

FORTY-SEVENTH DAY

St. Paul, Minnesota, Tuesday, May 5, 2009

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Pastor Gary Dreier.

The roll was called, and the following Senators answered to their names:

Anderson	Doll	Koch	Olseen	Scheid
Bakk	Erickson Ropes	Koering	Olson, G.	Senjem
Berglin	Fischbach	Kubly	Olson, M.	Sheran
Betzold	Fobbe	Langseth	Ortman	Sieben
Bonoff	Foley	Latz	Pappas	Skoe
Carlson	Frederickson	Limmer	Pariseau	Skogen
Chaudhary	Gerlach	Lourey	Pogemiller	Sparks
Clark	Gimse	Lynch	Prettner Solon	Stumpf
Cohen	Hann	Marty	Rest	Tomassoni
Dahle	Higgins	Metzen	Robling	Torres Ray
Day	Ingebrigtsen	Michel	Rummel	Vandever
Dibble	Jungbauer	Moua	Saltzman	Vickerman
Dille	Kelash	Murphy	Saxhaug	Wiger

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

CALL OF THE SENATE

Senator Pogemiller imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 245: A bill for an act relating to insurance; providing equal access to acupuncture; requiring equal access to acupuncture services by certain group policies and subscriber contracts; requiring claim determinations regarding acupuncture services to be made or reviewed by acupuncture practitioners; requiring reporting on referrals to acupuncture practitioners and reimbursement rates; amending Minnesota Statutes 2008, section 62A.15, subdivision 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62D.

Senate File No. 245 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 4, 2009

CONCURRENCE AND REPASSAGE

Senator Berglin moved that the Senate concur in the amendments by the House to S.F. No. 245 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 245: A bill for an act relating to insurance; providing equal access to acupuncture and a memorial to Edith R. Davis, Minnesota's pioneer acupuncturist; requiring equal access to acupuncture services by certain group policies and subscriber contracts; requiring claim determinations regarding acupuncture services to be made or reviewed by acupuncture practitioners; requiring reporting on referrals to acupuncture practitioners and reimbursement rates; amending Minnesota Statutes 2008, section 62A.15, subdivision 4, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 62D.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 54 and nays 3, as follows:

Those who voted in the affirmative were:

Berglin	Erickson Ropes	Kubly	Olson, M.	Scheid
Betzold	Fischbach	Langseth	Ortman	Senjem
Bonoff	Fobbe	Limmer	Pappas	Sheran
Carlson	Foley	Lourey	Pariseau	Sieben
Chaudhary	Frederickson	Lynch	Pogemiller	Skoe
Clark	Gerlach	Marty	Prettner Solon	Skogen
Dahle	Gimse	Metzen	Rest	Sparks
Day	Jungbauer	Michel	Robling	Tomassoni
Dibble	Kelash	Moua	Rummel	Torres Ray
Dille	Koch	Olseen	Saltzman	Wiger
Doll	Koering	Olson, G.	Saxhaug	

Those who voted in the negative were:

Hann Ingebrigtsen Vandev eer

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 412: A bill for an act relating to probate; enacting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; proposing coding for new law in Minnesota Statutes, chapter 524.

Senate File No. 412 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 4, 2009

CONCURRENCE AND REPASSAGE

Senator Moua moved that the Senate concur in the amendments by the House to S.F. No. 412 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 412: A bill for an act relating to probate; enacting the Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act; changing certain jurisdiction transfer provisions; amending Minnesota Statutes 2008, section 524.5-107; proposing coding for new law in Minnesota Statutes, chapter 524.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Bakk	Doll	Koering	Olson, G.	Scheid
Berglin	Erickson Ropes	Kubly	Olson, M.	Senjem
Betzold	Fischbach	Langseth	Ortman	Sheran
Bonoff	Fobbe	Latz	Pappas	Sieben
Carlson	Foley	Limmer	Pariseau	Skoe
Chaudhary	Frederickson	Lourey	Pogemiller	Skogen
Clark	Gerlach	Lynch	Prettner Solon	Sparks
Cohen	Hann	Marty	Rest	Tomassoni
Dahle	Ingebrigtsen	Metzen	Robling	Torres Ray
Day	Jungbauer	Michel	Rummel	Vandev eer
Dibble	Kelash	Moua	Saltzman	Wiger
Dille	Koch	Olseen	Saxhaug	

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 640: A bill for an act relating to waters; providing for temporary drawdown of public waters; proposing coding for new law in Minnesota Statutes, chapter 103G.

