	Mullery	Samuelson	Westrom
Cybart	Greiling	Kelliher	Murphy	Scalze	Wilkin
Davids	Gunther	Klinzing	Nelson, M.	Seifert	Zellers
Davnie	Hackbarth	Knoblach	Nelson, P.	Sertich	Spk. Sviggum
Dean	Hamilton	Koenen	Newman	Severson	
DeLaForest	Hansen	Kohls	Nornes	Sieben	
Demmer	Hausman	Krinkie	Olson	Simon	
Dempsey	Haws	Lanning	Otremba	Simpson	
Dill	Heidgerken	Larson	Ozment	Slawik	

A quorum was present.

Anderson, I., was excused.

Speaker pro tempore Paulsen called Abrams to the Chair.

The Chief Clerk proceeded to read the Journals of the preceding days. Lillie moved that further reading of the Journals be suspended and that the Journals be approved as corrected by the Chief Clerk. The motion prevailed.

#### REPORTS OF CHIEF CLERK

S. F. No. 2576 and H. F. No. 3049, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Davids moved that the rules be so far suspended that S. F. No. 2576 be substituted for H. F. No. 3049 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2635 and H. F. No. 3452, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Hilstrom moved that S. F. No. 2635 be substituted for H. F. No. 3452 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2973 and H. F. No. 3200, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

#### SUSPENSION OF RULES

Hackbarth moved that the rules be so far suspended that S. F. No. 2973 be substituted for H. F. No. 3200 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 3450 and H. F. No. 3637, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Holberg moved that S. F. No. 3450 be substituted for H. F. No. 3637 and that the House File be indefinitely postponed. The motion prevailed.

## PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

May 5, 2006

The Honorable Steve Sviggum  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Sviggum:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 1480, relating to drainage; allowing an outlet fee to be charged for use of an established drainage system in Red Lake County as an outlet for drainage originating in Pennington County.

H. F. No. 3142, relating to Hennepin County; modifying regional park district provisions.

H. F. No. 2745, relating to occupations and professions; modifying provisions for medical licenses.

Sincerely,

TIM PAWLENTY  
Governor

STATE OF MINNESOTA  
OFFICE OF THE SECRETARY OF STATE  
ST. PAUL 55155

The Honorable Steve Sviggum  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2006 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2006</i>	<i>Date Filed 2006</i>
	1480	186	10:48 a.m. May 5	May 5
	3142	187	10:50 a.m. May 5	May 5

	2745	188	10:51 a.m. May 5	May 5
3615		191	10:45 a.m. May 5	May 5

Sincerely,

MARY KIFFMEYER  
Secretary of State

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

May 4, 2006

The Honorable Steve Sviggum  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Sviggum:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House File:

H. F. No. 1838, relating to traffic regulations; authorizing operation of neighborhood electric vehicles on streets and highways.

Sincerely,

TIM PAWLENTY  
Governor

STATE OF MINNESOTA  
OFFICE OF THE SECRETARY OF STATE  
ST. PAUL 55155

The Honorable Steve Sviggum  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

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<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2006</i>	<i>Date Filed 2006</i>
	1838	189	2:25 p.m. May 4	May 4

2532

190

4:15 p.m. May 4

May 4

Sincerely,

MARY KIFFMEYER  
Secretary of State**REPORTS OF STANDING COMMITTEES**

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 3442, A bill for an act relating to agriculture; providing for certain inspections; repealing beekeeping regulation provisions; amending Minnesota Statutes 2004, section 28A.15, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 17; repealing Minnesota Statutes 2004, sections 19.50, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 12a, 13, 14, 15, 17, 18; 19.51, subdivisions 1, 2; 19.52; 19.53; 19.55; 19.56; 19.561; 19.57; 19.58, subdivisions 1, 2, 4, 5, 9; 19.59; 19.61, subdivision 1; 19.63; 19.65; Minnesota Statutes 2005 Supplement, section 19.64, subdivision 1.

Reported the same back with the following amendments:

Page 2, line 9, delete "general" and insert "agricultural" and after the period, insert "Revenue from inspection fees and other charges deposited in the agricultural fund, including any interest earned, is appropriated to the commissioner to perform the services provided for under this section."

Page 2, after line 14, insert:

"Sec. 3. **APPROPRIATION.**

(\$21,000) in 2006 and (\$21,000) in 2007 are subtracted from the general fund appropriation to the Department of Agriculture enacted into law by the legislature in 2005."

Page 2, line 22, delete "3" and insert "4"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 3, after the semicolon, insert "reducing an appropriation; appropriating money;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 3697, A bill for an act relating to government operations; making changes to health and human services programs; modifying human service policy; modifying health policy; modifying health care cost containment provisions; changing provisions for federal health care compliance; changing provisions in state health care programs; modifying long-term care and mental health provisions; establishing community electronic health collaboratives; requiring a description of annuities for medical assistance payments for long-term care; amending the assisted living bill of rights; establishing the pharmacy payment reform advisory committee; requiring certain abortion notification data; providing penalties; prohibiting pharmacists from refusing to dispense a prescription drug; modifying provisions of the Women's Right to Know Act; prohibiting the use of state funds for abortions; requiring reports; appropriating money; making forecast adjustments; amending Minnesota Statutes 2004, sections 13.3806, by adding a subdivision; 62A.045; 62D.02, subdivision 4, by adding a subdivision; 62D.03, subdivision 1; 62D.05, subdivision 1; 62D.095, subdivisions 3, 4, by adding a subdivision; 62E.11, subdivision 13; 62J.81, subdivision 1; 62S.05, by adding a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by adding a subdivision; 62S.26; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30; 72A.20, by adding a subdivision; 123A.21, subdivision 7; 144.0724, subdivision 4; 144.6501, subdivision 6; 144.698, by adding a subdivision; 144A.071, subdivisions 4a, 4c; 144A.4605; 144D.01, by adding a subdivision; 144D.015; 144D.02; 144D.03, subdivision 2, by adding a subdivision; 144D.04; 144D.05; 144D.065; 145.4241, by adding subdivisions; 151.214, subdivision 1; 256.01, subdivision 18, by adding a subdivision; 256B.02, subdivision 9; 256B.056, subdivision 2, by adding subdivisions; 256B.0595, subdivisions 1, 3, 4; 256B.431, by adding a subdivision; 256B.434, by adding a subdivision; 256B.438, subdivision 4; 256B.69, subdivision 9, by adding a subdivision; 256B.692, subdivision 6; 256B.76; 256D.03, by adding a subdivision; 256L.04, subdivision 10; 256L.17, subdivision 3; 295.52, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 62J.052; 145.4242; 157.16, subdivision 3a; 214.071; 256B.0571; 256B.0595, subdivision 2; 256B.06, subdivision 4; 256B.434, subdivision 4; 256B.69, subdivision 23; 256D.03, subdivision 3; 256L.05, subdivision 2; Laws 2003, First Special Session chapter 14, article 12, section 93, as amended; Laws 2005, First Special Session chapter 4, article 8, section 84; proposing coding for new law in Minnesota Statutes, chapters 62J; 62M; 62Q; 62S; 144; 144A; 144D; 145; 151; 214; 245; 256B; proposing coding for new law as Minnesota Statutes, chapter 144G; repealing Minnesota Statutes 2004, sections 62J.17; 62J.694; 144.395; 256B.692, subdivision 10; Minnesota Statutes 2005 Supplement, sections 62Q.251; 256B.0571, subdivisions 2, 5, 11; Minnesota Rules, part 4668.0215.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### "ARTICLE 1

#### HEALTH CARE FEDERAL COMPLIANCE

Section 1. Minnesota Statutes 2004, section 62A.045, is amended to read:

#### **62A.045 PAYMENTS ON BEHALF OF ENROLLEES IN GOVERNMENT HEALTH PROGRAMS.**

(a) As a condition of doing business in Minnesota, each health insurer shall comply with the requirements of the federal Deficit Reduction Act of 2005, Public Law 109-171, including any federal regulations adopted under that act, to the extent that it imposes a requirement that applies in this state and that is not also required by the laws of this state. This section does not require compliance with any provision of the federal act prior to the effective date provided for that provision in the federal act. The commissioner shall enforce this section.

"Health insurer" for the purpose of this section includes self-insured plans, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, managed care organizations, pharmacy benefit managers, or other parties that are by contract legally responsible to pay a claim for a healthcare item or service for an individual receiving benefits under paragraph (b).

(b) No health plan issued or renewed to provide coverage to a Minnesota resident shall contain any provision denying or reducing benefits because services are rendered to a person who is eligible for or receiving medical benefits pursuant to title XIX of the Social Security Act (Medicaid) in this or any other state; chapter 256; 256B; or 256D or services pursuant to section 252.27; 256L.01 to 256L.10; 260B.331, subdivision 2; 260C.331, subdivision 2; or 393.07, subdivision 1 or 2. No health carrier providing benefits under plans covered by this section shall use eligibility for medical programs named in this section as an underwriting guideline or reason for nonacceptance of the risk.

~~(b)~~ (c) If payment for covered expenses has been made under state medical programs for health care items or services provided to an individual, and a third party has a legal liability to make payments, the rights of payment and appeal of an adverse coverage decision for the individual, or in the case of a child their responsible relative or caretaker, will be subrogated to the state agency. The state agency may assert its rights under this section within three years of the date the service was rendered. For purposes of this section, "state agency" includes prepaid health plans under contract with the commissioner according to sections 256B.69, 256D.03, subdivision 4, paragraph (c), and 256L.12; children's mental health collaboratives under section 245.493; demonstration projects for persons with disabilities under section 256B.77; nursing homes under the alternative payment demonstration project under section 256B.434; and county-based purchasing entities under section 256B.692.

~~(c)~~ (d) Notwithstanding any law to the contrary, when a person covered by a health plan receives medical benefits according to any statute listed in this section, payment for covered services or notice of denial for services billed by the provider must be issued directly to the provider. If a person was receiving medical benefits through the Department of Human Services at the time a service was provided, the provider must indicate this benefit coverage on any claim forms submitted by the provider to the health carrier for those services. If the commissioner of human services notifies the health carrier that the commissioner has made payments to the provider, payment for benefits or notices of denials issued by the health carrier must be issued directly to the commissioner. Submission by the department to the health carrier of the claim on a Department of Human Services claim form is proper notice and shall be considered proof of payment of the claim to the provider and supersedes any contract requirements of the health carrier relating to the form of submission. Liability to the insured for coverage is satisfied to the extent that payments for those benefits are made by the health carrier to the provider or the commissioner as required by this section.

~~(d)~~ (e) When a state agency has acquired the rights of an individual eligible for medical programs named in this section and has health benefits coverage through a health carrier, the health carrier shall not impose requirements that are different from requirements applicable to an agent or assignee of any other individual covered.

~~(e)~~ (f) For the purpose of this section, health plan includes coverage offered by community integrated service networks, any plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, sections 1001 to 1461, and coverage offered under the exclusions listed in section 62A.011, subdivision 3, clauses (2), (6), (9), (10), and (12).

Sec. 2. Minnesota Statutes 2004, section 62S.05, is amended by adding a subdivision to read:

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

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

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

COMPANY NAME  
ADDRESS - CITY AND STATE  
TELEPHONE NUMBER  
LONG-TERM CARE INSURANCE  
OUTLINE OF COVERAGE

Policy Number or Group Master Policy and Certificate Number

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

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

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

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

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

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

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

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

(2) (Policies and certificates that are noncancelable shall contain the following statement:) RENEWABILITY: THIS POLICY (CERTIFICATE) IS NONCANCELABLE. This means that you have the right, subject to the terms of your policy, to continue this policy as long as you pay your premiums on time. (Company name) cannot change any of the terms of your policy on its own and cannot change the premium you currently pay. However, if your policy contains an inflation protection feature where you choose to increase your benefits, (company name) may increase your premium at that time for those additional benefits.



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) (Eligibility for payment of benefits.)

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

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

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

Describe:

- (a) preexisting conditions;
- (b) noneligible facilities/provider;
- (c) noneligible levels of care (e.g., unlicensed providers, care or treatment provided by a family member, etc.);
- (d) exclusions/exceptions; and
- (e) limitations.

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

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

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

- (a) that the benefit level will not increase over time;
- (b) any automatic benefit adjustment provisions;
- (c) whether the insured will be guaranteed the option to buy additional benefits and the basis upon which benefits will be increased over time if not by a specified amount or percentage;
- (d) if there is such a guarantee, include whether additional underwriting or health screening will be required, the frequency and amounts of the upgrade options, and any significant restrictions or limitations; and
- (e) whether there will be any additional premium charge imposed and how that is to be calculated.

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

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

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

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

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

(a) Indicate if medical underwriting is used.

(b) Describe other important features.

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 5. Minnesota Statutes 2004, section 62S.10, subdivision 2, is amended to read:

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

(1) an explanation of how the long-term care benefit interacts with other components of the policy, including deductions from death benefits;

(2) an illustration of the amount of benefits, the length of benefits, and the guaranteed lifetime benefits, if any, for each covered person; ~~and~~

(3) any exclusions, reductions, and limitations on benefits of long-term care; and

(4) a statement that any long-term care inflation protection option required by section 62S.23 is not available under this policy.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 6. Minnesota Statutes 2004, section 62S.13, is amended by adding a subdivision to read:

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 7. Minnesota Statutes 2004, section 62S.14, subdivision 2, is amended to read:

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 8. Minnesota Statutes 2004, section 62S.15, is amended to read:

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

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

- (1) preexisting conditions or diseases;
- (2) mental or nervous disorders; except that the exclusion or limitation of benefits on the basis of Alzheimer's disease is prohibited;
- (3) alcoholism and drug addiction;
- (4) illness, treatment, or medical condition arising out of war or act of war; participation in a felony, riot, or insurrection; service in the armed forces or auxiliary units; suicide, attempted suicide, or intentionally self-inflicted injury; or non-fare-paying aviation; ~~and~~
- (5) treatment provided in a government facility unless otherwise required by law, services for which benefits are available under Medicare or other government program except Medicaid, state or federal workers' compensation, employer's liability or occupational disease law, motor vehicle no-fault law; services provided by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance; and
- (6) expenses for services or items available or paid under another long-term care insurance or health insurance policy.

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 9. Minnesota Statutes 2004, section 62S.20, subdivision 1, is amended to read:

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 10. Minnesota Statutes 2004, section 62S.24, subdivision 1, is amended to read:

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

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

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

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

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

(3) are you covered by Medicaid?; and

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 11. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

Subd. 1a. **Other health insurance policies sold by agent.** Agents shall list 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.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 12. Minnesota Statutes 2004, section 62S.24, subdivision 3, is amended to read:

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

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

(Insurance company's name and address)

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

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

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

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

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

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

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

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

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

.....  
(Signature of Agent, Broker, or Other Representative)

(Typed Name and Address of Agency or Broker)

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

.....  
(Date)

.....  
(Applicant's Signature)

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 13. Minnesota Statutes 2004, section 62S.24, subdivision 4, is amended to read:

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

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

(Insurance company's name and address)

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

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

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

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

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

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

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

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

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

.....  
(Company Name)

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 14. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 15. Minnesota Statutes 2004, section 62S.24, is amended by adding a subdivision to read:

Subd. 8. **Exchange for long-term care partnership policy; addition of policy rider.** (a) If federal law is amended or a federal waiver is granted with respect to the long-term care partnership program referenced in section 256B.0571, issuers of long-term care policies may voluntarily exchange a current long-term care insurance policy for a long-term care partnership policy that meets the requirements of Public Law 109-171, section 6021, after the effective date of the state plan amendment implementing the partnership program in this state.

(b) If federal law is amended or a federal waiver is granted with respect to the long-term care partnership program referenced in section 256B.0571, allowing an existing long-term care insurance policy to qualify as a partnership policy by addition of a policy rider, the issuer of the policy is authorized to add the rider to the policy after the effective date of the state plan amendment implementing the partnership program in this state.

(c) The commissioner, in cooperation with the commissioner of human services, shall pursue any federal law changes or waivers necessary to allow the implementation of paragraphs (a) and (b).

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 16. Minnesota Statutes 2004, section 62S.25, subdivision 6, is amended to read:

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 17. Minnesota Statutes 2004, section 62S.25, is amended by adding a subdivision to read:

Subd. 7. **Reports.** Reports under this section shall be done on a statewide basis and filed with the commissioner. They shall include, at a minimum, the information in the format contained in Appendix E (Claim Denial Reporting Form) and in Appendix G (Replacement and Lapse Reporting Form) of the Long-Term Care Model Regulation adopted by the National Association of Insurance Commissioners.

**EFFECTIVE DATE.** This section is effective July 1, 2006.



Sec. 18. Minnesota Statutes 2004, section 62S.26, is amended to read:

**62S.26 LOSS RATIO.**

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

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

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

(1) the interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy;

(2) the portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of section 61A.24;

(3) the policy meets the disclosure requirements of sections 62S.09, 62S.10, and 62S.11; and

(4) an actuarial memorandum is filed with the insurance department that includes:

(i) a description of the basis on which the long-term care rates were determined;

(ii) a description of the basis for the reserves;

(iii) a summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance;

(iv) a description and a table of each actuarial assumption used. For expenses, an insurer must include percentage of premium dollars per policy and dollars per unit of benefits, if any;

(v) a description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives;

(vi) the estimated average annual premium per policy and the average issue age;

(vii) a statement as to whether underwriting is performed at the time of application. The statement shall indicate whether underwriting is used and, if used, the statement shall include a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement shall indicate whether the enrollee or any dependent will be underwritten and when underwriting occurs; and

(viii) a description of the effect of the long-term care policy provision on the required premiums, nonforfeiture values, and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status.

**Subd. 3. Nonapplication.** ~~(b)~~ This section does not apply to policies or certificates that are subject to sections 62S.021, 62S.081, and 62S.265, and that comply with those sections.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 19. Minnesota Statutes 2004, section 62S.266, subdivision 2, is amended to read:

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

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

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

(b) When a group long-term care insurance policy is issued, the offer required in paragraph (a) shall be made to the group policy holder. However, if the policy is issued as group long-term care insurance as defined in section 62S.01, subdivision 15, clause (4), other than to a continuing care retirement community or other similar entity, the offering shall be made to each proposed certificate holder.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 20. Minnesota Statutes 2004, section 62S.29, subdivision 1, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 21. Minnesota Statutes 2004, section 62S.30, is amended to read:

**62S.30 APPROPRIATENESS OF RECOMMENDED PURCHASE SUITABILITY.**

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

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

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

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

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

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

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

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

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

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

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

(d) The insurer or other entity marketing long-term care insurance shall use the suitability standards it has developed under this section in determining whether issuing long-term care insurance coverage to an applicant is appropriate. Agents shall use the suitability standards developed by the insurer or other entity marketing long-term care insurance in marketing long-term care insurance.

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

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

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

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

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 22. **[62S.315] PRODUCER TRAINING.**

The commissioner shall approve producer training requirements in accordance with the NAIC Long-Term Care Insurance Model Act provisions. The commissioner of the Department of Human Services shall provide technical assistance and information to the commissioner in accordance with Public Law 109-171, section 6021.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 23. Minnesota Statutes 2004, section 144.6501, subdivision 6, is amended to read:

Subd. 6. **Medical assistance payment.** (a) An admission contract for a facility that is certified for participation in the medical assistance program must state that neither the prospective resident, nor anyone on the resident's behalf, is required to pay privately any amount for which the resident's care at the facility has been approved for payment by medical assistance or to make any kind of donation, voluntary or otherwise. Except as permitted under section 6015 of the Deficit Reduction Act of 2005, Public Law 109-171, an admission contract must state that the facility does not require as a condition of admission, either in its admission contract or by oral promise before signing the admission contract, that residents remain in private pay status for any period of time.

(b) The admission contract must state that upon presentation of proof of eligibility, the facility will submit a medical assistance claim for reimbursement and will return any and all payments made by the resident, or by any person on the resident's behalf, for services covered by medical assistance, upon receipt of medical assistance payment.

(c) A facility that participates in the medical assistance program shall not charge for the day of the resident's discharge from the facility or subsequent days.

(d) If a facility's charges incurred by the resident are delinquent for 30 days, and no person has agreed to apply for medical assistance for the resident, the facility may petition the court under chapter 525 to appoint a representative for the resident in order to apply for medical assistance for the resident.

(e) The remedy provided in this subdivision does not preclude a facility from seeking any other remedy available under other laws of this state.

Sec. 24. Minnesota Statutes 2004, section 256B.02, subdivision 9, is amended to read:

Subd. 9. **Private health care coverage.** "Private health care coverage" means any plan regulated by chapter 62A, 62C or 64B. Private health care coverage also includes any ~~self-insurance~~ self-insured plan providing health care benefits, pharmacy benefit manager, service benefit plan, managed care organization, and other parties that are by contract legally responsible for payment of a claim for a health care item or service for an individual receiving medical benefits under chapter 256B, 256D, or 256L.

Sec. 25. Minnesota Statutes 2004, section 256B.056, subdivision 2, is amended to read:

Subd. 2. **Homestead; exclusion and homestead equity limit for institutionalized persons.** (a) The homestead shall be excluded for the first six calendar months of a person's stay in a long-term care facility and shall continue to be excluded for as long as the recipient can be reasonably expected to return to the homestead. For purposes of this subdivision, "reasonably expected to return to the homestead" means the recipient's attending physician has certified that the expectation is reasonable, and the recipient can show that the cost of care upon returning home will be met through medical assistance or other sources. The homestead shall continue to be excluded for persons residing in a long-term care facility if it is used as a primary residence by one of the following individuals:

~~(a)~~ (1) the spouse;

~~(b)~~ (2) a child under age 21;

~~(c)~~ (3) a child of any age who is blind or permanently and totally disabled as defined in the supplemental security income program;

~~(d)~~ (4) a sibling who has equity interest in the home and who resided in the home for at least one year immediately before the date of the person's admission to the facility; or

~~(e)~~ (5) a child of any age, or, subject to federal approval, a grandchild of any age, who resided in the home for at least two years immediately before the date of the person's admission to the facility, and who provided care to the person that permitted the person to reside at home rather than in an institution.

(b) Effective for applications filed on or after July 1, 2006, and for renewals after July 1, 2006, for persons who first applied for payment of long-term care services on or after January 2, 2006, the equity interest in the homestead of an individual whose eligibility for long-term care services is determined on or after January 1, 2006, shall not exceed \$500,000, unless it is the lawful residence of the individual's spouse or child who is under age 21, blind, or disabled. The amount specified in this paragraph shall be increased beginning in year 2011, from year to year based on the percentage increase in the Consumer Price Index for all urban consumers, all items - United States city average, rounded to the nearest \$1,000. This provision may be waived in the case of demonstrated hardship by a process to be determined by the secretary of health and human services pursuant to section 6014 of the Deficit Reduction Act of 2005, Public Law 109-171.

Sec. 26. Minnesota Statutes 2004, section 256B.056, is amended by adding a subdivision to read:

Subd. 3e. **Treatment of continuing care retirement and life care community entrance fees.** An entrance fee paid by an individual to a continuing care retirement or life care community shall be treated as an available asset to the extent that:

(1) the individual has the ability to use the entrance fee, or the contract provides that the entrance fee may be used, to pay for care should other resources or income of the individual be insufficient to pay for care;

(2) the individual is eligible for a refund of any remaining entrance fees when the individual dies or terminates the continuing care retirement or life care community contract and leaves the community; and

(3) the entrance fee does not confer an ownership interest in the continuing care retirement or life care community.

Sec. 27. Minnesota Statutes 2004, section 256B.056, is amended by adding a subdivision to read:

Subd. 11. **Treatment of annuities.** (a) Any individual applying for or seeking recertification of eligibility for medical assistance payment of long-term care services shall provide a complete description of any interest either the individual or the individual's spouse has in annuities. The individual and the individual's spouse shall furnish the agency responsible for determining eligibility with complete current copies of their annuities and related documents for review as part of the application process on disclosure forms provided by the department as part of their application.

(b) The disclosure form shall include a statement that the department becomes the remainder beneficiary under the annuity or similar financial instrument by virtue of the receipt of medical assistance. The disclosure form shall include a notice to the issuer of the department's right under this section as a preferred remainder beneficiary under

the annuity or similar financial instrument for medical assistance furnished to the individual or the individual's spouse, and require the issuer to provide confirmation that a remainder beneficiary designation has been made and to notify the county agency when there is a change in the amount of the income or principal being withdrawn from the annuity or other similar financial instrument at the time of the most recent disclosure required under this section. The individual and the individual's spouse shall execute separate disclosure forms for each annuity or similar financial instrument that they are required to disclose under this section and in which they have an interest.

