



Comparison of Selected Governance and Operations Issues at Minnesota Sports Facilities

Special Review
July 26, 2017

OFFICE OF THE LEGISLATIVE AUDITOR
STATE OF MINNESOTA

**State of Minnesota
Office of the Legislative Auditor**

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OFFICE OF THE LEGISLATIVE AUDITOR

STATE OF MINNESOTA • James Nobles, Legislative Auditor

July 26, 2017

Members of the Legislative Audit Commission:

This report examines certain aspects of the operations and governance of publicly owned Minnesota sports facilities. We conducted this review at the request of legislators, following up on our February 2017 review of the Minnesota Sports Facilities Authority's use of suites at U.S. Bank Stadium.

We do not recommend changes in state law to bring Minnesota sports facilities under a single oversight authority. Individual facilities have unique histories, funding streams, and operating arrangements, and it is appropriate for them to remain under separate management. However, we highlight some areas in which the practices of these facilities vary, and there may be opportunities—on a limited scale—for these facilities to operate with greater consistency, transparency, or fulfillment of public purposes.

To complete this report, we received cooperation from the Minnesota Sports Facilities Authority, Minnesota Ballpark Authority, University of Minnesota, and several private organizations that manage Twin Cities sports facilities.

Sincerely,

Handwritten signature of James Nobles in black ink.

James Nobles
Legislative Auditor

Handwritten signature of Joel Alter in black ink.

Joel Alter
Director, Special Reviews



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INTRODUCTION

In February 2017, the Office of the Legislative Auditor (OLA) issued a special review that addressed allegations regarding the Minnesota Sports Facilities Authority's allocation of complimentary tickets to events in U.S. Bank Stadium in Minneapolis.¹ The report concluded that the Authority's allocation of tickets to persons using its two stadium suites violated a core ethical principle. While the Authority said it needed two suites to help it market the stadium to potential customers, it gave many tickets to people who had no connection to marketing the stadium. The Authority's leaders gave nearly half of the free tickets to their family members and friends. Authority leaders gave other tickets to individuals whose relationship to facility marketing was questionable.

After OLA issued its report, the Authority's board chair and executive director resigned. Governor Dayton appointed an interim board chair (Kathleen Blatz), and the Authority's board selected a new executive director (Rick Evans). During the 2017 legislative session, the House and Senate considered bills that would have addressed various issues related to the Authority, such as the Authority's use of the suites and other stadium space; the composition of the Authority board; and the salary of the Authority chair. In fact, a conference committee approved language that reconciled differences in the House and Senate versions of these bills. However, the 2017 Legislature adjourned without acting on the bills.

During the 2017 session, legislators asked our office to review and compare certain aspects of Minnesota sports facilities' governance and operations, including:

- The structure and oversight responsibilities of facilities' public governing bodies.
- Whether the governing bodies have access to tickets, suites, or other amenities in events at the facilities they oversee.
- Practices related to facility governance, operations, accountability, and transparency.

Our review focused primarily on six publicly owned facilities: U.S. Bank Stadium, Target Field, Target Center, Xcel Energy Center, TCF Bank Stadium, and CHS Field.

To conduct this review, we obtained information and documents from the Minnesota Sports Facilities Authority, the Minnesota Ballpark Authority, the University of Minnesota and its Board of Regents, the cities of Minneapolis and St. Paul, and several private companies responsible for operating or marketing the sports facilities we examined. We also obtained information from the Minnesota State High School League.

CONCLUSION

Publicly owned Twin Cities sports facilities do not operate under a single governing body or a uniform model of management. In our view, it is reasonable to have varying arrangements for oversight and operation of individual sports facilities, given differences in how the facilities have been developed, funded, and used.

¹ Office of the Legislative Auditor, Special Review, *Minnesota Sports Facilities Authority: Use of Suites at the U.S. Bank Stadium* (St. Paul, February 7, 2017).

We do not recommend legislation to bring sports facilities under a common governance or management structure, but there are opportunities—on a limited scale—to address some inconsistencies among these facilities or their governing bodies. For example, while we did not assess the appropriateness of individuals' compensation levels, we noted that the chairs of two governing bodies created by the Legislature to oversee certain sports facilities have differing compensation levels. In addition, facility governing bodies have differing policies for allocating the tickets to stadium suites they operate, and not all of these policies ensure that the tickets are used for public purposes. Also, facilities differ widely in the fees they charge for state high school tournaments to the Minnesota State High School League. This report highlights similarities and differences in certain sports facility governance and operating practices, and it offers several recommendations for changes.

PREVIEW OF FINDINGS

- **Two of Minnesota's major sports facilities are governed by public bodies the Legislature created specifically for the purpose of stadium oversight. The other four facilities have limited or no oversight by public bodies.**
- **The chair of the Minnesota Sports Facilities Authority board—unlike the chair of the Minnesota Ballpark Authority board—receives a salary for his or her duties.**
- **Although the Metropolitan Sports Facilities Commission was dissolved in 2012, the statutes related to the commission remain in place.**
- **Three of the facilities we examined have at least one suite available for use by the facility's governing body or the governing body's employees. One of the bodies (the University of Minnesota Board of Regents) does not track the purpose served by each guest's use of the suite.**
- **The University's Board of Regents suite provides free suite access to "family and friends" of University officials and regents. It is unclear how this policy fulfills a public purpose.**
- **Food and beverage practices vary among the three facilities whose governing bodies control suites.**
- **When governing board members attend events together in stadium suites, there is the potential for violations of the state's Open Meeting Law.**
- **For two of the sports facilities we examined, facility governing bodies are directed or requested in state law to provide opportunities for Minnesota public schools to use the facilities. U.S. Bank Stadium is providing these opportunities; TCF Bank Stadium has provided limited opportunities of this sort.**
- **There are widely varying fees charged by public sports facilities to the Minnesota State High School League for its state athletic tournaments—from no fees at some facilities to substantial fees at others.**
- **There are three different models for managing and marketing sports facilities in the Twin Cities.**

- For the most part, the two sports facility governing bodies created by the Legislature operate with transparency to the public. However, some of the Minnesota Sports Facilities Authority’s meeting minutes have provided incomplete accounts of actions taken by the Authority.

PREVIEW OF RECOMMENDATIONS

Recommendation 1. The University of Minnesota should consider adopting a policy with more restrictive access to “family and friends” at the Regents and President’s Suite at TCF Bank Stadium.

Recommendation 2. The Minnesota Sports Facilities Authority, Minnesota Ballpark Authority, and University of Minnesota Board of Regents should adopt policies that prohibit their members from discussing topics with each other related to official business when a quorum of members is present in their sports facility suites.

Recommendation 3. The Legislature should consider whether to limit the fees that public sports facilities charge to the Minnesota State High School League for statewide events.

Recommendation 4. The Minnesota Sports Facilities Authority should ensure that its online meeting minutes have complete, clear descriptions of the Authority’s actions.

Recommendation 5. The Legislature should repeal references in *Minnesota Statutes 2016*, Chapter 473, to the Metropolitan Sports Facilities Commission.

Recommendation 6. The Minnesota Sports Facilities Authority should clarify its policy regarding reimbursement of Authority suite users for alcohol consumed in the suite.

BACKGROUND

This review focused on six publicly owned sports facilities, shown in Exhibit 1. The primary tenants in four of these stadiums are professional teams in major league football, baseball, basketball, and hockey. In addition, one stadium hosts the University of Minnesota's home football games, and another is the home of a minor league baseball team.

Public Funding for Minnesota Sports Facilities

Each of the facilities we examined has been built with a combination of public and private funds, and Exhibit 1 shows that the share of public dollars invested in the individual facilities has varied considerably. At the low end, public subsidies represented 18 percent of the initial funding to build Target Center in Minneapolis, which is the home facility for the Minnesota Timberwolves and Minnesota Lynx basketball teams. That facility's public funding for initial development and construction consisted entirely of subsidies from the City of Minneapolis. Just five years after Target Center opened, Minneapolis spent an additional \$54.6 million to purchase the facility.² At the other extreme, public dollars accounted for 83 percent of construction funding for CHS Field in St. Paul, which is the home of the St. Paul Saints baseball team. That stadium's public subsidies included \$24 million in grants and loans from the City of St. Paul, and \$28 million in grants and loans from the State of Minnesota. It is also

Exhibit 1: Initial Construction Costs for Minnesota Sports Facilities and Amount of State and Local Funding

Sports Facility/Primary Tenant(s)	Location	Year Opened	Total Cost (in Millions)	Share of Total Cost Paid by State, County, or City	
				Cost (in Millions)	Percentage
U.S. Bank Stadium/Minnesota Vikings (football)	Minneapolis	2016	\$1,129	\$498	44%
Target Field/Minnesota Twins (baseball)	Minneapolis	2010	555	355	64
TCF Bank Stadium/Minnesota Gophers (football)	Minneapolis	2009	289	137	48
Xcel Energy Center/Minnesota Wild (hockey)	St. Paul	2000	170	130	76
Target Center/Minnesota Timberwolves and Lynx (basketball)	Minneapolis	1990	127	23	18
CHS Field/St. Paul Saints (baseball)	St. Paul	2015	63	52	83

NOTE: The costs shown in this table do not reflect additional expenditures for improvements made at some facilities in the years after the facilities opened. For example, Target Center is currently undergoing a significant renovation.

SOURCE: Office of the Legislative Auditor.

² In addition, Target Center is currently undergoing a renovation expected to cost more than \$130 million, with the costs borne by the City of Minneapolis, the owner of the facility's two major tenants, and the company that operates the facility.

worth noting that the two most expensive stadiums we examined—U.S. Bank Stadium and Target Field, both in Minneapolis—were each constructed with the help of substantial public investments. U.S. Bank Stadium (home of the Minnesota Vikings football team) received \$348 million from the State of Minnesota and \$150 million from the City of Minneapolis. The public financing for Target Field (home of the Minnesota Twins baseball team) consisted mainly of state-authorized county funding (\$350 million).

Around the nation, public bodies have supported funding for sports facilities because (1) construction of these facilities employs many workers and (2) these facilities and their teams are perceived to add vitality, civic pride, and perhaps economic growth to localities or broader areas. In 2006, the Minnesota Legislature declared that expenditure of public money for Target Field “serves a public purpose.”³ It said:

[G]overnment assistance to facilitate the presence of Major League Baseball provides to the state of Minnesota and its citizens highly valued intangible benefits that are virtually impossible to quantify and, therefore, not recoverable even if the government receives monetary damages in the event of a team’s breach of contract.⁴

Likewise, the 2012 Legislature justified its public expenditures for U.S. Bank Stadium with the following statement:

The purpose of this [law] is to provide for the construction, financing, and long-term use of a stadium and related stadium infrastructure as a venue for professional football and a broad range of other civic, community, athletic, educational, cultural, and commercial activities. The legislature finds and declares that the expenditure of public money for this purpose is necessary and serves a public purpose, and that property acquired by the Minnesota Sports Facilities Authority for the construction of the stadium and related stadium infrastructure is acquired for a public use or public purpose....⁵

Events at the Facilities

The facilities we examined vary widely in seating capacity, as shown in the box at right.⁶ The largest of the facilities—U.S. Bank Stadium—has a single-game capacity of 66,200 for its main tenant, the Minnesota Vikings. At the other extreme, CHS Field has a single-game capacity of 7,210 for the games of its main tenant, the St. Paul Saints.

U.S. Bank Stadium	66,200
TCF Bank Stadium	50,805
Target Field	39,504
Target Center	19,356
Xcel Energy Center	18,600
CHS Field	7,210

Stadiums, ballparks, and arenas host a variety of sporting and other events. Three of the facilities we examined (U.S. Bank Stadium, Target Center, and Xcel Energy Center) are indoor facilities and can host public events in their main arenas throughout the year. The other three (Target Field, TCF Bank Stadium, and

³ *Laws of Minnesota* 2006, chapter 257, sec. 5.

⁴ *Ibid.*

⁵ *Laws of Minnesota* 2012, chapter 299, art. 1, sec. 9.

⁶ The seating capacities shown in the box are for each facility’s main tenant. Some of the facilities also sell standing room tickets, thus allowing for a larger overall capacity. The facilities’ capacities may be increased or decreased for certain events, such as music concerts.

CHS Field) are open-air facilities, and the use of their playing fields for baseball, football, or soccer is limited mainly to certain seasons. The appendix to this report provides a summary of public events held at all six facilities during the 2016 calendar year.

Exhibit 2 shows the most recent regular season attendance by each of the main tenants of the facilities we examined. The tenant with the largest attendance by far was the Minnesota Twins, which attracted nearly two million fans to 81 regular season games in Target Field in 2016. The two largest facilities in Exhibit 2 host relatively few games by their main tenants. The Minnesota Vikings played eight regular season and two preseason football games in U.S. Bank Stadium during the team's first season in that facility; the University of Minnesota Gophers played seven football games in TCF Bank Stadium in 2016. Target Center is the only facility that has two main tenants: the Minnesota Timberwolves and Minnesota Lynx professional basketball teams. Together, the Timberwolves and Lynx played 58 regular season home games at Target Center in their most recent full seasons.

Exhibit 2: Most Recent Season Attendance for Main Tenants at Minnesota Sports Facilities

Facility/Main Tenant(s)	Most Recent Regular Season Attendance	Number of Regular Season Home Games	Average Regular Season Attendance Per Game
Target Field/Minnesota Twins (baseball)	1,963,912	81	24,246
Xcel Energy Center/Minnesota Wild (hockey)	781,879	41	19,070
Target Center/Minnesota Timberwolves (basketball)	607,203	41	14,810
U.S. Bank Stadium/Minnesota Vikings (football)	534,289	8	66,786
CHS Field/St. Paul Saints (baseball)	413,482	49	8,438
TCF Bank Stadium/Minnesota Gophers (football)	306,697	7	43,814
Target Center/Minnesota Lynx (basketball)	157,523	17	9,266

NOTES: The attendance was based on the 2016 season for the Twins, Wild, Saints, Gophers, and Lynx, and the 2016-2017 season for the Vikings and Timberwolves.

SOURCE: Office of the Legislative Auditor.

Sports facilities also host many non-sports events—particularly the indoor facilities that can have events throughout the year. For example, during 2016, events at Target Center and Xcel Energy Center included the U.S. figure skating championships, Disney on Ice, Sesame Street Live, professional wrestling, rodeo, and a wide range of music and comedy acts (Bruce Springsteen, Adele, AC/DC, Keith Urban, Justin Bieber, and Andrea Bocelli, to name a few). The large outdoor facilities have fewer concerts, but over the years they have hosted some of the best-attended concerts, including U2, Paul McCartney, Kenny Chesney, and Beyoncé. The smallest facility we examined (CHS Field in St. Paul) drew an estimated 50,000 individuals in 2016 to activities other than professional and amateur baseball—including 10,000 for a cat video festival and 10,000 to a Catholic youth mass. The facilities we examined also host private events, such as weddings or business meetings.

GOVERNING BODIES FOR SPORTS FACILITIES

Exhibit 3 presents an overview of the governance structures of the six sports facilities we examined. Each of these facilities is owned by a public entity (a city, university, or public agency) that has a governing body.

Two of Minnesota’s major sports facilities are governed by public bodies the Legislature created specifically for the purpose of stadium oversight. The other four facilities have limited or no oversight by public bodies.

Exhibit 3: Ownership and Governance of Minnesota Sports Facilities

Sports Facility	Primary Team(s)	Facility Owner	Governing Body	Governing Body Composition	Was the governing body created to oversee one or more sports facilities?
CHS Field	St. Paul Saints (baseball)	City of St. Paul	St. Paul City Council	7 members elected by citizens of St. Paul	No
Target Center	Minnesota Timberwolves and Minnesota Lynx (basketball)	City of Minneapolis	Minneapolis City Council	13 members elected by citizens of Minneapolis	No
Target Field	Minnesota Twins (baseball)	Minnesota Ballpark Authority	Minnesota Ballpark Authority board	5 members (2 appointed by governor; 2—including chair—appointed by Hennepin County Board; 1 appointed by Minneapolis City Council)	Yes
TCF Bank Stadium	Minnesota Gophers (football)	University of Minnesota	University of Minnesota Board of Regents	12 members elected by the Minnesota Legislature (1 from each congressional district and 4 at large)	No
U.S. Bank Stadium	Minnesota Vikings (football)	Minnesota Sports Facilities Authority	Minnesota Sports Facilities Authority board	5 members (chair and 2 others appointed by governor; 2 appointed by Minneapolis mayor)	Yes
Xcel Energy Center	Minnesota Wild (hockey)	City of St. Paul	St. Paul City Council	7 members elected by citizens of St. Paul	No

SOURCE: Office of the Legislative Auditor.

The public entities created by the Legislature solely for the purpose of overseeing sports facilities are the Minnesota Sports Facilities Authority (which owns U.S. Bank Stadium) and the Minnesota Ballpark Authority (which owns Target Field). Each of these bodies is defined in statute as a “political subdivision

of the state.”⁷ The law says that neither body is a joint powers entity nor an agency of a local government.⁸

State statutes contain various provisions related to the operations of the Minnesota Sports Facilities Authority and Minnesota Ballpark Authority. For instance, the statutes require that the Minnesota Sports Facilities Authority enter into a lease of at least 30 years with the Minnesota Vikings.⁹ The statutes also require annual payments by the State of Minnesota and Vikings into a capital reserve fund for the facility, with the Minnesota Sports Facilities Authority responsible for all decisions regarding the facility’s capital repairs and improvements.¹⁰ State law also requires both the Minnesota Ballpark Authority and Minnesota Sports Facilities Authority to adopt their own bylaws regarding procedures, powers, and governance.¹¹

In contrast, there is little or no statutory language regarding the oversight or operations of the other four facilities we examined: Target Center, Xcel Energy Center, TCF Bank Stadium, and CHS Field. As shown in Exhibit 3, these facilities are owned by the City of Minneapolis, City of St. Paul, or University of Minnesota. The governing bodies of these entities have wide-ranging responsibilities, and oversight of one or more sports facilities plays a small or non-existent role. For example:

- The City of St. Paul’s lease agreement for the Xcel Energy Center establishes no requirement for city council review of the facility’s operations or finances. An official for the Minnesota Wild (the facility’s main tenant) told us: “There is no public governing body with day to day oversight of the Xcel Energy Center. We are bound by the terms of our lease with the City of Saint Paul and work with the City appointed Lease Administrator when Lease matters arise.”¹²
- At the University of Minnesota, the Board of Regents oversees the operations of five campuses, which serve more than 65,000 students and perform a variety of research and public service activities. The board is usually involved only in stadium-related decisions that surpass a \$1 million spending threshold, such as the approval of a large lease or contract.¹³
- An official with the St. Paul Saints characterized the City of St. Paul’s oversight of CHS Field as more like that of a landlord than a governing body: “So, while the City of St. Paul certainly is involved in monitoring its ownership of the ballpark, it is not the principal decision maker regarding how it is operated, managed or maintained.... While the team does consult with the City from time to time regarding capital needs and improvements, and the City retains approval

⁷ *Minnesota Statutes* 2016, 473J.07, subd. 1; and 473.755, subd. 1.

⁸ *Minnesota Statutes* 2016, 471.59, subd. 1, authorizes the governing bodies of two or more governmental units (including political subdivisions of the state) to enter into agreements that allow for joint exercise of any power common to the cooperating parties. Such arrangements are often called “joint powers entities” or “joint powers boards.”

⁹ *Minnesota Statutes* 2016, 473J.15, subd. 3.

¹⁰ *Minnesota Statutes* 2016, 473J.13, subd. 4.

¹¹ *Minnesota Statutes* 2016, 473.755, subd. 4; and 473J.07, subd. 6. The statutes for the Minnesota Sports Facilities Authority require that entity’s bylaws to be “similar in form and substance” to the Minnesota Ballpark Authority’s bylaws.

¹² Jeff Pellegrom, Chief Financial Officer and Executive Vice President, Minnesota Wild, e-mail message to Joel Alter, Office of the Legislative Auditor, “Re: Following Up on Delivery of Draft Report,” June 30, 2017.

¹³ For leases, the threshold for board approval is \$1.25 million; for contracts, the threshold is \$1 million.

rights, that would appear to be more in the context of a customary landlord/tenant relationship than in any capacity as a ‘governing body or authority.’”¹⁴

For several of the facilities we examined, facility leases or agreements specify oversight requirements for the governing bodies. For example, the box on this page shows the extent to which sports facility governing bodies are required to annually approve facility-specific operating budgets or capital improvement plans.¹⁵ The presence or absence of such requirements has depended partly on the facilities’ sources of funding, as well as facility oversight arrangements that have been negotiated by state, local, and team officials.

State law leaves open the possibility of extending the Minnesota Sports Facilities Authority’s oversight responsibilities to facilities other than U.S. Bank Stadium, but this has not occurred since the Authority’s creation in 2012. The law says that Target Center, Xcel Energy Center, and Target Field may be brought under the purview of the Minnesota Sports Facilities Authority, but only if (1) the Authority approves such an action and (2) certain conditions specified in statute are met.¹⁶ For example, before the Authority could assume responsibility for one of these facilities, the facility’s current governing body would have to request such a transfer of authority. In addition, the Authority would have to find that such a transfer would not have a negative impact on the Authority or the state General Fund, or create an obligation of the state.

As part of our review of facility governance, we also examined the duties and compensation of the governing officials of the two bodies created by the Legislature to oversee sports facilities.

The chair of the Minnesota Sports Facilities Authority board—unlike the chair of the Minnesota Ballpark Authority board—receives a salary for his or her duties.

State law has few provisions regarding the duties of the chair of the Minnesota Sports Facilities Authority board. It says: “The chair presides at all meetings of the authority, if present, and performs all other

<u>Facility</u>	<u>Approve Operating Budget?</u>	<u>Approve Capital Improvements?</u>
CHS Field	Yes	Yes
Target Center	Yes	Yes
Target Field	No	Yes
TCF Bank Stadium	No*	No*
U.S. Bank Stadium	Yes	Yes
Xcel Energy Center	No	No

* The Board of Regents annually approves operating and capital budgets for the University of Minnesota as a whole. It does not annually approve operating or capital budgets specific to TCF Bank Stadium.

NOTE: Of the three facilities in which the governing body does not approve the facility operating budget, two (Target Field and Xcel Energy Center) do not receive public operating subsidies.

SOURCE: Office of the Legislative Auditor, review of facility documents.

¹⁴ Tom Whaley, Executive Vice President, St. Paul Saints, e-mail message to Joel Alter, Office of the Legislative Auditor, “Management of CHS Field, St. Paul,” May 8, 2017.

¹⁵ TCF Bank Stadium is the only facility shown in the box that does not have a facility-wide lease or agreement to which its governing body is a partner. The Board of Regents approves overall operating and capital budgets for the University of Minnesota, but it does not approve facility-specific budgets for TCF Bank Stadium.