Senate File No. 640 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 4, 2009

CONCURRENCE AND REPASSAGE

Senator Kelash moved that the Senate concur in the amendments by the House to S.F. No. 640 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 640 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Dille	Koch	Murphy	Saltzman
Bakk	Doll	Koering	Olseen	Saxhaug
Berglin	Erickson Ropes	Kubly	Olson, G.	Scheid
Betzold	Fischbach	Langseth	Olson, M.	Senjem
Bonoff	Fobbe	Latz	Ortman	Sheran
Carlson	Foley	Limmer	Pappas	Sieben
Chaudhary	Frederickson	Lourey	Pariseau	Skoe
Clark	Gerlach	Lynch	Pogemiller	Skogen
Cohen	Hann	Marty	Prettner Solon	Tomassoni
Dahle	Ingebrigtsen	Metzen	Rest	Torres Ray
Day	Jungbauer	Michel	Robling	Vandever
Dibble	Kelash	Moua	Rummel	Wiger

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully

requested:

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.

Senate File No. 708 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 4, 2009

Senator Fobbe moved that the Senate do not concur in the amendments by the House to S.F. No. 708, and that a Conference Committee of 3 members be appointed by the Subcommittee on Conference Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 729: A bill for an act relating to Hennepin County; modifying personnel rules and procedures; amending Minnesota Statutes 2008, sections 383B.27, subdivision 16; 383B.29, subdivision 2; 383B.31.

Senate File No. 729 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 4, 2009

CONCURRENCE AND REPASSAGE

Senator Rest moved that the Senate concur in the amendments by the House to S.F. No. 729 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 729: A bill for an act relating to Hennepin County; modifying personnel rules and procedures; extending the sunset date of the Victory Memorial Drive Historic District task force; amending Minnesota Statutes 2008, sections 383B.29, subdivision 2; 383B.31; Laws 2006, chapter 218, section 6.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 60 and nays 1, as follows:

Those who voted in the affirmative were:

Anderson

Bakk

Berglin

Betzold

Bonoff

Carlson	Fobbe	Langseth	Olson, G.	Saxhaug
Chaudhary	Foley	Latz	Olson, M.	Scheid
Clark	Frederickson	Limmer	Ortman	Senjem
Cohen	Gerlach	Lourey	Pappas	Sheran
Dahle	Hann	Lynch	Pariseau	Sieben
Day	Ingebrigtsen	Marty	Pogemiller	Skoe
Dibble	Jungbauer	Metzen	Prettner Solon	Skogen
Dille	Kelash	Michel	Rest	Sparks
Doll	Koch	Moua	Robling	Tomassoni
Erickson Ropes	Koering	Murphy	Rummel	Torres Ray
Fischbach	Kubly	Olseen	Saltzman	Wiger

Those who voted in the negative were:

Vandev eer

So the bill, as amended, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 247, 1462 and 1486.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2009

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 2081, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 2081: A bill for an act relating to economic development and housing; establishing and modifying certain programs; providing for regulation of certain activities and practices; amending certain unemployment insurance provisions; providing for accounts, assessments, and fees; changing codes and licensing provisions; amending Iron Range resources provisions; regulating debt management and debt settlement services; increasing certain occupation license fees; making technical changes; providing penalties; appropriating money; amending Minnesota Statutes 2008, sections 15.75, subdivision 5; 16B.54, subdivision 2; 45.011, subdivision 1; 45.027, subdivision 1; 46.04, subdivision 1; 46.05; 46.131, subdivision 2; 84.94, subdivision 3; 115C.08, subdivision 4; 116J.035, subdivisions 1, 6; 116J.401, subdivision 2; 116J.424; 116J.435, subdivisions 2, 3; 116J.68, subdivision 2; 116J.8731, subdivisions 2, 3; 116L.03, subdivision 5; 116L.05, subdivision 5; 116L.871, subdivision 1; 116L.96; 123A.08, subdivision 1; 124D.49, subdivision 3; 129D.13, subdivisions 1, 2, 3; 129D.14, subdivisions 4, 5, 6; 129D.155; 154.44, subdivision 1; 160.16, by adding a subdivision; 160.276, subdivision 8; 241.27, subdivision 1; 248.061, subdivision 3; 248.07, subdivisions 7, 8; 256J.626, subdivision 4; 256J.66, subdivision 1; 268.031; 268.035, subdivisions 2, 17, by adding subdivisions; 268.042, subdivision 3; 268.043; 268.044, subdivision 2; 268.047, subdivisions 1, 2; 268.051, subdivisions 1, 4; 268.052, subdivision 2; 268.053, subdivision 1; 268.057, subdivisions 4, 5; 268.0625, subdivision 1; 268.066; 268.067; 268.069, subdivision 1; 268.07, subdivisions 1, 2, 3, 3b; 268.084; 268.085, subdivisions 1, 2, 3, 3a, 4, 5, 6, 15;

268.095, subdivisions 1, 2, 4, 10, 11; 268.101, subdivisions 1, 2; 268.103, subdivision 1, by adding a subdivision; 268.105, subdivisions 1, 2, 3a, 4; 268.115, subdivision 5; 268.125, subdivision 5; 268.135, subdivision 4; 268.145, subdivision 1; 268.18, subdivisions 1, 2, 4a; 268.186; 268.196, subdivisions 1, 2; 268.199; 268.211; 268A.06, subdivision 1; 270.97; 298.22, subdivisions 2, 5a, 6, 7, 8, 10, 11; 298.221; 298.2211, subdivision 3; 298.2213, subdivision 4; 298.2214, by adding a subdivision; 298.223; 298.227; 298.28, subdivision 9d; 298.292, subdivision 2; 298.294; 298.296, subdivision 2; 298.2961; 325E.115, subdivision 1; 325E.1151, subdivisions 1, 3, 4; 325E.311, subdivision 6; 326B.33, subdivisions 13, 19; 326B.46, subdivision 4; 326B.475, subdivisions 4, 7; 326B.49, subdivision 1; 326B.56, subdivision 4; 326B.58; 326B.815, subdivision 1; 326B.821, subdivision 2; 326B.86, subdivision 1; 326B.885, subdivision 2; 326B.89, subdivisions 3, 16; 326B.94, subdivision 4; 326B.972; 326B.986, subdivisions 2, 5, 8; 327B.04, subdivisions 7, 8, by adding a subdivision; 327C.03, by adding a subdivision; 327C.095, subdivision 12; 332A.02, subdivisions 5, 8, 9, 10, 13, by adding subdivisions; 332A.04, subdivision 6; 332A.08; 332A.10; 332A.11, subdivision 2; 332A.14; 469.169, subdivision 3; Laws 1998, chapter 404, section 23, subdivision 6, as amended; proposing coding for new law in Minnesota Statutes, chapters 1; 116J; 137; 161; 268; 298; 326B; proposing coding for new law as Minnesota Statutes, chapter 332B; repealing Minnesota Statutes 2008, sections 116J.402; 116J.413; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.656; 116L.16; 116L.88; 116U.65; 129D.13, subdivision 4; 176.135, subdivision 1b; 268.085, subdivision 14; 268.086; Minnesota Rules, part 1350.8300.

Senate File No. 2081 is herewith returned to the Senate.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Returned May 5, 2009

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 265 and 1275.

Albin A. Mathiowetz, Chief Clerk, House of Representatives

Transmitted May 4, 2009

FIRST READING OF HOUSE BILLS

The following bills were read the first time.

H.F. No. 265: A bill for an act relating to disposition of items on death; clarifying certain references; providing for collection of certain property by affidavit; correcting an erroneous reference and making other corrections and clarifications; amending Minnesota Statutes 2008, sections 524.1-304; 524.3-413; 524.3-1201; 524.3-1203, subdivision 5.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 262, now on General Orders.

H.F. No. 1275: A bill for an act relating to environment; modifying sewage treatment systems provisions; changing terminology; amending Minnesota Statutes 2008, sections 115.55,

subdivisions 1, 2, 3, 4, 5, 5a, 5b, 6, 9; 115.56, subdivisions 1, 2, 3; 326B.46, subdivision 2; repealing Minnesota Statutes 2008, sections 115.55, subdivision 10; 115.56, subdivision 2a.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1449, now on General Orders.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time.

Senator Langseth introduced—

S.F. No. 2128: A bill for an act relating to property taxation; providing a property tax abatement for newly-constructed residential structures in flood-damaged areas; appropriating money.

Referred to the Committee on Taxes.

Senator Koch introduced—

S.F. No. 2129: A resolution memorializing the President of the United States, the United States Secretary of Energy, and the Congress of the United States to review national policy on used nuclear fuel.

Referred to the Committee on Energy, Utilities, Technology and Communications.

Senators Rosen and Dibble introduced—

S.F. No. 2130: A bill for an act relating to retirement; changing provisions governing certain municipal amortization aid; amending Minnesota Statutes 2008, section 423A.02, subdivision 1.

Referred to the Committee on State and Local Government Operations and Oversight.

MOTIONS AND RESOLUTIONS

Senator Marty moved that the names of Senators Limmer and Rummel be added as co-authors to S.F. No. 1469. The motion prevailed.

Senator Kelash introduced –

Senate Resolution No. 87: A Senate resolution congratulating Jenny Liesenfelt for receiving the Girl Scout Gold Award.

Referred to the Committee on Rules and Administration.

Senator Kelash introduced –

Senate Resolution No. 88: A Senate resolution congratulating Allison Koram for receiving the Girl Scout Gold Award.

Referred to the Committee on Rules and Administration.

Senator Kelash introduced –

Senate Resolution No. 89: A Senate resolution congratulating Martha Kelash for receiving the Girl Scout Gold Award.

Referred to the Committee on Rules and Administration.

Senator Kelash introduced –

Senate Resolution No. 90: A Senate resolution congratulating Genevieve Bettin for receiving the Girl Scout Gold Award.

Referred to the Committee on Rules and Administration.

Senator Kelash introduced –

Senate Resolution No. 91: A Senate resolution congratulating Jane Stickney for receiving the Girl Scout Gold Award.

Referred to the Committee on Rules and Administration.

Senator Kelash introduced –

Senate Resolution No. 92: A Senate resolution honoring Girl Scout Troop Leader Terri Bettin.

Referred to the Committee on Rules and Administration.

Senator Kelash introduced –

Senate Resolution No. 93: A Senate resolution honoring Girl Scout Troop Leader Anne Stickney.

Referred to the Committee on Rules and Administration.

S.F. No. 166 and the Conference Committee Report thereon were reported to 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: (Signed) Linda Scheid, Tarryl Clark, Mee Moua, Ann Rest, Chris Gerlach

House Conferees: (Signed) Kate Knuth, Joe Atkins, Debra Hilstrom, Melissa Hortman, Jenifer Loon

Senator Scheid moved that the foregoing recommendations and Conference Committee Report on S.F. No. 166 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

S.F. No. 166 was read the third time, as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Doll	Koch	Olseen	Senjem
Bakk	Erickson Ropes	Koering	Olson, G.	Sheran
Berglin	Fischbach	Kubly	Olson, M.	Sieben
Betzold	Fobbe	Langseth	Ortman	Skoe
Bonoff	Foley	Latz	Pariseau	Skogen
Carlson	Frederickson	Limmer	Pogemiller	Sparks
Chaudhary	Gerlach	Lourey	Prettner Solon	Stumpf
Clark	Gimse	Lynch	Rest	Tomassoni
Cohen	Hann	Marty	Robling	Torres Ray
Dahle	Higgins	Metzen	Rummel	Vandev eer
Day	Ingebrigtsen	Michel	Saltzman	Vickerman
Dibble	Jungbauer	Moua	Saxhaug	Wiger
Dille	Kelash	Murphy	Scheid	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

SUSPENSION OF RULES

Senator Pogemiller moved that Rule 22.3 be suspended as to the lie-over requirement on General Orders. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Senator Metzen in the chair.

After some time spent therein, the committee arose, and Senator Metzen reported that the committee had considered the following:

S.F. Nos. 1504, 1867 and 1889, which the committee recommends to pass.

S.F. No. 1459, which the committee recommends to pass with the following amendment offered by Senator Bonoff:

Page 1, line 8, delete "the city, county or township,"

Page 1, line 9, delete "Minnesota cities, counties, and townships" and insert "a municipality, the municipality"

The motion prevailed. So the amendment was adopted.

S.F. No. 1125, which the committee reports progress, subject to the following motion:

The question was taken on the recommendation to pass S.F. No. 1125.

The roll was called, and there were yeas 26 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Clark	Marty	Rest	Torres Ray
Bakk	Cohen	Murphy	Rummel	Wiger
Betzold	Dibble	Olseen	Saltzman	
Bonoff	Kelash	Olson, G.	Saxhaug	
Carlson	Langseth	Pappas	Scheid	
Chaudhary	Lynch	Pogemiller	Sieben	

Those who voted in the negative were:

Dahle	Fobbe	Jungbauer	Michel	Sparks
Day	Frederickson	Koch	Ortman	Stumpf
Dille	Gerlach	Koering	Pariseau	Tomassoni
Doll	Gimse	Kubly	Senjem	Vanderveer
Erickson Ropes	Hann	Limmer	Skoe	Vickerman
Fischbach	Ingebrigtsen	Metzen	Skogen	

The motion did not prevail.

S.F. No. 1125 was then progressed.

S.F. No. 2, which the committee recommends to pass, subject to the following motions:

Senator Michel moved to amend S.F. No. 2 as follows:

Page 1, after line 26, insert:

"Section 1. **[3.105] PROHIBITION ON APPROPRIATIONS.**

Neither house of the legislature may give a bill that increases taxes a third reading after a bill that appropriates money has been enacted in the current legislative session."

Re-number the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 19 and nays 36, as follows:

Those who voted in the affirmative were:

Day	Dille	Fischbach	Frederickson	Gerlach
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Gimse	Jungbauer	Limmer	Ortman	Senjem
Hann	Koch	Michel	Pariseau	Vandevveer
Ingebrigtsen	Koering	Olson, G.	Robling	

Those who voted in the negative were:

Anderson	Dahle	Marty	Saltzman	Tomassoni
Bakk	Dibble	Metzen	Saxhaug	Torres Ray
Betzold	Doll	Murphy	Scheid	Vickerman
Bonoff	Erickson Ropes	Olseen	Sieben	Wiger
Carlson	Fobbe	Pappas	Skoe	
Chaudhary	Kelash	Pogemiller	Skogen	
Clark	Kubly	Rest	Sparks	
Cohen	Lynch	Rummel	Stumpf	

