

STATE OF MINNESOTA

EIGHTY-SIXTH SESSION — 2009

 FORTY-EIGHTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, MAY 6, 2009

The House of Representatives convened at 9:30 a.m. and was called to order by Alice Hausman, Speaker pro tempore.

Prayer was offered by the Reverend Gary Dreier, Christ Lutheran Church on Capitol Hill, St. Paul, Minnesota.

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

The roll was called and the following members were present:

Abeler	Dettmer	Hayden	Lenczewski	Norton	Slawik
Anderson, B.	Dill	Hilstrom	Lesch	Obermueller	Slocum
Anderson, P.	Dittrich	Hilty	Liebling	Olin	Smith
Anderson, S.	Doepke	Holberg	Lieder	Otremba	Solberg
Anzenc	Doty	Hoppe	Lillie	Paymar	Sterner
Atkins	Downey	Hornstein	Loeffler	Pelowski	Swails
Beard	Drazkowski	Hortman	Loon	Peppin	Thao
Benson	Eastlund	Hosch	Mack	Persell	Thissen
Bigham	Eken	Howes	Mahoney	Peterson	Tillberry
Bly	Emmer	Huntley	Mariani	Poppe	Torkelson
Brod	Falk	Jackson	Marquart	Reinert	Urdahl
Brown	Faust	Johnson	Masin	Rosenthal	Wagenius
Brynaert	Fritz	Juhnke	McFarlane	Rukavina	Ward
Buesgens	Gardner	Kahn	McNamara	Ruud	Welti
Bunn	Garofalo	Kalin	Morgan	Sailer	Westrom
Carlson	Gottwalt	Kath	Morrow	Sanders	Winkler
Champion	Greiling	Kelly	Mullery	Scalze	Zellers
Clark	Gunther	Kiffmeyer	Murdock	Scott	Spk. Kelliher
Cornish	Hackbarth	Knuth	Murphy, E.	Seifert	
Davids	Hamilton	Koenen	Murphy, M.	Sertich	
Davnie	Hansen	Kohls	Nelson	Severson	
Dean	Hausman	Laine	Newton	Shimanski	
Demmer	Haws	Lanning	Nornes	Simon	

A quorum was present.

Magnus was excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Ward moved that further reading of the Journal be dispensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF STANDING COMMITTEES AND DIVISIONS

Lenczewski from the Committee on Taxes to which was referred:

H. F. No. 17, A bill for an act relating to local government; authorizing the Central Iron Range Sanitary Sewer District.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 108, A bill for an act relating to traffic regulations; making seat belt violation a primary offense in all seating positions regardless of age; making technical changes; providing for surcharge; amending Minnesota Statutes 2008, sections 169.686, subdivisions 1, 2, by adding a subdivision; 171.05, subdivision 2b; 171.055, subdivision 2; 357.021, subdivisions 6, 7.

Reported the same back with the following amendments:

Page 1, line 25, delete the new language

Page 2, line 1, delete the new language

Pages 5 to 6, delete sections 6 to 7

Amend the title as follows:

Page 1, line 3, delete "providing for"

Page 1, line 4, delete "surcharge;"

Correct the title numbers accordingly

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

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 905, A bill for an act relating to the military; providing for acceptance of certain services by adjutant general; proposing coding for new law in Minnesota Statutes, chapter 190.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1193, A bill for an act relating to claims against the state; providing for settlement of various claims; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **DEPARTMENT OF CORRECTIONS.**

The amounts in this section are appropriated from the general fund to the commissioner of corrections in fiscal year 2010 for full and final payment under Minnesota Statutes, sections 3.738 and 3.739, of claims against the state for injuries suffered by and medical services provided to persons injured while performing community service or sentence-to-service work for correctional purposes or while incarcerated in a state correctional facility. This appropriation is available until June 30, 2010.

(a) For sentence-to-service and community work service claims under \$500 and other claims already paid by the Department of Corrections, \$5,000.48.

(b) For payment to Jorge Arias for permanent injuries suffered while performing sentence-to-service work in Hennepin County, \$2,625, and for payment to medical providers for treatment of Mr. Arias' injuries, \$6,108.52.

(c) For payment to Roy Biwer for permanent injuries suffered while performing sentence-to-service work in Hennepin County, \$1,875, and for reimbursement of medical expenses he already paid, \$325.75; for payment to medical providers for treatment of Mr. Biwer's injuries, \$408.87.

(d) For payment to Shane T. Bramer for permanent injuries suffered while performing assigned duties at MCF-Stillwater, \$7,500.

(e) For payment to medical providers for treatment of Richard Christiansen, who suffered medical problems while performing sentence-to-service work in Rice County, \$1,201.50.

(f) For payment to Harlan Gale for permanent injuries suffered while performing assigned duties at MCF-Stillwater, \$750.

(g) For payment to Elijah Gosling for permanent injuries suffered while performing assigned duties at MCF-Faribault, \$2,700.

(h) For payment to Jeffrey J. Hookham for permanent injuries suffered while performing assigned duties at MCF-Faribault, \$1,875.

(i) For payment to Abdihakim Mohamed for permanent injuries suffered while performing assigned duties at MCF-Faribault, \$1,875.

(j) For payment to Cameron B. Nygard for permanent injuries suffered while performing assigned duties at MCF-Faribault, \$4,837.50.

(k) For payment to Curtis Rainey for permanent injuries suffered while performing assigned duties at MCF-Stillwater, \$3,750.

(l) For payment to Ronnie H. Schultz for permanent injuries suffered while performing assigned duties at MCF-Stillwater, \$1,500.

(m) For payment to medical providers for treatment of James Joseph Serich, who suffered injuries while performing community work service in Itasca County, \$2,844.86.

(n) For payment to medical providers for treatment of Thomas Spires, who suffered medical problems while performing sentence-to-service work in Dakota County, \$752.27.

(o) For payment to medical providers for treatment of Thomas P. Streeter, who suffered medical problems while performing sentence-to-service work in Wright County, \$1,012.84.

(p) For payment to Thomas William Tolve for permanent injuries suffered while performing assigned duties at MCF-Faribault, \$4,050.

(q) For payment to medical providers for treatment of Kerri Wirtz, who suffered injuries while performing sentence-to-service work in Todd County, \$1,559.64.

Sec. 2. **DEPARTMENT OF EMPLOYMENT AND ECONOMIC DEVELOPMENT.**

The Department of Employment and Economic Development is authorized to pay Nancy J. Teklenburg of Solway, Minnesota, \$13,517 for economic loss caused by a departmental error. This payment must be made from existing departmental funds pursuant to Minnesota Statutes, section 268.196.

EFFECTIVE DATE. This section is effective retroactively from July 16, 2008.

Sec. 3. **DEPARTMENT OF REVENUE.**

\$1,412 is appropriated from the general fund to the commissioner of revenue in fiscal year 2010 for full and final payment of the claim of Mary K. Egge of Forest Lake, Minnesota, for her 2005 property tax refund."

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

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1218, A bill for an act relating to state government; ratifying state labor contracts.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Ways and Means.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1565, A bill for an act relating to health; consolidating and relocating nursing facility beds to a new site in Goodhue County; amending Minnesota Statutes 2008, section 144A.071, subdivision 4c.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 144A.071, subdivision 4c, is amended to read:

Subd. 4c **Exceptions for replacement beds after June 30, 2003.** (a) The commissioner of health, in coordination with the commissioner of human services, may approve the renovation, replacement, upgrading, or relocation of a nursing home or boarding care home, under the following conditions:

(1) to license and certify an 80-bed city-owned facility in Nicollet County to be constructed on the site of a new city-owned hospital to replace an existing 85-bed facility attached to a hospital that is also being replaced. The threshold allowed for this project under section 144A.073 shall be the maximum amount available to pay the additional medical assistance costs of the new facility;

(2) to license and certify 29 beds to be added to an existing 69-bed facility in St. Louis County, provided that the 29 beds must be transferred from active or layaway status at an existing facility in St. Louis County that had 235 beds on April 1, 2003.

The licensed capacity at the 235-bed facility must be reduced to 206 beds, but the payment rate at that facility shall not be adjusted as a result of this transfer. The operating payment rate of the facility adding beds after completion of this project shall be the same as it was on the day prior to the day the beds are licensed and certified. This project shall not proceed unless it is approved and financed under the provisions of section 144A.073;

(3) to license and certify a new 60-bed facility in Austin, provided that: (i) 45 of the new beds are transferred from a 45-bed facility in Austin under common ownership that is closed and 15 of the new beds are transferred from a 182-bed facility in Albert Lea under common ownership; (ii) the commissioner of human services is authorized by the 2004 legislature to negotiate budget-neutral planned nursing facility closures; and (iii) money is available from planned closures of facilities under common ownership to make implementation of this clause budget-neutral to the state. The bed capacity of the Albert Lea facility shall be reduced to 167 beds following the transfer. Of the 60 beds at the new facility, 20 beds shall be used for a special care unit for persons with Alzheimer's disease or related dementias;

(4) to license and certify up to 80 beds transferred from an existing state-owned nursing facility in Cass County to a new facility located on the grounds of the Ah-Gwah-Ching campus. The operating cost payment rates for the new facility shall be determined based on the interim and settle-up payment provisions of Minnesota Rules, part 9549.0057, and the reimbursement provisions of section 256B.431. The property payment rate for the first three years of operation shall be \$35 per day. For subsequent years, the property payment rate of \$35 per day shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434; ~~and~~

(5) to initiate a pilot program to license and certify up to 80 beds transferred from an existing county-owned nursing facility in Steele County relocated to the site of a new acute care facility as part of the county's Communities for a Lifetime comprehensive plan to create innovative responses to the aging of its population. Upon relocation to the new site, the nursing facility shall delicense 28 beds. The property payment rate for the first three years of operation of the new facility shall be increased by an amount as calculated according to items (i) to (v):

(i) compute the estimated decrease in medical assistance residents served by the nursing facility by multiplying the decrease in licensed beds by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure of 28 beds by multiplying the anticipated decrease in medical assistance residents, determined in item (i), by the existing facility's weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the nursing facility, determined in item (i), by the average monthly elderly waiver service costs for individuals in Steele County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) divide the amount in item (iv) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days. For subsequent years, the adjusted property payment rate shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434; and

(6) to consolidate and relocate nursing facility beds to a new site in Goodhue County and to integrate these services with other community-based programs and services under a communities for a lifetime pilot program and comprehensive plan to create innovative responses to the aging of its population. Eighty beds in the city of Red Wing shall be transferred from the downsizing and relocation of an existing 84-bed, hospital-owned nursing facility and the entire closure or downsizing of beds from a 65-bed nonprofit nursing facility in the community resulting in the delicensure of 69 beds in the two existing facilities. Notwithstanding the carryforward of the approval authority in section 144A.073, subdivision 11, the funding approved in April 2009 by the commissioner of health for a project in Goodhue County shall not carry forward. The closure of the 69 beds shall not be eligible for a planned closure rate adjustment under section 256B.437. The construction project permitted in this item shall not be eligible for a threshold project rate adjustment under section 256B.434, subdivision 4f. The property payment rate for the first three years of operation of the new facility shall be increased by an amount as calculated according to items (i) to (vi):

(i) compute the estimated decrease in medical assistance residents served by both nursing facilities by multiplying the difference between the occupied beds of the two nursing facilities for the reporting year ended September 30, 2009, and the projected occupancy of the facility at 95 percent occupancy by the historical percentage of medical assistance resident days;

(ii) compute the annual savings to the medical assistance program from the delicensure by multiplying the anticipated decrease in the medical assistance residents, determined in item (i), by the hospital-owned nursing facility weighted average payment rate multiplied by 365;

(iii) compute the anticipated annual costs for community-based services by multiplying the anticipated decrease in medical assistance residents served by the facilities, determined in item (i), by the average monthly elderly waiver service costs for individuals in Goodhue County multiplied by 12;

(iv) subtract the amount in item (iii) from the amount in item (ii);

(v) multiply the amount in item (iv) by 57 percent; and

(vi) divide the difference of the amount in item (iv) and the amount in item (v) by an amount equal to the relocated nursing facility's occupancy factor under section 256B.431, subdivision 3f, paragraph (c), multiplied by the historical percentage of medical assistance resident days.

For subsequent years, the adjusted property payment rate shall be adjusted for inflation as provided in section 256B.434, subdivision 4, paragraph (c), as long as the facility has a contract under section 256B.434.

(b) Projects approved under this subdivision shall be treated in a manner equivalent to projects approved under subdivision 4a."

Delete the title and insert:

"A bill for an act relating to health; consolidating and relocating nursing facility beds to a new site in Goodhue County; amending Minnesota Statutes 2008, section 144A.071, subdivision 4c."

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson from the Committee on Finance to which was referred:

H. F. No. 1988, A bill for an act relating to human services; requiring the commissioner of human services to collect and report information on managed care plan and county-based purchasing plan provider reimbursement rates; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2008, section 256B.69, subdivision 9b, is amended to read:

Subd. 9b. **Reporting provider payment rates.** (a) According to guidelines developed by the commissioner, in consultation with health care providers, managed care plans, and county-based purchasing plans, each managed care plan and county-based purchasing plan must annually provide to the commissioner, ~~at the commissioner's request, detailed or aggregate~~ information on reimbursement rates paid by the managed care plan under this section or the county-based purchasing plan under section 256B.692 to ~~provider types~~ providers and vendors for administrative services under contract with the plan.

(b) Each managed care plan and county-based purchasing plan must annually provide to the commissioner, in the form and manner specified by the commissioner:

(1) the amount of the payment made to the plan under this section that is paid to health care providers for patient care;

(2) aggregate provider payment data, categorized by inpatient payments and outpatient payments, with the outpatient payments categorized by payments to primary care providers and nonprimary care providers;

(3) the process by which increases or decreases in payments made to the plan under this section, that are based on actuarial analysis related to provider cost increases or decreases, or that are required by legislative action, are passed through to health care providers, categorized by payments to primary care providers and nonprimary care providers; and

(4) specific information on the methodology used to establish provider reimbursement rates paid by the managed health care plan and county-based purchasing plan.

Data provided to the commissioner under this subdivision must allow the commissioner to conduct the analyses required under paragraph (d).

~~(b)~~ (c) Data provided to the commissioner under this subdivision are nonpublic data as defined in section 13.02.

(d) The commissioner shall analyze data provided under this subdivision to assist the legislature in providing oversight and accountability related to expenditures under this section. The analysis must include information on payments to physicians, physician extenders, and hospitals, and may include other provider types as determined by the commissioner. The commissioner shall also array aggregate provider reimbursement rates by health plan, by primary care, and nonprimary care categories. The commissioner shall report the analysis to the legislature annually, beginning December 15, 2010, and each December 15 thereafter. The commissioner shall also make this information available on the agency's Web site to managed care and county-based purchasing plans, health care providers, and the public."

Delete the title and insert:

"A bill for an act relating to human services; requiring managed care plans and county-based purchasing plans to report provider payment rate data; requiring the commissioner to analyze the plans' data; requiring a report; amending Minnesota Statutes 2008, section 256B.69, subdivision 9b."

With the recommendation that when so amended the bill pass.

The report was adopted.

Lenczewski from the Committee on Taxes to which was referred:

H. F. No. 2341, A bill for an act relating to taxation; providing a tax credit advance loan program; proposing coding for new law in Minnesota Statutes, chapter 462A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. **[462A.2094] TAX CREDIT ADVANCE LOAN PROGRAM FOR FIRST-TIME HOMEBUYERS.**

(a) The agency may develop the tax credit advance loan program for first-time homebuyers, up to the limits of available appropriations and transfers. The program provides loans to first-time homebuyers who are eligible for the federal first-time homebuyer credit. The maximum tax credit advance loan is the lesser of (i) 8.5 percent of the purchase price of the home, or (ii) \$6,750. The agency may charge a reasonable fee for the costs associated with making and servicing tax credit advance loans. The agency shall require the first-time homebuyer to execute a promissory note secured by a second mortgage on the property being purchased to secure repayment of the loan as referenced in paragraph (e). The agency may use amounts in the first-time homebuyer tax credit advance loan account to fund the tax credit advance loan program.

(b) For purposes of this section, "federal first-time homebuyer credit" means the credit allowed under section 36 of the Internal Revenue Code, and "first-time homebuyer" has the meaning given in section 36 of the Internal Revenue Code.

(c) To be eligible for a tax credit advance loan, a first-time homebuyer must:

(i) meet the eligibility requirements for the federal first-time homebuyer credit;

(ii) have an annual gross income that does not exceed (A) 115 percent of the greater of the state or area median income, as determined by the U.S. Department of Housing and Urban Development, or (B) the federal first-time homebuyers tax credit income limits, whichever is less.

(iii) use the tax credit advance loan in conjunction with a home mortgage loan at a 30-year fixed rate; and

(iv) agree to apply for the federal first-time homebuyer credit and use the credit refund to repay the tax credit advance loan.

(d) The tax credit advance loan agreement between the agency and the homebuyer must require repayment of the tax credit advance loan on or before June 15 of the calendar year following the year in which the tax credit advance loan is received.

(e) The agency may submit claims for debts owed due to failure to repay tax credit advance loans as provided under the revenue recapture act in chapter 270A. Repayments of tax credit advance loans are deposited in the housing development fund and credited to the first-time homebuyer taxpayer advance loan account.

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

Sec. 2. Minnesota Statutes 2008, section 462A.21, is amended by adding a subdivision to read:

Subd. 2a. **First-time homebuyer tax credit advance loan account.** The agency may establish a first-time homebuyer tax credit advance loan account as a separate account within the housing development fund for the purposes of section 462A.2094, and may pay costs and expenses necessary and incidental to the development and operation of the tax credit advance loan program from the account.

Sec. 3. **TRANSFERS.**

(a) \$...... is transferred in fiscal year 2009 from the real estate education, research and recovery fund in the state treasury established in Minnesota Statutes section 82.43 to the first-time homebuyer tax credit advance loan account in the housing development fund established in Minnesota Statutes section 462A.21, subdivision 2a.

(b) \$...... is transferred in fiscal year 2009 from the contractor recovery fund in the state treasury established in Minnesota Statutes section 326B.89 to the first-time homebuyer tax credit advance loan account in the housing development fund established in Minnesota Statutes section 462A.21, subdivision 2a.

(c) At the end of fiscal year 2010 and each following fiscal year, a share of the balance in the first-time homebuyer tax credit advance loan account established in Minnesota Statutes section 462A.21, subdivision 2a is transferred to the real estate education, research and recovery fund established in Minnesota Statutes section 82.43. The share equals the amount in the first-time homebuyer tax credit advance loan account multiplied by the ratio of the amount transferred in paragraph (a) to the sum of the amounts transferred in paragraphs (a) and (b). Transfers under this paragraph continue until the amount transferred from the real estate education, research and recovery fund to the first-time homebuyer tax credit advance loan account under paragraph (a) is fully repaid or for ten years, whichever is sooner. The Minnesota Housing Finance Agency and the commissioner of commerce may agree to a different transfer schedule.

(d) At the end of fiscal year 2010 and each following fiscal year, a share of the balance in the first-time homebuyer tax credit advance loan account established in Minnesota Statutes section 462A.21, subdivision 2a is transferred to the contractor recovery fund established in Minnesota Statutes section 326B.89. The share equals the amount in the first-time homebuyer tax credit advance loan account multiplied by the ratio of the amount transferred in paragraph (b) to the sum of the amounts transferred in paragraphs (a) and (b). Transfers under this paragraph continue until the amount transferred from the contractor recovery fund to the first-time homebuyer tax credit advance loan account under paragraph (b) is fully repaid or for ten years, whichever is sooner. The Minnesota Housing Finance Agency and the commissioner of labor and industry may agree to a different transfer schedule."

Amend the title as follows:

Page 1, line 2, after the second semicolon, insert "establishing a first-time homebuyer tax credit advance loan account;"

Correct the title numbers accordingly

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

The report was adopted.

Carlson from the Committee on Finance to which was referred:

S. F. No. 666, A bill for an act relating to human services; modifying provisions related to children aging out of foster care; amending Minnesota Statutes 2008, section 260C.212, subdivision 7; proposing coding for new law in Minnesota Statutes, chapter 260C.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 17, 905, 1565 and 1988 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. No. 666 was read for the second time.

Sertich moved that the House recess subject to the call of the Chair. The motion prevailed.

RECESS

RECONVENED

The House reconvened and was called to order by Speaker pro tempore Hortman.

Kelliher was excused between the hours of 11:10 a.m. and 12:25 p.m.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Madam Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 166.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 166

A bill for an act relating to insurance; regulating life insurance; prohibiting stranger-originated life insurance; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2008, sections 61A.073; 61A.074.

May 4, 2009

The Honorable James P. Metzen
President of the Senate

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 166 report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 166 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[60A.078] SHORT TITLE.**

Sections 60A.078 to 60A.0789 may be cited as the "Insurable Interest Act."

Sec. 2. **[60A.0782] DEFINITIONS.**

Subdivision 1. **Terms.** For the purpose of this act, unless the context clearly indicates otherwise, the terms in this section have the meanings given them.

Subd. 2. **Act.** "Act" means sections 60A.078 to 60A.0789.

Subd. 3. **Business entity.** "Business entity" includes, but is not limited to, a joint venture, partnership, corporation, limited liability company, and business trust.

Subd. 4. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5. **Legitimate settlement contracts.** "Legitimate settlement contracts" mean settlement contracts that comply with Minnesota law governing viatical settlement contracts and that are not prohibited by section 60A.0785 or otherwise part of or in furtherance of an act, practice, or arrangement that is prohibited by this act.

Subd. 6. **Life expectancy evaluation.** "Life expectancy evaluation" means an evaluation conducted by any person other than the insurer or its authorized representatives for the purpose of projecting or estimating how long a particular individual is expected to live.

Subd. 7. **Person.** "Person" means any natural person or legal entity, including, but not limited to, a partnership, limited liability company, association, trust, or corporation.

Subd. 8. **Policy.** "Policy" means an individual or group policy, group certificate, contract, or arrangement of life insurance affecting the rights of a resident of this state or bearing a reasonable relation to this state, regardless of whether delivered or issued for delivery in this state.

Subd. 9. **Policyowner.** "Policyowner" means the owner of a policy.

Subd. 10. **Prospective purchaser.** "Prospective purchaser" means any person that may purchase or acquire the policy or a beneficial interest in the policy, but excluding individuals closely related to the insured by blood or law or who have a lawful and substantial interest in the continued life of the insured, or trusts established for the benefit of those individuals, provided those trusts meet the requirements of section 60A.0783, subdivision 2, paragraph (d).

Subd. 11. **Settlement contract.** (a) "Settlement contract" means an agreement between a policyowner and another person establishing the terms under which compensation or anything of value will be paid or which compensation or value is less than the expected death benefit of the insurance policy, in return for the owner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the policy. Settlement contract also includes:

(1) the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns such a policy if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more policies, which policy insures the life of an individual who is a resident of this state; and

(2) a premium finance loan made for a policy by a lender to a policyowner on, before, or after the date of issuance of the policy where:

(i) the policyowner or the insured receives a guarantee of a future settlement value of the policy; or

(ii) the policyowner or the insured agrees to sell the policy or any portion of its death benefit on any date following the issuance of the policy.

(b) Settlement contract does not include:

(1) a policy loan or accelerated death benefit made by the insurer under the policy's terms;

(2) loan proceeds that are used solely to pay premiums for the policy and loan-related costs, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third-party collateral provider fees and expenses, including fees payable to letter of credit issuers;

(3) a loan made by a bank or other licensed financial institution in which the lender takes an interest in a policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of such a policy by the lender, as long as the default itself is not pursuant to an agreement or understanding with any other person for the purpose of evading regulation under this act;

(4) an agreement in which all the parties are closely related to the insured by blood or law or have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured or are trusts established for the benefit of such parties;

(5) any designation, consent, or agreement by an insured who is an employee or an employer in connection with the purchase by the employer, or by a trust established by the employer, of life insurance on the life of the employee;

(6) a bona fide business succession planning arrangement:

(i) between shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders;

(ii) between partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partner; or

(iii) between members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members; or

(7) an agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business.

Subd. 12. **Stranger-originated life insurance practices.** "Stranger-originated life insurance practices" or "STOLI practices" mean an act, practice, or arrangement to initiate a life insurance policy for the benefit of a third-party investor who, at the time of policy origination, has no insurable interest in the insured. STOLI practices include, but are not limited to, cases in which life insurance is purchased with resources or guarantees from or through a person or entity, who, at the time of policy inception, could not lawfully initiate the policy themselves, and where, at the time of inception, there is an arrangement or agreement, whether spoken or written, to directly or indirectly transfer the ownership of the policy and/or the policy benefits to a third party. Trusts that are created to give the appearance of insurable interest and are used to initiate policies for investors violate the insurable interest requirements and the prohibition against STOLI practices.

Sec. 3. **[60A.0783] INSURABLE INTEREST REQUIRED.**

Subdivision 1. **Insurance on life of another.** A person may not procure or cause to be procured or effected a policy upon the life of another individual unless the benefits under the policy are payable to the insured, the personal representatives of the insured's estate, or to a person having, at the time the policy is issued, an insurable interest in the individual insured.

Subd. 2. **What constitutes an insurable interest.** Insurable interest, with reference to insurance on the life of another, includes only the following interests.

(a) An individual has an insurable interest in the life of another person to whom the individual is closely related by blood or by law and in whom the individual has a substantial interest engendered by love and affection.

(b) An individual has an insurable interest in the life of another person if such individual has a lawful and substantial interest in the continued life of the individual insured, as distinguished from an interest that would arise only by or would be enhanced in value by the death of the individual insured.

(c) An individual party to a contract for the purchase or sale of an interest in any business entity and, if applicable, a trust or the trustee of a trust of which the individual is a settlor, has an insurable interest in the life of each other individual party to the contract, but only for the purpose of carrying out the intent and purpose of the contract.

(d) A trust, or the trustee of a trust, has an insurable interest in the life of an individual insured under a life insurance policy owned by the trust, or the trustee of the trust acting in a fiduciary capacity, if the insured is the settlor of the trust; an individual closely related by blood or law to the settlor; or an individual in whom the settlor otherwise has an insurable interest if, in each of the situations described in this paragraph, the life insurance proceeds are primarily for the benefit of trust beneficiaries having an insurable interest in the life of the insured and the trust is not used, directly or indirectly, as part of or in furtherance of an act, practice, or arrangement that is otherwise prohibited by this act.

(e) A guardian, trustee, or other fiduciary, acting in a fiduciary capacity, has an insurable interest in the life of any person for whose benefit the fiduciary holds property, and in the life of any other individual in whose life the person has an insurable interest so long as the life insurance proceeds are used primarily for the benefit of persons having an insurable interest in the life of the insured and the guardianship or fiduciary relationship is not used, directly or indirectly, as part of or in furtherance of an act, practice, or arrangement that is otherwise prohibited by this act.

(f) An organization in section 170(c) of the United States Internal Revenue Code of 1986, as amended through December 31, 2008, has an insurable interest in the life of any person who consents in writing to the organization's ownership or purchase of that insurance.

(g) A trustee, sponsor, or custodian of assets held in any plan governed by the Employee Retirement Income Security Act of 1974, United States Code, title 29, section 1001, et seq., or in any other retirement or employee benefit plan, has an insurable interest in the life of any participant in the plan provided consent is obtained in writing from the participant before the insurance is purchased. An employer, trustee, sponsor, or custodian may not retaliate or take adverse action against any participant who does not consent to the issuance of insurance on the participant's life.

(h) A business entity has an insurable interest in the life of any of the owners, directors, officers, partners, and managers of the business entity or any affiliate or subsidiary of the business entity, or key employees or key persons of the business entity or affiliate or subsidiary, provided consent is obtained in writing from key employees or persons before the insurance is purchased. The business entity or affiliate or subsidiary may not retaliate or take adverse action against any key employee or person who does not consent to the issuance of insurance on the key employee or key person's life. For purposes of this subdivision, a "key employee" or "key person" means an individual whose position or compensation is described in section 101(j)(2)(A)(ii) of the Internal Revenue Code of 1986, as amended through December 31, 2008.

(i) A financial institution or other person to whom a debt is owed, whether for the purposes of premium financing or otherwise, has an insurable interest in the life of the borrower limited to the amount of debt owed plus reasonable interest and service charges.

Subd. 3. Insured's own life. An individual has an insurable interest in the individual's own life and an individual of competent legal capacity that procures or effects a policy on the individual's own life may designate any person as the beneficiary, provided the policy is not part of or in furtherance of an act, practice, or arrangement that is otherwise prohibited by this act.

Subd. 4. Reliance on statements. An insurer is entitled to rely upon all reasonable statements, declarations, and representations made by an applicant for life insurance relative to the existence of an insurable interest; and no insurer shall incur legal liability, except as set forth in the policy, by virtue of untrue statements, declarations, or representations so relied upon in good faith by the insurer.

Subd. 5. **Consent of insured.** A policy upon the life of an individual, other than a policy of noncontributory group life insurance, may not be effectuated unless, on or before the time the policy is effectuated, the individual insured, having legal capacity to contract, applies for or consents in writing to the policy and its terms. Consent may be given by another in the following cases:

(1) a parent or a person having legal custody of a minor may consent to the issuance of a policy on a dependent child;

(2) a court-appointed guardian of a person may consent to the issuance of a policy on the person under guardianship;

(3) a court-appointed conservator of a person's estate may consent to the issuance of a policy on the person whose estate is under conservatorship;

(4) an attorney-in-fact may consent to the issuance of a policy on the person that appointed the attorney-in-fact for the limited purpose of replacing one or more policies with one or more new policies, provided the aggregate amount of life insurance on the person as the result of the replacement remains the same or decreases;

(5) a trustee of a revocable trust may consent to the issuance of a policy on the life of a settlor of the trust; and

(6) a court of general jurisdiction may give consent to the issuance of a policy upon a showing of facts the court considers sufficient to justify the issuance of the policy.

Sec. 4. [60A.0784] PROHIBITED PRACTICES.

It is unlawful for any person to:

(1) procure or cause to be procured or effected a policy in violation of section 60A.0783;

(2) engage in STOLI practices or otherwise wager on life;

(3) solicit, market, or otherwise promote the purchase of a policy for the purpose of or with an emphasis on the subsequent sale of the policy in the secondary market;

(4) enter into a premium finance agreement with any person or agency, or any person affiliated with such person or agency, pursuant to which the lender or any person affiliated with the lender shall receive any proceeds, fees, or other consideration, directly or indirectly, from the policy or policyowner or any other person with respect to the premium finance agreement or any settlement contract or other transaction related to such policy that are in addition to the amounts required to pay the principal, interest, and service charges related to policy premiums pursuant to the premium finance agreement or subsequent sale of such agreement; provided, further, that any payments, charges, fees, or other amounts in addition to the amounts required to pay the principal, interest, and service charges related to policy premiums paid under the premium finance agreement shall be remitted to the insured or to the insured's estate if the insured is not living at the time of the determination of the overpayment; or

(5) enter into or to offer to enter into a settlement contract prior to the issuance of a policy that is the subject of the settlement contract or proposed settlement contract.

Sec. 5. [60A.0785] PROHIBITION; ENTRY INTO SETTLEMENT CONTRACTS.

Subdivision 1. **Prohibition.** No prospective purchaser of the policy or beneficial interest in the policy shall, at any time prior to issuance of a policy, or during a four-year period commencing with the date of issuance of the policy, enter into a settlement contract or any other agreement the effect of which is to acquire the policy or a beneficial interest in the policy regardless of the date the compensation is to be provided and regardless of the date

the assignment, transfer, sale, devise, bequest, or surrender of the policy or beneficial interest in the policy is to occur, unless and until the prospective purchaser has determined, based on reasonable inquiry, which includes but is not limited to questioning the insured and reviewing the broker's files, that none of the following circumstances are present:

(1) there was an agreement or understanding, before issuance of the policy, between the insured, policyowner, or owner of a beneficial interest in the policy, and another person to guarantee any liability or to purchase, or stand ready to purchase, the policy or an interest therein, including through an assumption or forgiveness of a loan; or

(2) both of the following are present:

(i) all or a portion of the policy premiums were funded by means other than by the insured's personal assets or assets provided by a person who is closely related to the insured by blood or law or who has a lawful and substantial economic interest in the continued life of the insured. For purposes of this provision, funds from a premium finance loan are considered assets of the insured or such person only if the insured or such person is contractually obligated to repay the full amount of the loan and to pledge personal assets, other than the policy itself, for loan amounts exceeding the policy's cash value; and

(ii) the insured underwent a life expectancy evaluation within the 18-month time period immediately prior to the issuance of the policy and, during the same time period, the results of the life expectancy evaluation were shared with or used by any person for the purpose of determining the actual or potential value of the policy in the secondary market. Nothing in this paragraph shall prevent such a life expectancy evaluation from being shared with or used by the insured or the insured's accountant, attorney, or insurance producer for estate planning purposes so long as the life expectancy evaluation is not used by such persons to determine the actual or potential value of the policy in the secondary market.

Subd. 2. **Certification.** As part of the prospective purchaser's responsibility to make reasonable inquiry, the prospective purchaser shall request, and the settlement broker shall provide, a certification in which the broker certifies that, to the best of the broker's knowledge, any life expectancy evaluation performed on the insured prior to the issuance of the policy was not used by or shared with any other person prior to the issuance of the policy for the purpose of determining the actual or potential value of the policy in the secondary market.

Subd. 3. **Legitimate insurance transactions.** Nothing in this act prevents:

(1) any policyowner, whether or not the policyowner is also the subject of the insurance, from entering into a legitimate settlement contract;

(2) any person from soliciting a person to enter into a legitimate settlement contract;

(3) a person from enforcing the payment of proceeds from the interest obtained under a legitimate settlement contract; or

(4) the assignment, sale, transfer, devise, or bequest with respect to the death benefit or ownership of any portion of a policy, provided the assignment, sale, transfer, devise, or bequest is connected to a legitimate settlement contract and not part of or in furtherance of STOLI practices.

Sec. 6. [60A.0786] PRESUMPTION OF STOLI PRACTICES.

Subdivision 1. **Presumption of STOLI practices.** A settlement contract, or any agreement the effect of which is to sell or acquire the policy or a beneficial interest in the policy, entered into within the four-year period commencing with the date the policy is issued creates a rebuttable presumption of STOLI practices if either of the following circumstances are present:

(1) there was an agreement or understanding, before issuance of the policy, between the insured, policyowner, or owner of a beneficial interest in the policy, and another person to guarantee any liability or to purchase, or stand ready to purchase, the policy or an interest in the policy, including through an assumption or forgiveness of a loan; or

(2) both of the following are present:

(i) all or a portion of the policy premiums were funded by means other than by the insured's personal assets or assets provided by a person who is closely related to the insured by blood or law or who has a lawful and substantial economic interest in the continued life of the insured. For purposes of this provision, funds from a premium finance loan are considered assets of the insured or that person only if the insured or that person is contractually obligated to repay the full amount of the loan and to pledge personal assets, other than the policy itself, for loan amounts exceeding the policy's cash value; and

(ii) the insured underwent a life expectancy evaluation within the 18-month time period immediately prior to the issuance of the policy and, during the same time period, the results of the life expectancy evaluation were shared with or used by any person for the purpose of determining the actual or potential value of the policy in the secondary market.

Subd. 2. **Not applicable in criminal proceedings.** The rebuttable presumption created in this section does not apply in any criminal proceeding.

Sec. 7. **[60A.0787] PROCESSING CHANGE OF OWNERSHIP OR BENEFICIARY REQUESTS.**

Subdivision 1. **Obligation to process change of ownership or beneficiary requests.** Upon receipt of a properly completed request for change of ownership or beneficiary of a policy and, if applicable, the completed questionnaire described in this section, the insurer shall respond in writing within 30 calendar days with written acknowledgment confirming that the change has been effected or specifying the reasons why the requested change cannot be processed. The insurer shall not unreasonably delay effecting change of ownership or beneficiary and shall not otherwise interfere with any permitted settlement contract entered into in this state.

Subd. 2. **Written questionnaire.** If the insurer receives a request for change of ownership or beneficiary within the four-year period commencing with the date the policy is issued, the insurer may require, as a condition of effecting the requested change, that the policyowner complete and return a written questionnaire designed to determine whether the change request relates to or is made in accordance with a settlement contract and if so, whether the circumstances described in section 60A.0785 are present. The questionnaire shall be in a form approved by the commissioner and shall include, but not be limited to, the following:

(1) the definition of settlement contract;

(2) an inquiry regarding whether the request for change of ownership or beneficiary relates to or is made in accordance with a settlement contract;

(3) if the answer to clause (2) is "yes," then an inquiry regarding whether the circumstances described in section 60A.0785 are present;

(4) a disclosure that presenting false material information, or concealing material information, in connection with the questionnaire is defined under the laws of this state as a fraudulent act; and

(5) a signed certification by the policyowner that the answers and information provided in and pursuant to the questionnaire are true and complete to the best of the policyowner's knowledge and belief.

Subd. 3. **Other inquiries.** Nothing in this section should be interpreted to limit an insurer's ability to make other inquiries to detect STOLI practices.

Subd. 4. **Fraternal benefit societies.** Nothing in this act shall prohibit a fraternal benefit society regulated under chapter 64B from enforcing the terms of its bylaws or rules regarding permitted beneficiaries and owners.

Sec. 8. **[60A.0788] FRAUDULENT ACTS.**

Subdivision 1. **Fraudulent acts.** A person who commits a fraudulent act as defined in this section commits insurance fraud and may be sentenced under section 609.611, subdivision 3.

Subd. 2. **List of fraudulent acts.** All of the following acts are fraudulent when committed by a person who, with intent to defraud and for the purpose of depriving another of property or for pecuniary gain, commits, or permits any of its employees or its agents to commit them:

(1) failing to disclose to the insurer where the insurer has requested such disclosure that the prospective insured has undergone a life expectancy evaluation;

(2) misrepresenting a person's state of residence or facilitating the change of the state in which a person resides for the express purpose of evading or avoiding the provisions of this act;

(3) presenting, causing to be presented, or preparing with knowledge or belief that it will be presented to an insurer any false material information, or concealing any material information, as part of, in support of, or concerning a fact material to one or more of the following:

(i) a questionnaire as provided for under section 60A.0787; or

(ii) any other documents or communications, whether written or verbal, which are intended to detect STOLI practices or demonstrate compliance with this act;

(4) encouraging the insured, policyowner, or owner of a beneficial interest in the policy to falsely state that the circumstances described in section 60A.0785 are not present or aiding in the preparation or execution of documents designed to create the false impression that those circumstances are not present; and

(5) failing to request or to provide the broker certification required by section 60A.0785, subdivision 2, or falsely certifying that the life expectancy evaluation in section 60A.0785, subdivision 2, was not shared with any other person prior to the issuance of the policy for the purpose of determining the actual or potential value of the policy in the secondary market.

Sec. 9. **[60A.0789] REMEDIES.**

Subdivision 1. **Actions to recover death benefits.** (a) If the beneficiary, assignee, or other payee receives the death benefits under a life insurance policy initiated by STOLI practices or a policy procured or effected in violation of section 60A.0783 or section 60A.0785, the personal representative of the insured's estate or other lawfully acting agent may maintain an action to recover such benefits from the person receiving them.

(b) Where a person receives the death benefit as a result of a nonwillful violation of this act, the court may limit the recovery to unjust enrichment, calculated as the benefits received plus interest from the date of receipt, less premiums paid under the policy by the recipient and any consideration paid by the recipient to the insured in connection with the policy.

(c) Where a person receives the death benefits as the result of a willful violation of this act, the court may, in addition to actual damages, order the defendant or defendants to pay exemplary damages in an amount up to two times the death benefits. A pattern of violations of this act and conduct involving one or more fraudulent acts are evidence of willfulness. The exemplary damages shall be paid to one or more governmental agencies charged with combating consumer fraud, including the Department of Commerce.

(d) The court may award reasonable attorney fees, together with costs and disbursements, to any party that recovers damages in any action brought under this subdivision.

(e) An action under this subdivision must be brought within two years after the death of the insured.

Subd. 2. **Enforceability of contracts.** Any contract, agreement, arrangement, or transaction prohibited under this act is voidable.

Subd. 3. **Declaratory judgment action.** If, prior to payment of death benefits, the insurer believes the policy was initiated by STOLI practices, the insurer may bring a declaratory judgment action seeking a court order declaring the policy void.

Subd. 4. **Effect on other law.** This act shall not:

(1) preempt or limit other civil remedies, including, but not limited to, declaratory judgments, injunctive relief, and interpleaders;

(2) preempt the authority or relieve the duty of other law enforcement or regulatory agencies to investigate, examine, and prosecute suspected violations of law;

(3) limit the powers granted elsewhere by the laws of this state to the commissioner or an insurance fraud unit or the attorney general to investigate and examine possible violations of law and to take appropriate actions against wrongdoers; or

(4) limit the power of this state to punish a person for conduct that constitutes a crime under other laws of this state.

Sec. 10. **REPEALER.**

Minnesota Statutes 2008, sections 61A.073; and 61A.074, are repealed.

Sec. 11. **EFFECTIVE DATE.**

This act is effective for policies issued on or after the day following final enactment."

Delete the title and insert:

"A bill for an act relating to insurance; regulating life insurance; prohibiting stranger-originated life insurance; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2008, sections 61A.073; 61A.074."

We request the adoption of this report and repassage of the bill.

Senate Conferees: LINDA SCHEID, TARRYL CLARK, MEE MOUA, ANN H. REST and CHRIS GERLACH.

House Conferees: KATE KNUTH, JOE ATKINS, DEBRA HILSTROM, MELISSA HORTMAN and JENIFER LOON.

Knuth moved that the report of the Conference Committee on S. F. No. 166 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 166, A bill for an act relating to insurance; regulating life insurance; prohibiting stranger-originated life insurance; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2008, sections 61A.073; 61A.074.

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

The question was taken on the repassage of the bill and the roll was called.

Pursuant to rule 2.05, Kohls was excused from voting on the repassage of S. F. No. 166, as amended by Conference.

There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hausman	Laine	Nelson	Sertich
Anderson, B.	Dettmer	Haws	Lanning	Newton	Severson
Anderson, P.	Dill	Hayden	Lenczewski	Nornes	Shimanski
Anderson, S.	Dittrich	Hilstrom	Lesch	Norton	Simon
Anzelc	Doepke	Hilty	Liebling	Obermueller	Slawik
Atkins	Doty	Holberg	Lieder	Olin	Slocum
Beard	Downey	Hoppe	Lillie	Otremba	Smith
Benson	Drazkowski	Hornstein	Loeffler	Paymar	Solberg
Bigham	Eastlund	Hortman	Loon	Pelowski	Sterner
Bly	Eken	Hosch	Mack	Peppin	Swails
Brod	Emmer	Howes	Mahoney	Persell	Thao
Brown	Falk	Huntley	Mariani	Peterson	Thissen
Brynaert	Faust	Jackson	Marquart	Poppe	Tillberry
Buesgens	Fritz	Johnson	Masin	Reinert	Torkelson
Bunn	Gardner	Juhnke	McFarlane	Rosenthal	Urdahl
Carlson	Garofalo	Kahn	McNamara	Rukavina	Wagenius
Champion	Gottwalt	Kalin	Morgan	Ruud	Ward
Clark	Greiling	Kath	Morrow	Sailer	Welti
Cornish	Gunther	Kelly	Mullery	Sanders	Westrom
Davids	Hackbarth	Kiffmeyer	Murdock	Scalze	Winkler
Davnie	Hamilton	Knuth	Murphy, E.	Scott	Zellers
Dean	Hansen	Koenen	Murphy, M.	Seifert	

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

Madam Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate file:

S. F. No. 708, A bill for an act relating to mortgages; modifying provisions relating to foreclosure consultants; amending Minnesota Statutes 2008, section 325N.01.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Fobbe, Ingebrigtsen and Scheid.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Mullery moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 708. The motion prevailed.

Madam Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate file:

S. F. No. 550, A bill for an act relating to energy; providing for energy conservation; regulating utility rates; removing prohibition on issuing certificate of need for new nuclear power plant; providing for various Legislative Energy Commission studies; regulating utilities; amending Minnesota Statutes 2008, sections 216A.03, subdivision 6, by adding a subdivision; 216B.16, subdivisions 2, 6c, 7b, by adding a subdivision; 216B.1645, subdivision 2a; 216B.169, subdivision 2; 216B.1691, subdivision 2a; 216B.23, by adding a subdivision; 216B.241, subdivisions 1c, 5a, 9; 216B.2411, subdivisions 1, 2; 216B.2424, subdivision 5a; 216B.243, subdivisions 3b, 8, 9; 216C.11; proposing coding for new law in Minnesota Statutes, chapter 216C; repealing Laws 2007, chapter 3, section 3.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Prettner Solon, Doll, Dibble, Senjem and Sparks.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

COLLEEN J. PACHECO, First Assistant Secretary of the Senate

Hilty moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 5 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 550. The motion prevailed.

The following Conference Committee Report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 819

A bill for an act relating to commerce; prohibiting certain unfair Internet ticket sales by original sellers and resellers; proposing coding for new law in Minnesota Statutes, chapter 609.

May 5, 2009

The Honorable Margaret Anderson Kelliher
Speaker of the House of Representatives

The Honorable James P. Metzen
President of the Senate

We, the undersigned conferees for H. F. No. 819 report that we have agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments.

We request the adoption of this report and repassage of the bill.

House Conferees: JOE ATKINS, LEON LILLIE and KURT ZELLERS.

Senate Conferees: RON LATZ, DAN SKOGEN and MICHAEL JUNGBAUER.

Atkins moved that the report of the Conference Committee on H. F. No. 819 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 819, A bill for an act relating to commerce; prohibiting certain unfair Internet ticket sales by original sellers and resellers; proposing coding for new law in Minnesota Statutes, chapter 609.

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

The question was taken on the repassage of the bill and the roll was called. There were 119 yeas and 13 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Lesch	Newton	Sertich
Anderson, P.	Dittrich	Hilty	Liebling	Nornes	Simon
Anderson, S.	Doepke	Hornstein	Lieder	Norton	Slawik
Anzelc	Doty	Hortman	Lillie	Obermueller	Slocum
Atkins	Downey	Hosch	Loeffler	Olin	Smith
Beard	Eken	Howes	Loon	Otremba	Solberg
Benson	Emmer	Huntley	Mack	Paymar	Sterner
Bigham	Falk	Jackson	Mahoney	Pelowski	Swails
Bly	Faust	Johnson	Mariani	Persell	Thao
Brod	Fritz	Juhnke	Marquart	Peterson	Thissen
Brown	Gardner	Kahn	Masin	Poppe	Tillberry
Brynaert	Gottwalt	Kalin	McFarlane	Reinert	Torkelson
Bunn	Greiling	Kath	McNamara	Rosenthal	Urdahl
Carlson	Gunther	Kelly	Morgan	Rukavina	Wagenius
Champion	Hackbarth	Kiffmeyer	Morrow	Ruud	Ward
Clark	Hamilton	Knuth	Mullery	Sailer	Walti
Cornish	Hansen	Koenen	Murdock	Sanders	Westrom
Davids	Hausman	Laine	Murphy, E.	Scalze	Winkler
Davnie	Haws	Lanning	Murphy, M.	Scott	Zellers
Demmer	Hayden	Lenczewski	Nelson	Seifert	

Those who voted in the negative were:

Anderson, B.	Dettmer	Garofalo	Kohls	Shimanski
Buesgens	Drazkowski	Holberg	Peppin	
Dean	Eastlund	Hoppe	Severson	

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

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Sertich from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Supplemental Calendar for the Day for Wednesday, May 6, 2009:

H. F. Nos. 8 and 818; S. F. Nos. 926 and 1425; H. F. No. 885; S. F. No. 806; H. F. No. 804; S. F. Nos. 1431 and 1408; H. F. No. 705; S. F. Nos. 675 and 1217; H. F. No. 1745; and S. F. Nos. 457 and 1447.

CALENDAR FOR THE DAY

S. F. No. 1611, A bill for an act relating to insurance; authorizing the Nonprofit Insurance Trust to self-insure against certain liabilities; amending Minnesota Statutes 2008, sections 471.98, subdivision 2; 471.982, subdivision 3.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Gottwalt	Johnson	Mack	Otremba
Anderson, B.	Davnie	Greiling	Juhnke	Mahoney	Paymar
Anderson, P.	Dean	Gunther	Kahn	Mariani	Pelowski
Anderson, S.	Demmer	Hackbarth	Kalin	Marquart	Peppin
Anzelc	Dettmer	Hamilton	Kath	Masin	Persell
Atkins	Dill	Hansen	Kelly	McFarlane	Peterson
Beard	Dittrich	Hausman	Kiffmeyer	McNamara	Poppe
Benson	Doepke	Haws	Knuth	Morgan	Reinert
Bigham	Doty	Hayden	Koenen	Morrow	Rosenthal
Bly	Downey	Hilstrom	Kohls	Mullery	Rukavina
Brod	Drazkowski	Hilty	Laine	Murdock	Ruud
Brown	Eastlund	Holberg	Lanning	Murphy, E.	Sailer
Brynaert	Eken	Hoppe	Lenczewski	Murphy, M.	Sanders
Buesgens	Emmer	Hornstein	Lesch	Nelson	Scalze
Bunn	Falk	Hortman	Liebling	Newton	Scott
Carlson	Faust	Hosch	Lieder	Nornes	Seifert
Champion	Fritz	Howes	Lillie	Norton	Sertich
Clark	Gardner	Huntley	Loeffler	Obermueller	Severson
Cornish	Garofalo	Jackson	Loon	Olin	Shimanski

Simon	Smith	Swails	Tillberry	Wagenius	Westrom
Slawik	Solberg	Thao	Torkelson	Ward	Winkler
Slocum	Sterner	Thissen	Urdahl	Welti	Zellers

The bill was passed and its title agreed to.

S. F. No. 1876, A bill for an act relating to transportation; modifying and updating provisions relating to motor carriers, highways, and the Department of Transportation; making clarifying and technical changes; amending Minnesota Statutes 2008, sections 168.013, subdivision 1e; 168.185; 169.025; 169.801, subdivision 10; 169.823, subdivision 1; 169.824; 169.8261; 169.827; 169.85, subdivision 2; 169.862, subdivision 2; 169.864, subdivisions 1, 2; 169.865, subdivisions 1, 2, 3, 4; 169.866, subdivision 1; 169.87, subdivision 2, by adding a subdivision; 174.64, subdivision 4; 174.66; 221.012, subdivisions 19, 29; 221.021, subdivision 1; 221.022; 221.025; 221.026, subdivisions 2, 5; 221.0269, subdivision 3; 221.031, subdivisions 1, 3, 3c, 6; 221.0314, subdivisions 2, 3a, 9; 221.033, subdivisions 1, 2; 221.121, subdivisions 1, 7; 221.122, subdivision 1; 221.123; 221.132; 221.151, subdivision 1; 221.161, subdivisions 1, 4; 221.171; 221.172, subdivision 3; 221.185, subdivisions 2, 4, 5a, 9; 221.605, subdivision 1; 221.68; 221.81, subdivision 3d; repealing Minnesota Statutes 2008, sections 169.67, subdivision 6; 169.826, subdivisions 1b, 5; 169.832, subdivisions 11, 11a; 221.012, subdivisions 2, 3, 6, 7, 11, 12, 21, 23, 24, 30, 32, 39, 40, 41; 221.031, subdivision 2b; 221.072; 221.101; 221.111; 221.121, subdivisions 2, 3, 5, 6, 6a, 6c, 6d, 6e, 6f; 221.131, subdivision 2a; 221.141, subdivision 6; 221.151, subdivisions 2, 3; 221.153; 221.172, subdivisions 4, 5, 6, 7, 8; 221.296, subdivisions 3, 4, 5, 6, 7, 8.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hausman	Kohls	Murphy, M.	Seifert
Anderson, B.	Dettmer	Haws	Laine	Nelson	Sertich
Anderson, P.	Dill	Hayden	Lanning	Newton	Severson
Anderson, S.	Dittrich	Hilstrom	Lenczewski	Nornes	Shimanski
Anzelc	Doepke	Hilty	Lesch	Norton	Simon
Atkins	Doty	Holberg	Liebling	Obermueller	Slawik
Beard	Downey	Hoppe	Lieder	Olin	Slocum
Benson	Drazkowski	Hornstein	Lillie	Otremba	Smith
Bigham	Eastlund	Hortman	Loeffler	Paymar	Solberg
Bly	Eken	Hosch	Loon	Pelowski	Sterner
Brod	Emmer	Howes	Mack	Peppin	Swails
Brown	Falk	Huntley	Mahoney	Persell	Thao
Brynaert	Faust	Jackson	Mariani	Peterson	Thissen
Buesgens	Fritz	Johnson	Marquart	Poppe	Tillberry
Bunn	Gardner	Juhnke	Masin	Reinert	Torkelson
Carlson	Garofalo	Kahn	McFarlane	Rosenthal	Urdahl
Champion	Gottwalt	Kalin	McNamara	Rukavina	Wagenius
Clark	Greiling	Kath	Morgan	Ruud	Ward
Cornish	Gunther	Kelly	Morrow	Sailer	Welti
Davids	Hackbarth	Kiffmeyer	Mullery	Sanders	Westrom
Davnie	Hamilton	Knuth	Murdock	Scalze	Winkler
Dean	Hansen	Koenen	Murphy, E.	Scott	Zellers

The bill was passed and its title agreed to.

S. F. No. 1539 was reported to the House.

Atkins moved to amend S. F. No. 1539, the second engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1719, the second engrossment:

"Section 1. Minnesota Statutes 2008, section 13.716, subdivision 7, is amended to read:

Subd. 7. **Viatical settlements data.** Viatical settlements data provided to the commissioner of commerce are classified under section ~~60A.968, subdivision 2~~ 60A.9575.

Sec. 2. **[60A.957] DEFINITIONS.**

Subdivision 1. **Terms.** For purposes of sections 60A.957 to 60A.9585, the terms defined in this section have the meanings given them.

Subd. 2. **Advertising.** "Advertising" means any written, electronic, or printed communication or any communication by means of recorded telephone messages or transmitted on radio, television, the Internet, or similar communications media, including film strips, motion pictures, and videos, published, disseminated, circulated, or placed directly before the public in this state, for the purpose of creating an interest in or inducing a person to purchase or sell, assign, devise, bequeath, or transfer the death benefit or ownership of a life insurance policy pursuant to a viatical settlement contract.

Subd. 3. **Business of viatical settlements.** "Business of viatical settlements" means an activity involved in, but not limited to, the offering, soliciting, negotiating, procuring, effectuating, purchasing, investing, financing, monitoring, tracking, underwriting, selling, transferring, assigning, pledging, hypothecating, or in any other manner acquiring an interest in a life insurance policy by means of a viatical settlement contract.

Subd. 4. **Chronically ill.** "Chronically ill" means:

(1) being unable to perform at least two activities of daily living (for example, eating, toileting, transferring, bathing, dressing, or continence);

(2) requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment; or

(3) having a level of disability similar to that described in clause (1) as determined by the United States Secretary of Health and Human Services.

Subd. 5. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 6. **Financing entity.** "Financing entity" means an underwriter, placement agent, lender, purchaser of securities, purchaser of a policy or certificate from a viatical settlement provider, credit enhancer, or any entity that has a direct ownership in a policy or certificate that is the subject of a viatical settlement contract, but:

(1) whose principal activity related to the transaction is providing funds to effect the viatical settlement or purchase of one or more viaticated policies; and

(2) who has an agreement in writing with one or more licensed viatical settlement providers to finance the acquisition of viatical settlement contracts.

Financing entity does not include a nonaccredited investor or a viatical settlement purchaser.

Subd. 7. **Fraudulent viatical settlement act.** "Fraudulent viatical settlement act" includes:

(a) acts or omissions committed by any person who, knowingly and with intent to defraud, for the purpose of depriving another of property or for pecuniary gain, commits, or permits its employees or its agents to engage in acts including:

(1) presenting, causing to be presented or preparing with knowledge or belief that it will be presented to or by a viatical settlement provider, viatical settlement broker, viatical settlement purchaser, viatical settlement investment agent, financing entity, insurer, insurance producer, or any other person, false material information, or concealing material information, as part of, in support of, or concerning a fact material to one or more of the following:

(i) an application for the issuance of a viatical settlement contract or insurance policy;

(ii) the underwriting of a viatical settlement contract or insurance policy;

(iii) a claim for payment or benefit pursuant to a viatical settlement contract or insurance policy;

(iv) premiums paid on an insurance policy or as a result of a viatical settlement purchase agreement;

(v) payments and changes in ownership or beneficiary made in accordance with the terms of a viatical settlement contract, viatical settlement purchase agreement, or insurance policy;

(vi) the reinstatement or conversion of an insurance policy;

(vii) the solicitation, offer, effectuation, or sale of a viatical settlement contract, insurance policy, or viatical settlement purchase agreement;

(viii) the issuance of written evidence of viatical settlement contract, viatical settlement purchase agreement, or insurance; or

(ix) a financing transaction; and

(2) employing any plan, financial structure, device, scheme, or artifice to defraud related to viaticated policies;

(b) acts or omissions in the furtherance of a fraud or to prevent the detection of a fraud committed by any person, its employees, or its agents, to:

(1) remove, conceal, alter, destroy, or sequester from the commissioner the assets or records of a licensee or other person engaged in the business of viatical settlements;

(2) misrepresent or conceal the financial condition of a licensee, financing entity, insurer, or other person;

(3) transact the business of viatical settlements in violation of laws requiring a license, certificate of authority, or other legal authority for the transaction of the business of viatical settlements; or

(4) file with the commissioner or the equivalent chief insurance regulatory official of another jurisdiction a document containing false information or otherwise conceal information about a material fact from the commissioner;

(c) commit embezzlement, theft, misappropriation, or conversion of money, funds, premiums, credits, or other property of a viatical settlement provider, insurer, viator, insurance policyowner, or any other person engaged in the business of viatical settlements or insurance; or

(d) attempt to commit, assist, aid, or abet in the commission of, or conspiracy to commit, the acts or omissions specified in this subdivision.

Subd. 8. **Life insurance producer.** "Life insurance producer" means any person licensed in this state as a resident or nonresident insurance producer who has received qualification or authority for life insurance pursuant to chapter 60K.

Subd. 9. **Person.** "Person" means a natural person or a legal entity, including, without limitation, an individual, partnership, limited liability company, association, trust, or corporation.

Subd. 10. **Policy.** "Policy" means an individual or group policy, group certificate, contract, or arrangement of life insurance owned by a resident of this state, regardless of whether delivered or issued for delivery in this state.

Subd. 11. **Related provider trust.** "Related provider trust" means a titling trust or other trust established by a licensed viatical settlement provider or a financing entity for the sole purpose of holding the ownership or beneficial interest in purchased policies in connection with a financing transaction. The trust shall have a written agreement with the licensed viatical settlement provider under which the licensed viatical settlement provider is responsible for ensuring compliance with all statutory and regulatory requirements and under which the trust agrees to make all records and files related to viatical settlement transactions available to the commissioner as if those records and files were maintained directly by the licensed viatical settlement provider.

Subd. 12. **Special purpose entity.** "Special purpose entity" means a corporation, partnership, trust, limited liability company, or other similar entity formed solely to provide either directly or indirectly access to institutional capital markets:

(1) for a financing entity or licensed viatical settlement provider; or

(2) in connection with a transaction in which:

(i) the securities in the special purpose entity are acquired by the viator or by "qualified institutional buyers" as defined in Rule 144 promulgated under the Securities Act of 1933, as amended; or

(ii) the securities pay a fixed rate of return commensurate with established asset-backed institutional capital markets.

Subd. 13. **Terminally ill.** "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in 24 months or less.

Subd. 14. **Viatical settlement broker.** "Viatical settlement broker" means a person, including a life insurance producer as provided in section 60A.9572, who, working exclusively on behalf of a viator and for a fee, commission, or other valuable consideration, offers or attempts to negotiate viatical settlement contracts between a viator and one or more viatical settlement providers or one or more viatical settlement brokers. Notwithstanding the manner in which the viatical settlement broker is compensated, a viatical settlement broker is deemed to represent only the viator, and not the insurer or the viatical settlement provider, and owes a fiduciary duty to the viator to act according to the viator's instructions and in the best interests of the viator. Viatical settlement broker does not include an attorney, certified public accountant, or a financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator and whose compensation is not paid directly or indirectly by the viatical settlement provider or purchaser.

Subd. 15. **Viatical settlement contract.** (a) "Viatical settlement contract" means a written agreement between a viator and a viatical settlement provider establishing the terms under which compensation or anything of value is or will be paid, which compensation or value is less than the expected death benefits of the policy, in return for the

viator's present or future assignment, transfer, sale, devise, or bequest of the death benefit or ownership of any portion of the insurance policy or certificate of insurance. Viatical settlement contract also includes the transfer for compensation or value of ownership or beneficial interest in a trust or other entity that owns such a policy if the trust or other entity was formed or availed of for the principal purpose of acquiring one or more life insurance contracts, which life insurance contract insures the life of a person residing in this state.

(b) Viatical settlement contract includes a premium finance loan made for a life insurance policy by a lender to a viator on, before, or after the date of issuance of the policy where:

(1) the viator or the insured receives on the date of the premium finance loan a guarantee of a future viatical settlement value of the policy; or

(2) the viator or the insured agrees on the date of the premium finance loan to sell the policy or any portion of its death benefit on any date following the issuance of the policy.

(c) Viatical settlement contract does not include:

(1) a policy loan or accelerated death benefit made by the insurer pursuant to the policy's terms;

(2) loan proceeds that are used solely to pay:

(i) premiums for the policy; and

(ii) the costs of the loan, including, without limitation, interest, arrangement fees, utilization fees and similar fees, closing costs, legal fees and expenses, trustee fees and expenses, and third-party collateral provider fees and expenses, including fees payable to letter of credit issuers;

(3) a loan made by a bank or other licensed financial institution in which the lender takes an interest in a life insurance policy solely to secure repayment of a loan or, if there is a default on the loan and the policy is transferred, the transfer of a policy by the lender, provided that neither the default itself nor the transfer of the policy in connection with the default is pursuant to an agreement or understanding with any other person for the purposes of evading regulation under sections 60A.957 to 60A.9585;

(4) a loan made by a lender that does not violate chapter 59A, provided that the premium finance loan is not described in clause (3);

(5) an agreement where all the parties (i) are closely related to the insured by blood or law or (ii) have a lawful substantial economic interest in the continued life, health, and bodily safety of the person insured, or are trusts established primarily for the benefit of the parties;

(6) any designation, consent, or agreement by an insured who is an employee of an employer in connection with the purchase by the employer, or trust established by the employer, of life insurance on the life of the employee;

(7) a bona fide business succession planning arrangement:

(i) between one or more shareholders in a corporation or between a corporation and one or more of its shareholders or one or more trusts established by its shareholders;

(ii) between one or more partners in a partnership or between a partnership and one or more of its partners or one or more trusts established by its partners; or

(iii) between one or more members in a limited liability company or between a limited liability company and one or more of its members or one or more trusts established by its members;

(8) an agreement entered into by a service recipient, or a trust established by the service recipient, and a service provider, or a trust established by the service provider, who performs significant services for the service recipient's trade or business; or

(9) any other contract, transaction, or arrangement exempted from the definition of viatical settlement contract by the commissioner based on a determination that the contract, transaction, or arrangement is not of the type intended to be regulated by sections 60A.957 to 60A.9585.

Subd. 16. Viatical settlement investment agent. (a) "Viatical settlement investment agent" means a person who is an appointed or contracted agent of a licensed viatical settlement provider who solicits or arranges the funding for the purchase of a viatical settlement by a viatical settlement purchaser and who is acting on behalf of a viatical settlement provider.

(b) A viatical settlement investment agent shall not have any contact directly or indirectly with the viator or insured or have knowledge of the identity of the viator or insured.

(c) A viatical settlement investment agent is deemed to represent the viatical settlement provider of whom the viatical settlement investment agent is an appointed or contracted agent.

Subd. 17. Viatical settlement provider. (a) "Viatical settlement provider" means a person, other than a viator, that enters into or effectuates a viatical settlement contract with a viator resident in this state.

(b) Viatical settlement provider does not include:

(1) a bank, savings bank, savings and loan association, credit union, or other licensed lending institution;

(2) a premium finance company making premium finance loans and exempted by the commissioner from the licensing requirement under the premium finance laws that takes an assignment of a life insurance policy solely as collateral for a loan;

(3) the issuer of the life insurance policy;

(4) an authorized or eligible insurer that provides stop-loss coverage or financial guaranty insurance to a viatical settlement provider, purchaser, financing entity, special purpose entity, or related provider trust;

(5) a natural person who enters into or effectuates no more than one agreement in a calendar year for the transfer of life insurance policies for any value less than the expected death benefit;

(6) a financing entity;

(7) a special purpose entity;

(8) a related provider trust;

(9) a viatical settlement purchaser; or

(10) any other person that the commissioner determines is not the type of person intended to be covered by the definition of viatical settlement provider.

Subd. 18. Viatical settlement purchase agreement. "Viatical settlement purchase agreement" means a contract or agreement, entered into by a viatical settlement purchaser, to which the viator is not a party, to purchase a life insurance policy or an interest in a life insurance policy, that is entered into for the purpose of deriving an economic benefit.

Subd. 19. **Viatical settlement purchaser.** (a) "Viatical settlement purchaser" means a person who provides a sum of money as consideration for a life insurance policy or an interest in the death benefits of a life insurance policy, or a person who owns or acquires or is entitled to a beneficial interest in a trust that owns a viatical settlement contract or is the beneficiary of a life insurance policy that has been or will be the subject of a viatical settlement contract, for the purpose of deriving an economic benefit.

(b) Viatical settlement purchaser does not include:

(1) a licensee under sections 60A.957 to 60A.9585;

(2) an accredited investor or qualified institutional buyer as defined, respectively, in Rule 501(a) or Rule 144A promulgated under the Federal Securities Act of 1933, as amended;

(3) a financing entity;

(4) a special purpose entity; or

(5) a related provider trust.

Subd. 20. **Viaticated policy.** "Viaticated policy" means a life insurance policy or certificate that has been acquired by a viatical settlement provider pursuant to a viatical settlement contract.

Subd. 21. **Viator.** (a) "Viator" means the owner of a life insurance policy or a certificate holder under a group policy that resides in this state and enters or seeks to enter into a viatical settlement contract. For purposes of sections 60A.957 to 60A.9585, a viator shall not be limited to an owner of a life insurance policy or a certificate holder under a group policy insuring the life of an individual with a terminal or chronic illness or condition except where specifically addressed. If there is more than one viator on a single policy and the viators are residents of different states, the transaction is governed by the law of the state in which the viator having the largest percentage ownership resides or, if the viators hold equal ownership, the state of residence of one viator agreed upon in writing by all the viators.

(b) Viator does not include:

(1) a licensee under sections 60A.957 to 60A.9585, including a life insurance producer acting as a viatical settlement broker pursuant to sections 60A.957 to 60A.9585;

(2) a qualified institutional buyer as defined in Rule 144A promulgated under the Federal Securities Act of 1933, as amended;

(3) a financing entity;

(4) a special purpose entity; or

(5) a related provider trust.

Sec. 3. **[60A.9572] LICENSE AND BOND REQUIREMENTS.**

Subdivision 1. **Provider or broker license required.** A person shall not operate as a viatical settlement provider or viatical settlement broker in this state without first obtaining a license from the commissioner of the state of residence of the viator.

Subd. 2. **Agent license required.** A person shall not operate as a viatical settlement investment agent in this state without first obtaining a license from the commissioner of the state of residence of the viatical settlement purchaser. If there is more than one purchaser of a single policy and the purchasers are residents of different states, the viatical settlement purchase agreement shall be governed by the law of the state in which the purchaser having the largest percentage ownership resides or, if the purchasers hold equal ownership, the state of residence of one purchaser agreed upon in writing by all purchasers.

Subd. 3. **Life insurance producer.** (a) An insurance producer who is currently licensed with the life line of authority and has been licensed in good standing for at least one year is deemed to meet the licensing requirements of this section and is permitted to operate as a viatical settlement broker.

(b) Not later than 30 days from the first day of operating as a viatical settlement broker, the life insurance producer shall notify the commissioner that the life insurance producer is acting as a viatical settlement broker on a form prescribed by the commissioner, and shall pay any applicable fee to be determined by the commissioner. Notification includes an acknowledgment by the life insurance producer that the life insurance producer will operate as a viatical settlement broker in accordance with sections 60A.957 to 60A.9585.

(c) The insurer that issued the policy being viaticated is not responsible for any act or omission of a viatical settlement broker or viatical settlement provider arising out of or in connection with the viatical settlement transaction, unless the insurer receives compensation for the placement of a viatical settlement contract from the viatical settlement provider or viatical settlement broker in connection with the viatical settlement contract.

(d) A person licensed as an attorney, certified public accountant, or financial planner accredited by a nationally recognized accreditation agency, who is retained to represent the viator, whose compensation is not paid directly or indirectly by the viatical settlement provider, may negotiate viatical settlement contracts on behalf of the viator without having to obtain a license as a viatical settlement broker.

Subd. 4. **Application.** An application for a viatical settlement provider, viatical settlement broker, or viatical settlement investment agent license shall be made to the commissioner by the applicant on a form prescribed by the commissioner, and these applications shall be accompanied by the fees specified in section 60A.964.

Subd. 5. **Renewals.** A license may be renewed from year to year on the anniversary date upon payment of the annual renewal fees specified in section 60A.964. Failure to pay the fees by the renewal date results in expiration of the license.

Subd. 6. **Disclosures.** The applicant shall provide information on forms required by the commissioner. The commissioner shall have authority, at any time, to require the applicant to fully disclose the identity of all stockholders who hold more than ten percent of the shares of the company, partners, officers, members, and employees, and the commissioner may, in the exercise of the commissioner's discretion, refuse to issue a license in the name of a legal entity if not satisfied that any officer, employee, stockholder, partner, or member may materially influence the applicant's conduct meets the standards of sections 60A.957 to 60A.9585.

Subd. 7. **Legal entity license.** A license issued to a legal entity authorizes all partners, officers, members, and designated employees to act as viatical settlement providers, viatical settlement brokers, or viatical settlement investment agents, as applicable, under the license, and all those persons shall be named in the application and any supplements to the application.

Subd. 8. **Investigation.** Upon the filing of an application and the payment of the license fee, the commissioner shall make an investigation of each applicant and issue a license if the commissioner finds that the applicant:

(1) if a viatical settlement provider, has provided a detailed plan of operation;

(2) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(3) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied for;

(4) if a viatical settlement provider or a viatical settlement broker, has demonstrated evidence of financial responsibility in a format prescribed by the commissioner through either a surety bond executed and issued by an insurer authorized to issue surety bonds in this state or a deposit of cash, certificates of deposit, or securities or any combination thereof in an amount to be determined by the commissioner. The commissioner shall accept, as evidence of financial responsibility, proof that financial instruments in accordance with the requirements in this clause have been filed with one or more states where the applicant is licensed as a viatical settlement provider or a viatical settlement broker. The commissioner may ask for evidence of financial responsibility at any time the commissioner deems necessary. Any surety bond issued pursuant to this clause shall be in favor of this state and shall specifically authorize recovery by the commissioner on behalf of any person in this state who sustained damages as the result of erroneous acts, failure to act, conviction of fraud, or conviction of unfair practices by the viatical settlement provider or a viatical settlement broker;

(5) if a legal entity, provides a certificate of good standing from the state of its domicile; and

(6) if a viatical settlement provider or viatical settlement broker, has provided an antifraud plan that meets the requirements of section 60A.9583.

Subd. 9. **Consent to service of process.** The commissioner shall not issue a license to a nonresident applicant, unless a written designation of an agent for service of process is filed and maintained with the commissioner or the applicant has filed with the commissioner the applicant's written irrevocable consent that any action against the applicant may be commenced against the applicant by service of process on the commissioner.

Subd. 10. **Duty to supplement information.** A viatical settlement provider, viatical settlement broker, or viatical settlement investment agent shall provide to the commissioner new or revised information about officers, ten percent or more stockholders, partners, directors, members, or designated employees within 30 days of the change.

Subd. 11. **Training required.** An individual licensed as a viatical settlement broker shall complete on an annual basis six hours of training related to viatical settlements and viatical settlement transactions, as required by the commissioner; provided, however, that a life insurance producer who is operating as a viatical settlement broker pursuant to subdivision 3 shall not be subject to the requirements of this subdivision. Any person failing to meet the requirements of this subdivision is subject to the penalties imposed by the commissioner.

Sec. 4. **[60A.9573] LICENSE REVOCATION AND DENIAL.**

Subdivision 1. **Grounds.** The commissioner may suspend, revoke, or refuse to issue or renew the license of a viatical settlement provider, viatical settlement broker, or viatical settlement investment agent if the commissioner finds that:

(1) there was any material misrepresentation in the application for the license;

(2) the licensee or any officer, partner, member, or key management personnel has been convicted of fraudulent or dishonest practices, is subject to a final administrative action, or is otherwise shown to be untrustworthy or incompetent;

(3) the viatical settlement provider demonstrates a pattern of unreasonable payments to viators;

(4) the licensee or any officer, partner, member, or key management personnel has been found guilty of, or has pleaded guilty or nolo contendere to, any felony, or to a misdemeanor involving fraud or moral turpitude, regardless of whether a judgment of conviction has been entered by the court;

(5) the viatical settlement provider has entered into any viatical settlement contract that has not been approved pursuant to sections 60A.957 to 60A.9585;

(6) the viatical settlement provider has failed to honor contractual obligations set out in a viatical settlement contract or a viatical settlement purchase agreement;

(7) the licensee no longer meets the requirements for initial licensure;

(8) the viatical settlement provider has assigned, transferred, or pledged a viaticated policy to a person other than a viatical settlement provider licensed in this state, a viatical settlement purchaser, an accredited investor, or qualified institutional buyer as defined respectively in Rule 501(a) or Rule 144A promulgated under the Federal Securities Act of 1933, as amended, a financing entity, a special purpose entity, or a related provider trust; or

(9) the licensee or any officer, partner, member, or key management personnel has violated any provision of sections 60A.957 to 60A.9585.

Subd. 2. **Bad faith by broker or producer.** The commissioner may suspend, revoke, or refuse to renew the license of a viatical settlement broker or a life insurance producer operating as a viatical settlement broker pursuant to sections 60A.957 to 60A.9585 if the commissioner finds that the viatical settlement broker or life insurance producer has violated the provisions of sections 60A.957 to 60A.9585 or has otherwise engaged in bad faith conduct with one or more viators.

Subd. 3. **License enforcement actions.** Section 45.027 applies to any action taken by the commissioner to deny a license application or suspend, revoke, or refuse to renew the license of a viatical settlement provider, viatical settlement broker, or viatical settlement investment agent, or suspend, revoke, or refuse to renew a license of a life insurance producer operating as a viatical settlement broker pursuant to sections 60A.957 to 60A.9585.

Sec. 5. **[60A.9574] APPROVAL OF VIATICAL SETTLEMENT CONTRACTS AND DISCLOSURE STATEMENTS.**

A person shall not use a viatical settlement contract form or provide to a viator a disclosure statement form in this state unless first filed with and approved by the commissioner. The commissioner shall disapprove a viatical settlement contract form or disclosure statement form if, in the commissioner's opinion, the contract or provisions fail to meet the requirements of sections 60A.9577, 60A.9579, 60A.9582, and 60A.9583, subdivision 2, or are unreasonable, contrary to the interests of the public, or otherwise misleading or unfair to the viator. At the commissioner's discretion, the commissioner may require the submission of advertising material.

Sec. 6. **[60A.9575] REPORTING REQUIREMENTS AND PRIVACY.**

Subdivision 1. **Annual statement.** A viatical settlement provider shall file with the commissioner on or before March 1 of each year an annual statement containing the following information:

(1) for each policy viaticated, the date that the viatical settlement was entered into; the life expectancy of the viator at the time of the contract; the face amount of the policy; the amount paid by the viatical settlement provider to viaticate the policy; and if the viator has died, the date of death and the total insurance premiums paid by the viatical settlement provider to maintain the policy in force;

(2) a breakdown by disease category of applications received, accepted, and rejected;

(3) a breakdown of policies viaticated by issuer and policy type;

(4) the number of secondary market versus primary market transactions;

(5) the portfolio size; and

(6) the amount of outside borrowings.

The information shall be limited to only those transactions where the viator is a resident of this state. Individual transaction data regarding the business of viatical settlements or data that could compromise the privacy of personal, financial, and health information of the viator or insured shall be filed with the commissioner on a confidential basis.

Subd. 2. **Identity disclosure restrictions.** Except as otherwise allowed or required by law, a viatical settlement provider, viatical settlement broker, or viatical settlement investment agent, insurance company, insurance producer, information bureau, rating agency or company, or any other person with actual knowledge of an insured's identity, shall not disclose that identity as an insured, or the insured's financial or medical information to any other person unless the disclosure:

(1) is necessary to effect a viatical settlement between the viator and a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure;

(2) is necessary to effect a viatical settlement purchase agreement between the viatical settlement purchaser and a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure;

(3) is provided in response to an investigation or examination by the commissioner or any other governmental officer or agency or pursuant to section 45.027;

(4) is a term of or condition to the transfer of a policy by one viatical settlement provider to another viatical settlement provider;

(5) is necessary to permit a financing entity, related provider trust, or special purpose entity to finance the purchase of policies by a viatical settlement provider and the viator and insured have provided prior written consent to the disclosure;

(6) is necessary to allow a viatical settlement provider or viatical settlement broker or an authorized representative to make contacts for the purpose of determining health status; or

(7) is required to purchase stop-loss coverage or financial guaranty insurance.

Sec. 7. [60A.9577] DISCLOSURE TO VIATOR.

Subdivision 1. **Application disclosures by provider and broker.** With an application for a viatical settlement, a viatical settlement provider or viatical settlement broker shall provide the viator with at least the following disclosures no later than the time the application for the viatical settlement contract is signed by all parties. The disclosures shall be provided in a separate document that is signed by the viator and the viatical settlement provider or viatical settlement broker, and shall provide the following information:

(1) that a viatical settlement broker represents exclusively the viator, and not the insurer or the viatical settlement provider, and owes a fiduciary duty to the viator, including a duty to act according to the viator's instructions and in the best interests of the viator;

(2) some or all of the proceeds of the viatical settlement may be taxable under federal income tax and state franchise and income taxes, and assistance should be sought from a professional tax advisor;

(3) proceeds of the viatical settlement could be subject to the claims of creditors;

(4) receipt of the proceeds of a viatical settlement may adversely affect the viator's eligibility for Medicaid or other government benefits or entitlements, and advice should be obtained from the appropriate government agencies;

(5) the viator has the right to rescind a viatical settlement contract before the earlier of 60 calendar days after the date upon which the viatical settlement contract is executed by all parties or 30 calendar days after the viatical settlement proceeds have been paid to the viator, as provided in section 60A.9579, subdivision 5. Rescission, if exercised by the viator, is effective only if both notice of the rescission is given, and the viator repays all proceeds and any premiums, loans, and loan interest paid on account of the viatical settlement within the rescission period. If the insured dies during the rescission period, the viatical settlement contract shall be deemed to have been rescinded, subject to repayment by the viator or the viator's estate of all viatical settlement proceeds and any premiums, loans, and loan interest to the viatical settlement within 60 days of the insured's death;

(6) funds will be sent to the viator within three business days after the viatical settlement provider has received the insurer or group administrator's written acknowledgment that ownership of the policy or interest in the certificate has been transferred and the beneficiary has been designated;

(7) entering into a viatical settlement contract may cause other rights or benefits, including conversion rights and waiver of premium benefits that may exist under the policy or certificate, to be forfeited by the viator. Assistance should be sought from a financial adviser;

(8) the disclosure document shall contain the following language: "All medical, financial, or personal information solicited or obtained by a viatical settlement provider or viatical settlement broker about an insured, including the insured's identity or the identity of family members, a spouse, or a significant other may be disclosed as necessary to effect the viatical settlement between the viator and the viatical settlement provider. If you are asked to provide this information, you will be asked to consent to the disclosure. The information may be provided to someone who buys the policy or provides funds for the purchase. You may be asked to renew your permission to share information every two years."; and

(9) following execution of a viatical contract, the insured may be contacted for the purpose of determining the insured's health status and to confirm the insured's residential or business street address and telephone number, or as otherwise provided in sections 60A.957 to 60A.9585. This contact shall be limited to once every three months if the insured has a life expectancy of more than one year, and no more than once per month if the insured has a life expectancy of one year or less. Contracts shall be made only by a viatical settlement provider licensed in the state in which the viator resided at the time of the viatical settlement, or by the authorized representative of a duly licensed viatical settlement provider.

Disclosure to a viator under this subdivision includes distribution of a brochure describing the process of viatical settlements. The National Association of Insurance Commissioners' form for the brochure shall be used unless another form is developed or approved by the commissioner.

Subd. 2. Contract disclosures by provider. A viatical settlement provider shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide the following information:

(1) the affiliation, if any, between the viatical settlement provider and the issuer of the insurance policy to be viaticated;

(2) the document includes the name, business address, and telephone number of the viatical settlement provider;

(3) any affiliations or contractual arrangements between the viatical settlement provider and the viatical settlement broker;

(4) if an insurance policy to be viaticated has been issued as a joint policy or involves family riders or any coverage of a life other than the insured under the policy to be viaticated, the viator shall be informed of the possible loss of coverage on the other lives under the policy and shall be advised to consult with the viator's insurance producer or the insurer issuing the policy for advice on the proposed viatical settlement;

(5) state the dollar amount of the current death benefit payable to the viatical settlement provider under the policy or certificate. If known, the viatical settlement provider shall also disclose the availability of any additional guaranteed insurance benefits, the dollar amount of any accidental death and dismemberment benefits under the policy or certificate, and the extent to which the viator's interest in those benefits will be transferred as a result of the viatical settlement contract; and

(6) state whether the funds will be escrowed with an independent third party during the transfer process, and if so, provide the name, business address, and telephone number of the independent third-party escrow agent, and the fact that the viator or owner may inspect or receive copies of the relevant escrow or trust agreements or documents.

Subd. 3. Contract disclosures by broker. A viatical settlement broker shall provide the viator with at least the following disclosures no later than the date the viatical settlement contract is signed by all parties. The disclosures shall be conspicuously displayed in the viatical settlement contract or in a separate document signed by the viator and provide the following information:

(1) the name, business address, and telephone number of the viatical settlement broker;

(2) a full, complete, and accurate description of all offers, counteroffers, acceptances, and rejections relating to the proposed viatical settlement contract;

(3) a written disclosure of any affiliations or contractual arrangements between the viatical settlement broker and any person making an offer in connection with the proposed viatical settlement contracts;

(4) the amount and method of calculating the broker's compensation, the term "compensation" includes anything of value paid or given to a viatical settlement broker for the placement of a policy; and

(5) where any portion of the viatical settlement broker's compensation, as defined in subdivision 3, clause (4), is taken from a proposed viatical settlement offer, the broker shall disclose the total amount of the viatical settlement offer and the percentage of the viatical settlement offer comprised by the viatical settlement broker's compensation.

Subd. 4. Ownership and beneficiary changes. If the viatical settlement provider transfers ownership or changes the beneficiary of the insurance policy, the provider shall communicate in writing the change in ownership or beneficiary to the insured within 20 days after the change.

Subd. 5. Contract disclosures by provider or agent. A viatical settlement provider or its viatical settlement investment agent shall provide the viatical settlement purchaser with at least the following disclosures prior to the date the viatical settlement purchase agreement is signed by all parties. The disclosures shall be conspicuously displayed in any viatical purchase contract or in a separate document signed by the viatical settlement purchaser and viatical settlement provider or viatical settlement investment agent, and shall make the following disclosures to the viatical settlement purchaser:

(1) the purchaser will receive no returns, for example, dividends and interest, until the insured dies and a death claim payment is made;

(2) the actual annual rate of return on a viatical settlement contract is dependent upon an accurate projection of the insured's life expectancy, and the actual date of the insured's death. An annual guaranteed rate of return is not determinable;

(3) the viaticated life insurance contract should not be considered a liquid purchase since it is impossible to predict the exact timing of its maturity and the funds are probably not available until the death of the insured. There is no established secondary market for resale of these products by the purchaser;

(4) the purchaser may lose all benefits or may receive substantially reduced benefits if the insurer goes out of business during the term of the viatical investment;

(5) the purchaser is responsible for payment of the insurance premium or other costs related to the policy, if required by the terms of the viatical purchase agreement. These payments may reduce the purchaser's return. If a party other than the purchaser is responsible for the payment, the name and address of that party shall also be disclosed;

(6) the purchaser is responsible for payment of the insurance premiums or other costs related to the policy if the insured returns to health. Disclose the amount of the premiums, if applicable;

(7) the name, business address, and telephone number of the independent third party providing escrow services and the relationship to the broker;

(8) the amount of any trust fees or other expenses to be charged to the viatical settlement purchaser shall be disclosed;

(9) whether the purchaser is entitled to a refund of all or part of the purchaser's investment under the settlement contract if the policy is later determined to be null and void;

(10) that group policies may contain limitations or caps in the conversion rights, additional premiums may have to be paid if the policy is converted, name the party responsible for the payment of the additional premiums and, if a group policy is terminated and replaced by another group policy, state that there may be no right to convert the original coverage;

(11) the risks associated with policy contestability including, but not limited to, the risk that the purchaser will have no claim or only a partial claim to death benefits should the insurer rescind the policy within the contestability period;

(12) whether the purchaser will be the owner of the policy in addition to being the beneficiary, and if the purchaser is the beneficiary only and not also the owner, the special risks associated with that status, including, but not limited to, the risk that the beneficiary may be changed or the premium may not be paid; and

(13) the experience and qualifications of the person who determines the life expectancy of the insured, for example, in-house staff, independent physicians, and specialty firms that weigh medical and actuarial data; the information this projection is based on; and the relationship of the projection maker to the viatical settlement provider, if any.

Disclosure to a viatical settlement purchaser under this subdivision includes the distribution of a brochure describing the process of investment in viatical settlements. The National Association of Insurance Commissioners' form for the brochure shall be used unless one is developed by the commissioner.

Subd. 6. Transfer or sale disclosures by provider or agent. A viatical settlement provider or its viatical settlement investment agent shall provide the viatical settlement purchaser with at least the following disclosures no later than at the time of the assignment, transfer, or sale of all or a portion of an insurance policy. The disclosures shall be contained in a document signed by the viatical settlement purchaser and viatical settlement provider or viatical settlement investment agent, and shall make the following disclosures to the viatical settlement purchaser:

(1) disclose all the life expectancy certifications obtained by the provider in the process of determining the price paid to the viator;

(2) state whether premium payments or other costs related to the policy have been escrowed. If escrowed, state the date upon which the escrowed funds will be depleted and whether the purchaser will be responsible for payment of premiums thereafter and, if so, the amount of the premiums;

(3) state whether premium payments or other costs related to the policy have been waived. If waived, disclose whether the investor will be responsible for payment of the premiums if the insurer that wrote the policy terminates the waiver after purchase and the amount of those premiums;

(4) disclose the type of policy offered or sold, for example, whole life, term life, universal life, or a group policy certificate; any additional benefits contained in the policy; and the current status of the policy;

(5) if the policy is term insurance, disclose the special risks associated with term insurance including, but not limited to, the purchaser's responsibility for additional premiums if the viator continues the term policy at the end of the current term;

(6) state whether the policy is contestable;

(7) state whether the insurer that wrote the policy has any additional rights that could negatively affect or extinguish the purchaser's rights under the viatical settlement contract, what these rights are, and under what conditions these rights are activated; and

(8) state the name and address of the person responsible for monitoring the insured's condition. Describe how often the monitoring of the insured's condition is done, how the date of death is determined, and how and when this information will be transmitted to the purchaser.

Subd. 7. **Agreement voidable.** The viatical settlement purchase agreement is voidable by the purchaser at any time within three days after the disclosures mandated by subdivisions 4 and 5 are received by the purchaser.

Sec. 8. **[60A.9579] GENERAL RULES.**

Subdivision 1. **Provider requirements.** (a) A viatical settlement provider entering into a viatical settlement contract shall first obtain:

(1) if the viator is the insured, a written statement from a licensed attending physician that the viator is of sound mind and under no constraint or undue influence to enter into a viatical settlement contract; and

(2) a document in which the insured consents to the release of the insured's medical records to a licensed viatical settlement provider, viatical settlement broker, and the insurance company that issued the life insurance policy covering the life of the insured.

(b) Within 20 days after a viator executes documents necessary to transfer any rights under an insurance policy or within 20 days of entering any agreement, option, promise, or any other form of understanding, expressed or implied, to viaticate the policy, the viatical settlement provider shall give written notice to the insurer that issued that insurance policy that the policy has or will become a viaticated policy. The notice shall be accompanied by the documents required by paragraph (c).

(c) The viatical provider shall deliver a copy of the medical release required under paragraph (a), clause (2), a copy of the viator's application for the viatical settlement contract, the notice required under paragraph (b), and a request for verification of coverage to the insurer that issued the life insurance policy that is the subject of the viatical transaction. The National Association of Insurance Commissioners' form for verification of coverage shall be used unless another form is developed or approved by the commissioner.

(d) The insurer shall respond to a request for verification of coverage submitted on an approved form by a viatical settlement provider or viatical settlement broker within 30 calendar days of the date the request is received and shall indicate whether, based on the medical evidence and documents provided, the insurer intends to pursue an investigation at this time regarding the validity of the insurance contract or possible fraud. The insurer shall accept a request for verification of coverage made on an National Association of Insurance Commissioners form or any other form approved by the commissioner. The insurer shall accept an original or facsimile or electronic copy of a request and any accompanying authorization signed by the viator. Failure by the insurer to meet its obligations under this subdivision is a violation of sections 60A.9581, subdivision 3, and 60A.9585.

(e) Prior to or at the time of execution of the viatical settlement contract, the viatical settlement provider shall obtain a witnessed document in which the viator consents to the viatical settlement contract, represents that the viator has a full and complete understanding of the viatical settlement contract, that the viator has a full and complete understanding of the benefits of the life insurance policy, acknowledges that the viator is entering into the viatical settlement contract freely and voluntarily and, for persons with a terminal or chronic illness or condition, acknowledges that the insured has a terminal or chronic illness and that the terminal or chronic illness or condition was diagnosed after the life insurance policy was issued.

(f) If a viatical settlement broker performs any of these activities required of the viatical settlement provider, the provider is deemed to have fulfilled the requirements of this section.

Subd. 2. **Confidentiality of personal information.** All personal information solicited or obtained by any licensee shall be subject to sections 72A.49 to 72A.505.

Subd. 3. **General right of rescission.** A viatical settlement contract entered into in this state shall provide the viator with an absolute right to rescind the contract before the earlier of 30 calendar days after the date upon which the viatical settlement contract is executed by all parties or 15 calendar days after the viatical settlement proceeds have been sent to the viator as provided in subdivision 6. Rescission by the viator may be conditioned upon the viator both giving notice and repaying to the viatical settlement provider within the rescission period all proceeds of the settlement and any premiums, loans, and loan interest paid by or on behalf of the viatical settlement provider in connection with or as a consequence of the viatical settlement. If the insured dies during the rescission period, the viatical settlement contract is deemed to have been rescinded, subject to repayment to the viatical settlement provider or purchaser of all viatical settlement proceeds, and any premiums, loans, and loan interest that have been paid by the viatical settlement provider or purchaser, which shall be paid within 60 calendar days of the death of the insured. In the event of any rescission, if the viatical settlement provider has paid commissions or other compensation to a viatical settlement broker in connection with the rescinded transaction, the viatical settlement broker shall refund all commissions and compensation to the viatical settlement provider within five business days following receipt of written demand from the viatical settlement provider, which demand shall be accompanied by either the viator's notice of rescission if rescinded at the election of the viator, or notice of the death of the insured if rescinded by reason of the death of the insured within the applicable rescission period.

Subd. 4. **Right to rescind after mandated disclosures.** The purchaser shall have the right to rescind a viatical settlement contract within three days after the disclosures mandated by section 60A.9577, subdivisions 5 and 6, are received by the purchaser.

Subd. 5. **Payment of settlement proceeds.** The viatical settlement provider shall instruct the viator to send the executed documents required to effect the change in ownership, assignment, or change in beneficiary directly to the independent escrow agent. Within three business days after the date the escrow agent receives the document, or from the date the viatical settlement provider receives the documents, if the viator erroneously provides the documents directly to the provider, the provider shall pay or transfer the proceeds of the viatical settlement into an escrow or trust account maintained in a state- or federally chartered financial institution whose deposits are insured by the Federal Deposit Insurance Corporation (FDIC). Upon payment of the settlement proceeds into the escrow account, the escrow agent shall deliver the original change in ownership, assignment, or change in beneficiary forms

to the viatical settlement provider or related provider trust or other designated representative of the viatical settlement provider. Upon the escrow agent's receipt of the acknowledgment of the properly completed transfer of ownership, assignment, or designation of beneficiary from the insurance company, the escrow agent shall pay the settlement proceeds to the viator.

Subd. 6. **Tendering consideration.** Failure to tender consideration to the viator for the viatical settlement contract within the time set forth in the disclosure pursuant to section 60A.9577, subdivision 1, clause (6), renders the viatical settlement contract voidable by the viator for lack of consideration until the time consideration is tendered to and accepted by the viator. Funds shall be deemed sent by a viatical settlement provider to a viator as of the date that the escrow agent either releases funds for wire transfer to the viator or places a check for delivery to the viator by United States mail or other nationally recognized delivery service.

Subd. 7. **Health status contacts.** Contacts with the insured for the purpose of determining the health status of the insured by the viatical settlement provider or viatical settlement broker after the viatical settlement has occurred shall only be made by the viatical settlement provider or broker licensed in this state or its authorized representatives and shall be limited to once every three months for insureds with a life expectancy of more than one year, and to no more than once per month for insureds with a life expectancy of one year or less. The provider or broker shall explain the procedure for these contacts at the time the viatical settlement contract is entered into. The limitations in this subdivision shall not apply to any contacts with an insured for reasons other than determining the insured's health status. Viatical settlement providers and viatical settlement brokers shall be responsible for the actions of their authorized representatives.

Sec. 9. [60A.9581] PROHIBITED PRACTICES AND CONFLICTS OF INTEREST.

Subdivision 1. **Solicitations and sales to controlled person.** With respect to any viatical settlement contract or insurance policy, no viatical settlement broker knowingly shall solicit an offer from, effectuate a viatical settlement with, or make a sale to any viatical settlement provider, viatical settlement purchaser, viatical settlement investment agent, financing entity, or related provider trust that is controlling, controlled by, or under common control with a viatical settlement broker unless this relationship is disclosed to the viator.

Subd. 2. **Payment to controlled broker.** With respect to any viatical settlement contract or insurance policy, no viatical settlement provider knowingly may enter into a viatical settlement contract with a viator, if, in connection with a viatical settlement contract, anything of value will be paid to a viatical settlement broker that is controlling, controlled by, or under common control with a viatical settlement provider or the viatical settlement purchaser, viatical settlement investment agent, financing entity, or related provider trust that is involved in a viatical settlement contract unless this relationship is disclosed to the viator.

Subd. 3. **Fraudulent viatical settlement act.** A violation of subdivisions 1 and 2 is deemed a fraudulent viatical settlement act.

Subd. 4. **Advertising.** (a) No viatical settlement provider shall enter into a viatical settlement contract unless the viatical settlement promotional, advertising, and marketing materials, as may be prescribed by rule, have been filed with the commissioner. In no event shall any marketing materials expressly reference that the insurance is "free" for any period of time. The inclusion of any reference in the marketing materials that would cause a viator to reasonably believe that the insurance is free for any period of time shall be considered a violation of sections 60A.957 to 60A.9585.

(b) No life insurance producer, insurance company, viatical settlement broker, viatical settlement provider, or viatical settlement investment agent shall make any statement or representation to the applicant or policyholder in connection with the sale or financing of a life insurance policy to the effect that the insurance is free or without cost to the policyholder for any period of time unless provided in the policy.

Sec. 10. [60A.9582] ADVERTISING FOR VIATICAL SETTLEMENTS AND VIATICAL SETTLEMENTS PURCHASE AGREEMENTS.

Subdivision 1. **Application.** This section applies to any advertising of viatical settlement contracts, viatical purchase agreements, or related products or services intended for dissemination in this state, including Internet advertising viewed by persons located in this state. Where disclosure requirements are established pursuant to federal regulation, this section shall be interpreted so as to minimize or eliminate conflict with federal regulation wherever possible.

Subd. 2. **System of control.** Every viatical settlement licensee shall establish and at all times maintain a system of control over the content, form, and method of dissemination of all advertisements of its contracts, products, and services. All advertisements, regardless of by whom written, created, designed, or presented, shall be the responsibility of the viatical settlement licensees, as well as the individual who created or presented the advertisement. A system of control shall include regular routine notification, at least once a year, to agents and others authorized by the viatical settlement licensee who disseminate advertisements of the requirements and procedures for approval prior to the use of any advertisements not furnished by the viatical settlement licensee.

Subd. 3. **Form and content.** Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a viatical settlement contract or viatical settlement purchase agreement, product, or service shall be sufficiently complete and clear so as to avoid deception and it shall not have the capacity or tendency to mislead or deceive. Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commissioner from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

Subd. 4. **False and misleading advertisements.** Certain viatical settlement advertisements are deemed false and misleading on their face and are prohibited. False and misleading viatical settlement advertisements include, but are not limited to, the following representations:

(1) "guaranteed," "fully secured," "100 percent secured," "fully insured," "secure," "safe," "backed by rated insurance companies," "backed by federal law," "backed by state law," "state guaranty funds," or similar representations;

(2) "no risk," "minimal risk," "low risk," "no speculation," "no fluctuation," or similar representations;

(3) "qualified or approved for individual retirement accounts (IRAs), Roth IRAs, 401(k) plans, simplified employee pensions (SEP), 403(b), Keogh plans, TSA, other retirement account rollovers," "tax deferred," or similar representations;

(4) utilization of the word "guaranteed" to describe the fixed return, annual return, principal, earnings, profits, investment, or similar representations;

(5) "no sales charges or fees" or similar representations;

(6) "high yield," "superior return," "excellent return," "high return," "quick profit," or similar representations; and

(7) purported favorable representations or testimonials about the benefits of viatical settlement contracts or viatical settlement purchase agreements as an investment, taken out of context from newspapers, trade papers, journals, radio and television programs, and all other forms of print and electronic media.

Subd. 5. **Disclosures regulated.** (a) The information required to be disclosed under this section shall not be minimized, rendered obscure, or presented in ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(b) An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving viators, purchasers, or prospective purchasers as to the nature or extent of any benefit, loss covered, premium payable, or state or federal tax consequence. The fact that the viatical settlement contract or viatical settlement purchase agreement offered is made available for inspection prior to consummation of the sale, or an offer is made to refund the payment if the viator is not satisfied or that the viatical settlement contract or viatical settlement purchase agreement includes a "free look" period that satisfies or exceeds legal requirements, does not remedy misleading statements.

(c) An advertisement shall not use the name or title of a life insurance company or a life insurance policy unless the advertisement has been approved by the insurer.

(d) An advertisement shall not represent that premium payments will not be required to be paid on the life insurance policy that is the subject of a viatical settlement contract or viatical settlement purchase agreement in order to maintain that policy, unless that is the fact.

(e) An advertisement shall not state or imply that interest charged on an accelerated death benefit or a policy loan is unfair, inequitable, or in any manner an incorrect or improper practice.

(f) The words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import shall not be used with respect to any benefit or service unless true. An advertisement may specify the charge for a benefit or a service or may state that a charge is included in the payment or use other appropriate language.

(g) Testimonials, appraisals, or analysis used in advertisements must be genuine; represent the current opinion of the author; be applicable to the viatical settlement contract or viatical settlement purchase agreement product or service advertised, if any; and be accurately reproduced with sufficient completeness to avoid misleading or deceiving prospective viators or purchasers as to the nature or scope of the testimonials, appraisal, analysis, or endorsement. In using testimonials, appraisals, or analysis, a licensee under sections 60A.957 to 60A.9585 makes as its own all the statements contained therein, and the statements are subject to all the provisions of this section.

(h) If the individual making a testimonial, appraisal, analysis, or endorsement has a financial interest in the party making use of the testimonial, appraisal, analysis, or endorsement, either directly or through a related entity as a stockholder, director, officer, employee, or otherwise, or receives any benefit directly or indirectly other than required union-scale wages, that fact shall be prominently disclosed in the advertisement.

(i) An advertisement shall not state or imply that a viatical settlement contract or viatical settlement purchase agreement, benefit, or service has been approved or endorsed by a group of individuals, society, association, or other organization unless that is the fact and unless any relationship between an organization and the viatical settlement licensee is disclosed. If the entity making the endorsement or testimonial is owned, controlled, or managed by the viatical settlement licensee, or receives any payment or other consideration from the viatical settlement licensee for making an endorsement or testimonial, that fact shall be disclosed in the advertisement.

(j) When an endorsement refers to benefits received under a viatical settlement contract or viatical settlement purchase agreement, all pertinent information shall be retained for a period of five years after its use.

Subd. 6. Statistics. An advertisement shall not contain statistical information unless it accurately reflects recent and relevant facts. The source of all statistics used in an advertisement shall be identified.

Subd. 7. Disparaging advertisements. An advertisement shall not disparage insurers, viatical settlement providers, viatical settlement brokers, viatical settlement investment agents, insurance producers, policies, services, or methods of marketing.

Subd. 8. **Licensee's name.** The name of the viatical settlement licensee shall be clearly identified in all advertisements about the licensee or its viatical settlement contract or viatical settlement purchase agreements, products, or services, and if any specific viatical settlement contract or viatical settlement purchase agreement is advertised, the viatical settlement contract or viatical settlement purchase agreement shall be identified either by form number or some other appropriate description. If an application is part of the advertisement, the name of the viatical settlement provider shall be shown on the application.

Subd. 9. **Licensee disclosure.** An advertisement shall not use a trade name, group designation, name of the parent company of a viatical settlement licensee, name of a particular division of the viatical settlement licensee, service mark, slogan, symbol, or other device or reference without disclosing the name of the viatical settlement licensee, if the advertisement would have the capacity or tendency to mislead or deceive as to the true identity of the viatical settlement licensee, or to create the impression that a company other than the viatical settlement licensee would have any responsibility for the financial obligation under a viatical settlement contract or viatical settlement purchase agreement.

Subd. 10. **Government sponsorship; misleading advertisements.** An advertisement shall not use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a government program or agency or otherwise appear to be of such a nature that they tend to mislead prospective viators or purchasers into believing that the solicitation is in some manner connected with a government program or agency.

Subd. 11. **State licensure.** An advertisement may state that a viatical settlement licensee is licensed in the state where the advertisement appears, provided it does not exaggerate that fact or suggest or imply that a competing viatical settlement licensee may not be so licensed. The advertisement may ask the audience to consult the licensee's Web site or contact the Department of Commerce to find out if the state requires licensing and, if so, whether the viatical settlement provider, viatical settlement broker, or viatical settlement investment agent is licensed.

Subd. 12. **Government entity endorsement.** An advertisement shall not create the impression that the viatical settlement provider, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its viatical settlement contracts or viatical settlement purchase agreement forms are recommended or endorsed by any government entity.

Subd. 13. **Name.** The name of the actual licensee shall be stated in all of its advertisements. An advertisement shall not use a trade name, any group designation, name of any affiliate or controlling entity of the licensee, service mark, slogan, symbol, or other device in a manner that would have the capacity or tendency to mislead or deceive as to the true identity of the actual licensee or create the false impression that an affiliate or controlling entity would have any responsibility for the financial obligation of the licensee.

Subd. 14. **Government approval.** An advertisement shall not directly or indirectly create the impression that any division or agency of the state or of the United States government endorses, approves, or favors:

- (1) any viatical settlement licensee or its business practices or methods of operation;
- (2) the merits, desirability, or advisability of any viatical settlement contract or viatical settlement purchase agreement;
- (3) any viatical settlement contract or viatical settlement purchase agreement; or
- (4) any life insurance policy or life insurance company.

Subd. 15. **Time frame disclosure.** If the advertiser emphasizes the speed with which the viatication will occur, the advertising must disclose the average time frame from completed application to the date of offer and from acceptance of the offer to receipt of the funds by the viator.

Subd. 16. **Average purchase price.** If the advertising emphasizes the dollar amounts available to viators, the advertising shall disclose the average purchase price as a percent of face value obtained by viators contracting with the licensee during the past six months.

Sec. 11. **[60A.9583] FRAUD PREVENTION AND CONTROL.**

Subdivision 1. **Fraudulent viatical settlement acts, interference, and participation of convicted felons prohibited.** (a) A person who commits a fraudulent viatical settlement act commits insurance fraud and may be sentenced under section 609.611, subdivision 3.

(b) A person shall not knowingly or intentionally interfere with the enforcement of the provisions of sections 60A.957 to 60A.9585 or investigations of suspected or actual violations of sections 60A.957 to 60A.9585.

(c) A person in the business of viatical settlements shall not knowingly or intentionally permit any person convicted of a felony involving dishonesty or breach of trust to participate in the business of viatical settlements.

Subd. 2. **Fraud warning required.** (a) Viatical settlements contracts and purchase agreement forms and applications for viatical settlements, regardless of the form of transmission, shall contain the following statement or a substantially similar statement: "Any person who knowingly presents false information in an application for insurance or viatical settlement contract or a viatical settlement purchase agreement is guilty of a crime and may be subject to fines and confinement in prison."

(b) The lack of a statement as required in paragraph (a) does not constitute a defense in any prosecution for a fraudulent viatical settlement act.

Subd. 3. **Mandatory reporting of fraudulent viatical settlement acts.** Any person engaged in the business of viatical settlements having knowledge or a reasonable suspicion that a fraudulent viatical settlement act is being, will be, or has been committed shall provide to the commissioner such information as required by, and in a manner prescribed by, the commissioner.

Subd. 4. **Viatical settlement antifraud initiatives.** (a) Viatical settlement providers and viatical settlement brokers shall have in place antifraud initiatives reasonably calculated to detect, prosecute, and prevent fraudulent viatical settlement acts. At the discretion of the commissioner, the commissioner may order, or a licensee may request and the commissioner may grant, such modifications of the following required initiatives as necessary to ensure an effective antifraud program. The modifications may be more or less restrictive than the required initiatives so long as the modifications may reasonably be expected to accomplish the purpose of this section.

(b) Antifraud initiatives shall include:

(1) fraud investigators, who may be viatical settlement provider or viatical settlement broker employees or independent contractors; and

(2) an antifraud plan, which shall be submitted to the commissioner. The antifraud plan shall include, but not be limited to:

(i) a description of the procedures for detecting and investigating possible fraudulent viatical settlement acts and procedures for resolving material inconsistencies between medical records and insurance applications;

(ii) a description of the procedures for reporting possible fraudulent viatical settlement acts to the commissioner;

(iii) a description of the plan for antifraud education and training of underwriters and other personnel; and

(iv) a description or chart outlining the organizational arrangement of the antifraud personnel who are responsible for the investigation and reporting of possible fraudulent viatical settlement acts and investigating unresolved material inconsistencies between medical records and insurance applications.

(c) Antifraud plans submitted to the commissioner shall be privileged and confidential and shall not be a public record and shall not be subject to discovery or subpoena in a civil or criminal action.

Sec. 12. **[60A.9585] UNFAIR TRADE PRACTICES.**

A violation of sections 60A.957 to 60A.9585, including the commission of a fraudulent viatical settlement act, shall be considered an unfair trade practice under section 72A.20.

Sec. 13. Minnesota Statutes 2008, section 60A.964, subdivision 1, is amended to read:

Subdivision 1. **Amount.** The licensing fee for a viatical settlement provider, viatical settlement broker, or viatical settlement investment agent license is \$750 for initial licensure and \$250 for each annual renewal. The fees must be limited to the cost of license administration and enforcement and must be deposited in the state treasury, credited to a special account, and appropriated to the commissioner.

Sec. 14. **REPEALER.**

Minnesota Statutes 2008, sections 60A.961; 60A.962; 60A.963; 60A.965; 60A.966; 60A.967; 60A.968; 60A.969; 60A.970; 60A.971; 60A.972; 60A.973; and 60A.974, are repealed.

Sec. 15. **EFFECTIVE DATE; APPLICATION.**

This act is effective August 1, 2009. A viatical settlement provider, viatical settlement broker, or viatical settlement investment agent transacting business in this state may continue to do so pending approval or disapproval of the provider's, broker's, or investment agent's application for a license as long as the application is filed with the commissioner by December 31, 2009."

The motion prevailed and the amendment was adopted.

Atkins moved to amend S. F. No. 1539, the second engrossment, as amended, as follows:

Page 12, line 4, delete the second comma

Page 13, line 1, after "settlement" insert "contract"

Page 14, line 24, delete "60" and insert "30"

Page 14, line 25, delete "30" and insert "15"

Page 14, line 26, delete "5" and insert "3"

Page 15, line 21, delete "Contracts" and insert "Contacts"

Page 16, delete lines 32 to 34 and insert:

"(4) the name of each broker who receives compensation and the amount of compensation received by that broker, which compensation includes anything of value paid or given to the broker in connection with the life settlement contract; and"

Page 17, line 1, after "shall" insert "also"

Page 22, line 30, delete "a" and insert "the"

Page 23, line 1, delete "a" and insert "the"

The motion prevailed and the amendment was adopted.

S. F. No. 1539, A bill for an act relating to insurance; regulating viatical settlements; enacting and modifying the Viatical Settlements Model Act of the National Association of Insurance Commissions; providing criminal penalties; amending Minnesota Statutes 2008, sections 13.716, subdivision 7; 60A.964, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 60A; repealing Minnesota Statutes 2008, sections 60A.961; 60A.962; 60A.963; 60A.965; 60A.966; 60A.967; 60A.968; 60A.969; 60A.970; 60A.971; 60A.972; 60A.973; 60A.974.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hausman	Kohls	Murphy, M.	Seifert
Anderson, B.	Dettmer	Haws	Laine	Nelson	Sertich
Anderson, P.	Dill	Hayden	Lanning	Newton	Severson
Anderson, S.	Dittrich	Hilstrom	Lenczewski	Nornes	Shimanski
Anzelc	Doepke	Hilty	Lesch	Norton	Simon
Atkins	Doty	Holberg	Liebling	Obermueller	Slawik
Beard	Downey	Hoppe	Lieder	Olin	Slocum
Benson	Drazkowski	Hornstein	Lillie	Otremba	Smith
Bigham	Eastlund	Hortman	Loeffler	Paymar	Solberg
Bly	Eken	Hosch	Loon	Pelowski	Sterner
Brod	Emmer	Howes	Mack	Peppin	Swails
Brown	Falk	Huntley	Mahoney	Persell	Thao
Brynaert	Faust	Jackson	Mariani	Peterson	Thissen
Buesgens	Fritz	Johnson	Marquart	Poppe	Tillberry
Bunn	Gardner	Juhnke	Masin	Reinert	Torkelson
Carlson	Garofalo	Kahn	McFarlane	Rosenthal	Urdahl
Champion	Gottwalt	Kalin	McNamara	Rukavina	Wagenius
Clark	Greiling	Kath	Morgan	Ruud	Ward
Cornish	Gunther	Kelly	Morrow	Sailer	Welti
Davids	Hackbarth	Kiffmeyer	Mullery	Sanders	Westrom
Davnie	Hamilton	Knuth	Murdock	Scalze	Winkler
Dean	Hansen	Koenen	Murphy, E.	Scott	Zellers

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

Brod was excused between the hours of 11:45 a.m. and 1:25 p.m.

S. F. No. 298, A bill for an act relating to consumer protection; limiting customer liability for unauthorized use of cellular phones; proposing coding for new law in Minnesota Statutes, chapter 325F.

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

The question was taken on the passage of the bill and the roll was called. There were 91 yeas and 40 nays as follows:

Those who voted in the affirmative were:

Abeler	Eken	Hortman	Lieder	Obermueller	Slawik
Anzelc	Falk	Hosch	Lillie	Olin	Slocum
Atkins	Faust	Huntley	Loeffler	Otremba	Solberg
Benson	Fritz	Jackson	Mack	Paymar	Swails
Bigham	Gardner	Johnson	Mahoney	Pelowski	Thao
Bly	Gottwalt	Juhnke	Mariani	Persell	Thissen
Brynaert	Greiling	Kahn	Marquart	Peterson	Tillberry
Bunn	Gunther	Kalin	Masin	Poppe	Wagenius
Carlson	Hamilton	Kath	Morgan	Rosenthal	Ward
Champion	Hansen	Knuth	Morrow	Rukavina	Welti
Clark	Hausman	Koenen	Mullery	Ruud	Winkler
Davids	Haws	Laine	Murphy, E.	Sailer	
Davnie	Hayden	Lanning	Murphy, M.	Sanders	
Dill	Hilstrom	Lenczewski	Nelson	Scalze	
Dittrich	Hilty	Lesch	Newton	Sertich	
Doty	Hornstein	Liebling	Norton	Simon	

Those who voted in the negative were:

Anderson, B.	Dean	Emmer	Kiffmeyer	Peppin	Sterner
Anderson, P.	Demmer	Garofalo	Kohls	Reinert	Torkelson
Anderson, S.	Dettmer	Hackbarth	Loon	Scott	Urdahl
Beard	Doepke	Holberg	McFarlane	Seifert	Westrom
Brown	Downey	Hoppe	McNamara	Severson	Zellers
Buesgens	Drazkowski	Howes	Murdock	Shimanski	
Cornish	Eastlund	Kelly	Nornes	Smith	

The bill was passed and its title agreed to.

S. F. No. 1172, A bill for an act relating to state government; extending the exemption from alcohol and controlled substances testing; amending Minnesota Statutes 2008, section 221.031, subdivision 10.

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

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

Those who voted in the affirmative were:

Abeler	Anderson, S.	Beard	Bly	Buesgens	Champion
Anderson, B.	Anzelc	Benson	Brown	Bunn	Clark
Anderson, P.	Atkins	Bigham	Brynaert	Carlson	Cornish

Davids	Gottwalt	Johnson	Mack	Otremba	Simon
Davnie	Greiling	Juhnke	Mahoney	Paymar	Slawik
Dean	Gunther	Kahn	Mariani	Pelowski	Slocum
Demmer	Hackbarth	Kalin	Marquart	Peppin	Smith
Dettmer	Hamilton	Kath	Masin	Persell	Solberg
Dill	Hansen	Kelly	McFarlane	Peterson	Sterner
Dittrich	Hausman	Kiffmeyer	McNamara	Poppe	Swails
Doepke	Haws	Knuth	Morgan	Reinert	Thao
Doty	Hayden	Koenen	Morrow	Rosenthal	Thissen
Downey	Hilstrom	Kohls	Mullery	Rukavina	Tillberry
Drazkowski	Hilty	Laine	Murdock	Ruud	Torkelson
Eastlund	Holberg	Lanning	Murphy, E.	Sailer	Urdahl
Eken	Hoppe	Lenczewski	Murphy, M.	Sanders	Wagenius
Emmer	Hornstein	Lesch	Nelson	Scalze	Ward
Falk	Hortman	Liebling	Newton	Scott	Welti
Faust	Hosch	Lieder	Nornes	Seifert	Westrom
Fritz	Howes	Lillie	Norton	Sertich	Winkler
Gardner	Huntley	Loeffler	Obermueller	Severson	Zellers
Garofalo	Jackson	Loon	Olin	Shimanski	

The bill was passed and its title agreed to.

S. F. No. 1569 was reported to the House.

Haws moved to amend S. F. No. 1569, the first engrossment, as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1850, the first engrossment:

"Section 1. Minnesota Statutes 2008, section 116L.666, subdivision 3, is amended to read:

Subd. 3. **Membership on local workforce councils.** In workforce service areas representing only one home rule charter or statutory city or a county, the chief elected official must appoint members to the council. In workforce service areas representing two or more home rule charter or statutory cities or counties, the chief elected officials of the home rule charter or statutory cities or counties must appoint members to the council, in accordance with an agreement entered into by such units of general local government.

A council shall include as members:

(1) representatives of the private sector, who must constitute a majority of the membership of the council and who are owners of business concerns, chief executives or chief operating officers of nongovernmental employers, or other private sector executives who have substantial management or policy responsibility;

(2) at least two representatives of organized labor;

(3) representatives of the area workforce and community-based organizations, who shall constitute not less than 15 percent of the membership of the council; and

(4) representatives of each of the following:

(i) educational agencies that are representative of all educational agencies within the workforce service area;

- (ii) vocational rehabilitation agencies;
- (iii) public assistance agencies;
- (iv) economic development agencies; and
- (v) public employment service agencies.

The chair of each local workforce council shall be selected from among the members of the council who are representatives of the private sector.

Private sector representatives on the local workforce council shall be selected from among individuals nominated by general purpose business organizations, such as local chambers of commerce, in the workforce service area.

Education representatives on the local workforce council must include at least one representative from a local adult basic education program approved under section 124D.52 and the remaining education representatives shall be selected from among individuals nominated by secondary and postsecondary educational institutions within the workforce service area.

Organized labor representatives on the local workforce council shall be selected from individuals recommended by recognized state and local labor federations, organizations, or councils. If the state or local labor federations, organizations, or councils fail to nominate a sufficient number of individuals to meet the labor representation requirements, individual workers may be included on the local workforce council to complete the labor representation.

The commissioner must certify a local workforce council if the commissioner determines that its composition and appointments are consistent with this subdivision.

Sec. 2. COLLABORATIVE LOCAL PROJECTS; COORDINATION OF EMPLOYMENT, TRAINING, AND EDUCATION SERVICES.

Subdivision 1. Collaborative local projects; selection. The governor's Workforce Development Council shall convene a meeting with representatives of the Department of Employment and Economic Development, the Department of Human Services, the Department of Education with respect to K-12 institutions and adult basic education, the University of Minnesota, and the Minnesota State Colleges and Universities to identify and establish four collaborative local projects to plan and coordinate employment, training, and education programs and services administered by those agencies and institutions. By August 1, 2009, the local projects must be selected to represent different configurations of workforce centers, college campuses, and adult basic education programs. Three of the local projects must be located in a workforce services area under Minnesota Statutes, section 116L.666, as follows: one that is an urban area; one in a greater Minnesota regional center; and one in a rural area. At least one of these local projects must include a workforce center located on a campus of the Minnesota State Colleges and Universities. Each local project selected under this subdivision must be assigned to a local workforce council to develop a collaboration plan under subdivision 3.

Subd. 2. Employment, training, and education goals. The goals of the collaborative local employment, training, and education projects include, but are not limited to:

- (1) engaging low-skilled workers in increasing their skill levels;
- (2) providing skill training while upgrading basic skill levels;

- (3) improving the provision of skill training to individuals currently working;
- (4) integrating employer contact efforts to improve responsiveness to employer's needs;
- (5) strengthening employer input with training curriculum;
- (6) improving access to service and training to public assistance recipients;
- (7) integrating career planning and job placement efforts among institutions;
- (8) maximizing coordination and reducing duplication among providers;
- (9) systematically evaluating industry training needs; and
- (10) providing noncredit remediation at no cost to students.

Subd. 3. **Collaboration plan.** A local workforce council assigned a project under this section must develop a plan on how employment, training, and education services offered by the state agencies and institutions can be collaboratively offered to attain the goals of subdivision 2. The collaboration plan must be developed through a stakeholder process that includes, at a minimum, representatives from:

- (1) Minnesota State Colleges and Universities;
- (2) local adult basic education;
- (3) workforce centers;
- (4) local school districts;
- (5) community action agencies; and
- (6) public housing agencies.

Each local project must report their plans to the governor's workforce development council which must report on the plans to the committees of the legislature with responsibility for workforce development by March 15, 2010. The report must include each local project plan with recommendations on state agency and higher education programs and services that should be integrated into a local project. The report may also include recommendations on necessary enhancements and improvements of services and processes, and identification of private and public funding, waivers, and other program modifications necessary to better achieve the goals of subdivision 2.

Subd. 4. **Plan implementation.** By July 1, 2010, each local collaborative project must implement its plan for at least one year. Local collaborators, including the agencies listed in subdivision 3, may modify a plan if the modification would better achieve plan goals.

Subd. 5. **Second report to legislature.** By February 15, 2011, each local project must report to the governor's workforce development council on progress in implementing the plan. By March 11, 2011, the governor's workforce development council must report to the committees of the legislature responsible for workforce development on the progress of implementing plans under this section. The report must include recommendations on funding, system design, and statutory changes that are reasonable and necessary to achieve the goals of subdivision 2.

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

Delete the title and insert:

"A bill for an act relating to workforce development; amending local workforce council representative requirements; establishing collaborative local projects; coordinating employment training and education services; amending Minnesota Statutes 2008, section 116L.666, subdivision 3."

The motion prevailed and the amendment was adopted.

S. F. No. 1569, A bill for an act relating to economic development; providing for local collaborative projects to deliver employment, training, and education services.

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

The question was taken on the passage of the bill and the roll was called. There were 107 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Abeler	Dittrich	Hilstrom	Lenczewski	Murphy, M.	Scalze
Anderson, P.	Doty	Hilty	Lesch	Nelson	Sertich
Anderson, S.	Downey	Hornstein	Liebling	Newton	Simon
Anzelc	Eastlund	Hortman	Lieder	Nornes	Slawik
Atkins	Eken	Hosch	Lillie	Norton	Slocum
Beard	Falk	Howes	Loeffler	Obermueller	Solberg
Benson	Faust	Huntley	Loon	Olin	Swails
Bigham	Fritz	Jackson	Mack	Otremba	Thao
Bly	Gardner	Johnson	Mahoney	Paymar	Thissen
Brown	Garofalo	Juhnke	Mariani	Pelowski	Tillberry
Brynaert	Gottwalt	Kahn	Marquart	Persell	Torkelson
Bunn	Greiling	Kalin	Masin	Peterson	Urdahl
Carlson	Gunther	Kath	McNamara	Poppe	Wagenius
Champion	Hamilton	Kiffmeyer	Morgan	Reinert	Ward
Clark	Hansen	Knuth	Morrow	Rosenthal	Welti
Cornish	Hausman	Koenen	Mullery	Rukavina	Westrom
Davnie	Haws	Laine	Murdock	Ruud	Winkler
Dill	Hayden	Lanning	Murphy, E.	Sailer	

Those who voted in the negative were:

Anderson, B.	Demmer	Emmer	Kelly	Sanders	Shimanski
Buesgens	Dettmer	Hackbarth	Kohls	Scott	Smith
Davids	Doepke	Holberg	McFarlane	Seifert	Sterner
Dean	Draskowski	Hoppe	Peppin	Severson	Zellers

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

S. F. No. 1910 was reported to the House.

Zellers and Atkins moved to amend S. F. No. 1910, the first engrossment, as follows:

Page 26, after line 2, insert:

"Sec. 43. Minnesota Statutes 2008, section 72B.02, is amended by adding a subdivision to read:

Subd. 22. **Emergency situation.** An "emergency situation" means the occurrence of insured losses of such a number or severity that the ordinary staff adjuster personnel complement of the insurer and the available independent adjusters could not adjust all of the losses resulting from a common cause or related causes in reasonable time."

Page 34, line 30, after "catastrophe" insert "or the occurrence of an emergency situation"

Page 34, lines 32 and 35, after "declared" insert "or an emergency situation has occurred"

Page 35, line 2, after "catastrophe" insert "or the occurrence of an emergency situation"

Page 35, line 8, after "catastrophe" insert ", emergency situation."

Page 35, line 9, after "catastrophe" insert "or emergency situation"

Page 35, delete line 12 and insert "the period of time established by the commissioner."

Renumber the sections in sequence

Correct the internal references

The motion prevailed and the amendment was adopted.

S. F. No. 1910, A bill for an act relating to commerce; providing for the licensing and regulation of certain persons; establishing prelicense and continuing education requirements; amending Minnesota Statutes 2008, sections 45.22; 45.23; 60K.31, by adding a subdivision; 60K.36, subdivision 4, by adding a subdivision; 60K.37, by adding a subdivision; 60K.55, subdivision 2; 60K.56; 72B.02, subdivisions 2, 5, 6, 11, by adding subdivisions; 72B.03; 72B.05; 72B.06; 72B.08, subdivisions 1, 2, 4; 72B.135, subdivisions 1, 2, 3; 82.32; 82B.05, subdivision 1; 82B.08, by adding subdivisions; 82B.09, by adding a subdivision; 82B.10; 82B.13, subdivisions 4, 5, 6; 82B.19, subdivisions 1, 2; 82B.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 45; 60K; 72B; 82; 82B; repealing Minnesota Statutes 2008, sections 72B.02, subdivision 12; 72B.04; 82B.02; Minnesota Rules, parts 2808.0100; 2808.1000; 2808.1100; 2808.1200; 2808.1300; 2808.1400; 2808.1500; 2808.1600; 2808.1700; 2808.2000; 2808.2100; 2808.6000; 2808.7000; 2808.7100; 2809.0010; 2809.0020; 2809.0030; 2809.0040; 2809.0050; 2809.0060; 2809.0070; 2809.0080; 2809.0090; 2809.0100; 2809.0110; 2809.0120; 2809.0130; 2809.0140; 2809.0150; 2809.0160; 2809.0170; 2809.0180; 2809.0190; 2809.0200; 2809.0210; 2809.0220.

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

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Anderson, S.	Beard	Bly	Bunn	Clark
Anderson, B.	Anzelc	Benson	Brown	Carlson	Cornish
Anderson, P.	Atkins	Bigham	Brynaert	Champion	Davids

Davnie	Greiling	Juhnke	Mahoney	Paymar	Slawik
Dean	Gunther	Kahn	Mariani	Pelowski	Slocum
Demmer	Hackbarth	Kalin	Marquart	Peppin	Smith
Dettmer	Hamilton	Kath	Masin	Persell	Solberg
Dill	Hansen	Kelly	McFarlane	Peterson	Sterner
Dittrich	Hausman	Kiffmeyer	McNamara	Poppe	Swails
Doepke	Haws	Knuth	Morgan	Reinert	Thao
Doty	Hayden	Koenen	Morrow	Rosenthal	Thissen
Downey	Hilstrom	Kohls	Mullery	Rukavina	Tillberry
Drazkowski	Hilty	Laine	Murdock	Ruud	Torkelson
Eastlund	Holberg	Lanning	Murphy, E.	Sailer	Urdahl
Eken	Hoppe	Lenczewski	Murphy, M.	Sanders	Wagenius
Emmer	Hornstein	Lesch	Nelson	Scalze	Ward
Falk	Hortman	Liebling	Newton	Scott	Welti
Faust	Hosch	Lieder	Nornes	Seifert	Westrom
Fritz	Howes	Lillie	Norton	Sertich	Winkler
Gardner	Huntley	Loeffler	Obermueller	Severson	Zellers
Garofalo	Jackson	Loon	Olin	Shimanski	
Gottwalt	Johnson	Mack	Otremba	Simon	

Those who voted in the negative were:

Buesgens

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

H. F. No. 818 was reported to the House.

Hilstrom moved to amend H. F. No. 818, the fourth engrossment, as follows:

Page 2, line 19, after "person" insert ", as defined in subdivision 1, paragraph (h)."

The motion prevailed and the amendment was adopted.

H. F. No. 818, A bill for an act relating to vulnerable adults; authorizing disclosure of financial records in connection with financial exploitation investigations; modifying procedures and duties for reporting and investigating maltreatment; specifying duties of financial institutions in cases alleging financial exploitation; modifying the crime of financial exploitation; imposing criminal and civil penalties; amending Minnesota Statutes 2008, sections 13A.02, subdivisions 1, 2; 13A.04, subdivision 1; 256B.0595, subdivisions 4, 9; 299A.61, subdivision 1; 388.23, subdivision 1; 609.2335; 609.52, subdivision 3; 611A.033; 626.557, subdivisions 4, 5, 9b, by adding subdivisions; 626.5572, subdivision 21; 628.26.

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

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

Those who voted in the affirmative were:

Abeler	Anderson, S.	Beard	Bly	Buesgens	Champion
Anderson, B.	Anzelc	Benson	Brown	Bunn	Clark
Anderson, P.	Atkins	Bigham	Brynaert	Carlson	Cornish

Davids	Gottwalt	Johnson	Mack	Otremba	Simon
Davnie	Greiling	Juhnke	Mahoney	Paymar	Slawik
Dean	Gunther	Kahn	Mariani	Pelowski	Slocum
Demmer	Hackbarth	Kalin	Marquart	Peppin	Smith
Dettmer	Hamilton	Kath	Masin	Persell	Solberg
Dill	Hansen	Kelly	McFarlane	Peterson	Sterner
Dittrich	Hausman	Kiffmeyer	McNamara	Poppe	Swails
Doepke	Haws	Knuth	Morgan	Reinert	Thao
Doty	Hayden	Koenen	Morrow	Rosenthal	Thissen
Downey	Hilstrom	Kohls	Mullery	Rukavina	Tillberry
Drazkowski	Hilty	Laine	Murdock	Ruud	Torkelson
Eastlund	Holberg	Lanning	Murphy, E.	Sailer	Urdahl
Eken	Hoppe	Lenczewski	Murphy, M.	Sanders	Wagenius
Emmer	Hornstein	Lesch	Nelson	Scalze	Ward
Falk	Hortman	Liebling	Newton	Scott	Welti
Faust	Hosch	Lieder	Nornes	Seifert	Westrom
Fritz	Howes	Lillie	Norton	Sertich	Winkler
Gardner	Huntley	Loeffler	Obermueller	Severson	Zellers
Garofalo	Jackson	Loon	Olin	Shimanski	

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

H. F. No. 1760 was reported to the House.

Thissen moved to amend H. F. No. 1760, the first engrossment, as follows:

Page 1, delete section 1

Page 3, line 29, delete "one"

Pages 4 to 7, delete sections 4 to 11

Page 11, line 21, delete "A" and insert "An initial violation of this section shall not be assessed a penalty. A subsequent"

Page 31, delete section 42

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Huntley moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 9, delete section 16

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Murphy, E., and Thissen moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 28, after line 13, insert:

"Sec. 40. Minnesota Statutes 2008, section 256B.69, subdivision 9b, is amended to read:

Subd. 9b. **Reporting provider payment rates.** (a) According to guidelines developed by the commissioner, in consultation with health care providers, managed care plans, and county-based purchasing plans, each managed care plan and county-based purchasing plan must annually provide to the commissioner, ~~at the commissioner's request, detailed or aggregate~~ information on reimbursement rates paid by the managed care plan under this section or the county-based purchasing plan under section 256B.692 to provider types and vendors for administrative services under contract with the plan.

(b) Each managed care plan and county-based purchasing plan must annually provide to the commissioner, in the form and manner specified by the commissioner:

(1) aggregate provider payment data, categorized by subspecialty and primary care;

(2) evidence that increases in payments made to the plan under this section are passed through to health care providers, including information on the proportion of the increases paid to providers, categorized by subspecialty and primary care; and

(3) specific information on the methodology used to establish provider reimbursement rates paid by the managed health care plan and county-based purchasing plan.

Data provided to the commissioner under this subdivision must allow the commissioner to conduct the analyses required under paragraph (d).

~~(b) Data provided to the commissioner under this subdivision are nonpublic data as defined in section 13.02.~~

(c) The commissioner shall analyze data provided under this subdivision by procedure code, provider type, provider size, and geographic location of the provider. The commissioner shall also array aggregate provider reimbursement rates across all plans by subspecialty and primary care category. The commissioner shall report this information to the legislature annually, beginning December 15, 2010, and each December 15 thereafter. The commissioner shall also make this information available on the agency's Web site to managed care and county-based purchasing plans, health care providers, and the public."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Hoppe moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 10, after line 13, insert:

"Sec. 3. Minnesota Statutes 2008, section 148.996, subdivision 2, is amended to read:

Subd. 2. **Qualifications.** The commissioner shall include on the registry any individual who:

(1) submits an application on a form provided by the commissioner. The form must include the applicant's name, address, and contact information;

(2) maintains a current certification from one of the organizations listed in section 146B.01, subdivision 2; ~~and~~

(3) pays the fees required under section 148.997-; and

(4) meets a fee schedule for doula services that is equivalent to the prevailing wage for similar services. The commissioner may defer the determination of the wage and services to the commissioner of commerce."

Amend the title accordingly

The motion did not prevail and the amendment was not adopted.

Emmer moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 11, after line 22, insert:

"Subd. 5. **Restriction; civil liability.** The safe patient handling plan required under this section is not a standard of care for purposes of civil liability. A court may not consider a breach of the safe patient handling plan as a breach of duty, a breach of the standard of care, or as negligence in a civil action."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Gottwalt, Thissen, Haws, Kahn and Murdock moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 31, after line 30, insert:

"Sec. 44. **ALZHEIMER'S DISEASE WORKING GROUP.**

Subdivision 1. **Establishment; members.** The commissioner of health, in collaboration with the Minnesota Board on Aging, must convene an Alzheimer's disease working group that consists of no more than 15 members including, but not limited to:

(a) at least one caregiver of a person who has been diagnosed with Alzheimer's disease;

(b) at least one person who has been diagnosed with Alzheimer's disease;

(c) a representative of the nursing facility industry;

(d) a representative of the assisted living industry;

(e) a representative of the adult day services industry;

(f) a representative of the medical care provider community;

- (g) an Alzheimer's researcher;
- (h) a representative of the Alzheimer's Association;
- (i) the commissioner of human services or a designee;
- (j) the commissioner of health or a designee;
- (k) the ombudsman for long-term care or a designee;
- (l) the commissioner of public safety or a designee; and
- (m) at least two members named by the governor.

Subd. 2. **Duties; recommendations.** The Alzheimer's disease working group must examine the array of needs of individuals diagnosed with Alzheimer's disease, services available to meet these needs, and the capacity of the state and current providers to meet these and future needs. The working group shall consider and make recommendations on the following issues:

- (a) trends in the state's Alzheimer's population and service needs including, but not limited to:
 - (1) the state's role in long-term care, family caregiver support, and assistance to persons with early-stage and early-onset of Alzheimer's disease;
 - (2) state policy regarding persons with Alzheimer's disease and dementia; and
 - (3) establishment of a surveillance system for the purpose of having proper estimates of the number of persons in the state with Alzheimer's disease, and the changing population with dementia;
- (b) existing resources, services, and capacity including, but not limited to:
 - (1) type, cost, and availability of dementia services;
 - (2) dementia-specific training requirements for long-term care staff;
 - (3) quality care measures for residential care facilities;
 - (4) capacity of public safety and law enforcement officers to respond to persons with Alzheimer's disease or dementia;
 - (5) availability of home and community-based resources for persons with Alzheimer's disease, including respite care;
 - (6) number and availability of long-term care dementia units;
 - (7) adequacy and appropriateness of geriatric psychiatric units for persons with behavior disorders associated with Alzheimer's and related dementia;
 - (8) assisted living residential options for persons with dementia; and
 - (9) state support of Alzheimer's research through Minnesota universities and other resources;

(c) needed policies or responses including, but not limited to, the provision of coordinated services and supports to persons and families living with Alzheimer's and related disorders, the capacity to meet these needs, and strategies to address identified gaps in services.

Subd. 3. **Meetings.** At least four working group meetings must be public meetings, and to the extent practicable, technological means, such as Web casts, should be used to reach the greatest number of people throughout the state.

Subd. 4. **Report.** The commissioner of health must submit a report and recommendations to the governor and chairs and ranking minority members of the legislative committees with jurisdiction over health care no later than January 15, 2011.

Subd. 5. **Private funding.** To the extent available, the commissioner of health may utilize funding provided by private foundations and other private funding sources to complete the duties of the Alzheimer's disease working group.

Subd. 6. **Sunset.** The Alzheimer's disease working group sunsets upon delivery of the required report to the governor and legislative committees."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Emmer moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 10, after line 13, insert:

"Doula services may not include or interfere with the provision of traditional midwifery services under chapter 147D."

A roll call was requested and properly seconded.

The question was taken on the Emmer amendment and the roll was called. There were 37 yeas and 95 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Doepke	Gunther	Kohls	Sanders	Westrom
Anderson, S.	Downey	Hackbarth	Lenczewski	Scott	Zellers
Buesgens	Drazkowski	Hamilton	Loon	Seifert	
Cornish	Eastlund	Holberg	Mack	Severson	
Dean	Emmer	Hoppe	McFarlane	Shimanski	
Demmer	Garofalo	Kelly	Nornes	Smith	
Dettmer	Gottwalt	Kiffmeyer	Peppin	Torkelson	

Those who voted in the negative were:

Abeler	Atkins	Bigham	Brynaert	Champion	Davnie
Anderson, P.	Beard	Bly	Bunn	Clark	Dill
Anzelc	Benson	Brown	Carlson	Davids	Dittrich

Doty	Hornstein	Laine	Morrow	Persell	Solberg
Eken	Hortman	Lanning	Mullery	Peterson	Sterner
Falk	Hosch	Lesch	Murdock	Poppe	Swails
Faust	Howes	Liebling	Murphy, E.	Reinert	Thao
Fritz	Huntley	Lieder	Murphy, M.	Rosenthal	Thissen
Gardner	Jackson	Lillie	Nelson	Rukavina	Tillberry
Greiling	Johnson	Loeffler	Newton	Ruud	Urdahl
Hansen	Juhnke	Mahoney	Norton	Sailer	Wagenius
Hausman	Kahn	Mariani	Obermueller	Scalze	Ward
Haws	Kalin	Marquart	Olin	Sertich	Welti
Hayden	Kath	Masin	Otremba	Simon	Winkler
Hilstrom	Knuth	McNamara	Paymar	Slawik	Spk. Kelliher
Hilty	Koenen	Morgan	Pelowski	Slocum	

The motion did not prevail and the amendment was not adopted.

Emmer moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 10, after line 13, insert:

"Doula services may not include, incorporate, or reference the beliefs or tenets of Sharia Law."

A roll call was requested and properly seconded.

The question was taken on the Emmer amendment and the roll was called. There were 41 yeas and 91 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Dettmer	Gottwalt	Kelly	Peppin	Shimanski
Anderson, P.	Downey	Gunther	Kiffmeyer	Peterson	Smith
Buesgens	Drazkowski	Hackbarth	Kohls	Sanders	Torkelson
Cornish	Eastlund	Hamilton	Loon	Scalze	Urdahl
Davids	Eken	Holberg	Mack	Scott	Westrom
Dean	Emmer	Hoppe	Murdock	Seifert	Zellers
Demmer	Garofalo	Kath	Nornes	Severson	

Those who voted in the negative were:

Abeler	Clark	Haws	Kalin	Marquart	Olin
Anderson, S.	Davnie	Hayden	Knuth	Masin	Otremba
Anzelc	Dill	Hilstrom	Koenen	McFarlane	Paymar
Atkins	Dittrich	Hilty	Laine	McNamara	Pelowski
Beard	Doepke	Hornstein	Lanning	Morgan	Persell
Benson	Doty	Hortman	Lenczewski	Morrow	Poppe
Bigham	Falk	Hosch	Lesch	Mullery	Reinert
Bly	Faust	Howes	Liebling	Murphy, E.	Rosenthal
Brown	Fritz	Huntley	Lieder	Murphy, M.	Rukavina
Brynaert	Gardner	Jackson	Lillie	Nelson	Ruud
Bunn	Greiling	Johnson	Loeffler	Newton	Sailer
Carlson	Hansen	Juhnke	Mahoney	Norton	Sertich
Champion	Hausman	Kahn	Mariani	Obermueller	Simon

Slawik
Slocum
Solberg

Sterner
Swails
Thao

Thissen
Tillberry
Wagenius

Ward
Welti
Winkler

Spk. Kelliher

The motion did not prevail and the amendment was not adopted.

Gottwalt and Bunn moved to amend H. F. No. 1760, the first engrossment, as amended, as follows:

Page 1, after line 17, insert:

"ARTICLE 1"

Page 31, after line 32, insert:

"ARTICLE 2"

Section 1. **HEALTHY MINNESOTA PLAN; PRIVATE SECTOR COVERAGE.**

It is the intent of the State of Minnesota to enact a coverage program that utilizes market-based solutions within the health care sector that provides access to high quality health care, reduces costs for coverage, and utilizes commercial reimbursement rates to providers.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 2. Minnesota Statutes 2008, section 256L.01, is amended by adding a subdivision to read:

Subd. 6. **Qualified adult.** "Qualified adult" means an individual residing in a household with no children enrolled under section 256L.04, subdivision 7.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 3. Minnesota Statutes 2008, section 256L.03, subdivision 1, is amended to read:

Subdivision 1. **Covered health services.** For families and children, "covered health services" means the health services reimbursed under chapter 256B, with the exception of inpatient hospital services, special education services, private duty nursing services, adult dental care services other than services covered under section 256B.0625, subdivision 9, orthodontic services, nonemergency medical transportation services, personal care assistant and case management services, nursing home or intermediate care facilities services, inpatient mental health services, and chemical dependency services.

No public funds shall be used for coverage of abortion under MinnesotaCare except where the life of the female would be endangered or substantial and irreversible impairment of a major bodily function would result if the fetus were carried to term; or where the pregnancy is the result of rape or incest.

Covered health services shall be expanded as provided in this section.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 4. Minnesota Statutes 2008, section 256L.03, subdivision 3, is amended to read:

Subd. 3. **Inpatient hospital services.** (a) Covered health services shall include inpatient hospital services, including inpatient hospital mental health services and inpatient hospital and residential chemical dependency treatment, subject to those limitations necessary to coordinate the provision of these services with eligibility under the medical assistance spenddown. The inpatient hospital benefit for adult enrollees ~~who qualify under section 256L.04, subdivision 7, or~~ who qualify under section 256L.04, subdivisions 1 and 2, with family gross income that exceeds 200 percent of the federal poverty guidelines or 215 percent of the federal poverty guidelines on or after July 1, 2009, and who are not pregnant, is subject to an annual limit of \$10,000.

(b) Admissions for inpatient hospital services paid for under section 256L.11, subdivision 3, must be certified as medically necessary in accordance with Minnesota Rules, parts 9505.0500 to 9505.0540, except as provided in clauses (1) and (2):

(1) all admissions must be certified, except those authorized under rules established under section 254A.03, subdivision 3, or approved under Medicare; and

(2) payment under section 256L.11, subdivision 3, shall be reduced by five percent for admissions for which certification is requested more than 30 days after the day of admission. The hospital may not seek payment from the enrollee for the amount of the payment reduction under this clause.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 5. **[256L.031] COVERED HEALTH SERVICES; QUALIFIED ADULTS.**

Subdivision 1. **Covered health care services.** For qualified adults, "covered health services" means all services covered under the health plan benefit design established by the commissioner under section 256L.033.

Subd. 2. **Contract with third-party administrator; enrollment of qualified adults.** The commissioner shall contract with health plan companies, as defined in section 62Q.01, subdivision 4, to provide to qualified adults the coverage established under section 256L.033. The commissioner shall contract with a third-party administrator that will distribute premiums to health plan companies that provide or arrange for high-quality, cost-effective care. The commissioner shall pay an administrative fee to the contracted third-party administrator for each qualified adult enrolled in the Healthy Minnesota Plan. State premium payment rates must be sufficient to allow health plan companies to reimburse providers at private sector provider payment rates.

Subd. 3. **Enrollment of qualified adults.** The commissioner shall develop and implement procedures to enroll and disenroll qualified adults with health plan companies that provide the coverage established under section 256L.033. Qualified adults are exempt from enrollment with managed care plans under section 256L.12, but may enroll with managed care plans to obtain the coverage established under section 256L.033. An enrollee may change health plans or switch coverage annually during an open enrollment period. The commissioner may expand the definition of "qualified adult" to other eligibility groups as feasible, subject to any necessary federal approval.

Subd. 4. **Enrollment; professional insurance agent associations.** (a) The commissioner of human services shall accept applications, determine eligibility based on the eligibility criteria in this chapter, translate standardized documents, and refer enrollees to a certified insurance agent.

(b) The commissioner of human services, in consultation with the commissioner of commerce, shall develop an efficient and cost-effective method of referring eligible applicants to professional insurance agent associations. The commissioner of commerce shall authorize professional insurance agent associations to recruit, train, and certify all agents and brokers that intend to administer Healthy Minnesota Plan coverage, prior to any Minnesota Healthy Plan enrollment activity by agents. For purposes of this requirement, "professional insurance agent associations" means the Minnesota National Association of Health Underwriters, the National Association of Independent Financial Advisors (MN), and the Minnesota Independent Insurance Agents and Brokers.

Subd. 5. **MCHA.** MinnesotaCare enrollees who are denied coverage under an individual health plan by a health plan company are eligible for coverage through a health plan offered by the Minnesota Comprehensive Health Association, as provided under section 256L.033. The cost to the Minnesota Comprehensive Health Association related to coverage of MinnesotaCare enrollees denied coverage under an individual health plan shall be paid through the health care access fund.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 6. **[256L.032] MINNESOTACARE; HEALTHY MINNESOTA ACCOUNTS.**

Subdivision 1. **Establishment.** The commissioner shall establish and administer for each recipient a Healthy Minnesota Plan, which consists of a private sector major medical health plan combined with a \$3,100 deductible that is funded in part by the state through a health reimbursement arrangement (HRA). The commissioner shall authorize private sector plan companies to provide individual major medical health plan coverage to a recipient. The commissioner shall contract with a third-party administrator to manage the health reimbursement arrangement and to establish and administer a Healthy Minnesota Plan account for that recipient.

Subd. 2. **Funds available to enrollees for health care expenses.** In addition to providing major medical health coverage, the commissioner shall make available up to \$2,100 per plan year for each enrollee's Healthy Minnesota Plan account for eligible health care expenses, through the health reimbursement arrangement as defined in section 213(d) of the Internal Revenue Code.

Subd. 3. **Healthy Minnesota Plan reserve.** The commissioner shall maintain a Healthy Minnesota Plan reserve equal to 30 percent of the state's maximum claim obligations under subdivision 2 for the current and following fiscal year, as estimated by the commissioner of finance.

EFFECTIVE DATE. This section is effective January 1, 2010.

Sec. 7. **[256L.033] HEALTHY MINNESOTA PLAN; PRIVATE SECTOR COVERAGE.**

(a) Qualified adults enrolled in MinnesotaCare shall enroll in their choice of the individual health plans authorized by the commissioner. The health plans must meet the benefit design and cost-sharing requirements established by the commissioner. The health plan benefit design and cost-sharing must be actuarially equivalent to that provided under section 256L.03 to nonpregnant adults without children eligible under section 256L.04, subdivision 7, and in addition to coverage of physician, inpatient and outpatient hospital, and other acute care services, must also include:

- (1) vision and eyewear coverage;
- (2) dental coverage;
- (3) prescription drug coverage;
- (4) preventive care; and
- (5) a lifetime maximum benefit of \$5,000,000.

(b) The commissioner shall administer the Healthy Minnesota Plan and Healthy Minnesota Plan accounts, which must be designed to the extent possible to function in the same manner as a voluntary employee beneficiary association qualified under Internal Revenue Code, section 501(c)(9) or a government plan qualified under Internal Revenue Code, section 115, to the extent practicable for a plan not providing benefits to employees.

(c) All payments out of the Healthy Minnesota Plan arrangement must be adjudicated by a third-party administrator contracted for by the commissioner in the same manner used for Health Reimbursement Accounts under federal law, except as otherwise provided in section 256L.032, subdivision 1.

(d) Providers of individual health plans available for enrollment under paragraph (a) may decline to cover a prospective enrollee on the basis of medical underwriting permitted under section 62A.65 in the private market. A person rejected for coverage on that basis shall apply for and enroll in a plan which must be provided by the Minnesota Comprehensive Health Association (MCHA) governed under chapter 62E, without a preexisting condition limitation, even if use of a preexisting condition is otherwise permitted under chapter 62E. The plan benefit design must be identical to that established under paragraph (a). The commissioner shall pay the premium for the person's coverage.

(e) All health plan companies offering individual coverage must offer the benefit set established under this section in the individual market.

EFFECTIVE DATE. This section is effective January 1, 2010."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

A roll call was requested and properly seconded.

Wagenius was excused for the remainder of today's session.

CALL OF THE HOUSE

On the motion of Dean and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Abeler	Dettmer	Haws	Laine	Newton	Severson
Anderson, B.	Dill	Hayden	Lanning	Nornes	Shimanski
Anderson, P.	Dittrich	Hilstrom	Lenczewski	Norton	Simon
Anderson, S.	Doepke	Hilty	Lesch	Obermueller	Slawik
Anzelc	Doty	Holberg	Liebling	Olin	Slocum
Atkins	Downey	Hoppe	Lieder	Otremba	Smith
Beard	Drazkowski	Hornstein	Lillie	Paymar	Solberg
Benson	Eastlund	Hortman	Loeffler	Pelowski	Sterner
Bigham	Eken	Hosch	Loon	Peppin	Swails
Bly	Emmer	Howes	Mack	Persell	Thao
Brown	Falk	Huntley	Mahoney	Peterson	Thissen
Brynaert	Faust	Jackson	Mariani	Poppe	Tillberry
Buesgens	Fritz	Johnson	Marquart	Reinert	Torkelson
Bunn	Gardner	Juhnke	McFarlane	Rosenthal	Urdahl
Carlson	Garofalo	Kahn	McNamara	Rukavina	Ward
Champion	Gottwalt	Kalin	Morgan	Ruud	Welti
Clark	Greiling	Kath	Morrow	Sailer	Westrom
Cornish	Gunther	Kelly	Mullery	Sanders	Winkler
Davids	Hackbarth	Kiffmeyer	Murdock	Scalze	Zellers
Davnie	Hamilton	Knuth	Murphy, E.	Scott	Spk. Kelliher
Dean	Hansen	Koenen	Murphy, M.	Seifert	
Demmer	Hausman	Kohls	Nelson	Sertich	

Morrow moved that further proceedings of the roll call be suspended and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

POINT OF ORDER

Buesgens raised a point of order pursuant to section 575, paragraph 1, clause g, of "Mason's Manual of Legislative Procedure," relating to Duties of the Presiding Officer. Speaker pro tempore Hortman ruled the point of order not well taken.

The question recurred on the Gottwalt and Bunn amendment and the roll was called. There were 60 yeas and 72 nays as follows:

Those who voted in the affirmative were:

Abeler	Davids	Gardner	Kiffmeyer	Norton	Seifert
Anderson, B.	Dean	Garofalo	Kohls	Obermueller	Severson
Anderson, P.	Demmer	Gottwalt	Lanning	Olin	Shimanski
Anderson, S.	Dettmer	Gunther	Loon	Pelowski	Smith
Beard	Doepke	Hackbarth	Mack	Peppin	Sterner
Brod	Doty	Hamilton	McFarlane	Peterson	Swails
Brown	Downey	Holberg	McNamara	Poppe	Torkelson
Buesgens	Drazkowski	Howes	Morgan	Rosenthal	Urdahl
Bunn	Eastlund	Kath	Murdock	Sanders	Westrom
Cornish	Emmer	Kelly	Nornes	Scott	Zellers

Those who voted in the negative were:

Anzelc	Eken	Hornstein	Lenczewski	Murphy, E.	Sertich
Atkins	Falk	Hortman	Lesch	Murphy, M.	Simon
Benson	Faust	Hosch	Liebling	Nelson	Slawik
Bigham	Fritz	Huntley	Lieder	Newton	Slocum
Bly	Greiling	Jackson	Lillie	Otremba	Solberg
Brynaert	Hansen	Johnson	Loeffler	Paymar	Thao
Carlson	Hausman	Juhnke	Mahoney	Persell	Thissen
Champion	Haws	Kahn	Mariani	Reinert	Tillberry
Clark	Hayden	Kalin	Marquart	Rukavina	Ward
Davnie	Hilstrom	Knuth	Masin	Ruud	Welti
Dill	Hilty	Koenen	Morrow	Sailer	Winkler
Dittrich	Hoppe	Laine	Mullery	Scalze	Spk. Kelliher

The motion did not prevail and the amendment was not adopted.

CALL OF THE HOUSE LIFTED

Morrow moved that the call of the House be lifted. The motion prevailed and it was so ordered.

H. F. No. 1760, A bill for an act relating to human services; changing provisions for long-term care, adverse health care events, suicide prevention, doula services, developmental disabilities, mental health commitment, alternative care services, self-directed options, nursing facilities, ICF/MR facilities, and data management; requiring a safe patient handling plan; establishing a health department work group and an Alzheimer's disease work group; amending Minnesota Statutes 2008, sections 43A.318, subdivision 2; 62Q.525, subdivision 2; 144.7065, subdivisions 8, 10; 145.56, subdivisions 1, 2; 148.995, subdivisions 2, 4; 182.6551; 182.6552, by adding a subdivision; 252.27, subdivision 1a; 252.282, subdivisions 3, 5; 253B.095, subdivision 1; 256B.0657, subdivision 5;

256B.0913, subdivisions 4, 5a, 12; 256B.0915, subdivision 2; 256B.431, subdivision 10; 256B.433, subdivision 1; 256B.441, subdivisions 5, 11; 256B.5011, subdivision 2; 256B.5012, subdivisions 6, 7; 256B.5013, subdivisions 1, 6; 256B.69, subdivision 9b; 403.03; 626.557, subdivision 12b; proposing coding for new law in Minnesota Statutes, chapter 182; repealing Minnesota Statutes 2008, section 256B.5013, subdivisions 2, 3, 5.

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

The question was taken on the passage of the bill and the roll was called. There were 90 yeas and 42 nays as follows:

Those who voted in the affirmative were:

Anzelc	Doty	Hortman	Liebling	Newton	Scalze
Atkins	Eken	Hosch	Lieder	Norton	Sertich
Benson	Falk	Howes	Lillie	Obermueller	Simon
Bigham	Faust	Huntley	Loeffler	Olin	Slawik
Bly	Fritz	Jackson	Mahoney	Otremba	Slocum
Brown	Gardner	Johnson	Mariani	Paymar	Solberg
Brynaert	Greiling	Juhnke	Marquart	Pelowski	Sterner
Bunn	Hamilton	Kahn	Masin	Persell	Swails
Carlson	Hansen	Kalin	McNamara	Peterson	Thao
Champion	Hausman	Kath	Morgan	Poppe	Thissen
Clark	Haws	Knuth	Morrow	Reinert	Tillberry
Cornish	Hayden	Koenen	Mullery	Rosenthal	Ward
Davnie	Hilstrom	Laine	Murphy, E.	Rukavina	Welti
Dill	Hilty	Lenczewski	Murphy, M.	Ruud	Winkler
Dittrich	Hornstein	Lesch	Nelson	Sailer	Spk. Kelliher

Those who voted in the negative were:

Abeler	Davids	Eastlund	Hoppe	McFarlane	Severson
Anderson, B.	Dean	Emmer	Kelly	Murdock	Shimanski
Anderson, P.	Demmer	Garofalo	Kiffmeyer	Nornes	Smith
Anderson, S.	Dettmer	Gottwalt	Kohls	Peppin	Torkelson
Beard	Doepke	Gunther	Lanning	Sanders	Urdahl
Brod	Downey	Hackbarth	Loon	Scott	Westrom
Buesgens	Draskowski	Holberg	Mack	Seifert	Zellers

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

The Speaker assumed the chair.

S. F. No. 926, A bill for an act relating to telecommunications; modifying provisions relating to reduced rate regulation and promotion activities; amending Minnesota Statutes 2008, sections 237.411, subdivision 2; 237.626; repealing Laws 2004, chapter 261, article 6, section 5, as amended.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hausman	Kohls	Murphy, M.	Seifert
Anderson, B.	Dettmer	Haws	Laine	Nelson	Sertich
Anderson, P.	Dill	Hayden	Lanning	Newton	Severson
Anderson, S.	Dittrich	Hilstrom	Lenczewski	Nornes	Shimanski
Anzelc	Doepke	Hilty	Lesch	Norton	Simon
Atkins	Doty	Holberg	Liebling	Obermueller	Slawik
Beard	Downey	Hoppe	Lieder	Olin	Slocum
Benson	Drazkowski	Hornstein	Lillie	Otremba	Smith
Bigham	Eastlund	Hortman	Loeffler	Paymar	Solberg
Bly	Eken	Hosch	Loon	Pelowski	Sterner
Brod	Emmer	Howes	Mack	Peppin	Swails
Brown	Falk	Huntley	Mahoney	Persell	Thao
Brynaert	Faust	Jackson	Mariani	Peterson	Thissen
Buesgens	Fritz	Johnson	Marquart	Poppe	Tillberry
Bunn	Gardner	Juhnke	Masin	Reinert	Torkelson
Carlson	Garofalo	Kahn	McFarlane	Rosenthal	Urdahl
Champion	Gottwalt	Kalin	McNamara	Rukavina	Ward
Clark	Greiling	Kath	Morgan	Ruud	Welti
Cornish	Gunther	Kelly	Morrow	Sailer	Westrom
Davids	Hackbarth	Kiffmeyer	Mullery	Sanders	Winkler
Davnie	Hamilton	Knuth	Murdock	Scalze	Zellers
Dean	Hansen	Koenen	Murphy, E.	Scott	Spk. Kelliher

The bill was passed and its title agreed to.

S. F. No. 431, A bill for an act relating to mental illness; prohibiting participation in clinical drug trials; amending Minnesota Statutes 2008, section 253B.095, subdivision 1.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Bunn	Downey	Hamilton	Jackson	Lesch
Anderson, B.	Carlson	Drazkowski	Hansen	Johnson	Liebling
Anderson, P.	Champion	Eastlund	Hausman	Juhnke	Lieder
Anderson, S.	Clark	Eken	Haws	Kahn	Lillie
Anzelc	Cornish	Emmer	Hayden	Kalin	Loeffler
Atkins	Davids	Falk	Hilstrom	Kath	Loon
Beard	Davnie	Faust	Hilty	Kelly	Mack
Benson	Dean	Fritz	Holberg	Kiffmeyer	Mahoney
Bigham	Demmer	Gardner	Hoppe	Knuth	Mariani
Bly	Dettmer	Garofalo	Hornstein	Koenen	Marquart
Brod	Dill	Gottwalt	Hortman	Kohls	Masin
Brown	Dittrich	Greiling	Hosch	Laine	McFarlane
Brynaert	Doepke	Gunther	Howes	Lanning	McNamara
Buesgens	Doty	Hackbarth	Huntley	Lenczewski	Morgan

Morrow	Norton	Peterson	Scalze	Slocum	Torkelson
Mullery	Obermueller	Poppe	Scott	Smith	Urdahl
Murdock	Olin	Reinert	Seifert	Solberg	Ward
Murphy, E.	Otremba	Rosenthal	Sertich	Sterner	Welti
Murphy, M.	Paymar	Rukavina	Severson	Swails	Westrom
Nelson	Pelowski	Ruud	Shimanski	Thao	Winkler
Newton	Peppin	Sailer	Simon	Thissen	Zellers
Nornes	Persell	Sanders	Slawik	Tillberry	Spk. Kelliher

The bill was passed and its title agreed to.

Sertich moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Davnie moved that the name of Loeffler be added as an author on H. F. No. 1198. The motion prevailed.

Murphy, M., moved that the names of Davids, Brown, Hansen, Morgan, Kahn, Haws, Wagenius and Urdahl be added as authors on H. F. No. 1231. The motion prevailed.

Simon moved that the name of Sterner be added as an author on H. F. No. 1677. The motion prevailed.

Greiling moved that the name of Kahn be added as an author on H. F. No. 2368. The motion prevailed.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 550:

Hilty, Falk, Johnson, Kalin and Beard.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 708:

Mullery, Johnson and Zellers.

ADJOURNMENT

Sertich moved that when the House adjourns today it adjourn until 9:30 a.m., Thursday, May 7, 2009. The motion prevailed.

Sertich moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 9:30 a.m., Thursday, May 7, 2009.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives

