Senate Counsel, Research, and Fiscal Analysis

Alexis C. Stangl, Director

Minnesota Senate Building
95 University Ave. W. Suite 3300
St. Paul, MN 55155-1800
(651) 296-4791
www.senate.mn/scrfa

Senate

State of Minnesota

Chapter 57 – Commerce Omnibus Bill

Author: Senator Matt D. Klein

Prepared by: Nolan Hudalla, Senate Counsel (651/296-6401)

Date: July 3, 2023

ARTICLE 1
COMMERCE FINANCE

Sections 1. Appropriations. Provides technical language for the appropriations in this Article.

Section 2. Department of Commerce. Appropriates money to the Department of Commerce relating to financial institutions, administrative services, enforcement, telecommunications, insurance, and the Weights and Measures Division.

Section 3. Department of Education. Appropriates money to the Minnesota Council on Economic Education.

Section 4. Attorney General. Appropriates money to the Attorney General relating to excessive price increases to generic drugs and reporting requirements.

Section 5. Department of Health. Appropriates money to the Department of Health.

Section 6. Premium Security Account Transfer; Out. Transfers money from the premium security plan account to the general fund.

Section 7. Transfer from Consumer Education Account. Transfers money from the consumer education account to the general fund.

Section 8. Amends Laws 2022, chapter 93, article 1, section 2, subdivision 5 relating to the auto theft prevention library.

ARTICLE 2
INSURANCE POLICY

Section 1. Classification of insurance filings data.
Provides that forms, rates, and related information filed with the commissioner in relation to section 65A.298 are nonpublic until the filing becomes effective.

Section 2. [60A.0812] Property and casualty policy exclusions.

Subd. 1. Short title. This section may be cited as the "Family Protection Act."

Subd. 2. Definitions. Provides definitions of "boat," "insured," "permitted exclusion," and "prohibited exclusion."

Subd. 3. Prohibited exclusions. Prohibits certain types of insurance from containing a prohibited exclusion.

Subd. 4. Permitted exclusions. Allows certain types of insurance to contain a permitted exclusion.

Subd. 5. Underlying coverage requirement. Allows an excess or umbrella policy to contain a requirement that coverage for household members under the excess or umbrella policy be available only to the extent coverage is first available from an underlying policy.

Subd. 6. Election of coverage for boat insurance policies. (a) Requires an insurer issuing bodily injury liability coverage for a boat policy to provide certain notifications.

(b) Requires that named insureds decline coverage after being informed that an updated quote will be provided.

(c) Requires insurers to provide certain disclosures related to boat insurance.

Subd. 7. Excessive rate hearings for boat insurance policies. Allows the commissioner, when an insurer has filed a change in rate for boat insurance that shows an increase of 15 percent or more over a 12-month period, to have an excessive rate hearing. This subdivision expires January 1, 2029.

Subd. 8. No endorsement required. Clarifies that an endorsement, rider, or contract amendment is not required for this section to be effective.

Section 3. Fees other than examination fees. Increases various fees that must be paid to the commissioner for deposit in the general fund, including annual statement and certificate of authority fees.

Section 4. Suicide provisions. Provides that a life insurance policy or certificate issued in Minnesota may exclude or restrict liability for a death benefit if the insured dies within one year from the policy's or certificate's issuance. Existing law provides that such an exclusion is permissible for two years from issuance.

Section 5. Definitions. Requires a life insurance policy to state that if an insured completes suicide within one year, depending on the policy, the beneficiaries will only receive a refund of the premiums that were paid.

Section 6. Provider discrimination prohibited. Requires group policies and group subscriber contracts to provide direct reimbursement for services at a hospital or psychiatric residential treatment facility if performed by a mental health professional.

Sections 7-15, 66. Medicare supplemental policies. These sections create an open enrollment period for Medicare supplemental policies that is the same as the time period for Medicare Advantage plans (January 1 to March 31 annually). These sections prohibit the use of medical underwriting or preexisting condition limitations in Medicare supplemental policies, and repeal a related statute.

Sections 16 – 19, 42, 43, 52. Creates a definition of "preventive items and services" in chapter 62D. Permits a health maintenance contract to impose a co-payment and coinsurance for items and services that are not preventive items and services. Prohibits a health maintenance contract from imposing a deductible for preventive items and services. Prohibits a health maintenance contract from imposing an annual out-of-pocket maximum for services rendered under section 62D.02, subdivision 17, or for preventive items and services. Prohibits co-pays and deductibles from being imposed on preventive items and services for purposes of section 62D.095. Codifies the current Affordable Care Act definition of "preventive items and services" as the state law definition for the term. Includes preventive items and services in the definition of "essential health benefits."

Section 20. Definitions. Provides that a mandated health benefit proposal does not include proposals that make state law consistent with federal law.

Section 21. Evaluation process and content. Requires the commissioner to provide the public with 45 days' notice when requesting information under this section. Requires the commissioner to notify the chief authors of a bill when a request for information is issued. Clarifies that information submitted to the commissioner under this section that is trade secret is nonpublic data.

Section 22. [62J.841] Definitions. Defines key terms for purposes of sections 62J.841 to 62J.845, including "Consumer Price Index, "manufacturer," and "wholesale acquisition cost."

Section 23. [62J.842] Excessive Price Increases Prohibited. Prohibits a manufacturer from imposing, or causing to be imposed, an excessive price increase, whether directly or through a wholesale distributor, pharmacy, or similar intermediary, on the sale of any generic or off-patent drug sold, dispensed, or delivered to consumers in the state. Provides that a price increase is excessive when:

1) the price increase, adjusted for inflation by utilizing the CPI, exceeds: (i) 15 percent of the WAC over the prior calendar year; or (ii) 40 percent of the WAC over the three immediately preceding calendar years; and
2) the price increase, adjusted for inflation by utilizing the CPI, exceeds $30 for a 30-day supply of the drug, or a course of treatment lasting less than 30 days.

Section 24. [62J.843] Registered Agent and Office Within the State. Requires manufacturers that sell, distribute, deliver, or offer for sale any generic or off-patent drugs in the state to maintain a registered agent and office within the state.

Section 25. [62J.844] Enforcement.

Subd. 1. Notification. (a) Requires the commissioner of health to notify the manufacturer of a generic or off-patent drug, the attorney general, and the Board of Pharmacy of any price increase that the commissioner believes may violate the prohibition on excessive pricing.

(b) Allows the commissioner of management and budget and any other state agency, except the Department of Human Services, that provides or purchases a pharmacy benefit, and any entity under contract with a state agency to provide a pharmacy benefit other than an entity under contract with the Department of Human Services, to notify the manufacturer of the drug, the attorney general, and the Board of Pharmacy of any price increase of a generic or off-patent drug that violates the prohibition on excessive pricing.

Subd. 2. Submission of drug cost statement and other information by manufacturer; investigation by attorney general. (a) Requires the manufacturer, within 45 days of receiving notice under subdivision 1, to submit a drug cost statement to the attorney general. Requires the statement to:

1) itemize the cost components related to drug production;
2) identify the circumstances and timing of any increase in materials or manufacturing costs that caused any price increase, in the preceding calendar year or preceding three calendar years as applicable; and
3) provide any other information the manufacturer believes to be relevant.

(b) Allows the attorney general to investigate whether a violation has occurred, in accordance with section 8.31, subdivision 2 (general investigative powers of the attorney general).

Subd. 3. Petition to court. (a) Allows a court, on petition of the attorney general, to issue an order:

1) compelling the manufacturer to provide the drug cost statement, and answer interrogatories, produce records or documents, or be examined under oath, as required by the attorney general;
2) restraining or enjoining a violation of sections 62J.841 to 62J.845, including restoring drug prices to levels that comply with section 62J.842;
3) requiring the manufacturer to account for all revenues resulting from a violation of section 62J.842;
4) repaying all Minnesota consumers, including third-party payers, any money acquired as a result of a price increase that violates section 62J.842;
5) requiring that all revenues generated from a violation of section 62J.842 be remitted to the state and deposited into a special fund, to be used to reduce consumer drug costs, if the manufacturer is unable to determine the individual transactions necessary to make repayments under clause (4);
6) imposing a civil penalty of up to $10,000 per day for each violation of section 62J.842;
7) providing for the recovery of costs and disbursements incurred by the attorney general in bringing an action; and
8) providing any other appropriate relief, including any other equitable relief as determined by the court.

(b) Provides that for purposes of paragraph (a), clause (6) (civil penalties), requires every individual transaction in violation of section 62J.842 to be considered a separate violation.

Subd. 4. Private right of action. States that any action brought by a person injured by a violation of this section is for the benefit of the public.

Section 26. [62J.845] Prohibition on Withdrawal of Generic or Off-Patent Drugs for Sale.

Subd. 1. Prohibition. Prohibits a manufacturer of a generic or off-patent drug from withdrawing that drug from sale or distribution in the state for purposes of avoiding the prohibition on excessive price increases.

Subd. 2. Notice to board and attorney general. Requires any manufacturer that intends to withdraw a generic or off-patent drug from sale or distribution in the state to provide at least 90 days' written notice of withdrawal to the Board of Pharmacy and the attorney general.

Subd. 3. Financial penalty. Requires the attorney general to assess a $500,000 penalty on any manufacturer that it determines has failed to comply with the requirements of this section.

Section 27. [62J.846] Severability. Provides that the provisions of sections 62J.841 to 62J.845 are severable.

Section 28. [62J.85] Citation. States that sections 62J.85 to 62J.95 may be cited as the "Prescription Drug Affordability Act."

Section 29. [62J.86] Definitions. Defines key terms for the purposes of section 62J.85 to 62J.95, including "advisory council," "biologic," "biosimilar," "board," "brand name drug," "generic drug," "group purchaser," "manufacturer," "prescription drug product," and "wholesale acquisition cost or WAC."

Section 30. [62J.87] Prescription Drug Affordability Board. This section requires the commissioner of commerce to establish the Prescription Drug Affordability Board to protect consumers, state and local governments, health plan companies, providers, pharmacies, and other health care system stakeholders from unaffordable costs of certain prescription drugs. The board will consist of nine members, with seven voting members will be appointed by the governor.

Section 31. [62J.88] Prescription Drug Affordability Advisory Council. This section requires the governor to appoint an eighteen-member advisory council to advise the board on drug cost issues and represent stakeholder views. Specifies criteria related to knowledge, experience, professional affiliation, and expertise of the members. Requires initial appointments to be made by January 1, 2024, and specifies that meetings of the council are subject to the Open Meeting Law. The advisory council must meet publicly at least every three months.

Section 32. [62J.89] Conflicts of Interest.

Subd. 1. (Definition) Defines "conflict of interest" for the purposes of this section.

Subd. 2. (General) Requires board and advisory council members, board staff, and third-party contractors to disclose any conflicts of interest prior to entering into any appointment, employment, or contract. Specifies recusal and disclosure requirements.