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

Senator Ortman moved to amend S.F. No. 2 as follows:

Page 1, after line 26, insert:

"Section 1. Minnesota Statutes 2008, section 3.012, is amended to read:

3.012 LEGISLATIVE DAY.

A legislative day is a calendar day when either house of the legislature is called to order. A ~~legislative day begins at seven o'clock a.m. and continues until seven o'clock a.m. of the following calendar day~~ Neither house of the legislature may be called to order on a Sunday."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 15 and nays 37, as follows:

Those who voted in the affirmative were:

Dille	Gimse	Jungbauer	Michel	Robling
Fischbach	Hann	Koch	Ortman	Senjem
Gerlach	Ingebrigtsen	Limmer	Pariseau	Vandevveer

Those who voted in the negative were:

Anderson	Dahle	Kubly	Rest	Sparks
Bakk	Dibble	Marty	Rummel	Stumpf
Betzold	Doll	Metzen	Saltzman	Torres Ray
Bonoff	Erickson Ropes	Murphy	Saxhaug	Vickerman
Carlson	Fobbe	Olseen	Scheid	Wiger
Chaudhary	Frederickson	Olson, G.	Sieben	
Clark	Kelash	Pappas	Skoe	
Cohen	Koering	Pogemiller	Skogen	

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

Senator Koch moved to amend S.F. No. 2 as follows:

Page 1, after line 26, insert:

"Section 1. Minnesota Statutes 2008, section 2.021, is amended to read:

2.021 NUMBER OF MEMBERS.

For each legislature, until a new apportionment shall have been made, the senate is composed of ~~67~~ 45 members and the house of representatives is composed of ~~134~~ 135 members.

Sec. 2. Minnesota Statutes 2008, section 2.031, is amended to read:

2.031 APPORTIONMENT.

Subdivision 1. **Legislative districts.** The representatives in the senate and house of representatives are apportioned throughout the state in ~~67~~ 45 senate districts and ~~134~~ 135 house of representatives districts. Each senate district is entitled to elect one senator and each house of representatives district is entitled to elect one representative.

Subd. 2. **Definition.** The terms "county," "town," "township," "city," "ward," "precinct," "census tract," "block," and "unorganized territory" when used in a description of a legislative district in sections 2.043 to 2.703, mean a geographical area established as such by law and as it existed for purposes of the 1990 federal census."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 27, as follows:

Those who voted in the affirmative were:

Bonoff	Fischbach	Jungbauer	Ortman	Saltzman
Clark	Gerlach	Koch	Pariseau	Senjem
Cohen	Gimse	Koering	Pogemiller	Vanderveer
Dille	Hann	Limmer	Rest	Wiger
Doll	Ingebrigtsen	Michel	Robling	

Those who voted in the negative were:

Anderson	Dibble	Marty	Saxhaug	Stumpf
Bakk	Erickson Ropes	Metzen	Scheid	Torres Ray
Betzold	Fobbe	Murphy	Sieben	Vickerman
Carlson	Frederickson	Olseen	Skoe	
Chaudhary	Kelash	Pappas	Skogen	
Dahle	Kubly	Rummel	Sparks	

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

Senator Senjem moved to amend S.F. No. 2 as follows:

Page 1, delete section 1

Page 16, line 29, after "sections" insert "3.885;"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 16 and nays 34, as follows:

Those who voted in the affirmative were:

Dille	Hann	Limmer	Robling
Fischbach	Jungbauer	Michel	Senjem
Gerlach	Koch	Ortman	Sparks
Gimse	Koering	Pariseau	Vandev eer

Those who voted in the negative were:

Anderson	Cohen	Kelash	Pogemiller	Skoe
Bakk	Dahle	Kubly	Rest	Skogen
Betzold	Dibble	Marty	Rummel	Stumpf
Bonoff	Doll	Metzen	Saltzman	Torres Ray
Carlson	Erickson Ropes	Murphy	Saxhaug	Vickerman
Chaudhary	Fobbe	Olseen	Scheid	Wiger
Clark	Frederickson	Pappas	Sieben	

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

Senator Hann moved to amend S.F. No. 2 as follows:

Page 12, line 8, after "service" insert ", including employees of the attorney general in the classified service,"

The motion prevailed. So the amendment was adopted.

Senator Hann moved to amend S.F. No. 2 as follows:

Page 17, after line 8, insert:

"Section 1. Minnesota Statutes 2008, section 8.02, subdivision 1, is amended to read:

Subdivision 1. **Appointment of deputies and assistants.** The attorney general may appoint, and at pleasure remove, ~~six~~ one deputy ~~attorneys~~ attorney general and ~~35~~ four assistant attorneys general. The appointees shall render such aid as is required of them in the discharge of the official duties of the attorney general. To the extent authorized in writing by the attorney general, they shall have authority to appear before grand juries or in any court of this state, as the attorney general personally might do.

The attorney general shall have power to employ such assistance, whether lay, legal, or expert, as the attorney general deems necessary for the protection of the interests of the state through the proper conduct of its legal business.

Except as provided in section 43A.08, subdivision 1, clause (11), the employees of the attorney general are in the classified civil service."

Page 18, line 14, strike "attorneys, legal assistants" and insert "one deputy attorney general, four assistant attorneys general"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 18 and nays 32, as follows:

Those who voted in the affirmative were:

Dille	Gimse	Koch	Olson, G.	Senjem
Fischbach	Hann	Koering	Ortman	Vandever
Frederickson	Ingebrigtsen	Limmer	Pariseau	
Gerlach	Jungbauer	Michel	Robling	

Those who voted in the negative were:

Bakk	Dahle	Metzen	Saltzman	Stumpf
Betzold	Dibble	Murphy	Saxhaug	Torres Ray
Bonoff	Doll	Olseen	Scheid	Vickerman
Carlson	Erickson Ropes	Pappas	Sieben	Wiger
Chaudhary	Fobbe	Pogemiller	Skoe	
Clark	Kelash	Rest	Skogen	
Cohen	Marty	Rummel	Sparks	

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

S.F. No. 2 was then recommended to pass.

On motion of Senator Pogemiller, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Higgins moved that the following members be excused for a Conference Committee on S.F. No. 802 at 2:00 p.m.:

Senators Higgins, Foley, Moua, Latz and Olson, M. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Berglin moved that the following members be excused for a Conference Committee on H.F. No. 1362 at 2:00 p.m.:

Senators Berglin, Lourey, Sheran, Rosen and Prettnr Solon. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 12, Senator Langseth moved that the following members be excused for a Conference Committee on H.F. No. 855 at 3:00 p.m.:

Senators Langseth, Day, Lynch, Tomassoni and Sieben. The motion prevailed.

RECESS

Senator Pogemiller moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Senator Pogemiller from the Subcommittee on Conference Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

S.F. No. 708: Senators Fobbe, Ingebrigtsen and Scheid.

S.F. No. 550: Senators Prettner Solon, Doll, Dibble, Senjem and Sparks.

Senator Pogemiller moved that the foregoing appointments be approved. The motion prevailed.

Without objection, the Senate reverted to the Order of Business of Reports of Committees.

REPORTS OF COMMITTEES

Senator Betzold moved that the Committee Report at the Desk be now adopted. The motion prevailed.

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

S.F. No. 2078: A bill for an act relating to economic development; providing for stimulation of the construction industry; streamlining certain construction projects; creating a construction loan guarantee program; authorizing green energy revenue bonds; permitting local assessments for energy improvements; providing for home purchase loans; providing a historic structure rehabilitation tax credit; providing a low-income housing tax credit; appropriating money; amending Minnesota Statutes 2008, sections 16C.16, by adding a subdivision; 429.011, by adding subdivisions; 429.021, subdivision 1; 429.031, subdivision 3; 469.176, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 116J; 216C; 290; 462A.

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

Pages 1 to 3, delete sections 1 to 3 and insert:

"Section 1. Minnesota Statutes 2008, section 16C.16, is amended by adding a subdivision to read:

Subd. 13. **Actions related to stimulus projects.** This section applies to the construction of a stimulus project, as authorized in section 469.176, subdivision 8.

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

Sec. 2. **[116J.408] TEMPORARY LOAN GUARANTEE ACCOUNT.**

Subdivision 1. **Construction loan guarantee program created.** The commissioner of employment and economic development shall administer a program under this section to guarantee loans by a private lender for construction projects in this state that will commence on or after July 1, 2009. A loan guarantee may not be made after December 31, 2012.

Subd. 2. **Eligible projects.** A project is eligible for a guarantee under this section if it has a private loan commitment of \$5,000,000 or more to pay for the costs of a related residential, commercial, industrial, or institutional construction project.

Subd. 3. **Guarantee amount limits.** A guarantee may not be made for more than 25 percent of the principal amount of the loan made by a private lender.

Subd. 4. **Loan guarantee application process.** The commissioner shall develop an application form by which a person may apply for a loan guarantee. The application shall request information required by the commissioner to determine whether a project loan is eligible for a guarantee and to determine whether a guarantee should be issued. The application must be submitted jointly by a lender and a project developer. The commissioner shall issue loan guarantees quarterly. The first round of guarantees must be issued for applications submitted by June 30, 2009.

Subd. 5. **Guarantee criteria.** (a) In issuing loan guarantees for projects, the commissioner shall attempt to distribute the projects throughout the state. The commissioner shall require information from an applicant concerning the number of jobs involved in a project and the wages expected to be paid for jobs related to the project and may consider the number of jobs created in relation to the amount of a loan guarantee.

(b) The ability of the borrower to repay the loan from cash flow of the project is the primary consideration in deciding whether to issue a loan guarantee. A comprehensive source of standard financial ratios and financial statistics must be compared to companies in the same industry. Other criteria, including audited financial statements, management capability, collateral, and owner's equity contribution, are important considerations, consistent with normal bank underwriting standards.

(c) The lender must certify that the state guarantee is necessary for the construction project to proceed and that without the guarantee the loan as described in the application will not be made.

Subd. 6. **Construction loan guarantee account.** A construction loan guarantee account is established in the state treasury. Money in the account consists of money appropriated to the account, interest and other earnings on money in the account, fees credited to the account under subdivision 7, sales and local taxes credited to the account under subdivision 8, and money received from any other source.

Subd. 7. **Guarantee fee.** The commissioner shall charge a onetime loan guarantee issuance fee of no more than three percent of the principal amount of the loan being guaranteed. Fees must be credited to the construction loan guarantee account.

Subd. 8. **Sales and use taxes.** The amount collected from taxes imposed by chapter 297A, upon retail sales, and upon the privilege of use, storage, or consumption in this state, of personal property and services purchased for the construction of any project for which a loan guarantee has been made, less any refunds required by law and a proportionate share of the cost of administration and enforcement of the assessment and collection of the taxes, are appropriated from the general fund to the commissioner of finance for transfer to the construction loan guarantee account at least once each year from and after the date the guarantee was issued. The commissioner of finance shall determine from information provided by the person to whom the loan guarantee was issued the amount of taxes so imposed and from the information provided by the commissioner of revenue the amount of refunds or costs to be deducted from them.

Subd. 9. **Limitation on guaranteed amount.** The amount of all guaranties under this section must not exceed money in the construction loan guarantee account available to satisfy all outstanding guaranties. Unless sufficient applications are not received, no less than 40 percent of all amounts

guaranteed must be for projects located outside the seven-county metropolitan area. A guarantee may not exceed \$50,000,000 on any one project.

Subd. 10. **Appropriation.** Money in the construction loan guarantee account is appropriated to the commissioner of employment and economic development to make payments on loan guarantees and to administer the loan guarantee program under this section.

Subd. 11. **Repayment to general fund.** The commissioner must annually, commencing on July 1, 2013, transfer to the general fund any money in the construction loan guarantee account that the commissioner determines is not needed to satisfy the obligations of the account.

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

Page 15, after line 28, insert:

"Sec. 10. Minnesota Statutes 2008, section 469.153, subdivision 2, is amended to read:

Subd. 2. **Project.** (a) "Project" means (1) any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in generating, transmitting, or distributing electricity, assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacture, or in research and development activity in this field; (2) any properties, real or personal, used or useful in the abatement or control of noise, air, or water pollution, or in the disposal of solid wastes, in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in any business or industry; (3) any properties, real or personal, used or useful in connection with the business of telephonic communications, conducted or to be conducted by a telephone company, including toll lines, poles, cables, switching, and other electronic equipment and administrative, data processing, garage, and research and development facilities; (4) any properties, real or personal, used or useful in connection with a district heating system, consisting of the use of one or more energy conversion facilities to produce hot water or steam for distribution to homes and businesses, including cogeneration facilities, distribution lines, service facilities, and retrofit facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water.

(b) "Project" also includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged in any business.

(c) "Project" also includes any properties, real or personal, used or useful for the promotion of tourism in the state. Properties may include hotels, motels, lodges, resorts, recreational facilities of the type that may be acquired under section 471.191, and related facilities.

(d) "Project" also includes any properties, real or personal, used or useful in connection with a revenue producing enterprise, whether or not operated for profit, engaged in providing health care services, including hospitals, nursing homes, and related medical facilities.

(e) "Project" does not include any property to be sold or to be affixed to or consumed in the production of property for sale, and does not include any housing facility to be rented or used as a permanent residence.

(f) "Project" also means the activities of any revenue producing enterprise involving the construction, fabrication, sale, or leasing of equipment or products to be used in gathering, processing, generating, transmitting, or distributing solar, wind, geothermal, biomass, agricultural or forestry energy crops, or other alternative energy sources for use by any person or any residential, commercial, industrial, or governmental entity in heating, cooling, or otherwise providing energy for a facility owned or operated by that person or entity.

(g) "Project" also includes any properties, real or personal, used or useful in connection with a county jail, county regional jail, community corrections facilities authorized by chapter 401, or other law enforcement facilities, the plans for which are approved by the commissioner of corrections; provided that the provisions of section 469.155, subdivisions 7 and 13, do not apply to those projects.

(h) "Project" also includes any real properties used or useful in furtherance of the purpose and policy of section 469.141.

(i) "Project" also includes related facilities as defined by section 471A.02, subdivision 11.

(j) "Project" also includes an undertaking to purchase the obligations of local governments located in whole or in part within the boundaries of the municipality that are issued or to be issued for public purposes.

(k) "Project" also includes any properties designated as a qualified green building and sustainable design project under section 469.1655.

Sec. 11. [469.1655] QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.

Subdivision 1. **Project designation and eligibility.** (a) A municipality or redevelopment agency issuing revenue bonds under sections 469.152 to 469.165 may designate the project for which the bonds are issued as a qualified green building and sustainable design project as provided in this section.

(b) The issuer must ensure that each designated project substantially:

(1) reduces consumption of electricity compared to conventional construction;

(2) reduces daily sulfur dioxide emissions compared to energy generated from coal;

(3) increases the use of solar photovoltaic cells in this state; or

(4) increases the use of fuel cells to generate energy.

(c) Before designating a project under this section, the issuer must document in writing that the project will satisfy the eligibility criteria in this section.

(d) At least 75 percent of the square footage of commercial buildings that are part of the project must be registered with a recognized green building rating system, including Minnesota's B3 standards or the United States Green Building Council's LEED certification, or in the case of residential buildings, Minnesota GreenStar rating, and must be reasonably expected to receive the certification.

Subd. 2. **Applications.** An application for designation under this section must include a project

proposal that describes the energy-efficiency, renewable energy, and sustainable design features of the project and demonstrates that the project satisfies the eligibility criteria in this section. The application must include a description of:

- (1) the amount of electric consumption reduced as compared to conventional construction;
- (2) the amount of sulfur dioxide daily emissions reduced compared to energy generated from coal;
- (3) the amount of the gross installed capacity of the project's solar photovoltaic capacity measured in megawatts; and
- (4) the amount in megawatts of the project's energy generated by fuel cells.

Subd. 3. **Use of bond financing.** The project proposal must include a description of the bond financing that will be allocated for financing of one or more of the following:

- (1) the purchase, construction, integration, or other use of energy-efficiency, renewable energy, and sustainable design features of the project; or
- (2) compliance with certification standards cited under subdivision 1, paragraph (d).

EFFECTIVE DATE. This section is effective for bonds issued after June 30, 2009."

Page 17, delete section 12 and insert:

"Sec. 13. Minnesota Statutes 2008, section 469.176, is amended by adding a subdivision to read:

Subd. 8. **Economic stimulus projects.** (a) In connection with a stimulus project, the authority may extend by ten years the duration limits in subdivision 1b, paragraph (a), for any district for which the request for certification was made after July 31, 1979, and before January 1, 2013, to pay expenditures relating to a stimulus project.

(b) A "stimulus project" means any capital project, the construction of which commences after June 30, 2009, and before January 1, 2013, determined to create or retain jobs in the state, including construction jobs, by the governing body of the municipality in which the project is located."

Page 17, after line 18, insert:

"Sec. 15. **APPROPRIATION.**

Subdivision 1. **Department of Employment and Economic Development.** \$100,000,000 is appropriated to the commissioner of employment and economic development from the general fund for fiscal year 2010 for transfer to the construction loan guarantee account for the purposes of section 2. This is a onetime appropriation and does not cancel.

Subd. 2. **Housing Finance Agency.** \$3,000,000 is appropriated from the general fund in fiscal year 2010 to the commissioner of the Minnesota Housing Finance Agency for transfer to the housing development fund for the purposes of section 9. This is a onetime appropriation and does not cancel.

Subd. 3. **Tax bill appropriation.** The appropriation in 2009 H.F. No. 2323, article 15, section 15, as amended by the Senate April 28, 2009, if enacted, is repealed.

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

Renumber the sections in sequence

Amend the title accordingly

And when so amended the bill do pass and be re-referred to the Committee on Taxes. Amendments adopted. Report adopted.

MEMBERS EXCUSED

Senators Johnson and Rosen were excused from the Session of today. Senator Anderson was excused from the Session of today from 12:00 noon to 1:45 p.m. Senator Bakk was excused from the Session of today from 12:00 noon to 1:50 p.m. Senator Murphy was excused from the Session of today from 1:30 to 1:50 p.m. Senator Stumpf was excused from the Session of today from 1:30 to 2:00 p.m. Senator Vickerman was excused from the Session of today from 1:35 to 2:00 p.m. Senator Gimse was excused from the Session of today from 1:45 to 2:00 p.m. Senator Pappas was excused from the Session of today from 2:00 to 2:25 p.m.

ADJOURNMENT

Senator Pogemiller moved that the Senate do now adjourn until 12:00 noon, Wednesday, May 6, 2009. The motion prevailed.

Peter S. Wattson, Secretary of the Senate (Legislative)

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