(c) An issuer of an annuity or similar financial instrument who receives notice on a disclosure form as described in paragraph (b) shall provide confirmation to the requesting agency that a remainder beneficiary designating the state has been made and shall notify the county agency when there is a change in the amount of income or principal being withdrawn from the annuity or other similar financial instrument. The county agency shall provide the issuer with the name, address, and telephone number of a unit within the department that the insurer can contact to comply with this paragraph.

Sec. 28. 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 that (i) is issued on or after the effective date of the state plan amendment implementing the partnership program in Minnesota, or (ii) qualifies as a partnership policy under the provisions of section 62S.24, subdivision 8; and

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

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

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

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

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

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

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

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



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

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

Subd. 10. ~~Dollar-for-dollar asset protection policies~~ **Inflation protection.** (a) ~~A dollar-for-dollar asset protection policy must meet all of the requirements in paragraphs (b) to (e).~~

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

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

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

~~(e) Minimum daily benefits shall be \$130 for nursing home care or \$65 for home care, with inflation protection provided in the policy as described in section 62S.23, subdivision 1, clause (1). These minimum daily benefit amounts shall be adjusted by the commissioner on October 1 of each year by a percentage equal to the inflation protection feature described in section 62S.23, subdivision 1, clause (1), for purposes of setting minimum requirements that a policy must meet in future years in order to initially qualify as an approved policy under this subdivision. Adjusted minimum daily benefit amounts shall be rounded to the nearest whole dollar.~~

A long-term care partnership policy must provide the inflation protection described in this paragraph. If the policy is sold to an individual who:

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

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

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

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

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

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

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

~~(1) nursing home stay;~~

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

~~(3) care management.~~

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

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

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

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

(1) when the estate distributes the asset; or

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

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

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

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

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

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

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

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

Subd. 15. **Limitation on liens.** (a) An individual's interest in real property shall 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.

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

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

Subd. 16. **Burden of proof.** Any individual or the personal representative of the individual's estate who asserts that an asset is a disregarded or protected asset under this section in connection with any determination of eligibility for benefits under the medical assistance program or any appeal, case, controversy, or other proceedings, shall have the initial burden of:

(1) documenting and proving by convincing evidence that the asset or source of funds for the asset in question was designated as disregarded or protected;

(2) tracing the asset and the proceeds of the asset from that time forward; and

(3) documenting that the asset or proceeds of the asset remained disregarded or protected at all relevant times.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 29. **[256B.0594] PAYMENT OF BENEFITS FROM AN ANNUITY.**

When payment becomes due under an annuity that names the department a remainder beneficiary as described in section 256B.056, subdivision 11, the issuer shall request and the department shall, within 45 days after receipt of the request, provide a written statement of the total amount of the medical assistance paid. Upon timely receipt of the written statement of the amount of medical assistance paid, the issuer shall pay the department an amount equal to the lesser of the amount due the department under the annuity or the total amount of medical assistance paid on behalf of the individual or the individual's spouse. Any amounts remaining after the issuer's payment to the department shall be payable according to the terms of the annuity or similar financial instrument. The county agency or the department shall provide the issuer with the name, address, and telephone number of a unit within the department the issuer can contact to comply with this section. The requirements of section 72A.201, subdivision 4, clause (3), shall not apply to payments made under this section until the issuer has received final payment information from the department, if the issuer has notified the beneficiary of the requirements of this section at the time it initially requests payment information from the department.

Sec. 30. Minnesota Statutes 2004, section 256B.0595, subdivision 1, is amended to read:

Subdivision 1. **Prohibited transfers.** (a) For transfers of assets made on or before August 10, 1993, if a person or the person's spouse has given away, sold, or disposed of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security program, within 30 months before or any time after the date of institutionalization if the person has been determined eligible for medical assistance, or within 30 months before or any time after the date of the first approved application for medical assistance if the person has not yet been determined eligible for medical assistance, the person is ineligible for long-term care services for the period of time determined under subdivision 2.

(b) Effective for transfers made after August 10, 1993, a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or person's spouse, may not give away, sell, or dispose of, for less than fair market value, any asset or interest therein, except assets other than the homestead that are excluded under the supplemental security income program, for the purpose of establishing or maintaining medical assistance eligibility. This applies to all transfers, including those made by a community spouse after the month in which the institutionalized spouse is determined eligible for medical assistance. For purposes of determining eligibility for long-term care services, any transfer of such assets within 36 months before or any time after an institutionalized person applies for medical assistance, or 36 months before or any time after a medical assistance recipient becomes institutionalized, for less than fair market value may be considered. Any such transfer is presumed to have been made for the purpose of establishing or maintaining medical assistance eligibility and the person is ineligible for long-term care services for the period of time determined under subdivision 2, unless the person furnishes convincing evidence to establish that the transaction was exclusively for another purpose, or unless the transfer is permitted under subdivision 3 or 4. ~~Notwithstanding the provisions of this paragraph,~~ In the case of payments from a trust or portions of a trust that are considered transfers of assets under federal law, or in the case of any other disposal of assets made on or after February 8, 2006, any transfers made within 60 months before or any time after an institutionalized person applies for medical assistance and within 60 months before or any time after a medical assistance recipient becomes institutionalized, may be considered.

(c) This section applies to transfers, for less than fair market value, of income or assets, including assets that are considered income in the month received, such as inheritances, court settlements, and retroactive benefit payments or income to which the person or the person's spouse is entitled but does not receive due to action by the person, the person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse.

(d) This section applies to payments for care or personal services provided by a relative, unless the compensation was stipulated in a notarized, written agreement which was in existence when the service was performed, the care or services directly benefited the person, and the payments made represented reasonable compensation for the care or services provided. A notarized written agreement is not required if payment for the services was made within 60 days after the service was provided.

(e) This section applies to the portion of any asset or interest that a person, a person's spouse, or any person, court, or administrative body with legal authority to act in place of, on behalf of, at the direction of, or upon the request of the person or the person's spouse, transfers to any annuity that exceeds the value of the benefit likely to be returned to the person or spouse while alive, based on estimated life expectancy using the life expectancy tables employed by the supplemental security income program to determine the value of an agreement for services for life. The commissioner may adopt rules reducing life expectancies based on the need for long-term care. This section applies to an annuity described in this paragraph purchased on or after March 1, 2002, that:

(1) is not purchased from an insurance company or financial institution that is subject to licensing or regulation by the Minnesota Department of Commerce or a similar regulatory agency of another state;

(2) does not pay out principal and interest in equal monthly installments; or

(3) does not begin payment at the earliest possible date after annuitization.

(f) Effective for transactions, including the purchase of an annuity, occurring on or after February 8, 2006, the purchase of an annuity by or on behalf of an individual who has applied for or is receiving long-term care services or the individual's spouse shall be treated as the disposal of an asset for less than fair market value unless:

(1) the department is named as the remainder beneficiary in first position for an amount equal to at least the total amount of medical assistance paid on behalf of the individual or the individual's spouse; or the department is named as the remainder beneficiary in second position for an amount equal to at least the total amount of medical assistance paid on behalf of the individual or the individual's spouse after the individual's community spouse or minor or disabled child and is named as the remainder beneficiary in the first position if the community spouse or a representative of the minor or disabled child disposes of the remainder for less than fair market value. Any subsequent change to the designation of the department as a remainder beneficiary shall result in the annuity being treated as a disposal of assets for less than fair market value. The amount of such transfer shall be the maximum amount the individual or the individual's spouse could receive from the annuity or similar financial instrument. Any change in the amount of the income or principal being withdrawn from the annuity or other similar financial instrument at the time of the most recent disclosure shall be deemed to be a transfer of assets for less than fair market value unless the individual or the individual's spouse demonstrates that the transaction was for fair market value; and

(2) the purchase of an annuity by or on behalf of an individual applying for or receiving long-term care services shall be treated as a disposal of assets for less than fair market value unless it is:

(i) an annuity described in subsection (b) or (q) of section 408 of the Internal Revenue Code of 1986; or

(ii) purchased with proceeds from:

(A) an account or trust described in subsection (a), (c), or (p) of section 408 of the Internal Revenue Code;

(B) a simplified employee pension within the meaning of section 408(k) of the Internal Revenue Code; or

(C) a Roth IRA described in section 408A of the Internal Revenue Code; or

(iii) an annuity that is irrevocable and nonassignable; is actuarially sound as determined in accordance with actuarial publications of the Office of the Chief Actuary of the Social Security Administration; and provides for payments in equal amounts during the term of the annuity, with no deferral and no balloon payments made.

(g) For purposes of this section, long-term care services include services in a nursing facility, services that are eligible for payment according to section 256B.0625, subdivision 2, because they are provided in a swing bed, intermediate care facility for persons with mental retardation, and home and community-based services provided pursuant to sections 256B.0915, 256B.092, and 256B.49. For purposes of this subdivision and subdivisions 2, 3, and 4, "institutionalized person" includes a person who is an inpatient in a nursing facility or in a swing bed, or intermediate care facility for persons with mental retardation or who is receiving home and community-based services under sections 256B.0915, 256B.092, and 256B.49.

(h) This section applies to funds used to purchase a promissory note, loan, or mortgage unless the note, loan, or mortgage:

(1) has a repayment term that is actuarially sound;

(2) provides for payments to be made in equal amounts during the term of the loan, with no deferral and no balloon payments made; and

(3) prohibits the cancellation of the balance upon the death of the lender.

In the case of a promissory note, loan, or mortgage that does not meet an exception in clauses (1) to (3), the value of such note, loan, or mortgage shall be the outstanding balance due as of the date of the individual's application for long-term care services.

(i) This section applies to the purchase of a life estate interest in another individual's home unless the purchaser resides in the home for a period of at least one year after the date of purchase.

Sec. 31. Minnesota Statutes 2005 Supplement, section 256B.0595, subdivision 2, is amended to read:

Subd. 2. **Period of ineligibility.** (a) For any uncompensated transfer occurring on or before August 10, 1993, the number of months of ineligibility for long-term care services shall be the lesser of 30 months, or the uncompensated transfer amount divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the month in which the assets were transferred. If the transfer was not reported to the local agency at the time of application, and the applicant received long-term care services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of long-term care services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received.

(b) For uncompensated transfers made after August 10, 1993, the number of months of ineligibility for long-term care services shall be the total uncompensated value of the resources transferred divided by the average medical assistance rate for nursing facility services in the state in effect on the date of application. The amount used to calculate the average medical assistance payment rate shall be adjusted each July 1 to reflect payment rates for the previous calendar year. The period of ineligibility begins with the first day of the month after the month in which the assets were transferred except that if one or more uncompensated transfers are made during a period of ineligibility, the total assets transferred during the ineligibility period shall be combined and a penalty period calculated to begin on the first day of the month after the month in which the first uncompensated transfer was made. If the transfer was reported to the local agency after the date that advance notice of a period of ineligibility that affects the next month could be provided to the recipient and the recipient received medical assistance services or the transfer was not reported to the local agency, and the applicant or recipient received medical assistance services during what would have been the period of ineligibility if the transfer had been reported, a cause of action exists against the transferee for the cost of medical assistance services provided during the period of ineligibility, or for the uncompensated amount of the transfer, whichever is less. The action may be brought by the state or the local agency responsible for providing medical assistance under chapter 256G. The uncompensated transfer amount is the fair market value of the asset at the time it was given away, sold, or disposed of, less the amount of compensation received. Effective for transfers made on or after March 1, 1996, involving persons who apply for medical assistance on or after April 13, 1996, no cause of action exists for a transfer unless:

(1) the transferee knew or should have known that the transfer was being made by a person who was a resident of a long-term care facility or was receiving that level of care in the community at the time of the transfer;

(2) the transferee knew or should have known that the transfer was being made to assist the person to qualify for or retain medical assistance eligibility; or

(3) the transferee actively solicited the transfer with intent to assist the person to qualify for or retain eligibility for medical assistance.

(c) For uncompensated transfers made on or after February 8, 2006, the period of ineligibility begins on the first day of the month in which advance notice can be given following the month in which assets have been transferred for less than fair market value, or the date on which the individual is eligible for medical assistance under the Medicaid state plan and would otherwise be receiving long-term care services based on an approved application for such care but for the application of the penalty period, whichever is later, and which does not occur during any other period of ineligibility.

~~(d) If a calculation of a penalty period results in a partial month, payments for long-term care services shall be reduced in an amount equal to the fraction, except that in calculating the value of uncompensated transfers, if the total value of all uncompensated transfers made in a month not included in an existing penalty period does not exceed \$200, then such transfers shall be disregarded for each month prior to the month of application for or during receipt of medical assistance.~~

(e) In the case of multiple fractional transfers of assets in more than one month for less than fair market value on or after February 8, 2006, the period of ineligibility is calculated by treating the total, cumulative, uncompensated value of all assets transferred during all months on or after February 8, 2006, as one transfer.

**EFFECTIVE DATE.** Amendments to this section are effective for applications on or after July 1, 2006, and for renewals and reports of transfers on or after July 1, 2006.

Sec. 32. Minnesota Statutes 2004, section 256B.0595, subdivision 3, is amended to read:

Subd. 3. **Homestead exception to transfer prohibition.** (a) An institutionalized person is not ineligible for long-term care services due to a transfer of assets for less than fair market value if the asset transferred was a homestead and:

(1) title to the homestead was transferred to the individual's;

(i) spouse;

(ii) child who is under age 21;

(iii) blind or permanently and totally disabled child as defined in the supplemental security income program;

(iv) sibling who has equity interest in the home and who was residing in the home for a period of at least one year immediately before the date of the individual's admission to the facility; or

(v) son or daughter who was residing in the individual's home for a period of at least two years immediately before the date of the individual's admission to the facility, and who provided care to the individual that, as certified by the individual's attending physician, permitted the individual to reside at home rather than in an institution or facility;

(2) a satisfactory showing is made that the individual intended to dispose of the homestead at fair market value or for other valuable consideration; or

(3) the local agency grants a waiver of a penalty resulting from a transfer for less than fair market value because denial of eligibility would cause undue hardship for the individual, based on imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair

market value, the local agency shall notify the applicant or recipient that the applicant or recipient may request a waiver of the penalty if the denial of eligibility will cause undue hardship. With the written consent of the individual or the personal representative of the individual, a long-term care facility in which an individual is residing may file an undue hardship waiver request, on behalf of the individual who is denied eligibility for long-term care services on or after July 1, 2006, due to a period of ineligibility resulting from a transfer on or after February 8, 2006. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision.

(b) When a waiver is granted under paragraph (a), clause (3), a cause of action exists against the person to whom the homestead was transferred for that portion of long-term care services granted within:

(1) 30 months of a transfer made on or before August 10, 1993;

(2) 60 months if the homestead was transferred after August 10, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law; ~~or~~

(3) 36 months if transferred in any other manner after August 10, 1993, but prior to February 8, 2006; or

(4) 60 months if the homestead was transferred on or after February 8, 2006.

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under chapter 256G.

Sec. 33. Minnesota Statutes 2004, section 256B.0595, subdivision 4, is amended to read:

Subd. 4. **Other exceptions to transfer prohibition.** An institutionalized person who has made, or whose spouse has made a transfer prohibited by subdivision 1, is not ineligible for long-term care services if one of the following conditions applies:

(1) the assets were transferred to the individual's spouse or to another for the sole benefit of the spouse; or

(2) the institutionalized spouse, prior to being institutionalized, transferred assets to a spouse, provided that the spouse to whom the assets were transferred does not then transfer those assets to another person for less than fair market value. (At the time when one spouse is institutionalized, assets must be allocated between the spouses as provided under section 256B.059); or

(3) the assets were transferred to the individual's child who is blind or permanently and totally disabled as determined in the supplemental security income program; or

(4) a satisfactory showing is made that the individual intended to dispose of the assets either at fair market value or for other valuable consideration; or

(5) the local agency determines that denial of eligibility for long-term care services would work an undue hardship and grants a waiver of a penalty resulting from a transfer for less than fair market value based on an imminent threat to the individual's health and well-being. Whenever an applicant or recipient is denied eligibility because of a transfer for less than fair market value, the local agency shall notify the applicant or recipient that the applicant or recipient may request a waiver of the penalty if the denial of eligibility will cause undue hardship. With



the written consent of the individual or the personal representative of the individual, a long-term care facility in which an individual is residing may file an undue hardship waiver request, on behalf of the individual who is denied eligibility for long-term care services on or after July 1, 2006, due to a period of ineligibility resulting from a transfer on or after February 8, 2006. In evaluating a waiver, the local agency shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, whether the individual has taken any action to prevent the designation of the department as a remainder beneficiary on an annuity as described in section 256B.056, subdivision 11, and other factors relevant to a determination of hardship. If the local agency does not approve a hardship waiver, the local agency shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the local agency's decision. When a waiver is granted, a cause of action exists against the person to whom the assets were transferred for that portion of long-term care services granted within:

(i) 30 months of a transfer made on or before August 10, 1993;

(ii) 60 months of a transfer if the assets were transferred after August 30, 1993, to a trust or portion of a trust that is considered a transfer of assets under federal law; ~~or~~

(iii) 36 months of a transfer if transferred in any other manner after August 10, 1993, but prior to February 8, 2006; or

(iv) 60 months of any transfer made on or after February 8, 2006,

or the amount of the uncompensated transfer, whichever is less, together with the costs incurred due to the action. The action shall be brought by the state unless the state delegates this responsibility to the local agency responsible for providing medical assistance under this chapter; or

(6) for transfers occurring after August 10, 1993, the assets were transferred by the person or person's spouse: (i) into a trust established for the sole benefit of a son or daughter of any age who is blind or disabled as defined by the Supplemental Security Income program; or (ii) into a trust established for the sole benefit of an individual who is under 65 years of age who is disabled as defined by the Supplemental Security Income program.

"For the sole benefit of" has the meaning found in section 256B.059, subdivision 1.

Sec. 34. Minnesota Statutes 2005 Supplement, section 256B.06, subdivision 4, is amended to read:

Subd. 4. **Citizenship requirements.** (a) Eligibility for medical assistance is limited to citizens of the United States, qualified noncitizens as defined in this subdivision, and other persons residing lawfully in the United States. Citizens or nationals of the United States must cooperate in obtaining satisfactory documentary evidence of citizenship or nationality as required by the federal Deficit Reduction Act of 2005, Public Law 109-171.

(b) "Qualified noncitizen" means a person who meets one of the following immigration criteria:

(1) admitted for lawful permanent residence according to United States Code, title 8;

(2) admitted to the United States as a refugee according to United States Code, title 8, section 1157;

(3) granted asylum according to United States Code, title 8, section 1158;

(4) granted withholding of deportation according to United States Code, title 8, section 1253(h);

(5) paroled for a period of at least one year according to United States Code, title 8, section 1182(d)(5);

(6) granted conditional entrant status according to United States Code, title 8, section 1153(a)(7);

(7) determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V of the Omnibus Consolidated Appropriations Bill, Public Law 104-200;

(8) is a child of a noncitizen determined to be a battered noncitizen by the United States Attorney General according to the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, title V, of the Omnibus Consolidated Appropriations Bill, Public Law 104-200; or

(9) determined to be a Cuban or Haitian entrant as defined in section 501(e) of Public Law 96-422, the Refugee Education Assistance Act of 1980.

(c) All qualified noncitizens who were residing in the United States before August 22, 1996, who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation.

(d) All qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance with federal financial participation through November 30, 1996.

Beginning December 1, 1996, qualified noncitizens who entered the United States on or after August 22, 1996, and who otherwise meet the eligibility requirements of this chapter are eligible for medical assistance with federal participation for five years if they meet one of the following criteria:

(i) refugees admitted to the United States according to United States Code, title 8, section 1157;

(ii) persons granted asylum according to United States Code, title 8, section 1158;

(iii) persons granted withholding of deportation according to United States Code, title 8, section 1253(h);

(iv) veterans of the United States armed forces with an honorable discharge for a reason other than noncitizen status, their spouses and unmarried minor dependent children; or

(v) persons on active duty in the United States armed forces, other than for training, their spouses and unmarried minor dependent children.

Beginning December 1, 1996, qualified noncitizens who do not meet one of the criteria in items (i) to (v) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(e) Noncitizens who are not qualified noncitizens as defined in paragraph (b), who are lawfully residing in the United States and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance under clauses (1) to (3). These individuals must cooperate with the Immigration and Naturalization Service to pursue any applicable immigration status, including citizenship, that would qualify them for medical assistance with federal financial participation.

(1) Persons who were medical assistance recipients on August 22, 1996, are eligible for medical assistance with federal financial participation through December 31, 1996.

(2) Beginning January 1, 1997, persons described in clause (1) are eligible for medical assistance without federal financial participation as described in paragraph (j).

(3) Beginning December 1, 1996, persons residing in the United States prior to August 22, 1996, who were not receiving medical assistance and persons who arrived on or after August 22, 1996, are eligible for medical assistance without federal financial participation as described in paragraph (j).

(f) Nonimmigrants who otherwise meet the eligibility requirements of this chapter are eligible for the benefits as provided in paragraphs (g) to (i). For purposes of this subdivision, a "nonimmigrant" is a person in one of the classes listed in United States Code, title 8, section 1101(a)(15).

(g) Payment shall also be made for care and services that are furnished to noncitizens, regardless of immigration status, who otherwise meet the eligibility requirements of this chapter, if such care and services are necessary for the treatment of an emergency medical condition, except for organ transplants and related care and services and routine prenatal care.

(h) For purposes of this subdivision, the term "emergency medical condition" means a medical condition that meets the requirements of United States Code, title 42, section 1396b(v).

(i) Pregnant noncitizens who are undocumented, nonimmigrants, or eligible for medical assistance as described in paragraph (j), and who are not covered by a group health plan or health insurance coverage according to Code of Federal Regulations, title 42, section 457.310, and who otherwise meet the eligibility requirements of this chapter, are eligible for medical assistance through the period of pregnancy, including labor and delivery, to the extent federal funds are available under title XXI of the Social Security Act, and the state children's health insurance program, followed by 60 days postpartum without federal financial participation.

(j) Qualified noncitizens as described in paragraph (d), and all other noncitizens lawfully residing in the United States as described in paragraph (e), who are ineligible for medical assistance with federal financial participation and who otherwise meet the eligibility requirements of chapter 256B and of this paragraph, are eligible for medical assistance without federal financial participation. Qualified noncitizens as described in paragraph (d) are only eligible for medical assistance without federal financial participation for five years from their date of entry into the United States.

(k) Beginning October 1, 2003, persons who are receiving care and rehabilitation services from a nonprofit center established to serve victims of torture and are otherwise ineligible for medical assistance under this chapter are eligible for medical assistance without federal financial participation. These individuals are eligible only for the period during which they are receiving services from the center. Individuals eligible under this paragraph shall not be required to participate in prepaid medical assistance.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 35. Minnesota Statutes 2005 Supplement, section 256D.03, subdivision 3, is amended to read:

Subd. 3. **General assistance medical care; eligibility.** (a) General assistance medical care may be paid for any person who is not eligible for medical assistance under chapter 256B, including eligibility for medical assistance based on a spenddown of excess income according to section 256B.056, subdivision 5, or MinnesotaCare as defined in paragraph (b), except as provided in paragraph (c), and:

(1) who is receiving assistance under section 256D.05, except for families with children who are eligible under Minnesota family investment program (MFIP), or who is having a payment made on the person's behalf under sections 256L.01 to 256L.06; or

(2) who is a resident of Minnesota; and

(i) who has gross countable income not in excess of 75 percent of the federal poverty guidelines for the family size, using a six-month budget period and whose equity in assets is not in excess of \$1,000 per assistance unit. Exempt assets, the reduction of excess assets, and the waiver of excess assets must conform to the medical assistance program in section 256B.056, subdivision 3, with the following exception: the maximum amount of undistributed funds in a trust that could be distributed to or on behalf of the beneficiary by the trustee, assuming the full exercise of the trustee's discretion under the terms of the trust, must be applied toward the asset maximum;

(ii) who has gross countable income above 75 percent of the federal poverty guidelines but not in excess of 175 percent of the federal poverty guidelines for the family size, using a six-month budget period, whose equity in assets is not in excess of the limits in section 256B.056, subdivision 3c, and who applies during an inpatient hospitalization; or

(iii) the commissioner shall adjust the income standards under this section each July 1 by the annual update of the federal poverty guidelines following publication by the United States Department of Health and Human Services.