Subd. 3. (Prohibitions) Prohibits board and advisory council members, board staff, or third-party contractors from accepting gifts, bequeaths, or donations of services or property that raise the specter of a conflict of interest or have the appearance of injecting bias into the board's activities.

Section 33. [62J.90] Prescription Drug Price Information; Decision to Conduct Cost Review.

Subd. 1. Drug price information from the commissioner of health and other sources. (a) Requires the commissioner of health to provide the board with the information provided to the commissioner by drug manufacturers under § 62J.84, subd. 3, 4, and 5 (current law drug transparency requirements), within 30 days of the date the information is received.
(b) Allows the board to subscribe to one or more prescription drug pricing files.

Subd. 2. Identification of certain prescription drug products. (a) Requires the board, in consultation with the advisory council, to identify selected prescription drug products, based on the following criteria:

1) brand name drugs or biologics for which the WAC increases by more than 15 percent or by more than $3,000 during any 12-month period or course of treatment if less than 12 months, after adjusting for changes in the CPI;
2) brand name drugs or biologics with a WAC of $60,000 or more per calendar year or course of treatment;
3) biosimilar drugs with a WAC that is not at least 20 percent lower than the referenced brand name biologic; and
4) generic drugs for which the WAC: (i) is $100 or more, adjusted by the CPI, for a specified quantity; and (ii) increased by 200 percent or more in the preceding 12-month period, adjusted for changes in the CPI.

States that the board is not required to identify all prescription drug products that meet the criteria in this paragraph.

(b) Allows the board, in consultation with the advisory council and the commissioner of health, to identify prescription drug products not described in paragraph (a), that may impose costs that create significant affordability challenges for the state health care system or patients, including but not limited to drugs to address public health emergencies.

(c) Requires the board to make available to the public the names and price information of the prescription drug products identified under this subdivision, with the exception of information determined by the board to be proprietary and information provided by the commissioner of health classified as not public data or as trade secret information.

Subd. 3. Determination to proceed with review. (a) Allows the board to initiate a review of the cost of a prescription drug product identified by the board under this section.
(b) Requires the board to consider public requests for a cost review of any prescription drug product identified under this section.
(c) If there is no consensus on whether to review a drug, allows any member of the board to request a vote on whether to review.

Section 34. [62J.91] Prescription Drug Product Reviews.

Subd. 1. (General) Requires the board, through its conducting of a drug review, to determine whether appropriate utilization of the drug, based on the FDA label or standard medical practice, has led or will lead to affordability challenges for the state health care system or for patients.

Subd. 2. (Review considerations) Specifies the factors the board may consider in reviewing the cost of a prescription drug product. The specified factors are: selling price of the drug in

the state; manufacturer monetary price concessions, discounts, or rebates, and drug-specific patient assistance; price of therapeutic alternatives; cost to group purchasers; measures of patient access; the extent to which the attorney general or a court has determined that a price increase for a generic or off-patent drug was excessive under sections 62J.842 and 62J.844; any information a manufacturer chooses to provide; and any other factors as determined by the board.

Subd. 3. (Public data; proprietary information) This section clarifies that submissions to the board related to a drug cost review must be made available to the public, subject to certain exceptions. Exceptions from this general rule include information determined by the board to be proprietary and information provided by the commissioner of health classified as not public data under state law, trade secret information under state law, or trade secret information under federal law. The board is authorized to use exempt rulemaking to establish standards for information to be considered proprietary.

Section 35. [62J.92] Determinations; Compliance; Remedies.

Subd. 1. (Upper payment limit) (a) Requires the board to establish an upper payment limit if the board finds that prescription drug product spending for a reviewed drug creates an affordability challenge for the state health care system or for patients. The limit applies to all purchases of, and payer reimbursements for, a prescription drug that is dispensed or administered to individuals in the state.

Subd. 2. (Implementation and administration of the upper payment limit) This subdivision sets a 120-day waiting period, commencing on the public release of an upper payment limit by the board, before the limit can take effect. It further requires the board to set the upper payment limit for a drug subject to the Medicare maximum fair price at the Medicare maximum fair price, and requires health plan companies and pharmacy benefit managers to report annually on the cost effects of upper payment limits.

Subd. 3. (Noncompliance) This subdivision requires the board to notify the attorney general of potential noncompliance by an entity required to comply with an upper payment limit. Authorizes the attorney general to pursue remedies under chapter 8 or appropriate criminal charges, as applicable. Provides that an entity may obtain price concessions from a manufacturer that result in a lower net cost to the stakeholder than the limit established by the board without violating the upper payment limit prohibitions. This subdivision further permits the attorney general to provide guidance to stakeholders on activities that could be considered noncompliant.

Subd. 4. (Appeals) Provides that persons affected by a decision of the board may request an appeal of the board's decision within 30 days of the decision's date. The board must hear the appeal and then must decide on the appeal with 60 days of the hearing.

Section 36. [62J.93] Reports. Requires the board, beginning March 1, 2024, and each March 1 thereafter, to report to the governor and legislature on general price trends for prescription drug products and the number of drugs subject to the board's cost review and analysis, including the result of any analysis and the number and disposition of appeals and judicial reviews.

Section 37. [62J.94] ERISA Plans and Medicare Drug Plans. This section exempts ERISA plans or Medicare Part D from the new law's requirements to comply with board decisions. The section

expressly provides that ERISA plans or Medicare Part D plans are free to choose to exceed the upper payment limit established by the board under section 62J.92. Mandates that providers who dispense and administer drugs in the state must bill all payers no more than the upper payment limit without regard to whether an ERISA plan or Medicare Part D plan chooses to reimburse the provider in an amount greater than the upper payment limit. Finally, this section defines an ERISA plan or group health plan as "an employee welfare benefit plan established by or maintained by an employer or an employee organization, or both, that provides employer sponsored health coverage to employees and the employee's dependents and is subject to the Employee Retirement Income Security Act of 1974."