¹⁶ *Minnesota Statutes* 2016, 473J.08, subd. 2(b).

assigned duties and functions.”¹⁷ In July 2016, the Authority board approved a document outlining the roles and responsibilities of the Authority’s board chair and executive director. That document estimated 170 hours of work a month for the board chair, primarily in government relations and compliance coordination; internal board and staff coordination; sales and marketing; public relations; and community outreach.¹⁸

The law says that the Minnesota Sports Facilities Authority chair “shall receive, unless otherwise provided by other law, a salary in an amount fixed by the authority.”¹⁹ The Authority chair who resigned in February 2017 had a salary of \$130,175 at the time of her departure.²⁰ In June 2017, the Authority adopted a \$60,000 limit on the chair’s salary. Other Authority board members do not receive a salary; rather, members (other than the chair) are eligible to receive a per diem payment (\$55 per day spent on board activities). The chair and board members may also be paid for reasonable expenses related to their board duties.

By comparison, all members of the Minnesota Ballpark Authority board—including the chair—may receive only the daily per diem (\$55) and expenses. There is no statutory provision for a salary for the Minnesota Ballpark Authority board chair or other members. The statutory duties of the Minnesota Ballpark Authority chair are identical to those specified for the Minnesota Sports Facilities Authority chair.

We did not review the actual amount of time the former or current Minnesota Sports Facilities Authority board chair has spent performing duties, nor did we assess their performance. Rather, the purpose of our finding is to highlight, for the Legislature’s consideration, the difference in the salaries of the Minnesota Sports Facilities Authority and Minnesota Ballpark Authority chairs.²¹

In addition to their governing bodies, both of these organizations have an executive director with a small staff. The Minnesota Sports Facilities Authority’s executive director has a salary of \$165,333 and oversees four employees. The Minnesota Ballpark Authority’s executive director has a salary of \$164,317 and oversees two employees.

Finally, our review of governance structures for sports facilities identified an issue related to one other governing body created by state law: the Metropolitan Sports Facilities Commission.

¹⁷ *Minnesota Statutes* 2016, 473J.07, subd. 4.

¹⁸ In June 2017, the Authority board considered a proposed revision to the board chair’s roles and responsibilities but deferred action until it could compare these with the executive director’s duties. The proposed statement of roles and responsibilities said the chair is the main spokesperson for the Authority and is primarily responsible for implementing the Authority board’s strategic initiatives. Under the proposal, the chair’s specified tasks would also include: representing the Authority before the Legislature and other public bodies; finalizing the Authority board’s meeting agenda; overseeing development of the Authority’s annual budget; developing communication plans for the Authority; and monitoring compliance with the Authority’s major contracts.

¹⁹ *Minnesota Statutes* 2016, 473J.07, subd. 3.

²⁰ The person currently serving as the Authority’s interim chair is serving without taking a salary.

²¹ In 2017, a legislative conference committee reached agreement on legislation (House File 778) that would have limited the Minnesota Sports Facilities Authority chair’s salary, but the Legislature adjourned without acting on this bill. The conference committee report proposed to limit the chair’s salary to no more than half the salary of the executive director in Fiscal Year 2018. The report proposed that, beginning in Fiscal Year 2019, the chair would receive the same compensation as other board members.

Although the Metropolitan Sports Facilities Commission was dissolved in 2012, the statutes related to the commission remain in place.

In 1977, the Legislature created the Metropolitan Sports Facilities Commission.²² The commission's main purpose was to construct and manage the Hubert H. Humphrey Metrodome, which housed major league baseball and football. The Metrodome was eventually razed to make way for U.S. Bank Stadium, and the 2012 Legislature created a new public body (the Minnesota Sports Facilities Authority) to oversee construction and operation of the new stadium.²³ However, the Legislature neglected to eliminate statutory references to the oversight body the Authority replaced. For example, there is still a requirement for appointment of members to the Metropolitan Sports Facilities Commission, and there are provisions that authorize the commission to enter into leases for amateur sports events at Target Center.²⁴ Later in this report, we recommend that the Legislature repeal statutory references to the Metropolitan Sports Facilities Commission.²⁵

USE OF GOVERNING BODY SUITES IN SPORTS FACILITIES

In light of the controversy in 2016-2017 regarding use of the Minnesota Sports Facilities Authority's suites at U.S. Bank Stadium, we examined several suite-related issues for the six facilities subject to our review. We examined (1) which facilities have suites available for use by their governing bodies' members or employees and (2) policies regarding use of these suites—particularly those related to use of the suites by family and friends, complimentary food and beverages in the suites, and Open Meeting Law provisions.

Three of the facilities we examined have at least one suite available for use by the facility's governing body or the governing body's employees. One of the bodies (the University of Minnesota Board of Regents) does not track the purpose served by each guest's use of the suite.

The governing officials of sports facilities have cited several reasons for needing access to a suite at the facility they oversee. For example, if a governing body plays a role in marketing a facility, the body might host potential users of the facility in the suite—to help the potential users experience the facility first-hand during an event. Also, governing bodies may wish to directly observe aspects of facility operations—such as seating, concessions, or stadium amenities—while events are occurring, and suites provide a venue for this. In addition, some governing bodies have used the suites to host public officials or “strategic guests,” as we discuss later.

²² *Laws of Minnesota* 1977, chapter 89, secs. 1 and 3.

²³ *Laws of Minnesota* 2012, chapter 299, art. 1.

²⁴ *Minnesota Statutes* 2016, 473.553, subds. 2 and 3; and 473.556, subd. 16. There are various other references to the commission in Chapter 473.

²⁵ Minnesota Sports Facilities Authority officials told us they proposed and supported legislation in 2017 to delete existing statutory references to the “Metropolitan Sports Facilities Commission.” The Legislature did not adopt these changes.

Three of the six facilities we examined have one or more suites that are designated for use by the facility's governing body or the governing body's employees. Specifically:

- U.S. Bank Stadium has two suites that the Minnesota Sports Facilities Authority members and its employees can use. Each suite has 16 seats and can accommodate two additional persons who are standing. The Authority did not keep track of individuals who used its suites until late 2016, when this information was requested by the media, legislators, and the Office of the Legislative Auditor (OLA). Following OLA's February 2017 report regarding use of these suites, the Authority adopted the following policy:

The Authority will maintain a list of the individuals who use the Authority's suites. This list shall include: the date and type of event, the name of the individual attending, the individual's employer or organization, the Authority board member or employee who issued the invitation, and the public purpose for that individual's presence.²⁶

- Target Field has one suite that can be used by the Minnesota Ballpark Authority and its employees for ballgames, and it also functions as a part of the Authority's office space. On non-game days, the suite serves as the Authority's large conference room. For games and other events, the suite seats up to 24 persons.²⁷ Through 2016, the Minnesota Ballpark Authority did not keep a record of the individuals who used the Authority's suite for baseball games. However, in April 2017, the Authority adopted the following policy:

The names of all persons or organizations using the [Minnesota Ballpark Authority] tickets or passes for the suite, and the purposes for which the tickets or passes were used, will be recorded and disclosed annually by the MBA.²⁸

For 2017, the Authority intends to expand its existing charitable use policy for the suite by providing free use of the suite to charitable organizations for most Minnesota Twins games.

- TCF Bank Stadium has one suite that is available for use by members of the Board of Regents, the board's employees, and the President of the University of Minnesota. The suite has 96 seats; 52 are provided to the Board of Regents and 44 to the President. The suite can also accommodate additional invited guests who stand in the suite but do not have seats. The University has records of individuals who used the suite in 2016 at Minnesota Gopher football games. However, unlike the governing bodies of the two stadiums discussed above, the University does not have a policy that requires it to track the purpose served by each individual's visit.²⁹

None of the University's other sports or entertainment venues have suites for University leaders. However, members of the Board of Regents may receive complimentary tickets to University

²⁶ Minnesota Sports Facilities Authority, "MSFA Suite Policy," http://www.msfa.com/content/suite_policy.pdf, accessed April 21, 2017.

²⁷ In addition to the 24 ballpark seats, the suite can accommodate several people at a drink rail, and there is additional room for people to stand. Until the Minnesota Ballpark Authority's suite location changed in 2017, the Authority's suite had seats for up to 16 persons.

²⁸ Minnesota Ballpark Authority, "MBA Suite Usage: Background and Policy," http://ballparkauthority.com/wp-content/uploads/2017/05/MBA_Suite_Usage_Background_and_Policy.pdf, accessed May 10, 2017.

²⁹ According to the Board of Regents' Ticket Courtesies Guidelines, the Office of the Board of Regents maintains required documentation so that use of the suite by the Regents and their guests does not result in taxable income to individual Regents. The guidelines state that this is permitted under the working condition fringe benefit of the federal tax code.

events upon request. For athletic events, half of the cost of these complimentary tickets is paid for with unrestricted endowment earnings by the Office of the Board of Regents, and the other half is provided by the University's Athletics Department.

The other three facilities we examined (Target Center, Xcel Energy Center, and CHS Field) are all city-owned, and facility representatives told us that these facilities make no provisions for city council members (or other city officials) from Minneapolis or St. Paul to attend events free of charge. These facilities do not have suites or seats that are specifically designated for these officials. Officials from the company (AEG) that manages Target Center told us that AEG used to occasionally provide reduced-price suite tickets to Minneapolis City Council members, the Minneapolis mayor, and "key non-elected officials"; AEG said it discontinued this because of low attendance.³⁰

"Family and Friends" Policies

For the three facilities in which the governing body owns one or more suites, it is important to consider the purposes for which those suites are used. We gave particular attention to governing body practices for allocating suite tickets to friends and family of (1) governing board members or (2) agency administrative leaders or other staff.

The University's Board of Regents suite provides free suite access to "family and friends" of University officials and regents. It is unclear how this policy fulfills a public purpose.

The sections below review the "family and friends" policies and practices for the three facilities that have suites owned or controlled by facility governing bodies. In addition, we discuss legal and ethical issues raised by these policies and practices.

U.S. Bank Stadium

In our 2017 report on use of suites at U.S. Bank Stadium, we found that 45 percent of the tickets to the Minnesota Sports Facilities Authority's two suites in 2016 were used by family members and friends of Authority commissioners or staff.³¹ The Authority justified giving suite access to family and friends by saying that (1) this continued a practice that had existed at the Metrodome (the Minnesota Vikings' home for more than 30 years prior to moving to U.S. Bank Stadium), (2) other public facilities provide this type of suite access, (3) this was an appropriate benefit for people who worked for the Authority or served on its board, and (4) having friends and family in the suites helped create a congenial atmosphere.

Our report on the Minnesota Sports Facilities Authority said that giving free tickets to family members and friends did not violate the law, but it violated a core ethical principle. Specifically, this practice allowed public officials and employees to obtain personal benefits not available to the general public. In the aftermath of our report, the Authority modified its policy regarding use of its suites in U.S. Bank Stadium. The revised policy said that the suites should be used only to fulfill legislatively assigned purposes, including marketing the facility and overseeing facility operations. The revised policy listed categories of persons whose use of the suites may be justified (depending on the circumstances of the

³⁰ A representative of AEG told us that the most recent occasions when reduced-price tickets were offered to city officials were in May 2016 and October 2013.

³¹ Office of the Legislative Auditor, Special Review, *Minnesota Sports Facilities Authority: Use of Suites at the U.S. Bank Stadium* (St. Paul, February 7, 2017), 10.

situation), and these categories did not include family and friends of Authority board members or employees.³²

Target Field

Until early 2017, each member of the Minnesota Ballpark Authority—which oversees Target Field—was allowed to reserve use of the Authority’s suite for nine games, and each member could reserve three or four tickets apiece to certain other games during the season. The Authority’s policy did not directly address the appropriateness of having friends or family of Authority members or employees in the suite. Through early 2017, the Authority did not keep records to indicate how many friends and family of Authority members or staff used the Authority’s suite.