(b) Effective for applications and renewals processed on or after September 1, 2006, general assistance medical care may not be paid for applicants or recipients who are adults with dependent children under 21 whose gross family income is equal to or less than 275 percent of the federal poverty guidelines who are not described in paragraph (e).

(c) Effective for applications and renewals processed on or after September 1, 2006, general assistance medical care may be paid for applicants and recipients who meet all eligibility requirements of paragraph (a), clause (2), item (i), for a temporary period beginning the date of application. Immediately following approval of general assistance medical care, enrollees shall be enrolled in MinnesotaCare under section 256L.04, subdivision 7, with covered services as provided in section 256L.03 for the rest of the six-month eligibility period, until their six-month renewal.

(d) To be eligible for general assistance medical care following enrollment in MinnesotaCare as required by paragraph (c), an individual must complete a new application.

(e) Applicants and recipients eligible under paragraph (a), clause (1), ~~or~~ who have applied for and are awaiting a determination of blindness or disability by the state medical review team or a determination of eligibility for Supplemental Security Income or Social Security Disability Insurance by the Social Security Administration, ~~or~~ who fail to meet the requirements of section 256L.09, subdivision 2, are exempt from the MinnesotaCare enrollment requirements of this subdivision.

(f) For applications received on or after October 1, 2003, eligibility may begin no earlier than the date of application. For individuals eligible under paragraph (a), clause (2), item (i), a redetermination of eligibility must occur every 12 months. Individuals are eligible under paragraph (a), clause (2), item (ii), only during inpatient hospitalization but may reapply if there is a subsequent period of inpatient hospitalization.

(g) Beginning September 1, 2006, Minnesota health care program applications and renewals completed by recipients and applicants who are persons described in paragraph (c) and submitted to the county agency shall be determined for MinnesotaCare eligibility by the county agency. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available in any month during which MinnesotaCare enrollment is pending. Upon notification of eligibility for MinnesotaCare, notice of termination for eligibility for general assistance medical care shall be sent to an applicant or recipient. If all other eligibility requirements of this subdivision are met, eligibility for general assistance medical care shall be available until enrollment in MinnesotaCare subject to the provisions of paragraphs (c), (e), and (f).

(h) The date of an initial Minnesota health care program application necessary to begin a determination of eligibility shall be the date the applicant has provided a name, address, and Social Security number, signed and dated, to the county agency or the Department of Human Services. If the applicant is unable to provide a name, address, Social Security number, and signature when health care is delivered due to a medical condition or disability, a health care provider may act on an applicant's behalf to establish the date of an initial Minnesota health care program application by providing the county agency or Department of Human Services with provider identification and a temporary unique identifier for the applicant. The applicant must complete the remainder of the application and provide necessary verification before eligibility can be determined. The county agency must assist the applicant in obtaining verification if necessary.

(i) County agencies are authorized to use all automated databases containing information regarding recipients' or applicants' income in order to determine eligibility for general assistance medical care or MinnesotaCare. Such use shall be considered sufficient in order to determine eligibility and premium payments by the county agency.

(j) General assistance medical care is not available for a person in a correctional facility unless the person is detained by law for less than one year in a county correctional or detention facility as a person accused or convicted of a crime, or admitted as an inpatient to a hospital on a criminal hold order, and the person is a recipient of general assistance medical care at the time the person is detained by law or admitted on a criminal hold order and as long as the person continues to meet other eligibility requirements of this subdivision.

(k) General assistance medical care is not available for applicants or recipients who do not cooperate with the county agency to meet the requirements of medical assistance.

(l) In determining the amount of assets of an individual eligible under paragraph (a), clause (2), item (i), there shall be included any asset or interest in an asset, including an asset excluded under paragraph (a), that was given away, sold, or disposed of for less than fair market value within the 60 months preceding application for general assistance medical care or during the period of eligibility. Any transfer described in this paragraph shall be presumed to have been for the purpose of establishing eligibility for general assistance medical care, unless the individual furnishes convincing evidence to establish that the transaction was exclusively for another purpose. For purposes of this paragraph, the value of the asset or interest shall be the fair market value at the time it was given away, sold, or disposed of, less the amount of compensation received. For any uncompensated transfer, the number of months of ineligibility, including partial months, shall be calculated by dividing the uncompensated transfer amount by the average monthly per person payment made by the medical assistance program to skilled nursing facilities for the previous calendar year. The individual shall remain ineligible until this fixed period has expired.

The period of ineligibility may exceed 30 months, and a reapplication for benefits after 30 months from the date of the transfer shall not result in eligibility unless and until the period of ineligibility has expired. The period of ineligibility begins in the month the transfer was reported to the county agency, or if the transfer was not reported, the month in which the county agency discovered the transfer, whichever comes first. For applicants, the period of ineligibility begins on the date of the first approved application.

(m) When determining eligibility for any state benefits under this subdivision, the income and resources of all noncitizens shall be deemed to include their sponsor's income and resources as defined in the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, title IV, Public Law 104-193, sections 421 and 422, and subsequently set out in federal rules.

(n) Undocumented noncitizens and nonimmigrants are ineligible for general assistance medical care. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service.

(o) Notwithstanding any other provision of law, a noncitizen who is ineligible for medical assistance due to the deeming of a sponsor's income and resources, is ineligible for general assistance medical care.

(p) Effective July 1, 2003, general assistance medical care emergency services end.

(q) Citizens or nationals of the United States must cooperate in obtaining satisfactory documentary evidence of citizenship or nationality as required by the federal Deficit Reduction Act of 2005, Public Law 109-171.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 36. Minnesota Statutes 2004, section 256L.04, subdivision 10, is amended to read:

Subd. 10. **Citizenship requirements.** Eligibility for MinnesotaCare is limited to citizens or nationals of the United States, qualified noncitizens, and other persons residing lawfully in the United States as described in section 256B.06, subdivision 4, paragraphs (a) to (e) and (j). Undocumented noncitizens and nonimmigrants are ineligible for MinnesotaCare. For purposes of this subdivision, a nonimmigrant is an individual in one or more of the classes listed in United States Code, title 8, section 1101(a)(15), and an undocumented noncitizen is an individual who resides in the United States without the approval or acquiescence of the Immigration and Naturalization Service. Citizens or nationals of the United States must cooperate in obtaining satisfactory documentary evidence of citizenship or nationality as required by the federal Deficit Reduction Act of 2005, Public Law 109-171.

**EFFECTIVE DATE.** This section is effective July 1, 2006.

Sec. 37. **DESIGNATION OF ASSETS AS CONTINGENTLY EXEMPT UNDER LONG-TERM CARE PARTNERSHIP PROGRAM.**

The commissioner of human services shall develop and present to the legislature by December 15, 2006, a plan and draft legislation to allow individuals participating in the long-term care partnership program established under Minnesota Statutes, section 256B.0571, to designate, at the time of initial application for medical assistance, assets as contingently exempt. The full fair market value of assets designated as contingently exempt must not exceed a percentage, specified by the commissioner, of the full fair market value of assets designated as protected under Minnesota Statutes, section 256B.0571, subdivision 9. The commissioner may specify different percentages for different categories of protected assets. Assets designated as contingently exempt shall be disregarded for purposes of determining eligibility for payment of long-term care services. If the dollar amount of benefits utilized under a

partnership policy is greater than the full fair market value of all assets protected due to a decrease in the value of the protected assets, the plan and draft legislation must allow the individual or the personal representative to designate assets that are contingently exempt as protected, up to the amount of the decrease in value of the protected assets. The plan and draft legislation must provide that any contingently exempt asset that is not designated as protected be subject to recovery.

Sec. 38. **REPEALER.**

Minnesota Statutes 2005 Supplement, section 256B.0571, subdivisions 2, 5, and 11, are repealed.

ARTICLE 2

CHILDREN AND FAMILIES FEDERAL COMPLIANCE

Section 1. Minnesota Statutes 2004, section 256J.021, is amended to read:

**256J.021 SEPARATE STATE PROGRAM FOR USE OF STATE MONEY.**

~~Beginning (a) Until October 1, 2001, and each year thereafter 2006,~~ the commissioner of human services must treat MFIP expenditures made to or on behalf of any minor child under section 256J.02, subdivision 2, clause (1), who is a resident of this state under section 256J.12, and who is part of a two-parent eligible household as expenditures under a separately funded state program and report those expenditures to the federal Department of Health and Human Services as separate state program expenditures under Code of Federal Regulations, title 45, section 263.5.

(b) Beginning October 1, 2006, the commissioner of human services must treat MFIP expenditures made to or on behalf of any minor child under section 256J.02, subdivision 2, clause (1), who is a resident of this state under section 256J.12, and who is part of a two-parent eligible household, as expenditures under a separately funded state program. These expenditures shall not count toward the state's maintenance of effort (MOE) requirements under the federal Temporary Assistance to Needy Families (TANF) program except if counting certain families would allow the commissioner to avoid a federal penalty. Families receiving assistance under this section must comply with all applicable requirements in this chapter.

Sec. 2. Minnesota Statutes 2004, section 256J.626, subdivision 2, is amended to read:

Subd. 2. **Allowable expenditures.** (a) The commissioner must restrict expenditures under the consolidated fund to benefits and services allowed under title IV-A of the federal Social Security Act. Allowable expenditures under the consolidated fund may include, but are not limited to:

(1) short-term, nonrecurring shelter and utility needs that are excluded from the definition of assistance under Code of Federal Regulations, title 45, section 260.31, for families who meet the residency requirement in section 256J.12, subdivisions 1 and 1a. Payments under this subdivision are not considered TANF cash assistance and are not counted towards the 60-month time limit;

(2) transportation needed to obtain or retain employment or to participate in other approved work activities;

(3) direct and administrative costs of staff to deliver employment services for MFIP or the diversionary work program, to administer financial assistance, and to provide specialized services intended to assist hard-to-employ participants to transition to work;

- (4) costs of education and training including functional work literacy and English as a second language;
- (5) cost of work supports including tools, clothing, boots, and other work-related expenses;
- (6) county administrative expenses as defined in Code of Federal Regulations, title 45, section 260(b);
- (7) services to parenting and pregnant teens;
- (8) supported work;
- (9) wage subsidies;
- (10) child care needed for MFIP or diversionary work program participants to participate in social services;

(11) child care to ensure that families leaving MFIP or diversionary work program will continue to receive child care assistance from the time the family no longer qualifies for transition year child care until an opening occurs under the basic sliding fee child care program; and

(12) services to help noncustodial parents who live in Minnesota and have minor children receiving MFIP or DWP assistance, but do not live in the same household as the child, obtain or retain employment.

(b) Administrative costs that are not matched with county funds as provided in subdivision 8 may not exceed 7.5 percent of a county's or 15 percent of a tribe's allocation under this section. The commissioner shall define administrative costs for purposes of this subdivision.

(c) The commissioner may waive the cap on administrative costs for a county or tribe that elects to provide an approved supported employment, unpaid work, or community work experience program for a major segment of the county's or tribe's MFIP population. The county or tribe must apply for the waiver on forms provided by the commissioner. In no case shall total administrative costs exceed the TANF limits.

Sec. 3. Minnesota Statutes 2004, section 518.551, subdivision 7, is amended to read:

Subd. 7. **Fees and cost recovery fees for IV-D services.** (a) When a recipient of IV-D services is no longer receiving assistance under the state's title IV-A, IV-E foster care, medical assistance, or MinnesotaCare programs, the public authority responsible for child support enforcement must notify the recipient, within five working days of the notification of ineligibility, that IV-D services will be continued unless the public authority is notified to the contrary by the recipient. The notice must include the implications of continuing to receive IV-D services, including the available services and fees, cost recovery fees, and distribution policies relating to fees.

(b) An application fee of \$25 shall be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741 and, ~~if enacted,~~ the diversionary work program under section 256J.95, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of education.

(c) In the case of an individual who has never received assistance under a state program funded under Title IV-A of the Social Security Act and for whom the public authority has collected at least \$500 of support, the public authority must impose an annual federal collections fee of \$25 for each case in which services are furnished. This fee must be retained by the public authority from support collected on behalf of the individual, but not from the first \$500 collected.



~~(e)~~ (d) When the public authority provides full IV-D services to an obligee who has applied for those services, upon written notice to the obligee, the public authority must charge a cost recovery fee of one percent of the amount collected. This fee must be deducted from the amount of the child support and maintenance collected and not assigned under section 256.741 before disbursement to the obligee. This fee does not apply to an obligee who:

(1) is currently receiving assistance under the state's title IV-A, IV-E foster care, medical assistance, or MinnesotaCare programs; or

(2) has received assistance under the state's title IV-A or IV-E foster care programs, until the person has not received this assistance for 24 consecutive months.

~~(d)~~ (e) When the public authority provides full IV-D services to an obligor who has applied for such services, upon written notice to the obligor, the public authority must charge a cost recovery fee of one percent of the monthly court-ordered child support and maintenance obligation. The fee may be collected through income withholding, as well as by any other enforcement remedy available to the public authority responsible for child support enforcement.

~~(e)~~ (f) Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee shall assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The fee must be withheld prior to the release of the funds received from each interception and deposited in the general fund.

~~(f)~~ (g) Federal collections fees collected under paragraph (c) and cost recovery fees collected under paragraphs ~~(e)~~ and (d) and ~~(e)~~ shall be considered child support program income according to Code of Federal Regulations, title 45, section 304.50, and shall be deposited in the ~~cost recovery fee~~ special revenue fund account established under paragraph ~~(h)~~ (i). The commissioner of human services must elect to recover costs based on either actual or standardized costs.

~~(g)~~ (h) The limitations of this subdivision on the assessment of fees shall not apply to the extent inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and United States Code, title 42, sections 651 to 662.

~~(h)~~ (i) The commissioner of human services is authorized to establish a special revenue fund account to receive ~~child support~~ the federal collections fees collected under paragraph (c) and cost recovery fees collected under paragraphs (d) and (e). A portion of the nonfederal share of these fees may be retained for expenditures necessary to administer the ~~fee fees~~ and must be transferred to the child support system special revenue account. The remaining nonfederal share of the federal collections fees and cost recovery fee fees must be retained by the commissioner and dedicated to the child support general fund county performance-based grant account authorized under sections 256.979 and 256.9791.

**EFFECTIVE DATE.** This section is effective October 1, 2006, or later, if the commissioner determines that a later implementation will not result in federal financial penalties.

### ARTICLE 3

#### APPROPRIATIONS AND RELATED PROVISIONS

##### Section 1. **SUPPLEMENTAL APPROPRIATIONS.**

The appropriations in this article are added to or, if shown in parentheses, subtracted from the appropriations enacted into law by the legislature in 2005, or other specified law, to the named agencies and for the specified programs or activities. The sums shown are appropriated from the general fund, or another named fund, to be

available for the fiscal years indicated: 2006 is the fiscal year ending June 30, 2006; 2007 is the fiscal year ending June 30, 2007; and the biennium is fiscal years 2006 and 2007. Supplementary appropriations and reductions to appropriations for the fiscal year ending June 30, 2006, are effective the day following final enactment.

		<u>APPROPRIATIONS</u>	
		<u>Available for the Year</u>	
		<u>Ending June 30</u>	
		<u>2006</u>	<u>2007</u>
<b>Sec. 2. <u>COMMISSIONER OF HUMAN SERVICES</u></b>			
<b>Subdivision 1. <u>Total Appropriation</u></b>		<b><u>\$-0-</u></b>	<b><u>\$1,291,000</u></b>
<u>Summary by Fund</u>			
<u>General</u>	<u>-0-</u>	<u>(429,000)</u>	
<u>Health Care Access</u>	<u>-0-</u>	<u>1,720,000</u>	
<b>Subd. 2. <u>Children and Economic Assistance Management</u></b>			
<u>General</u>	<u>-0-</u>	<u>8,000</u>	
<u>Children and Economic Assistance Operations</u>	<u>-0-</u>	<u>8,000</u>	
<b><u>CHILDREN AND ECONOMIC ASSISTANCE OPERATIONS</u></b>			
<b><u>BASE ADJUSTMENT.</u></b> <u>The general fund base for children and economic assistance operations shall be decreased by \$8,000 in fiscal year 2008 and \$8,000 in fiscal year 2009.</u>			
<b>Subd. 3. <u>Health Care Grants</u></b>			
<u>General</u>	<u>-0-</u>	<u>(325,000)</u>	
<u>Medical Assistance Basic Health Care - Elderly Disabled</u>			
<u>General</u>	<u>-0-</u>	<u>(325,000)</u>	
<b>Subd. 4. <u>Health Care Management</u></b>			
<u>Summary by Fund</u>			
<u>General</u>	<u>-0-</u>	<u>1,384,000</u>	
<u>Health Care Access</u>	<u>-0-</u>	<u>1,720,000</u>	
<u>(a) Health Care Administration</u>			
<u>General</u>	<u>-0-</u>	<u>1,303,000</u>	

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

**HEALTH CARE ADMINISTRATION BASE ADJUSTMENT.**

The general fund base for health care administration shall be decreased by \$119,000 in fiscal year 2008 and decreased by \$666,000 in fiscal year 2009.

**(b) Health Care Operations**

<u>General</u>	<u>-0-</u>	<u>81,000</u>
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<u>Health Care Access</u>	<u>-0-</u>	<u>1,720,000</u>
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**HEALTH CARE OPERATIONS BASE ADJUSTMENT.** The general fund base for health care operations shall be decreased by \$57,000 in fiscal year 2008 and increased by \$13,000 in fiscal year 2009.

**HEALTH CARE OPERATIONS BASE ADJUSTMENT.** The health care access fund base for health care operations shall be decreased by \$1,085,000 in fiscal year 2008 and \$1,085,000 in fiscal year 2009.

**Subd. 5. Continuing Care Grants**Summary by Fund

<u>General</u>	<u>-0-</u>	<u>(1,589,000)</u>
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**(a) Medical Assistance Long-Term Care Facilities**

<u>General</u>	<u>-0-</u>	<u>(1,275,000)</u>
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**(b) Medical Assistance Long-Term Care Waivers**

<u>General</u>	<u>-0-</u>	<u>(414,000)</u>
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**(c) Adult and Aging Services Grants**

<u>General</u>	<u>-0-</u>	<u>100,000</u>
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**AGING AND ADULT SERVICES GRANTS FOR MEDICARE PART D.** \$100,000 in fiscal year 2007 is appropriated from the general fund to the commissioner of human services for grants awarded through the Minnesota Board on Aging to area Agencies on Aging to provide information and enrollment assistance for the Medicare Part D program.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

**MEDICARE PART D INFORMATION AND ASSISTANCE REIMBURSEMENT.** Federal administrative reimbursement obtained from information and assistance services provided by the Senior Linkage or Disability Linkage lines to people who are identified as eligible for medical assistance shall be appropriated to the commissioner for this activity.

**AGING AND ADULT SERVICES GRANTS BASE ADJUSTMENT.** The general fund base for aging and adult services grants is decreased by \$100,000 in fiscal year 2008 and \$100,000 in fiscal year 2009 for information and assistance grants to area Agencies on Aging for assisting with Medicare Part D.

Subd. 6. **Continuing Care Management**

<u>General</u>	<u>-0-</u>	<u>93,000</u>
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**CONTINUING CARE MANAGEMENT BASE ADJUSTMENT.** The general fund base for continuing care management shall be decreased by \$10,000 in fiscal year 2008 and fiscal year 2009.

Sec. 3. **EMPLOYMENT AND ECONOMIC DEVELOPMENT**

<u>General</u>	<u>\$-0-</u>	<u>\$900,000</u>
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**BIOTECH PARTNERSHIP.** (a) Notwithstanding Minnesota Statutes, section 295.581, in fiscal year 2007, \$900,000 is appropriated from the general fund to the commissioner of employment and economic development for the direct and indirect expenses of the collaborative research partnership between the University of Minnesota and the Mayo Foundation for research in biotechnology and medical genomics. This is a onetime appropriation.

(b) An annual report on the expenditure of this appropriation must be submitted to the governor and the chairs of the senate Higher Education Budget Division, the house of representatives Higher Education Finance Committee, the senate Environment, Agriculture, and Economic Development Budget Division, and the house of representatives Jobs and Economic Opportunity Policy and Finance Committee by June 30 of each fiscal year until the appropriation is expended. This appropriation is available until expended.

Sec. 4. Minnesota Statutes 2004, section 256B.76, is amended to read:

**256B.76 PHYSICIAN AND DENTAL REIMBURSEMENT.**

(a) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for physician services as follows:

(1) payment for level one Centers for Medicare and Medicaid Services' common procedural coding system codes titled "office and other outpatient services," "preventive medicine new and established patient," "delivery, antepartum, and postpartum care," "critical care," cesarean delivery and pharmacologic management provided to psychiatric patients, and level three codes for enhanced services for prenatal high risk, shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992. If the rate on any procedure code within these categories is different than the rate that would have been paid under the methodology in section 256B.74, subdivision 2, then the larger rate shall be paid;

(2) payments for all other services shall be paid at the lower of (i) submitted charges, or (ii) 15.4 percent above the rate in effect on June 30, 1992;

(3) all physician rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases except that payment rates for home health agency services shall be the rates in effect on September 30, 1992;

(4) effective for services rendered on or after January 1, 2000, payment rates for physician and professional services shall be increased by three percent over the rates in effect on December 31, 1999, except for home health agency and family planning agency services; and

(5) the increases in clause (4) shall be implemented January 1, 2000, for managed care.

(b) Effective for services rendered on or after October 1, 1992, the commissioner shall make payments for dental services as follows:

(1) dental services shall be paid at the lower of (i) submitted charges, or (ii) 25 percent above the rate in effect on June 30, 1992;

(2) dental rates shall be converted from the 50th percentile of 1982 to the 50th percentile of 1989, less the percent in aggregate necessary to equal the above increases;

(3) effective for services rendered on or after January 1, 2000, payment rates for dental services shall be increased by three percent over the rates in effect on December 31, 1999;

(4) the commissioner shall award grants to community clinics or other nonprofit community organizations, political subdivisions, professional associations, or other organizations that demonstrate the ability to provide dental services effectively to public program recipients. Grants may be used to fund the costs related to coordinating access for recipients, developing and implementing patient care criteria, upgrading or establishing new facilities, acquiring furnishings or equipment, recruiting new providers, or other development costs that will improve access to dental care in a region. In awarding grants, the commissioner shall give priority to applicants that plan to serve areas of the state in which the number of dental providers is not currently sufficient to meet the needs of recipients of public programs or uninsured individuals. The commissioner shall consider the following in awarding the grants:

(i) potential to successfully increase access to an underserved population;

- (ii) the ability to raise matching funds;
- (iii) the long-term viability of the project to improve access beyond the period of initial funding;
- (iv) the efficiency in the use of the funding; and
- (v) the experience of the proposers in providing services to the target population.

The commissioner shall monitor the grants and may terminate a grant if the grantee does not increase dental access for public program recipients. The commissioner shall consider grants for the following:

(i) implementation of new programs or continued expansion of current access programs that have demonstrated success in providing dental services in underserved areas;

(ii) a pilot program for utilizing hygienists outside of a traditional dental office to provide dental hygiene services; and

(iii) a program that organizes a network of volunteer dentists, establishes a system to refer eligible individuals to volunteer dentists, and through that network provides donated dental care services to public program recipients or uninsured individuals;

(5) beginning October 1, 1999, the payment for tooth sealants and fluoride treatments shall be the lower of (i) submitted charge, or (ii) 80 percent of median 1997 charges;

(6) the increases listed in clauses (3) and (5) shall be implemented January 1, 2000, for managed care; and

(7) effective for services provided on or after January 1, 2002, payment for diagnostic examinations and dental x-rays provided to children under age 21 shall be the lower of (i) the submitted charge, or (ii) 85 percent of median 1999 charges.