Section 38. [62J.95] Severability. Provides that sections 62J.85 to 62J.94 are severable.

Section 39. Network adequacy. (a) Requires the commissioner of health, when determining the adequacy of a health plan's provider network, to consider the availability of psychiatric residential treatment facilities as part of the mental health and substance use disorder treatment providers available to provide services in the network or by contract.

(b) Requires the commissioner of health to determine network sufficiency by referencing reasonable criteria, which may include certain items.

Section 40. Credentialing of providers. Between July 1, 2023, and June 30, 2025, requires health plan companies to credential and enter into contracts for mental health services if a provider meets certain requirements.

Section 41. Designation. Includes psychiatric residential treatment facilities in the list of facilities that the commissioner of health may designate as an essential community provider. A health plan company is required to offer contracts to all designated essential community providers in the service area served by the health plan. This section is effective January 1, 2025.

Section 44. [62Q.465] Mental Health Parity and Substance Abuse Accountability Office. Establishes the Mental Health Parity and Substance Abuse Accountability Office in the Department of Commerce. The new office is tasked with creating and executing strategies for various state and federal requirements related to alcoholism, mental health, and chemical dependency services.

Section 45. Alcoholism, Mental Health, and Chemical Dependency Services. Provides that cost-sharing requirements and benefit or service limitations for psychiatric residential treatment facility services may not place a greater financial burden on the insured or enrollee, or be more restrictive than those requirements and limitations for inpatient hospital medical services. Further provides that all health plan companies offering health plans providing for alcoholism, mental health, or chemical dependency benefits must provide reimbursement for the benefits delivered through the psychiatric Collaborative Care Model.

Section 46. [62Q.481] Cost-Sharing for Prescription Drugs and Related Medical Supplies to Treat Chronic Disease. Establishes limits on enrollee cost-sharing under private sector insurance. Creates definitions for "chronic disease," "cost-sharing," and "related medical supplies."

Sections 47 – 51. Dental providers and dental organizations. Deletes provisions in section 62Q.735 which permitted dental plan organizations to provide less reimbursement information to contracted providers than that information which is required to be provided to non-dental providers. Deletes a provision in section 62Q.735 which permitted dental plan organizations to provide less

reimbursement information to contracted providers than that information which is required to be provided to non-dental providers. Defines "third party." Requires a dental provider contract to include a method of payment for dental care services in which no fees associated with the method of payment are incurred by the dentist or dental clinic. Permits a dental organization to grant a third party access to a dental provider contract or a provider's dental care services or contractual discounts provided pursuant to a dental provider contract under certain enumerated conditions. Permits a dentist to opt-out from this arrangement provided that the dental organization does not exist solely for the purpose of recruiting dentists for dental provider contracts that establish a network to be leased to third parties.

Section 53. Standard plans. Requires a health plan company that offers individual health plans to offer one at each metal level and in each geographic rating area the health plan services. Requires the health plan to be labeled and marketed as a standard health plan. This section does not apply to certain health plans and requires the commissioners of health and commerce to annually establish standard plan parameters. This section is effective January 1, 2025.

Section 54. [62W.15] Clinician-administered drugs.

Subd. 1. Definitions. Defines "clinician-administered drug."

Subd. 2. Safety and care requirements for clinician-administered drugs. (a) Requires a specialty pharmacy that ships clinician-administered drugs to a health care provider or pharmacy to meet certain requirements.

(b) Places certain delivery requirements on specialty pharmacies that are selected by a pharmacy benefit manager or health carrier in relation to clinician-administered drugs.

(c) Requires a pharmacy benefit manager or health carrier who require clinician-administered drugs to be dispensed by a specialty pharmacy to create an appeal and exceptions process.

(d) Prohibits a pharmacy benefit manager or health carrier from requiring a specialty pharmacy to dispense a clinician-administered drug to an enrollee with the intention that the enrollee will transport the drug to a health care provider for administration.

(e) Prohibits a pharmacy benefit manager, health carrier, health care provider, or pharmacist from requiring or denying the use of a home infusion or infusion external site under certain circumstances.

Section 55. [65A.298] Homeowner's insurance; Fortified program standards. Requires an insurer to provide a premium discount or insurance rate reduction to an owner that builds or locates a new insurable property in Minnesota. Requires an insurer to provide a premium discount or insurance rate reduction to an owner who retrofits an existing property to meet the requirements to be an insurable property in Minnesota. Requires insurers to submit to the commissioner actuarially justified rates and a rating plan for a person who builds or locates a new insurable property in Minnesota.

Section 56. [65A.299] Strengthen Minnesota Homes Program. Establishes the Strengthen Minnesota Homes program within the Department of Commerce to provide grants to retrofit insurable property to resist loss due to common perils. Creates a strengthen Minnesota homes account as a separate account in the special revenue fund of the state treasury. Appropriates money

in the account to the commissioner for (1) grants issued under the program and (2) reasonable costs incurred to administer the program. Establishes applicant, contractor, and evaluator eligibility criteria.

Section 57. [65A.303] Homeowner's liability insurance; dogs.

Subd. 1. Discrimination prohibited. Prohibits an insurer writing homeowner's insurance from refusing to issue or renew or cancelling an insurance policy based solely on the fact that the homeowner has a specific breed of dog.