In April 2017, the Minnesota Ballpark Authority amended its suite policy in the aftermath of the February 2017 OLA report on U.S. Bank Stadium. The policy now states: “Suite use is limited to those persons or organizations having a legitimate business purpose or fulfilling a public purpose goal of the statutes.”³³ The policy says that Minnesota Ballpark Authority members or staff may invite guests to use the suite without payment for a business or public purpose, but such guests must receive prior authorization from the board.³⁴ The revised policy effectively prohibited use of the suite by family and friends of Authority members and staff who had no business or public purpose, starting in April 2017.

TCF Bank Stadium

TCF Bank Stadium at the University of Minnesota has one suite available for use by the Board of Regents and University President. According to University policy, “The purpose of the Regents & President’s Suite at TCF Bank Stadium is to serve as a forum to host strategic guests and build relationships on behalf of the University.”³⁵ According to another University document, “The suite dedicated to the President’s and Board’s use was always an important part of the plan for TCF Bank Stadium. Football game days provide a singular and unique venue for developing and building relationships on behalf of the University, allowing senior leadership and key stakeholders to connect, and bringing stakeholders to campus to experience the University first-hand.”³⁶ Examples of invitees to the suite include financial donors (and prospective donors) to the University, business leaders, community leaders, elected officials, alumni, and University faculty or staff.

Unlike the Minnesota Sports Facilities Authority and the Minnesota Ballpark Authority, the University does not have a policy that restricts use of the suite by family and friends of the Regents, University employees, or other suite attendees. In fact, University policy says: “Strategic guests are supplemented

³² The persons authorized by board policy to use the suites include Authority board members, executives, and other employees; staff from the firm that markets the stadium; users and potential users of the facility; community member groups; and public officials. The policy places certain restrictions on their attendance. For example, it says that Authority board members and executives may use the suite, but “must observe the operation of the stadium and must pay attention to any facts or issues that would allow the Authority to better fulfill its purpose.” The policy says that public officials may attend events in the suites if doing so is consistent with the public purposes articulated in the policy.

³³ Minnesota Ballpark Authority, “MBA Suite Usage: Background and Policy,” http://ballparkauthority.com/wp-content/uploads/2017/05/MBA_Suite_Usage_Background_and_Policy.pdf, accessed May 10, 2017.

³⁴ The policy states two ways in which board authorization may occur. First, the full board may approve use of the suite by the individual(s) in a public meeting. Second, if the board is not scheduled to meet in a timely manner to consider a request for suite use by the executive director, the board chair and one other board member may approve the request.

³⁵ University of Minnesota Office of the Board of Regents, “2016 Regents & President’s Suite Guidelines,” provided to the Office of the Legislative Auditor by Board of Regents staff.

³⁶ University of Minnesota Office of the Board of Regents, “Regents & President’s Suite Q&A,” provided to the Office of the Legislative Auditor by Board of Regents staff.

with family and friends, who are always welcome in the suite.”³⁷ In 2016, the number of family members of Regents, the University President, Board of Regents staff, or top University officials ranged from 7 to 17 per game. In addition, many suite attendees were family members or guests of other individuals invited to use the suite. For example, at the Minnesota-Purdue game on November 5, 2016, we estimated that 49 of 109 suite attendees (45 percent) were family members of a Regent, the University President, or Board of Regents staff, or they were family or friends of invited suite guests.³⁸

We asked staff in the University Board of Regents Office about the rationale for allowing family and friends in the TCF Bank Stadium suite. A University official responded: “Friends and family—whether of the Regents, invited donors, elected officials, or other strategic guests—help create an enjoyable game-day experience for everyone in the suite, especially given that games take place on evenings and weekends.”³⁹

Legal and Ethical Issues

State law imposes certain restrictions on the ability of state employees and public officials to accept special benefits or gifts. The state’s Code of Conduct for Employees in the Executive Branch says:

The following actions by an employee in the executive branch shall be deemed a conflict of interest and subject to procedures regarding resolution of the conflict...or disciplinary action as appropriate: (1) use or attempted use of the employee’s official position to secure benefits, privileges, exemptions or advantages for the employee or the employee’s immediate family or an organization with which the employee is associated which are different from those available to the general public....⁴⁰

However, employees and board members of the three governing bodies that have suites at sports facilities—the Minnesota Sports Facilities Authority, Minnesota Ballpark Authority, and University of Minnesota Board of Regents—are not considered to be state executive branch employees. Thus, they are not *by law* subject to the state’s Code of Conduct. It is worth noting that the Minnesota Ballpark Authority revised its existing Code of Conduct in April 2017 so that it (1) references provisions of the state’s executive branch Code of Conduct and (2) declares, among other things, that it is a conflict of interest for Authority members or employees to use their positions to secure benefits or privileges for themselves, immediate family members, or organizations they work with that are different from those available to the general public.⁴¹ Similarly, in June 2017, the Minnesota Sports Facilities Authority required its board members and employees to comply with the state executive branch Code of Conduct.

Another state law—often referred to as Minnesota’s “Gift Law”—addresses whether public officials may receive or give certain “gifts.” This law says:

³⁷ University of Minnesota Office of the Board of Regents, “2016 Regents & President’s Suite Guidelines.”

³⁸ Our count included instances in which a person was a family member or guest of another invitee. We recognize that large donations to the University may sometimes come from couples or families (rather than individuals), and this may account for some instances in which multiple members of a family attended the suite together. We did not try to determine whether there was a public purpose served by each suite invitation.

³⁹ Brian Steeves, Executive Director and Corporate Secretary, University of Minnesota Board of Regents, e-mail message to Joel Alter, Office of the Legislative Auditor, “Re: Follow-up Questions Regarding TCF Bank Stadium Suite,” May 19, 2017.

⁴⁰ *Minnesota Statutes* 2016, 43A.38, subd. 5.

⁴¹ The University of Minnesota abides by a Code of Conduct adopted by the Board of Regents. The policy states an expectation that Regents and University employees will avoid conflicts of interest, disclose potential conflicts of interest, and adhere to management plans created to eliminate conflicts of interest.

A lobbyist or principal may not give a gift or request another to give a gift to an official. An official may not accept a gift from a lobbyist or principal.⁴²

But none of the three public organizations that own ballpark or stadium suites is considered to be a “lobbyist” or “principal.” Thus, the law cited above does not prohibit these organizations from giving gifts—such as free tickets to an event in a suite—to public officials.

We think it is a violation of a core ethical principal when public officials and employees use their public positions to obtain valuable personal benefits. This can include providing friends or family members with access to benefits that most members of the general public cannot access, such as attending a professional or university sporting event free of charge in a stadium suite. In our 2017 report on the Minnesota Sports Facilities Authority’s suite use, we said:

In our opinion, all public officials and employees should be required to use their positions and public resources only for a public purpose. Either they should be subject to the state’s Code of Conduct or a law specifically written to control their use of complimentary tickets to events and services provided at publicly financed sports and entertainment facilities.⁴³

In our view, it is debatable whether providing free suite tickets to family and friends of facility governing officials raises greater questions at a professional football stadium (U.S. Bank Stadium) than at a university football stadium (TCF Bank Stadium). Tickets at the new Minnesota Vikings stadium have been in greater demand than tickets to University of Minnesota football games, and they are more expensive. Thus, Vikings tickets given to family and friends arguably have greater value than Gophers tickets given to family and friends. Also, some people may suggest that officials at a flagship public educational institution—the University of Minnesota—should have greater latitude to invite guests to a suite than should officials overseeing a facility whose main tenant is a private enterprise (the Minnesota Vikings). A University official told us:

The Board of Regents and President are not lessors managing terms, conditions, and facility maintenance for professional team lessees. They are broadly charged with defining, guiding, and ensuring fulfillment of the University’s land-grant mission.... The University of Minnesota is not a for-profit sports entity and comparisons to such entities are very much an apples to oranges comparison.⁴⁴

However, public dollars have helped build and operate both U.S. Bank Stadium and TCF Bank Stadium, and the public governing bodies of both facilities should be subject to certain ethical guideposts. Later in this report, we recommend that the University of Minnesota Board of Regents consider some modifications to its policy that now places no restrictions on use of the Regents’ suite at TCF Bank Stadium by friends and family of University officials.

⁴² *Minnesota Statutes* 2016, 10A.071, subd. 2. According to Minnesota Campaign Finance and Public Disclosure Board, *Lobbyist Handbook* (St. Paul, April 19, 2016), 2: “Lobbyists are individuals who are hired, or who act on their own, to try to influence governmental action by communicating with or urging others to communicate with government officials. Principals are individuals or groups that either hire lobbyists or spend \$50,000 or more in a year to influence governmental action.” The gift ban generally applies to gifts with a value of more than \$5.00.

⁴³ Office of the Legislative Auditor, Special Review, *Minnesota Sports Facilities Authority: Use of Suites at the U.S. Bank Stadium* (St. Paul, February 7, 2017), 26.

⁴⁴ Brian Steeves, Executive Director and Corporate Secretary, University of Minnesota Board of Regents, letter to Jim Nobles, Legislative Auditor, July 7, 2017.

In addition, we think it is worth asking whether a public purpose is served when legislators receive gifts of free tickets to stadium suites—even though such a practice does not violate state law. In 2016, a total of 24 Minnesota legislators were guests at the Regents and President’s Suite at TCF Bank Stadium for at least one of the seven home football games. The University of Minnesota understandably views legislators as “strategic guests” whose influence will have significant impact on the University’s future. However, we question whether elected officials should accept gifts of substantial value—including the use of a stadium suite—from public entities whose funding they oversee.⁴⁵

Some individuals who have attended events in the suites of sports facility governing bodies have subsequently made payments to those bodies for their tickets.⁴⁶ However, there is no legal obligation for such payments.⁴⁷ Furthermore, the value of these tickets is debatable, and we made no attempt to assess what would constitute a fair price.

Food and Beverages for Suite Guests

As discussed above, ethical questions arise when sports facility governing bodies provide free suite tickets to individuals who do not have a public purpose for attending the events. Likewise, providing free food or beverages to individuals in these suites may also raise questions.

Food and beverage practices vary among the three facilities whose governing bodies control suites.

The box on this page summarizes the food and beverage practices in the governing body suites at the three facilities with such suites. Below, we discuss these bodies’ written policies regarding food and beverages in their suites.

Target Field

The Minnesota Ballpark Authority’s current policy says: “[N]o public funds may be used for the cost of food or beverages in the [Authority’s] suite. Any costs related to food or beverages are the responsibility of the individual user.”⁴⁸ According to the Authority’s executive director, this has been the

<u>Facility</u>	<u>Free Food?</u>	<u>Free Alcohol?</u>
Target Field	No	No
U.S. Bank Stadium	Yes	No
TCF Bank Stadium	Yes	Yes

⁴⁵ At U.S. Bank Stadium, the suite use policy adopted by the Minnesota Sports Facilities Authority in February 2017 allows “public officials” to attend marketing events in the Authority’s suites so long as this fulfills one of the Authority’s “legislatively-assigned purposes,” including facility marketing and oversight of facility operations. At Target Field, guests of Minnesota Ballpark Authority members or staff must have a “legitimate business purpose or public purpose” for attending. Each of these organization’s policies requires keeping a record of the purpose served by an attendee’s use of the suite.

⁴⁶ At U.S. Bank Stadium, many individuals submitted payments for their suite tickets after the use of these tickets became a matter of public controversy in late 2016.