(c) Effective for dental services rendered on or after January 1, 2002, the commissioner may, within the limits of available appropriation, increase reimbursements to dentists and dental clinics deemed by the commissioner to be critical access dental providers. Reimbursement to a critical access dental provider may be increased by not more than 50 percent above the reimbursement rate that would otherwise be paid to the provider. Payments to health plan companies shall be adjusted to reflect increased reimbursements to critical access dental providers as approved by the commissioner. In determining which dentists and dental clinics shall be deemed critical access dental providers, the commissioner shall review:

(1) the utilization rate in the service area in which the dentist or dental clinic operates for dental services to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage;

(2) the level of services provided by the dentist or dental clinic to patients covered by medical assistance, general assistance medical care, or MinnesotaCare as their primary source of coverage; and

(3) whether the level of services provided by the dentist or dental clinic is critical to maintaining adequate levels of patient access within the service area.

In the absence of a critical access dental provider in a service area, the commissioner may designate a dentist or dental clinic as a critical access dental provider if the dentist or dental clinic is willing to provide care to patients covered by medical assistance, general assistance medical care, or MinnesotaCare at a level which significantly increases access to dental care in the service area.

The commissioner shall annually establish a reimbursement schedule for critical access dental providers and provider-specific limits on total reimbursement received under the reimbursement schedule, and shall notify each critical access dental provider of the schedule and limit.

(d) An entity that operates both a Medicare certified comprehensive outpatient rehabilitation facility and a facility which was certified prior to January 1, 1993, that is licensed under Minnesota Rules, parts 9570.2000 to 9570.3600, and for whom at least 33 percent of the clients receiving rehabilitation services in the most recent calendar year are medical assistance recipients, shall be reimbursed by the commissioner for rehabilitation services at rates that are 38 percent greater than the maximum reimbursement rate allowed under paragraph (a), clause (2), when those services are (1) provided within the comprehensive outpatient rehabilitation facility and (2) provided to residents of nursing facilities owned by the entity.

(e) Effective for services rendered on or after January 1, 2007, the commissioner shall make payments for physician and professional services based on the Medicare relative value units (RVUs). This change shall be budget neutral and the cost of implementing RVUs will be incorporated in the established conversion factor.

#### Sec. 5. **PHARMACY PAYMENT REFORM ADVISORY COMMITTEE.**

Subdivision 1. **Definitions.** For purposes of this section, the following words, terms, and phrases have the following meanings:

(a) "Department" means the Department of Human Services.

(b) "Commissioner" means the commissioner of the Department of Human Services.

(c) "Cost of dispensing" includes, but is not limited to, operational and overhead costs; professional counseling as required under the Omnibus Budget Reconciliation Act of 1990, excluding medication management services under Minnesota Statutes, section 256B.0625, subdivision 13h; salaries; and other associated administrative costs, as well as a reasonable return on investment. In addition, cost of dispensing includes expenses transferred by wholesale drug distributors to pharmacies as a result of the wholesale drug distributor tax under Minnesota Statutes, sections 295.52 to 295.582.

(d) "Additional costs" include, but are not limited to, costs relating to coordination of benefits, bad debt, uncollected co-pays, payment lag times, and high rate of rejected claims.

(e) "Advisory committee" means the Pharmacy Payment Reform Advisory Committee established by this section.

Subd. 2. **Advisory committee.** The Pharmacy Payment Reform Advisory Committee is established under the direction of the commissioner of human services. The commissioner, after receiving recommendations from the Minnesota Pharmacists Association, the Minnesota Retailers Association, the Minnesota Hospital Association, and the Minnesota Wholesale Druggists Association, shall convene a pharmacy payment reform advisory committee to advise the commissioner and make recommendations to the legislature on implementation of pharmacy reforms contained in title VI, chapter IV, of the Deficit Reduction Act of 2005. The committee shall be comprised of three licensed pharmacists representing both independent and chain pharmacy entities, one of whom must have expertise in pharmacoeconomics, two individuals representing hospitals with outpatient pharmacies, and two individuals with expertise in wholesale drug distribution. The committee shall be staffed by an employee of the department who shall serve as an ex officio nonvoting member of the committee. The department's pharmacy program manager shall also serve as an ex officio, nonvoting member of the committee. The committee is governed by Minnesota Statutes, section 15.059, except that committee members do not receive compensation or reimbursement for expenses. The advisory committee members shall serve a two-year term and the advisory committee will expire on January 31, 2008.

Subd. 3. **Cost of dispensing study.** The department shall conduct a prescription drug cost of dispensing study to determine the average cost of dispensing Medicaid prescriptions in Minnesota. The department shall contract with an independent third party in the state that has experience conducting business cost allocation studies, such as an academic institution, to conduct a prescription drug cost of dispensing study. If no independent third-party entity exists in the state, the department may contract with an out-of-state entity. The cost of dispensing study shall be completed by an independent third party no later than October 1, 2006, and reported to the department and the advisory committee upon completion.

Subd. 4. **Content of study.** The study shall determine the cost of dispensing the average prescription and any additional costs that might be incurred for dispensing Medicaid prescriptions. The study shall include the current level of dispensing fees paid to providers and an estimate of revenues required to adequately adjust reimbursement to cover the cost to pharmacies.

Subd. 5. **Methodology of study and publishing requirement.** The independent third-party entity performing the cost of dispensing research shall submit to the advisory committee the entity's proposed research methodology and shall publish the collected data to allow other independent researchers to validate the study results. The data shall be published in a manner that does not identify the source of the data.

Subd. 6. **Recommendations.** The advisory committee shall use the information from the cost of dispensing study and make recommendations to the commissioner on implementation of pharmacy reforms contained in title VI, chapter IV, of the Deficit Reduction Act of 2005. The commissioner shall report the findings of the study and the recommendations of the advisory committee to the legislature by January 15, 2007. The department shall conduct a cost of dispensing study every three years following the initial report. The commissioner, in consultation with the advisory committee, shall make recommendations to the legislature on how to adequately adjust reimbursement rates to pharmacies to cover the costs of dispensing and additional costs to pharmacies. Reports shall include the current level of dispensing fees paid to providers and an estimate of revenues required to adequately adjust reimbursement to ensure that:

(1) reimbursement is sufficient to enlist an adequate number of participating pharmacy providers so that pharmacy services are as available for Medicaid recipients under the program as for the state's general population;

(2) Medicaid dispensing fees are adequate to reimburse pharmacy providers for the costs of dispensing prescriptions under the Medicaid program;

(3) Medicaid pharmacy reimbursement for multiple-source drugs included on the federal upper reimbursement limit is set at the level established by the federal government under United States Code, title 42, section 1396r-8(e)(5);

(4) the combined Medicaid program reimbursement for prescription drug product and the dispensing fee provides a return adequate to provide a reasonable profit for the participating pharmacy; and

(5) the new payment system does not create disincentives for pharmacists to dispense generic drugs.

**EFFECTIVE DATE.** This section is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to the operation of state government; making changes to health and human services programs and policy; making changes to health policy to comply with federal law; modifying long-term care provisions; modifying treatment of asset recovery for medical assistance eligibility; requiring evidence of citizenship or nationality for qualified noncitizens; modifying the treatment of payment of benefits from an annuity; making



changes to children and families policy to comply with federal law; modifying treatment of MFIP expenditures; allowing waiver of administrative costs under MFIP; imposing an annual federal collections fee; making supplemental appropriations and budget reductions; establishing the Pharmacy Payment Reform Advisory Committee; amending Minnesota Statutes 2004, sections 62A.045; 62S.05, by adding a subdivision; 62S.08, subdivision 3; 62S.081, subdivision 4; 62S.10, subdivision 2; 62S.13, by adding a subdivision; 62S.14, subdivision 2; 62S.15; 62S.20, subdivision 1; 62S.24, subdivisions 1, 3, 4, by adding subdivisions; 62S.25, subdivision 6, by adding a subdivision; 62S.26; 62S.266, subdivision 2; 62S.29, subdivision 1; 62S.30; 144.6501, subdivision 6; 256B.02, subdivision 9; 256B.056, subdivision 2, by adding subdivisions; 256B.0595, subdivisions 1, 3, 4; 256B.76; 256J.021; 256J.626, subdivision 2; 256L.04, subdivision 10; 518.551, subdivision 7; Minnesota Statutes 2005 Supplement, sections 256B.0571; 256B.0595, subdivision 2; 256B.06, subdivision 4; 256D.03, subdivision 3; proposing coding for new law in Minnesota Statutes, chapters 62S; 256B; repealing Minnesota Statutes 2005 Supplement, section 256B.0571, subdivisions 2, 5, 11."

With the recommendation that when so amended the bill pass.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 3761, A bill for an act relating to transportation; authorizing sale of trunk highway bonds for capital improvements related to transportation; establishing transit fund and accounts; increasing motor fuel taxes; providing for treatment and allocation of tax proceeds related to motor vehicles; modifying proposed amendment to Minnesota Constitution and its proposed ballot question; modifying provisions relating to the town bridge account, old automobile liens, tow truck operators, impounded vehicles, the rail service improvement account, the tax attributable to fuel used by all-terrain vehicles, and a connector highway agreement; requiring a study; appropriating money; amending Minnesota Statutes 2004, sections 16A.88; 161.082, subdivision 2a; 168B.06, subdivision 1; 168B.07, by adding a subdivision; 169.829, subdivision 2; 169.86, by adding a subdivision; 222.50, subdivisions 6, 7; 296A.07, by adding a subdivision; 296A.18, subdivision 4; 297A.94; 297B.09, subdivision 1; Minnesota Statutes 2005 Supplement, sections 168A.20, subdivision 5; 297A.815, by adding a subdivision; Laws 2005, chapter 88, article 3, section 10; proposing coding for new law in Minnesota Statutes, chapter 167.

Reported the same back with the following amendments:

Page 5, delete section 7

Page 5, line 11, after "9," insert "as amended by this act,"

Page 7, delete section 10 and insert:

"Sec. 10. Laws 2005, chapter 88, article 3, section 9, is amended to read:

**Sec. 9. CONSTITUTIONAL AMENDMENT PROPOSED.**

An amendment to the Minnesota Constitution is proposed to the people. If the amendment is adopted, two sections will be added to article XIV to read:

Sec. 12. Beginning with the fiscal year starting July 1, 2007, 63.75 percent of the revenue from a tax imposed by the state on the sale of a new or used motor vehicle must be apportioned for the transportation purposes described in section 13, then the revenue apportioned for transportation purposes must be increased by ten percent for each subsequent fiscal year through June 30, 2011, and then the revenue must be apportioned 100 percent for transportation purposes after June 30, 2011.

Sec. 13. The revenue apportioned in section 12 must be allocated for the following transportation purposes: ~~not more than~~ 60 percent must be deposited in the highway user tax distribution fund, and ~~not less than~~ 40 percent must be deposited in a fund dedicated solely to public transit assistance as defined by law.

Sec. 11. Laws 2005, chapter 88, article 3, section 10, is amended to read:

Sec. 10. **SUBMISSION TO VOTERS.**

The constitutional amendment proposed in section ~~42~~ 9 must be presented to the people at the 2006 general election. The question submitted must be:

"Shall the Minnesota Constitution be amended to dedicate revenue from ~~a~~ the existing tax on the sale of new and used motor vehicles over a five-year period, so that after June 30, 2011, all of the revenue is dedicated ~~at least~~ 40 percent for public transit assistance and ~~not more than~~ 60 percent for highway purposes?"

Yes .....

No ....."

Page 8, after line 5, insert:

"Sec. 12. **ACTION CONCERNING PROPOSED CONSTITUTIONAL AMENDMENT.**

Any action brought for declaratory or injunctive relief concerning a proposed amendment to the state constitution that relates to distribution of motor vehicle sales tax revenue, or concerning the related question, to be submitted to the people at the 2006 general election, must be filed with any judge of the Supreme Court within 30 days after adjournment of the 84th legislative session. The Supreme Court shall advance the matter on the docket and expedite to the greatest possible extent the final disposition of the action, which must occur no later than four weeks before the state general election."

Page 11, line 18, after "9," insert "as amended by this act,"

Page 15, after line 18, insert:

"Sec. 10. Minnesota Statutes 2004, section 471.345, is amended by adding a subdivision to read:

Subd. 19. **Town road construction and maintenance.** Notwithstanding any other procedural requirements of this section, a town may contract for the construction or maintenance of a town road by agreeing to the terms of an existing contract between a vendor and a county for road construction or maintenance on an adjoining road if the existing county contract was made in conformance with all applicable procedural requirements."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, delete "increasing motor fuel taxes;"

Page 1, line 6, after the semicolon, insert "setting certain court deadlines and procedures;"

Page 1, line 7, after the first comma, insert "town road construction and maintenance,"

Correct the title numbers accordingly

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Rules and Legislative Administration.

The report was adopted.

Knoblach from the Committee on Ways and Means to which was referred:

S. F. No. 762, A bill for an act relating to the environment; creating the Clean Water Legacy Act; providing authority, direction, and funding to achieve and maintain water quality standards for Minnesota's surface waters in accordance with section 303(d) of the federal Clean Water Act; appropriating money; amending Laws 2005, chapter 20, article 1, section 39; proposing coding for new law in Minnesota Statutes, chapter 446A; proposing coding for new law as Minnesota Statutes, chapter 114D.

Reported the same back with the following amendments to the third unofficial engrossment:

Page 10, line 13, after "council's" insert "nonbinding"

Page 10, line 14, delete everything after "114D.35" and insert a period

Page 10, delete lines 15 to 17

Page 10, line 18, delete everything before "The"

Page 10, line 21, after the period, insert "Expenditures from the account are subject to appropriation by the legislature."

Page 11, after line 18, insert:

"Sec. 9. **[114D.45] CLEAN WATER LEGACY ACCOUNT.**

**Subdivision 1. Creation.** The clean water legacy account is created as an account in the environmental fund. Money in the account must be made available for the implementation of this chapter and section 446A.073, without supplanting or taking the place of any other funds which are currently available or may become available from any other source, whether federal, state, local, or private, for implementation of this chapter and section 446A.073.

**Subd. 2. Sources of revenue.** The following revenues must be deposited in the clean water legacy account:

(1) money transferred to the account; and

(2) interest accrued on the account.

Subd. 3. **Purposes.** Subject to appropriation by the legislature, the clean water legacy account may be spent for the following purposes:

(1) to provide grants, loans, and technical assistance to public agencies and others who are participating in the process of identifying impaired waters, developing TMDL's, implementing restoration plans for impaired waters, and monitoring the effectiveness of restoration;

(2) to support measures to prevent waters from becoming impaired and to improve the quality of waters that are listed as impaired but have no approved TMDL addressing the impairment;

(3) to provide grants and loans for wastewater and storm water treatment projects through the Public Facilities Authority;

(4) to support the efforts of public agencies associated with individual sewage treatment systems and financial assistance for upgrading and replacing the systems; and

(5) to provide funds to state agencies to carry out their responsibilities under this chapter."

Page 11, line 31, delete "9" and insert "10"

Renumber the sections in sequence

With the recommendation that when so amended the bill pass.

The report was adopted.

Hackbarth from the Committee on Environment and Natural Resources to which was referred:

S. F. No. 1298, A bill for an act relating to environment; enacting the Minnesota Electronics Recycling Act of 2005; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 116H.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[115A.1306] REGISTRATION FEE AND PROGRAM FOR COLLECTION, TRANSPORTATION, AND RECYCLING OF VIDEO DISPLAY DEVICES FROM HOUSEHOLDS.**

Subdivision 1. **Definitions.** For the purpose of this section, the following definitions shall apply.

(a) "Agency" means the Pollution Control Agency.

(b) "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image.

(c) "Video display device" means a television or computer monitor, including a laptop computer, containing a cathode-ray tube or a flat panel screen with a screen size that is greater than nine inches in size measured diagonally. Video display device does not include any of the following:

(1) a video display device that is a part of a motor vehicle or any component part of a motor vehicle assembled by, or for, a vehicle manufacturer or franchised dealer, including replacement parts for use in a motor vehicle;

(2) a video display device or a touch-screen display that is functionally or physically a part of a larger piece of equipment or is designed and intended for use in an industrial; commercial; library checkout; traffic control; security other than household security; border control; or medical setting, including diagnostic, monitoring, or control equipment;

(3) a video display device that is contained within a clothes washer, clothes dryer, refrigerator, refrigerator and freezer, microwave oven, conventional oven or range, dishwasher, room air conditioner, dehumidifier, or air purifier; or

(4) a telephone of any type unless it contains a video display area greater than nine inches measured diagonally.

(d) "Manufacturer" means a person who:

(1) manufactures video display devices to be sold under its own brand as identified by its own brand label; or

(2) sells video display devices manufactured by others under its own brand as identified by its own brand label.

(e) "Sell" or "sale" means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, either inside or outside of the state, by a person who conducts the transaction and controls the delivery of a video display device to a consumer in the state, but does not include a manufacturer's or distributor's wholesale transaction with a distributor or a retailer.

Subd. 2. **Labeling of video display devices.** By January 1, 2007, manufacturers shall label all video display devices to be offered for sale in Minnesota with the manufacturer's brand, which label shall be permanently affixed and readily visible.

Subd. 3. **Requirements for sale.** (a) On and after February 1, 2007, no person shall sell or offer for sale to any person in this state a video display device unless the video display device is labeled with the manufacturer's brand, which label shall be permanently affixed and readily visible.

(b) On and after February 1, 2007, no person shall sell or offer for sale to any person in this state a video display device unless the manufacturer of the video display device has filed a registration with the agency under subdivision 4. Beginning February 1, 2007, the agency shall maintain on its Web site a list of manufacturers registered with the agency and a list of each manufacturer's brands as reported in the manufacturer's registration. A person is considered to have complied with this section if, on the date the device was ordered, the manufacturer was listed on the agency's Web site as having registered.

Subd. 4. **Manufacturer responsibility.** (a) A manufacturer of video display devices sold in this state, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means, either inside or outside of the state, shall conduct, beginning July 1, 2007, a program for the collection, transportation, and recycling of video display devices from households in this state. A manufacturer has sole discretion to determine the scope, terms, and conditions of such a program.

(b) A manufacturer of video display devices sold to households in this state shall, by January 1, 2007, and by July 1 of each year thereafter, file a registration with the agency and submit with the registration a fee of \$5,000, which shall be deposited into the electronics recycling account established in subdivision 6. The registration must list the manufacturer's brands.

(c) A manufacturer that filed a registration under paragraph (b) by January 1, 2007, shall, by July 1, 2007, file with the agency a description of the program for the collection, transportation, and recycling of video display devices from households that the manufacturer may operate in the state beginning July 1, 2007, and ending on June 30, 2008. A registration filed by July 1, 2008, and thereafter, shall contain a description of the recycling program that the manufacturer operated in the previous year for the collection, transportation, and recycling of video display devices from Minnesota households, including methods of collection and amounts collected and recycled.

(d) All video display devices collected by a manufacturer shall be recycled in a manner that is in compliance with all applicable federal, state, and local laws, rules, and regulations.

(e) A manufacturer may report on recycling programs independently, collectively, or through a representative organization of manufacturers.

(f) A manufacturer may collect, transport, and recycle video display devices jointly with other manufacturers.

Subd. 5. **Manufacturers' plans.** (a) Manufacturers' plans shall be coordinated to ensure the recycling of collected video display devices in each county at least once per year utilizing existing public and private infrastructure to the extent practicable. Counties with a population of less than 20,000 may be served through regional programs.

(b) A manufacturer that sells video display devices manufactured by others under its own brand as identified by its own brand label from more than three separate physical locations in this state is exempt from the requirements of this subdivision.

Subd. 6. **Electronics recycling account.** An electronics recycling account is established in the environmental fund. Fees collected under subdivision 4, interest accruing on the account, and any money appropriated for purposes of this section shall be credited to the account. Money in the account shall be used solely by the agency for the purpose of fulfilling agency responsibilities specified in this section and for payments to political subdivisions under subdivision 7. Money in the account may not be diverted for any purpose or activity other than those specified in this section.

Subd. 7. **Local programs.** (a) Beginning February 1, 2007, and no later than April 1, 2007, a political subdivision engaged in the collection, transportation, and recycling of video display devices from households in Minnesota in an area determined by the commissioner of the Pollution Control Agency to be underserved with respect to the collection, transportation, and recycling of video display devices from households may apply to the agency for a grant from the electronics recycling account for collection, transportation, and recycling costs projected to be incurred by the local government for the recycling of video display devices from households in Minnesota from January 1, 2007, through December 31, 2007. By May 1, 2007, the commissioner shall distribute the available funds among political subdivisions that have applied, taking into account population levels and densities and transportation costs. The amounts to be paid to each local government shall be established by the agency.

(b) Beginning January 1, 2008, and each January 1 thereafter, political subdivisions in underserved areas engaged in the collection, transportation, and recycling of video display devices from households in Minnesota may apply to the agency for a grant from the electronics recycling account to offset costs of such programs under procedures established by the agency.

(c) The agency may use no more than five percent of the funds in the electronics recycling account for public education and assistance to local government education activities.

(d) Beginning January 1, 2009, and annually thereafter, political subdivisions, retailers, charities, and recyclers engaged in the collection, transportation, or recycling of video display devices from households in the state shall submit a report to the agency on their recycling efforts, including methods of collection and amounts collected and recycled.

Subd. 8. **Agency duties.** On or before March 1, 2008, and each year thereafter, the agency shall submit a report to the governor and the legislature on the implementation of this section. For each program year, the report must discuss the total weight of video display devices recycled from households in Minnesota and summarize information submitted to the agency by manufacturers under subdivision 4, paragraphs (b) to (f), and beginning in 2009, by political subdivisions, retailers, charities, and recyclers under subdivision 7, paragraph (d). The report must also discuss collection programs, if any, used by manufacturers to collect video display devices and information regarding video display devices being disposed of in landfills in this state, if any. The report must include a description of enforcement actions under this section. The agency may include in its report other information received by the agency regarding the implementation of this section.

Subd. 9. **Enforcement.** (a) The agency shall enforce this section according to this subdivision.

(b) Civil liability may be administratively imposed by the agency following the procedures set forth in section 116.072, for violations of this section in an amount up to \$5,000 per violation for the first violation and up to \$10,000 per violation for the second and any subsequent violation.

(c) Civil liability may be imposed by a district court for violation of this section in an amount up to \$15,000 per violation for the first violation and up to \$25,000 per violation for the second and any subsequent violation.

(d) Any penalty imposed under this subdivision shall be deposited into the electronics recycling account.

Subd. 10. **National recycling program.** This section expires 30 days after the agency publishes a notice in the State Register that a federal law, or combination of federal laws, have been enacted and implemented that establish a program for collecting, transporting, and recycling waste video display devices from households.

Subd. 11. **Anticompetitive conduct.** A manufacturer or organization of manufacturers and its officers, members, employees, and agents who participate in projects or programs to collect and properly manage collected video display devices are immune from liability under state law relating to antitrust, restraint of trade, unfair trade practices, and other regulation of trade or commerce for activities related to the collection and management of collected video display devices under this section.

## Sec. 2. **[115A.1308] EVALUATION.**

Subdivision 1. **Reporting.** By February 1, 2008, and February 1, 2009, manufacturers shall report to the agency the total weight of video display devices collected and recycled under section 115A.1306 in each county during the previous calendar year, including documentation as to how the amounts were calculated and certification that the amounts reported are accurate.

Subd. 2. **Determination.** The commissioner of the Pollution Control Agency shall review the report submitted under subdivision 1 and determine whether the following conditions are met:

(1) the total weight of video display devices collected and recycled statewide under section 115A.1306 during calendar year 2008 equals or exceeds the equivalent of 2.25 pounds per capita, based on the most recently available population estimates of the state demographer made pursuant to section 4A.02; and

(2) the provisions of clause (1) are met in at least 66 individual counties in the state.

Subd. 3. **Publication; repeal.** If the commissioner of the Pollution Control Agency determines that one or both conditions in subdivision 2 are not met:

(1) the commissioner shall publish that determination in the State Register by March 15, 2009;

(2) this section and section 115A.1306 are repealed upon adjournment of the regular legislative session of 2009;  
and

(3) sections 115A.1310 to 115A.1330 become effective upon adjournment of the regular legislative session of 2009.

Sec. 3. **[115A.1310] DEFINITIONS.**

Subdivision 1. **Scope.** For the purposes of sections 115A.1310 to 115A.1324, the following terms have the meanings given.