Subd. 2. Exception. Clarifies that subdivision 1 does not prohibit an insurer from refusing to issue or renew, cancelling, or imposing a premium increase if a dog is a dangerous dog under section 347.50 or if sound underwriting principles that are reasonably related to actual or anticipated loss experience dictate so. Clarifies that these actions can be taken if a specific dog has a history of causing bodily injury or the homeowner has a history of owning animals that have caused bodily injury.

Section 58. Time limitations. Provides that causes of action under a plan of reparation security are subject to a six-year statute of limitations, except that a cause of action relating to underinsured motorist coverage is subject to a four-year statute of limitations.

Section 59. Forms of disciplinary action. Amends Minn. Stat. § 151.071, subd. 1, a subdivision within the state's Pharmacy Practice Act regarding "Forms of disciplinary action." This modification proposes to add a provision that each separate violation of the new section 62J.842 regarding the prohibition against excessive price increases by manufacturers subjects the licensee to a civil penalty of up to $25,000.

Section 60. Grounds for disciplinary action. Amends Minn. Stat. § 151.071, subd. 2, a subdivision within the state's Pharmacy Practice Act regarding "Grounds for disciplinary action." It expressly provides that a violation by a manufacturer of the new section 62J.842 or 62J.845 is prohibited and grounds for disciplinary action.

Section 61. Cost-sharing. Establishes limits on enrollee cost-sharing for medical assistance.

Section 62. Managed care contracts. Requires the commissioner of health to require that managed care plans comply with a six-month timely filing standard and provide an exemption to this standard for resubmission of claims where there has been a denial, request for more information, or system issue.

Section 63. Cost-sharing. Establishes limits on enrollee cost-sharing for MinnesotaCare.

Section 64. Automotive self-insurance; rules amendment; expedited rule making. Requires the commissioner of commerce to amend Minnesota rules, part 2770.6500, subpart 2, to require the commissioner's grant of self-insurance authority to an applicant to be based on the applicant's net working capital in lieu of net funds flow. Requires the commissioner to amend the subpart to permit the commissioner to grant self-insurance authority to an applicant that is not a political subdivision and that has not had positive net income or positive working capital if the applicant and its parent company demonstrate a continuing ability to satisfy any financial obligations that have been and might be incurred under the no-fault act. Requires the commissioner of commerce to define working

capital for the purposes of the regulations under this section. Authorizes the commissioner to use the expedited rulemaking process under section 14.389 to amend rules under this section.

Section 65. Evaluation of existing statutory health benefit mandates.

Subd. 1. Evaluation of process and content. Requires the commissioner of commerce to conduct an evaluation of the economic cost and health benefits of one state required benefit each year for the next five years. The benefits are those included in Minnesota's Essential Health Benefit benchmark plan.

Subd. 2. Report to legislature. Requires the commissioner of commerce to submit a written report to the legislature no later than 180 days after the commissioner receives notification from a chair.

ARTICLE 3
FINANCIAL INSTITUTIONS

Section 1. Financial institutions account; appropriation. Makes conforming changes in connection with the adoption of a state version of the "Money Transmission Model Act."

Section 2. Emergency closing. Prohibits a financial institution office from remaining closed, in the event of an emergency, for more than 48 consecutive hours in a Monday through Friday period, excluding other legal holidays, without the prior approval of the commissioner. Existing law prohibits such an office from remaining closed for more than 48 consecutive hours, including Saturdays and Sundays, in the event of an emergency.

Sections 3 – 11, 14, 62. Consumer small and short-term loans. These sections regulate consumer small and short-term loans, limiting the applicable annual percentage rate that may be applied to such loans without the performance of an ability to repay analysis to up to 36 percent. Requires lenders to perform an ability to repay analysis on all such loans with an APR over 36 percent. Imposes an APR cap on consumer small and short-term loans of 50 percent. These sections prohibit lenders of consumer small and short-term loans from attempting to evade the requirements of these sections.

Section 12. [48.591] Climate risk disclosure survey. This section requires banking institutions with more than $1 billion in assets to submit a climate risk disclosure survey annually to the commissioner of commerce. Clarifies that data submitted under this section are public, except that any trade secret information is nonpublic.

Section 13. [52.065] Climate risk disclosure survey. This section requires credit unions with more than $1 billion in assets to submit a climate risk disclosure survey annually to the commissioner of

commerce. Clarifies that data submitted under this section are public, except that any trade secret information is nonpublic.

Sections 15 – 61. [53B.28] to [53B.74] Model Money Transmission Modernization Act. These sections codify the Conference of State Bank Supervisor's Model Money Transmission Modernization Act into chapter 53B.

Section 63 - 66. [58.20] to [58.23] Residential mortgage loan servicers. These sections require residential mortgage loan servicers to meet certain requirements relating to assets, liquidity, risk management, and corporate governance.

Section 67. Student Loan Advocate. Creates a student loan advocate position within the Department of Commerce. Duties of the advocate include reviewing and resolving complaints from borrowers, compiling and analyzing data, monitoring the development of related laws and regulations, and increasing public awareness of the advocate position.

Section 68. Section 302; federal covered securities; small corporate offering registration. Provides that offers and sales of securities under a small corporate offering registration are allowed to the limit prescribed in federal regulation.

Section 69. [332.71] Definitions. Defines key terms for the purposes of section 332.71 to 332.75, including "coerced debt," "creditor," "debtor," "documentation," "domestic abuse," "economic abuse," "harassment," "labor trafficking," "qualified third-party professional," "sex trafficking," and "sworn written certification."

Section 70. [332.72] Coerced debt prohibited. Prohibits a person from causing another person to incur coerced debt.

