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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 39

January 8, 2007

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

1.1 A bill for an act
1.2 relating to health; establishing the fair share health care fund; requiring certain
1.3 employer payments to the fund; providing for criminal penalties; proposing
1.4 coding for new law in Minnesota Statutes, chapters 16A; 175.

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

1.6 Section 1. [16A.726] FAIR SHARE HEALTH CARE FUND.

1.7 A fair share health care fund is created in the state treasury to finance medical
1.8 assistance and MinnesotaCare coverage for uninsured workers. The fund is a directly
1.9 appropriated special revenue fund. The commissioner shall deposit to the credit of the
1.10 fund money made available to the fund. Notwithstanding section 11A.20, all investment
1.11 income and all investment losses attributable to the investment of the fair share health care
1.12 fund not currently needed shall be credited to the fair share health care fund.

1.13 EFFECTIVE DATE. This section is effective July 1, 2007.

1.14 Sec. 2. [175.40] CITATION; FINDINGS; PURPOSE.

1.15 Subdivision 1. Citation. Sections 16A.726 and 175.40 to 175.44 may be cited as
1.16 the "Fair Share Health Care Act."

1.17 Subd. 2. Findings. The legislature finds that:

1.18 (1) Historically, large American companies have provided health insurance to their
1.19 employees; however, in recent years, some large companies have cut health insurance
1.20 benefits to reduce costs.

1.21 (2) Companies that do not provide health insurance are, in effect, subsidized by
1.22 companies that do. Nationwide, responsible companies that cover health benefits not only

2.1 pay a total of \$150,000,000,000 annually to insure their own employees, but also pay
 2.2 \$31,000,000,000 to insure other companies' workers through dependent coverage.

2.3 (3) Companies that do not provide health insurance are, in effect, also subsidized
 2.4 by state taxpayers. Nationwide, states pay a total of \$8,000,000,000 annually to provide
 2.5 public assistance health insurance to companies that pay poverty-level wages to the
 2.6 employees and their families.

2.7 (4) Companies that do not provide health insurance have an unfair competitive
 2.8 advantage over companies that do.

2.9 Subd. 3. **Purpose.** This law is enacted to protect the health of workers and their
 2.10 families, to end an unfair drain on state health resources, and to create a more competitive
 2.11 business environment by requiring large companies to pay their fair share of their
 2.12 employees' health care costs.

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

2.14 **Sec. 3. [175.41] DEFINITIONS.**

2.15 Subdivision 1. **Applicability.** For purposes of sections 175.40 to 175.44, the
 2.16 following definitions apply.

2.17 Subd. 2. **Commissioner.** "Commissioner" means the commissioner of labor and
 2.18 industry.

2.19 Subd. 3. **Employee.** "Employee" means a person who performs services for hire for
 2.20 an employer and includes all individuals employed at any site owned or operated by an
 2.21 employer. Employee does not include an independent contractor.

2.22 Subd. 4. **Employer.** "Employer" has the meaning provided in section 177.23,
 2.23 subdivision 6, except that employer does not include the federal or state governments, or
 2.24 any political subdivision of a state.

2.25 Subd. 5. **Health care costs.** "Health care costs" means the amount paid by an
 2.26 employer to provide health care to employees in the state to the extent those costs may be
 2.27 deductible by the employer under federal tax law. Health care costs includes expenditures
 2.28 for medical care, prescription drugs, vision care, medical savings accounts, and any other
 2.29 costs to provide health benefits to employees.

2.30 Subd. 6. **Wages.** "Wages" has the meaning provided in section 177.23, subdivision
 2.31 4.

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

2.33 **Sec. 4. [175.42] HEALTH CARE REPORTING REQUIREMENTS.**

3.1 Subdivision 1. **Information required.** On or before July 1 of each year, every
 3.2 employer with more than 10,000 employees in the state shall report to the commissioner:

3.3 (1) the average number of employees in the state during the previous calendar year
 3.4 and the number of employees as of December 31;

3.5 (2) the amount spent by the employer on health care costs for employees in the
 3.6 state during the previous calendar year; and

3.7 (3) the percentage of wages that was spent by the employer on health care costs for
 3.8 employees in the state during the previous calendar year.

3.9 Subd. 2. **Additional requirements.** The information required shall:

3.10 (1) be provided in a format approved by the commissioner;

3.11 (2) be signed by the chief executive officer or an individual who performs a similar
 3.12 function; and

3.13 (3) include an affidavit under penalty of perjury that the information was reviewed
 3.14 by the signing officer and that the information is complete, does not contain any untrue
 3.15 statement of a material fact, and does not omit any material fact.

3.16 Subd. 3. **Exemption.** When calculating the percentage of wages spent on health
 3.17 care costs for employees in the state, an employer may exempt:

3.18 (1) wages paid to any employee in excess of the median household income in the
 3.19 state as published by the United States Census Bureau; and

3.20 (2) wages paid to an employee who is enrolled in or eligible for Medicare.

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

3.22 **Sec. 5. [175.43] PAYMENT TO THE FAIR SHARE HEALTH CARE FUND.**

3.23 Subdivision 1. **For-profit employers.** An employer with more than 10,000
 3.24 employees in the state that is not organized as a nonprofit organization and does not spend
 3.25 at least ten percent of total wages paid to employees in the state for health care costs shall
 3.26 pay to the fair share health care fund an amount equal to the difference between what the
 3.27 employer spends for health care costs and ten percent of total wages paid to employees in
 3.28 the state.

3.29 Subd. 2. **Nonprofit employers.** An employer with more than 10,000 employees in
 3.30 the state that is organized as a nonprofit organization and does not spend at least eight
 3.31 percent of total wages paid to employees in the state for health care costs shall pay to the
 3.32 fair share health care fund an amount equal to the difference between what the employer
 3.33 spends for health care costs and eight percent of total wages paid to employees in the state.

3.34 Subd. 3. **Other employer requirements.** An employer may not deduct any
 3.35 payment made under this section from the wages of an employee. An employer shall make

4.1 the payment required under this section to the fair share health care fund on a periodic
4.2 basis as determined by the commissioner.

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

4.4 **Sec. 6. [175.44] ENFORCEMENT.**

4.5 **Subdivision 1. Commissioner's duty.** The commissioner shall adopt rules to
4.6 implement and administer compliance with sections 175.40 to 175.44.

4.7 **Subd. 2. Civil penalties.** Failure to file a report in accordance with section 175.42
4.8 shall result in a civil penalty of \$1,000 for each day that the report is not timely filed.
4.9 Failure to make a payment required under section 175.43 shall result in a civil penalty of
4.10 \$500,000.

4.11 **Subd. 3. Criminal penalty.** A person who knowingly violates or attempts to violate
4.12 sections 175.40 to 175.44, or a person who knowingly advises another person to violate
4.13 those sections, shall be guilty of a misdemeanor punishable by up to one year in prison
4.14 and a fine of up to \$10,000.

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