Subd. 2. **Cathode-ray tube or CRT.** "Cathode-ray tube" or "CRT" means a vacuum tube or picture tube used to convert an electronic signal into a visual image. It is composed primarily of glass and is the video display component of a television or computer monitor, and includes other items integrally attached to the CRT.

Subd. 3. **Collection.** "Collection" means the aggregation of covered electronic devices from households and includes all the activities up to the time the covered electronic devices are delivered to a recycler.

Subd. 4. **Collector.** "Collector" means a public or private entity that receives covered electronic devices from households and arranges for the delivery of the devices to a recycler.

Subd. 5. **Computer.** "Computer" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device performing logical, arithmetic, or storage functions, but does not include an automated typewriter or typesetter, a portable hand-held calculator or device, or other similar device.

Subd. 6. **Computer monitor.** "Computer monitor" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to display information from a central processing unit or the Internet. Computer monitor includes a laptop computer, desktop computer, or personal computer.

Subd. 7. **Covered electronic device.** "Covered electronic device" means computers, peripherals, facsimile machines, scanners, DVD players, video cassette recorders, and video display devices that are sold to a household by means of retail, wholesale, or electronic commerce.

Subd. 8. **Department.** "Department" means the Department of Revenue.

Subd. 9. **Dwelling unit.** "Dwelling unit" has the meaning given in section 238.02, subdivision 21a.

Subd. 10. **Household.** "Household" means an occupant of a single detached dwelling unit or a single unit of a multiple dwelling unit located in this state who has used a video display device at a dwelling unit primarily for personal use.

Subd. 11. **Manufacturer.** "Manufacturer" means a person who:

(1) manufactures video display devices to be sold under its own brand as identified by its own brand label; or

(2) sells video display devices manufactured by others under its own brand as identified by its own brand label.



Subd. 12. **Peripherals.** "Peripherals" means a keyboard, computer mouse, printer, or any device external to a computer that provides input or output into or from a computer.

Subd. 13. **Program year.** "Program year" means the period from July 1 through June 30.

Subd. 14. **Recycler.** "Recycler" means a public or private individual or entity who accepts covered electronic devices from households and collectors for the purpose of recycling.

Subd. 15. **Recycling.** "Recycling" means the process of collecting and preparing covered electronic devices for reuse in their original form, including any repair or refurbishment that may be performed, or for use in manufacturing processes that do not cause the destruction of the component materials in a manner that precludes further use.

Subd. 16. **Recycling credits.** "Recycling credits" means the number of pounds of covered electronic devices recycled by a manufacturer from households during a program year, less the product of the number of pounds of video display devices sold to households during the same program year, multiplied by the proportion of sales a manufacturer is required to recycle. The calculation and uses of recycling credits are as specified in section 115A.1314, subdivision 1.

Subd. 17. **Retailer.** "Retailer" means a person who sells, rents, or leases, through sales outlets, catalogs, or the Internet, a video display device to a household and not for resale in any form.

Subd. 18. **Sell or sale.** "Sell" or "sale" means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other similar electronic means either inside or outside of the state, by a person who conducts the transaction and controls the delivery of a video display device to a consumer in the state, but does not include a manufacturer's or distributor's wholesale transaction with a distributor or a retailer, or a transfer by a manufacturer, distributor, or retailer of a video display device that is not manufactured or marketed by a manufacturer for use in households.

Subd. 19. **Television.** "Television" means an electronic device that is a cathode-ray tube or flat panel display primarily intended to receive video programming via broadcast, cable, or satellite transmission or video from surveillance or other similar cameras.

Subd. 20. **Video display device.** "Video display device" means a computer monitor or television with a screen size greater than four inches measured diagonally. Video display device does not include a video display device that is a touch-screen monitor or that is part of or contained in a motor vehicle; industrial, commercial, traffic control, or security, other than household security, equipment; medical equipment, including diagnostic, monitoring, and control equipment; or any appliance.

#### Sec. 4. **[115A.1312] REGISTRATION PROGRAM.**

Subdivision 1. **Requirements for sale.** (a) On and after January 1, 2007, a retailer or manufacturer must not sell or offer for sale a new video display device to any household unless:

(1) the video display device is labeled with the manufacturer's brand, which label is permanently affixed and readily visible; and

(2) the manufacturer has filed a registration with the agency, as specified in subdivision 2.

(b) A retailer or manufacturer who sells or offers for sale a new video display device to a household must, before the initial offer for sale, review the agency Web site specified in subdivision 2, paragraph (g), and determine that all new video display devices that the retailer or manufacturer is offering for sale are labeled with manufacturer's brands that are registered with the agency.

(c) A retailer is not responsible for an unlawful sale under this subdivision if the manufacturer's registration expired or was revoked and the retailer took possession of the video display device prior to the expiration or revocation of the manufacturer's registration and the unlawful sale occurred within six months after the expiration or revocation.

Subd. 2. **Manufacturer's registration.** (a) By August 1, 2006, and each year thereafter, a manufacturer of video display devices sold to a household must submit a registration to the agency that includes:

(1) a list of the manufacturer's brands of video display devices offered for sale in this state;

(2) the name, address, and contact information of a person responsible for ensuring compliance with this chapter; and

(3) a certification that the manufacturer has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318.

(b) By August 1, 2008, and each year thereafter, a manufacturer of video display devices sold or offered for sale to a household must include in the registration submitted under paragraph (a), a statement disclosing whether any video display devices sold to households exceed the maximum concentration values established for lead, mercury, cadmium, hexavalent chromium, polybrominated biphenyls (PBBs), and polybrominated diphenyl ethers (PBDEs) under the RoHS (restricting the use of certain hazardous substances in electrical and electronic equipment) Directive 2002/95/EC of the European Parliament and Council and any amendments thereto.

(c) A manufacturer who begins to sell or offer for sale video display devices to households after August 1, 2006, and has not filed a registration under this subdivision must submit a registration to the agency within ten days of beginning to sell or offer for sale video display devices to households.

(d) A registration must be updated within ten days after a change in the manufacturer's brands of video display devices sold or offered for sale to households.

(e) A registration is effective upon receipt by the agency and is valid until August 1 of each year.

(f) The agency must review each registration and notify the manufacturer of any information required by this section that is omitted from the registration. Within 30 days of receipt of a notification from the agency, the manufacturer must submit a revised registration providing the information noted by the agency.

(g) The agency must maintain on its Web site the names of manufacturers and the manufacturers' brands listed in registrations filed with the agency. The agency must update the Web site information promptly upon receipt of a new or updated registration.

Subd. 3. **Collector's registration.** After August 1, 2006, no person may operate as a collector of covered electronic devices from households unless that person has submitted a registration with the agency on a form prescribed by the commissioner of the Pollution Control Agency. Registration information must include the name, address, telephone number, and location of the business and a certification that the collector has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registration is effective upon receipt by the agency and is valid until August 1 of each year.

Subd. 4. **Recycler's registration.** After August 1, 2006, no person may recycle video display devices generated by households unless that person has submitted a registration with the agency on a form prescribed by the commissioner of the Pollution Control Agency. Registration information must include the name, address, telephone number, and location of all recycling facilities under the direct control of the recycler that may receive video display devices from households and a certification that the recycler has complied and will continue to comply with the requirements of sections 115A.1312 to 115A.1318. A registered recycler may conduct recycling activities that are consistent with this chapter. A registration is effective upon receipt by the agency and is valid until August 1 of each year.

Sec. 5. **[115A.1314] MANUFACTURER'S REGISTRATION FEE; CREATION OF ACCOUNT.**

Subdivision 1. **Registration fee.** (a) Each manufacturer who registers under section 115A.1312 must, by August 1, 2006, and each year thereafter, pay to the commissioner of revenue an annual registration fee. The commissioner of revenue must deposit the fee in the account established in subdivision 2.

(b) The registration fee for the initial program year during which a manufacturer sells or offers for sale video display devices to households is \$5,000. Each year thereafter, the registration fee is equal to a base fee of \$5,000, plus a variable recycling fee calculated according to the formula:

$((A \times B) - (C + D)) \times E$ , where:

(1) A = the number of pounds of video display devices sold by a manufacturer to households during the previous program year, as reported to the department under section 115A.1316, subdivision 1;

(2) B = the proportion of sales of video display devices required to be recycled, initially set at 1.00;

(3) C = the number of pounds of covered electronic devices recycled by a manufacturer from households during the previous program year, as reported to the department under section 115A.1316, subdivision 2;

(4) D = the number of recycling credits a manufacturer elects to use to calculate the variable recycling fee, as reported to the department under section 115A.1316, subdivision 1; and

(5) E = the estimated per-pound cost of recycling, initially set at \$.50 per pound.

(c) If, as specified in paragraph (b), the term  $C - (A \times B)$  equals a positive number of pounds, that amount is defined as the manufacturer's recycling credits. A manufacturer may retain recycling credits to be added, in whole or in part, to the actual value of C, as reported under section 115A.1316, subdivision 2, during any of the three succeeding program years. A manufacturer may sell any portion or all of its recycling credits to another manufacturer, at a price negotiated by the parties, who may use the credits in the same manner.

(d) For the purpose of calculating a manufacturer's variable recycling fee under paragraph (b), the weight of covered electronic devices collected from households located in counties other than Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Kanabec, Le Sueur, McLeod, Meeker, Pine, Ramsey, Renville, Rice, Scott, Sherburne, Sibley, Washington, and Wright is calculated at 1.3 times their actual weight.

(e) The registration fee for the initial program year and the base registration fee thereafter for a manufacturer who sells fewer than 1,000 video display devices annually to households is \$2,500.

Subd. 2. **Creation of account; appropriations.** (a) The electronic waste account is established in the environmental fund. The commissioner of revenue must deposit receipts from the fee established in subdivision 2 in the account. Any interest earned on the account must remain in the account. Money from other sources may be credited to the account.

(b) The legislature shall appropriate money from the account:

(1) to the commissioner of the Pollution Control Agency and the commissioner of revenue for the purpose of implementing sections 115A.1312 to 115A.1330; and

(2) to the commissioner of the Pollution Control Agency to be distributed on a competitive basis through contracts with counties other than Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Sherburne, Washington, and Wright, and with private entities that collect for recycling covered electronic devices in counties other than those counties, for the purpose of carrying out the activities of sections 115A.1312 to 115A.1330.

Sec. 6. **[115A.1316] REPORTING REQUIREMENTS.**

Subdivision 1. **Manufacturer's reporting requirements.** (a) By August 1 of each year, beginning in 2006, each manufacturer must report to the department the weight of each specific model of video display device sold to households during the previous program year. The department will use this information to verify a manufacturer's annual registration fee as specified in section 115A.1314, subdivision 1.

(b) By August 1 of each year, beginning in 2007, each manufacturer must report to the department the total weight of covered electronic devices collected from households and recycled during the preceding program year. A manufacturer must report separately the total weight of covered electronic devices collected from households located in counties specified in section 115A.1314, subdivision 1, paragraph (d), and those collected from households located outside those counties.

(c) By August 1 of each year, beginning in 2007, each manufacturer must report to the department:

(1) the number of recycling credits the manufacturer has purchased and sold during the preceding program year;

(2) the number of recycling credits possessed by the manufacturer that the manufacturer elects to use in the calculation of its variable recycling fee under section 115A.1314, subdivision 1; and

(3) the number of recycling credits the manufacturer retains at the beginning of the current program year.

Subd. 2. **Recycler's reporting requirements.** By August 1 of each year, beginning in 2007, a recycler of covered electronic devices must report to the agency and the department the total weight of covered electronic devices recycled during the preceding program year and must certify that the recycler has complied with section 115A.1318, subdivision 2.

Subd. 3. **Collector's reporting requirements.** By August 1 of each year, beginning in 2007, a collector must report separately to the agency the total pounds of covered electronic devices collected in the counties specified in section 115A.1314, subdivision 1, paragraph (d), and all other Minnesota counties, and a list of all recyclers to whom collectors delivered covered electronic devices.

Sec. 7. **[115A.1318] RESPONSIBILITIES.**

Subdivision 1. **Manufacturer's responsibilities.** (a) In addition to fulfilling the requirements of sections 115A.1311 to 115A.1330, a manufacturer must comply with paragraphs (b) to (d).

(b) A manufacturer must annually recycle or arrange for the collection and recycling of an amount of covered electronic devices equal to the total weight of video display devices sold by the manufacturer during the preceding program year, multiplied by the proportion of sales of video display devices required to be recycled, as established by the agency under section 115A.1320, subdivision 1, paragraph (c).

(c) The obligations of a manufacturer apply only to video display devices received from households and do not apply to video display devices received from sources other than households.

(d) A manufacturer must conduct and document due diligence assessments of collectors and recyclers it contracts with to ensure that all recyclers comply with the requirements of subdivision 2. A manufacturer is responsible for maintaining, for a period of three years, documentation that all video display devices recycled, partially recycled, or sent to downstream recycling operations comply with the requirements of subdivision 2.

Subd. 2. **Recycler's responsibilities.** (a) As part of the report submitted under section 115A.1316, subdivision 2, a recycler must certify, except as provided in paragraph (b), that facilities that recycle video display devices, including all downstream recycling operations:

(1) comply with all applicable health, environmental, safety, and financial responsibility regulations;

(2) are licensed by all applicable governmental authorities;

(3) use no prison labor to recycle video display devices; and

(4) possess liability insurance of not less than \$1,000,000 for environmental releases, accidents, and other emergencies.

(b) A nonprofit corporation that contracts with a correctional institution to refurbish and reuse donated computers in schools is exempt from paragraph (a), clauses (3) and (4).

(c) Except to the extent otherwise required by law, a recycler has no responsibility for any data that may be contained in a covered electronic device if an information storage device is included in the covered electronic device.

Subd. 3. **Retailer's responsibilities.** (a) By July 1 of each year, a retailer must report to a manufacturer the number of video display devices labeled with the manufacturer's brand sold to households during the previous program year.

(b) A retailer who sells new video display devices shall provide information to households describing where and how they may recycle video display devices and advising them of opportunities and locations for the convenient collection of video display devices for the purpose of recycling. This requirement may be met by providing to households the agency's toll-free number and Web site address. Retailers selling through catalogs or the Internet may meet this requirement by including the information in a prominent location on the retailer's Web site.

#### Sec. 8. **[115A.1320] AGENCY AND DEPARTMENT DUTIES.**

Subdivision 1. **Duties of the agency.** (a) The agency shall administer sections 115A.1310 to 115A.1330.

(b) The agency shall establish procedures for:

(1) receipt and maintenance of the registration statements and certifications filed with the agency under section 115A.1312; and

(2) making the statements and certifications easily available to manufacturers, retailers, and members of the public.

(c) The agency shall annually review the value of the following variables that are part of the formula used to calculate a manufacturer's annual registration fee under section 115A.1314, subdivision 1:

(1) the proportion of sales of video display devices sold to households that manufacturers are required to recycle;

(2) the estimated per-pound price of recycling covered electronic devices sold to households;

(3) the base registration fee; and

(4) the multiplier established for the weight of covered electronic devices collected in section 115A.1314, subdivision 1, paragraph (d). If the agency determines that any of these values must be changed in order to improve the efficiency or effectiveness of the activities regulated under sections 115A.1312 to 115A.1330, it shall present those recommendations and the reasons for them to the chairs of the senate and house of representatives committees with jurisdiction over solid waste policy.

(d) The agency shall annually calculate estimated sales of video display devices sold to households by each manufacturer during the preceding program year based on national sales data and forward the estimates to the department.

(e) The agency shall manage the account established in section 115A.1314, subdivision 2.

(f) On or before December 1, 2007, and each year thereafter, the agency shall provide a report to the governor and the legislature on the implementation of sections 115A.1310 to 115A.1330. For each program year, the report must discuss the total weight of covered electronic devices recycled and a summary of information in the reports submitted by manufacturers and recyclers under section 115A.1316. The report must also discuss the various collection programs used by manufacturers to collect covered electronic devices; information regarding covered electronic devices that are being collected by persons other than registered manufacturers, collectors, and recyclers; and information about covered electronic devices, if any, being disposed of in landfills in this state. The report must include a description of enforcement actions under sections 115A.1310 to 115A.1330. The agency may include in its report other information received by the agency regarding the implementation of sections 115A.1312 to 115A.1330.

(g) The agency shall promote public participation in the activities regulated under sections 115A.1312 to 115A.1330 through public education and outreach efforts.

(h) The agency shall enforce sections 115A.1310 to 115A.1330 in the manner provided by sections 115.071, subdivisions 1, 3, 4, 5, and 6; and 116.072, except for those provisions enforced by the department, as provided in subdivision 2. The agency may revoke a registration of a collector or recycler found to have violated sections 115A.1310 to 115A.1330.

**Subd. 2. Duties of the department.** (a) The department must collect the data submitted to it annually by each manufacturer on the weight of each specific model of video display device sold to households, the weight of covered electronic devices collected from households that is recycled, and data on recycling credits, as required under section 115A.1316. The department must use this data to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in section 115A.1314, subdivision 1.

(b) The department must estimate, for each registered manufacturer, the sales of video display devices to households during the previous program year, based on:

(1) data provided by a manufacturer on sales of video display devices to households, including documentation describing how that amount was calculated and certification that the amount is accurate; or

(2) if a manufacturer does not provide the data specified in clause (1), national data on sales of video display devices.

The department must use the data specified in this subdivision to review each manufacturer's annual registration fee submitted to the department to ensure that the fee was calculated accurately according to the formula in section 115A.1314, subdivision 1.

(c) The department must enforce section 115A.1314, subdivision 1. The audit, assessment, appeal, collection, enforcement, disclosure, and other administrative provisions of chapters 270B, 270C, and 289A that apply to the taxes imposed under chapter 297A apply to the fee imposed under section 115A.1314, subdivision 1. To enforce this subdivision, the commissioner of revenue may grant extensions to pay, and impose and abate penalties and interest on, the fee due under section 115A.1314, subdivision 1, in the manner provided in chapters 270C and 289A as if the fee were a tax imposed under chapter 297A.

(d) The department may disclose nonpublic data to the agency only when necessary for the efficient and effective administration of the activities regulated under sections 115A.1312 to 115A.1330. Any data disclosed by the department to the agency retains the classification it had when in the possession of the department.

Sec. 9. **[115A.1322] OTHER RECYCLING PROGRAMS.**

A city, county, or other public agency may not require households to use public facilities to recycle their covered electronic devices to the exclusion of other lawful programs available. Nothing in sections 115A.1310 to 115A.1330 prohibits or restricts the operation of any program recycling covered electronic devices in addition to those provided by manufacturers or prohibits or restricts any persons from receiving, collecting, transporting, or recycling covered electronic devices, provided that those persons are registered under section 115A.1312.

Sec. 10. **[115A.1324] REQUIREMENTS FOR PURCHASES BY STATE AGENCIES.**

(a) The Department of Administration must ensure that acquisitions of video display devices under chapter 16C are certified by the vendor to be in compliance with sections 115A.1312 to 115A.1318.

(b) The bid solicitation documents must specify that the prospective bidder is required to cooperate fully in providing reasonable access to its records and documents that evidence compliance with paragraph (a) and sections 115A.1312 to 115A.1318.

(c) Any person awarded a contract under chapter 16C for purchase or lease of video display devices that is found to be in violation of paragraph (a) or sections 115A.1312 to 115A.1318 is subject to the following sanctions:

(1) the contract must be voided;

(2) the contractor is ineligible to bid on any state contract for a period of three years; and

(3) if the attorney general establishes that any money, property, or benefit was obtained by a contractor as a result of violating paragraph (a) or sections 115A.1312 to 115A.1318, the court may, in addition to any other remedy, order the disgorgement of the unlawfully obtained money, property, or benefit.

Sec. 11. **[115A.1326] REGULATION OF VIDEO DISPLAY DEVICES.**

If the United States Environmental Protection Agency adopts regulations under the Resource Conservation and Recovery Act regarding the handling, storage, or treatment of any type of video display device being recycled, those regulations are automatically effective in this state on the same date and supersede any rules previously adopted by the agency regarding the handling, storage, or treatment of all video display devices being recycled.

Sec. 12. **[115A.1328] MULTISTATE IMPLEMENTATION.**

The agency and department are authorized to participate in the establishment and implementation of a regional multistate organization or compact to assist in carrying out the requirements of this chapter.

Sec. 13. **[115A.1330] LIMITATIONS.**

Sections 115A.1310 to 115A.1330 expire if a federal law, or combination of federal laws, take effect that is applicable to all video display devices sold in the United States and establish a program for the collection and recycling or reuse of video display devices that is applicable to all video display devices discarded by households.

Sec. 14. **EFFECTIVE DATE.**

Sections 1 and 2 are effective the day following final enactment. Sections 3 to 13 are effective as provided in section 115A.1308, subdivision 3, clause (3)."

Delete the title and insert:

"A bill for an act relating to environment; providing for collection, transportation, and recycling of video display devices; providing civil penalties; proposing coding for new law in Minnesota Statutes, chapter 115A."

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Pursuant to Joint Rule 2.03 and in accordance with Senate Concurrent Resolution No. 8, S. F. No. 1298 was re-referred to the Committee on Rules and Legislative Administration.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 3442 and 3697 were read for the second time.

## **SECOND READING OF SENATE BILLS**

S. F. Nos. 2576, 2635, 2973, 3450 and 762 were read for the second time.



## INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House File was introduced:

Hamilton; Brod; Sviggum; Magnus; Bradley; Finstad; Soderstrom; Erickson; Nornes; Davids; Cornish; Gunther; Ruth; Demmer; Cox; Samuelson; Nelson, P.; Simpson; Gazelka and Seifert introduced:

H. F. No. 4199, A bill for an act relating to human services; adjusting medical assistance operating payment rates for low-payment rate nursing facilities; appropriating money; amending Minnesota Statutes 2004, section 256B.434, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Health Policy and Finance.

## MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 3779, A bill for an act relating to adults-only businesses; requiring notice by certified mail to the appropriate statutory or home-rule charter city under certain circumstances; proposing coding for new law in Minnesota Statutes, chapter 617.

PATRICK E. FLAHAVEN, Secretary of the Senate

Urdahl moved that the House refuse to concur in the Senate amendments to H. F. No. 3779, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 4162, A bill for an act relating to the financing of state government; making supplemental appropriations; regulating government operations; providing for and modifying certain programs; regulating abortion funding and notification; providing for a Rochester campus of the University of Minnesota; creating the Boxing Commission and regulating boxing; ratifying certain labor agreements and compensation plans; providing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 3.737, subdivision 1; 3.7371, subdivision 3; 13.3806, by adding a subdivision; 16A.152, subdivision 1b; 137.022, subdivision 4; 137.17,

subdivisions 1, 3; 256.01, subdivision 18, by adding a subdivision; 256B.431, by adding a subdivision; 256J.021; 256J.626, subdivision 2; Minnesota Statutes 2005 Supplement, sections 16A.152, subdivision 2; 35.05; 119B.13, subdivision 7; proposing coding for new law in Minnesota Statutes, chapters 4; 144; 197; 256; 256D; 341; repealing Minnesota Statutes 2004, sections 62J.694; 144.395.

PATRICK E. FLAHAVEN, Secretary of the Senate

Knoblach moved that the House refuse to concur in the Senate amendments to H. F. No. 4162, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2480, A bill for an act relating to a ballpark for major league baseball; providing for the financing, construction, operation, and maintenance of the ballpark and related facilities; establishing the Minnesota Ballpark Authority; providing powers and duties of the authority; providing a community ownership option; authorizing Hennepin County to issue bonds and to contribute to ballpark costs and to engage in ballpark and related activities; authorizing local sales and use taxes and revenues; exempting Minnesota State High School League events from sales taxes; requiring the Minnesota State High School League to transfer tax savings to a foundation to promote extracurricular activities; exempting building materials used for certain local government projects from certain taxes; amending Minnesota Statutes 2004, sections 297A.70, subdivision 11; 297A.71, by adding subdivisions; Minnesota Statutes 2005 Supplement, section 10A.01, subdivision 35; repealing Minnesota Statutes 2004, sections 473I.01; 473I.02; 473I.03; 473I.04; 473I.05; 473I.06; 473I.07; 473I.08; 473I.09; 473I.10; 473I.11; 473I.12; 473I.13.

PATRICK E. FLAHAVEN, Secretary of the Senate

Finstad moved that the House refuse to concur in the Senate amendments to H. F. No. 2480, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses.

A roll call was requested and properly seconded.

The question was taken on the Finstad motion and the roll was called. There were 100 yeas and 29 nays as follows:

Those who voted in the affirmative were:

Abrams	Carlson	Dean	Eastlund	Garofalo	Hausman
Anderson, B.	Charron	DeLaForest	Emmer	Gazelka	Heidgerken
Atkins	Clark	Demmer	Entenza	Goodwin	Hilty
Beard	Cornish	Dempsey	Erhardt	Greiling	Hoppe
Blaine	Cox	Dill	Erickson	Gunther	Hosch
Bradley	Cybart	Dorman	Finstad	Hamilton	Howes
Brod	Dauids	Dorn	Fritz	Hansen	Huntley

Johnson, J.	Lillie	Nornes	Peterson, S.	Severson	Tingelstad
Johnson, R.	Loeffler	Olson	Poppe	Sieben	Urdahl
Johnson, S.	Magnus	Otremba	Powell	Simon	Wagenius
Kelliher	McNamara	Ozment	Ruth	Simpson	Wolti
Klinzing	Meslow	Paulsen	Ruud	Slawik	Westerberg
Knoblach	Moe	Paymar	Sailer	Smith	Westrom
Koenen	Mullery	Pelowski	Samuelson	Soderstrom	Zellers
Kohls	Murphy	Penas	Scalze	Solberg	Spk. Sviggum
Lanning	Nelson, P.	Peterson, A.	Seifert	Sykora	
Liebling	Newman	Peterson, N.	Sertich	Thissen	

Those who voted in the negative were:

Abeler	Ellison	Hortman	Latz	Marquart	Vandever
Bernardy	Haws	Jaros	Lesch	Nelson, M.	Walker
Buesgens	Hilstrom	Juhnke	Lieder	Peppin	Wardlow
Davnie	Holberg	Kahn	Mahoney	Rukavina	Wilkin
Eken	Hornstein	Krinkie	Mariani	Thao	

The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 2697, A bill for an act relating to traffic regulations; authorizing use of communications headset by firefighters operating an emergency vehicle in emergency; amending Minnesota Statutes 2004, section 169.471, subdivision 2.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Bradley moved that the House concur in the Senate amendments to H. F. No. 2697 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2697, A bill for an act relating to traffic regulations; authorizing use of communications headset by firefighters operating fire department emergency vehicle in emergency; amending Minnesota Statutes 2004, section 169.471, subdivision 2.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Blaine	Buesgens	Clark	Cybart
Abrams	Beard	Bradley	Carlson	Cornish	Davids
Anderson, B.	Bernardy	Brod	Charron	Cox	Davnie

DeLaForest	Greiling	Johnson, R.	Magnus	Penas	Slawik
Demmer	Gunther	Johnson, S.	Mahoney	Peppin	Smith
Dempsey	Hackbarth	Juhnke	Mariani	Peterson, A.	Soderstrom
Dill	Hamilton	Kahn	Marquart	Peterson, N.	Solberg
Dittrich	Hansen	Kelliher	McNamara	Peterson, S.	Sykora
Dorman	Hausman	Klinzing	Meslow	Poppe	Thao
Dorn	Haws	Knoblach	Moe	Powell	Thissen
Eastlund	Heidgerken	Koenen	Mullery	Rukavina	Tingelstad
Eken	Hilstrom	Kohls	Murphy	Ruth	Urdahl
Ellison	Hilty	Krinkie	Nelson, M.	Ruud	Vandever
Emmer	Holberg	Lanning	Nelson, P.	Sailer	Wagenius
Entenza	Hoppe	Larson	Newman	Samuelson	Walker
Erhardt	Hornstein	Latz	Nornes	Scalze	Wardlow
Erickson	Hortman	Lenczewski	Olson	Seifert	Welti
Finstad	Hosch	Lesch	Otremba	Sertich	Westerberg
Fritz	Howes	Liebling	Ozment	Severson	Westrom
Garofalo	Huntley	Lieder	Paulsen	Sieben	Wilkin
Gazelka	Jaros	Lillie	Paymar	Simon	Zellers
Goodwin	Johnson, J.	Loeffler	Pelowski	Simpson	

The bill was repassed, as amended by the Senate, and its title agreed to.

Speaker pro tempore Abrams called Davids to the Chair.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 3477, A bill for an act relating to local government; providing for subdivision regulations; modifying the terms; amending Minnesota Statutes 2004, section 462.358, subdivision 2a.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Hosch moved that the House concur in the Senate amendments to H. F. No. 3477 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3477, A bill for an act relating to local government; establishing timelines for municipal action on release of letters of credit; amending Minnesota Statutes 2004, section 462.358, subdivision 2a.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Blaine	Buesgens	Clark	Cybart
Abrams	Beard	Bradley	Carlson	Cornish	Davids
Anderson, B.	Bernardy	Brod	Charron	Cox	Davnie

Dean	Greiling	Johnson, S.	Mariani	Peterson, N.	Sykora
DeLaForest	Gunther	Juhnke	Marquart	Peterson, S.	Thao
Demmer	Hackbarth	Kahn	McNamara	Poppe	Thissen
Dempsey	Hamilton	Kelliher	Meslow	Powell	Tingelstad
Dill	Hansen	Klinzing	Moe	Rukavina	Urdahl
Dittrich	Hausman	Knoblach	Mullery	Ruth	Vanderveer
Dorman	Haws	Koenen	Murphy	Ruud	Wagenius
Dorn	Heidgerken	Kohls	Nelson, M.	Sailer	Walker
Eastlund	Hilstrom	Krinkie	Nelson, P.	Samuelson	Wardlow
Eken	Hilty	Lanning	Newman	Scalze	Welti
Ellison	Holberg	Larson	Nornes	Seifert	Westerberg
Emmer	Hoppe	Latz	Olson	Sertich	Westrom
Entenza	Hornstein	Lenczewski	Otremba	Severson	Wilkin
Erhardt	Hortman	Lesch	Ozment	Sieben	Zellers
Erickson	Hosch	Liebling	Paulsen	Simon	Spk. Sviggum
Finstad	Howes	Lieder	Paymar	Simpson	
Fritz	Huntley	Lillie	Pelowski	Slawik	
Garofalo	Jaros	Loeffler	Penas	Smith	
Gazelka	Johnson, J.	Magnus	Peppin	Soderstrom	
Goodwin	Johnson, R.	Mahoney	Peterson, A.	Solberg	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 3940, A bill for an act relating to liquor; allowing Minnesota farm wineries to produce certain fortified wines; authorizing certain local on-sale licenses; modifying and establishing licensing provisions; clarifying sale hours; prohibiting alcohol without liquid devices; amending Minnesota Statutes 2004, sections 340A.101, subdivision 11, by adding a subdivision; 340A.315, subdivisions 1, 2, 3, 4; 340A.404, subdivision 5; 340A.414, subdivision 2; 340A.504, subdivision 6; Minnesota Statutes 2005 Supplement, sections 340A.301, subdivision 6; 340A.404, subdivision 2; 340A.412, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 340A.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Hoppe moved that the House concur in the Senate amendments to H. F. No. 3940 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3940, A bill for an act relating to liquor; allowing Minnesota farm wineries to produce fortified wine; modifying certain fee provisions; providing for licensing provisions; clarifying certain sale hours; authorizing various local on-sale licenses; prohibiting alcohol without liquid devices; amending Minnesota Statutes 2004, sections 340A.101, subdivision 11, by adding a subdivision; 340A.315, subdivisions 1, 2, 3, 4; 340A.404, subdivision 5; 340A.414, subdivision 2; 340A.504, subdivision 6; Minnesota Statutes 2005 Supplement, sections 340A.301, subdivision 6; 340A.404, subdivision 2; 340A.412, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 340A.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 122 yeas and 11 nays as follows:

Those who voted in the affirmative were:

Abrams	Dorman	Holberg	Lenczewski	Paymar	Smith
Atkins	Dorn	Hoppe	Lesch	Pelowski	Soderstrom
Beard	Eken	Hornstein	Liebling	Penas	Solberg
Bernardy	Ellison	Hortman	Lieder	Peterson, A.	Sykora
Blaine	Emmer	Hosch	Lillie	Peterson, N.	Thao
Bradley	Entenza	Howes	Loeffler	Peterson, S.	Thissen
Brod	Erhardt	Huntley	Magnus	Poppe	Tingelstad
Buesgens	Erickson	Jaros	Mahoney	Powell	Urdahl
Carlson	Finstad	Johnson, J.	Mariani	Rukavina	Wagenius
Charron	Fritz	Johnson, R.	Marquart	Ruth	Walker
Clark	Garofalo	Johnson, S.	McNamara	Ruud	Wardlow
Cornish	Gazelka	Juhnke	Meslow	Sailer	Welti
Cox	Goodwin	Kahn	Moe	Samuelson	Westerberg
Cybart	Gunther	Kelliher	Mullery	Scalze	Westrom
Davids	Hamilton	Klinzing	Murphy	Seifert	Wilkin
Davnie	Hansen	Knoblach	Nelson, M.	Sertich	Zellers
Dean	Hausman	Koenen	Nelson, P.	Severson	Spk. Sviggum
Demmer	Haws	Kohls	Nornes	Sieben	
Dempsey	Heidgerken	Lanning	Otremba	Simon	
Dill	Hilstrom	Larson	Ozment	Simpson	
Dittrich	Hilty	Latz	Paulsen	Slawik	

Those who voted in the negative were:

Abeler	DeLaForest	Greiling	Krinkie	Olson	Vandev eer
Anderson, B.	Eastlund	Hackbarth	Newman	Peppin	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted:

S. F. No. 2302.

PATRICK E. FLAHAVEN, Secretary of the Senate

### FIRST READING OF SENATE BILLS

S. F. No. 2302, A bill for an act relating to state government; designating the state fruit; proposing coding for new law in Minnesota Statutes, chapter 1.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

**CALENDAR FOR THE DAY**

H. F. No. 3144 was reported to the House.

Bradley moved to amend H. F. No. 3144, the first engrossment, as follows:

Page 45, line 19, delete "55" and insert "57" and delete "January 1, 2006" and insert "December 31, 2004"

Page 45, line 21, delete "skilled"

Page 45, line 22, after "rates" insert "with a RUGS weight of 1.0" and delete "skilled"

Page 45, line 23, delete "facilities"

Page 45, line 24, after "County" insert "nursing"

Page 45, line 25, delete everything before the period and insert "case mix rates to compute the operating payment rates"

The motion prevailed and the amendment was adopted.

Eken; Fritz; Heidgerken; Koenen; Sailer; Moe; Peterson, A.; Huntley; Urdahl and Simpson moved to amend H. F. No. 3144, the first engrossment, as amended, as follows:

Page 32, after line 20, insert:

"Sec. 5. Minnesota Statutes 2004, section 144A.10, is amended by adding a subdivision to read:

Subd. 6e. Use of fines. When the commissioner of health determines the use of, or provides recommendations on the use of fines collected under subdivisions 6 or 6b, two representatives of the nursing home industry, appointed by nursing home trade associations and two consumer representatives as appointed by the commissioner, must be included in the process of developing or preparing any information, reviews, or recommendations on the use of the fines. This includes, but is not limited to, including two representatives of the nursing home industry in any committee designed to provide information and recommendations for the use of the fines."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 3144, A bill for an act relating to health; establishing requirements for assisted living services; changing provisions for housing with services establishment; limiting use of the term assisted living; establishing an advisory committee to recommend a consumer information guide; modifying the home care bill of rights for assisted

living clients; changing provisions for long-term care; making facility rate increases; changing provisions for alternative services for elderly and disabled persons; requiring the commissioner of human services to confer with advocacy groups; appropriating money; amending Minnesota Statutes 2004, sections 144.0724, subdivisions 3, 4; 144A.071, subdivision 4a; 144A.10, by adding a subdivision; 144A.161, subdivisions 1, 2, 3, 4, 5, 5a, 5c, 6, 8, by adding a subdivision; 144A.4605; 144D.01, by adding a subdivision; 144D.015; 144D.02; 144D.03, subdivision 2, by adding a subdivision; 144D.04; 144D.05; 144D.065; 256B.434, by adding subdivisions; 256B.437, subdivision 3; 256B.438, subdivision 4; 256B.69, subdivision 9, by adding a subdivision; Minnesota Statutes 2005 Supplement, sections 144A.071, subdivision 1a; 256B.0918, subdivisions 1, 3, 4; 256B.434, subdivision 4; 256B.69, subdivision 23; Laws 2005, First Special Session chapter 4, article 9, section 5, subdivision 8; proposing coding for new law in Minnesota Statutes, chapters 144A; 144D; proposing coding for new law as Minnesota Statutes, chapter 144G; repealing Minnesota Rules, part 4668.0215.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 124 yeas and 8 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hausman	Koenen	Nornes	Severson
Abrams	Dittrich	Haws	Kohls	Otremba	Sieben
Anderson, B.	Dorman	Heidgerken	Lanning	Ozment	Simon
Atkins	Dorn	Hilstrom	Larson	Paulsen	Simpson
Beard	Eastlund	Hilty	Latz	Paymar	Slawik
Bernardy	Eken	Holberg	Lenczewski	Pelowski	Smith
Blaine	Ellison	Hoppe	Lesch	Penas	Soderstrom
Bradley	Emmer	Hornstein	Liebling	Peppin	Solberg
Brod	Entenza	Hortman	Lieder	Peterson, A.	Thao
Carlson	Erhardt	Hosch	Lillie	Peterson, N.	Thissen
Charron	Erickson	Howes	Loeffler	Peterson, S.	Tingelstad
Clark	Finstad	Huntley	Magnus	Poppe	Urdahl
Cornish	Fritz	Jaros	Mahoney	Powell	Wagenius
Cox	Garofalo	Johnson, J.	Marquart	Rukavina	Walker
Cybart	Gazelka	Johnson, R.	McNamara	Ruth	Wardlow
Davids	Goodwin	Johnson, S.	Meslow	Ruud	Welti
Davnie	Greiling	Juhnke	Moe	Sailer	Westerberg
Dean	Gunther	Kahn	Mullery	Samuelson	Zellers
DeLaForest	Hackbarth	Kelliher	Murphy	Scalze	Spk. Sviggum
Demmer	Hamilton	Klinzing	Nelson, M.	Seifert	
Dempsey	Hansen	Knoblach	Nelson, P.	Sertich	

Those who voted in the negative were:

Buesgens	Newman	Sykora	Westrom
Krinkie	Olson	Vandev eer	Wilkin

The bill was passed, as amended, and its title agreed to.

The Speaker assumed the Chair.



## ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2480:

Finstad; Sykora; Lanning; Peterson, N., and Kelliher.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 4162:

Knoblach, Ozment, Seifert, Bradley and Solberg.

## CALENDAR FOR THE DAY, Continued

The Speaker called Abrams to the Chair.

H. F. No. 2916 was reported to the House.

Klinzing moved to amend H. F. No. 2916, the fourth engrossment, as follows:

Page 1, delete section 1

Page 2, delete section 2 and insert:

"Section 1. Minnesota Statutes 2004, section 297I.05, subdivision 6, is amended to read:

Subd. 6. **Fire insurance tax.** (a) For the purpose of maintaining the office of the state fire marshal and paying the expenses incident thereto, a tax is imposed on every licensed company, including reciprocals or interinsurance exchanges, doing business in this state, except farmers' mutual fire insurance companies and township fire insurance companies. The rate of tax is equal to one-half of one percent of the gross fire premiums and assessments, less return premiums, on all direct business received by the company in this state, or by its agents for it, in cash or otherwise, during the year. "Gross fire premiums and assessments" includes premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise. Amounts collected by the commissioner under this section must be deposited in the fire safety account established pursuant to paragraph (b).

(b) A special account, to be known as the fire safety account, is created in the state treasury. The account consists of proceeds under subdivision 1. Money in the account does not cancel but remains available for maintaining the office of the state fire marshal and paying the expenses incident thereto. The general fund base appropriation for the fire marshal is reduced by \$2,832,000 in fiscal year 2008 and each year thereafter. The base funding for the fire marshal program from the fire safety account in the special revenue fund shall be \$7,400,000 in fiscal year 2008 and \$11,600,000 each year thereafter."

Page 3, delete section 4

Page 3, line 29, delete everything after "2007"

Page 3, delete line 30 and insert a period

Correct the title numbers accordingly

Renumber the sections in sequence and correct the internal references

A roll call was requested and properly seconded.

The question was taken on the Klinzing amendment and the roll was called. There were 29 yeas and 103 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	DeLaForest	Finstad	Klinzing	Olson	Vandevveer
Buesgens	Dorman	Garofalo	Knoblach	Paulsen	Westrom
Charron	Eastlund	Gazelka	Kohls	Peppin	Wilkin
Cybart	Emmer	Holberg	Krinkie	Seifert	Zellers
Dean	Erickson	Hoppe	Nelson, P.	Severson	

Those who voted in the negative were:

Abeler	Dorn	Hortman	Lillie	Penas	Soderstrom
Abrams	Eken	Hosch	Loeffler	Peterson, A.	Solberg
Atkins	Ellison	Howes	Magnus	Peterson, N.	Sykora
Beard	Entenza	Huntley	Mahoney	Peterson, S.	Thao
Bernardy	Erhardt	Jaros	Mariani	Poppe	Thissen
Blaine	Fritz	Johnson, J.	Marquart	Powell	Tingelstad
Bradley	Goodwin	Johnson, S.	McNamara	Rukavina	Urdahl
Brod	Greiling	Juhnke	Meslow	Ruth	Wagenius
Carlson	Gunther	Kahn	Moe	Ruud	Walker
Clark	Hackbarth	Kelliher	Mullery	Sailer	Wardlow
Cornish	Hamilton	Koenen	Murphy	Samuelson	Welti
Cox	Hansen	Lanning	Nelson, M.	Scalze	Westerberg
Davids	Hausman	Larson	Newman	Sertich	Spk. Sviggum
Davnie	Haws	Latz	Nornes	Sieben	
Demmer	Heidgerken	Lenczewski	Otremba	Simon	
Dempsey	Hilstrom	Lesch	Ozment	Simpson	
Dill	Hilty	Liebling	Paymar	Slawik	
Dittrich	Hornstein	Lieder	Pelowski	Smith	

The motion did not prevail and the amendment was not adopted.

Klinzing moved to amend H. F. No. 2916, the fourth engrossment, as follows:

Page 2, after line 16, insert:

"Subd. 4. **Sunset.** This section expires June 30, 2011."

Page 2, line 24, after the period, insert "This subdivision expires June 30, 2011."

Page 3, after line 25, insert:

"Subd. 4. **Sunset.** This section expires June 30, 2011."

A roll call was requested and properly seconded.

The question was taken on the Klinzing amendment and the roll was called. There were 26 yeas and 106 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	DeLaForest	Haws	Kohls	Paulsen	Zellers
Brod	Eastlund	Hoppe	Krinkie	Peppin	
Buesgens	Emmer	Hosch	Nelson, P.	Seifert	
Charron	Erickson	Klinzing	Newman	Severson	
Dean	Gazelka	Knoblach	Olson	Westrom	

Those who voted in the negative were:

Abeler	Dorman	Holberg	Liebling	Pelowski	Smith
Abrams	Dorn	Hornstein	Lieder	Penas	Soderstrom
Atkins	Eken	Hortman	Lillie	Peterson, A.	Solberg
Beard	Ellison	Howes	Loeffler	Peterson, N.	Sykora
Bernardy	Entenza	Huntley	Magnus	Peterson, S.	Thao
Blaine	Erhardt	Jaros	Mahoney	Poppe	Thissen
Bradley	Fritz	Johnson, J.	Mariani	Powell	Tingelstad
Carlson	Garofalo	Johnson, R.	Marquart	Rukavina	Urdahl
Clark	Goodwin	Johnson, S.	McNamara	Ruth	Vandever
Cornish	Greiling	Juhnke	Meslow	Ruud	Wagenius
Cox	Gunther	Kahn	Moe	Sailer	Walker
Cybart	Hackbarth	Kelliher	Mullery	Samuelson	Wardlow
Davids	Hamilton	Koenen	Murphy	Scalze	Walti
Davnie	Hansen	Lanning	Nelson, M.	Sertich	Westerberg
Demmer	Hausman	Larson	Nornes	Sieben	Wilkin
Dempsey	Heidgerken	Latz	Otremba	Simon	Spk. Sviggum
Dill	Hilstrom	Lenczewski	Ozment	Simpson	
Dittrich	Hilty	Lesch	Paymar	Slawik	

The motion did not prevail and the amendment was not adopted.

H. F. No. 2916, A bill for an act relating to public safety; establishing the fire safety account from revenues on fire premiums and assessments; abolishing the fire insurance tax; amending Minnesota Statutes 2004, section 297I.30, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 297I; 299F; repealing Minnesota Statutes 2004, section 297I.05, subdivision 6.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 114 yeas and 19 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hilstrom	Latz	Nornes	Sieben
Abrams	Dorn	Hilty	Lenczewski	Otremba	Simon
Atkins	Eastlund	Holberg	Lesch	Ozment	Simpson
Beard	Eken	Hoppe	Liebling	Paymar	Slawik
Bernardy	Ellison	Hornstein	Lieder	Pelowski	Smith
Blaine	Entenza	Hortman	Lillie	Penas	Soderstrom
Bradley	Erhardt	Hosch	Loeffler	Peterson, A.	Solberg
Brod	Erickson	Howes	Magnus	Peterson, N.	Sykora
Carlson	Finstad	Huntley	Mahoney	Peterson, S.	Thao
Clark	Fritz	Jaros	Mariani	Poppe	Thissen
Cornish	Goodwin	Johnson, J.	Marquart	Powell	Tingelstad
Cox	Greiling	Johnson, R.	McNamara	Rukavina	Urdahl
Cybart	Gunther	Johnson, S.	Meslow	Ruth	Wagenius
Davids	Hackbarth	Juhnke	Moe	Ruud	Walker
Davnie	Hamilton	Kahn	Mullery	Sailer	Wardlow
Demmer	Hansen	Kelliher	Murphy	Samuelson	Welti
Dempsey	Hausman	Koenen	Nelson, M.	Scalze	Westerberg
Dill	Haws	Lanning	Nelson, P.	Sertich	Zellers
Dittrich	Heidgerken	Larson	Newman	Severson	Spk. Sviggum

Those who voted in the negative were:

Anderson, B.	DeLaForest	Klinzing	Olson	Vandever
Buesgens	Emmer	Knoblach	Paulsen	Westrom
Charron	Garofalo	Kohls	Peppin	Wilkin
Dean	Gazelka	Krinkie	Seifert	

The bill was passed and its title agreed to.

S. F. No. 3526 was reported to the House.

Vandever moved to amend S. F. No. 3526 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 3805, the second engrossment:

"Section 1. Minnesota Statutes 2004, section 161.14, is amended by adding a subdivision to read:

**Subd. 56. Shawn Silvera Memorial Highway.** (a) Marked Interstate Highway 35 from its intersection with Broadway Street in Forest Lake to the point where the highway divides into marked Interstate Highways 35E and 35W, and marked Interstate Highway 35W from the point where it divides from marked Interstate Highway 35E to Lake Drive in Lino Lakes; are designated as the "Shawn Silvera Memorial Highway."

(b) The commissioner of transportation shall adopt a suitable marking design to memorialize this highway, in consultation with and approval by the Shawn Silvera Foundation, that conforms to the manual on uniform traffic control devices adopted by the commissioner of transportation pursuant to section 169.06, except for the following requirements:

(1) be a height of at least 60 inches, and a width of at least 48 inches; and

(2) have a background color of blue, and have white lettering.

(c) The commissioner of transportation shall erect suitable signs as close as practicable to the following locations, subject to section 161.139:

(1) one sign on southbound marked Interstate Highway 35 at its intersection with Washington County Highway 2;

(2) one sign on northbound marked Interstate Highway 35W within 300 feet of the location at which Officer Silvera was killed in the line of duty on September 6, 2005;

(3) one sign on northbound marked Interstate Highway 35 between the point where it divides into marked Interstate Highways 35E and 35W and marked Trunk Highway 97; and

(4) one sign on southbound marked Interstate Highway 35 south of its intersection with marked Trunk Highway 97."

The motion prevailed and the amendment was adopted.

The Speaker resumed the Chair.

S. F. No. 3526, A bill for an act relating to highways; designating the Shawn Silvera Memorial Highway; amending Minnesota Statutes 2004, section 161.14, by adding a subdivision.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 77 yeas and 56 nays as follows:

Those who voted in the affirmative were:

Abeler	Dean	Gunther	Kohls	Olson	Smith
Anderson, B.	DeLaForest	Hackbarth	Krinkie	Ozment	Sykora
Atkins	Demmer	Hamilton	Lanning	Paulsen	Tingelstad
Beard	Dempsey	Haws	Lesch	Pelowski	Urdahl
Blaine	Dittrich	Heidgerken	Lillie	Peppin	Vandever
Bradley	Dorman	Hilty	Marquart	Peterson, N.	Walker
Brod	Eastlund	Hortman	McNamara	Powell	Wardlow
Carlson	Ellison	Hosch	Meslow	Ruud	Westerberg
Charron	Entenza	Howes	Moe	Samuelson	Westrom
Cornish	Erickson	Johnson, J.	Murphy	Scalze	Wilkin
Cox	Finstad	Kelliher	Nelson, P.	Seifert	Zellers
Cybart	Garofalo	Klinzing	Newman	Severson	Spk. Sviggum
Davids	Gazelka	Knoblach	Nornes	Slawik	

Those who voted in the negative were:

Abrams	Fritz	Jaros	Lieder	Peterson, A.	Soderstrom
Bernardy	Goodwin	Johnson, R.	Loeffler	Peterson, S.	Solberg
Buesgens	Greiling	Johnson, S.	Magnus	Poppe	Thao
Clark	Hansen	Juhnke	Mahoney	Rukavina	Thissen
Davnie	Hausman	Kahn	Mariani	Ruth	Wagenius
Dill	Hilstrom	Koenen	Mullery	Sailer	Welti
Dorn	Holberg	Larson	Nelson, M.	Sertich	
Eken	Hoppe	Latz	Otremba	Sieben	
Emmer	Hornstein	Lenczewski	Paymar	Simon	
Erhardt	Huntley	Liebling	Penas	Simpson	

The bill was passed, as amended, and its title agreed to.

H. F. No. 3079 was reported to the House.

Abrams moved to amend H. F. No. 3079, the first engrossment, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 3.736, subdivision 4, is amended to read:

Subd. 4. **Limits.** The total liability of the state and its employees acting within the scope of their employment on any tort claim shall not exceed:

(a) \$300,000 when the claim is one for death by wrongful act or omission and \$300,000 to any claimant in any other case, for claims arising before January 1, 2008;

(b) \$400,000 when the claim is one for death by wrongful act or omission and \$400,000 to any claimant in any other case, for claims arising on or after January 1, 2008, and before January 1, 2010;

(c) \$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case, for claims arising on or after January 1, 2010;

(d) \$750,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 1998, and before January 1, 2000; ~~or~~

~~(e)~~ (e) \$1,000,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2000, and before January 1, 2008;

(f) \$1,200,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2008, and before January 1, 2010; or

(g) \$1,500,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2010.

If the amount awarded to or settled upon multiple claimants exceeds the applicable limit under clause ~~(b)~~ (d), (e), (f), or ~~(e)~~ (g), any party may apply to the district court to apportion to each claimant a proper share of the amount available under the applicable limit under clause ~~(b)~~ (d), (e), (f), or ~~(e)~~ (g). The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement bears to the aggregate awards and settlements for all claims arising out of the occurrence.

The limitation imposed by this subdivision on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

**EFFECTIVE DATE.** This section is effective January 1, 2008, and applies to claims arising from acts or omissions that occur on or after that date.

Sec. 2. Minnesota Statutes 2004, section 466.04, subdivision 1, is amended to read:

Subdivision 1. **Limits; punitive damages.** (a) Liability of any municipality on any claim within the scope of sections 466.01 to 466.15 shall not exceed:

(1) \$300,000 when the claim is one for death by wrongful act or omission and \$300,000 to any claimant in any other case, for claims arising before January 1, 2008;

(2) \$400,000 when the claim is one for death by wrongful act or omission and \$400,000 to any claimant in any other case, for claims arising on or after January 1, 2008, and before January 1, 2010;

(3) \$500,000 when the claim is one for death by wrongful act or omission and \$500,000 to any claimant in any other case, for claims arising on or after January 1, 2010;

(4) \$750,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 1998, and before January 1, 2000;

~~(3)~~ (5) \$1,000,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2000, and before January 1, 2008; or

(6) \$1,200,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2008, and before January 1, 2010;

(7) \$1,500,000 for any number of claims arising out of a single occurrence, for claims arising on or after January 1, 2010; or

~~(4)~~ (8) twice the limits provided in clauses (1) to ~~(3)~~ (7) when the claim arises out of the release or threatened release of a hazardous substance, whether the claim is brought under sections 115B.01 to 115B.15 or under any other law.

(b) No award for damages on any such claim shall include punitive damages.

**EFFECTIVE DATE.** This section is effective January 1, 2008, and applies to claims arising from acts or omissions that occur on or after that date.

Sec. 3. Minnesota Statutes 2004, section 471.59, is amended by adding a subdivision to read:

Subd. 1a. **Liability.** (a) A governmental unit participating in a joint venture or joint enterprise, including participation in a cooperative activity undertaken pursuant to this section or other law, is not liable for the acts or omissions of another governmental unit participating in the joint venture or joint enterprise, unless the participating governmental unit has agreed in writing to be responsible for the acts or omissions of another participating governmental unit.

(b) For purposes of determining total liability for damages, the participating governmental units and the joint board, if one is established, are considered a single governmental unit and the total liability for the participating governmental units and the joint board, if established, shall not exceed the limits on governmental liability for a single governmental unit as specified in section 3.736 or 466.04, subdivision 1, or as waived or extended by the joint board or all participating governmental units under section 3.736, subdivision 8; 466.06; or 471.981. This paragraph does not protect a governmental unit from liability for its own independent acts or omissions not directly related to the joint activity.

(c) If a participating governmental unit has procured or extended insurance coverage pursuant to section 3.736, subdivision 8; 466.06; or 471.981 in excess of the limits on governmental liability under section 3.736 or 466.04, subdivision 1, covering participation in the joint venture or joint enterprise, the procurement of that insurance constitutes a waiver of the limits of governmental liability for that governmental unit to the extent that valid and collectable insurance or self-insurance, including, where applicable, proceeds from the Minnesota Guarantee Fund, exceeds those limits and covers that governmental unit's liability for the claim, if any.

**EFFECTIVE DATE.** This section is effective the day following final enactment."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

The Speaker called Emmer to the Chair.

H. F. No. 3079, A bill for an act relating to civil actions; limiting liability on tort claims brought against the state or a municipality; limiting liability on claims brought against a governmental unit participating in a joint venture or enterprise; amending Minnesota Statutes 2004, sections 3.736, subdivision 4; 466.04, subdivision 1; 471.59, by adding a subdivision.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 7 nays as follows:

Those who voted in the affirmative were:

Abeler	Brod	Cybart	Dempsey	Eken	Fritz
Abrams	Carlson	Davids	Dill	Ellison	Garofalo
Atkins	Charron	Davnie	Dittrich	Entenza	Gazelka
Beard	Clark	Dean	Dorman	Erhardt	Goodwin
Bernardy	Cornish	DeLaForest	Dorn	Erickson	Greiling
Bradley	Cox	Demmer	Eastlund	Finstad	Gunther



Hackbarth	Jaros	Lesch	Nelson, P.	Ruth	Sykora
Hamilton	Johnson, J.	Liebling	Nornes	Ruud	Thao
Hansen	Johnson, R.	Lieder	Otremba	Sailer	Thissen
Hausman	Johnson, S.	Lillie	Ozment	Samuelson	Tingelstad
Haws	Juhnke	Loeffler	Paulsen	Scalze	Urdahl
Heidgerken	Kahn	Magnus	Paymar	Seifert	Vanderveer
Hilstrom	Kelliher	Mahoney	Pelowski	Sertich	Wagenius
Hilty	Klinzing	Mariani	Penas	Severson	Walker
Holberg	Knoblach	Marquart	Peppin	Sieben	Wardlow
Hoppe	Koenen	McNamara	Peterson, A.	Simon	Welti
Hornstein	Kohls	Meslow	Peterson, N.	Simpson	Westerberg
Hortman	Lanning	Moe	Peterson, S.	Slawik	Westrom
Hosch	Larson	Mullery	Poppe	Smith	Wilkin
Howes	Latz	Murphy	Powell	Soderstrom	Zellers
Huntley	Lenczewski	Nelson, M.	Rukavina	Solberg	Spk. Sviggum

Those who voted in the negative were:

Anderson, B.	Buesgens	Krinkie	Olson
Blaine	Emmer	Newman	

The bill was passed, as amended, and its title agreed to.

S. F. No. 1039 was reported to the House.

Peppin, Bradley and Buesgens offered an amendment to S. F. No. 1039.

#### POINT OF ORDER

Dauids raised a point of order pursuant to rule 3.21 that the Peppin et al amendment was not in order. Speaker pro tempore Emmer ruled the point of order well taken and the Peppin et al amendment out of order.

Speaker pro tempore Emmer called Abrams to the Chair.

S. F. No. 1039, A bill for an act relating to commerce; prohibiting tampering with clock-hour meters on farm tractors; prescribing a civil penalty and a private right of action; proposing coding for new law in Minnesota Statutes, chapter 325E.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Atkins	Blaine	Buesgens	Clark	Cybart
Abrams	Beard	Bradley	Carlson	Cornish	Dauids
Anderson, B.	Bernardy	Brod	Charron	Cox	Davnie

Dean	Greiling	Johnson, S.	Mariani	Peterson, N.	Sykora
DeLaForest	Gunther	Juhnke	Marquart	Peterson, S.	Thao
Demmer	Hackbarth	Kahn	McNamara	Poppe	Thissen
Dempsey	Hamilton	Kelliher	Meslow	Powell	Tingelstad
Dill	Hansen	Klinzing	Moe	Rukavina	Urdahl
Dittrich	Hausman	Knoblach	Mullery	Ruth	Vandever
Dorman	Haws	Koenen	Murphy	Ruud	Wagenius
Dorn	Heidgerken	Kohls	Nelson, M.	Sailer	Walker
Eastlund	Hilstrom	Krinkie	Nelson, P.	Samuelson	Wardlow
Eken	Hilty	Lanning	Newman	Scalze	Welti
Ellison	Holberg	Larson	Nornes	Seifert	Westerberg
Emmer	Hoppe	Latz	Olson	Sertich	Westrom
Entenza	Hornstein	Lenczewski	Otremba	Severson	Wilkin
Erhardt	Hortman	Lesch	Ozment	Sieben	Zellers
Erickson	Hosch	Liebling	Paulsen	Simon	Spk. Sviggum
Finstad	Howes	Lieder	Paymar	Simpson	
Fritz	Huntley	Lillie	Pelowski	Slawik	
Garofalo	Jaros	Loeffler	Penas	Smith	
Gazelka	Johnson, J.	Magnus	Peppin	Soderstrom	
Goodwin	Johnson, R.	Mahoney	Peterson, A.	Solberg	

The bill was passed and its title agreed to.

H. F. No. 1862 was reported to the House.

Abeler, Bradley, Powell, Huntley and Thissen moved to amend H. F. No. 1862, the third engrossment, as follows:

Page 1, delete section 1 and insert:

"Section 1. **[62J.431] PRACTICE STANDARDS.**

**Subdivision 1. Health-related boards and provider organizations; practice standards.** The health-related boards, under chapter 148, or professional provider organizations may establish practice standards for treating patients within their respective scopes of practice. The boards or provider organizations may utilize the services of appropriate public or private entities to facilitate the development or review of practice standards. Each board or provider organization that has established or ratified existing standards shall report these standards to the legislative committees with jurisdiction over the public health occupations by January 15, 2007, and shall report subsequent changes annually thereafter. If a board or provider organization has existing standards, nothing in this section requires a board or provider organization to establish new standards. Nothing in this section shall require a health plan company to cover treatments, testing, or imaging, based on standards developed under this section.

**Subd. 2. Criteria for practice standards.** (a) Practice standards developed under this section must meet the following criteria:

(1) the scope and application are clear;

(2) authorship is stated and any conflicts of interest disclosed, including sources of funding;

(3) authors represent all pertinent clinical fields or other means of input have been used;

- (4) the development process is explicitly stated;
  - (5) the standard is grounded on valid, timely research and clinical practice;
  - (6) the practice standards allow for reasonable situational variations;
  - (7) the research and data used are cited and graded and based on longitudinally representative samples of the population as appropriate;
  - (8) the document itself is clear and practical;
  - (9) the document is flexible in use, with exceptions noted or provided for with general statements;
  - (10) measures are included for use in systems improvement; and
  - (11) the practice standard has scheduled reviews and updating.
- (b) Upon request, an entity that is subject to paragraph (a) must disclose its practice standards and the basis for them."

The motion prevailed and the amendment was adopted.

Abeler and Huntley moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 2, line 31, after the period, insert "This section does not prohibit an insurer or utilization review organization from denying coverage for services that are investigational, experimental, or not medically necessary."

Page 3, after line 27, insert:

"Sec. 7. Minnesota Statutes 2004, section 148.06, subdivision 1, is amended to read:

Subdivision 1. **License required; qualifications.** No person shall practice chiropractic in this state without first being licensed by the State Board of Chiropractic Examiners. The applicant shall have earned at least one-half of all academic credits required for awarding of a baccalaureate degree from the University of Minnesota, or other university, college, or community college of equal standing, in subject matter determined by the board, and taken a four-year resident course of at least eight months each in a school or college of chiropractic or in a chiropractic program that is accredited by the Council on Chiropractic Education, holds a recognition agreement with the Council on Chiropractic Education, or is accredited by an agency approved by the United States Office of Education or their successors as of January 1, 1988. The board may issue licenses to practice chiropractic without compliance with prechiropractic or academic requirements listed above if in the opinion of the board the applicant has the qualifications equivalent to those required of other applicants, the applicant satisfactorily passes written and practical examinations as required by the Board of Chiropractic Examiners, and the applicant is a graduate of a college of chiropractic with a ~~reciprocal~~ reciprocal recognition agreement with the Council on Chiropractic Education ~~as of January 1, 1988.~~ The board may recommend a two-year prechiropractic course of instruction to any university, college, or community college which in its judgment would satisfy the academic prerequisite for licensure as established by this section.

An examination for a license shall be in writing and shall include testing in:

(a) The basic sciences including but not limited to anatomy, physiology, bacteriology, pathology, hygiene, and chemistry as related to the human body or mind;

(b) The clinical sciences including but not limited to the science and art of chiropractic, chiropractic physiotherapy, diagnosis, roentgenology, and nutrition; and

(c) Professional ethics and any other subjects that the board may deem advisable.

The board may consider a valid certificate of examination from the National Board of Chiropractic Examiners as evidence of compliance with the examination requirements of this subdivision. The applicant shall be required to give practical demonstration in vertebral palpation, neurology, adjusting and any other subject that the board may deem advisable. A license, countersigned by the members of the board and authenticated by the seal thereof, shall be granted to each applicant who correctly answers 75 percent of the questions propounded in each of the subjects required by this subdivision and meets the standards of practical demonstration established by the board. Each application shall be accompanied by a fee set by the board. The fee shall not be returned but the applicant may, within one year, apply for examination without the payment of an additional fee. The board may grant a license to an applicant who holds a valid license to practice chiropractic issued by the appropriate licensing board of another state, provided the applicant meets the other requirements of this section and satisfactorily passes a practical examination approved by the board. The burden of proof is on the applicant to demonstrate these qualifications or satisfaction of these requirements.

Sec. 8. **[148.108] FEES.**

Subdivision 1. Fees. In addition to the fees established in Minnesota Rules, chapter 2500, the board is authorized to charge the fees in this section.

Subd. 2. Annual renewal of inactive acupuncture registration. The annual renewal of inactive acupuncture registration fee is \$25.

Subd. 3. Acupuncture reinstatement. The acupuncture reinstatement fee is \$50."

Page 5, after line 29, insert:

"Sec. 15. **STUDY; REPORT.**

The medical director for medical assistance and the assistant commissioner for chemical and mental health services of the Department of Human Services, in conjunction with the mental health licensing boards, shall evaluate the requirements for licensed mental health practitioners to receive medical assistance reimbursement under Minnesota Statutes, section 256B.0625, subdivision 38. The purpose of this study is to evaluate qualifications of all licensed mental health practitioners and licensed mental health professionals and make recommendations regarding requirements for medical assistance reimbursement. This study is to be completed by January 15, 2007. Written results of the study are to be submitted to the chairs of the house of representatives and senate committees with jurisdiction over health related licensing boards."

Page 5, line 30, delete "APPROPRIATION" and insert "APPROPRIATIONS"

Page 5, line 31, before "In" insert "(a)"

Page 5, after line 33, insert:

"(b) \$5,000 is appropriated from the state government special revenue fund in fiscal year 2006 and \$5,000 is appropriated from the state government special revenue fund in fiscal year 2007 to the Board of Chiropractic Examiners, to correct programming difficulties incurred during implementation of payment processing changes. This is a onetime appropriation."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Emmer, Abeler, Thissen and Powell moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 9, after line 35, insert:

"Sec. 2. Laws 2003, First Special Session chapter 14, article 12, section 93, as amended by Laws 2005, First Special Session chapter 4, article 8, section 80, is amended to read:

**Sec. 93. REVIEW OF SPECIAL TRANSPORTATION ELIGIBILITY CRITERIA AND POTENTIAL COST SAVINGS.**

The commissioner of human services, in consultation with the commissioner of transportation and special transportation service providers, shall review eligibility criteria for medical assistance special transportation services and shall evaluate whether the level of special transportation services provided should be based on the degree of impairment of the client, as well as the medical diagnosis. The commissioner shall also evaluate methods for reducing the cost of special transportation services, including, but not limited to:

- (1) requiring providers to maintain a daily log book confirming delivery of clients to medical facilities;
- (2) requiring providers to implement commercially available computer mapping programs to calculate mileage for purposes of reimbursement;
- (3) restricting special transportation service from being provided solely for trips to pharmacies;
- (4) modifying eligibility for special transportation;
- (5) expanding alternatives to the use of special transportation services;
- (6) improving the process of certifying persons as eligible for special transportation services; and
- (7) examining the feasibility and benefits of licensing special transportation providers.

The commissioner shall present recommendations for changes in the eligibility criteria and potential cost-savings for special transportation services to the chairs and ranking minority members of the house and senate committees having jurisdiction over health and human services spending by January 15, 2004. The commissioner is prohibited from using a broker or coordinator to manage special transportation services until July 1, 2006, except for the

purposes of checking for recipient eligibility, authorizing recipients for appropriate level of transportation, and monitoring provider compliance with Minnesota Statutes, section 256B.0625, subdivision 17, and except that the commissioner shall extend this prohibition on using a broker or coordinator to manage special transportation services until July 1, 2007, if this extension can be done on a budget-neutral basis. The commissioner shall not amend the initial contract to broker or manage nonemergency medical transportation to extend beyond two consecutive years. The commissioner shall not enter into a broker or management contract for transportation services which denies a medical assistance recipient the free choice of health service provider, including a special transportation provider, as specified in Code of Federal Regulations, title 42, section 431.51. This prohibition does not apply to the purchase or management of common carrier transportation.

**EFFECTIVE DATE.** This section is effective July 1, 2006."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Powell moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 3, after line 22, insert:

"Sec. 6. **[144E.20] LIABILITY LIMITS OF NONGOVERNMENT LICENSEES AND MEDICAL DIRECTORS.**

(a) A licensee that is not a unit of government is subject to the same liability limits under chapter 466 as a licensee that is a unit of government.

(b) The medical director of a licensed ambulance service and the medical director's designee are subject to the same liability limits under chapter 466 as a licensee that is a unit of government.

**EFFECTIVE DATE; APPLICATION.** This section is effective August 1, 2006, and applies to claims arising from incidents occurring on or after that date."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

Atkins moved to amend the Powell amendment to H. F. No. 1862, the third engrossment, as amended, as follows:

Page 1, after line 9 of the Powell amendment, insert:

"(c) An insurer must provide an appropriate premium reduction of at least 33 percent on a policy of liability coverage for a licensed ambulance service subject to liability under chapter 466, that is issued, delivered, or renewed in this state on or after August 1, 2006."

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called.

Pursuant to rule 2.05, Speaker pro tempore Abrams excused Sertich from voting on the Atkins amendment to the Powell amendment to H. F. No. 1862, the third engrossment, as amended.

There were 56 yeas and 75 nays as follows:

Those who voted in the affirmative were:

Atkins	Entenza	Johnson, R.	Liebling	Pelowski	Smith
Bernardy	Fritz	Johnson, S.	Lillie	Peterson, A.	Solberg
Carlson	Goodwin	Juhnke	Loeffler	Peterson, S.	Thao
Clark	Greiling	Kahn	Mahoney	Poppe	Thissen
Davnie	Hansen	Kelliher	Mariani	Rukavina	Wagenius
Dill	Hausman	Koenen	Mullery	Ruud	Walker
Dorn	Hilstrom	Larson	Nelson, M.	Scalze	
Eken	Hilty	Latz	Newman	Sieben	
Ellison	Hornstein	Lenczewski	Otremba	Simon	
Emmer	Jaros	Lesch	Paymar	Slawik	

Those who voted in the negative were:

Abeler	Dean	Hackbarth	Krinkie	Paulsen	Tingelstad
Abrams	DeLaForest	Hamilton	Lanning	Penas	Urdahl
Anderson, B.	Demmer	Haws	Lieder	Peppin	Vandever
Beard	Dempsey	Heidgerken	Magnus	Peterson, N.	Wardlow
Blaine	Dittrich	Holberg	Marquart	Powell	Welti
Bradley	Dorman	Hoppe	McNamara	Ruth	Westerberg
Brod	Eastlund	Hortman	Meslow	Sailer	Westrom
Buesgens	Erhardt	Hosch	Moe	Samuelson	Wilkin
Charron	Erickson	Howes	Murphy	Seifert	Zellers
Cornish	Finstad	Johnson, J.	Nelson, P.	Severson	Spk. Sviggum
Cox	Garofalo	Klinzing	Nornes	Simpson	
Cybart	Gazelka	Knoblach	Olson	Soderstrom	
Davids	Gunther	Kohls	Ozment	Sykora	

The motion did not prevail and the amendment to the amendment was not adopted.

Olson and Powell moved to amend the Powell amendment to H. F. No. 1862, the third engrossment, as amended, as follows:

Page 1, after line 9 of the Powell amendment, insert:

"(c) All actuary based savings from this section must be reflected in the insurance medical liability premiums for ambulance services."

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called.

Pursuant to rule 2.05, Speaker pro tempore Abrams excused Sertich from voting on the Olson and Powell amendment to the Powell amendment to H. F. No. 1862, the third engrossment, as amended.

There were 130 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Heidgerken	Larson	Otremba	Simpson
Anderson, B.	Dorman	Hilstrom	Latz	Ozment	Slawik
Atkins	Dorn	Hilty	Lenczewski	Paulsen	Smith
Beard	Eastlund	Holberg	Lesch	Paymar	Soderstrom
Bernardy	Eken	Hoppe	Liebling	Pelowski	Solberg
Blaine	Ellison	Hornstein	Lieder	Penas	Sykora
Bradley	Emmer	Hortman	Lillie	Peppin	Thao
Brod	Entenza	Hosch	Loeffler	Peterson, A.	Thissen
Buesgens	Erhardt	Howes	Magnus	Peterson, N.	Tingelstad
Carlson	Erickson	Huntley	Mahoney	Peterson, S.	Urdahl
Charron	Finstad	Jaros	Mariani	Poppe	Vandever
Clark	Fritz	Johnson, J.	Marquart	Powell	Wagenius
Cornish	Garofalo	Johnson, R.	McNamara	Rukavina	Walker
Cox	Gazelka	Johnson, S.	Meslow	Ruth	Wardlow
Cybart	Goodwin	Juhnke	Moe	Ruud	Werti
Davids	Greiling	Kahn	Mullery	Sailer	Westerberg
Davnie	Gunther	Kelliher	Murphy	Samuelson	Westrom
Dean	Hackbarth	Klinzing	Nelson, M.	Scalze	Wilkin
DeLaForest	Hamilton	Koenen	Nelson, P.	Seifert	Zellers
Demmer	Hansen	Kohls	Newman	Severson	Spk. Sviggum
Dempsey	Hausman	Krinkie	Nornes	Sieben	
Dill	Haws	Lanning	Olson	Simon	

Those who voted in the negative were:

Abrams

The motion prevailed and the amendment to the amendment was adopted.