Section 71. [332.72] Notice to creditor of coerced debt.

> **Subd. 1. Notification.** Requires a debtor, at least 30-days prior to taking action under section 332.74 (relating to a debtor's right to petition for declarative and injunctive relief), to notify a creditor that the debt on which the creditor demands payment is coerced debt and to request that the creditor cease all collection activity related thereto. Specifies timing and documentation requirements for the debtor's notification and request under this subdivision.
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> **Subd. 2. Sale or assignment of coerced debt.** Permits a creditor to sell or assign a debt for which the creditor has been notified is coerced debt to another party if the creditor provides notification to the buyer or assignee that the debtor has asserted the debt is coerced debt.
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> **Subd. 3. No inference upon cessation of collection activity.** Provides that, if a creditor ceases collection activity related to coerced debt, no inference is created regarding the validity or invalidity of a debt for which a debtor is liable or not liable. Provides further that the exercise or nonexercise of rights does not constitute a waiver of any right or defense of a debtor or creditor.

Section 72. [332.74] Debtor remedies.

Subd. 1. Right to petition for declaration and injunction. Permits a debtor alleging a violation of the prohibition against causing coerced debt to petition for equitable relief in district court, and specifies petition requirements.

Subd. 2. Procedural safeguards. Requires a court to take necessary steps to prevent abuse of the debtor, debtor's children, parents, other relatives, or a family pet, which steps include sealing the file, marking the file as confidential, redacting personally identifiable information about the debtor, and directing that any deposition or evidentiary hearing be conducted remotely.

Subd. 3. Relief. Sets forth the following three remedies for a debtor that can show by a preponderance of the evidence that coerced debt has been incurred: (1) A declaratory judgment that the debt is coerced debt; (2) An injunction prohibiting a creditor from (i) holding the debtor liable for the debt, or (ii) enforcing a judgment related to the coerced debt; and (3) An order dismissing any cause of action brought by a creditor to enforce or collect the coerced debt from the debtor or, if only a portion of the debt is coerced debt, an order directing that the judgment be amended to reflect only the portion of the debt that is not coerced debt.

Subd. 4. Affirmative defense. Clarifies that it is an affirmative defense to an action against a debtor to satisfy a debt that the debtor incurred coerced debt.

Subd. 5. Burden. Specifies that the burden of proof is on the debtor in an action under subdivision 1 or any affirmative defense under subdivision 4. Further provides that there is a presumption that the debtor has incurred coerced debt if the person alleged to have caused the debtor to incur the coerced debt has been criminally convicted, entered a guilty plea, or entered an Alford plea under section 609.27 (coercion), 609.282 (labor trafficking), 609.322 (solicitation, inducement, and promotion of prostitution; sex trafficking), or 609.527 (identity theft). Subdivision 6. Statute of limitations tolled. Provides that the statute of limitations is tolled during a proceeding instituted under this new section of law, and prohibits a creditor from filing a collection action regarding a debt that is the subject of a proceeding under this section if the proceeding is pending.

Subd. 6. Statute of limitations tolled. Provides that the statute of limitations under section 541.05 is tolled during the pendency of a proceeding instituted under section 332.74.

Section 73. [332.75] Creditor remedies. Maintains the rights of a creditor to seek payment recovery for a coerced debt from the person who caused the debtor to incur the coerced debt, notwithstanding anything to the contrary in sections 332.71 to 332.74.

Section 74. Unaudited financial statements; rulemaking. Requires the commissioner of commerce to amend Minnesota Rules, part 2876.3021, subpart 2, to remove the prohibition on use of unaudited financial statements if the aggregate amount of all previous sales of securities by the applicant, exclude of debt financing, exceeds $1,000,000. Permits the commissioner to use the good cause exemption to amend the rule.

Section 75. Minnesota Council on Economic Education; grants. Requires grants provided to the Minnesota Council on Economic Education to be used to provide professional development related to personal finance or consumer protection to high school students; support personal finance

programs by Minnesota teachers or MCEE delivers, and provide support to higher education centers regarding financial literacy. Requires reports to the legislature.

Section 76. Repealer. (a) Minnesota Statutes 2022, sections 53B.01; 53B.02; 53B.03; 53B.04; 53B.05; 53B.06; 53B.07; 53B.08; 53B.09; 53B.10; 53B.11; 53B.12; 53B.13; 53B.14; 53B.15; 53B.16; 53B.17; 53B.18; 53B.19; 53B.20; 53B.21; 53B.22; 53B.23; 53B.24; 53B.25; 53B.26; and 53B.27, subdivisions 1, 2, 5, 6, and 7, are repealed.
(b) Minnesota Statutes 2022, section 48.10 is repealed.
(c) Minnesota Rules, parts 2675.2610, subparts 1, 3, and 4; 2675.2620, subparts 1, 2, 3, 4, and 5; and 2675.2630, subpart 3, are repealed.

ARTICLE 4
COMMERCIAL REGULATION AND CONSUMER PROTECTION

Section 1. Global positioning system starter interrupt device. Defines "global positioning system starter interrupt device" and "GPS starter interrupt device."

Section 2. Theft deterrent device. Defines "theft deterrent device" such that it does not include a fuel or ignition kill switch.

Section 3. Disclosures required. Provides that a written disclosure required to be provided to a buyer prior to the execution of a retail installment contract subject to section 53C.08 must include whether a GPS starter interrupt device is installed on the motor vehicle, regardless of whether the contract includes a charge for the GPS starter interrupt device.

Section 4. Retail rate for labor. Requires manufacturers to compensate for warranty labor according to the time guide used by the dealer for nonwarranty repair orders. Provides parameters to calculate compensation when there is no time guide and how to account for time related to repairs.

Section 5. Cost. Deletes a definition of "cost" relating to gasoline sales from section 325D.01, which applies to certain unlawful restraints of trade.

Section 6. Acts constituting. Provides that persons are engaged in deceptive trade practices when the person engages in unfair methods of competition or unfair or unconscionable acts or practices.

Section 7. Proof. Clarifies that the standard of proof is as provided in a cross-reference.

Section 8. Unlawful gasoline sales. Clarifies that a retailer who offers gasoline at a below cost price due to the use of coupons, loyalty programs, membership-based pricing programs, or promotions does not violate this section.

Section 9. Remedies. Authorizes the attorney general to sue for and recover a civil penalty of up to $50,000 if the person is found to have violated sections 325E.27 to 325E.30.

Section 10. [325E.67] Post-loss assignment of benefits. Establishes compliance requirements for post-loss assignments of rights or benefits to a residential contractor under a property and casualty

insurance policy insuring residential real estate, including but not limited to assignor rights and notice requirements which must be expressly included in the assignment.

Section 11. [325E.72] Digital Fair Repair.

Subd. 1. Short Title. Provides that the act may be cited as the "Digital Fair Repair Act."

Subd. 2. Definitions. Defines key terms for purposes of sections 325E.72, including "authorized repair provider," "digital electronic equipment" or "equipment," "documentation," "embedded software," "fair and reasonable terms," "firmware," "independent repair provider," "manufacturer of motor vehicle equipment," "motor vehicle," "motor vehicle dealer," "motor vehicle manufacturer," "original equipment manufacturer," "owner," "part," and "trade secret."

Subd. 3. Requirements. Requires an original equipment manufacturer to generally make available, to the digital electronic equipment's owner or an independent repair provider, documentation, parts, and tools for diagnostic, maintenance, or repair purposes. This subdivision further requires an original equipment manufacturer to similarly make available any special documentation, tools, and parts needed to reset an electronic security lock or other security-related function when the lock or function is disabled in the course of performing diagnostic, maintenance, or repair services on the equipment.

Subd. 4. Enforcement by attorney general. Provides that a violation of this new section of law is an unlawful practice under 325D.44 (Minnesota's Deceptive Trade Practices statute), and that the attorney general may utilize the rights and authorities granted under chapter 8 in the enforcement of such violations.

Subd. 5. Limitations. Limits the application of the act's requirements in certain situations. Specifically, this subdivision provides that nothing in the new section of law: (1) requires an original equipment manufacturer to divulge a trade secret, except as necessary to provide documentation, parts, and tools on fair and reasonable terms; (2) alters the terms of any arrangement described in the definition of "authorized repair provider" between an authorized repair provider and an original equipment manufacturer (however, a provision in such an arrangement purporting to waive, avoid, restrict, or limit the original equipment manufacturer's obligations to comply with this section is void and unenforceable); (3) requires an original equipment manufacturer or an authorized repair provider to provide access to information, other than documentation, provided by the original equipment manufacturer to an authorized repair provider pursuant to the terms of an arrangement described in the definition of "authorized repair provider"; and (4) requires an original equipment manufacturer or authorized repair provider to make available any parts, tools, or documentation for the purpose of making modifications to any digital electronic equipment.

Subd. 6. Exclusions. Provides exclusion to compliance with this section for various enumerated industries, products, and services.

Subd. 7. Applicability. Provides that the section applies to equipment sold or in use on or after July 1, 2024. The effective date of the section is July 1, 2024.

Section 12. [325E.80] Abnormal Market Disruptions; Unconscionably Excessive Prices.

Subd. 1. Definitions. Defines key terms used in the new section of law created by this bill, including "essential consumer good or service," "seller," and "unconscionably excessive price."

Subd. 2. Abnormal market disruption. Authorizes the governor to declare an abnormal market disruption under certain market conditions for an essential consumer good or service caused by an event resulting in a state of emergency. Specifies that a declaration of an abnormal market disruption terminates 30 days after the final date of the state of emergency for which it was activated.

Subd. 3. Notice. Requires the governor to post immediate notice on applicable government websites and provide notice to the media, and further requires the commissioner of commerce to provide notice directly to sellers by any practical means, upon the implementation, renewal, limitation, or termination of an abnormal market disruption.

Subd. 4. Prohibition. Prohibits a person from selling an essential consumer good or service for an unconscionably excessive price during an abnormal market disruption.

Subd. 5. Prices and rates. Prohibits residential building contractors from, upon the occurrence of a severe thunderstorm, (1) charging an unconscionably excessive price for labor, and (2) charging an insurance company a rate that exceeds what the contractor otherwise charges members of the general public.

Subd. 6. Civil Penalty. Establishes a civil penalty of up to $1,000 per sale or transaction, with a maximum penalty of $25,000 per day, for a person that violated this new section of law.

Subd. 7. Enforcement Authority. Authorizes the Minnesota Attorney General to investigate and bring an action against a seller for an alleged violation of this section.

Section 13. Written warranty required. Requires every used motor vehicle sold by a dealer to be covered by an express written warranty. Requires the warranty the remain in effect for at least 15 days or 500 miles if the used vehicle has 75,000 miles or more, but less than 200,000 miles, unless the vehicle is sold by a new motor vehicle dealer.

Section 14. Exclusions. Provides that used motor vehicles with over 75,000 miles but less than 200,000 miles do not fall within the exclusion provided in section 325F.662, subdivision 3, from express warranty requirements.

Section 15. Disclosure requirement. Makes technical change.

Section 16. Fraud, misrepresentation, deceptive or unfair practices. Prohibits a person from engaging in unfair or unconscionable practices in the sale of merchandise.

Section 17. Unfair or unconscionable acts or practices; standard of proof. Clarifies the meaning of an unfair method of competition or an unfair or unconscionable act or practice.

Section 18. [325F.995] Genetic Information Privacy Act.

Subd. 1. Definitions. Defines key terms, including "biological sample," "deidentified data," "direct-to-consumer genetic testing company," "express consent," "genetic data," and "genetic testing."

Subd. 2. Disclosure and consent requirements. Requires a direct-to-consumer genetic testing company to provide information regarding the company's policies governing collection, use, and maintenance of genetic data, including a high-level privacy policy overview and a privacy notice.

Requires the company to obtain the consumer's consent, which includes:

- initial express consent that provides the uses of genetic data collected and specifications on who has access to that data;
- separate express consent to disclose genetic data to any third party, use the data beyond the primary purpose, or retain any biological sample after initial testing;
- informed consent to transfer or disclose data to third parties for research purposes; and
- express consent for marketing purposes.

Requires the company to following valid legal process for disclosure of genetic data to law enforcement or any other governmental agency without the consumer's express written consent. Requires the company to maintain a security program to protect the data and provide a process for the consumer to access or delete their data. Prohibits the company from disclosing the data without the consumer's written consent to any entity offering health, life, or long-term care insurance or to the consumer's employer.

Subd. 3. Service provider agreements. Requires a contract between the company and a service provider to prohibit the service provider from retaining using, or disclosing data, materials, and information of the consumer's identity for any purpose other than the services specified in the service contract.

Subd. 4. Enforcement. The commissioner of commerce may enforce this section pursuant to section 45.027, which authorizes the commissioner to bring an action in district court and impose civil penalties.

Subd. 5. Limitations. Exempts protected health information collected by a covered entity or business associate and higher education institutions. For purposes of this exemption, "covered entity" means a health plan, a health care clearinghouse, and certain health care providers.

Subd. 6. Construction. Provides that this section does not supersede the requirements and rights described in section 13.386 or the remedies available under chapter 13 for violations of section 13.386.

Section 19. Limitation; prohibition. Expands disclosure obligations relating to credit or charge card surcharges to lessors of goods or services. Establishes additional written and oral notices related to such surcharges, which vary depending on the method of completing the sale or lease.

ARTICLE 5
MISCELLANEOUS COMMERCE POLICY

Section 1. Demand reduction measures. Provides that, if a conservation rate is applied to a manufactured home park, the rate structure must consider each residential unit as an individual user.

Section 2. State government pricing plans. Expands state telecommunications provisions in section 237.066 to Tribal governments; existing state law only included state government.

Section 3. Disclosure; reporting. Requires gasoline retailers to report their monthly intermediate blend sales to the Department of Commerce. "Intermediate blends" are defined by the bill's language as all blends of gasoline and biofuel in which the biofuel content exceeds ten percent but is no more than 50 percent.

Section 4. Commodity rate. Defines "commodity rate."

Section 5. Public utility. Defines "public utility."

Section 6. Substantial modification. Clarifies that the installation of water and sewer meters is not a substantial modification of a lease for park owners, if the park owner complies with section 327C.04, subdivision 6.

Section 7. Utility provider. Defines "utility provider."

Section 8. Billing permitted. Provides that a park owner who redistributes to residents utility service provided to the park owner by a utility provider may charge the residents for that service only if the charges comply with section 327C.04.

Section 9. Metering required. Requires utility measuring devices installed by a manufactured home park owner to be installed or repaired only by a licensed plumber, licensed electrician, or licensed manufactured home installer.

Section 10. Utility charge for metered service. Prohibits a park owner who redistributes utility service from charging a resident a commodity rate that exceeds the commodity rate at which the park owner purchases utility service from a utility provider. Requires a park owner to deduct utility service used exclusively or primarily for the park owner's purposes before billing residents for redistributed utility service. Prohibits a park owner from collecting from residents any administrative expense associated with the distribution of utility services.

Section 11. Rent increase following the installation of water meters. Prohibits a manufactured home park owner from increasing lot rents for 13 months following the commencement of utility bills for a resident whose lease included water service. Requires the park owner to provide the resident with a sample water bill for each of the three months prior to commencement of utility billing.

Section 12. Powers of Unit Owners' Association. Prohibits a unit owner from being charged attorneys' fees and costs if the owner disputes a fine or assessment and if the board or a committee of a board does not adopt a resolution levying the fine or upholding the assessment. Requires an association that levies a fine or assessment to provide a unit owner with certain information.

Section 13. Assessments for common expenses; CIC created before August 1, 2010. Adds a cross-reference. Clarifies that any portion of an assessment that represents installments that are not

due and payable as of the date of reinstatement must not be included in the amount the unit owner must pay to be reinstated.

Section 14. Assessment for common expenses; CIC created on or after August 1, 2010. Adds a cross-reference. Clarifies that any portion of an assessment that represents installments that are not due and payable as of the date of reinstatement must not be included in the amount the unit owner must pay to be reinstated.

Section 15. Lien for Assessments. Clarifies that any portion of an assessment that represents attorney fees or costs must not be included in the amount a unit owner must pay to be reinstated.

Section 16. Transfer. Makes technical changes to transfer from the general fund to the state competitiveness fund account.

Section 17. Repealer. Repeals section 327C.04, subdivision 4.