⁴⁷ The governing bodies at U.S. Bank Stadium, Target Field, and TCF Bank Stadium do not pay for suite tickets. Under a “use agreement” with the Minnesota Vikings, the Minnesota Sports Facilities Authority owns its two suites at U.S. Bank Stadium and receives free tickets for suite users. Similarly, the Target Field lease agreement designates one suite for rent-free use by the Minnesota Ballpark Authority, and the Authority receives free tickets to the suite. At TCF Bank Stadium, the University owns the stadium (including the Regents and President’s Suite), and users of this suite receive free tickets.

⁴⁸ Minnesota Ballpark Authority, “MBA Suite Usage: Background and Policy,” http://ballparkauthority.com/wp-content/uploads/2017/05/MBA_Suite_Usage_Background_and_Policy.pdf, accessed May 10, 2017.

policy of the Authority since Target Field opened in 2010. Thus, he said, the Authority has never paid for the food and beverages of people using the Authority's suite.

U.S. Bank Stadium

According to the Minnesota Sports Facilities Authority's current policy, the Authority may provide users of the Authority's suite with free food. The policy says:

Expenditure of funds for food serves important public goals.... Showcasing the unique food options available at the facility is a crucial component to an effective marketing plan. Providing food also serves a public purpose by supporting the goal of the meeting. The events often occur around mealtimes and it is not possible to reschedule the marketing event to a different time. Providing food allows the marketing meeting to continue without interruption and demonstrates the capabilities of the stadium to individuals and entities considering booking future events at the stadium.⁴⁹

In 2016, the Minnesota Sports Facilities Authority paid for food that was catered into the Authority's two suites during events. The Authority said that food services at 12 events amounted to more than \$32,000. The Authority's current policy says that food expenditures must be reasonable because "excessive food expenses do not serve a public purpose."⁵⁰

Regarding alcohol, the Authority's policy states that alcohol cannot be reimbursed by the Authority, so "a process will be established for user reimbursement or purchase of these beverages similar to the practices implemented at the Metrodome." In our view, the language of the policy regarding alcohol reimbursement is confusing.⁵¹ The Authority's legal representative told us that this policy has attempted to ensure that suite users—rather than the Minnesota Sports Facilities Authority—pay for alcohol consumed in the Authority's suites. Later in this report, we recommend that the Authority clarify its alcohol reimbursement policy.

TCF Bank Stadium

Free food and beverages—including beer and wine—are available to guests of TCF Bank Stadium's Regents and President's Suite. According to the University of Minnesota, this does not involve expenditure of public money. These costs are split between the Board of Regents Office (using earnings from the University's endowment) and the President's Office (using the President's discretionary funds from the University of Minnesota Foundation).

The University has characterized events at the suite as social gatherings that develop relationships, cultivate donors, and build goodwill toward the University. This is similar to the University's characterization of "hospitality" events, which University departments occasionally host.⁵² University

⁴⁹ Minnesota Sports Facilities Authority, "MSFA Suite Policy," http://www.msfa.com/content/suite_policy.pdf, accessed April 21, 2017.

⁵⁰ *Ibid.*

⁵¹ The policy is unclear partly because it references practices that were used in a previous facility (the Metrodome) and are not clearly described in the current policy. Also, after stating that the Authority cannot reimburse suite users for alcohol, the policy says that a process for "reimbursement or purchase" of alcohol will be established.

⁵² The University defines hospitality as "an activity conducted to generate a positive reputation for the University, convey goodwill to internal or external audiences, [or] celebrate or recognize accomplishments."

policy says that hospitality expenses “must be reasonable, allowable,” and “directly support the University’s mission of teaching, research, and outreach.”⁵³

University policy says that the University’s purchase of alcoholic beverages for a hospitality event is permitted if:

- The event has a legitimate University business purpose, such as faculty recruitment or donor relations activities;
- The beverages are paid for with private funds (and not from externally sponsored research funds) that allow such expenditures; and
- The alcohol consumption and expenditure does not jeopardize the University’s reputation, or the health and welfare of the people involved.

Legal or Ethical Issues

We considered whether the policies related to provision of food and beverages in governing body suites at certain sports facilities suites violate state law or ethical principals. We concluded that the policies do not violate state law. As we noted previously, members and employees of the governing boards for these three facilities are not subject by law to the state’s Code of Conduct for Employees in the Executive Branch (which prohibits a person from using his or her position to secure benefits for the person or family members). Also, the prohibition—under Minnesota’s “Gift Law”—on public officials accepting items worth more than \$5.00 from a lobbyist or lobbyist principal does not apply to provision of food and beverages by the Minnesota Sports Facilities Authority, Minnesota Ballpark Authority, or Board of Regents; none of these bodies is considered to be a lobbyist or lobbyist principal.

However, the provision of free food or alcohol in governing board suites may raise ethical questions. The value of complimentary food and beverages provided to an individual at an event might be much lower than the value of that person’s complimentary suite ticket, but free refreshments nevertheless represent a benefit available to guests of the governing board suites that is not available to others. The different policies that have been adopted by the sports facility governing boards on this issue reflect differing interpretations by the boards of what is ethically appropriate. The Minnesota Sports Facilities Authority believes that provision of complimentary food is reasonable in instances where this supports a public purpose; the University contends that providing hospitality (including food and drink) is acceptable in certain circumstances if funded by private dollars. In contrast, the Minnesota Ballpark Authority has avoided any appearance of special privileges or conflicts of interest by requiring suite guests to pay for all of their own food and beverages.

Potential Open Meeting Law Issues in Suites

Minnesota law requires that meetings of public bodies be open to the public, except in certain instances specified in statute.⁵⁴ These bodies must provide public notice of their meetings, even in cases where the meetings are closed to the public. The state’s Open Meeting Law does not define what a “meeting” is,

⁵³ University of Minnesota, “Administrative Policy: Hospitality and Other Expenses,” revised February 2013, <https://policy.umn.edu/finance/hospitality>, accessed April 21, 2017. The policy also says that hospitality expenses must be “allocable” under relevant laws, regulations, and University policy. This means that the amount of the expense can be charged to a unit or function because the purchased item provides a commensurate benefit to that unit or function. In addition, the policy says, “The expenses may not create, maintain, or increase the value of a personal asset, or be personal in nature.”

⁵⁴ *Minnesota Statutes* 2016, 13D.01, subds. 1 and 2.

and this complicates the task of determining whether a governmental body is complying with the law. In a 1983 case, the Minnesota Supreme Court defined meetings subject to the Open Meeting Law as gatherings of a quorum of a body's members that "discuss, decide, or receive information as a group on issues relating to the official business of that governing body."⁵⁵ However, determining whether a discussion relates to the board's official business can be a judgment call.

When governing board members attend events together in stadium suites, there is the potential for violations of the state's Open Meeting Law.

When our office examined the Minnesota Sports Facilities Authority's use of suites at U.S. Bank Stadium in late 2016, the Authority asserted that having a quorum of its board members in one suite might lead to allegations that the board was engaging in communications outside the Open Meeting Law. This is one reason that the Authority said it needed to operate two suites. But splitting a five-member board between two suites would still result in a quorum of board members in one of the suites, so we questioned the logic of the Authority's argument for a second suite.⁵⁶ Subsequent to release of our February 2017 report on the Authority's suites, the Authority told us that, unless there is further direction from the Legislature, the Authority will never intentionally allow a quorum of Authority board members to be together in a suite.

The Minnesota Ballpark Authority also has considered the Open Meeting Law's implications when its members attend Target Field games in the Authority's suite. In July 2017, the Authority board amended its Code of Conduct to affirm the Open Meeting Law's requirements. The policy references statutes and case law related to open meetings. For example, it says:

Social gatherings are not meetings subject to the Open Meeting Law as long as there is not a quorum present, or if a quorum is present, as long as the quorum does not discuss, decide or receive information on official business.⁵⁷

The University of Minnesota Board of Regents' policies regarding the TCF Bank Stadium suite do not specifically mention the Open Meeting Law. However, at each of the Minnesota Gophers' home football games in 2016, a quorum of the board's members attended the game in the Regents and President's Suite; this raises the question of whether the Open Meeting Law applied to such events. A University official told us that the Open Meeting Law does not apply to social gatherings, citing a 1983 Minnesota Supreme Court case, and he said that events in the football stadium suite are social gatherings.⁵⁸ He said that members of the Board of Regents know they cannot discuss official business "under the guise of a social gathering."⁵⁹ Furthermore, he said that the TCF Bank Stadium suite is not conducive to discussions

⁵⁵ *Moberg v. Independent School District No. 281*, 336 N.W.2d 510, 518 (Minn. 1983). A quorum is the minimum number of members who must be present for a body to conduct business.

⁵⁶ We also noted that many of the people attending events in the suite did not have a public purpose for attending the events, which undermined the Authority's rationale for having a second suite.

⁵⁷ Minnesota Ballpark Authority, *Code of Conduct*, revised July 13, 2017. Authority officials told us the Authority has always complied with Open Meeting Law requirements, and that the July 2017 policy revision makes the Open Meeting Law's requirements a more explicit part of the Authority's policies.

⁵⁸ The cited case is *St. Cloud Newspapers, Inc. v. District 742 Community Schools*, 332 N.W.2d 1, 7 (Minn. 1983) in which the Court said: "The Minnesota Open Meeting Law does not apply to chance or social gatherings."

⁵⁹ Brian Steeves, Executive Director and Corporate Secretary, University of Minnesota Board of Regents, e-mail message to Joel Alter, Office of the Legislative Auditor, "Re: Follow-up Questions Regarding TCF Bank Stadium Suite," May 19, 2017. He also said that Regents are instructed upon election and given regular reminders that the Open Meeting Law prohibits members from transacting board business in social gatherings.

among the Regents regarding official business—for example, there is a large number of people in the suite, most seats face the playing field, and each Regent is hosting multiple guests.

We have no way of knowing the nature of discussions that occur among members of the Minnesota Sports Facilities Authority, Minnesota Ballpark Authority, or Board of Regents in their respective suites at sports facilities. Perhaps the members mostly talk about the event they are watching, or they exchange social pleasantries. It is also possible that conversations occasionally relate to matters of official business. If the latter happens, even at a ballgame or social event, there is the potential for such conversations to violate the Open Meeting Law. Based on our review of case law, it seems likely that the topics discussed by members at an event where a quorum is present dictate whether the Open Meeting Law applies, rather than the nature of the event itself (for example, a social gathering). Later, we recommend that each governing body with a sports facility suite adopt a policy to help ensure that members do not discuss official business in the suite.

USE OF SPORTS FACILITIES BY PUBLIC SCHOOLS

Each of the facilities we reviewed is a publicly owned facility. As part of looking at facility operations, we examined the extent to which these facilities are available for use by public schools, or for other community purposes.

For two of the sports facilities we examined, facility governing bodies are directed or requested in state law to provide opportunities for Minnesota public schools to use the facilities. U.S. Bank Stadium is providing these opportunities; TCF Bank Stadium has provided limited opportunities of this sort.

The statutes related to the governing body of U.S. Bank Stadium state: “The [Minnesota Sports Facilities] [A]uthority will work to maximize access [at the stadium] for public and amateur sports, community, and civic events, and other public events.”⁶⁰ In addition, the law specifies that the lessee of U.S. Bank Stadium (that is, the Minnesota Vikings) must make the stadium available for use by the Minnesota State High School League for at least seven days a year for high school soccer and football tournaments.⁶¹ The State High School League used the stadium in Fall 2016 for its state football and soccer tournaments, and it plans to use the stadium for these tournaments during the remainder of the Authority’s 30-year lease agreement with the Minnesota Vikings. The law also requires the Vikings to make the stadium available to the Minnesota Amateur Sports Commission up to ten days a year.⁶² So far, the commission has not requested to use the stadium for its events, but its director told us the commission intends to consider using the stadium in the future.

⁶⁰ *Minnesota Statutes* 2016, 473J.13, subd. 3.

⁶¹ *Minnesota Statutes* 2016, 473J.27, subd. 2.

⁶² *Minnesota Statutes* 2016, 473J.27, subd. 1. The law says that the Minnesota Amateur Sports Commission “may be required to pay no more than actual out-of-pocket expenses for the time it uses the stadium.”

The statutes governing TCF Bank Stadium also have a provision for public access, although this statute is less specific and directive than the requirement for U.S. Bank Stadium:

The Board of Regents is requested, in furtherance of its outreach mission and subject to its policies regarding the use of university facilities, to provide ample opportunities for use of the stadium for events sponsored by public bodies including public schools.⁶³

There has been limited use of TCF Bank Stadium by “public bodies,” including K-12 schools. The state high school football championship was held in the stadium in 2014 and 2015, but that event moved to U.S. Bank Stadium in 2016. Also, there was a day of high school hockey games at the stadium in January 2014. In this report’s appendix, our summary of events held at various sports facilities indicates that there were no non-university public school events at TCF Bank Stadium in 2016. A University official told us that the stadium is used for various University activities: kinesiology classes, recreational sports, career fairs, and graduation celebrations.⁶⁴

While the other four facilities we examined do not have provisions in statute related to use of the facilities by public schools, some have provisions in leases or use agreements that address public use of the facilities more generally. For example, the lease for Xcel Energy Center says that the City of St. Paul shall have the right to use the facility rent-free for five events per year. These events must be “of community or non-commercial nature,” according to the lease.⁶⁵ Likewise, the use agreement for CHS Field in St. Paul says that the Minnesota State High School League will receive scheduling priority for state tournament baseball games at this facility. The agreement also says that the St. Paul Saints, as the operators of CHS Field, “will work to maximize access for public and amateur sports, community, and civil events, and other public events....”⁶⁶

When the Legislature authorized the construction of Target Field in 2006, it included a provision negotiated by Hennepin County that linked the facility’s construction to the tenant’s financial support for amateur sports. State law says: “The [stadium] lease or use agreement must require that the team [Minnesota Twins] provide or cause to be provided \$250,000 annually for the term of the agreement for youth activities and youth and amateur sports without reducing the amounts otherwise normally provided for and on behalf of the team for those purposes.”⁶⁷ In other words, the law requires the stadium’s main tenant to increase its support for amateur sports, while it does not specify that these activities must occur at Target Field.

There are widely varying fees charged by public sports facilities to the Minnesota State High School League for its state athletic tournaments—from no fees at some facilities to substantial fees at others.

The Minnesota State High School League uses an array of public sports facilities for state high school athletic tournaments, and some do not charge fees to the League. When the 2012 Legislature approved

⁶³ *Minnesota Statutes* 2016, 137.55.

⁶⁴ He also said the stadium has been used for some high school proms.

⁶⁵ “Arena Lease Among City of St. Paul, Civic Center Authority and Minnesota Hockey Ventures Group, LP,” Article VII, Section 7.1, undated, 46. The city is responsible for out-of-pocket expenses associated with these events.

⁶⁶ “Ballpark Use Agreement by and between City of St. Paul and St. Paul Saints Baseball Club, Inc.,” Article VI, Section 6.2(f), October 23, 2013, 31.

⁶⁷ *Minnesota Statutes* 2016, 473.759, subd. 13. The law says the amounts devoted to this purpose shall increase by an inflation factor not to exceed 2.5 percent annually.

public funding for the construction of U.S. Bank Stadium, it required that the stadium be made available to the Minnesota State High School League for at least a specified number of days per year. The law said the stadium’s tenant (the Minnesota Vikings) “may not charge the league a fee for this use, including security, ticket takers, custodial or cleaning services, or other similar services in connection with this use.”⁶⁸

In contrast, the Minnesota State High School League pays substantial amounts for use of some other publicly owned sports facilities for state competitions. Exhibit 4 shows the Fiscal Year 2017 “facility fees” and other expenses paid by the League for use of various public sports facilities.⁶⁹ In total, the League paid nearly \$2 million in fees to use Xcel Energy Center, Target Center, and various venues at the University of Minnesota.⁷⁰ The League’s governing board can, if it wishes, increase event ticket prices to reflect increases in the facility fees charged to the League, but League staff told us that the board has chosen to hold ticket prices constant for the past several years—which means that recent increases in facility fees have been absorbed by the League’s budget. State law does not specifically address fees the State High School League is subject to at these facilities, and the fees have been negotiated by the facility operators and the League. In correspondence with our office, a League official questioned whether the League truly has leverage to negotiate fees, given that it has few options for venues of the size needed to host state tournaments.

Exhibit 4: Minnesota State High School League (MSHSL) Payments to Venues Hosting Athletic Events, Fiscal Year 2017

Venue ^a	Sports in Which MSHSL Sponsored Events at the Venue	Total “Facility Fees”	Total Payments for Rent or Other Expenses	Total Payments by MSHSL
CHS Field	Baseball	\$ 0	\$ 4,000	\$ 4,000
Target Center	Basketball, dance team	200,891	190,288	391,179
University of Minnesota (multiple venues) ^b	Basketball, hockey, gymnastics, swimming, baseball	151,396	310,935	462,331
U.S. Bank Stadium	Football, soccer	0	0	0
Xcel Energy Center	Hockey, wrestling, volleyball	397,342	689,951	1,087,293
TOTAL		\$749,629	\$1,195,174	\$1,944,803

NOTE: “Facility fees” are amounts that MSHSL must pay on the basis of the number of tickets sold. The fees per ticket ranged from \$2 to \$3.

^a Target Field is not shown in this exhibit because MSHSL was not charged facility fees or rent for use of the stadium for the state baseball tournament. Rather, the Twins paid a flat fee to MSHSL for the tournament and then retained all ticket and concession revenues.

^b There were no MSHSL events at TCF Bank Stadium in Fiscal Year 2017.

SOURCE: Office of the Legislative Auditor, analysis of data from Minnesota State High School League.

The executive director of the Minnesota State High School League told us he wishes that all public facilities the League uses had provisions in statute similar to those that exist for U.S. Bank Stadium. He

⁶⁸ *Laws of Minnesota* 2012, chapter 299, art. 5, sec. 7, subd. 2.

⁶⁹ Venues charge the League “facility fees” on a per-ticket-sold basis, but the League does not automatically add these fees onto the ticket prices set by the League for state tournament events.

⁷⁰ The League has a somewhat different arrangement for using Target Field for the state baseball tournament. The League is not charged facility fees or rent to use the stadium, in contrast to the arrangements shown in Exhibit 4. Rather, the Minnesota Twins pay the League a flat fee (\$17,500) for the event, and the Twins are allowed to keep event ticket and concession revenues (which have averaged about \$65,000 in recent years).

said the League has worked cooperatively with various facilities to host state tournaments and generally received good services. However, he believes that venues that have been built with public funding should be available for use by public schools with limited or no fees.

However, the University of Minnesota disagreed with the notion that its facilities should be made available to the Minnesota High School League free of charge. A University official told us that absorbing the costs of hosting high school tournaments would simply result in those costs being shifted to other parts of the University's budget.

ARRANGEMENTS FOR OPERATING THE SPORTS FACILITIES

Managing a major sports facility is a complex responsibility. Facilities must be managed so that their condition is acceptable to the teams that use them, the leagues those teams belong to, and the fans that attend events. Facility operators want to maximize revenues while ensuring that consecutive events at the facilities are carefully coordinated. It is necessary to make arrangements for concessions, ticket sales, security, advertising, and broadcasting.

There are three different models for managing and marketing sports facilities in the Twin Cities.

Exhibit 5 shows that the six facilities we examined each use one of three models for facility management. Three of the facilities are managed by the team that uses the facility or a team-affiliated company. Target Field is operated mainly by the Minnesota Twins, Xcel Energy Center is operated by the Minnesota Wild, and CHS Field is operated by the St. Paul Saints.⁷¹ For example, although Minnesota law says that the Minnesota Ballpark Authority—which owns Target Field—“may equip, improve, operate, manage, maintain, and control” the facility, the Authority’s lease agreement with the Minnesota Twins gives the Twins “sole responsibility for the operation, direction, Management and supervision of the Ballpark and its staff,” subject to the Authority’s oversight.⁷² The Twins do all marketing for the facility—for example, selling private suites, selling individual tickets to ballgames, and arranging for concerts or other non-Twins events at Target Field. The Twins arrange for key operations activities at the ballpark, such as concessions, security, and maintaining the condition of the playing field. In contrast, the Minnesota Ballpark Authority—with only three employees—is not responsible for the ballpark’s day-to-day operations. However, the Twins are required by their lease to annually report to the Authority on (1) actual ballpark maintenance expenses and a projected budget for the coming year, (2) the Twins’ capital improvement spending at Target Field, and (3) the Twins’ investments in youth activities and youth sports.⁷³ Since Target Field opened in 2010, the Authority has approved more than \$18 million in ballpark enhancements funded by the Twins, and it has funded more than \$2 million in public improvements around the ballpark.

⁷¹ In the case of Target Field, sole responsibility for ballpark operation rests with Twins Ballpark, LLC, which is a wholly owned subsidiary of the Minnesota Twins. The Xcel Energy Center is operated by Minnesota Sports & Entertainment, the parent company of the Minnesota Wild.

⁷² *Minnesota Statutes* 2016, 473.756, subd. 4; and “Ballpark Lease Agreement by and between Minnesota Ballpark Authority and Twins Ballpark, LLC,” April 26, 2007.

⁷³ Annually, the Authority chair and executive director also meet with the Twins to discuss the team’s audited financial statements.

Exhibit 5: Management Arrangements for Twin Cities Sports Facilities

Facility	Facility is Operated by:		
	Facility's Major Tenant (Team)	Private Management Company	Facility Owner
Target Field, Minneapolis	X		
Xcel Energy Center, St. Paul	X		
CHS Field, St. Paul	X		
Target Center, Minneapolis		X	
U.S. Bank Stadium, Minneapolis		X	
TCF Bank Stadium, Minneapolis			X

SOURCE: Office of the Legislative Auditor.

In contrast to the facilities that are managed by the teams that use them, two facilities—U.S. Bank Stadium and Target Center—are managed largely by private management companies that do not own (or are not owned by) facility tenants. At U.S. Bank Stadium, the Minnesota Sports Facilities Authority (which owns the stadium) has a contract with a company known as SMG to operate most aspects of the facility. SMG is a Pennsylvania-based company that began in 1977 by operating the Louisiana Superdome. It operates a large number of sports facilities, convention centers, and theatres in the U.S. and abroad. The Minnesota Sports Facilities Authority’s contract with SMG specifies a detailed list of services that SMG will provide. For example, SMG’s maintenance and custodial services at U.S. Bank Stadium include general repair and upkeep, garbage removal, recycling, event cleaning, pest control, graffiti removal, elevator and escalator maintenance, electronic security, scoreboard and sound system maintenance, and window washing. SMG is also required to prepare operating plans, capital funding plans, operating budgets, cash flow budgets, and marketing plans for U.S. Bank Stadium (which are subject to approval by the Minnesota Sports Facilities Authority), and it is required to conduct customer satisfaction surveys.⁷⁴

Target Center is also managed by a private company, Anschutz Entertainment Group, Incorporated (AEG). Like SMG, AEG operates sports and entertainment venues throughout the U.S. and the world. An agency of the City of Minneapolis—the Minneapolis Community Development Agency—has a contract with AEG for management of Target Center that has many similar requirements to those described above in the contract at U.S. Bank Stadium. Neither AEG nor SMG are responsible for capital improvements at the Minneapolis sports facilities they manage, but they are expected to operate the facilities within the constraints of operating budgets approved by the facilities’ respective governing authorities.⁷⁵

A third model of operating a major sports facility is TCF Bank Stadium, which is operated and marketed by the facility’s owner (the University of Minnesota). The University does not contract with any third parties for the stadium’s management and marketing. These functions are performed by University employees, mainly in the athletics department. For example, the department has a TCF Bank Stadium

⁷⁴ The Minnesota Sports Facilities Authority also plays a role in marketing U.S. Bank Stadium. In fact, Authority officials told our office that a key purpose of the two suites maintained by the Authority is to market the stadium to potential customers.

⁷⁵ According to the management agreement between the Minnesota Sports Facilities Authority and SMG, the operating and capital budgets for U.S. Bank Stadium are subject to review and approval by the Minnesota Sports Facilities Authority “in consultation with the [Minnesota Vikings].” In contrast, the management agreement between the City of Minneapolis and AEG has no provisions for the Target Center’s operating and capital budgets to be approved by the city in consultation with that facility’s tenants.

Director of Event Management and a TCF Bank Stadium Director of Operations, each with staff to support these functions.⁷⁶

The different arrangements for operating these six sports facilities partly reflect differences in the facilities themselves and the teams that use them. For example, Target Field and CHS Field were built primarily for use by baseball teams, and these teams use the facilities frequently (81 regular season games for the Twins) during the main months that an open-air ballpark can be used. In contrast, multi-purpose, indoor facilities such as U.S. Bank Stadium, Xcel Energy Center, and Target Center schedule many types of public and private events throughout the year. In the case of U.S. Bank Stadium, the main tenant (the Minnesota Vikings) is expected to use the stadium for football and related events on only 20 to 25 days per year. For year-round, multi-purpose facilities, there is a logic to having a private contractor with specialized expertise in managing venues and marketing a variety of events.

The TCF Bank Stadium model—in which the facility owner operates the facility—is the least common among the facilities we reviewed, but it is apparently common among university facilities. A University of Minnesota official told us that, to his knowledge, no Big Ten school outsources the management and marketing of its football stadium. He said that the University prefers to maintain control of events booked into the stadium, partly to limit impacts (such as noise and traffic) in surrounding neighborhoods.

TRANSPARENCY OF DECISION MAKING

Legislators expressed to us an interest in knowing about the transparency of governing body decisions affecting sports facilities. Although each of the facilities we examined is governed by a public body, we noted earlier that several of those bodies conduct limited facility oversight. Thus, while the cities of Minneapolis and St. Paul and the University Board of Regents appear to generally have transparent decision-making processes—for example, providing online access to meeting agendas, materials, and minutes—most of the operational decisions related to their sports facilities have been delegated or assigned to others.⁷⁷

Our review of transparency focused mainly on the two entities created specifically for the purpose of overseeing sports facilities: the Minnesota Sports Facilities Authority and the Minnesota Ballpark Authority.

For the most part, the two sports facility governing bodies created by the Legislature operate with transparency to the public. However, some of the Minnesota Sports Facilities Authority’s meeting minutes have provided incomplete accounts of actions taken by the Authority.

The enabling statutes for the Minnesota Sports Facilities Authority and Minnesota Ballpark Authority contain nearly identical language that requires maintenance of a public website.⁷⁸ The law says that each

⁷⁶ A private company (Aramark) provides concessions at TCF Bank Stadium; this is one aspect of a long-term University agreement with that company to provide food service throughout the University. The University also has contracts with a private company for event-related and around-the-clock security services at TCF Bank Stadium.

⁷⁷ Earlier, we noted that facilities vary in whether their budgets must be approved by public governing bodies. The Minnesota Wild told us that the operating budget of Xcel Energy Center is private data, and the City of St. Paul’s top finance official told us that the city—which owns the Xcel Center—does not receive a copy of this budget.

⁷⁸ *Minnesota Statutes* 2016, 473J.07, subd. 9, and 473.755, subd. 6.

site must provide public access to the Authority's bylaws, notices of upcoming meetings, minutes of past meetings, and ways for the public to submit comments to the Authority.

The Minnesota Sports Facilities Authority complies with this statutory requirement. Besides the required items, the Authority's website has various other useful items: the Authority's operating budget, the stadium's development and use agreements, the Authority's reports to the Legislature, and links to requests for proposals issued by the Authority.

Although the Minnesota Sports Facilities Authority posts meeting minutes on its website, we observed that the Authority's online minutes have sometimes been incomplete. We reviewed the meeting minutes posted on the Authority's website for 2016 and early 2017. We found several instances in which the online meeting minutes did not provide information about which board members introduced or seconded motions, or what actions the board took on motions. In some other cases, the meeting minutes indicated that the board approved a motion, but it was unclear which specific actions the board was taking.⁷⁹ The Authority's legal counsel said he was present at the meetings and that board member motions and actions occurred properly. He said the incomplete board minutes may have been caused by (1) clerical oversights or (2) inconsistencies in the operating systems of the computers used by Authority staff.⁸⁰ After we brought this problem to the Authority's attention, the executive director told us that he will ensure that future meeting minutes are done properly.

The Minnesota Ballpark Authority's website also complies with the requirements of state law. The website provides access to the statutorily required items. It has links to various legal and financial documents, such as the ballpark's lease agreement, development agreement, use agreement, and annual financial reports. Recently, the Authority added links to other useful documents, such as the Authority's budget, its policy on the use of the Authority's suite at Target Field, and the Authority's code of conduct.

RECOMMENDATIONS

Recommendation 1. The University of Minnesota should consider adopting a policy with more restrictive access to "family and friends" at the Regents and President's Suite at TCF Bank Stadium.

Only three of the six facilities we reviewed provide access to special seating for members of the facilities' governing bodies. Two of those governing bodies (the Minnesota Sports Facilities Authority and the Minnesota Ballpark Authority) require that persons in the suites have a public or business purpose for attending.⁸¹ Such a policy effectively prohibits friends or family of the governing bodies or their invited guests from using the suite.

At TCF Bank Stadium, the University of Minnesota does not have a policy restricting family or friends of the Regents, the President, or their invited guests from using the Regents and President's Suite. Many family and friends used the suite in 2016. The University also does not require all suite guests to have a public or business purpose when they use the suite.

⁷⁹ For example, the board sometimes apparently approved multiple motions with a single action, although the minutes did not always clearly indicate the motions on which the board acted.

⁸⁰ For some instances in which we observed that online board minutes did not indicate who offered a motion or what action the board took, the Authority's legal counsel provided us with pages of minutes for those same meetings that did contain this information. It was unclear to us why there would have been multiple versions of the Authority's official minutes.

⁸¹ The Minnesota Ballpark Authority also reserves its suite at Target Field for use by charitable organizations for many games.

It is understandable that the University Regents and President want the hospitality suite at TCF Bank Stadium to be “hospitable.” For example, it may be reasonable for the President to allow special guests—such as University donors, honored alumni, or long-time faculty members—to invite a family member to join them in the President’s suite. This could be a reasonable courtesy extended to persons who have served the University well. On the other hand, it seems harder to see a public purpose when family members of the Regents or President use the suite, or when invited legislators are allowed to bring guests.

We acknowledge that it may be challenging to write a policy that completely distinguishes between reasonable courtesies and unreasonable perks. However, we urge the University to consider adopting a policy that limits use of the Regents and President’s suite by family and friends of University governing officials and administrative leaders. In the absence of University action, we offer no recommendation for legislative action because the Board of Regents has sole authority to manage the University of Minnesota.⁸²

Recommendation 2. The Minnesota Sports Facilities Authority, Minnesota Ballpark Authority, and University of Minnesota Board of Regents should adopt policies that prohibit their members from discussing topics with each other related to official business when a quorum of members is present in their sports facility suites.

The Minnesota Sports Facilities Authority and Minnesota Ballpark Authority have expressed concern about having a quorum of members in a sports facility suite simultaneously. They believe this may constitute—or may be seen by others to constitute—a violation of the Minnesota Open Meeting Law, even if the gathering is for the purpose of watching a ballgame. The Minnesota Sports Facilities Authority recently told us that it will not intentionally allow a quorum of its board members to be together in a suite. However, none of the three governing bodies that have suites at sports facilities have adopted formal policies that prohibit a quorum of governing board members from watching a game together.

We think the best protection against violating the Open Meeting Law at social gatherings of governing body members is for the members—if a quorum is present—not to discuss items related to official business. We recognize that there will be no effective way to police what discussions occur in a stadium suite. However, we think that governing bodies should encourage self-discipline among their members by adopting policies that limit business-related discussions to publicly announced business meetings.

Recommendation 3. The Legislature should consider whether to limit the fees that public sports facilities charge to the Minnesota State High School League for statewide events.

Earlier, we noted that the Minnesota State High School League uses some sports facilities for state high school tournaments without having to pay fees or other costs. Minnesota law prohibits charging the League a fee for use of U.S. Bank Stadium.

In contrast, the League pays substantial “facility fees” and rent to use Target Center, Xcel Energy Center, and University of Minnesota venues. A League official told us he questions whether it is appropriate for publicly funded facilities to charge the League fees to use the facilities for school tournaments. It is worth noting that the facilities discussed in this report were built with the help of various levels of state or local financing over a wide range of time. It is debatable whether the no-fee policy adopted in law for the recently constructed U.S. Bank Stadium should be adopted for other, longer-standing public sports

⁸² Minnesota House of Representatives Research Department, *University of Minnesota Constitutional Autonomy: A Legal Analysis* (St. Paul, October 2004), 1. This analysis said: “Case law prohibits the legislative or executive branch from participating in internal management of the university.”

venues. However, the Legislature should consider whether it wishes to have consistency among public sports facilities in the fees they can charge to the League.

Recommendation 4. The Minnesota Sports Facilities Authority should ensure that its online meeting minutes have complete, clear descriptions of the Authority’s actions.

As described earlier, some of the Minnesota Sports Facilities Authority’s meeting minutes have been incomplete or unclear. We have no reason to believe that this was intentional. However, a governing body needs clear and accurate meeting minutes to ensure public transparency, and this is particularly true for portions of meeting minutes that describe the body’s official actions. We are encouraged that the Authority’s executive director has pledged to ensure that past problems with online meeting minutes are addressed in the future.

Recommendation 5. The Legislature should repeal references in *Minnesota Statutes 2016, Chapter 473* to the Metropolitan Sports Facilities Commission.

The Metropolitan Sports Facilities Commission has not existed for several years; it was replaced by the Minnesota Sports Facilities Authority. But state law still has many references to the commission, and this creates confusion. The Legislature should eliminate unnecessary references to the commission in state statutes.

Recommendation 6. The Minnesota Sports Facilities Authority should clarify its policy regarding reimbursement of Authority suite users for alcohol consumed in the suite.

Authority staff told us that the intent of the Authority’s policy has been to ensure that suite users—rather than the Minnesota Sports Facilities Authority—pay for alcohol consumed in the Authority’s suites. However, the policy is poorly worded; it says that a process will be established for user reimbursement of these expenses, and it has non-specific references to policies that were in place years ago at the Metrodome. The Authority should amend its policy to clearly state that the Authority will not pay for alcoholic beverages consumed in the Authority’s suites.



Appendix

Public Events in 2016 at the Sports Facilities Covered by this Review

The lists below summarize the public events held during 2016 at each of the facilities we reviewed. The lists focus on events that were held in the arenas or on playing fields of the facilities. Some additional public events not shown in the lists (and many private events, such as weddings or meetings) were held in suites, clubs, or concourses in the facilities.

U.S. Bank Stadium, Minneapolis

Events	Number of Events/2016 Dates
<ul style="list-style-type: none">Minnesota Vikings games (preseason and regular season)	9 games (August 28; September 1 and 18; October 3 and 9; November 6 and 20; December 1 and 18)
<ul style="list-style-type: none">Minnesota State High School League tournaments (football and soccer)	8 dates (October 31; November 1, 3, 17, 18, 19, 25, and 26)
<ul style="list-style-type: none">Youth football games	12 dates (August 27; September 11, 17, 25, and 28; October 2, 20, 25, and 29; November 2, 4, and 5)
<ul style="list-style-type: none">Public open house for the stadium	July 23 and 24
<ul style="list-style-type: none">Professional soccer games, practices, or training sessions	August 2 and 3; October 22 and 23
<ul style="list-style-type: none">Music events (Luke Bryan, Metallica, and a marching band competition)	August 19 and 20; October 8
<ul style="list-style-type: none">Charitable events	September 10 and 24; October 15
<ul style="list-style-type: none">High school football all-star game	December 3
<ul style="list-style-type: none">Monster truck events	December 10 and 11
<ul style="list-style-type: none">Various conferences, fairs, and trade shows	September 20, 21, and 22; October 5; November 11, 12, and 13
<ul style="list-style-type: none">Amateur football league games	December 17

(Note: This facility opened for public use with a July 23, 2016, open house. This chart shows events between that date and the end of 2016.)

TCF Bank Stadium, Minneapolis

Events	Number of Events/2016 Dates
<ul style="list-style-type: none"> National Football League game (Minnesota Vikings) 	January 10
<ul style="list-style-type: none"> National Hockey League events (Minnesota Wild game and alumni game) 	February 20 and 21
<ul style="list-style-type: none"> Minnesota Gopher football games (regular season and spring game) 	8 games (April 9; September 1, 10, and 24; October 8 and 22; November 5 and 19)
<ul style="list-style-type: none"> Music events (Beyoncé; homecoming concert; Drum Corp International Competition) 	May 23; July 16; October 21
<ul style="list-style-type: none"> Fundraising event (Goldy's Run) 	April 9

Target Field, Minneapolis

Events	Number of Events/2016 Dates
<ul style="list-style-type: none"> Major League Baseball regular season games (Minnesota Twins) 	81 games from April through September
<ul style="list-style-type: none"> Twins Fest 	January 29, 30, and 31
<ul style="list-style-type: none"> Music event (Zac Brown Band) 	May 28
<ul style="list-style-type: none"> High school championship baseball games 	June 20
<ul style="list-style-type: none"> Professional soccer game (Minnesota United) 	June 25

Target Center, Minneapolis

Events	Number of Events/2016 Dates
<ul style="list-style-type: none"> National Basketball Association games (plus exhibition games, a scrimmage, and NBA Draft party) 	45 dates covering parts of two seasons
<ul style="list-style-type: none"> Women's National Basketball Association games (regular season and playoffs) 	20 dates from May through October
<ul style="list-style-type: none"> Music events (Brantley Gilbert, The Who, Paul McCartney (2), Macklemore and Ryan Lewis, Andrea Bocelli, Cage the Elephant, Avett Brothers, Justin Bieber, G-Eazy, Black Sabbath, New Edition/Babyface, Sia, '90s music, Newsboys, Keith Urban, and Amy Grant/Michael Smith) 	17 dates throughout the year
<ul style="list-style-type: none"> High school competitions (dance, basketball) 	7 dates (February 12 and 13; March 9, 10, 11, 12, and 15)
<ul style="list-style-type: none"> Comedy (Get Down Tour, Amy Schumer, Louis CK, Twin Cities Comedy Festival, Jeff Dunham, Katt Williams) 	6 dates (April 2 and 21; August 2; October 7; December 28 and 31)
<ul style="list-style-type: none"> Other public events (Disney on Ice, Sesame Street Live, Marvel Universe Live, Harlem Globetrotters, college hockey, Cirque du Soleil, gymnastics, wrestling, and religious or inspirational) 	25 dates throughout the year

Xcel Energy Center, St. Paul

Events	Number of Events/2016 Dates
<ul style="list-style-type: none"> National Hockey League games (preseason, regular season, playoffs) 	44 dates covering parts of two seasons
<ul style="list-style-type: none"> Music events (AC/DC, Bruce Springsteen, Fall Out Boy, Chicago/Earth Wind and Fire, Barry Manilow, the Outcry Tour, Mumford and Sons, Ellie Goulding, Florence & The Machine, The Cure, Phish, Selena Gomez, Adele (2), Duran Duran, Drake, 21 Pilots, 5 Seconds of Summer, Gwen Stefani, Doobie Brothers/Journey, Blink 182, Blake Shelton (2), We Day, Def Leppard, Kanye West, Prince tribute, Carrie Underwood, Belong Tour (2), Pentatonix, Jingle Ball, Stevie Nicks, Trans-Siberian Orchestra) 	34 dates throughout the year
<ul style="list-style-type: none"> Minnesota State High School League (hockey, wrestling, volleyball) 	14 dates (February 17-20 and 25-27; March 2-5; November 10-12)
<ul style="list-style-type: none"> U.S. Figure Skating Championships 	9 dates (January 16-24)
<ul style="list-style-type: none"> College hockey 	8 dates (January 30-31; March 17-19 and 26-27; September 23)
<ul style="list-style-type: none"> Disney on Ice 	4 dates (December 1-4)
<ul style="list-style-type: none"> Women's National Basketball Association (playoffs) 	2 dates (September 28 and 30)
<ul style="list-style-type: none"> Other public events (rodeo, Stars on Ice, Smuckers Skating Spetacular, Minnesota Wild open practice, rodeo) 	5 dates (January 24; February 5 and 6; May 1; September 24)

CHS Field, St. Paul

Events	Number of Events/2016 Dates
<ul style="list-style-type: none"> Minor league baseball games (St. Paul Saints exhibition, regular season, and post-season games) 	54 games from May through September
<ul style="list-style-type: none"> Minor league all-star game events (all-star game and home run derby) 	August 1 and 2
<ul style="list-style-type: none"> Amateur baseball games 	92 games from April through October

SOURCE: Office of the Legislative Auditor.





July 19, 2017

VIA ELECTRONIC MAIL

James Nobles
Legislative Auditor
Centennial Building, Room 140
658 Cedar Street
St. Paul, MN 55155

RE: Special Review: Comparison of Selected Governance and Operations Issues at
Minnesota Public Sports Facilities

Dear Mr. Nobles:

On behalf of the Minnesota Ballpark Authority (the "MBA") we would like to thank you, Joel Alter and Elizabeth Stawicki for your report, entitled "Special Review: Comparison of Selected Governance and Operations Issues at Minnesota Public Sports Facilities" (the "Special Review"). Your office was consistent in its efforts to examine and present the facts and circumstances fairly, and we truly appreciated the opportunity to provide input.

As our actions have demonstrated, the MBA takes seriously its role as the steward of Target Field. We understand that we do so on behalf of the public. We had a well-developed Code of Conduct and policies for General Suite Use and Charitable Suite Use in effect well before this Special Review was initiated. When the issues arose during the legislative session that prompted the Special Review, we examined our existing policies and updated them in order to address the concerns raised.

We remain committed to providing the best possible public oversight of the ballpark and premises. Again, we thank you for your report.

Sincerely,

Margaret Anderson Kelliher, Chair

Daniel R. Kenney, Executive Director





July 21, 2017

James Nobles, Legislative Auditor
Centennial Building, Room 104
658 Cedar Street
St. Paul, MN 55155-1603

Dear Mr. Nobles:

The Minnesota Sports Facilities Authority is in general agreement with the report and recommendations in the Office of Legislative Auditor's report. The Authority is committed to transparency and good management of U.S. Bank Stadium. It would be helpful to have a generally uniform set of policies or statutes governing the various publicly funded sports and entertainment venues. The report helps identify where improvements in consistency can be made. In the meantime, the Authority will continue to review and improve its internal processes in a manner consistent with the report's recommendations.

Sincerely,

Kathleen Blatz
Interim Chair, MSFA



July 20, 2017

Jim Nobles
Legislative Auditor
Office of the Legislative Auditor
658 Cedar Street, Room 140
Saint Paul, MN 55155-1603

Dear Mr. Nobles,

Thank you for the opportunity to comment on the report related to selected operations and management of Twin Cities sports facilities. The University strives to operate transparently. Given that, we take the report very seriously.

However, we strongly believe that this report does not make clear the distinctions between operating a facility on behalf of the University of Minnesota and operating a facility to increase the financial benefit of a sports ownership group. The Board of Regents and President are not lessors managing terms, conditions, and facility maintenance for professional team lessees. They are broadly charged with defining, guiding, and ensuring fulfillment of the University's land-grant mission.

Fulfilling the University's mission requires interactions to nurture and build relationships that, ultimately, benefit the people of Minnesota. When the Board and President garner private or public support for the University, they further the University's mission and drive the economic success of the state. This is not an ethereal point – it is very real and very practical, and it drives the focus of University leaders each and every day. The University of Minnesota is not a for-profit sports entity and comparisons to such entities are very much an apples to oranges comparison.

For instance, the report equates public investment in the University's stadium with public investments in US Bank Stadium or Target Field. But unlike with those facilities, the state's investment in TCF Bank Stadium will result in 2,822 acres of University-owned land in Dakota County being deeded to the State of Minnesota for recreation and wildlife management in perpetuity. This is just one of many examples why TCF Bank Stadium occupies a unique and distinct space among Minnesota public facilities, and should not be treated as similar to venues utilized by for-profit sports entities.

As such, we believe Recommendation 1 – that the University adopt a policy that creates more restrictive access – is problematic. We will continue to provide opportunities for business and civic leaders, elected officials and supporters to attend as guests of the Regents and the President to showcase our great University and further our mission, though we will review existing practices related to friends and family.

The concern encompassed in Recommendation 2, regarding compliance with Minnesota's Open Meeting Law, is of course crucial to the Board as a public body. Regents are instructed upon election and receive regular reminders that the Open Meeting Law prohibits transaction of Board business in social gatherings. Regents are additionally clear that they are personally liable for Open Meeting Law violations. This is unambiguous. In fact, the Board's longstanding Bylaws already state, "The Board of Regents adopts as its policy the Minnesota Open Meeting Law as set forth in Minnesota statute." We regularly remind Regents as to compliance with the Open Meeting Law and will continue to do so.

With respect to Recommendation 3, it is disingenuous to suggest, as in the case of a facility used only by a for-profit professional team, that Minnesota State High School League access should be free of charge at TCF Bank Stadium. The University is a public institution and asking any public institution to provide services at no cost simply shifts those costs elsewhere. The University operates the stadium on a cost recovery basis, so the hard costs associated with any event, be they security, utilities, or facilities operations, are recovered through the fees we charge. Unlike facilities operated for the benefit of for-profit professional teams, the University's mission is not to simply operate a facility. It has a higher public purpose – and its venues across all campuses must serve the University's students and advance its mission.

Thank you for the opportunity to provide our perspective on the report.

Sincerely,

A handwritten signature in cursive script that reads "Brian R. Steeves". The signature is written in black ink and is positioned above the printed name and title.

Brian R. Steeves
Executive Director and Corporate Secretary

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