The Speaker resumed the Chair.

The question recurred on the Powell amendment, as amended, and the roll was called.

Pursuant to rule 2.05, Speaker pro tempore Abrams excused Sertich from voting on the Powell amendment, as amended, to H. F. No. 1862, the third engrossment, as amended.

There were 83 yeas and 48 nays as follows:

Those who voted in the affirmative were:

Abeler	Blaine	Buesgens	Cox	Dean	Dill
Anderson, B.	Bradley	Charron	Cybart	DeLaForest	Dittrich
Beard	Brod	Cornish	Davids	Demmer	Dorman



Eastlund	Heidgerken	Kohls	Nelson, P.	Powell	Tingelstad
Eken	Holberg	Krinkie	Nornes	Rukavina	Urdahl
Erhardt	Hoppe	Lanning	Olson	Sailer	Vanderveer
Erickson	Hortman	Larson	Otremba	Samuelson	Wardlow
Finstad	Hosch	Lenczewski	Ozment	Seifert	Welti
Garofalo	Howes	Lieder	Paulsen	Severson	Westerberg
Gazelka	Jaros	Magnus	Pelowski	Simpson	Westrom
Gunther	Johnson, J.	Marquart	Penas	Smith	Wilkin
Hackbarth	Klinzing	McNamara	Peppin	Soderstrom	Zellers
Hamilton	Knoblach	Moe	Peterson, A.	Solberg	Spk. Sviggum
Haws	Koenen	Murphy	Peterson, N.	Thissen	

Those who voted in the negative were:

Abrams	Emmer	Hilty	Latz	Mullery	Scalze
Atkins	Entenza	Hornstein	Lesch	Nelson, M.	Sieben
Bernardy	Fritz	Huntley	Liebling	Newman	Simon
Carlson	Goodwin	Johnson, R.	Lillie	Paymar	Slawik
Clark	Greiling	Johnson, S.	Loeffler	Peterson, S.	Sykora
Davnie	Hansen	Juhnke	Mahoney	Poppe	Thao
Dempsey	Hausman	Kahn	Mariani	Ruth	Wagenius
Dorn	Hilstrom	Kelliher	Meslow	Ruud	Walker

The motion prevailed and the amendment, as amended, was adopted.

Klinzing and Olson offered an amendment to H. F. No. 1862, the third engrossment, as amended.

Abeler requested a division of the Klinzing and Olson amendment to H. F. No. 1862, the third engrossment, as amended.

Abeler further requested that the second portion of the divided Klinzing and Olson amendment be voted on first.

The second portion of the Klinzing and Olson amendment to H. F. No. 1862, the third engrossment, as amended, reads as follows:

Page 4, line 19, delete "that are supported by the findings of evidence-based research"

A roll call was requested and properly seconded.

The question was taken on the second portion of the Klinzing and Olson amendment and the roll was called. There were 99 yeas and 33 nays as follows:

Those who voted in the affirmative were:

Abeler	Bernardy	Buesgens	Clark	Cybart	Dean
Anderson, B.	Blaine	Carlson	Cornish	Davids	DeLaForest
Beard	Brod	Charron	Cox	Davnie	Dempsey

Dill	Hackbarth	Kelliher	Mullery	Peterson, N.	Thissen
Dorman	Hamilton	Klinzing	Murphy	Peterson, S.	Tingelstad
Eastlund	Hausman	Knoblach	Nelson, M.	Powell	Urdahl
Eken	Haws	Kohls	Nelson, P.	Rukavina	Vandever
Ellison	Heidgerken	Krinkie	Newman	Ruth	Walker
Emmer	Hilstrom	Lanning	Nornes	Sailer	Wardlow
Entenza	Hilty	Latz	Olson	Samuelson	Westerberg
Erickson	Holberg	Magnus	Otremba	Seifert	Westrom
Finstad	Hoppe	Mahoney	Ozment	Severson	Wilkin
Fritz	Hornstein	Mariani	Paulsen	Simon	Zellers
Garofalo	Hortman	Marquart	Pelowski	Simpson	Spk. Sviggum
Gazelka	Hosch	McNamara	Penas	Smith	
Goodwin	Howes	Meslow	Peppin	Soderstrom	
Gunther	Johnson, J.	Moe	Peterson, A.	Sykora	

Those who voted in the negative were:

Abrams	Erhardt	Johnson, S.	Lesch	Poppe	Thao
Atkins	Greiling	Juhnke	Liebling	Ruud	Wagenius
Bradley	Hansen	Kahn	Lieder	Scalze	Wolti
Demmer	Huntley	Koenen	Lillie	Sieben	
Dittrich	Jaros	Larson	Loeffler	Slawik	
Dorn	Johnson, R.	Lenczewski	Paymar	Solberg	

The motion prevailed and the second portion of the Klinzing and Olson amendment was adopted.

The first portion of the Klinzing and Olson amendment to H. F. No. 1862, the third engrossment, as amended, reads as follows:

Page 1, delete section 1

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the first portion of the Klinzing and Olson amendment and the roll was called. There were 27 yeas and 105 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Eastlund	Hilty	Knoblach	Newman	Westrom
Buesgens	Emmer	Holberg	Kohls	Olson	Zellers
Charron	Erickson	Hoppe	Krinkie	Paulsen	
Dean	Goodwin	Johnson, J.	Murphy	Peppin	
DeLaForest	Hilstrom	Klinzing	Nelson, P.	Vandever	

Those who voted in the negative were:

Abeler	Dittrich	Heidgerken	Liebling	Penas	Smith
Abrams	Dorman	Hornstein	Lieder	Peterson, A.	Soderstrom
Atkins	Dorn	Hortman	Lillie	Peterson, N.	Solberg
Beard	Eken	Hosch	Loeffler	Peterson, S.	Sykora
Bernardy	Ellison	Howes	Magnus	Poppe	Thao
Blaine	Entenza	Huntley	Mahoney	Powell	Thissen
Bradley	Erhardt	Jaros	Mariani	Rukavina	Tingelstad
Brod	Finstad	Johnson, R.	Marquart	Ruth	Urdahl
Carlson	Fritz	Johnson, S.	McNamara	Ruud	Wagenius
Clark	Garofalo	Juhnke	Meslow	Sailer	Walker
Cornish	Gazelka	Kahn	Moe	Samuelson	Wardlow
Cox	Greiling	Kelliher	Mullery	Scalze	Welti
Cybart	Gunther	Koenen	Nelson, M.	Seifert	Westerberg
Davids	Hackbarth	Lanning	Nornes	Severson	Wilkin
Davnie	Hamilton	Larson	Otremba	Sieben	Spk. Sviggum
Demmer	Hansen	Latz	Ozment	Simon	
Dempsey	Hausman	Lenczewski	Paymar	Simpson	
Dill	Haws	Lesch	Pelowski	Slawik	

The motion did not prevail and the first portion of the Klinzing and Olson amendment was not adopted.

Olson; Abeler; Hilty; Greiling; Anderson, B., and Klinzing moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 1, line 18, after "clear" insert "for treating specific conditions addressed by the standards and for treating the specific condition in combination with multiple medical conditions"

Page 1, line 19, after "and" insert "all contributing individuals are listed with"

Page 1, line 20, after "funding" insert "for development, review and updating"

Page 1, line 26, after "research" insert a comma and delete "and" and after "data" insert "and randomized clinical trials"

Page 2, lines 2 to 3, delete ",with exceptions noted or provided for with general statements" and insert "for individual patient physiology, including treatment tolerances and multiple medical conditions, with discretion for practitioner judgement allowed and noted"

Page 2, line 3, after the semicolon, insert "and"

Page 2, delete line 4

Page 2, line 5, delete "(11)" and insert "(10)"

The motion prevailed and the amendment was adopted.

The Speaker called Davids to the Chair.

Olson; Hilty; Abeler; Emmer; Anderson, B.; Greiling and Klinzing moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 5, after line 2, insert:

"Sec. 11. Minnesota Statutes 2005 Supplement, section 256B.072, is amended to read:

**256B.072 PERFORMANCE REPORTING AND QUALITY IMPROVEMENT SYSTEM.**

(a) The commissioner of human services shall establish a performance reporting system for health care providers who provide health care services to public program recipients covered under chapters 256B, 256D, and 256L, reporting separately for managed care and fee-for-service recipients.

(b) The measures used for the performance reporting system for medical groups shall include measures of care for asthma, diabetes, hypertension, and coronary artery disease and measures of preventive care services. The measures used for the performance reporting system for inpatient hospitals shall include measures of care for acute myocardial infarction, heart failure, and pneumonia, and measures of care and prevention of surgical infections. In the case of a medical group, the measures used shall be consistent with measures published by nonprofit Minnesota or national organizations that produce and disseminate health care quality measures or evidence-based health care guidelines. In the case of inpatient hospital measures, the commissioner shall appoint the Minnesota Hospital Association and Stratis Health to advise on the development of the performance measures to be used for hospital reporting. To enable a consistent measurement process across the community, the commissioner may use measures of care provided for patients in addition to those identified in paragraph (a). The commissioner shall ensure collaboration with other health care reporting organizations so that the measures described in this section are consistent with those reported by those organizations and used by other purchasers in Minnesota.

(c) The commissioner may require providers to submit information in a required format to a health care reporting organization or to cooperate with the information collection procedures of that organization. The commissioner may collaborate with a reporting organization to collect information reported and to prevent duplication of reporting.

(d) By October 1, 2007, and annually thereafter, the commissioner shall report through a public Web site the results by medical groups and hospitals, where possible, of the measures under this section, and shall compare the results by medical groups and hospitals for patients enrolled in public programs to patients enrolled in private health plans. To achieve this reporting, the commissioner may collaborate with a health care reporting organization that operates a Web site suitable for this purpose.

(e) This section expires July 1, 2010."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Olson et al amendment and the roll was called. There were 30 yeas and 100 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Eastlund	Hackbarth	Johnson, J.	Nelson, P.	Severson
Brod	Emmer	Heidgerken	Klinzing	Olson	Soderstrom
Buesgens	Erickson	Hilty	Knoblach	Paulsen	Vandever
Charron	Finstad	Holberg	Kohls	Peppin	Walker
Dean	Goodwin	Jaros	Krinkie	Seifert	Wardlow

Those who voted in the negative were:

Abrams	Dorman	Hortman	Lillie	Pelowski	Slawik
Atkins	Dorn	Hosch	Loeffler	Penas	Smith
Beard	Eken	Howes	Magnus	Peterson, A.	Solberg
Bernardy	Ellison	Huntley	Mahoney	Peterson, N.	Sykora
Blaine	Entenza	Johnson, R.	Mariani	Peterson, S.	Thao
Bradley	Erhardt	Johnson, S.	Marquart	Poppe	Thissen
Carlson	Fritz	Juhnke	McNamara	Powell	Tingelstad
Clark	Garofalo	Kahn	Meslow	Rukavina	Urdahl
Cornish	Gazelka	Kelliher	Moe	Ruth	Wagenius
Cox	Gunther	Koenen	Mullery	Ruud	Walti
Cybart	Hamilton	Lanning	Murphy	Sailer	Westerberg
Davids	Hansen	Larson	Nelson, M.	Samuelson	Westrom
Davnie	Hausman	Latz	Newman	Scalze	Wilkin
DeLaForest	Haws	Lenczewski	Nornes	Sertich	Zellers
Demmer	Hilstrom	Lesch	Otremba	Sieben	Spk. Sviggum
Dempsey	Hoppe	Liebling	Ozment	Simon	
Dittrich	Hornstein	Lieder	Paymar	Simpson	

The motion did not prevail and the amendment was not adopted.

Olson and Abeler moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 4, line 19, before the semicolon, insert "and clinical practice"

Page 4, line 21, after the period, insert "The commissioner shall post the recommendations required under this subdivision on agency Web sites according to chapter 144.0506, subdivision 1."

ReNUMBER the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Loeffler moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 7, line 4, delete "\$5,000" and insert "\$4,000" and delete "\$10,000" and insert "\$8,000"

The motion prevailed and the amendment was adopted.

Goodwin moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 6, delete lines 29 and 30

Page 7, delete lines 1 to 19

ReNUMBER the sections in sequence

A roll call was requested and properly seconded.

The question was taken on the Goodwin amendment and the roll was called. There were 34 yeas and 96 nays as follows:

Those who voted in the affirmative were:

Atkins	Eken	Haws	Kelliher	Mullery	Solberg
Bernardy	Ellison	Hilstrom	Koenen	Nelson, M.	Thao
Carlson	Entenza	Hilty	Lesch	Otremba	Wagenius
Clark	Fritz	Hornstein	Lieder	Peterson, A.	Walker
Davnie	Goodwin	Jaros	Lillie	Rukavina	
Dill	Greiling	Kahn	Mahoney	Sieben	

Those who voted in the negative were:

Abeler	Dittrich	Hoppe	Liebling	Peterson, N.	Thissen
Abrams	Dorman	Hortman	Loeffler	Peterson, S.	Tingelstad
Anderson, B.	Dorn	Hosch	Magnus	Poppe	Urdahl
Beard	Eastlund	Howes	Marquart	Powell	Vandevveer
Blaine	Emmer	Huntley	McNamara	Ruth	Wardlow
Bradley	Erhardt	Johnson, J.	Meslow	Ruud	Welti
Brod	Erickson	Johnson, R.	Moe	Sailer	Westerberg
Buesgens	Finstad	Johnson, S.	Nelson, P.	Samuelson	Westrom
Charron	Garofalo	Juhnke	Newman	Scalze	Wilkin
Cornish	Gazelka	Klinzing	Nornes	Seifert	Zellers
Cox	Gunther	Knoblach	Olson	Severson	Spk. Sviggum
Cybart	Hackbarth	Kohls	Ozment	Simon	
Davids	Hamilton	Krinkie	Paulsen	Simpson	
Dean	Hansen	Lanning	Paymar	Slawik	
DeLaForest	Hausman	Larson	Pelowski	Smith	
Demmer	Heidgerken	Latz	Penas	Soderstrom	
Dempsey	Holberg	Lenczewski	Peppin	Sykora	

The motion did not prevail and the amendment was not adopted.

The Speaker resumed the Chair.

Seifert moved to amend H. F. No. 1862, the third engrossment, as amended, as follows:

Page 2, after line 31, insert:

"Sec. 5. Minnesota Statutes 2004, section 62Q.64, is amended to read:

**62Q.64 DISCLOSURE OF EXECUTIVE COMPENSATION.**

(a) Each health plan company doing business in this state, each holding company located in this state that owns a health maintenance organization located in this state or elsewhere, and each Minnesota hospital shall annually file with the Consumer Advisory Board created in section 62J.75:

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

(2) ~~if the health plan company did not file a form 990 with the federal Internal Revenue Service commissioner, a list of the amount and recipients job titles of the health plan company's five entity's 20 highest salaries, including all types of compensation, in excess of \$50,000 \$200,000.~~

(b) A filing under this section is public data under section 13.03, and must be placed on the minnesotahealthinfo.com Web site."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Seifert amendment and the roll was called. There were 124 yeas and 7 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hausman	Krinkie	Olson	Severson
Abrams	Dill	Haws	Lanning	Otremba	Sieben
Anderson, B.	Dittrich	Heidgerken	Larson	Ozment	Simon
Atkins	Dorman	Hilstrom	Latz	Paulsen	Simpson
Beard	Dorn	Holberg	Lenczewski	Paymar	Slawik
Bernardy	Eastlund	Hoppe	Lesch	Pelowski	Smith
Blaine	Eken	Hornstein	Liebling	Penas	Soderstrom
Bradley	Ellison	Hortman	Lieder	Peppin	Solberg
Brod	Emmer	Hosch	Lillie	Peterson, A.	Tingelstad
Buesgens	Entenza	Howes	Loeffler	Peterson, N.	Urdahl
Carlson	Erickson	Jaros	Magnus	Peterson, S.	Vandever
Charron	Finstad	Johnson, J.	Mahoney	Poppe	Walker
Clark	Fritz	Johnson, R.	Marquart	Powell	Wardlow
Cornish	Garofalo	Johnson, S.	McNamara	Rukavina	Welti
Cox	Gazelka	Juhnke	Meslow	Ruth	Westerberg
Cybart	Goodwin	Kahn	Moe	Ruud	Westrom
Davids	Greiling	Kelliher	Mullery	Sailer	Wilkin
Davnie	Gunther	Klinzing	Nelson, M.	Samuelson	Zellers
Dean	Hackbarth	Knoblach	Nelson, P.	Scalze	Spk. Sviggum
DeLaForest	Hamilton	Koenen	Newman	Seifert	
Demmer	Hansen	Kohls	Nornes	Sertich	

Those who voted in the negative were:

Erhardt	Murphy	Thao	Wagenius
Huntley	Sykora	Thissen	

The motion prevailed and the amendment was adopted.

H. F. No. 1862, A bill for an act relating to health; establishing practice standards and evidence-based guidelines for treating patients; implementing health care cost-containment measures; requiring the disclosure of executive compensation; establishing liability limits for certain licensed ambulance services and medical directors; modifying the qualification standards of certain licenses; establishing certain fees; requiring a study of hospital uncompensated

care; allowing discounted payment for health care under certain circumstances; regulating eligibility criteria for medical assistance special transportation services; allowing entity certain specific administrative efficiency reports to be published on the state agency Web sites; requiring certain reports; adding provisions for service cooperatives contracts; appropriating money; amending Minnesota Statutes 2004, sections 62D.095, subdivisions 3, 4; 62Q.64; 72A.20, by adding a subdivision; 123A.21, subdivision 7; 148.06, subdivision 1; 151.214, subdivision 1; Minnesota Statutes 2005 Supplement, section 214.071; Laws 2003, First Special Session chapter 14, article 12, section 93, as amended; proposing coding for new law in Minnesota Statutes, chapters 62J; 62M; 62Q; 144; 144E; 147; 148; 214; 256B; repealing Minnesota Statutes 2005 Supplement, section 62Q.251.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called.

Pursuant to rule 2.05, Speaker pro tempore Abrams excused Sertich from voting on final passage of H. F. No. 1862, the third engrossment, as amended.

There were 100 yeas and 30 nays as follows:

Those who voted in the affirmative were:

Abeler	Dorman	Hosch	Lillie	Pelowski	Simpson
Atkins	Dorn	Howes	Loeffler	Penas	Slawik
Beard	Ellison	Huntley	Magnus	Peterson, A.	Smith
Bernardy	Entenza	Jaros	Mahoney	Peterson, N.	Soderstrom
Blaine	Finstad	Johnson, J.	Marquart	Peterson, S.	Solberg
Bradley	Fritz	Johnson, R.	McNamara	Poppe	Sykora
Brod	Garofalo	Juhnke	Meslow	Powell	Thissen
Carlson	Gazelka	Kahn	Moe	Rukavina	Tingelstad
Clark	Greiling	Kelliher	Mullery	Ruth	Urdahl
Cornish	Gunther	Koenen	Murphy	Ruud	Wardlow
Cox	Hackbarth	Lanning	Nelson, P.	Sailer	Welti
Davids	Hamilton	Larson	Newman	Samuelson	Westerberg
Davnie	Hansen	Latz	Nornes	Scalze	Westrom
Demmer	Haws	Lenczewski	Otremba	Seifert	Wilkin
Dempsey	Heidgerken	Lesch	Ozment	Severson	Spk. Sviggum
Dill	Hornstein	Liebling	Paulsen	Sieben	
Dittrich	Hortman	Lieder	Paymar	Simon	

Those who voted in the negative were:

Abrams	Dean	Erhardt	Holberg	Kohls	Thao
Anderson, B.	DeLaForest	Erickson	Hoppe	Krinkie	Vandevveer
Buesgens	Eastlund	Goodwin	Johnson, S.	Nelson, M.	Wagenius
Charron	Eken	Hilstrom	Klinzing	Olson	Walker
Cybart	Emmer	Hilty	Knoblach	Peppin	Zellers

The bill was passed, as amended, and its title agreed to.

The Speaker called Emmer to the Chair.



H. F. No. 3718 was reported to the House.

Hornstein moved to amend H. F. No. 3718, the third engrossment, as follows:

Page 2, line 18, delete "13" and insert "14"

Page 2, line 30, delete "and"

Page 2, line 31, before the period, insert "; and

(9) a representative of a Minnesota-based manufacturer of electric vehicles"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 3718, A bill for an act relating to transportation; requiring language that the state will purchase plug-in hybrid electric vehicles when commercially available to be inserted in certain bid documents; creating a task force.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Latz	Paulsen	Smith
Abrams	Dorman	Hilty	Lenczewski	Paymar	Soderstrom
Anderson, B.	Dorn	Holberg	Lesch	Pelowski	Solberg
Atkins	Eastlund	Hoppe	Liebling	Penas	Sykora
Beard	Eken	Hornstein	Lieder	Peppin	Thao
Bernardy	Ellison	Hortman	Lillie	Peterson, A.	Thissen
Blaine	Emmer	Hosch	Loeffler	Peterson, N.	Tingelstad
Bradley	Entenza	Howes	Magnus	Peterson, S.	Urdahl
Brod	Erhardt	Huntley	Mahoney	Poppe	Vandev eer
Buesgens	Erickson	Jaros	Mariani	Powell	Wagenius
Carlson	Finstad	Johnson, J.	Marquart	Rukavina	Walker
Charron	Fritz	Johnson, R.	McNamara	Ruth	Wardlow
Clark	Garofalo	Johnson, S.	Meslow	Ruud	Walti
Cornish	Gazelka	Juhnke	Moe	Sailer	Westerberg
Cox	Goodwin	Kahn	Mullery	Samuelson	Westrom
Cybart	Greiling	Kelliher	Murphy	Scalze	Wilkin
Davids	Gunther	Klinzing	Nelson, M.	Seifert	Zellers
Davnie	Hackbarth	Knoblach	Nelson, P.	Sertich	Spk. Sviggum
Dean	Hamilton	Koenen	Newman	Severson	
DeLaForest	Hansen	Kohls	Nornes	Sieben	
Demmer	Hausman	Krinkie	Olson	Simon	
Dempsey	Haws	Lanning	Otremba	Simpson	
Dill	Heidgerken	Larson	Ozment	Slawik	

The bill was passed, as amended, and its title agreed to.

Speaker pro tempore Emmer called Abrams to the Chair.

Seifert moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

### MOTIONS AND RESOLUTIONS

Powell moved that the name of Ozment be added as chief author on H. F. No. 1120. The motion prevailed.

Emmer moved that the names of Wardlow and Soderstrom be added as authors on H. F. No. 1443. The motion prevailed.

Beard moved that the names of Wilkin, Cybart, Wardlow and Powell be added as authors on H. F. No. 2086. The motion prevailed.

Hilty moved that his name be stricken as an author on H. F. No. 2425. The motion prevailed.

Hilty moved that his name be stricken as an author on H. F. No. 2480. The motion prevailed.

Powell moved that the name of Soderstrom be added as an author on H. F. No. 3490. The motion prevailed.

Powell moved that his name be stricken as an author on H. F. No. 4186. The motion prevailed.

Loeffler moved that the name of Kahn be added as an author on H. F. No. 4198. The motion prevailed.

Hilty moved that the name of Westrom be added as an author on House Resolution No. 25. The motion prevailed.

Ozment moved that S. F. No. 1057 be recalled from the Committee on Governmental Operations and Veterans Affairs and be re-referred to the Committee on Rules and Legislative Administration. The motion prevailed.

### NOTICE TO PLACE A BILL ON THE CALENDAR FOR THE DAY

Pursuant to House Rule 1.21, Lieder gave notice of his intent to make a motion placing S. F. No. 1604, A resolution memorializing the President and Congress to support Amtrak funding, on the Calendar for the Day.

### ADJOURNMENT

Seifert moved that when the House adjourns today it adjourn until 11:00 a.m., Monday, May 15, 2006. The motion prevailed.

Seifert moved that the House adjourn. The motion prevailed, and Speaker pro tempore Abrams declared the House stands adjourned until 11:00 a.m., Monday, May 15, 2006.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives