

## STATE OF MINNESOTA

## EIGHTY-FOURTH SESSION — 2005

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 SIXTY-FOURTH DAY

SAINT PAUL, MINNESOTA, FRIDAY, MAY 20, 2005

The House of Representatives convened at 12:00 noon and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by the Reverend Lonnie E. Titus, House Chaplain.

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

The roll was called and the following members were present:

Abeler	Dittrich	Hilty	Lenczewski	Paulsen	Smith
Anderson, B.	Dorman	Holberg	Lesch	Paymar	Soderstrom
Anderson, I.	Dorn	Hoppe	Liebling	Pelowski	Solberg
Atkins	Eastlund	Hornstein	Lieder	Penas	Sykora
Beard	Eken	Hortman	Lillie	Peppin	Thao
Bernardy	Ellison	Hosch	Loeffler	Peterson, A.	Thissen
Blaine	Emmer	Howes	Magnus	Peterson, N.	Tingelstad
Bradley	Entenza	Huntley	Mahoney	Peterson, S.	Urdahl
Brod	Erhardt	Jaros	Mariani	Poppe	Vandever
Buesgens	Erickson	Johnson, J.	Marquart	Powell	Wagenius
Carlson	Finstad	Johnson, R.	McNamara	Rukavina	Walker
Charron	Fritz	Johnson, S.	Meslow	Ruth	Wardlow
Clark	Garofalo	Juhnke	Moe	Ruud	Welti
Cornish	Gazelka	Kahn	Mullery	Sailer	Westerberg
Cox	Goodwin	Kelliher	Murphy	Samuelson	Westrom
Cybart	Greiling	Klinzing	Nelson, M.	Scalze	Wilkin
Davids	Gunther	Knoblauch	Nelson, P.	Seifert	Zellers
Davnie	Hackbarth	Koenen	Newman	Sertich	Spk. Sviggum
Dean	Hamilton	Kohls	Nornes	Severson	
DeLaForest	Hansen	Krinkie	Olson	Sieben	
Demmer	Hausman	Lanning	Opatz	Simon	
Dempsey	Heidgerken	Larson	Otremba	Simpson	
Dill	Hilstrom	Latz	Ozment	Slawik	

A quorum was present.

Abrams was excused until 2:05 p.m.

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

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

RECESS

RECONVENED

The House reconvened and was called to order by the Speaker.

REPORTS OF CHIEF CLERK

S. F. No. 644 and H. F. No. 761, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Smith moved that the rules be so far suspended that S. F. No. 644 be substituted for H. F. No. 761 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1089 and H. F. No. 945, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Erhardt moved that the rules be so far suspended that S. F. No. 1089 be substituted for H. F. No. 945 and that the House File be indefinitely postponed. The motion prevailed.

**PETITIONS AND COMMUNICATIONS**

The following communications were received:

STATE OF MINNESOTA  
OFFICE OF THE GOVERNOR  
SAINT PAUL 55155

May 16, 2005

The Honorable Steve Sviggum  
Speaker of the House of Representatives  
The State of Minnesota

Dear Speaker Sviggum:

Please be advised that I have received, approved, signed, and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 1692, relating to state government; regulating compensation plans of the State Board of Investment.

H. F. No. 487, relating to state government; changing terminology for mentally retarded, mental retardation, physically handicapped, and similar terms.

Sincerely,

TIM PAWLENTY  
Governor

STATE OF MINNESOTA  
OFFICE OF THE SECRETARY OF STATE  
ST. PAUL 55155

The Honorable Steve Sviggum  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2005 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S. F. No.</i>	<i>H. F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Time and Date Approved 2005</i>	<i>Date Filed 2005</i>
1095		53	4:25 p.m. May 16	May 17
493		54	4:17 p.m. May 16	May 17
	1692	55	4:05 p.m. May 16	May 17
	487	56	4:11 p.m. May 16	May 17

Sincerely,

MARY KIFFMEYER  
Secretary of State

**SECOND READING OF SENATE BILLS**

S. F. Nos. 644 and 1089 were read for the second time.

**INTRODUCTION AND FIRST READING OF HOUSE BILLS**

The following House Files were introduced:

Loeffler introduced:

H. F. No. 2531, A bill for an act relating to a professional baseball stadium; providing an unsold seat surcharge.

The bill was read for the first time and referred to the Committee on Local Government.

Davids introduced:

H. F. No. 2532, A bill for an act relating to energy; modifying provisions relating to renewable energy; amending Minnesota Statutes 2004, section 216B.1691.

The bill was read for the first time and referred to the Committee on Regulated Industries.

Hausman, Ozment, Dorman and Pelowski introduced:

H. F. No. 2533, A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for a state museum of natural history.

The bill was read for the first time and referred to the Committee on Agriculture, Environment and Natural Resources Finance.

Koenen introduced:

H. F. No. 2534, A bill for an act relating to traffic regulations; increasing maximum allowable length of recreational vehicle combinations to 65 feet; amending Minnesota Statutes 2004, section 169.81, subdivision 3c.

The bill was read for the first time and referred to the Committee on Transportation.

Koenen introduced:

H. F. No. 2535, A bill for an act relating to special assessments; providing for award of attorney fees, costs, and disbursements to prevailing appellant in a special assessment matter; amending Minnesota Statutes 2004, section 429.081.

The bill was read for the first time and referred to the Committee on Taxes.

Nelson, P., introduced:

H. F. No. 2536, A bill for an act relating to drivers' licenses; including a school that charges a fee for driver training within definition of commercial driving school; prohibiting certificated high school driver training instructor from instructing nonstudents; amending Minnesota Statutes 2004, sections 171.33, subdivision 1; 171.39.

The bill was read for the first time and referred to the Committee on Transportation.

McNamara introduced:

H. F. No. 2537, A bill for an act relating to capital improvements; authorizing issuance of state bonds; appropriating money for Red Rock corridor transit way.

The bill was read for the first time and referred to the Committee on Transportation Finance.

McNamara introduced:

H. F. No. 2538, A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for the Hastings River Flats Interpretive Facility.

The bill was read for the first time and referred to the Committee on Jobs and Economic Opportunity Policy and Finance.

Sailer, Moe, Eken, Penas, Solberg and Lieder introduced:

H. F. No. 2539, A bill for an act relating to capital improvements; authorizing the issuance of state bonds; appropriating money for an emergency training administration center.

The bill was read for the first time and referred to the Committee on Public Safety Policy and Finance.

Kohls introduced:

H. F. No. 2540, A bill for an act relating to title insurance; defining a term; amending Minnesota Statutes 2004, section 68A.04.

The bill was read for the first time and referred to the Committee on Commerce and Financial Institutions.

Penas, Hackbarth and Dill introduced:

H. F. No. 2541, A bill for an act relating to natural resources; modifying regulation of all-terrain vehicles; amending Minnesota Statutes 2004, sections 84.92, subdivision 8, by adding subdivisions; 84.9256, subdivision 1; 84.9257; 84.928, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Holberg introduced:

H. F. No. 2542, A bill for an act relating to appropriations; appropriating money for transportation, Metropolitan Council, and public safety activities; providing for general contingent accounts and tort claims; authorizing issuance of trunk highway bonds; modifying vehicle registration tax; modifying law and proposing amendment to Minnesota Constitution to allocate proceeds of tax on sale of motor vehicles; allocating county state-aid highway funds; modifying provisions related to state mail, state highways and bridges, county state-aid highways, toll facilities, railroad grade crossings, traffic fine allocations, commercial motor vehicles, day activity center buses, other motor vehicles, state aviation, airport noise mitigation reporting, bridges in smaller cities, highway signs, various accounts, weight limits on highways and other traffic regulations, drivers' licenses and permits, transit facilities and operations, gasoline sales, wetland replacement near the city of Cologne, the employment status of public safety radio communications operators, the insurance verification sampling program, maximum train speeds in the city of Orr, park-and-ride lots, a restriction on ethanol requirements, deputy registrar positions in Carver and Hennepin Counties, and bicycle programs; requiring studies and reports; making technical and clarifying revisions; amending Minnesota Statutes 2004, sections 16B.49; 115A.908, subdivision 1; 160.87, by adding a subdivision; 161.14, by adding subdivisions; 161.361, subdivision 2; 162.06, subdivision 2; 162.07, subdivision 1, by adding a subdivision; 162.08, subdivision 3; 168.011, subdivisions 3, 4, 5, 5a, 6, 7, 25, by adding subdivisions; 168.013, subdivisions 1a, 8; 168.031; 168.09, subdivision 7; 168.091, subdivision 1; 168.10, subdivision 1c; 168.105, subdivisions 2, 3, 5; 168.12; 168.123; 168.1235; 168.124; 168.125; 168.1255; 168.127, subdivision 6; 168.128; 168.129; 168.1291; 168.1293; 168.1296; 168.1297; 168.15, subdivision 1; 168.16; 168.27, subdivision 11; 168.31, subdivision 5; 168.33; 168.345, subdivisions 1, 2; 168.381; 168.54, subdivisions 4, 5; 168A.152, subdivision 2; 168A.29; 168A.31; 169.01, subdivisions 75, 76, 78; 169.09, subdivision 13; 169.18, subdivisions 4, 5, 11, as amended, if enacted; 169.448, by adding a subdivision; 169.71, subdivision 1; 169.81, subdivision 3c; 169.824, subdivision 2; 169.851, subdivision 5; 169.86, subdivision 5; 169.87, subdivision 4; 169.99, subdivision 1b; 169A.52, subdivision 3; 169A.60, subdivision 16; 171.01, subdivisions 22, 35, 47, by adding a subdivision; 171.02; 171.03; 171.04, subdivision 2; 171.05, subdivisions 1, 2; 171.06, subdivisions 2, 2a; 171.061, subdivision 4; 171.07, subdivision 11; 171.09; 171.12, subdivisions 3, 6; 171.13, subdivisions 2, 6, by adding a subdivision; 171.165, subdivisions 1, 2, 6; 171.18, subdivision 1; 171.20, subdivision 4; 171.26; 171.29, subdivision 2; 171.36; 174.03, by adding subdivisions; 174.50, by adding a subdivision; 179A.03, subdivision 7; 179A.10, subdivision 2; 192.502, subdivision 2; 197.65; 297B.09, subdivision 1; 299D.03, subdivision 5; 469.015, subdivision 4; 473.446, subdivision 3; 473.4461; 473.604, subdivision 5; 473F.08, subdivision 3b; 609.855, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 160; 168; 169; 171; 174; 190; 219; 299A; repealing Minnesota Statutes 2004, sections 168.011, subdivision 19; 168.012, subdivision 12; 168.041, subdivision 11; 168.105, subdivision 6; 168.15, subdivision 2; 168.231; 168.345, subdivisions 3, 4; 168C.01; 168C.02; 168C.03; 168C.04; 168C.05; 168C.06; 168C.07; 168C.08; 168C.09; 168C.10; 168C.11; 168C.12; 168C.13; 170.23; 171.12, subdivision 8; 171.165, subdivisions 3, 4, 4a, 4b; 171.185; 473.408, subdivision 1; 2005 H.F. No. 2461, article 3, sections 9, 10; Minnesota Rules, parts 7407.0100; 7407.0200; 7407.0300; 7407.0400; 7407.0500; 7407.0600; 7407.0700; 7407.0800; 7407.0900; 7407.1000; 7407.1100; 7407.1200; 7407.1300; 7503.2400; 7800.0600; 7800.3200, subpart 1; 7805.0700; 8850.6900, subpart 20; 8855.0500, subpart 1.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

Magnus introduced:

H. F. No. 2543, A bill for an act relating to highway funding; providing for an increase in the excise tax on gasoline and special fuels; proposing an amendment to the Minnesota Constitution, article XIV, section 10; amending Minnesota Statutes 2004, sections 296A.07, subdivision 3; 296A.08, subdivision 2.

The bill was read for the first time and referred to the Committee on Rules and Legislative Administration.

**MESSAGES FROM THE SENATE**

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 478, A bill for an act relating to counties; providing for alternative filing of surveys; modifying requirements for land surveyors; providing for a transfer of records; amending Minnesota Statutes 2004, sections 160.15, subdivision 4; 381.12, subdivisions 1, 3; 389.03.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 42, A bill for an act relating to firearms; authorizing the use of silencers to muffle discharges of firearms for natural resource wildlife control; amending Minnesota Statutes 2004, section 609.66, subdivisions 1h, 2.

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

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 473, A bill for an act relating to creditors' remedies; exempting certain jewelry from attachment, garnishment, or sale; amending Minnesota Statutes 2004, section 550.37, subdivision 4.

The Senate has appointed as such committee:

Senators Wergin, Chaudhary and Scheid.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 847, A bill for an act relating to game and fish; modifying purchasing requirements; modifying certain definitions; providing for special fish management tags; specifying status of and regulating stands and blinds on public lands; modifying authority to take animals causing damage; modifying use of scopes and laser sights by

visually impaired hunters; modifying certain license requirements; modifying restrictions on taking waterfowl and big game; authorizing rulemaking; modifying requirements for field training hunting dogs; modifying certain seasons; modifying trapping provisions; modifying period for treeing raccoons; prohibiting computer-assisted remote hunting; modifying restrictions on decoys; modifying disposition of state hatchery products; permitting use of silencers for wildlife control; modifying fishing and commercial fishing provisions; repealing authority for the Mississippi River Fish Refuge; repealing authority to issue certain orders; amending Minnesota Statutes 2004, sections 84.025, subdivision 10; 84.027, subdivision 13; 97A.015, subdivisions 29, 49; 97A.045, subdivision 1, by adding a subdivision; 97A.401, subdivision 5; 97A.405, subdivision 4, by adding a subdivision; 97A.435, subdivisions 2, 4; 97A.441, subdivision 7; 97A.451, subdivisions 3, 5; 97A.475, subdivisions 7, 16; 97A.485, subdivision 9; 97A.551, by adding a subdivision; 97B.005, subdivisions 1, 3; 97B.025; 97B.031, subdivisions 1, 5; 97B.111, subdivision 2; 97B.621, subdivision 2; 97B.655, subdivision 2; 97B.711, subdivision 1; 97B.803; 97B.805, subdivision 1; 97B.811, subdivisions 3, 4a; 97C.203; 97C.327; 97C.345, subdivision 2; 97C.395, subdivision 1; 97C.401, subdivision 2; 97C.825, subdivision 5; 609.66, subdivisions 1h, 2; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 2004, sections 88.27; 97B.005, subdivision 4; 97B.935; 97C.015; 97C.403; 97C.825, subdivisions 6, 7, 8, 9.

The Senate has appointed as such committee:

Senators Saxhaug, Pariseau and Bakk.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1555, A bill for an act relating to health; modifying the Minnesota Emergency Health Powers Act; modifying authority of out-of-state license holders; amending Minnesota Statutes 2004, sections 12.03, subdivision 4d, by adding a subdivision; 12.22, subdivision 2a, by adding a subdivision; 12.31, subdivisions 1, 2; 12.32; 12.34, subdivision 1; 12.381; 12.39; 12.42; 13.3806, subdivision 1a; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 12.

PATRICK E. FLAHAVEN, Secretary of the Senate

Powell moved that the House refuse to concur in the Senate amendments to H. F. No. 1555, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:



H. F. No. 1507, A bill for an act relating to health; modifying provisions for isolation and quarantine of persons exposed to or infected with a communicable disease; amending Minnesota Statutes 2004, sections 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 5; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 144.

PATRICK E. FLAHAVEN, Secretary of the Senate

Abeler moved that the House refuse to concur in the Senate amendments to H. F. No. 1507, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 1468, 1204, 1772, 1057 and 1298.

PATRICK E. FLAHAVEN, Secretary of the Senate

### **FIRST READING OF SENATE BILLS**

S. F. No. 1468, A bill for an act relating to public employers; modifying public employer reimbursement for compensation paid to certain firefighters and peace officers; creating a panel to evaluate claims; appropriating money; amending Minnesota Statutes 2004, sections 214.04, subdivision 1; 299A.465, subdivision 4, by adding subdivisions.

The bill was read for the first time and referred to the Committee on Public Safety Policy and Finance.

S. F. No. 1204, A bill for an act relating to health; recodifying statutes and rules relating to social work; authorizing rulemaking; providing penalties; modifying provisions relating to physical therapists; providing penalties; modifying the Psychology Practice Act; phasing out licensure as a licensed psychological practitioner; modifying dental licensure provisions; establishing fees; modifying provisions for licensed professional counselors; authorizing certain rulemaking; modifying physician review; modifying information contained on prescriptions; providing recognition for the practice of respiratory therapy in emergency situations; providing that audiologists need not obtain hearing instrument dispenser certification; providing penalties; transferring oversight authority for the Office of Mental Health Practice; requiring a report; establishing penalty fees for certain credentialed health occupations; providing criminal penalties; appropriating money; amending Minnesota Statutes 2004, sections 13.383, subdivision 10; 13.411, subdivision 5; 144.335, subdivision 1; 144A.46, subdivision 2; 144E.001, subdivisions 8, 15, by adding a subdivision; 144E.27, subdivision 2; 144E.28, subdivisions 1, 3, 7, 8; 147.09; 147A.18, subdivisions 1, 3; 147C.05; 148.512, subdivision 6, by adding subdivisions; 148.513, by adding a subdivision; 148.515, by adding a subdivision; 148.5194, by adding subdivisions; 148.5195, subdivision 3; 148.5196, subdivision 1; 148.6445, by adding a subdivision; 148.65, by adding subdivisions; 148.706; 148.75; 148.89, subdivision 5; 148.90, subdivision 1; 148.907, by adding a subdivision; 148.908, subdivision 2, by adding a subdivision; 148.909; 148.916, subdivision 2; 148.925, subdivision 6; 148.941, subdivision 2; 148.96, subdivision 3; 148B.53, subdivisions 1, 3; 148B.54, subdivision 2; 148B.59; 148B.60; 148B.61; 148C.03, subdivision 1; 148C.04,

subdivisions 3, 4, 6; 148C.091, subdivision 1; 148C.10, subdivision 2; 148C.11, subdivisions 1, 4, 5, 6; 148C.12, subdivision 3, by adding a subdivision; 150A.01, subdivision 6a; 150A.06, subdivision 1a; 150A.10, subdivision 1a; 153A.13, subdivision 5; 153A.14, subdivisions 2h, 2i, 4, 4c, 9; 153A.15, subdivision 1; 153A.20, subdivision 1; 214.01, subdivision 2; 214.06, subdivision 1, by adding a subdivision; 214.103, subdivision 1; 245.462, subdivision 18; 245.4871, subdivision 27; 256B.0625, subdivision 38; 256J.08, subdivision 73a; 319B.02, subdivision 19; 319B.40; Laws 2003, chapter 118, section 29, as amended; proposing coding for new law in Minnesota Statutes, chapters 144E; 148; 148B; 148C; 150A; 153A; proposing coding for new law as Minnesota Statutes, chapter 148D; repealing Minnesota Statutes 2004, sections 148B.18; 148B.185; 148B.19; 148B.20; 148B.21; 148B.215; 148B.22; 148B.224; 148B.225; 148B.226; 148B.24; 148B.25; 148B.26; 148B.27; 148B.28; 148B.281; 148B.282; 148B.283; 148B.284; 148B.285; 148B.286; 148B.287; 148B.288; 148B.289; 148C.02; 148C.12, subdivision 4; 153A.14, subdivisions 2a, 8, 10; 153A.19; Minnesota Rules, parts 4747.0030, subparts 11, 16; 4747.1200; 4747.1300; 5601.0100, subparts 3, 4; 8740.0100; 8740.0110; 8740.0120; 8740.0122; 8740.0130; 8740.0155; 8740.0185; 8740.0187; 8740.0200; 8740.0240; 8740.0260; 8740.0285; 8740.0300; 8740.0310; 8740.0315; 8740.0320; 8740.0325; 8740.0330; 8740.0335; 8740.0340; 8740.0345.

The bill was read for the first time.

Huntley moved that S. F. No. 1204 and H. F. No. 1161, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1772, A bill for an act relating to agriculture; changing certain provisions concerning plant pests, nursery stock, and wildflowers; extending a task force; amending Minnesota Statutes 2004, sections 18G.03, subdivision 1; 18H.02, subdivisions 21, 22, 23, 32, 34, by adding a subdivision; 18H.05; 18H.06; 18H.09; 18H.13, subdivision 1; 18H.15; 18H.18, subdivision 1; 31.94; repealing Minnesota Statutes 2004, section 18H.02, subdivisions 15, 19.

The bill was read for the first time.

McNamara moved that S. F. No. 1772 and H. F. No. 1937, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1057, A bill for an act relating to retirement; statewide and major local retirement plans; providing for various member and employer contribution rate increases; restructuring the statewide Teachers Retirement Association fund and benefit plan; providing a special postretirement adjustment to certain pre-1969 teachers; changing deferred annuities augmentation for new retirement plan members; creating a public pension plan default insurance pool; increasing the maximum retirement plan covered salary figure; providing certain early retirement incentives; creating a task force to study creation of a statewide volunteer firefighter retirement plan; appropriating money; amending Minnesota Statutes 2004, sections 352.01, subdivision 13; 352.04, subdivisions 2, 3, 12; 352.116, subdivision 1a; 352.72, subdivision 2; 352.911, subdivision 5; 352.92, subdivisions 1, 2; 352B.01, subdivision 11; 352B.02, subdivisions 1a, 1c, 1d; 352B.30, subdivision 2; 352D.04, subdivision 2; 352D.09, subdivision 7; 353.01, subdivision 10; 353.27, subdivisions 1, 2, 3, 3a, by adding a subdivision; 353.30, subdivision 5; 353.65, subdivisions 2, 3, 6; 353.71, subdivision 2; 353B.02, subdivision 10; 353E.01, subdivision 5; 353E.05; 354.05, subdivisions 2, 13, 35; 354.42, subdivisions 2, 3, by adding a subdivision; 354.44, subdivision 6; 354.55, subdivision 11; 354A.011, subdivisions 15a, 24, 27; 354A.021, subdivisions 1, 4; 354A.092; 354A.093, subdivision 1; 354A.095; 354A.096; 354A.12, subdivisions 1, 2, 2a, 3a, 3b, 3c, 3d; 354A.30; 354A.31, subdivisions 4, 7; 354A.32, subdivision 1; 354A.37, subdivision 2; 354A.39; 354A.40, subdivision 1; 354A.41; 356.20, subdivision 2; 356.214, subdivision 1; 356.215, subdivision 8; 356.30, subdivisions 1, 3; 356.302, subdivision 7; 356.303, subdivision 4; 356.315, by adding a subdivision; 356.42, subdivision 3; 356.465, subdivision 3; 356.611, subdivision 1; 422A.01, by adding a

subdivision; 423A.02, subdivision 1b; 423B.01, by adding a subdivision; 423C.01, by adding a subdivision; 490.121, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 128D; 354; 356; repealing Minnesota Statutes 2004, sections 354A.051; 354A.105; 354A.23, subdivision 1; 354A.28.

The bill was read for the first time and referred to the Committee on Governmental Operations and Veterans Affairs.

S. F. No. 1298, A bill for an act relating to environment; enacting the Minnesota Electronics Recycling Act of 2005; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 116H.

The bill was read for the first time and referred to the Committee on Ways and Means.

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

The following Conference Committee Report was received:

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 1385

A bill for an act relating to higher education; allocating money for educational and related purposes with certain conditions; modifying various loan, grant, and financial aid provisions; requiring institutions to provide certain data; permitting disclosure of certain data to determine eligibility; amending various reciprocity provisions; providing definitions; directing the Board of Trustees to designate centers of excellence; amending the Minnesota college savings plan; authorizing transfer of certain bonding authority; amending provisions related to private career schools; establishing fees; providing for merger with the Higher Education Facilities Authority; establishing the Rochester University Development Committee; appropriating money; amending Minnesota Statutes 2004, sections 13.46, subdivision 2; 135A.031, subdivisions 3, 4; 135A.052, subdivision 1; 135A.30, subdivisions 3, 4, 5; 135A.52, subdivisions 1, 2; 136A.01, subdivision 2; 136A.031, subdivisions 2, 3, 4; 136A.08, by adding subdivisions; 136A.121, subdivisions 2, 5, 6, 9, by adding a subdivision; 136A.125, subdivision 2; 136A.1701, by adding subdivisions; 136F.04, subdivision 4; 136F.32, subdivision 2; 136G.03, subdivisions 3, 21a, 22, 32; 136G.05, subdivision 8; 136G.09, subdivisions 11, 12; 136G.11, subdivisions 1, 2, 3, 13; 136G.13, subdivisions 1, 5; 136G.14; 137.0245, subdivisions 1, 2, 4; 141.21, by adding a subdivision; 141.25, subdivisions 3, 5, 8, 9, 12; 141.251; 141.26, subdivision 5; 141.271, subdivisions 4, 7, 10, by adding subdivisions; 141.28, subdivision 1, by adding a subdivision; 141.29, subdivision 3; 141.30; 141.35; 192.502, subdivision 1; 299A.45, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapters 136A; 137; 141; repealing Minnesota Statutes 2004, sections 136A.011; 136A.031, subdivision 1; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

May 19, 2005

The Honorable Steve Sviggum  
Speaker of the House of Representatives

The Honorable James P. Metzen  
President of the Senate

We, the undersigned conferees for H. F. No. 1385, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 1385 be further amended as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

APPROPRIATIONS

Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

The sums in the columns marked "APPROPRIATIONS" are appropriated from the general fund, or other named fund, to the agencies and for the purposes specified in this article. The listing of an amount under the figure "2006" or "2007" in this article indicates that the amount is appropriated to be available for the fiscal year ending June 30, 2006, or June 30, 2007, respectively. "The first year" is fiscal year 2006. "The second year" is fiscal year 2007. "The biennium" is fiscal years 2006 and 2007.

SUMMARY BY FUND

	2006	2007	TOTAL
General	\$1,365,500,000	\$1,395,500,000	\$2,761,000,000
Health Care Access	2,157,000	2,157,000	4,314,000

SUMMARY BY AGENCY - ALL FUNDS

	2006	2007	TOTAL
Higher Education Services Office	172,129,000	177,181,000	349,310,000
Board of Trustees of the Minnesota State Colleges and Universities	600,694,000	602,194,000	1,202,888,000
Board of Regents of the University of Minnesota	593,348,000	616,736,000	1,210,084,000
Mayo Medical Foundation	1,391,000	1,391,000	2,782,000
Minnesota Department of Health	95,000	155,000	250,000

APPROPRIATIONS

Available for the Year  
Ending June 30

2006 2007

Sec. 2. HIGHER EDUCATION SERVICES OFFICE

Subdivision 1. Total Appropriation	\$172,129,000	\$177,181,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

APPROPRIATIONS  
Available for the Year  
Ending June 30

	2006	2007
Subd. 2. State Grants	136,394,000	144,756,000
<p>If the appropriation in this subdivision for either year is insufficient, the appropriation for the other year is available for it. For the biennium, the tuition and fee maximum shall be \$9,208 the first year and \$9,438 the second year for students enrolled in four-year programs and \$6,567 the first year and \$6,436 the second year for students enrolled in two-year programs.</p> <p>The Higher Education Services Office must study the for-profit postsecondary education sector licensed or registered in Minnesota. The study must examine tuition levels and program offerings, student debt load, financial assistance, and the impact of the tuition and fee maximums set in law on this postsecondary sector and its students. The study must also analyze the relationship of the tuition and fee maximums and tuition levels. The office must report on the findings to the legislative committees responsible for higher education finance by November 15, 2006. This study may be done in conjunction with the licensing study in article 3.</p> <p>This appropriation sets the living and miscellaneous expense allowance at \$5,350 each year.</p> <p>This appropriation contains money to provide educational benefits to dependent children under age 23 and the spouses of public safety officers killed in the line of duty under Minnesota Statutes 2004, section 299A.45.</p>		
Subd. 3. Interstate Tuition Reciprocity	1,000,000	1,000,000
<p>If the appropriation in this subdivision for either year is insufficient, the appropriation for the other year is available to meet reciprocity contract obligations.</p>		
Subd. 4. State Work Study	12,444,000	12,444,000
Subd. 5. Child Care Grants	4,934,000	4,934,000
Subd. 6. Minitex	4,381,000	4,381,000
Subd. 7. MnLINK Gateway	400,000	400,000
Subd. 8. Learning Network of Minnesota	4,225,000	4,225,000
Subd. 9. Minnesota College Savings Plan	1,020,000	1,020,000

APPROPRIATIONS		
Available for the Year		
Ending June 30		
	2006	2007
Subd. 10. Midwest Higher Education Compact	90,000	90,000
Subd. 11. Other Small Programs	920,000	920,000

This appropriation includes funding for postsecondary service learning, student and parent information, get ready outreach, and intervention for college attendance program.

No more than \$50,000 of this appropriation each year may be used for administrative expenses for the intervention for college attendance program under new Minnesota Statutes, section 136A.861. This appropriation is added to the agency's permanent budget base.

Of this appropriation, \$115,000 each year is for grants to increase campus-community collaboration and service learning statewide. For each \$1 in state funding, grant recipients must contribute \$2 in campus or community-based support.

Subd. 12. Agency Administration	2,761,000	2,651,000
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\$100,000 the first year and \$300,000 the second year is for the Higher Education Services Office to develop and implement a process to measure and report on the effectiveness of postsecondary institutions in the state and make a report to the legislature regarding the implementation of the process. The report must be made by January 15, 2006, to the legislative committees with jurisdiction over higher education policy and finance. The funding base for this initiative in fiscal years 2008 and 2009 is \$300,000 per year.

\$310,000 the first year is for the Higher Education Services Office to upgrade computer program application software related to state grant awards. This appropriation does not cancel but is available until expended. This is a onetime appropriation and is not added to the agency's base.

Subd. 13. Balances Forward
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A balance in the first year under this section does not cancel, but is available for the second year.

APPROPRIATIONS  
Available for the Year  
Ending June 30

2006	2007
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Subd. 14. Transfers

The Higher Education Services Office may transfer unencumbered balances from the appropriations in this section to the state grant appropriation, the interstate tuition reciprocity appropriation, the child care appropriation, and the state work study appropriation. Transfers from the child care or state work study appropriations may only be made to the extent there is a projected surplus in the appropriation. A transfer may be made only with the prior written approval of the commissioner of finance and prior written notice to the chairs of the senate Higher Education Budget Division and house Higher Education Finance Committee.

Subd. 15. Reporting

The Higher Education Services Office shall collect data monthly from institutions disbursing state financial aid. The data collected must include, but is not limited to, expenditures by type to date and unexpended balances. The Higher Education Services Office must evaluate and report quarterly state financial aid expenditures and unexpended balances to the chairs of the Higher Education Finances Committees of the senate and house of representatives and the commissioner of finance. By November 1 and February 15, the Higher Education Services Office must provide updated state grant spending projections taking into account the most current and projected enrollment and tuition and fee information, economic conditions, and other relevant factors. Before submitting state grant spending projections, the Higher Education Services Office must meet and consult with representatives of public and private postsecondary education, the Department of Finance, Governor's Office, legislative staff, and financial aid administrators.

Subd. 16. Rochester University

3,200,000

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(a) \$200,000 is for the Rochester Higher Education Development Committee to carry out its planning activities. This is a onetime appropriation.

(b) \$3,000,000 is for a onetime appropriation that must be deposited into the Rochester higher education development account under article 4. With the approval of the Higher Education Services Office, money in this account may be used to: (1)

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

provide additional planning and development funds, if needed; (2) provide initial funding for academic program development; and (3) provide funding related to academic facilities, if needed. The appropriation under this paragraph is available until June 30, 2009.

Subd. 17. United Family Practice Residency Program	360,000	360,000
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For a grant to the United Family Medicine residency program. This appropriation shall be used to support 18 resident physicians each year in family practice at United Family Medicine residency programs and shall prepare doctors to practice family care medicine in underserved rural and urban areas of the state. It is intended that this program will improve health care in underserved communities, provide affordable access to appropriate medical care, and manage the treatment of patients in a more cost-effective manner.

Sec. 3. BOARD OF TRUSTEES OF THE MINNESOTA STATE COLLEGES AND UNIVERSITIES

Subdivision 1. Total Appropriation	600,694,000	602,194,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

The legislature estimates that instructional expenditures will be \$812,735,000 the first year and \$814,764,000 the second year. The legislature estimates that noninstructional expenditures will be \$58,868,000 the first year and \$59,015,000 the second year.

Subd. 2. General Appropriation	595,694,000	597,194,000
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This appropriation includes \$12,000,000 to pay competitive compensation to faculty or staff for initiatives that promote excellence in student learning. This appropriation also includes funding for the recurring enrollment adjustment and money to strengthen and expand the Minnesota online program, increase the capacity for training nurses and teachers, provide for the management education needs of farm and small business owners, and provide services and outreach to underserved populations.

Subd. 3. Centers of Excellence	5,000,000	5,000,000
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This appropriation is for centers of excellence under new Minnesota Statutes, section 136F.31.



APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

The board must develop a process to designate centers of excellence under new Minnesota Statutes, section 136F.31.

Sec. 4. BOARD OF REGENTS OF THE UNIVERSITY OF MINNESOTA

Subdivision 1. Total Appropriation	593,348,000	616,736,000
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The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Operations and Maintenance	527,824,000	551,212,000
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The legislature estimates that instructional expenditures will be \$451,372,000 the first year and \$469,229,000 the second year. The legislature estimates that noninstructional expenditures will be \$290,275,000 the first year and \$301,758,000 the second year.

This appropriation includes \$13,000,000 for competitive compensation to enable the university to attract and retain quality faculty members.

This appropriation includes funding for the recurring enrollment adjustment and the following initiatives: Biosciences for a Healthy Society to advance the university's expertise and to increase the university's competitiveness in leveraging new funding from federal and private sources; Preparing Students for the 21st Century to enhance the ability of the university to attract and retain exceptional students; research support to provide resources for the university to maintain a competitive advantage in emerging and ongoing research initiatives; 21st Century Technology to support enhancement to major university systems; and outreach services to historically underserved students.

Subd. 3. Health Care Access Fund	2,157,000	2,157,000
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This appropriation is from the health care access fund and is for primary care education initiatives.

Subd. 4. Special Appropriation	63,367,000	63,367,000
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(a) Agriculture and Extension Service

	50,625,000	50,625,000
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APPROPRIATIONS  
Available for the Year  
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20062007

For the Agricultural Experiment Station, Minnesota Extension Service.

(b) Health Sciences

4,929,0004,929,000

For the rural physicians associates program, the Veterinary Diagnostic Laboratory, health sciences research, dental care, and the Biomedical Engineering Center.

(c) Institute of Technology

1,387,0001,387,000

For the Geological Survey and the Talented Youth Mathematics Program.

(d) System Specials

6,426,0006,426,000

For general research, student loans matching money, industrial relations education, Natural Resources Research Institute, Center for Urban and Regional Affairs, Bell Museum of Natural History, and the Humphrey exhibit.

Subd. 5. Academic Health Center

The appropriation to the Academic Health Center under Minnesota Statutes, section 297F.10, is anticipated to be \$20,890,000 in the first year and \$20,474,000 in the second year.

Sec. 5. MAYO MEDICAL FOUNDATION

Subdivision 1. Total Appropriation

1,391,0001,391,000

The amounts that may be spent from this appropriation for each purpose are specified in the following subdivisions.

Subd. 2. Medical School

514,000514,000

The state of Minnesota must pay a capitation each year for each student who is a resident of Minnesota. The appropriation may be transferred between years of the biennium to accommodate enrollment fluctuations.

APPROPRIATIONS  
Available for the Year  
Ending June 30  
2006 2007

It is intended that during the biennium the Mayo Foundation use the capitation money to increase the number of doctors practicing in rural areas in need of doctors.

Subd. 3. Family Practice and Graduate Residency Program	531,000	531,000
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The state of Minnesota must pay a capitation of up to 27 residents each year.

Subd. 4. St. Cloud Hospital-Mayo Family Practice Residency Program

	346,000	346,000
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This appropriation is to the Mayo Foundation to support 12 resident physicians each year in the St. Cloud Hospital-Mayo family practice residency program. The program must prepare doctors to practice primary care medicine in the rural areas of the state. It is intended that this program will improve health care in rural communities, provide affordable access to appropriate medical care, and manage the treatment of patients in a more cost-effective manner.

Sec. 6. COMMISSIONER OF HEALTH	95,000	155,000
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To the commissioner of health to implement new Minnesota Statutes, section 144.1498.

## ARTICLE 2

### RELATED PROVISIONS

Section 1. Minnesota Statutes 2004, section 135A.031, subdivision 3, is amended to read:

Subd. 3. [DETERMINATION OF INSTRUCTIONAL SERVICES BASE.] The instructional services base for each public postsecondary system is the sum of: (1) the state share; and (2) the legislatively estimated tuition for the second year of the most recent biennium; and (3) ~~adjustments for inflation, enrollment changes as calculated in subdivision 4, and~~ performance as calculated in subdivision 5.

[EFFECTIVE DATE.] This section is effective June 30, 2007.

Sec. 2. Minnesota Statutes 2004, section 135A.031, subdivision 4, is amended to read:

Subd. 4. ~~[ADJUSTMENT FOR ENROLLMENTS FOR BUDGETING.] (a) Each public postsecondary system's instructional services base shall be adjusted for estimated changes in enrollments. For each two percent change in estimated full-year equivalent enrollment, an adjustment shall be made to 65 percent of the instructional services base. The remaining 35 percent of the instructional services base is not subject to the adjustment in this subdivision.~~

~~(b)~~ For all purposes where student enrollment is used for budgeting purposes, student enrollment shall be measured in full-year equivalents and shall include only enrollments in courses that award credit or otherwise satisfy any of the requirements of an academic or vocational program.

~~(c) The enrollment adjustment shall be made for each year of the subsequent biennium. The base enrollment year is the 1995 fiscal year enrollment. The base enrollment shall be updated for each two percent change in estimated full year equivalent enrollment. If the actual enrollment differs from the estimated enrollment, an adjustment shall be made in the next biennium.~~

**[EFFECTIVE DATE.]** This section is effective June 30, 2007.

Sec. 3. Minnesota Statutes 2004, section 135A.052, subdivision 1, is amended to read:

Subdivision 1. [STATEMENT OF MISSIONS.] The legislature recognizes each type of public postsecondary institution to have a distinctive mission within the overall provision of public higher education in the state and a responsibility to cooperate with each other. These missions are as follows:

(1) the technical colleges shall offer vocational training and education to prepare students for skilled occupations that do not require a baccalaureate degree;

(2) the community colleges shall offer lower division instruction in academic programs, occupational programs in which all credits earned will be accepted for transfer to a baccalaureate degree in the same field of study, and remedial studies, for students transferring to baccalaureate institutions and for those seeking associate degrees;

(3) consolidated community technical colleges shall offer the same types of instruction, programs, certificates, diplomas, and degrees as the technical colleges and community colleges offer;

(4) the state universities shall offer undergraduate and graduate instruction through the master's degree, including specialist certificates, in the liberal arts and sciences and professional education, and may offer applied doctoral degrees in education, business, psychology, physical therapy, audiology, and nursing; and

(5) the University of Minnesota shall offer undergraduate, graduate, and professional instruction through the doctoral degree, and shall be the primary state supported academic agency for research and extension services.

It is part of the mission of each system that within the system's resources the system's governing board and chancellor or president shall endeavor to:

(a) prevent the waste or unnecessary spending of public money;

(b) use innovative fiscal and human resource practices to manage the state's resources and operate the system as efficiently as possible;

(c) coordinate the system's activities wherever appropriate with the activities of the other system and governmental agencies;

(d) use technology where appropriate to increase system productivity, improve customer service, increase public access to information about the system, and increase public participation in the business of the system;

(e) utilize constructive and cooperative labor-management practices to the extent otherwise required by chapters 43A and 179A; and

(f) recommend to the legislature appropriate changes in law necessary to carry out the mission of the system.

Sec. 4. [135A.165] [DEAF STUDENTS; TUITION ASSISTANCE.]

(a) For the purpose of this section, a "deaf person" means an individual with a hearing loss of such severity that the individual must depend primarily on visual communication, such as writing, lip reading, manual communication, and gestures.

(b) A deaf person, who is a resident student as defined in section 136A.101, subdivision 8, is entitled to tuition assistance for the tuition and fees remaining after deducting any federal or state grants or other public or private grants made to the person for the purpose of paying the tuition and fees at a Minnesota state college or university or the University of Minnesota. A deaf person must receive either a federal Pell grant or a state grant under section 136A.121 for a term to receive tuition assistance for that term.

Sec. 5. Minnesota Statutes 2004, section 135A.30, subdivision 3, is amended to read:

Subd. 3. [SELECTION OF RECIPIENTS.] The governing board of an eligible institution shall determine, in consultation with its campuses, application dates and procedures, criteria to be considered, and methods of selecting students to receive scholarships. A campus, with the approval of its governing board, may award a scholarship in any ~~of the specified fields~~ field of study ~~(1) in which the campus offers a program that is of the quality and rigor to meet the needs of the talented student, and (2) that is pertinent to the mission of the campus.~~

Sec. 6. Minnesota Statutes 2004, section 135A.30, subdivision 4, is amended to read:

Subd. 4. [AMOUNT OF SCHOLARSHIP.] The amount of the scholarship ~~must~~ may be (1) at public institutions, up to the cost of tuition and fees for full-time attendance for one academic year, or (2) at private institutions, an amount ~~equal~~ up to the lesser of the actual tuition and fees charged by the institution or the tuition and fees in comparable public institutions. Scholarships awarded under this section must not be considered in determining a student's financial need as provided in section 136A.101, subdivision 5.

Sec. 7. Minnesota Statutes 2004, section 135A.30, subdivision 5, is amended to read:

Subd. 5. [RENEWALS.] The scholarship ~~shall~~ may be renewed yearly, for up to three additional academic years, if the student:

- (1) maintains full-time enrollment with a grade point average of at least 3.0 on a four point scale;
- (2) pursues studies and continues to demonstrate outstanding ability, achievement, and potential in the field for which the award was made; and
- (3) is achieving satisfactory progress toward a degree.

Sec. 8. Minnesota Statutes 2004, section 135A.52, subdivision 1, is amended to read:

Subdivision 1. [FEES AND TUITION.] Except for an administration fee established by the governing board at a level to recover costs, to be collected only when a course is taken for credit, a senior citizen who is a legal resident of Minnesota is entitled without payment of tuition or activity fees to attend courses offered for credit, audit any courses offered for credit, or enroll in any noncredit ~~adult vocational education~~ courses in any state supported

institution of higher education in Minnesota when space is available after all tuition-paying students have been accommodated. A senior citizen enrolled under this section must pay any materials, personal property, or service charges for the course. In addition, a senior citizen who is enrolled in a course for credit must pay an administrative fee in an amount established by the governing board of the institution to recover the course costs. There shall be no administrative fee charges to a senior citizen auditing a course. For the purposes of this section and section 135A.51, the term "noncredit ~~adult vocational education~~ courses" shall not include those ~~adult vocational education~~ courses designed and offered specifically and exclusively for senior citizens.

The provisions of this section and section 135A.51 do not apply to noncredit courses designed and offered by the University of Minnesota, and the Minnesota State Colleges and Universities specifically and exclusively for senior citizens. Senior citizens enrolled under the provisions of this section and section 135A.51 shall not be included by such institutions in their computation of full-time equivalent students when requesting staff or appropriations. ~~The enrollee shall pay laboratory or material fees.~~

Sec. 9. Minnesota Statutes 2004, section 135A.52, subdivision 2, is amended to read:

Subd. 2. [TERM; INCOME OF SENIOR CITIZENS.] (a) Except under paragraph (b), there shall be no limit to the number of terms, quarters or semesters a senior citizen may attend courses, nor income limitation imposed in determining eligibility.

(b) A senior citizen enrolled in a closed enrollment contract training or professional continuing education program is not eligible for benefits under subdivision 1.

Sec. 10. Minnesota Statutes 2004, section 136A.01, subdivision 2, is amended to read:

Subd. 2. [RESPONSIBILITIES.] The Higher Education Services Office is responsible for:

(1) necessary state level administration of financial aid programs, including accounting, auditing, and disbursing state and federal financial aid funds, and reporting on financial aid programs to the governor and the legislature;

(2) approval, registration, licensing, and financial aid eligibility of private collegiate and career schools, under sections 136A.61 to 136A.71 and chapter 141;

(3) administering ~~the Telecommunications Council under Laws 1993, First Special Session chapter 2, article 5, section 2, the Learning Network of Minnesota, and the Statewide Library Task Force;~~

(4) negotiating and administering reciprocity agreements;

(5) publishing and distributing financial aid information and materials, and other information and materials under section 136A.87, to students and parents;

(6) collecting and maintaining student enrollment and financial aid data and reporting data on students and postsecondary institutions to develop and implement a process to measure and report on the effectiveness of postsecondary institutions;

(7) administering the federal programs that affect students and institutions on a statewide basis; and

(8) prescribing policies, procedures, and rules under chapter 14 necessary to administer the programs under its supervision.

Sec. 11. Minnesota Statutes 2004, section 136A.031, subdivision 2, is amended to read:

Subd. 2. [HIGHER EDUCATION ADVISORY COUNCIL.] A Higher Education Advisory Council (HEAC) is established. The HEAC is composed of the president of the University of Minnesota or designee; the chancellor of the Minnesota State Colleges and Universities or designee; the commissioner of education; the president of the Private College Council; a representative from the Minnesota ~~Association of Private Postsecondary Schools~~ Career College Association; and a member appointed by the governor. The HEAC shall ~~(1) bring to the attention of the Higher Education Services Council Office any matters that the HEAC deems necessary, and (2) review and comment upon matters before the council. The council shall refer all proposals to the HEAC before submitting recommendations to the governor and the legislature. The council shall provide time for a report from the HEAC at each meeting of the council.~~

Sec. 12. Minnesota Statutes 2004, section 136A.031, subdivision 3, is amended to read:

Subd. 3. [STUDENT ADVISORY COUNCIL.] A Student Advisory Council (SAC) to the Higher Education Services ~~Council Office~~ is established. The members of SAC shall include: the chair of the University of Minnesota student senate; the state chair of the Minnesota State University Student Association; the president of the Minnesota State College Student Association and an officer of the Minnesota State College Student Association, one in a community college course of study and one in a technical college course of study; the president of the Minnesota Association of Private College Students; and a student who is enrolled in a private vocational school, to be appointed by the Minnesota ~~Association of Private Postsecondary Schools~~ Career College Association. A member may be represented by a student designee who attends an institution from the same system that the absent member represents. The SAC shall select one of its members to serve as chair.

The Higher Education Services ~~Council Office~~ shall inform the SAC of all matters related to student issues under consideration ~~and shall refer all proposals to the SAC before taking action or sending the proposals to the governor or legislature.~~ The SAC shall report to the Higher Education Services ~~Council Office~~ quarterly and at other times that the SAC considers desirable. The SAC shall determine its meeting times, but it shall also meet with the ~~council office~~ within 30 days after the director's request for a meeting.

The SAC shall:

(1) bring to the attention of the Higher Education Services ~~Council Office~~ any matter that the SAC believes needs the attention of the ~~council office~~;

(2) make recommendations to the Higher Education Services ~~Council Office~~ as it finds appropriate; and

(3) ~~appoint~~ approve student ~~members to appointments by the Higher Education Services Council Office for each advisory groups group~~ as provided in subdivision 4; ~~and~~

~~(4) provide any reasonable assistance to the council.~~

Sec. 13. Minnesota Statutes 2004, section 136A.031, subdivision 4, is amended to read:

Subd. 4. [STUDENT REPRESENTATION.] ~~If requested by the SAC,~~ The director must place at least one student from an affected educational system on any task force created ~~under subdivision 1. The student member or members shall be appointed by the SAC by the office.~~ The director must submit to the SAC the name of any student appointed to an advisory group or task force. The student appointment is not approved if four SAC members vote to disapprove of the appointment. If an appointment is disapproved, the director must submit another student appointment to the SAC in a timely manner.

Sec. 14. Minnesota Statutes 2004, section 136A.031, subdivision 5, is amended to read:

Subd. 5. [EXPIRATION.] Notwithstanding section 15.059, subdivision 5, the advisory groups established in this section expire on June 30, ~~2005~~ 2007.

Sec. 15. Minnesota Statutes 2004, section 136A.08, is amended by adding a subdivision to read:

Subd. 7. [REPORTING.] The Higher Education Services Office must annually, before the last day in January, submit a report to the committees in the house of representatives and the senate with responsibility for higher education finance on:

(1) participation in the tuition reciprocity program by Minnesota students and students from other states attending Minnesota postsecondary institutions under a reciprocity agreement;

(2) reciprocity and resident tuition rates at each institution; and

(3) interstate payments and obligations for each state participating in the tuition reciprocity program in the prior year.

Sec. 16. Minnesota Statutes 2004, section 136A.08, is amended by adding a subdivision to read:

Subd. 8. [DATA SHARING.] (a) The Higher Education Services Office must consider developing data collection procedures and agreements to monitor the extent to which students who attend Minnesota postsecondary institutions under reciprocity agreements are employed in Minnesota after graduation. These procedures must include matching Social Security numbers of reciprocity students for purposes of tracking the migration and employment of students who receive associate, baccalaureate, or graduate degrees through a tuition reciprocity program. State agencies must share wage and earnings data under section 268.19 for the purpose of evaluating the tuition reciprocity program.

(b) The reciprocity application must request the use of student Social Security numbers for the purposes of this subdivision. Reciprocity students must be informed that Social Security numbers will be used only for monitoring described in paragraph (a), by sharing information with Minnesota agencies and departments responsible for the administration of covered wage data and revenue collections. Social Security numbers must not be used for any other purpose or reported to any other government entity.

(c) The office must include summary data on the migration and earnings of reciprocity graduates in the reciprocity report to the legislature. This report must include summary statistics on number of graduates by institution, degree granted and year of graduation, total number of reciprocity students employed in the state, and total earnings of graduates.

Sec. 17. Minnesota Statutes 2004, section 136A.121, subdivision 2, is amended to read:

Subd. 2. [ELIGIBILITY FOR GRANTS.] An applicant is eligible to be considered for a grant, regardless of the applicant's sex, creed, race, color, national origin, or ancestry, under sections 136A.095 to 136A.131 if the office finds that the applicant:

(1) is a resident of the state of Minnesota;

(2) is a graduate of a secondary school or its equivalent, or is 17 years of age or over, and has met all requirements for admission as a student to an eligible college or technical college of choice as defined in sections 136A.095 to 136A.131;



(3) has met the financial need criteria established in Minnesota Rules;

(4) is not in default, as defined by the office, of any federal or state student educational loan; and

(5) is not more than 30 days in arrears ~~for any in court-ordered child support payments owed to a~~ that is collected or enforced by the public agency authority responsible for child support enforcement or, if the applicant is more than 30 days in arrears in court-ordered child support that is collected or enforced by the public authority responsible for child support enforcement, but is complying with a written payment agreement under section 518.553 or order for arrearages. ~~An agreement must provide for a repayment of arrearages at no less than 20 percent per month of the amount of the monthly child support obligation or no less than \$30 per month if there is no current monthly child support obligation. Compliance means that payments are made by the payment date.~~

~~The director and the commissioner of human services shall develop procedures to implement clause (5).~~

Sec. 18. Minnesota Statutes 2004, section 136A.121, subdivision 6, is amended to read:

Subd. 6. [COST OF ATTENDANCE.] (a) The recognized cost of attendance consists of allowances specified in law for living and miscellaneous expenses, and an allowance for tuition and fees equal to the lesser of the average tuition and fees charged by the institution, or the tuition and fee maximums established in law.

(b) For a student registering for less than full time, the office shall prorate the cost of attendance to the actual number of credits for which the student is enrolled.

The recognized cost of attendance for a student who is confined to a Minnesota correctional institution shall consist of the tuition and fee component in paragraph (a), with no allowance for living and miscellaneous expenses.

For the purpose of this subdivision, "fees" include only those fees that are mandatory and charged to full-time resident students attending the institution. Fees do not include charges for tools, equipment, computers, or other similar materials where the student retains ownership. Fees include charges for these materials if the institution retains ownership. Fees do not include optional or punitive fees.

Sec. 19. Minnesota Statutes 2004, section 136A.121, is amended by adding a subdivision to read:

Subd. 7a. [SURPLUS APPROPRIATION.] If the amount appropriated is determined by the office to be more than sufficient to fund projected grant demand in the second year of the biennium, the office may increase the living and miscellaneous expense allowance in the second year of the biennium by up to an amount that retains sufficient appropriations to fund the projected grant demand. The adjustment may be made one or more times. In making the determination that there is more than sufficient funds, the office shall balance the need for sufficient resources to meet the projected demand for grants with the goal of fully allocating the appropriation for state grants. An increase in the living and miscellaneous expense allowance under this subdivision does not carry forward into a subsequent biennium. This subdivision expires June 30, 2007.

Sec. 20. Minnesota Statutes 2004, section 136A.121, subdivision 9, is amended to read:

Subd. 9. [AWARDS.] An undergraduate student who meets the office's requirements is eligible to apply for and receive a grant in any year of undergraduate study unless the student has obtained a baccalaureate degree or previously has been enrolled full time or the equivalent for eight semesters or the equivalent, excluding courses taken from a Minnesota school or postsecondary institution which is not participating in the state grant program and from which a student transferred no credit. A student who withdraws from enrollment for active military service is entitled to an additional semester or the equivalent of grant eligibility. A student enrolled in a two-year program at a four-year institution is only eligible for the tuition and fee maximums established by law for two-year institutions.

Sec. 21. Minnesota Statutes 2004, section 136A.121, subdivision 13, is amended to read:

Subd. 13. [DEADLINE.] The deadline for the office to accept applications for state grants for a term is ~~14~~ 30 days after the start of that term.

Sec. 22. Minnesota Statutes 2004, section 136A.121, is amended by adding a subdivision to read:

Subd. 18. [DATA.] (a) An eligible institution must provide to the office data on student enrollment and federal and state financial aid.

(b) An institution or its agent must provide to the office aggregate and distributional financial or other data as determined by the director that is directly related to the responsibilities of the office under this chapter and chapter 141. The director may only request aggregate and distributional data after establishing and consulting with a data advisory task force to determine the need, content, and detail of the information. Data provided by nonpublic institutions under this paragraph is considered nonpublic data under chapter 13.

Sec. 23. Minnesota Statutes 2004, section 136A.125, subdivision 2, is amended to read:

Subd. 2. [ELIGIBLE STUDENTS.] (a) An applicant is eligible for a child care grant if the applicant:

(1) is a resident of the state of Minnesota;

(2) has a child 12 years of age or younger, or 14 years of age or younger who is handicapped as defined in section 125A.02, and who is receiving or will receive care on a regular basis from a licensed or legal, nonlicensed caregiver;

(3) is income eligible as determined by the office's policies and rules, but is not a recipient of assistance from the Minnesota family investment program;

(4) has not earned a baccalaureate degree and has been enrolled full time less than eight semesters or the equivalent;

(5) is pursuing a nonsectarian program or course of study that applies to an undergraduate degree, diploma, or certificate;

(6) is enrolled at least half time in an eligible institution; and

(7) is in good academic standing and making satisfactory academic progress.

(b) A student who withdraws from enrollment for active military service is entitled to an additional semester or the equivalent of grant eligibility.

Sec. 24. Minnesota Statutes 2004, section 136A.125, subdivision 4, is amended to read:

Subd. 4. [AMOUNT AND LENGTH OF GRANTS.] The amount of a child care grant must be based on:

(1) the income of the applicant and the applicant's spouse;

(2) the number in the applicant's family, as defined by the office; and

(3) the number of eligible children in the applicant's family.

The maximum award to the applicant shall be ~~\$2,200~~ \$2,300 for each eligible child per academic year, except that the campus financial aid officer may apply to the office for approval to increase grants by up to ten percent to compensate for higher market charges for infant care in a community. The office shall develop policies to determine community market costs and review institutional requests for compensatory grant increases to ensure need and equal treatment. The office shall prepare a chart to show the amount of a grant that will be awarded per child based on the factors in this subdivision. The chart shall include a range of income and family size.

Sec. 25. Minnesota Statutes 2004, section 136A.1701, is amended by adding a subdivision to read:

Subd. 11. [DATA.] (a) An eligible institution must provide to the office data on student enrollment and federal and state financial aid.

(b) An institution or its agent must provide to the office aggregate and distributional financial or other data as determined by the director that is directly related to the responsibilities of the office under this chapter and chapter 141. The director may only request aggregate and distributional data after establishing and consulting with a data advisory task force to determine the need, content, and detail of the information. Data provided by nonpublic institutions under this paragraph is considered nonpublic data under chapter 13.

Sec. 26. Minnesota Statutes 2004, section 136A.1701, is amended by adding a subdivision to read:

Subd. 12. [ELIGIBLE STUDENT.] "Eligible student" means a student who is a Minnesota resident who is enrolled or accepted for enrollment at an eligible institution in Minnesota or in another state or province. Non-Minnesota residents are eligible students if they are enrolled or accepted for enrollment in a minimum of one course of at least 30 days in length during the academic year that requires physical attendance at an eligible institution located in Minnesota. Non-Minnesota resident students enrolled exclusively during the academic year in correspondence courses or courses offered over the Internet are not eligible students. Non-Minnesota resident students not physically attending classes in Minnesota due to enrollment in a study abroad program for 12 months or less are eligible students. Non-Minnesota residents enrolled in study abroad programs exceeding 12 months are not eligible students. For purposes of this section, an "eligible student" must also meet the eligibility requirements of section 136A.15, subdivision 8.

Sec. 27. [136A.1703] [INCOME-CONTINGENT LOANS.]

The office shall administer an income-contingent loan repayment program to assist graduates of Minnesota schools in medicine, dentistry, pharmacy, chiropractic medicine, public health, and veterinary medicine, and Minnesota residents graduating from optometry and osteopathy programs. Applicant data collected by the office for this program may be disclosed to a consumer credit reporting agency under the same conditions as those that apply to the supplemental loan program under section 136A.162. No new applicants may be accepted after June 30, 1995.

Sec. 28. [136A.1785] [LOAN CAPITAL FUND.]

The office may deposit and hold assets derived from the operation of its student loan programs authorized by this chapter in a fund known as the loan capital fund. Assets in the loan capital fund are available to the office solely for carrying out the purposes and terms of sections 136A.15 to 136A.1703, including, but not limited to, making student loans authorized by this chapter, paying administrative expenses associated with the operation of its student loan programs, repurchasing defaulted student loans, and paying expenses in connection with the issuance of revenue bonds authorized under this chapter. Assets in the loan capital fund may be invested as provided in sections 11A.24 and 136A.16, subdivision 8. All interest and earnings from the investment of the loan capital fund inure to the benefit of the fund and are deposited into the fund.

Sec. 29. [136A.861] [INTERVENTION FOR COLLEGE ATTENDANCE PROGRAM GRANTS.]

Subdivision 1. [GRANTS.] The director of the Higher Education Services Office shall award grants to foster postsecondary attendance by providing outreach services to historically underserved students in grades six through 12. Grants must be awarded to programs that provide precollege services, including, but not limited to:

- (1) academic counseling;
- (2) mentoring;
- (3) fostering and improving parental involvement in planning for and facilitating a college education;
- (4) services for students with English as a second language;
- (5) academic enrichment activities;
- (6) tutoring;
- (7) career awareness and exploration;
- (8) orientation to college life;
- (9) assistance with high school course selection and information about college admission requirements; and
- (10) financial aid counseling.

Grants shall be awarded to postsecondary institutions, professional organizations, community-based organizations, or others deemed appropriate by the director.

Grants shall be awarded for one year and may be renewed for a second year with documentation to the Higher Education Services Office of successful program outcomes.

Subd. 2. [ELIGIBLE STUDENTS.] Eligible students include students in grades six through 12 who meet one or more of the following criteria:

- (1) are counted under section 1124(c) of the Elementary and Secondary Education Act of 1965 (Title I);
- (2) are eligible for free or reduced-price lunch under the National School Lunch Act;
- (3) receive assistance under the Temporary Assistance for Needy Families Law (Title I of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996); or
- (4) are a member of a group traditionally underrepresented in higher education.

Subd. 3. [APPLICATION PROCESS.] The director of the Higher Education Services Office shall develop a grant application process. The director shall attempt to support projects in a manner that ensures that eligible students throughout the state have access to precollege services.

The grant application must include, at a minimum, the following information:

(1) a description of the characteristics of the students to be served reflective of the need for services listed in subdivision 1;

(2) a description of the services to be provided and a timeline for implementation of the activities;

(3) a description of how the services provided will foster postsecondary attendance;

(4) a description of how the services will be evaluated to determine whether the program goals were met; and

(5) other information as identified by the director.

Grant recipients must specify both program and student outcome goals, and performance measures for each goal.

Subd. 4. [MATCH REQUIRED.] Applicants are required to match the grant amount dollar-for-dollar. The match may be in cash or an in-kind contribution.

Subd. 5. [REVIEW COMMITTEE.] The director must establish and convene a grant selection committee to review applications and award grants. The members of the committee may include representatives of postsecondary institutions, school districts, organizations providing precollege outreach services, and others deemed appropriate by the director.

Subd. 6. [PROGRAM EVALUATION.] Each grant recipient must annually submit a report to the Higher Education Services Office delineating its program and student outcome goals, and activities implemented to achieve the stated outcomes. The goals must be clearly stated and measurable. Grant recipients are required to collect, analyze, and report on participation and outcome data that enable the office to verify that the program goals were met. The office shall maintain:

(1) information about successful precollege program activities for dissemination to individuals throughout the state interested in adopting or replicating successful program practices; and

(2) data on the success of the funded projects in increasing the high school graduation and college participation rates of students served by the grant recipients. The office may convene meetings of the grant recipients, as needed, to discuss issues pertaining to the implementation of precollege services.

Subd. 7. [REPORT.] By January 15 of each odd-numbered year, the office shall submit a report to the committees in the legislature with jurisdiction over higher education finance regarding the grant recipients and their activities. The report shall include information about the students served, the organizations providing services, program activities, program goals and outcomes, and program revenue sources and funding levels.

Sec. 30. Minnesota Statutes 2004, section 136F.04, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS.] Each student association shall recommend at least two and not more than four candidates for its student member. By ~~January 2~~ April 15 of the year in which its members' term expires, each student association shall submit its recommendations to the governor. The governor is not bound by these recommendations.

Sec. 31. [136F.31] [CENTERS OF EXCELLENCE.]

Subdivision 1. [BOARD DESIGNATION.] The board must designate at least three and up to eight different program centers of excellence. The board must determine the form and required information contained in applications from member institutions.

Subd. 2. [CENTER SELECTION CRITERIA.] The board must select programs based on institutional proposals demonstrating:

- (1) the capacity to build multistate regional or national recognition of the program within five years;
- (2) a commitment to expanding the influence of the center to improve results in related programs in participating institutions;
- (3) the capacity to improve employment placement and income expectations of graduates from the program;
- (4) a strong partnership between a four-year and at least one two-year institution that maximizes the leverage of academic and training capacities in each institution;
- (5) a comprehensive academic plan that includes a seamless continuum of academic offerings in the program area that supports career development at multiple levels in related employment fields;
- (6) a specific development plan that includes a description of how the institution will pursue continuous improvement and accountability;
- (7) identified commitments from employers that include measurable financial and programmatic commitment to the center of excellence on the part of employers who will benefit from the development of the center. A center for teacher education must demonstrate support from local school districts;
- (8) a commitment from the institution that the new designated funding will not supplant current budgets from related programs;
- (9) a strong existing program upon which the proposed center will build; and
- (10) a separate fund for donations dedicated for the program within current institutional foundations.

The board may adopt additional criteria that promote general goals of the centers. The board shall give priority to programs that integrate the academic and training outcomes of the center with business clusters that have a significant multiplier effect on the state's economy based on projections of job, income, or general economic growth. The board shall consult with the Department of Employment and Economic Development to identify these clusters and the potential economic impact of developing a center for excellence.

Subd. 3. [ADVISORY COMMITTEE AND REPORTS REQUIRED.] A center of excellence must create an advisory committee representing local, statewide, and national leaders in the field. By January 15 of each odd-numbered year, each designated center must provide a report to the governor and the chairs of committees of the legislature with jurisdiction over higher education finance, that includes annual and integrated data on program enrollment, student demographics, student admission data, endowment growth, graduation rates, graduation outcomes, employer involvement, indicators of student or graduate employment success, and other outcomes as determined by the board. After a center has been in existence for three years, the report must include measures of the program's impact on the local economy.

Sec. 32. Minnesota Statutes 2004, section 136F.32, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL AND CONSOLIDATED TECHNICAL COLLEGES.] (a) A technical college or consolidated technical community college shall offer students the option of pursuing diplomas ~~and~~ or certificates in each technical education program, unless the board determines that a degree is the only acceptable credential for career entry in a specific field. All vocational and technical credits earned for a diploma or certificate shall be applicable toward any available degree in the same program.

(b) Certificates and diplomas are credentials that demonstrate competence in a vocational or technical area and, therefore, may include a general education component only as part of an articulation agreement or to meet occupational requirements as established by the trade or profession, or by the program advisory committee. Students shall be provided with applied training in general studies as necessary for competence in the program area. Students who have earned a certificate or diploma may earn a degree in the same field if they complete the general education and other degree requirements.

Sec. 33. Minnesota Statutes 2004, section 136G.03, subdivision 3, is amended to read:

Subd. 3. [ACCOUNT OWNER.] "Account owner" means a person who enters into a participation agreement and is entitled to ~~select or change~~ conduct transactions on the account, including selecting and changing the beneficiary of an account ~~or to receive and receiving~~ distributions from the account ~~for other than payment of qualified higher education expenses.~~

Sec. 34. Minnesota Statutes 2004, section 136G.03, subdivision 21a, is amended to read:

Subd. 21a. [MINOR TRUST ACCOUNT.] "Minor trust account" means a Uniform Gift to Minors Act account; or a Uniform Transfers to Minors Act account; ~~or a trust instrument naming a minor person as beneficiary,~~ created and operating under the laws of Minnesota or another state.

Sec. 35. Minnesota Statutes 2004, section 136G.03, subdivision 22, is amended to read:

Subd. 22. [NONQUALIFIED DISTRIBUTION.] "Nonqualified distribution" means a distribution made from an account other than (1) a qualified distribution; or (2) a distribution due to the death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary.

Sec. 36. Minnesota Statutes 2004, section 136G.03, subdivision 32, is amended to read:

Subd. 32. [SCHOLARSHIP.] "Scholarship" means a scholarship; or educational assistance allowance; ~~or payment under section 529(b)(3)(C) of the Internal Revenue Code.~~

Sec. 37. Minnesota Statutes 2004, section 136G.05, subdivision 8, is amended to read:

Subd. 8. [ADMINISTRATION.] The director shall administer the program, including accepting and processing applications, maintaining account records, making payments, making matching grants under section 136G.11, and undertaking any other necessary tasks to administer the program. The office may contract with one or more third parties to carry out some or all of these administrative duties, including ~~promotion~~ providing incentives and marketing ~~of~~ the program. The office and the board may jointly contract with third-party providers, if the office and board determine that it is desirable to contract with the same entity or entities for administration and investment management.

Sec. 38. Minnesota Statutes 2004, section 136G.09, subdivision 11, is amended to read:

Subd. 11. [EFFECT OF PLAN CHANGES ON PARTICIPATION AGREEMENT.] Amendments to sections 136G.01 to 136G.13 automatically amend the participation agreement. Any amendments to the operating procedures and policies of the plan shall automatically amend the participation agreement ~~30 days~~ after adoption by the office or the board.

Sec. 39. Minnesota Statutes 2004, section 136G.09, subdivision 12, is amended to read:

Subd. 12. [SPECIAL ACCOUNT TO HOLD PLAN ASSETS IN TRUST.] All assets of the plan, including contributions to accounts and matching grant accounts and earnings, are held in trust for the exclusive benefit of account owners and beneficiaries. Assets must be held in a separate account in the state treasury to be known as the Minnesota college savings plan account or in accounts with the third party provider selected pursuant to section 136G.05, subdivision 8. Plan assets are not subject to claims by creditors of the state, are not part of the general fund, and are not subject to appropriation by the state. Payments from the Minnesota college savings plan account shall be made under sections 136G.01 to 136G.13.

Sec. 40. Minnesota Statutes 2004, section 136G.11, subdivision 1, is amended to read:

Subdivision 1. [MATCHING GRANT QUALIFICATION.] By June 30 of each year, a state matching grant must be added to each account established under the program if the following conditions are met:

- (1) the contributor applies, in writing in a form prescribed by the director, for a matching grant;
- (2) a minimum contribution of \$200 was made during the preceding calendar year; ~~and~~
- (3) the beneficiary's family meets Minnesota college savings plan residency requirements; and
- (4) the family income of the beneficiary did not exceed \$80,000.

Sec. 41. Minnesota Statutes 2004, section 136G.11, subdivision 2, is amended to read:

Subd. 2. [FAMILY INCOME.] (a) For purposes of this section, "family income" means:

(1) if the beneficiary is under age 25, the combined adjusted gross income of the beneficiary's parents or legal guardians as reported on the federal tax return or returns for the calendar year in which contributions were made. If the beneficiary's parents or legal guardians are divorced, the income of the parent claiming the beneficiary as a dependent on the federal individual income tax return and the income of that parent's spouse, if any, is used to determine family income; or

(2) if the beneficiary is age 25 or older, the combined adjusted gross income of the beneficiary and spouse, if any.

(b) For a parent or legal guardian of beneficiaries under age 25 and for beneficiaries age 25 or older who resided in Minnesota and filed a federal individual income tax return, the matching grant must be based on family income from the calendar year in which contributions were made.



Sec. 42. Minnesota Statutes 2004, section 136G.11, subdivision 3, is amended to read:

Subd. 3. [RESIDENCY REQUIREMENT.] (a) If the beneficiary is under age 25, the beneficiary's parents or legal guardians must be Minnesota residents to qualify for a matching grant. If the beneficiary is age 25 or older, the beneficiary must be a Minnesota resident to qualify for a matching grant.

(b) To meet the residency requirements, the parent or legal guardian of beneficiaries under age 25 must have filed a Minnesota individual income tax return as a Minnesota resident and claimed the beneficiary as a dependent on the parent or legal guardian's federal tax return for the calendar year in which contributions were made. If the beneficiary's parents are divorced, the parent or legal guardian claiming the beneficiary as a dependent on the federal individual income tax return must be a Minnesota resident. For beneficiaries age 25 or older, the beneficiary, and a spouse, if any, must have filed a Minnesota and a federal individual income tax return as a Minnesota resident for the calendar year in which contributions were made.

(c) A parent of beneficiaries under age 25 and beneficiaries age 25 or older who did not reside in Minnesota in the calendar year in which contributions were made are not eligible for a matching grant.

Sec. 43. Minnesota Statutes 2004, section 136G.11, subdivision 13, is amended to read:

Subd. 13. [FORFEITURE OF MATCHING GRANTS.] (a) Matching grants are forfeited if:

(1) the account owner transfers the total account balance of an account to another account or to another qualified tuition program;

(2) the beneficiary receives a full tuition scholarship or ~~admission to~~ is attending a United States service academy;

(3) the beneficiary dies or becomes disabled;

(4) the account owner changes the beneficiary of the account; or

(5) the account owner closes the account with a nonqualified withdrawal.

(b) Matching grants must be proportionally forfeited if:

(1) the account owner transfers a portion of an account to another account or to another qualified tuition program;

(2) the beneficiary receives a scholarship covering a portion of qualified higher education expenses; or

(3) the account owner makes a partial nonqualified withdrawal.

(c) If the account owner makes a misrepresentation in a participation agreement or an application for a matching grant that results in a matching grant, the matching grant associated with the misrepresentation is forfeited. The office and the board must instruct the plan administrator as to the amount to be forfeited from the matching grant account. The office and the board must withdraw the matching grant or the proportion of the matching grant that is related to the misrepresentation.

Sec. 44. Minnesota Statutes 2004, section 136G.13, subdivision 1, is amended to read:

Subdivision 1. [QUALIFIED DISTRIBUTION METHODS.] (a) Qualified distributions may be made:

(1) directly to participating eligible educational institutions on behalf of the beneficiary; ~~or~~

(2) in the form of a check payable to both the beneficiary and the eligible educational institution; or

(3) directly to the account owner or beneficiary if the account owner or beneficiary has already paid qualified higher education expenses.

(b) Qualified distributions must be withdrawn proportionally from contributions and earnings in an account owner's account on the date of distribution as provided in section 529 of the Internal Revenue Code.

Sec. 45. Minnesota Statutes 2004, section 136G.13, subdivision 5, is amended to read:

Subd. 5. [DISTRIBUTIONS DUE TO DEATH OR DISABILITY OF, OR SCHOLARSHIP TO, OR ATTENDANCE AT A UNITED STATES MILITARY ACADEMY BY, A BENEFICIARY.] An account owner may request a distribution due to the death or disability of, or scholarship to, or attendance at a United States military academy by, a beneficiary from an account by submitting a completed request to the plan. Prior to distribution, the account owner shall certify the reason for the distribution and provide written confirmation from a third party that the beneficiary has died, become disabled, or received a scholarship for attendance at an eligible educational institution, or is attending a United States military academy. The plan must not consider a request to make a distribution until a third-party written confirmation is received by the plan. For purposes of this subdivision, a third-party written confirmation consists of the following:

(1) for death of the beneficiary, a certified copy of the beneficiary's death record;

(2) for disability of the beneficiary, a certification by a physician who is a doctor of medicine or osteopathy stating that the doctor is legally authorized to practice in a state of the United States and that the beneficiary is unable to attend any eligible educational institution because of an injury or illness that is expected to continue indefinitely or result in death. Certification must be on a form approved by the plan; ~~or~~

(3) for a scholarship award to the beneficiary, a letter from the grantor of the scholarship or from the eligible educational institution receiving or administering the scholarship, that identifies the beneficiary by name and Social Security number or taxpayer identification number as the recipient of the scholarship and states the amount of the scholarship, the period of time or number of credits or units to which it applies, the date of the scholarship, and, if applicable, the eligible educational institution to which the scholarship is to be applied; or

(4) for attendance by the beneficiary at a United States military academy, a letter from the military academy indicating the beneficiary's enrollment and attendance.

Sec. 46. Minnesota Statutes 2004, section 136G.14, is amended to read:

136G.14 [MINOR TRUST ACCOUNTS.]

(a) This section applies to a plan account in which funds of a minor trust account are invested.

(b) The account owner may not be changed to any person other than a successor custodian or the beneficiary unless a court order directing the change of ownership is provided to the plan administrator. The custodian must sign all forms and requests submitted to the plan administrator in the custodian's representative capacity. The custodian must notify the plan administrator in writing when the beneficiary becomes legally entitled to be the account owner. An account owner under this section may not select a contingent account owner.

(c) The beneficiary of an account under this section may not be changed. If the beneficiary dies, assets in a plan account become the property of the beneficiary's estate. Funds in an account must not be transferred or rolled over to another account owner or to an account for another beneficiary. A nonqualified distribution from an account, or a distribution due to the disability or scholarship award to the beneficiary, or made on account of the beneficiary's attendance at a United States military academy, must be used for the benefit of the beneficiary.

Sec. 47. Minnesota Statutes 2004, section 137.0245, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT.] A Regent Candidate Advisory Council is established to assist ~~the legislature~~ in determining criteria for, and identifying and recruiting qualified candidates for membership on the Board of Regents and making recommendations to the governor.

Sec. 48. Minnesota Statutes 2004, section 137.0245, subdivision 3, is amended to read:

Subd. 3. [DUTIES.] (a) The advisory council shall:

(1) develop, in consultation with current and former regents and the administration of the University of Minnesota, a statement of the selection criteria to be applied and a description of the responsibilities and duties of a regent, and shall distribute this to potential candidates; and

(2) for each position on the board, identify and recruit qualified candidates for the Board of Regents, based on the background and experience of the candidates, ~~and~~ their potential for discharging the responsibilities of a member of the Board of Regents, and the needs of the board. The selection criteria must not include a limitation on the number of terms an individual may serve on the Board of Regents.

(b) The selection criteria developed under paragraph (a), clause (1), must include a criterion that regents represent diversity in geography; gender; race; occupation, including business and labor; and experience.

(c) The selection criterion must include an identification of the membership needs of the board for individual skills relevant to the governance of the University of Minnesota and the needs for certain individual characteristics. Individual characteristics relate to qualities such as gender, race, and geographic location of residence.

Sec. 49. Minnesota Statutes 2004, section 137.0245, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS.] (a) The advisory council shall recommend at least two and not more than four candidates. ~~By March 15 January 15 of each odd-numbered year, the advisory council shall submit its recommendations to the president of the senate and the speaker of the house of representatives. The legislature shall not be bound by these recommendations~~ governor.

(b) The advisory council must submit a report to the governor on the needs criterion identified under subdivision 3, paragraph (c), at the same time it submits its recommendations.

Sec. 50. [137.0246] [REGENT NOMINATION AND ELECTION.]

Subdivision 1. [GOVERNOR NOMINATION.] By February 15 following the receipt of recommendations from the advisory council, the governor must submit to the joint committee established under subdivision 2 a slate of regent nominations that complies with sections 137.023 and 137.024. The slate must name one nominee for each vacancy. In selecting nominees, the governor must consider the needs of the Board of Regents and the balance of the board membership with respect to gender, racial, and ethnic composition. The governor must inform the joint committee how each candidate and the slate meets the needs identified in the report under section 137.0245, subdivision 4, paragraph (b).

Subd. 2. [JOINT COMMITTEE.] (a) The joint legislative committee consists of 20 legislator members. Ten members shall be appointed by the speaker of the house. Ten members shall be appointed by the Subcommittee on Committees of the Committee on Rules and Administration from the senate. An equal number of members from the majority and minority party shall be appointed from each house. The members appointed from the minority party must be appointed from among those recommended by the minority leader. The chairs of the education policy committees and of the higher education budget divisions and the ranking minority member of those committees and divisions must be appointed. A majority of the members from each house is a quorum of the joint committee.

(b) By February 28 of each odd-numbered year, or at a date agreed to by concurrent resolution, the joint legislative committee shall meet to consider the governor's nominees for regent of the University of Minnesota for possible presentation to a joint convention of the legislature.

(c) The joint committee may only recommend to the joint convention nominees recommended by the governor. If the joint committee does not recommend a governor's nominee, the governor must submit a different nominee for the same vacancy.

Sec. 51. [144.1498] [NURSING LOW-INCOME LOAN REPAYMENT.]

Subdivision 1. [DEFINITION.] For purposes of this section, "qualifying educational loans" means government, commercial, and foundation loans for actual costs paid for tuition, reasonable education expenses, and reasonable living expenses related to the graduate or undergraduate education of a licensed practical nurse or registered nurse.

Subd. 2. [CREATION OF ACCOUNT; LOAN REPAYMENT PROGRAM.] A low-income nursing education account is created in the general fund. The commissioner of health shall use money from the account to establish a loan repayment program for licensed practical or registered nurses who agree to practice in a Minnesota nursing home or work in a position in Minnesota as a nurse educator. Appropriations made to the account do not cancel and are available until expended.

Subd. 3. [ELIGIBILITY.] (a) To be eligible to apply to participate in the loan repayment program, an individual must:

(1) be a resident of Minnesota;

(2) currently be attending a program leading to a degree in practical or registered nursing or a graduate nursing degree in a public or private postsecondary education institution located in Minnesota; and

(3) submit an application to the commissioner of health.

(b) An applicant selected to participate must sign a contract to agree to serve a minimum three-year, full-time service obligation in a position or place of employment described in subdivision 2. The service must begin no later than March 31 following completion of required training. If fewer applications are submitted by nursing students than there are participant slots available, the commissioner may consider applications submitted by nursing program graduates who are licensed or registered nurses or nurses who are nurse educators. Nurses selected for loan repayment assistance must comply with this section.

Subd. 4. [LOAN REPAYMENT.] The commissioner of health may accept applicants each year for participation in the loan repayment program, within the limits of available funding. Applicants are responsible for securing their own loans. The commissioner shall select participants in a priority based upon lowest family income, followed in order of ascending family income. Family income may be determined in the same manner as for state grants under section 136A.121 or in another manner the commissioner determines fairly represents family income. The commissioner shall give preference to applicants closest to completing their training. For each year that a

participant meets the service obligation required under subdivision 3, up to a maximum of four years, the commissioner shall make annual disbursements directly to the participant equivalent to 15 percent of the average educational debt for indebted nursing school graduates in the year closest to the applicant's selection for which information is available or the balance of the qualifying educational loans, whichever is less. Before receiving loan repayment disbursements and as requested, the participant must complete and return to the commissioner an affidavit of practice form provided by the commissioner verifying that the participant is practicing as required under subdivision 3. The participant must provide the commissioner with verification that the full amount of loan repayment disbursement received by the participant has been applied toward the designated loans. After each disbursement, verification must be received by the commissioner and approved before the next loan repayment disbursement is made. Participants remain eligible for loan repayment as long as they practice as required under subdivision 3.

Subd. 5. [PENALTY FOR NONFULFILLMENT.] If a participant does not fulfill the service commitment under subdivision 3, the commissioner of health shall collect from the participant 100 percent of any payments made for qualified educational loans and interest at a rate established according to section 270.75. The commissioner shall deposit the money collected in the low-income nursing education account established under subdivision 2.

Subd. 6. [SUSPENSION OR WAIVER OF OBLIGATION.] Payment or service obligations cancel in the event of a participant's death. The commissioner of health may waive or suspend payment or service obligations in cases of total and permanent disability or long-term temporary disability lasting for more than two years. The commissioner shall evaluate all other requests for suspension or waivers on a case-by-case basis and may grant a waiver of all or part of the money owed as a result of a nonfulfillment penalty if emergency circumstances prevented fulfillment of the required service commitment.

Sec. 52. Minnesota Statutes 2004, section 192.502, subdivision 1, is amended to read:

Subdivision 1. [POSTSECONDARY STUDENTS.] (a) ~~A member of the Minnesota National Guard or any other military reserve component who is a~~ As used in this subdivision, the terms "qualified person" and "qualified student" have the same meaning and include:

(1) any student at a postsecondary ~~education~~ educational institution and who is ~~called or ordered to state into active military service in the Minnesota National Guard, as defined in section 190.05, subdivision 5, or who is called or ordered to federal active military service;~~ and

(2) a veteran, as defined in section 197.447, who has a service-connected disability as certified by the United States Department of Veterans Affairs, who is a student at a postsecondary educational institution, and whose service connected medical condition or medical treatment requirements reasonably prevent the person's attendance at or progress in part or all of the person's higher educational training or studies at any given time. The terms "medical condition" and "medical treatment requirements" must be broadly construed and without regard for whether or not they relate directly to the person's service-connected disability.

(b) A qualified person or qualified student has the following rights:

(1) with regard to courses in which the person is enrolled, the person may:

(i) withdraw from one or more courses for which tuition and fees have been paid that are attributable to the courses. The tuition and fees must be credited to the person's account at the postsecondary institution. Any refunds are subject to the requirements of the state or federal financial aid programs of origination. In such a case, the student must not receive credit for the courses and must not receive a failing grade, an incomplete, or other negative annotation on the student's record, and the student's grade point average must not be altered or affected in any manner because of action under this item;

(ii) be given a grade of incomplete and be allowed to complete the course upon release from active ~~duty~~ service, upon completion of medical treatment, or upon sufficient medical recovery under the postsecondary institution's standard practice for completion of incompletes; or

(iii) continue and complete the course for full credit. Class sessions the student misses due to performance of ~~state or federal~~ active military service or due to the person's medical treatment or medical condition must be counted as excused absences and must not be used in any way to adversely impact the student's grade or standing in the class. Any student who selects this option is not, however, automatically excused from completing assignments due during the period the student is performing ~~state or federal~~ active military service or receiving medical treatment or recovering from a medical condition. A letter grade or a grade of pass must ~~only~~ be awarded only if, in the opinion of the faculty member teaching the course, the student has completed sufficient work and has demonstrated sufficient progress toward meeting course requirements to justify the grade;

(2) to receive a refund of amounts paid for room, board, and fees attributable to the time period during which the student was serving in ~~state or federal~~ active military service or receiving medical treatment or dealing with the person's medical condition and did not use the facilities or services for which the amounts were paid. Any refund of room, board, and fees is subject to the requirements of the state or federal financial aid programs of origination; and

(3) if the student chooses to withdraw, the student has the right to be readmitted and reenrolled as a student at the postsecondary education institution, without penalty or redetermination of admission eligibility, within ~~one year~~ two years following release from the state or federal active military service or following completion of medical treatment or sufficient recovery from the person's medical condition.

~~(b)~~ (c) The protections in this section may be invoked as follows:

(1) the qualified person or qualified student, or an appropriate officer from the military organization in which the person will be serving, or an appropriate medical authority or the person's authorized caregiver or family member, must give advance verbal or written notice that the person is being ~~called or~~ ordered to qualifying active military service or will be undertaking medical treatment or a period of recovery for a medical condition;

(2) advance notice is not required if the giving of notice is precluded by military or medical necessity or, under all the relevant circumstances, the giving of notice is impossible or unreasonable; and

(3) upon written request from the postsecondary institution, the person must provide written verification of the order to active service or of the existence of the medical condition or medical treatment.

~~(c)~~ (d) This section provides minimum protections for qualified students. Nothing in this section prevents postsecondary institutions from providing additional options or protections to students who are ~~called or~~ ordered to ~~state or federal~~ active military service or are undertaking medical treatment or a period of recovery from a medical condition.

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

Sec. 53. Minnesota Statutes 2004, section 299A.45, subdivision 1, is amended to read:

Subdivision 1. **[ELIGIBILITY.]** Following certification under section 299A.44 and compliance with this section and rules of the commissioner of public safety and the higher education services office, dependent children less than 23 years of age and the surviving spouse of a public safety officer killed in the line of duty on or after January 1, 1973, are eligible to receive educational benefits under this section. To qualify for an award, they must be enrolled in undergraduate degree or certificate programs after June 30, 1990, at an eligible Minnesota institution as provided in section 136A.101, subdivision 4. A student who withdraws from enrollment for active military service is entitled

to an additional semester or the equivalent of grant eligibility. Persons who have received a baccalaureate degree or have been enrolled full time or the equivalent of ten semesters or the equivalent, whichever occurs first, are no longer eligible.

Sec. 54. Minnesota Statutes 2004, section 299A.45, subdivision 4, is amended to read:

Subd. 4. [RENEWAL.] Each award must be given for one academic year and is renewable for a maximum of eight semesters or the equivalent. A student who withdraws from enrollment for active military service is entitled to an additional semester or the equivalent of grant eligibility. An award must not be given to a dependent child who is 23 years of age or older on the first day of the academic year.

Sec. 55. [583.215] [EXPIRATION.]

(a) Sections 336.9-601, subsections (h) and (i); 550.365; 559.209; 582.039; and 583.20 to 583.32, expire June 30, 2009.

(b) Laws 1986, chapter 398, article 1, section 18, as amended, is repealed.

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

Sec. 56. [RECIPROCITY NEGOTIATIONS.]

Subdivision 1. [SOUTH DAKOTA.] The Higher Education Services Office must examine reinstating interstate payments in the Minnesota-South Dakota reciprocity program while maintaining the tuition reciprocity agreement. The office must examine the advantages and disadvantages of computing interstate payments under the reciprocity agreement and the impact of interstate payments on participating students, institutions, and the general funds of the two states. The office must report on the impacts of reinstating reciprocity payments to the committees of the legislature with responsibility for higher education by January 15, 2006.

Subd. 2. [WISCONSIN.] The Higher Education Services Office must, as soon as possible, commence negotiations with the state of Wisconsin on the tuition reciprocity agreement. The negotiations must include the issue of the disparity between the tuition paid by Wisconsin residents and Minnesota residents at campuses of the University of Minnesota with a goal of reducing or eliminating the disparity.

This section does not mandate the inclusion of any particular term in a tuition reciprocity agreement.

Sec. 57. [ADVISORY TASK FORCE ON PUBLIC POSTSECONDARY FUNDING.]

The Higher Education Services Office shall convene an advisory task force to study the current postsecondary funding policy under Minnesota Statutes, sections 135A.01 to 135A.034. The task force must include the chief financial officers of the University of Minnesota and the Minnesota State Colleges and Universities, and the commissioner of finance, or their designees. The task force may include other members as selected by the Higher Education Services Office. The task force must study and make specific recommendations on alternatives to the methods currently used by the postsecondary systems to implement the provisions of Minnesota Statutes, section 135A.031, subdivision 4. The task force must submit its recommendations to the legislature and the governor by January 15, 2006. The task force expires on June 30, 2007.

Sec. 58. [ALTERNATIVE FORMAT INSTRUCTIONAL MATERIAL NETWORK.]

The Higher Education Services Office must convene a group with representatives from publishers of postsecondary instructional materials, the Association of American Publishers (AAP), the Minnesota State Colleges and Universities, the University of Minnesota, all sectors of private postsecondary education, and Minnesota State

Services for the Blind to develop a network to make available postsecondary instructional material in an electronic format or to identify other solutions, such as a national system, to address the specialized format needs of postsecondary students with disabilities. The material available through the network must be made available to Minnesota postsecondary institutions and to postsecondary students with disabilities that require a reading accommodation. The group must establish standards for the instructional material that is available through the network. Instructional material must be in a format that is compatible with assistive technology used by students who require a reading accommodation. Instructional material includes, but is not limited to, commercially printed materials published or produced primarily for use by students in postsecondary educational courses. Instructional materials also include materials produced by postsecondary institutions, as defined by the group, for use in conjunction with a course of study. The Higher Education Services Office must report to the committees in the house of representatives and senate with responsibility for higher education finance by January 15, 2006, on progress in developing the network and with recommendations on methods to meet the needs of students for instructional materials in alternative formats.

Sec. 59. [APPLICATION OF ELIGIBILITY.]

The additional semester or the equivalent of grant eligibility under sections 20, 23, 53, and 54 applies to any student who withdrew from enrollment in a postsecondary institution after December 31, 2002, because the student was ordered to active military service as defined in Minnesota Statutes, section 190.05, subdivision 5b or 5c.

Sec. 60. [REVISOR'S INSTRUCTION.]

The revisor of statutes shall change the terms "HESO" and "Higher Education Services Office" to "Minnesota Office of Higher Education" wherever in Minnesota Statutes and Minnesota Rules the terms appear.

Sec. 61. [REPEALER.]

(a) Minnesota Statutes 2004, sections 136A.011, and 136A.031, subdivision 1, are repealed.

(b) Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; and 4830.8150, are repealed.

ARTICLE 3

PRIVATE CAREER SCHOOLS

Section 1. Minnesota Statutes 2004, section 141.21, is amended by adding a subdivision to read:

Subd. 6a. [MULTIPLE LOCATION.] "Multiple location" means any site where classes or administrative services are provided to students and which has a street address that is different than the street address found on the school's private career school license.

Sec. 2. Minnesota Statutes 2004, section 141.25, subdivision 3, is amended to read:

Subd. 3. [APPLICATION.] Application for a license shall be on forms prepared and furnished by the office, and shall include the following and other information as the office may require:

(1) the title or name of the school, ownership and controlling officers, members, managing employees, and director;

(2) the specific programs which will be offered and the specific purposes of the instruction;



- (3) the place or places where the instruction will be given;
- (4) a listing of the equipment available for instruction in each program;
- (5) the maximum enrollment to be accommodated with equipment available in each specified program;
- (6) the qualifications of instructors and supervisors in each specified program;
- (7) a current balance sheet, income statement, and adequate supporting documentation, prepared and certified by an independent public accountant or CPA;
- (8) copies of all media advertising and promotional literature and brochures or electronic display currently used or reasonably expected to be used by the school;
- (9) copies of all Minnesota enrollment agreement forms and contract forms and all enrollment agreement forms and contract forms used in Minnesota; and
- (10) gross income earned in the preceding year from student tuition, fees, and other required institutional charges, unless the school files with the office a surety bond equal to at least ~~\$50,000~~ \$250,000 as described in subdivision 5.

Sec. 3. Minnesota Statutes 2004, section 141.25, subdivision 5, is amended to read:

Subd. 5. [BOND.] (a) No license shall be issued to any school which maintains, conducts, solicits for, or advertises within the state of Minnesota any program, unless the applicant files with the office a continuous corporate surety bond written by a company authorized to do business in Minnesota conditioned upon the faithful performance of all contracts and agreements with students made by the applicant.

(b) The amount of the surety bond shall be ten percent of the preceding year's gross income from student tuition, fees, and other required institutional charges, but in no event less than \$10,000 nor greater than ~~\$50,000~~ \$250,000, except that a school may deposit a greater amount at its own discretion. A school in each annual application for licensure must compute the amount of the surety bond and verify that the amount of the surety bond complies with this subdivision, unless the school maintains a surety bond equal to at least ~~\$50,000~~ \$250,000. A school that operates at two or more locations may combine gross income from student tuition, fees, and other required institutional charges for all locations for the purpose of determining the annual surety bond requirement. The gross tuition and fees used to determine the amount of the surety bond required for a school having a license for the sole purpose of recruiting students in Minnesota shall be only that paid to the school by the students recruited from Minnesota.

(c) The bond shall run to the state of Minnesota and to any person who may have a cause of action against the applicant arising at any time after the bond is filed and before it is canceled for breach of any contract or agreement made by the applicant with any student. The aggregate liability of the surety for all breaches of the conditions of the bond shall not exceed the principal sum deposited by the school under paragraph (b). The surety of any bond may cancel it upon giving 60 days' notice in writing to the office and shall be relieved of liability for any breach of condition occurring after the effective date of cancellation.

(d) In lieu of bond, the applicant may deposit with the commissioner of finance a sum equal to the amount of the required surety bond in cash, or securities as may be legally purchased by savings banks or for trust funds in an aggregate market value equal to the amount of the required surety bond.

(e) Failure of a school to post and maintain the required surety bond or deposit under paragraph (d) may result in denial, suspension, or revocation of the school's license.

Sec. 4. Minnesota Statutes 2004, section 141.25, subdivision 8, is amended to read:

Subd. 8. [FEES AND TERMS OF LICENSE.] An application for an initial license under sections 141.21 to 141.35 shall be accompanied by a nonrefundable application fee ~~established by the office~~ as provided in section 141.255 that is sufficient to recover, but not exceed, ~~its~~ the administrative costs of the office.

All licenses shall expire one year from the date issued by the office, except as provided in section 141.251.

Sec. 5. Minnesota Statutes 2004, section 141.25, subdivision 9, is amended to read:

Subd. 9. [CATALOG, BROCHURE, OR ELECTRONIC DISPLAY.] Before a license is issued to a school, the school shall furnish to the office a catalog, brochure, or electronic display including:

- (1) identifying data, such as volume number and date of publication;
- (2) name and address of the school and its governing body and officials;
- (3) a calendar of the school showing legal holidays, beginning and ending dates of each course quarter, term, or semester, and other important dates;
- (4) the school policy and regulations on enrollment including dates and specific entrance requirements for each program;
- (5) the school policy and regulations about leave, absences, class cuts, make-up work, tardiness, and interruptions for unsatisfactory attendance;
- (6) the school policy and regulations about standards of progress for the student including the grading system of the school, the minimum grades considered satisfactory, conditions for interruption for unsatisfactory grades or progress, a description of any probationary period allowed by the school, and conditions of reenrance for those dismissed for unsatisfactory progress;
- (7) the school policy and regulations about student conduct and conditions for dismissal for unsatisfactory conduct;
- (8) a detailed schedule of fees, charges for tuition, books, supplies, tools, student activities, laboratory fees, service charges, rentals, deposits, and all other charges;
- (9) the school policy and regulations, including an explanation of section 141.271, about refunding tuition, fees, and other charges if the student does not enter the program, withdraws from the program, or the program is discontinued;
- (10) a description of the available facilities and equipment;
- (11) a course outline syllabus for each course offered showing course objectives, subjects or units in the course, type of work or skill to be learned, and approximate time, hours, or credits to be spent on each subject or unit;
- (12) the school policy and regulations about granting credit for previous education and preparation;

(13) a procedure for investigating and resolving student complaints; and

(14) the name and address of the Minnesota Higher Education Services Office.

A school that is exclusively a distance education school is exempt from clauses (3) and (5).

Sec. 6. Minnesota Statutes 2004, section 141.25, subdivision 12, is amended to read:

Subd. 12. [PERMANENT RECORDS.] A school licensed under this chapter and located in Minnesota shall maintain a permanent record for each student for 50 years from the last date of the student's attendance. A school licensed under this chapter and offering distance instruction to a student located in Minnesota shall maintain a permanent record for each Minnesota student for 50 years from the last date of the student's attendance. Records include school transcripts, documents, and files containing student data about academic credits earned, courses completed, grades awarded, degrees awarded, and periods of attendance. To preserve permanent records, a school shall submit a plan that meets the following requirements:

(1) at least one copy of the records must be held in a secure, fireproof depository;

(2) an appropriate official must be designated to provide a student with copies of records or a transcript upon request;

(3) an alternative method, approved by the office, of complying with clauses (1) and (2) must be established if the school ceases to exist; and

(4) a continuous surety bond must be filed with the office in an amount not to exceed \$20,000 if the school has no binding agreement for preserving student records or a trust must be arranged if the school ceases to exist.

Sec. 7. Minnesota Statutes 2004, section 141.251, is amended to read:

141.251 [LICENSE RENEWAL.]

Subdivision 1. [APPLICATION.] Application for renewal of a license must be made at least ~~30~~ 60 days before expiration of the current license on a form provided by the office. A renewal application shall be accompanied by a nonrefundable fee ~~established by the office as provided in section 141.255~~ that is sufficient to recover, but does not exceed, ~~its~~ the administrative costs of the office.

Subd. 2. [CONDITIONS.] The office shall adopt rules establishing the conditions for renewal of a license. The conditions shall permit two levels of renewal based on the record of the school. A school that has demonstrated the quality of its program and operation through longevity and performance in the state may renew its license based on a relaxed standard of scrutiny. A school that has been in operation in Minnesota for a limited period of time or that has not performed adequately on performance indicators shall renew its license based on a strict standard of scrutiny. The office shall specify minimum longevity standards and performance indicators that must be met before a school may be permitted to operate under the relaxed standard of scrutiny. The performance indicators used in this determination shall include, but not be limited to: degree granting status, regional or national accreditation, loan default rates, placement rate of graduates, student withdrawal rates, audit results, student complaints, and school status with the United States Department of Education. Schools that meet the requirements established in rule shall be required to submit a full relicensure report once every four years, and in the interim years will be exempt from the requirements of section 141.25, subdivision 3, clauses (4), (5), and (8), and Minnesota Rules, parts 4880.1700, subpart 6; and 4880.2100, subpart 4.

Sec. 8. [141.255] [FEES.]

Subdivision 1. [INITIAL LICENSURE FEE.] The office processing fee for an initial licensure application is:

(1) \$1,500 for a school that will offer no more than one program during its first year of operation;

(2) \$2,000 for a school that will offer two or more nondegree level programs during its first year of operation;  
and

(3) \$2,500 for a school that will offer two or more degree level programs during its first year of operation.

Subd. 2. [RENEWAL LICENSURE FEE; LATE FEE.] (a) The office processing fee for a renewal licensure application is:

(1) for a category A school, as determined by the office, the fee is \$865 if the school offers one program or \$1,150 if the school offers two or more programs; and

(2) for a category B or C school, as determined by the office, the fee is \$430 if the school offers one program or \$575 if the school offers two or more programs.

(b) If a license renewal application is not received by the office by the close of business at least 60 days before the expiration of the current license, a late fee of \$100 per business day shall be assessed.

Subd. 3. [DEGREE LEVEL ADDITION FEE.] The office processing fee for adding a degree level to an existing program is \$2,000 per program.

Subd. 4. [PROGRAM ADDITION FEE.] The office processing fee for adding a program that represents a significant departure in the objectives, content, or method of delivery of programs that are currently offered by the school is \$500 per program.

Subd. 5. [VISIT OR CONSULTING FEE.] If the office determines that a fact-finding visit or outside consultant is necessary to review or evaluate any new or revised program, the office shall be reimbursed for the expenses incurred related to the review as follows:

(1) \$300 for the team base fee or for a paper review conducted by a consultant if the office determines that a fact-finding visit is not required;

(2) \$300 for each day or part thereof on site per team member; and

(3) the actual cost of customary meals, lodging, and related travel expenses incurred by team members.

Subd. 6. [MODIFICATION FEE.] The fee for modification of any existing program is \$100 and is due if there is:

(1) an increase or decrease of 25 percent or more, from the original date of program approval, in clock hours, credit hours, or calendar length of an existing program;

(2) a change in academic measurement from clock hours to credit hours or vice versa; or

(3) an addition or alteration of courses that represent a 25 percent change or more in the objectives, content, or methods of delivery.

Subd. 7. [SOLICITOR PERMIT FEE.] The solicitor permit fee is \$350 and must be paid annually.

Subd. 8. [MULTIPLE LOCATION FEE.] Schools wishing to operate at multiple locations must pay:

(1) \$250 per location, for two to five locations; and

(2) an additional \$50 for each location over five.

Subd. 9. [STUDENT TRANSCRIPT FEE.] The fee for a student transcript requested from a closed school whose records are held by the office is \$10, with a maximum of five transcripts per request.

Subd. 10. [PUBLIC OFFICE DOCUMENTS; COPIES.] The office shall establish rates for copies of any public office document.

Sec. 9. Minnesota Statutes 2004, section 141.26, subdivision 5, is amended to read:

Subd. 5. [FEE.] The initial and renewal application for each permit shall be accompanied by a nonrefundable fee as established by the office under section 141.255.

Sec. 10. Minnesota Statutes 2004, section 141.271, is amended by adding a subdivision to read:

Subd. 1b. [SHORT-TERM PROGRAMS.] Licensed schools conducting programs not exceeding 40 hours in length shall not be required to make a full refund once a program has commenced and shall be allowed to prorate any refund based on the actual length of the program as stated in the school catalog or advertisements and the number of hours attended by the student.

Sec. 11. Minnesota Statutes 2004, section 141.271, subdivision 4, is amended to read:

Subd. 4. [RESIDENT SCHOOLS.] When a student has been accepted by a school offering a resident program and gives written notice of cancellation, or the school has actual notice of a student's nonattendance after the start of the period of instruction for which the student has been charged, but before completion of 75 percent of the period of instruction, the amount charged for tuition, fees, and all other charges shall be prorated based on number of days in the term as a portion of the total charges for tuition, fees, and all other charges. An additional 25 percent of the total cost of the period of instruction may be added, but shall not exceed \$100. After completion of 75 percent of the period of instruction for which the student has been charged, no refunds are required.

Sec. 12. Minnesota Statutes 2004, section 141.271, subdivision 7, is amended to read:

Subd. 7. [EQUIPMENT AND SUPPLIES.] The fair market retail price, if separately stated in the catalog and contract or enrollment agreement, of equipment or supplies furnished to the student, which the student fails to return in condition suitable for resale, and which may reasonably be resold, within ten business days following cancellation may be retained by the school and may be deducted from the total cost for tuition, fees and all other charges when computing refunds.

An overstatement of the fair market retail price of any equipment or supplies furnished the student shall be considered inconsistent with this provision.

Sec. 13. Minnesota Statutes 2004, section 141.271, subdivision 10, is amended to read:

Subd. 10. [CANCELLATION OCCURRENCE.] Written notice of cancellation shall take place on the date the letter of cancellation is postmarked or, in the cases where the notice is hand carried, it shall occur on the date the notice is delivered to the school. If a student has not attended classes for a period of 21 consecutive days, the student is considered to have withdrawn from school for all purposes as of the student's last documented date of attendance.

Sec. 14. Minnesota Statutes 2004, section 141.271, is amended by adding a subdivision to read:

Subd. 14. [CLOSED SCHOOL.] In the event a school closes for any reason during a term and interrupts and terminates classes during that term, all tuition for the term shall be refunded to the students or the appropriate state or federal agency or private lender that provided any funding for the term and any outstanding obligation of the student for the term is canceled.

Sec. 15. Minnesota Statutes 2004, section 141.28, subdivision 1, is amended to read:

Subdivision 1. [NOT TO ADVERTISE STATE APPROVAL.] Schools, agents of schools, and solicitors may not advertise or represent in writing or orally that such school is approved or accredited by the state of Minnesota, except that any school, agent, or solicitor may advertise that the school and solicitor have been duly licensed by the state: using the following language:

"(Name of school) is licensed as a private career school with the Minnesota Higher Education Services Office. Licensure is not an endorsement of the institution. Credits earned at the institution may not transfer to all other institutions. The educational programs may not meet the needs of every student or employer."

Sec. 16. Minnesota Statutes 2004, section 141.28, is amended by adding a subdivision to read:

Subd. 6. [FINANCIAL AID PAYMENTS.] (a) All schools must collect, assess, and distribute funds received from loans or other financial aid as provided in this subdivision.

(b) Student loans or other financial aid funds received from federal, state, or local governments or administered in accordance with federal student financial assistance programs under title IV of the Higher Education Act of 1965, as amended, United States Code, title 20, chapter 28, must be collected and applied as provided by applicable federal, state, or local law or regulation.

(c) Student loans or other financial aid assistance received from a bank, finance or credit card company, or other private lender must be collected or disbursed as provided in paragraphs (d) and (e).

(d) Loans or other financial aid payments for amounts greater than \$3,000 must be disbursed:

(1) in two equal disbursements, if the term length is more than four months. The loan or payment amounts may be disbursed no earlier than the first day the student attends class with the remainder to be disbursed halfway through the term; or

(2) in three equal disbursements, if the term length is more than six months. The loan or payment amounts may be disbursed no earlier than the first day the student attends class, one-third of the way through the term, and two-thirds of the way through the term.

(e) Loans or other financial aid payments for amounts less than \$3,000 may be disbursed as a single disbursement on the first day a student attends class, regardless of term length.

(f) No school may enter into a contract or agreement with, or receive any money from, a bank, finance or credit card company, or other private lender, unless the private lender follows the requirements for disbursements provided in paragraphs (d) and (e).

Sec. 17. Minnesota Statutes 2004, section 141.29, subdivision 3, is amended to read:

Subd. 3. [POWERS AND DUTIES.] The office shall have (in addition to the powers and duties now vested therein by law) the following powers and duties:

(a) To negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the office such agreements are or will be helpful in effectuating the purposes of Laws 1973, Chapter 714;

(b) To grant conditional school license for periods of less than one year if in the judgment of the office correctable deficiencies exist at the time of application and when refusal to issue school license would adversely affect currently enrolled students;

(c) The office may upon its own motion, and shall upon the verified complaint in writing of any person setting forth fact which, if proved, would constitute grounds for refusal or revocation under Laws 1973, Chapter 714, investigate the actions of any applicant or any person or persons holding or claiming to hold a license or permit. However, before proceeding to a hearing on the question of whether a license or permit shall be refused, revoked or suspended for any cause enumerated in subdivision 1, the office ~~may~~ shall grant a reasonable time to the holder of or applicant for a license or permit to correct the situation. If within such time the situation is corrected and the school is in compliance with the provisions of this chapter, no further action leading to refusal, revocation, or suspension shall be taken.

Sec. 18. Minnesota Statutes 2004, section 141.30, is amended to read:

141.30 [INSPECTION.]

(a) The office or a delegate may inspect the instructional books and records, classrooms, dormitories, tools, equipment and classes of any school or applicant for license at any reasonable time. The office may require the submission of a certified public audit, or if there is no such audit available the office or a delegate may inspect the financial books and records of the school. In no event shall such financial information be used by the office to regulate or set the tuition or fees charged by the school.

(b) Data obtained from an inspection of the financial records of a school or submitted to the office as part of a license application or renewal are nonpublic data as defined in section 13.02, subdivision 9. Data obtained from inspections may be disclosed to other members of the office, to law enforcement officials, or in connection with a legal or administrative proceeding commenced to enforce a requirement of law.

Sec. 19. Minnesota Statutes 2004, section 141.35, is amended to read:

141.35 [EXEMPTIONS.]

Sections 141.21 to 141.35 shall not apply to the following:

(1) public postsecondary institutions;

(2) private postsecondary institutions registered under sections 136A.61 to 136A.71 that are nonprofit, or that are for profit and registered under sections 136A.61 to 136A.71 as of December 31, 1998, or are approved to offer exclusively baccalaureate or postbaccalaureate programs;

(3) schools of nursing accredited by the state Board of Nursing or an equivalent public board of another state or foreign country;

- (4) private schools complying with the requirements of section 120A.22, subdivision 4;
- (5) courses taught to students in a valid apprenticeship program taught by or required by a trade union;
- (6) schools exclusively engaged in training physically or mentally handicapped persons for the state of Minnesota;
- (7) schools licensed by boards authorized under Minnesota law to issue licenses;
- (8) schools and educational programs, or training programs, contracted for by persons, firms, corporations, government agencies, or associations, for the training of their own employees, for which no fee is charged the employee;
- (9) schools engaged exclusively in the teaching of purely avocational, recreational, or remedial subjects as determined by the office;
- (10) driver training schools and instructors as defined in section 171.33, subdivisions 1 and 2;
- (11) classes, courses, or programs conducted by a bona fide trade, professional, or fraternal organization, solely for that organization's membership;
- (12) programs in the fine arts provided by organizations exempt from taxation under section 290.05 and registered with the attorney general under chapter 309. For the purposes of this clause, "fine arts" means activities resulting in artistic creation or artistic performance of works of the imagination which are engaged in for the primary purpose of creative expression rather than commercial sale or employment. In making this determination the office may seek the advice and recommendation of the Minnesota Board of the Arts;
- (13) classes, courses, or programs intended to fulfill the continuing education requirements for licensure or certification in a profession, that have been approved by a legislatively or judicially established board or agency responsible for regulating the practice of the profession, and that are offered ~~primarily~~ exclusively to an individual practicing the profession;
- (14) classes, courses, or programs intended to prepare students to sit for undergraduate, graduate, postgraduate, or occupational licensing and occupational entrance examinations;
- (15) classes, courses, or programs providing 16 or fewer clock hours of instruction that are not part of the curriculum for an occupation or entry level employment;
- (16) classes, courses, or programs providing instruction in personal development, modeling, or acting;
- (17) training or instructional programs, in which one instructor teaches an individual student, that are not part of the curriculum for an occupation or are not intended to prepare a person for entry level employment; and
- (18) schools with no physical presence in Minnesota, as determined by the office, engaged exclusively in offering distance instruction that are located in and regulated by other states or jurisdictions.

Sec. 20. [REGULATION OF PRIVATE AND OUT-OF-STATE POSTSECONDARY INSTITUTIONS.]

The Higher Education Services Office must convene a working group to develop recommendations to revise the regulation under Minnesota Statutes, sections 136A.61 to 136A.71, and chapter 141, of private and out-of-state postsecondary institutions that offer instruction in Minnesota or to Minnesota residents who are not required to leave



the state. Members of the working group are appointed by the director of the Higher Education Services Office and must include one or more representatives of the Minnesota Private College Council, the Minnesota Career College Association, and other interested institutions that are registered or licensed under state law.

In developing recommendations, the working group must consider the office's mission to protect both consumers of postsecondary education and the state's interests. The recommendations must address the provision of degrees, certificates, diplomas, and training offered by for-profit and nonprofit institutions in Minnesota and outside of Minnesota, in classrooms or online, and regulatory issues under federal law. The recommendations may include other relevant issues as determined by the working group.

The office must provide preliminary recommendations to the committees of the legislature with jurisdiction over higher education policy and higher education finance by November 15, 2005, and must provide final recommendations by January 15, 2006.

#### ARTICLE 4

#### ROCHESTER

##### Section 1. [ROCHESTER HIGHER EDUCATION DEVELOPMENT COMMITTEE.]

Subdivision 1. [ESTABLISHMENT.] The Rochester Higher Education Development Committee is established to research and make recommendations to the governor and legislature on the creation of mission-driven postsecondary educational programs or institutions in the Rochester area that meet the educational needs of the region and the state and that capitalize on the unique opportunities for educational partnerships presented in the Rochester area.

Subd. 2. [MEMBERSHIP.] The committee is composed of 11 members, to be appointed by the governor, as follows:

(1) a trustee of the Minnesota State Colleges and Universities, or the trustee's designee;

(2) a regent of the University of Minnesota, or the regent's designee;

(3) six persons from the Rochester area representing business, health and medical sciences, and technology;

(4) the commissioner of finance, as a nonvoting member, or the commissioner's designee;

(5) one person who by training or experience has special expertise in postsecondary finance and planning; and

(6) one person who by training or experience has special expertise in postsecondary academic planning and programming.

Before the first meeting of the committee, the governor shall select one person from the committee who shall serve as chair.

Subd. 3. [COMPENSATION AND REMOVAL.] Appointments to the committee are not subject to Minnesota Statutes, section 15.0597. Members of the committee are not entitled to reimbursement under Minnesota Statutes, section 15.059, subdivision 6. Members may be removed and vacancies filled pursuant to Minnesota Statutes, section 15.059, subdivision 4. The director of the Higher Education Services Office may provide administrative support to the committee.

Subd. 4. [DUTIES.] (a) The committee shall develop a proposal for establishment and implementation of expanded higher education programs or institutions in Rochester. The committee's report must include recommendations on:

- (1) the mission and focus of the programs or institutions;
- (2) the nature of undergraduate and graduate programs to be offered;
- (3) site and facility needs;
- (4) funding sources and opportunities;
- (5) operational needs;
- (6) alliances or other types of cooperative arrangements with public and private institutions;
- (7) governance structures; and

(8) mechanisms to ensure that the expanded programs are aligned with the unique needs and opportunities of the Rochester area and that programs take advantage of opportunities presented by regional business and industry.

(b) If the committee recommends any programmatic changes that result in institutional realignments, the committee must consult with the representatives of affected employees and address the continuation of collective bargaining and contractual rights and benefits, including accumulated sick leave, vacation time, seniority, time to tenure, separation or retirement benefits, and pension plan coverage.

(c) The committee must consider specifically whether expansion of the University of Minnesota in Rochester is the most appropriate method of meeting the region's needs.

(d) The committee may also research and provide recommendations on sites for the facilities and programs. The committee shall recommend any changes to Minnesota law required to implement recommendations of the committee.

Subd. 5. [REPORT.] The committee must issue a report with recommendations to the governor and the legislature by January 15, 2006.

Subd. 6. [SUNSET.] The committee expires on December 31, 2007.

Sec. 2. [ROCHESTER HIGHER EDUCATION DEVELOPMENT ACCOUNT.]

A Rochester higher education development account is created in the state treasury in the special revenue fund. Money in this account is appropriated to the Higher Education Services Office for allocation to the committee established in section 1, subdivision 1, and the implementation activities outlined in article 1, section 2, subdivision 16, paragraph (b). The office shall serve as fiscal agent for the committee established in section 1.

Sec. 3. [EFFECTIVE DATE.]

This article is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to higher education; allocating money for educational and related purposes with certain conditions; modifying various loan, grant, and financial aid provisions; requiring institutions to provide certain data; permitting disclosure of certain data to determine eligibility; amending various reciprocity provisions; providing definitions; amending provisions related to advisory and student groups; directing the Board of Trustees to designate centers of excellence; amending the Minnesota college savings plan; amending provisions related to private career schools; establishing fees; establishing the Rochester University Development Committee; appropriating money; amending Minnesota Statutes 2004, 135A.031, subdivisions 3, 4; 135A.052, subdivision 1; 135A.30, subdivisions 3, 4, 5; 135A.52, subdivisions 1, 2; 136A.01, subdivision 2; 136A.031, subdivisions 2, 3, 4, 5; 136A.08, by adding subdivisions; 136A.121, subdivisions 2, 6, 9, 13, by adding subdivisions; 136A.125, subdivisions 2, 4; 136A.1701, by adding subdivisions; 136F.04, subdivision 4; 136F.32, subdivision 2; 136G.03, subdivisions 3, 21a, 22, 32; 136G.05, subdivision 8; 136G.09, subdivisions 11, 12; 136G.11, subdivisions 1, 2, 3, 13; 136G.13, subdivisions 1, 5; 136G.14; 137.0245, subdivisions 1, 3, 4; 141.21, by adding a subdivision; 141.25, subdivisions 3, 5, 8, 9, 12; 141.251; 141.26, subdivision 5; 141.271, subdivisions 4, 7, 10, by adding subdivisions; 141.28, subdivision 1, by adding a subdivision; 141.29, subdivision 3; 141.30; 141.35; 192.502, subdivision 1; 299A.45, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapters 135A; 136A; 136F; 137; 141; 144; 583; repealing Minnesota Statutes 2004, sections 136A.011; 136A.031, subdivision 1; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150."

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

House Conferees: BUD NORNES, ROB EASTLUND, RAYMOND COX, JOE OPATZ AND RUTH JOHNSON.

Senate Conferees: SANDRA L. PAPPAS, RICHARD J. COHEN, BOB KIERLIN AND CLAIRE A. ROBLING.

Nornes moved that the report of the Conference Committee on H. F. No. 1385 be adopted and that the bill be repassed as amended by the Conference Committee.

The Speaker called Emmer to the Chair.

Rukavina moved that the House refuse to adopt the Conference Committee report on H. F. No. 1385, and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

#### CALL OF THE HOUSE

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

Abeler	Anderson, I.	Bernardy	Buesgens	Clark	Cybart
Abrams	Atkins	Bradley	Carlson	Cornish	Davids
Anderson, B.	Beard	Brod	Charron	Cox	Davnie

Dean	Goodwin	Johnson, R.	Magnus	Penas	Smith
DeLaForest	Greiling	Johnson, S.	Mahoney	Peppin	Soderstrom
Demmer	Gunther	Juhnke	Mariani	Peterson, A.	Solberg
Dempsey	Hackbarth	Kahn	Marquart	Peterson, N.	Sykora
Dill	Hamilton	Kelliher	McNamara	Peterson, S.	Thao
Dittrich	Hansen	Klinzing	Meslow	Poppe	Thissen
Dorman	Hausman	Knoblach	Moe	Powell	Tingelstad
Dorn	Heidgerken	Koenen	Mullery	Rukavina	Urdahl
Eastlund	Hilstrom	Kohls	Murphy	Ruth	Vandever
Eken	Hilty	Krinkie	Nelson, M.	Ruud	Wagenius
Ellison	Holberg	Lanning	Nelson, P.	Sailer	Walker
Emmer	Hoppe	Larson	Newman	Samuelson	Wardlow
Entenza	Hornstein	Latz	Nornes	Scalze	Walti
Erhardt	Hortman	Lenczewski	Olson	Seifert	Westerberg
Erickson	Hosch	Lesch	Opatz	Severson	Westrom
Finstad	Howes	Liebling	Otremba	Sieben	Wilkin
Fritz	Huntley	Lieder	Paulsen	Simon	Zellers
Garofalo	Jaros	Lillie	Paymar	Simpson	Spk. Sviggum
Gazelka	Johnson, J.	Loeffler	Pelowski	Slawik	

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

The Speaker resumed the Chair.

The question recurred on the Rukavina motion and the roll was called.

Paulsen moved that those not voting be excused from voting. The motion prevailed.

There were 54 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Ellison	Hornstein	Lesch	Nelson, M.	Sailer
Atkins	Entenza	Huntley	Lieder	Olson	Scalze
Bernardy	Fritz	Jaros	Lillie	Otremba	Sieben
Carlson	Goodwin	Johnson, S.	Loeffler	Paymar	Simon
Clark	Greiling	Juhnke	Mahoney	Pelowski	Slawik
Davnie	Hansen	Kahn	Mariani	Peterson, A.	Solberg
Dill	Hausman	Kelliher	Moe	Peterson, S.	Thao
Dorn	Hilstrom	Koenen	Mullery	Poppe	Wagenius
Eken	Hilty	Latz	Murphy	Rukavina	Walker

Those who voted in the negative were:

Abeler	Brod	Davids	Dorman	Garofalo	Holberg
Abrams	Buesgens	Dean	Eastlund	Gazelka	Hoppe
Anderson, B.	Charron	DeLaForest	Emmer	Gunther	Hortman
Beard	Cornish	Demmer	Erhardt	Hackbarth	Hosch
Blaine	Cox	Dempsey	Erickson	Hamilton	Howes
Bradley	Cybart	Dittrich	Finstad	Heidgerken	Johnson, J.

Johnson, R.	Lenczewski	Newman	Peterson, N.	Simpson	Wardlow
Klinzing	Liebling	Nornes	Powell	Smith	Walti
Knoblach	Magnus	Opatz	Ruth	Soderstrom	Westerberg
Kohls	Marquart	Ozment	Ruud	Sykora	Westrom
Krinkie	McNamara	Paulsen	Samuelson	Thissen	Wilkin
Lanning	Meslow	Penas	Seifert	Tingelstad	Zellers
Larson	Nelson, P.	Peppin	Severson	Urdahl	Spk. Sviggum

The motion did not prevail.

The question recurred on the Nornes motion that the report of the Conference Committee on H. F. No. 1385 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

The Speaker called Davids to the Chair.

H. F. No. 1385, A bill for an act relating to higher education; allocating money for educational and related purposes with certain conditions; modifying various loan, grant, and financial aid provisions; requiring institutions to provide certain data; permitting disclosure of certain data to determine eligibility; amending various reciprocity provisions; providing definitions; directing the Board of Trustees to designate centers of excellence; amending the Minnesota college savings plan; authorizing transfer of certain bonding authority; amending provisions related to private career schools; establishing fees; providing for merger with the Higher Education Facilities Authority; establishing the Rochester University Development Committee; appropriating money; amending Minnesota Statutes 2004, sections 13.46, subdivision 2; 135A.031, subdivisions 3, 4; 135A.052, subdivision 1; 135A.30, subdivisions 3, 4, 5; 135A.52, subdivisions 1, 2; 136A.01, subdivision 2; 136A.031, subdivisions 2, 3, 4; 136A.08, by adding subdivisions; 136A.121, subdivisions 2, 5, 6, 9, by adding a subdivision; 136A.125, subdivision 2; 136A.1701, by adding subdivisions; 136F.04, subdivision 4; 136F.32, subdivision 2; 136G.03, subdivisions 3, 21a, 22, 32; 136G.05, subdivision 8; 136G.09, subdivisions 11, 12; 136G.11, subdivisions 1, 2, 3, 13; 136G.13, subdivisions 1, 5; 136G.14; 137.0245, subdivisions 1, 2, 4; 141.21, by adding a subdivision; 141.25, subdivisions 3, 5, 8, 9, 12; 141.251; 141.26, subdivision 5; 141.271, subdivisions 4, 7, 10, by adding subdivisions; 141.28, subdivision 1, by adding a subdivision; 141.29, subdivision 3; 141.30; 141.35; 192.502, subdivision 1; 299A.45, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapters 136A; 137; 141; repealing Minnesota Statutes 2004, sections 136A.011; 136A.031, subdivision 1; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

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

The question was taken on the repassage of the bill and the roll was called. There were 81 yeas and 52 nays as follows:

Those who voted in the affirmative were:

Abeler	Buesgens	DeLaForest	Erhardt	Hamilton	Johnson, J.
Abrams	Charron	Demmer	Erickson	Heidgerken	Johnson, R.
Anderson, B.	Cornish	Dempsey	Finstad	Holberg	Klinzing
Beard	Cox	Dittrich	Garofalo	Hoppe	Knoblach
Blaine	Cybart	Dorman	Gazelka	Hortman	Kohls
Bradley	Davids	Eastlund	Gunther	Hosch	Krinkie
Brod	Dean	Emmer	Hackbarth	Howes	Lanning

Larson	Meslow	Penas	Samuelson	Thissen	Westrom
Lenczewski	Nelson, P.	Peppin	Seifert	Tingelstad	Wilkin
Liebling	Newman	Peterson, N.	Severson	Urdahl	Zellers
Magnus	Nornes	Peterson, S.	Simpson	Vandever	Spk. Sviggum
Mariani	Opatz	Powell	Smith	Wardlow	
Marquart	Ozment	Ruth	Soderstrom	Walti	
McNamara	Paulsen	Ruud	Sykora	Westerberg	

Those who voted in the negative were:

Anderson, I.	Ellison	Hornstein	Lesch	Olson	Sieben
Atkins	Entenza	Huntley	Lieder	Otremba	Simon
Bernardy	Fritz	Jaros	Lillie	Paymar	Slawik
Carlson	Goodwin	Johnson, S.	Loeffler	Pelowski	Solberg
Clark	Greiling	Juhnke	Mahoney	Peterson, A.	Thao
Davnie	Hansen	Kahn	Moe	Poppe	Wagenius
Dill	Hausman	Kelliher	Mullery	Rukavina	Walker
Dorn	Hilstrom	Koenen	Murphy	Sailer	
Eken	Hilty	Latz	Nelson, M.	Scalze	

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

#### ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1507:

Abeler, Dean and Huntley.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1555:

Powell, Tingelstad and Huntley.

#### CALL OF THE HOUSE LIFTED

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

There being no objection, the order of business reverted to Reports of Standing Committees.

#### REPORTS OF STANDING COMMITTEES

Knoblach from the Committee on Ways and Means to which was referred:

H. F. No. 2263, A bill for an act relating to state government; updating Finance Department provisions; amending Minnesota Statutes 2004, sections 16A.1286, subdivisions 2, 3; 16A.152, subdivision 2; 16A.1522, subdivision 1; repealing Minnesota Statutes 2004, section 16A.30.

Reported the same back with the following amendments:

Page 2, line 6, delete "November"

Page 2, line 19, after "percent" insert "without exceeding the amount available and with any remaining funds deposited in the budget reserve"

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

The report was adopted.

### MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 419, A bill for an act relating to game and fish; modifying protection status of great horned owls; amending Minnesota Statutes 2004, sections 97A.015, subdivision 52; 97B.701, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 1915, A bill for an act relating to health; providing an exception to the hospital construction moratorium; amending Minnesota Statutes 2004, section 144.551, subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

Zellers moved that the House refuse to concur in the Senate amendments to H. F. No. 1915, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following Senate Files, herewith transmitted:

S. F. Nos. 1604, 953 and 232.

PATRICK E. FLAHAVEN, Secretary of the Senate

**FIRST READING OF SENATE BILLS**

S. F. No. 1604, A resolution memorializing the President and Congress to support Amtrak funding.

The bill was read for the first time.

Beard moved that S. F. No. 1604 and H. F. No. 1730, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 953, A bill for an act relating to local government; increasing and indexing the compensation limit for local government employees; amending Minnesota Statutes 2004, section 43A.17, subdivision 9; repealing Minnesota Statutes 2004, section 356.611, subdivision 1.

The bill was read for the first time.

Erhardt moved that S. F. No. 953 and H. F. No. 995, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 232, A bill for an act relating to education; permitting secondary students to carry and use nonprescription pain relief; proposing coding for new law in Minnesota Statutes, chapter 121A.

The bill was read for the first time.

Klinzing moved that S. F. No. 232 and H. F. No. 615, now on the Calendar for the Day, be referred to the Chief Clerk for comparison. The motion prevailed.

**REPORT FROM THE COMMITTEE ON RULES AND  
LEGISLATIVE ADMINISTRATION**

Paulsen from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Supplemental Calendar for the Day for Friday, May 20, 2005:

S. F. No. 370; and H. F. Nos. 1298 and 1845.

**CALENDAR FOR THE DAY**

S. F. No. 1908, A bill for an act relating to natural resources; establishing the Shooting Range Protection Act; requiring expedited rulemaking; proposing coding for new law as Minnesota Statutes, chapter 87A.

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



The question was taken on the passage of the bill and the roll was called. There were 113 yeas and 20 nays as follows:

Those who voted in the affirmative were:

Abeler	Demmer	Hansen	Krinkie	Olson	Severson
Abrams	Dempsey	Heidgerken	Lanning	Opatz	Simon
Anderson, B.	Dill	Hilstrom	Larson	Otremba	Simpson
Anderson, I.	Dittrich	Hilty	Latz	Ozment	Slawik
Atkins	Dorman	Holberg	Lesch	Paulsen	Smith
Beard	Dorn	Hoppe	Lieder	Pelowski	Soderstrom
Bernardy	Eastlund	Hortman	Lillie	Penas	Solberg
Blaine	Eken	Hosch	Magnus	Peppin	Sykora
Bradley	Emmer	Howes	Mahoney	Peterson, A.	Tingelstad
Brod	Erhardt	Huntley	Marquart	Peterson, N.	Urdahl
Buesgens	Erickson	Jaros	McNamara	Peterson, S.	Vandever
Carlson	Finstad	Johnson, J.	Meslow	Poppe	Wardlow
Charron	Fritz	Johnson, R.	Moe	Powell	Walti
Cornish	Garofalo	Johnson, S.	Mullery	Rukavina	Westerberg
Cox	Gazelka	Juhnke	Murphy	Ruth	Westrom
Cybart	Goodwin	Klinzing	Nelson, M.	Sailer	Wilkin
Davids	Gunther	Knoblach	Nelson, P.	Samuelson	Zellers
Dean	Hackbarth	Koenen	Newman	Scalze	Spk. Sviggum
DeLaForest	Hamilton	Kohls	Nornes	Seifert	

Those who voted in the negative were:

Clark	Greiling	Kelliher	Mariani	Thao
Davnie	Hausman	Lenczewski	Paymar	Thissen
Ellison	Hornstein	Liebling	Ruud	Wagenius
Entenza	Kahn	Loeffler	Sieben	Walker

The bill was passed and its title agreed to.

S. F. No. 1579 was reported to the House.

Olson moved to amend S. F. No. 1579 as follows:

Page 1, line 37, delete the new language

Page 2, line 7, delete "and any subsequent"

Page 2, line 8, delete the new language

Page 5, line 6, delete "as amended."

Page 5, line 7, delete the new language

Page 6, line 10, after the first comma, delete the new language

Page 6, line 24, delete everything after "1320d-8"

Page 6, line 25, delete everything before the period

Page 7, line 4, delete the new language

Page 8, line 11, delete "as"

Page 8, line 12, delete the new language

Page 8, line 26, delete everything after "1320d-8"

Page 8, line 27, delete everything before the period

A roll call was requested and properly seconded.

The question was taken on the Olson amendment and the roll was called. There were 19 yeas and 114 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Ellison	Holberg	Olson	Thissen
Buesgens	Emmer	Hortman	Ozment	Vandever
Davnie	Erickson	Jaros	Rukavina	Westrom
Eastlund	Gazelka	Klinzing	Soderstrom	

Those who voted in the negative were:

Abeler	Dempsey	Hilstrom	Latz	Nornes	Severson
Abrams	Dill	Hilty	Lenczewski	Opatz	Sieben
Anderson, I.	Dittrich	Hoppe	Lesch	Otremba	Simon
Atkins	Dorman	Hornstein	Liebling	Paulsen	Simpson
Beard	Dorn	Hosch	Lieder	Paymar	Slawik
Bernardy	Eken	Howes	Lillie	Pelowski	Smith
Blaine	Entenza	Huntley	Loeffler	Penas	Solberg
Bradley	Erhardt	Johnson, J.	Magnus	Peppin	Sykora
Brod	Finstad	Johnson, R.	Mahoney	Peterson, A.	Thao
Carlson	Fritz	Johnson, S.	Mariani	Peterson, N.	Tingelstad
Charron	Garofalo	Juhnke	Marquart	Peterson, S.	Urdahl
Clark	Goodwin	Kahn	McNamara	Poppe	Wagenius
Cornish	Greiling	Kelliher	Meslow	Powell	Walker
Cox	Gunther	Knoblach	Moe	Ruth	Wardlow
Cybart	Hackbarth	Koenen	Mullery	Ruud	Welti
Dauids	Hamilton	Kohls	Murphy	Sailer	Westerberg
Dean	Hansen	Krinkie	Nelson, M.	Samuelson	Wilkin
DeLaForest	Hausman	Lanning	Nelson, P.	Scalze	Zellers
Demmer	Heidgerken	Larson	Newman	Seifert	Spk. Sviggum

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

Olson moved to amend S. F. No. 1579 as follows:

Page 6, line 18, strike the existing language

Page 6, line 19, strike everything before the period

Page 8, line 19, strike "; and"

Page 8, strike line 20

Page 8, line 21, strike "functions"

Page 8, after line 30, insert:

"Sec. 8. Minnesota Statutes 2004, section 62J.54, subdivision 3, is amended to read:

Subd. 3. [UNIQUE IDENTIFICATION NUMBER FOR GROUP PURCHASERS.] (a) Not later than 24 months after the date on which a unique health identifier for employers and health plans is adopted or established under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments), all group purchasers and health care providers in Minnesota shall use a unique identification number to identify group purchasers, except as provided in paragraph (b).

(b) Small health plans, as defined by the federal Secretary of Health and Human Services under United States Code, title 42, section 1320d-4 (1996 and subsequent amendments), shall use a unique identification number to identify group purchasers no later than 36 months after the date on which a unique health identifier for employers and health plans is adopted or established under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments).

(c) The unique health identifier for health plans and employers adopted or established by the federal Secretary of Health and Human Services under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments), shall be used as the unique identification number for group purchasers.

(d) Group purchasers shall obtain a unique health identifier from the federal Secretary of Health and Human Services using the process prescribed by the Secretary.

(e) The unique group purchaser identifier, as described in this section, shall be used for purposes of submitting and receiving claims, ~~and in conjunction with other data collection and reporting functions.~~

(f) The commissioner of health may contract with the federal Secretary of Health and Human Services or the Secretary's agent to implement this subdivision.

Sec. 9. Minnesota Statutes 2004, section 62J.54, subdivision 4, is amended to read:

Subd. 4. [UNIQUE PATIENT IDENTIFICATION NUMBER.] (a) Not later than 24 months after the date on which a unique health identifier for individuals is adopted or established under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments), all group purchasers and health care providers in Minnesota shall use a unique identification number to identify each patient who receives health care services in Minnesota, except as provided in paragraph (b).

(b) Small health plans, as defined by the federal Secretary of Health and Human Services under United States Code, title 42, section 1320d-4 (1996 and subsequent amendments), shall use a unique identification number to identify each patient who receives health care services in Minnesota no later than 36 months after the date on which a unique health identifier for individuals is adopted or established under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments).

(c) The unique health identifier for individuals adopted or established by the federal Secretary of Health and Human Services under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments), shall be used as the unique patient identification number, except as provided in paragraphs (e) and (f).

(d) The unique patient identification number shall be used by group purchasers and health care providers for purposes of submitting and receiving claims, ~~and in conjunction with other data collection and reporting functions.~~

(e) Within the limits of available appropriations, the commissioner shall develop a proposal for an alternate numbering system for patients who do not have or refuse to provide their Social Security numbers, if:

(1) a unique health identifier for individuals is adopted or established under United States Code, title 42, sections 1320d to 1320d-8 (1996 and subsequent amendments);

(2) the unique health identifier is the Social Security number of the patient;

(3) there is no federal alternate numbering system for patients who do not have or refuse to provide their Social Security numbers; and

(4) federal law or the federal Secretary of Health and Human Services explicitly allows a state to develop an alternate numbering system for patients who do not have or refuse to provide their Social Security numbers.

(f) If an alternate numbering system is developed under paragraph (e), patients who use numbers issued by the alternate numbering system are not required to provide their Social Security numbers and group purchasers or providers may not demand the Social Security numbers of patients who provide numbers issued by the alternate numbering system. If an alternate numbering system is developed under paragraph (e), group purchasers and health care providers shall establish procedures to notify patients that they can elect not to have their Social Security number used as the unique patient identifier.

(g) The commissioner of health may contract with the federal Secretary of Health and Human Services or the Secretary's agent to implement this subdivision."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Olson amendment and the roll was called. There were 21 yeas and 112 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Ellison	Heidgerken	Nelson, P.	Soderstrom	Zellers
Buesgens	Emmer	Holberg	Olson	Vandeveer	
Cox	Erickson	Jaros	Ozment	Walker	
Eastlund	Gazelka	Klinzing	Rukavina	Westerberg	

Those who voted in the negative were:

Abeler	Dempsey	Hilty	Latz	Opatz	Sieben
Abrams	Dill	Hoppe	Lenczewski	Otremba	Simon
Anderson, I.	Dittrich	Hornstein	Lesch	Paulsen	Simpson
Atkins	Dorman	Hortman	Liebling	Paymar	Slawik
Beard	Dorn	Hosch	Lieder	Pelowski	Smith
Bernardy	Eken	Howes	Lillie	Penas	Solberg
Blaine	Entenza	Huntley	Loeffler	Peppin	Sykora
Bradley	Erhardt	Johnson, J.	Magnus	Peterson, A.	Thao
Brod	Finstad	Johnson, R.	Mahoney	Peterson, N.	Thissen
Carlson	Fritz	Johnson, S.	Mariani	Peterson, S.	Tingelstad
Charron	Garofalo	Juhnke	Marquart	Poppe	Urdahl
Clark	Goodwin	Kahn	McNamara	Powell	Wagenius
Cornish	Greiling	Kelliher	Meslow	Ruth	Wardlow
Cybart	Gunther	Knoblach	Moe	Ruud	Welti
Davids	Hackbarth	Koenen	Mullery	Sailer	Westrom
Davnie	Hamilton	Kohls	Murphy	Samuelson	Wilkin
Dean	Hansen	Krinkie	Nelson, M.	Scalze	Spk. Sviggum
DeLaForest	Hausman	Lanning	Newman	Seifert	
Demmer	Hilstrom	Larson	Nornes	Severson	

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

S. F. No. 1579, A bill for an act relating to health; modifying the Health Care Administrative Simplification Act of 1994; modifying requirements of federal Drug Enforcement Administration registration numbers; modifying provisions for wells, borings, and underground uses; modifying requirements for filing and issuing death records; modifying provisions for disposition of dead bodies; eliminating authority to designate certain morticians; amending Minnesota Statutes 2004, sections 62J.51, subdivisions 17, 18; 62J.52, subdivisions 1, 2, 5; 62J.54, subdivisions 1, 2; 62J.581, subdivision 5; 103I.005, subdivisions 4a, 6, 7, 10, 12, by adding subdivisions; 103I.101, subdivisions 2, 5; 103I.105; 103I.111, subdivisions 1, 3; 103I.115; 103I.205, subdivisions 4, 9; 103I.208, subdivisions 1, 2; 103I.231; 103I.325, subdivision 2; 103I.345, subdivision 2; 103I.401; 103I.501; 103I.505; 103I.525, subdivisions 1, 2, 4, 5, 8, by adding a subdivision; 103I.531, subdivisions 1, 2, 4, 5, 8, by adding a subdivision; 103I.535, subdivisions 1, 2, 4, 5, 7, 8, 9, by adding a subdivision; 103I.541; 103I.545, subdivision 2; 103I.601, subdivisions 4, 9; 144.221, subdivision 1; 144.225, subdivision 7; 149A.93, subdivisions 1, 2, 3, 4, 5; 149A.94, subdivision 3; 149A.96, subdivisions 1, 4, 7; Laws 1998, chapter 316, section 4; repealing Minnesota Statutes 2004, sections 103I.005, subdivision 13; 103I.222; 144.214, subdivision 4.

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

The question was taken on the passage of the bill and the roll was called. There were 132 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Abeler	Buesgens	DeLaForest	Emmer	Gunther	Hornstein
Abrams	Carlson	Demmer	Entenza	Hackbarth	Hortman
Anderson, B.	Charron	Dempsey	Erhardt	Hamilton	Hosch
Anderson, I.	Clark	Dill	Erickson	Hansen	Howes
Atkins	Cornish	Dittrich	Finstad	Hausman	Huntley
Beard	Cox	Dorman	Fritz	Heidgerken	Jaros
Bernardy	Cybart	Dorn	Garofalo	Hilstrom	Johnson, J.
Blaine	Davids	Eastlund	Gazelka	Hilty	Johnson, R.
Bradley	Davnie	Eken	Goodwin	Holberg	Johnson, S.
Brod	Dean	Ellison	Greiling	Hoppe	Juhnke

Kahn	Liebling	Murphy	Peppin	Seifert	Tingelstad
Kelliher	Lieder	Nelson, M.	Peterson, A.	Severson	Urdahl
Klinzing	Lillie	Nelson, P.	Peterson, N.	Sieben	Vandever
Knobloch	Loeffler	Newman	Peterson, S.	Simon	Wagenius
Koenen	Magnus	Nornes	Poppe	Simpson	Walker
Kohls	Mahoney	Opatz	Powell	Slawik	Wardlow
Krinkie	Mariani	Otremba	Rukavina	Smith	Walti
Lanning	Marquart	Ozment	Ruth	Soderstrom	Westerberg
Larson	McNamara	Paulsen	Ruud	Solberg	Westrom
Latz	Meslow	Paymar	Sailer	Sykora	Wilkin
Lenczewski	Moe	Pelowski	Samuelson	Thao	Zellers
Lesch	Mullery	Penas	Scalze	Thissen	Spk. Sviggum

Those who voted in the negative were:

Olson

The bill was passed and its title agreed to.

S. F. No. 664 was reported to the House.

The Speaker resumed the Chair.

Hoppe moved that S. F. No. 664 be temporarily laid over on the Calendar for the Day. The motion prevailed.

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

#### RECESS

#### RECONVENED

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

#### CALENDAR FOR THE DAY, Continued

S. F. No. 664, which was temporarily laid over earlier today on the Calendar for the Day, was again reported to the House.

Hoppe moved to amend S. F. No. 664 as follows:

Page 7, line 2, delete "or"

Page 7, lines 3, 4, and 6, reinstate the stricken language

Westerberg moved to amend the Hoppe amendment to S. F. No. 664 as follows:

Page 1, after line 2, insert:

"Pages 6 to 8, delete section 4"

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

The question recurred on the Hoppe amendment to S. F. No. 664. The motion prevailed and the amendment was adopted.

Hoppe moved to amend S. F. No. 664, as amended, as follows:

Page 6, after line 21, insert:

"Sec. 4. Minnesota Statutes 2004, section 340A.412, subdivision 14, is amended to read:

Subd. 14. [EXCLUSIVE LIQUOR STORES.] (a) Except as otherwise provided in this subdivision, an exclusive liquor store may sell only the following items:

- (1) alcoholic beverages;
  - (2) tobacco products;
  - (3) ice;
  - (4) beverages, either liquid or powder, specifically designated for mixing with intoxicating liquor;
  - (5) soft drinks;
  - (6) liqueur-filled candies;
  - (7) food products that contain more than one-half of one percent alcohol by volume;
  - (8) cork extraction devices;
  - (9) books and videos on the use of alcoholic beverages;
  - (10) magazines and other publications published primarily for information and education on alcoholic beverages; and
  - (11) home brewing equipment.
- (b) An exclusive liquor store that has an on-sale, or combination on-sale and off-sale license may sell food for on-premise consumption when authorized by the municipality issuing the license.
- (c) An exclusive liquor store may offer live or recorded entertainment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

S. F. No. 664, A bill for an act relating to alcoholic beverages; modifying brewpub regulations; regulating wine tastings; providing for uniform off-sale hours statewide; regulating Sunday on-sales; authorizing certain on-sale licenses; amending Minnesota Statutes 2004, sections 340A.301, subdivisions 6, 7; 340A.404, subdivision 2; 340A.417; 340A.418; 340A.503, by adding a subdivision; 340A.504, subdivisions 1, 3, 4; Laws 2000, chapter 440, section 10; Laws 2003, chapter 126, section 28.

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

The question was taken on the passage of the bill and the roll was called. There were 127 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Lesch	Paymar	Soderstrom
Abrams	Dittrich	Hilty	Liebling	Pelowski	Solberg
Anderson, B.	Dorman	Hoppe	Lieder	Penas	Sykora
Anderson, I.	Dorn	Hortman	Lillie	Peppin	Thao
Atkins	Eken	Hosch	Loeffler	Peterson, A.	Thissen
Beard	Ellison	Howes	Magnus	Peterson, N.	Tingelstad
Blaine	Emmer	Huntley	Mahoney	Peterson, S.	Urdahl
Bradley	Entenza	Jaros	Mariani	Poppe	Vandever
Brod	Erhardt	Johnson, J.	Marquart	Powell	Wagenius
Buesgens	Erickson	Johnson, R.	McNamara	Rukavina	Walker
Carlson	Finstad	Johnson, S.	Meslow	Ruth	Wardlow
Charron	Fritz	Juhnke	Moe	Ruud	Walti
Clark	Garofalo	Kahn	Mullery	Sailer	Westerberg
Cornish	Gazelka	Kelliher	Murphy	Samuelson	Westrom
Cox	Goodwin	Klinzing	Nelson, M.	Scalze	Wilkin
Cybart	Greiling	Koenen	Nelson, P.	Seifert	Zellers
Davids	Gunther	Kohls	Newman	Severson	Spk. Sviggum
Davnie	Hackbarth	Krinkie	Nornes	Sieben	
Dean	Hamilton	Lanning	Opatz	Simon	
DeLaForest	Hansen	Larson	Otremba	Simpson	
Demmer	Hausman	Latz	Ozment	Slawik	
Dempsey	Heidgerken	Lenczewski	Paulsen	Smith	

Those who voted in the negative were:

Bernardy	Eastlund	Holberg	Hornstein	Knoblach	Olson
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The bill was passed, as amended, and its title agreed to.

The Speaker resumed the Chair.

S. F. No. 877, A bill for an act relating to state government; establishing a Minnesota Humanities Commission; proposing coding for new law in Minnesota Statutes, chapter 138.

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



The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hansen	Kohls	Newman	Severson
Abrams	Dill	Hausman	Lanning	Nornes	Sieben
Anderson, B.	Dittrich	Heidgerken	Larson	Opatz	Simon
Anderson, I.	Dorman	Hilstrom	Latz	Otremba	Simpson
Atkins	Dorn	Hilty	Lenczewski	Ozment	Slawik
Beard	Eastlund	Holberg	Lesch	Paulsen	Smith
Bernardy	Eken	Hoppe	Liebling	Paymar	Soderstrom
Blaine	Ellison	Hornstein	Lieder	Pelowski	Sykora
Bradley	Emmer	Hortman	Lillie	Penas	Thao
Brod	Entenza	Hosch	Loeffler	Peterson, A.	Thissen
Carlson	Erhardt	Howes	Magnus	Peterson, N.	Tingelstad
Charron	Erickson	Huntley	Mahoney	Peterson, S.	Urdahl
Clark	Finstad	Jaros	Mariani	Poppe	Wagenius
Cornish	Fritz	Johnson, J.	Marquart	Powell	Walker
Cox	Garofalo	Johnson, R.	McNamara	Rukavina	Wardlow
Cybart	Gazelka	Johnson, S.	Meslow	Ruth	Welti
Davids	Goodwin	Juhnke	Moe	Ruud	Westerberg
Davnie	Greiling	Kahn	Mullery	Sailer	Westrom
Dean	Gunther	Kelliher	Murphy	Samuelson	Wilkin
DeLaForest	Hackbarth	Klinzing	Nelson, M.	Scalze	Zellers
Demmer	Hamilton	Koenen	Nelson, P.	Seifert	Spk. Sviggum

Those who voted in the negative were:

Buesgens	Knoblach	Krinkie	Olson	Peppin	Vandevveer
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The bill was passed and its title agreed to.

H. F. No. 1528 was reported to the House.

Gazelka, Davids and Westerberg moved to amend H. F. No. 1528, the first engrossment, as follows:

Page 4, line 6, after the period insert "Consumer benefits included within preferred vendor programs must not be considered an incentive or inducement."

Page 6, delete section 2

The motion prevailed and the amendment was adopted.

H. F. No. 1528, A bill for an act relating to insurance; regulating claims practices; amending Minnesota Statutes 2004, section 72A.201, subdivision 6.

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

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Latz	Ozment	Smith
Abrams	Dittrich	Hilty	Lenczewski	Paulsen	Soderstrom
Anderson, B.	Dorman	Holberg	Lesch	Paymar	Solberg
Anderson, I.	Dorn	Hoppe	Liebling	Pelowski	Sykora
Atkins	Eastlund	Hornstein	Lieder	Penas	Thao
Beard	Eken	Hortman	Lillie	Peppin	Thissen
Bernardy	Ellison	Hosch	Loeffler	Peterson, A.	Tingelstad
Blaine	Emmer	Howes	Magnus	Peterson, N.	Urdahl
Bradley	Entenza	Huntley	Mahoney	Peterson, S.	Vandever
Brod	Erhardt	Jaros	Mariani	Poppe	Wagenius
Buesgens	Erickson	Johnson, J.	Marquart	Powell	Walker
Carlson	Finstad	Johnson, R.	McNamara	Rukavina	Wardlow
Charron	Fritz	Johnson, S.	Meslow	Ruth	Walti
Clark	Garofalo	Juhnke	Moe	Ruud	Westerberg
Cornish	Gazelka	Kahn	Mullery	Sailer	Westrom
Cox	Goodwin	Kelliher	Murphy	Samuelson	Wilkin
Cybart	Greiling	Klinzing	Nelson, M.	Scalze	Zellers
Davids	Gunther	Knobloch	Nelson, P.	Seifert	Spk. Sviggum
Davnie	Hackbarth	Koenen	Newman	Severson	
Dean	Hamilton	Kohls	Nornes	Sieben	
DeLaForest	Hansen	Krinkie	Olson	Simon	
Demmer	Hausman	Lanning	Opatz	Simpson	
Dempsey	Heidgerken	Larson	Otremba	Slawik	

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

S. F. No. 1636 was reported to the House.

Hamilton moved to amend S. F. No. 1636 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1824, the second engrossment:

"Section 1. Minnesota Statutes 2004, section 47.10, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY, APPROVAL, LIMITATIONS.] (a) Except as otherwise specially provided, the net book value of land and buildings for the transaction of the business of the corporation, including parking lots and premises leased to others, shall not be more than as follows:

(1) for a bank, trust company, savings bank, or stock savings association, if investment is for acquisition and improvements to establish a new ~~bank~~ banking office, or is for improvements to existing property or acquisition and improvements to adjacent property, approval by the commissioner of commerce is not required if the total investment does not exceed 50 percent of its existing capital stock and paid-in surplus. Upon written prior approval of the commissioner of commerce, a bank, trust company, savings bank, or stock savings association may invest in the property and improvements in clause (1) or for acquisition of nonadjacent property for expansion or future use, if the aggregate of all such investments does not exceed 100 percent of its existing capital stock and paid-in surplus;

(2) for a mutual savings association, five percent of its net assets.

(b) For purposes of this subdivision, an intervening highway, street, road, alley, other public thoroughfare, or easement of any kind does not cause two parcels of real property to be nonadjacent.

Sec. 2. Minnesota Statutes 2004, section 47.75, is amended to read:

47.75 [LIMITED TRUSTEESHIP.]

Subdivision 1. [RETIREMENT, HEALTH SAVINGS, AND MEDICAL SAVINGS ACCOUNTS.] (a) A commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company may act as trustee or custodian:

(1) under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

(2) of a medical savings account under the Federal Health Insurance Portability and Accountability Act of 1996, as amended;

(3) of a health savings account under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, as amended; and ~~also~~

(4) under the Federal Employee Retirement Income Security Act of 1974, as amended.

(b) The trustee or custodian may accept the trust funds if the funds are invested only in savings accounts or time deposits in the commercial bank, savings bank, savings association, credit union, or industrial loan and thrift company. All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

Sec. 3. Minnesota Statutes 2004, section 48.10, is amended to read:

48.10 [ANNUAL AUDIT; REPORT.]

The board of directors of a bank, bank and trust, or trust company shall annually examine its books, either in person, or by appointing an examining committee, or an auditor, who may be an independent auditor or accountant. The examining committee or auditor shall be solely responsible to the directors. A report shall be made to the directors as to the scope of the examination or audit, and also to show those assets, excluding marketable securities and fixed assets, which are carried on the books for more than actual value. This report shall be retained as a permanent record or incorporated in the minutes of the meeting, ~~and a copy of the report shall be sent to the commissioner of commerce.~~

Sec. 4. Minnesota Statutes 2004, section 48.15, subdivision 4, is amended to read:

Subd. 4. [RETIREMENT, HEALTH SAVINGS, AND MEDICAL SAVINGS ACCOUNTS.] (a) A state bank may act as trustee or custodian:

(1) of a self-employed retirement plan under the Federal Self-Employed Individual Tax Retirement Act of 1962, as amended;

(2) of a medical savings account under the Federal Health Insurance Portability and Accountability Act of 1996, as amended;

(3) of a health savings account under the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, as amended; and

(4) of an individual retirement account under the Federal Employee Retirement Income Security Act of 1974, as amended, if the bank's duties as trustee or custodian are essentially ministerial or custodial in nature and the funds are invested only ~~(4) (i)~~ (i) in the bank's own savings or time deposits; or ~~(2) (ii)~~ (ii) in any other assets at the direction of the customer if the bank does not exercise any investment discretion, invest the funds in collective investment funds administered by it, or provide any investment advice with respect to those account assets.

(b) Affiliated discount brokers may be utilized by the bank acting as trustee or custodian for self-directed IRAs, if specifically authorized and directed in appropriate documents. The relationship between the affiliated broker and the bank must be fully disclosed. Brokerage commissions to be charged to the IRA by the affiliated broker should be accurately disclosed. Provisions should be made for disclosure of any changes in commission rates prior to their becoming effective. The affiliated broker may not provide investment advice to the customer.

(c) All funds held in the fiduciary capacity may be commingled by the financial institution in the conduct of its business, but individual records shall be maintained by the fiduciary for each participant and shall show in detail all transactions engaged under authority of this subdivision.

(d) The authority granted by this section is in addition to, and not limited by, section 47.75.

Sec. 5. Minnesota Statutes 2004, section 48.512, is amended by adding a subdivision to read:

Subd. 10. [FEDERAL LAW COMPLIANCE.] In lieu of the identification rules in subdivision 2, a financial intermediary may choose to comply with the federal customer identification standards set forth in United States Code, title 31, section 5318, and its implementing regulation, Code of Federal Regulations, title 31, section 103.121, as amended from time to time.

Sec. 6. Minnesota Statutes 2004, section 52.062, subdivision 2, is amended to read:

Subd. 2. [SUSPENSION.] The commissioner of commerce may suspend the operation of the credit union by giving notice to its board of directors by certified mail with a copy to the advisory council. Said notice shall include a list of reasons for said suspension and a list of any specific violations of law, bylaw, or rule, and shall specify which operations of the credit union may be continued during the period of suspension. The notice shall also fix a time and place for a hearing before the commissioner of commerce or such person or persons as the commissioner of commerce may designate. The hearing shall be held within 60 days of the notice of suspension, and the advisory council shall sit at such hearing for the purpose of providing advice and counsel to the commissioner of commerce or a representative. Evidence may be produced at said hearing by any party thereto, and the commissioner of commerce shall base the decision as to the continued suspension of operation of the credit union upon said evidence. If the commissioner of commerce decides to continue the suspension, the commissioner shall give notice of the decision to the board of directors of the credit union.

Sec. 7. Minnesota Statutes 2004, section 55.10, subdivision 4, is amended to read:

Subd. 4. [WILL SEARCHES, BURIAL DOCUMENTS PROCUREMENT, AND INVENTORY OF CONTENTS.] (a) Upon being furnished with satisfactory proof of death of a sole lessee or the last surviving co-lessee of a safe deposit box, an employee of the safe deposit company shall open the box and examine the contents in the presence of an individual who appears in person and furnishes an affidavit stating that the individual believes:

(1) the box may contain the will or deed to a burial lot or a document containing instructions for the burial of the lessee or that the box may contain property belonging to the estate of the lessee; and

(2) the individual is an interested person as defined in this section and wishes to open the box for any one or more of the following purposes:

(i) to conduct a will search;

(ii) to obtain a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements; or

(iii) to obtain an inventory of the contents of the box.

(b) The safe deposit company may not open the box under this section if it has received a copy of letters of office of the representative of the deceased lessee's estate or other applicable court order.

(c) The safe deposit company need not open the box if:

(1) the box has previously been opened under this section for the same purpose;

(2) the safe deposit company has received notice of a written or oral objection from any person or has reason to believe that there would be an objection; or

(3) the lessee's key or combination is not available.

(d) For purposes of this section, the term "interested person" means any of the following:

(1) a person named as personal representative in a purported will of the lessee;

(2) a person who immediately prior to the death of the lessee had the right of access to the box as a deputy;

(3) the surviving spouse of the lessee;

(4) a devisee of the lessee;

(5) an heir of the lessee;

(6) a person designated by the lessee in a writing acceptable to the safe deposit company which is filed with the safe deposit company before death; or

(7) a state or county agency with a claim authorized by section 256B.15.

(e) For purposes of this section, the term "will" includes a will or a codicil.

(f) If the box is opened for the purpose of conducting a will search, the safe deposit company shall remove any document that appears to be a will and make a true and correct machine copy thereof, replace the copy in the box, and then deliver the original thereof to the clerk of court for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the clerk of the court for the county in which the safe deposit box is located. The will must be personally delivered or sent by registered mail. If the interested person so requests, any deed to burial lot or document containing instructions for the burial of the lessee may be copied by the safe deposit box company and the copy or copies thereof delivered to the interested person.

(g) If the box is opened for the purpose of obtaining a document required to facilitate the lessee's wishes regarding the body, funeral, or burial arrangements, any such document may be removed from the box and delivered to the interested person with a true and correct machine copy retained in the box. If the safe deposit box company discovers a document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(h) If the box is opened for the purpose of obtaining an inventory of the contents of the box, the employee of the safe deposit company shall make, or cause to be made, an inventory of the contents of the box, to which the employee and the interested person shall attest under penalty of perjury to be correct and complete. Within ten days of opening the box pursuant to this subdivision, the safe deposit company shall deliver the original inventory of the contents to the court administrator for the county in which the lessee resided immediately before the lessee's death, if known to the safe deposit company, otherwise to the court administrator for the county in which the safe deposit box is located. The inventory must be personally delivered or sent by registered mail. If the interested person so requests, the safe deposit company shall make a true and correct copy of any document in the box, and of the completed inventory form, and deliver that copy to the interested person. If the contents of the box include a document that appears to be a will, the safe deposit company shall act in accordance with paragraph (f).

(i) If a box opened for the purpose of conducting an inventory, will search, or burial document search is completely empty, the safe deposit company need not follow the procedures above. Instead, the employee of the safe deposit company can complete an inventory of the box contents indicating the fact that the box contained nothing. The form must be signed by the employee and the interested person. If the interested person so requests, the safe deposit company may provide a copy of the completed inventory form to the interested person. The interested person shall then complete the documentation needed by the safe deposit company to surrender the empty box. If another interested person inquires about the box after it has been surrendered, the safe deposit company may state that the deceased renter had previously rented the box and that the box was surrendered because it was empty.

(j) The safe deposit company need not ascertain the truth of any statement in the affidavit required to be furnished under this subdivision and when acting in reliance upon an affidavit, it is discharged as if it dealt with the personal representative of the lessee. The safe deposit company is not responsible for the adequacy of the description of any property included in an inventory of the contents of a safe deposit box, nor for conversion of the property in connection with actions performed under this subdivision, except for conversion by intentional acts of the company or its employees, directors, officers, or agents. If the safe deposit company is not satisfied that the requirements of this subdivision have been met, it may decline to open the box.

⊕ (k) No contents of a box other than a will and a document required to facilitate the lessee's wishes regarding body, funeral, or burial arrangements may be removed pursuant to this subdivision. The entire contents of the box, however, may be removed pursuant to section 524.3-1201.

Sec. 8. [58.125] [PROHIBITION ON SERVICE AS A RESIDENTIAL MORTGAGE ORIGINATOR.]

Subdivision 1. [DEFINITIONS.] (a) "Dishonesty" means directly or indirectly to cheat or defraud; to cheat or defraud for monetary gain or its equivalent; or to wrongfully take property belonging to another in violation of any criminal statute. Dishonesty includes acts involving want of integrity, lack of probity, or a disposition to distort, cheat, or act deceitfully or fraudulently, and may include crimes which federal, state, or local laws define as dishonest.

(b) "Breach of trust" means a wrongful act, use, misappropriation, or omission with respect to any property or fund which has been committed to a person in a fiduciary or official capacity, or the misuse of one's official or fiduciary position to engage in a wrongful act, use, misappropriation, or omission.

Subd. 2. [GENERALLY.] Except with the prior written consent of the commissioner under subdivision 4, any individual, who has been convicted of a criminal offense involving dishonesty or a breach of trust or money laundering, or has agreed to or entered into a pretrial diversion or similar program in connection with a prosecution for such offense, may not serve as a residential mortgage originator or be employed in that capacity by a person licensed as a mortgage originator.

Subd. 3. [DE MINIMIS OFFENSES.] Approval is automatically granted and an application will not be required if the covered offense is considered de minimis because it meets all of the following criteria:

- (1) there is only one conviction or program entry of record for a covered offense;
- (2) the offense was punishable by imprisonment for a term of less than one year and/or a fine of less than \$1,000, and the individual did not serve time in jail;
- (3) the conviction or program was entered at least five years before the date an application would otherwise be required; and
- (4) the offense did not involve a financial institution or residential mortgage loans.

Subd. 4. [PRIOR CONSENT.] (a) An application for prior consent of the commissioner under this section must be in writing, under oath, and on a form obtained from and prescribed by the commissioner. The following factors must be considered by the commissioner when reviewing an application:

- (1) the specific nature of the offense and the circumstances surrounding the offense;
  - (2) evidence of rehabilitation since the offense;
  - (3) the age of the person at the time of conviction; and
  - (4) whether or not restitution has been made.
- (b) The receipt by an individual of prior consent of the commissioner under this section must not be construed as imposing upon an employer an affirmative obligation to employ that individual in any capacity. Nothing in this section precludes an employer from denying employment based upon the existence of a criminal offense specified in subdivision 2 or for any other lawful reason.

Sec. 9. Minnesota Statutes 2004, section 58.16, subdivision 4, is amended to read:

Subd. 4. [TRUST ACCOUNT.] The residential mortgage originator shall deposit in a trust account within three business days all fees received before the time a loan is actually funded. The trust account must be in a financial institution located within the state of Minnesota, and, with respect to advance fees, the account must be controlled by an unaffiliated accountant, attorney, or bank officer or employee.

Sec. 10. Minnesota Statutes 2004, section 60A.13, subdivision 5, is amended to read:

Subd. 5. [RENEWAL LICENSE BASED ON APPROVED STATEMENT.] Upon the approval of the statement the commissioner shall issue a renewal license for the succeeding year beginning June first. Any license to a company or its agent, issued after the approval of the statement, shall expire May 31 of the year following. The license issued by the commissioner is perpetual and is considered renewed annually on June 1 upon payment of the renewal license fee, the annual filing fee, and all other fees required by section 60A.14.

Sec. 11. Minnesota Statutes 2004, section 64B.30, is amended by adding a subdivision to read:

Subd. 3. [VOLUNTARY DISSOLUTION.] Upon application to the commissioner, a domestic society may request that it be dissolved and that its existence be terminated. Such application shall demonstrate that the applicant has satisfied its members' policy obligations or that it has transferred such obligations to another society, domestic or foreign, by means of assumption or bulk reinsurance or otherwise, that the applicant's supreme governing body has approved such termination and dissolution and that the application includes such other information that the commissioner requires. Any limitation in section 64B.13 related to reinsurance by a domestic society with another society shall not apply to reinsurance entered into in conjunction with the transfer of member policy obligations as a part of a voluntary dissolution. Upon the approval of the application by the commissioner, the society shall be deemed dissolved and its existence terminated upon the date set forth in the application.

Sec. 12. Minnesota Statutes 2004, section 82.17, subdivision 10, is amended to read:

Subd. 10. [LOAN BROKER.] "Loan broker" means a licensed real estate broker or salesperson who, for another and for ~~a commission, fee, or other valuable consideration~~ an advance fee or with the intention or expectation of receiving the same, directly or indirectly, negotiates or offers or attempts to negotiate a loan secured or to be secured by a mortgage or other encumbrance on real estate, or represents himself or herself or otherwise holds himself or herself out as a licensed real estate broker or salesperson, either in connection with any transaction in which he or she directly or indirectly negotiates or offers or attempts to negotiate a loan, or in connection with the conduct of his or her ordinary business activities as a loan broker.

"Loan broker" does not include a licensed real estate broker or salesperson who, in the course of representing a purchaser or seller of real estate, incidentally assists the purchaser or seller in obtaining financing for the real property in question if the licensee does not receive a separate commission, fee, or other valuable consideration for this service.

For the purposes of this subdivision, an "advance fee" means a commission, fee, charge, or compensation of any kind paid before the closing of a loan, that is intended in whole or in part as payment for finding or attempting to find a loan for a borrower. Advance fee does not include pass-through fees or commitment or extended lock fees or other fees as determined by the commissioner.

Sec. 13. Minnesota Statutes 2004, section 82.17, subdivision 18, is amended to read:

Subd. 18. [REAL ESTATE BROKER; BROKER.] "Real estate broker" or "broker" means any person who:

(a) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities;

(b) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a mortgage or other encumbrance on real estate, which is not a residential mortgage loan as defined by section 58.02, subdivision 18;

(c) "real estate broker" or "broker" as set forth in clause (b) shall not apply to the originating, making, processing, selling, or servicing of a loan in connection with the ~~broker's~~ ordinary business activities ~~by~~ of a mortgagee, lender, or servicer approved or certified by the secretary of Housing and Urban Development, or approved or certified by the administrator of Veterans Affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved ~~or certified~~ as a multifamily seller/servicer by the Federal Home Loan Mortgage Corporation, or as a multifamily partner approved ~~or certified~~ by the Federal National Mortgage Association;



(d) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option, exchange, purchase or rental of any business opportunity or business, or its good will, inventory, or fixtures, or any interest therein;

(e) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;

(f) for another and for commission, fee, or other valuable consideration or with the intention or expectation of receiving the same, promotes the sale of real estate by advertising it in a publication issued primarily for this purpose, if the person:

(1) negotiates on behalf of any party to a transaction;

(2) disseminates any information regarding the property to any party or potential party to a transaction subsequent to the publication of the advertisement, except that in response to an initial inquiry from a potential purchaser, the person may forward additional written information regarding the property which has been prepared prior to the publication by the seller or broker or a representative of either;

(3) counsels, advises, or offers suggestions to the seller or a representative of the seller with regard to the marketing, offer, sale, or lease of the real estate, whether prior to or subsequent to the publication of the advertisement;

(4) counsels, advises, or offers suggestions to a potential buyer or a representative of the seller with regard to the purchase or rental of any advertised real estate; or

(5) engages in any other activity otherwise subject to licensure under this chapter;

(g) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson.

Sec. 14. Minnesota Statutes 2004, section 82.36, subdivision 4, is amended to read:

Subd. 4. [ESCROW ACCOUNT.] The loan broker shall deposit in an escrow account within 48 hours all fees received prior to the time a loan is actually funded. The escrow account shall be in a bank located within the state of Minnesota and shall be controlled by an unaffiliated accountant, lawyer, or bank ~~officer or employee~~.

Sec. 15. Minnesota Statutes 2004, section 82.41, subdivision 13, is amended to read:

Subd. 13. [FRAUDULENT, DECEPTIVE, AND DISHONEST PRACTICES.] (a) [PROHIBITIONS.] For the purposes of section ~~82.40~~ 82.35, subdivision 1, clause (b), the following acts and practices constitute fraudulent, deceptive, or dishonest practices:

(1) act on behalf of more than one party to a transaction without the knowledge and consent of all parties;

(2) act in the dual capacity of licensee and undisclosed principal in any transaction;

(3) receive funds while acting as principal which funds would constitute trust funds if received by a licensee acting as an agent, unless the funds are placed in a trust account. Funds need not be placed in a trust account if a written agreement signed by all parties to the transaction specifies a different disposition of the funds, in accordance with section 82.35, subdivision 1;

(4) violate any state or federal law concerning discrimination intended to protect the rights of purchasers or renters of real estate;

(5) make a material misstatement in an application for a license or in any information furnished to the commissioner;

(6) procure or attempt to procure a real estate license for himself or herself or any person by fraud, misrepresentation, or deceit;

(7) represent membership in any real estate-related organization in which the licensee is not a member;

(8) advertise in any manner that is misleading or inaccurate with respect to properties, terms, values, policies, or services conducted by the licensee;

(9) make any material misrepresentation or permit or allow another to make any material misrepresentation;

(10) make any false or misleading statements, or permit or allow another to make any false or misleading statements, of a character likely to influence, persuade, or induce the consummation of a transaction contemplated by this chapter;

(11) fail within a reasonable time to account for or remit any money coming into the licensee's possession which belongs to another;

(12) commingle with his or her own money or property trust funds or any other money or property of another held by the licensee;

(13) demand from a seller a commission to compensation which the licensee is not entitled, knowing that he or she is not entitled to the commission compensation;

(14) pay or give money or goods of value to an unlicensed person for any assistance or information relating to the procurement by a licensee of a listing of a property or of a prospective buyer of a property (this item does not apply to money or goods paid or given to the parties to the transaction);

(15) fail to maintain a trust account at all times, as provided by law;

(16) engage, with respect to the offer, sale, or rental of real estate, in an anticompetitive activity;

(17) represent on advertisements, cards, signs, circulars, letterheads, or in any other manner, that he or she is engaged in the business of financial planning unless he or she provides a disclosure document to the client. The document must be signed by the client and a copy must be left with the client. The disclosure document must contain the following:

(i) the basis of fees, commissions, or other compensation received by him or her in connection with rendering of financial planning services or financial counseling or advice in the following language:

"My compensation may be based on the following:

- (a) ... commissions generated from the products I sell you;
- (b) ... fees; or
- (c) ... a combination of (a) and (b). [Comments]";

(ii) the name and address of any company or firm that supplies the financial services or products offered or sold by him or her in the following language:

"I am authorized to offer or sell products and/or services issued by or through the following firm(s):

[List]

The products will be traded, distributed, or placed through the clearing/trading firm(s) of:

[List]";

(iii) the license(s) held by the person under this chapter or chapter 60A or 80A in the following language:

"I am licensed in Minnesota as a(n):

- (a) ... insurance agent;
- (b) ... securities agent or broker/dealer;
- (c) ... real estate broker or salesperson;
- (d) ... investment adviser"; and

(iv) the specific identity of any financial products or services, by category, for example mutual funds, stocks, or limited partnerships, the person is authorized to offer or sell in the following language:

"The license(s) entitles me to offer and sell the following products and/or services:

- (a) ... securities, specifically the following: [List];
- (b) ... real property;
- (c) ... insurance; and
- (d) ... other: [List]."

(b) [DETERMINING VIOLATION.] A licensee shall be deemed to have violated this section if the licensee has been found to have violated sections 325D.49 to 325D.66, by a final decision or order of a court of competent jurisdiction.

(c) [COMMISSIONER'S AUTHORITY.] Nothing in this section limits the authority of the commissioner to take actions against a licensee for fraudulent, deceptive, or dishonest practices not specifically described in this section.

Sec. 16. Minnesota Statutes 2004, section 299A.61, subdivision 3, is amended to read:

Subd. 3. [LIMIT ON LIABILITY OF FINANCIAL INSTITUTION.] A financial institution, including its employees or company agents, that provides or reasonably attempts to provide information regarding stolen, forged, or fraudulent ~~check information~~ checks for use by the crime alert network, check verification services, consumer reporting agencies, a banking industry antifraud database consistent with federal privacy law, or by law enforcement agencies that are investigating a crime is not liable to any person for disclosing the information, provided that the financial institution is acting in good faith.

Sec. 17. Minnesota Statutes 2004, section 325F.69, is amended by adding a subdivision to read:

Subd. 6. [DECEPTIVE USE OF FINANCIAL INSTITUTION NAME.] No person shall include the name, trade name, logo, or tagline of a financial institution as defined in section 49.01, subdivision 2, in a written solicitation for financial services directed to a customer who has obtained a loan from the financial institution without written permission from the financial institution, unless the solicitation clearly and conspicuously states that the person is not sponsored by or affiliated with the financial institution, which shall be identified by name. This statement shall be made in close proximity to, and in the same or larger font size as, the first and most prominent use or uses of the name, trade name, logo, or tagline in the solicitation, including on an envelope or through an envelope window containing the solicitation. For purposes of this section, the term "financial institution" includes a financial institution's affiliates and subsidiaries. This subdivision shall not prohibit the use of a financial institution name, trade name, logo, or tagline of a financial institution if the use of that name is part of a fair and accurate comparison of like products or services.

Sec. 18. [REPEALER.]

(a) Minnesota Statutes 2004, section 52.062, subdivision 3, is repealed.

(b) Minnesota Rules, part 2675.2610, subpart 5, is repealed.

Sec. 19. [EFFECTIVE DATE.]

Section 8 is effective January 1, 2006."

Delete the title and insert:

"A bill for an act relating to commerce; regulating the powers and duties of, and annual reporting required for, certain financial institutions; regulating safe deposit companies; removing obsolete references to the credit union advisory task force; regulating residential mortgage originators; regulating real estate brokers and salespersons; providing for insurance license renewals; regulating for the voluntary dissolution of fraternal benefit societies; prohibiting the deceptive use of a financial institution name; amending Minnesota Statutes 2004, sections 47.10, subdivision 1; 47.75; 48.10; 48.15, subdivision 4; 48.512, by adding a subdivision; 52.062, subdivision 2; 55.10, subdivision 4; 58.16, subdivision 4; 60A.13, subdivision 5; 64B.30, by adding a subdivision; 82.17, subdivisions 10, 18; 82.36, subdivision 4; 82.41, subdivision 13; 299A.61, subdivision 3; 325F.69, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 58; repealing Minnesota Statutes 2004, section 52.062, subdivision 3; Minnesota Rules, part 2675.2610, subpart 5."

The motion prevailed and the amendment was adopted.

S. F. No. 1636, A bill for an act relating to commerce; regulating certain financial institutions; removing obsolete references to the credit union advisory task force; regulating residential mortgage originators; providing for insurance license renewals; regulating for the voluntary dissolution of fraternal benefit societies; amending Minnesota Statutes 2004, sections 47.10, subdivision 1; 47.75; 48.10; 48.15, subdivision 4; 48.512, by adding a subdivision; 52.062, subdivision 2; 55.10, subdivision 4; 58.16, subdivision 4; 60A.13, subdivision 5; 64B.30, by adding a subdivision; 82.17, subdivisions 10, 18; 82.36, subdivision 4; 82.41, subdivision 13; 325F.69, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 58; repealing Minnesota Statutes 2004, section 52.062, subdivision 3; Minnesota Rules, part 2675.2610, subpart 5.

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

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

Those who voted in the affirmative were:

Abeler	Dempsey	Hausman	Krinkie	Opatz	Simon
Abrams	Dill	Heidgerken	Lanning	Otremba	Simpson
Anderson, B.	Dittrich	Hilstrom	Larson	Ozment	Slawik
Anderson, I.	Dorman	Hilty	Latz	Paulsen	Smith
Atkins	Dorn	Holberg	Lenczewski	Paymar	Soderstrom
Beard	Eastlund	Hoppe	Lesch	Pelowski	Solberg
Bernardy	Eken	Hornstein	Liebling	Penas	Sykora
Blaine	Ellison	Hortman	Lieder	Peppin	Thao
Bradley	Emmer	Hosch	Lillie	Peterson, A.	Thissen
Brod	Entenza	Howes	Loeffler	Peterson, N.	Tingelstad
Buesgens	Erhardt	Huntley	Magnus	Peterson, S.	Urdahl
Carlson	Erickson	Jaros	Mariani	Poppe	Vandever
Charron	Finstad	Johnson, J.	Marquart	Powell	Wagenius
Clark	Fritz	Johnson, R.	McNamara	Rukavina	Walker
Cornish	Garofalo	Johnson, S.	Meslow	Ruth	Wardlow
Cox	Gazelka	Juhnke	Moe	Ruud	Welti
Cybart	Goodwin	Kahn	Murphy	Sailer	Westerberg
Davids	Greiling	Kelliher	Nelson, M.	Samuelson	Westrom
Davnie	Gunther	Klinzing	Nelson, P.	Scalze	Wilkin
Dean	Hackbarth	Knoblach	Newman	Seifert	Zellers
DeLaForest	Hamilton	Koenen	Nornes	Severson	Spk. Sviggum
Demmer	Hansen	Kohls	Olson	Sieben	

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

S. F. No. 1360, A bill for an act relating to commerce; regulating unclaimed property held by cooperatives and the right to receive or recover unclaimed property; modifying public notice requirements; regulating certain abandoned tangible personal property; amending Minnesota Statutes 2004, sections 308A.711, subdivisions 1, 3; 308B.735, subdivisions 1, 3; 345.42, subdivision 1; 345.46; proposing coding for new law in Minnesota Statutes, chapter 345; repealing Minnesota Statutes 2004, sections 308A.711, subdivision 2; 308B.735, subdivision 2; 345.42, subdivisions 2, 3.

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

The question was taken on the passage of the bill and the roll was called. There were 133 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Hilstrom	Latz	Ozment	Smith
Abrams	Dittrich	Hilty	Lenczewski	Paulsen	Soderstrom
Anderson, B.	Dorman	Holberg	Lesch	Paymar	Solberg
Anderson, I.	Dorn	Hoppe	Liebling	Pelowski	Sykora
Atkins	Eastlund	Hornstein	Lieder	Penas	Thao
Beard	Eken	Hortman	Lillie	Peppin	Thissen
Bernardy	Ellison	Hosch	Loeffler	Peterson, A.	Tingelstad
Blaine	Emmer	Howes	Magnus	Peterson, N.	Urdahl
Bradley	Entenza	Huntley	Mahoney	Peterson, S.	Vandever
Brod	Erhardt	Jaros	Mariani	Poppe	Wagenius
Buesgens	Erickson	Johnson, J.	Marquart	Powell	Walker
Carlson	Finstad	Johnson, R.	McNamara	Rukavina	Wardlow
Charron	Fritz	Johnson, S.	Meslow	Ruth	Walti
Clark	Garofalo	Juhnke	Moe	Ruud	Westerberg
Cornish	Gazelka	Kahn	Mullery	Sailer	Westrom
Cox	Goodwin	Kelliher	Murphy	Samuelson	Wilkin
Cybart	Greiling	Klinzing	Nelson, M.	Scalze	Zellers
Davids	Gunther	Knoblach	Nelson, P.	Seifert	Spk. Sviggum
Davnie	Hackbarth	Koenen	Newman	Severson	
Dean	Hamilton	Kohls	Nornes	Sieben	
DeLaForest	Hansen	Krinkie	Olson	Simon	
Demmer	Hausman	Lanning	Opatz	Simpson	
Dempsey	Heidgerken	Larson	Otremba	Slawik	

The bill was passed and its title agreed to.

H. F. No. 814 was reported to the House.

Jaros moved to amend H. F. No. 814, the first engrossment, as follows:

Page 15, after line 15, insert:

"Sec. 20. [NO-BUILD EASEMENT.]

Notwithstanding any other law to the contrary, the St. Louis County Board of Commissioners may convey a three-foot permanent no-build easement on the northeasterly border of the unsold tax-forfeited property described as lot 35 in the plat of Upper Duluth St. Louis Avenue to an individual owner of private property that shares a border with the tax-forfeited lot."

Page 15, after line 21, insert:

"Section 20 is effective the day after the St. Louis County Board of Commissioners and its chief clerical officer comply with Minnesota Statutes, section 645.021, subdivisions 2 and 3."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Fritz moved to amend H. F. No. 814, the first engrossment, as amended, as follows:

Page 15, after line 15, insert:

"Sec. 20. [PRIVATE SALE OF TAX-FORFEITED LAND BORDERING PUBLIC WATERS; RICE COUNTY.]

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, and the public sale provisions of Minnesota Statutes, chapter 282, Rice County may sell by private sale the tax-forfeited land bordering public waters described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The sale must be in a form approved by the attorney general. The conveyance shall be subject to the city of Morristown Ordinance No. 170 adopted May 6, 2002, including, but not limited to, section 19 of Ordinance No. 170 addressing shoreland setback distances at a minimum distance of 50 feet and limitations on vegetation removal. The conveyance shall also reserve to the city an additional 12 feet running parallel to the 50-foot setback zone for public trail purposes.

(c) The land to be sold is located in Rice County and is described as: Lots 3, 4, and 5, Block 2, original plat of Morristown (parcel #20.0331.000).

(d) The county has determined that the county's land management interests would best be served if the lands were returned to private ownership."

Page 15, line 20, delete "20" and insert "21"

Renumber the sections in sequence

The motion prevailed and the amendment was adopted.

Dill moved to amend H. F. No. 814, the first engrossment, as amended, as follows:

Page 15, delete section 19 and insert:

"Sec. 19. [PRIVATE SALE OF TAX-FORFEITED LAND; LAKE COUNTY.]

(a) Notwithstanding the public sale provisions of Minnesota Statutes, chapter 282, or other law to the contrary, Lake County may sell by private sale the tax-forfeited land described in paragraph (c).

(b) The conveyance must be in a form approved by the attorney general. The attorney general may make necessary changes to the legal description to correct errors and ensure accuracy.

(c) The land to be sold is located in Lake County and is described as follows: The Northwest Quarter of the Northwest Quarter of Section 20, Township 57 North, Range 7 West, Lake County, Minnesota, containing 40 acres more or less.

(d) The county has determined that the county's land management interests would be best served if the lands were sold to the current occupant."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 814, A bill for an act relating to public lands; modifying acquisition, use, and designation provisions for scientific and natural areas; authorizing public and private sales and conveyances of certain state lands; allowing Itasca County to acquire land for a public access with money from the Itasca County environmental trust fund; authorizing the conveyance of a certain no-build easement by the St. Louis County Board of Commissioners; amending Minnesota Statutes 2004, sections 84.033, by adding a subdivision; 97A.093; repealing Minnesota Statutes 2004, section 84.033, subdivision 2.

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

The question was taken on the passage of the bill and the roll was called. There were 129 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Abeler	Dill	Heidgerken	Lenczewski	Ozment	Slawik
Abrams	Dittrich	Hilstrom	Lesch	Paulsen	Smith
Anderson, B.	Dorman	Hilty	Liebling	Paymar	Soderstrom
Anderson, I.	Dorn	Hoppe	Lieder	Pelowski	Solberg
Atkins	Eastlund	Hornstein	Lillie	Penas	Sykora
Beard	Eken	Hortman	Loeffler	Peppin	Thao
Bernardy	Ellison	Hosch	Magnus	Peterson, A.	Thissen
Blaine	Emmer	Howes	Mahoney	Peterson, N.	Tingelstad
Bradley	Entenza	Jaros	Mariani	Peterson, S.	Urdahl
Brod	Erhardt	Johnson, J.	Marquart	Poppe	Vandever
Carlson	Erickson	Johnson, R.	McNamara	Powell	Wagenius
Charron	Finstad	Johnson, S.	Meslow	Rukavina	Walker
Clark	Fritz	Juhnke	Moe	Ruth	Wardlow
Cornish	Garofalo	Kahn	Mullery	Ruud	Welti
Cox	Gazelka	Kelliher	Murphy	Sailer	Westerberg
Cybart	Goodwin	Klinzing	Nelson, M.	Samuelson	Westrom
Davids	Greiling	Knoblach	Nelson, P.	Scalze	Wilkin
Davnie	Gunther	Koenen	Newman	Seifert	Zellers
Dean	Hackbarth	Kohls	Nornes	Severson	Spk. Sviggum
DeLaForest	Hamilton	Lanning	Olson	Sieben	
Demmer	Hansen	Larson	Opatz	Simon	
Dempsey	Hausman	Latz	Otremba	Simpson	

Those who voted in the negative were:

Buesgens	Holberg	Huntley	Krinkie
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The bill was passed, as amended, and its title agreed to.

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



S. F. No. 630 was reported to the House.

Smith moved to amend S. F. No. 630 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 1321, the second engrossment:

"ARTICLE 1

CHILD CUSTODY AND PARENTING TIME

Section 1. Minnesota Statutes 2004, section 357.021, is amended by adding a subdivision to read:

Subd. 8. [MARITAL DISSOLUTION FEE.] (a) The court administrator shall collect in each proceeding in the district seeking a dissolution of a marriage or a legal separation, in the manner in which other fees are collected, a marital dissolution fee in the amount of \$48 from:

(1) the petitioner instituting the marital dissolution or legal separation, to be collected at the time of the filing of the first paper; and

(2) the respondent who appears, to be collected at the time of the filing of the first paper by the respondent or at the time when the respondent's appearance is entered in the case.

(b) The court administrator shall forward the marital dissolution fee to the commissioner of finance for deposit in the general fund.

**[EFFECTIVE DATE.]** This section is effective July 1, 2005.

Sec. 2. Minnesota Statutes 2004, section 518.17, subdivision 1, is amended to read:

Subdivision 1. [THE BEST INTERESTS OF THE CHILD.] (a) "The best interests of the child" means all relevant factors to be considered and evaluated by the court including, but not limited to:

(1) the wishes of the child's parent or parents as to custody;

(2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(3) the child's primary caretaker;

(4) the intimacy of the relationship between each parent and the child;

(5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;

(6) the child's adjustment to home, school, and community;

(7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(8) the permanence, as a family unit, of the existing or proposed custodial home;

(9) the mental and physical health of all individuals involved; except that a disability, as defined in section 363A.03, of a proposed custodian or the child shall not be determinative of the custody of the child, unless the proposed custodial arrangement is not in the best interest of the child;

(10) the capacity and disposition of the parties to give the child love, affection, care, and guidance, to ensure the child a good education, to provide the child with a nurturing environment, and to continue ~~educating and~~ raising the child in the child's culture, language or languages, and religion ~~or creed, if any~~;

(11) the child's cultural, linguistic, and religious background;

(12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents or between a parent and another individual, whether or not the individual alleged to have committed domestic abuse is or ever was a family or household member of the parent; ~~and~~

(13) ~~except in cases in which a finding of domestic abuse as defined in section 518B.01 has been made~~, the disposition of each parent to encourage and permit frequent and continuing contact by the other parent with the child;

(14) any addiction to alcohol or other habituating substances or physical or sexual abuse attributable to either parent or any person living with either parent insofar as the acts, addiction, violence, or habits may adversely affect the child; and

(15) any false allegations made in bad faith by one parent against the other parent or anybody living with the other parent to gain unfair advantage in the custody determination.

~~The court may not use one factor to the exclusion of all others. The primary caretaker factor may not be used as a presumption in determining the best interests of the child. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.~~

~~(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child. In determining the best interests of the child, the court may not use any one factor to the exclusion of all others, may not use the primary caretaker factor as a presumption, may not prefer one parent over the other on account of gender, and must make detailed findings of each relevant factor and explain how each has led to the conclusion reached, unless the presumption set forth in subdivision 2, paragraph (a), is applied and followed.~~

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

Sec. 3. Minnesota Statutes 2004, section 518.17, subdivision 2, is amended to read:

Subd. 2. ~~[FACTORS WHEN JOINT CUSTODY IS SOUGHT REBUTTABLE PRESUMPTIONS IN CHILD CUSTODY DISPUTES.]~~ In addition to the factors listed in subdivision 1, where either joint legal or joint physical custody is contemplated or sought, the court shall consider the following relevant factors:

~~(a) the ability of parents to cooperate in the rearing of their children;~~ The court shall use a rebuttable presumption that joint legal and physical custody is in the best interests of the child. Any departure from that presumption must be justified by detailed findings. Whenever it appears that the parents have difficulty in communication or cooperation with respect to the child, the court may establish rules which govern in case of disagreement between them.

~~(b) methods for resolving disputes regarding any major decision concerning the life of the child, and the parents' willingness to use those methods; If it appears that both parents are fit, but that joint legal and physical custody is not feasible and cannot be remedied by rules which govern in case of disagreement between the parents, the court shall use a rebuttable presumption that the best interests of the child will be served by granting legal and physical custody to the parent more disposed to encourage and permit frequent and continuing contact with the child by the other parent. Any departure from that presumption must be justified by detailed findings.~~

~~(c) whether it would be detrimental to the child if one parent were to have sole authority over the child's upbringing; and~~

~~(d) whether domestic abuse, as defined in section 518B.01, has occurred between the parents.~~

~~The court shall use a rebuttable presumption that upon request of either or both parties, joint legal custody is in the best interests of the child. However, The court shall use a rebuttable presumption that joint legal or physical custody is not in the best interests of the child if domestic abuse, as defined in section 518B.01, has occurred between the parents. Use of that presumption requires detailed findings.~~

~~If the court awards joint legal or physical custody over the objection of a party, the court shall make detailed findings on each of the factors in this subdivision and explain how the factors led to its determination that joint custody would be in the best interests of the child.~~

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

Sec. 4. Minnesota Statutes 2004, section 518.175, is amended by adding a subdivision to read:

Subd. 1b. [PARENTING TIME; MEANING.] "Parenting time" means the amount of time a child is scheduled to spend with the parent according to a court order. Parenting time includes time with the child whether it is designated as visitation, physical custody, or parenting time. The percentage of parenting time may be calculated by calculating the number of overnights that a child spends with a parent, or by using a method other than overnights as the parent has significant time periods where the child is in the parent's physical custody, but does not stay overnight.

Sec. 5. [518.1781] [SIX-MONTH REVIEW.]

(a) A request for a six-month review hearing form must be attached to a decree of dissolution or legal separation or an order that initially establishes child custody, parenting time, or support rights and obligations of parents. The state court administrator is requested to prepare the request for review hearing form. The form must include information regarding the procedures for requesting a hearing, the purpose of the hearing, and any other information regarding a hearing under this section that the state court administrator deems necessary.

(b) The six-month review hearing shall be held if any party submits a written request for a hearing within six months after entry of a decree of dissolution or legal separation or order that establishes child custody, parenting time, or support.

(c) Upon receipt of a completed request for hearing form, the court administrator shall provide notice of the hearing to all other parties and the public authority. The court administrator shall schedule the six-month review hearing as soon as practicable following the receipt of the hearing request form.

(d) At the six-month hearing, the court must review:

(1) whether child support is current; and

(2) whether both parties are complying with the parenting time provisions of the order.

(e) At the six-month hearing, the obligor has the burden to present evidence to establish that child support payments are current. A party may request that the public authority provide information to the parties and court regarding child support payments. A party must request the information from the public authority at least 14 days before the hearing. The commissioner of human services must develop a form to be used by the public authority to submit child support payment information to the parties and court.

(f) Contempt of court and all statutory remedies for child support and parenting time enforcement may be imposed by the court at the six-month hearing for noncompliance by either party pursuant to chapters 517C and 588 and the Minnesota Court Rules.

## ARTICLE 2

### CHILD SUPPORT

Section 1. [517C.01] [TITLE.]

This chapter may be cited as the "Minnesota Child Support Act."

Sec. 2. [517C.02] [LEGISLATIVE INTENT.]

The legislature of the state of Minnesota finds that in all cases of dissolution of marriage, separate maintenance, adjudication of paternity, and all other cases in which child support must be apportioned between them, both parents have an equal duty to pay for the actual cost of supplying the reasonable needs of the child or children had in common between them in proportion to their respective incomes and resources. The best interests of the child or children are served, so far as this state is concerned, when this obligation is fairly apportioned.

Sec. 3. [517C.03] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The definitions in this section apply to this chapter.

Subd. 2. [ARREARS.] "Arrears" means amounts owed under a support order that are past due. Arrears include:

(1) child support;

(2) the entire amount of court-ordered past support and pregnancy and confinement expenses if:

(i) the order does not contain repayment terms; or

(ii) the order contains repayment terms and the obligor fails to comply with the repayment terms; and

(3) attorney fees and any other collection costs addressed in a support order under section 517C.84.

Subd. 3. [BASIC SUPPORT.] "Basic support" means the dollar amount ordered for a child's housing, food, clothing, transportation, and education costs, and other expenses relating to the child's care. Basic support does not include monetary contributions for a child's private school tuition, child care expenses, and medical and dental expenses.

Subd. 4. [BUSINESS DAY.] "Business day" means a day on which state offices are open for regular business.

Subd. 5. [CHILD.] "Child" means an individual under 18 years of age, an individual under age 20 who is still attending secondary school, or an individual who, by reason of physical or mental condition, is incapable of self-support.

Subd. 6. [CHILD SUPPORT.] "Child support" means an amount for basic support, child care support, and medical support pursuant to:

(1) an award in a dissolution, legal separation, annulment, or parentage proceeding for the care, support, and education of a child of the marriage or of the parties to the proceeding;

(2) a contribution by parents ordered under section 256.87; or

(3) support ordered under chapter 518B or 518C.

Subd. 7. [DEPOSIT ACCOUNT.] "Deposit account" means funds deposited with a financial institution in the form of a savings account, checking account, NOW account, or demand deposit account.

Subd. 8. [FINANCIAL INSTITUTION.] "Financial institution" means a savings association, bank, trust company, credit union, industrial loan and thrift company, bank and trust company, or savings association, and includes a branch or detached facility of a financial institution.

Subd. 9. [OBLIGEE.] "Obligee" means a person to whom payments for child support are owed.

Subd. 10. [OBLIGOR.] "Obligor" means a person obligated to pay child support. A person who is designated as the sole physical custodian of a child is presumed not to be an obligor for purposes of calculating current support unless the court makes specific written findings to overcome this presumption. For purposes of ordering medical support under section 517C.17, a custodial parent may be an obligor subject to income withholding under section 517C.17; a cost-of-living adjustment under section 517C.31; and a payment agreement under section 517C.71.

Subd. 11. [PAYMENT.] "Payment" means the payment of child support and related payments required by order of a tribunal, voluntary support, or statutory fees.

Subd. 12. [PAYOR OF FUNDS.] "Payor of funds" means a person or entity that provides funds to an obligor, including an employer as defined under chapter 24, section 3401(d), of the Internal Revenue Code, an independent contractor, payor of workers' compensation benefits or unemployment insurance benefits, or a financial institution as defined in section 13B.06.

Subd. 13. [PUBLIC AUTHORITY.] "Public authority" means the local unit of government, acting on behalf of the state, that is responsible for child support enforcement or the Child Support Enforcement Division of the Department of Human Services.

Subd. 14. [SUPPORT ORDER.] (a) "Support order" means a judgment, decree, or order, whether temporary, final, or subject to modification, issued by a court or administrative agency of competent jurisdiction that:

(1) provides for the support of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living;

(2) provides for basic support, child care, medical support including expenses for confinement and pregnancy, arrears, or reimbursement; and

(3) may include related costs and fees, interest and penalties, income withholding, and other relief.

(b) The definition in paragraph (a) applies to orders issued under this chapter and chapters 256, 257, and 518C.

Subd. 15. [TRIBUNAL.] "Tribunal" has the meaning given in section 518C.101.

Subd. 16. [UNCLAIMED SUPPORT FUNDS.] "Unclaimed support funds" means any support payments collected by the public authority from the obligor which have not been disbursed to the obligee or public authority.

Subd. 17. [IV-D CASE.] "IV-D case" means a case where a party assigns rights to child support to the state because the party receives public assistance, as defined in section 256.741, or applies for child support services under title IV-D of the Social Security Act, United States Code, title 42, section 654(4).

Sec. 4. [517C.04] [CHILD SUPPORT ORDERS.]

Subdivision 1. [ORDER.] (a) Upon dissolution of marriage, legal separation, annulment, establishment of paternity, or when otherwise required by statute, the court must order child support as provided by this chapter.

(b) Nothing contained in this chapter limits the power of the court to make appropriate, adequate orders for the support and education of a child of the parties to a dissolution, legal separation, or annulment action if the dissolution, legal separation, or annulment is denied.

Subd. 2. [PROVISIONS.] Child support orders must provide for general child-rearing costs or basic support and must also specifically address child care costs and medical care, providing for those costs pursuant to this chapter.

Subd. 3. [AGREEMENTS.] If the parties stipulate or agree to a child support order, the court must review the agreement to ensure it serves the best interests of the child. The Minnesota Supreme Court may promulgate rules regarding the review of stipulations and agreements. The court may refuse to accept or may alter an agreement that does not conform with the requirements of this chapter or that is otherwise not in the best interests of the child.

Subd. 4. [SPECIFIC DOLLAR AMOUNT.] (a) The court must order child support in a specific dollar amount.

(b) The court may order an obligor to pay child support in the form of a percentage share of the obligor's net bonuses, commissions, or other forms of compensation, in addition to or, if the obligor receives no base pay, in lieu of an order for a specific dollar amount.

Subd. 5. [PREFERENCE FOR MONTHLY PAYMENT.] There is a presumption in favor of ordering child support in an amount that reflects an obligor's monthly obligation.

Subd. 6. [PREFERENCE FOR STATIC PAYMENT.] There is a presumption in favor of ordering child support so that an obligor makes the same monthly payments throughout the year, as opposed to payment amounts that fluctuate by season or month. If the obligor is seasonally employed, it is generally the obligor's responsibility to budget income accordingly.

Subd. 7. [DEPARTURE.] The court may depart from a presumption in subdivision 5 or 6 if:

(1) all parties agree; or

(2) the presumption would impose an extreme hardship on the obligor and would not be in the best interests of the child.

Subd. 8. [ACCOUNTING FOR CHILD SUPPORT BY OBLIGEE.] (a) Upon an obligor's motion, a court may order an obligee to account for the use or disposition of child support received. The motion must assert the specific allegations of abuse or misapplication of child support received and that a child's needs are not being met. If the court orders a hearing, the court may order an accounting only if the obligor establishes:

- (1) the specific allegations of abuse or misapplication of child support received;
- (2) that the child's needs are not being met; and
- (3) that there is no record or history of domestic abuse, harassment, or violence between the parties.

(b) If the court orders an accounting under paragraph (a), the obligee must provide documentation that breaks down monthly expenditures of child support received into the following categories:

- (1) housing and utilities;
- (2) food;
- (3) transportation;
- (4) clothing;
- (5) health care;
- (6) child care and education; and
- (7) miscellaneous.

An obligee may account for expenditures on housing, utilities, food, and transportation that are attributable to multiple household members on a per capita basis.

(c) If the court finds that an obligee does not make the accounting required under paragraph (b) or the obligee does not spend the entire child support payment on behalf of the child, the court may:

- (1) hold the obligee in contempt of court pursuant to this chapter, chapter 588, and the Minnesota Court Rules;
  - (2) reduce or eliminate the obligor's child support obligation;
  - (3) order the obligee to make future expenditures on behalf of the child, whether in whole or in part, in a manner that documents the transaction; or
  - (4) make any other appropriate order to ensure that the child's needs are met.
- (d) If the court determines that an obligor's motion under this section is brought in bad faith, the court may award reasonable attorney fees to the obligee.

Subd. 9. [CHILD SUPPORT TO BE DISTINGUISHED FROM MAINTENANCE.] In a judgment of dissolution or legal separation, the court must clearly distinguish between payments ordered for maintenance and payments ordered for child support. An award of payments from future income or earnings of the parent with whom the child resides is presumed to be maintenance and an award of payments from the future income or earnings of the other parent is presumed to be child support, unless otherwise designated by the court.

Subd. 10. [OTHER CUSTODIANS.] If a child resides with a person other than a parent and the court approves of the custody arrangement, the court may order child support payments to be made to the custodian regardless of whether the person has legal custody.

Subd. 11. [EITHER PARENT LIABLE; MARITAL MISCONDUCT IRRELEVANT.] The court may order either or both parents owing a duty of support to a child to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct.

**[EFFECTIVE DATE.]** Subdivision 8 is effective July 1, 2007.

Sec. 5. [517C.05] [TEMPORARY ORDERS.]

Subdivision 1. [MOTION; SCOPE.] In a child support proceeding a party may, by motion, request that the court grant a temporary order pending the final disposition of the proceeding for temporary child support, costs, and reasonable attorney fees. Additionally, to facilitate the just and speedy disposition of the proceeding, the court may require a party to perform or refrain from performing additional acts.

Subd. 2. [DURATION.] A temporary order continues in full force and effect until:

(1) it is amended;

(2) it is vacated;

(3) the main action is dismissed; or

(4) a final decree of dissolution, legal separation, or other final order is entered.

Subd. 3. [FACTORS.] The court must consider the factors set forth in this chapter in making temporary orders.

Subd. 4. [EVIDENCE.] Temporary orders must be made solely on the basis of affidavits and argument of counsel unless:

(1) a party makes a timely motion or responsive motion to hear the matter on oral testimony before the court; or

(2) the court, in its discretion, orders the taking of oral testimony.

Subd. 5. [LIMITED EFFECT.] A temporary order does not prejudice the rights of the parties or the child that are to be adjudicated at subsequent hearings in the proceeding.

Subd. 6. [REVOCATION; MODIFICATION.] A temporary order may be revoked or modified by the court before the final disposition of the proceeding upon the same grounds and subject to the same requirements as the initial granting of the order.

Sec. 6. [517C.06] [DETERMINATION OF CONTROLLING ORDER.]

The public authority or a party may request the court to determine a controlling order when more than one order involving the same obligor and child exists.



## Sec. 7. [517C.07] [ATTORNEY FEES; COSTS AND DISBURSEMENTS.]

Subdivision 1. [GENERAL.] (a) Except as provided in section 517C.84, in a proceeding under this chapter, the court must award attorney fees, costs, and disbursements in an amount necessary to enable a party to carry on or contest the proceeding if:

(1) the fees are necessary for the good-faith assertion of the party's rights in the proceeding and will not contribute unnecessarily to the length and expense of the proceeding;

(2) the party from whom fees, costs, and disbursements are sought has the means to pay them; and

(3) the party to whom fees, costs, and disbursements are awarded does not have the means to pay them.

(b) Fees, costs, and disbursements may be awarded at any point during or after a proceeding under this chapter, including if a proceeding is dismissed or abandoned.

(c) The court may assess costs and disbursements against either party.

Subd. 2. [UNREASONABLE ACTIONS.] The court may, in its discretion, assess additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding.

Subd. 3. [COLLECTION.] The court may authorize the collection of money awarded by execution, out of property sequestered, or in any other manner within the power of the court. An award of attorney fees survives the proceeding. If the award is not paid by the party directed to pay it, the award may be enforced as provided by this subdivision or by a separate civil action brought in the attorney's own name.

## Sec. 8. [517C.10] [EXCHANGE OF INFORMATION.]

Subdivision 1. [DOCUMENTATION.] (a) The parties must timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation at least ten days before the prehearing conference.

(b) Documentation of earnings and income includes, but is not limited to, pay stubs for the most recent three months, employer statements, or statement of receipts and expenses if self-employed. Documentation of earnings and income also includes copies of each parent's most recent federal tax returns, W-2 forms, 1099 forms, unemployment insurance benefits statements, workers' compensation statements, and all other documents evidencing the receipt of income that provide verification of income over a longer period.

Subd. 2. [EXCHANGE OF TAX RETURNS.] At any time after a party commences an action seeking child support or when a child support order is in effect, a party or the public authority may require the other party to give them a copy of the other party's most recent federal tax returns that were filed with the Internal Revenue Service. The party must provide a copy of the tax returns within 30 days of receiving the request unless the request is not made in good faith. A party may not make a request under this subdivision more than once every two years, in the absence of good cause.

Subd. 3. [NOTICE OF ADDRESS OR RESIDENCE CHANGE.] An obligor must notify other parties of a change of address or residence within 60 days of the address or residence change.

Subd. 4. [NOTICE TO PUBLIC AUTHORITY; PUBLIC ASSISTANCE.] The petitioner must notify the public authority of all proceedings for dissolution, legal separation, determination of parentage, or for the custody of a child, if either party is receiving public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their Social Security account numbers, and their birth dates.

Subd. 5. [FAILURE OF NOTICE.] If the court in a dissolution, legal separation, or determination of parentage proceeding, finds before issuing the order for judgment and decree, that notification has not been given to the public authority, the court must set child support according to the guidelines in this chapter. In those proceedings in which no notification has been made pursuant to this section and in which the public authority determines that the judgment is lower than the child support required by the guidelines in this chapter, it must move the court for a redetermination of the support payments ordered so that the support payments comply with the guidelines.

Sec. 9. [517C.11] [PRIVACY PROTECTION; PERSONAL PROTECTION.]

Subdivision 1. [SOCIAL SECURITY NUMBERS; TAX RETURNS.] The Social Security numbers and tax returns required under this chapter are not accessible to the public, except that they must be disclosed to the other parties to a proceeding as provided in section 517C.10.

Subd. 2. [MODIFICATION OF CERTAIN REQUIREMENTS.] The court may waive, modify, or limit the information exchange requirements of this chapter by order if necessary to protect a party from contact by another party.

Subd. 3. [ACCESS TO ADDRESS FOR SERVICE OF PROCESS.] (a) If the public authority is a party or is providing services in a child support case, a party may obtain an ex parte order under this subdivision. The party may obtain an ex parte order requiring the public authority to serve legal documents on the other party by mail if the party submits a sworn affidavit to the court stating that:

(1) the party needs to serve legal process in a support proceeding and does not have access to the address of the other party;

(2) the party has made reasonable efforts to locate the other party; and

(3) the other party is not represented by counsel.

(b) The public authority must serve legal documents provided by the moving party at the last known address of the other party upon receipt of a court order under paragraph (a). The public authority must provide for appropriate service and must certify to all parties the date of service by mail. The public authority's proof of service must not include the place or address of service.

(c) The state court administrator must prepare and make available forms for use in seeking access to an address under this subdivision.

Sec. 10. [517C.12] [INCOME.]

Subdivision 1. [DEFINITION.] For purposes of calculating child support under this chapter, "income" means gross income.

Subd. 2. [SOURCES.] For purposes of this chapter, income includes any form of periodic payment to an individual including, but not limited to:

(1) wages;

(2) salaries;

(3) payments to an independent contractor;

(4) workers' compensation;

(5) unemployment insurance benefits;

(6) annuity;

(7) military and naval retirement;

(8) pension and disability payments; and

(9) in-kind payments received by the obligor in the course of employment, self-employment, or operation of a business if the payments reduce the obligor's living expenses.

Subd. 3. [COMMISSIONS; BONUSES.] If the court finds that a party's commissions or bonuses are reliable and predictable, the court may include them in income calculations.

Subd. 4. [SELF-EMPLOYMENT; INDEPENDENT CONTRACTORS.] Income from self-employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses include what would otherwise be the employer's share of the contributions under the Federal Insurance Contributions Act (FICA), United States Code, title 26, subtitle C, chapter 21, subchapter A, sections 3101 to 3126. Ordinary and necessary expenses do not necessarily include amounts allowed by the Internal Revenue Service for accelerated depreciation expenses or investment tax credits or any other business expenses determined by the court to be inappropriate for determining income for purposes of child support. The person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Income calculated under this section may be different from taxable income.

Subd. 5. [PUBLIC ASSISTANCE EXCLUSIONS.] Benefits received under chapter 256J and title IV-A of the Social Security Act are not income under this section.

Subd. 6. [OVERTIME.] (a) Income does not include compensation received by a party for employment in excess of a 40-hour work week if:

(1) the excess employment is not within the normal range of hours worked, given the party's employment history;

(2) the excess employment is voluntary and not a condition of employment;

(3) the excess employment is in the nature of additional, part-time, or overtime employment compensable by the hour or fraction of an hour; and

(4) the party's compensation structure has not been changed for the purpose of affecting a child support obligation.

(b) The court may presume that a party with seasonal or intermittent income who works periods in excess of a 40-hour work week, but who works a substantially normal number of hours over the course of a year, is working within the normal range of hours worked.

Subd. 7. [INCOME OF A SPOUSE OR OTHER HOUSEHOLD MEMBER.] (a) Income must not include the income of a party's spouse or other household member. The court must not consider the income or resources provided by a spouse or other household member when determining all the earnings, income, and resources of a parent under sections 517C.25 to 517C.29.

(b) Notwithstanding paragraph (a), the court may issue an order permitting discovery of a spouse's or other household member's income information if there is probable cause to believe the spouse or other household member is being used to shelter income from a party. If the court finds that income was improperly or unfairly sheltered, it may impute income to the party or otherwise adjust the support amount in a just and proper manner. However, the court may not under any circumstances consider income or resources properly attributable to a spouse or other household member when setting support.

Subd. 8. [PRIOR SUPPORT OR MAINTENANCE ORDERS.] The amount of a support or maintenance order, not including orders for support or maintenance debts or arrears, must be deducted from income.

Subd. 9. [LEGALLY DEPENDENT CHILD.] (a) For purposes of this subdivision, a "legally dependent child" means a child:

- (1) whose primary residence is with a parent eligible for a deduction from income under this subdivision;
- (2) whom the parent has the legal duty to support;
- (3) who is not a subject of the current child support action;
- (4) for whom the parent is not ordered to pay child support; and
- (5) for whom no other person has court-ordered sole physical custody.

(b) The court must deduct an amount from a parent's income for a legally dependent child. The amount deducted from income for each legally dependent child must be computed using the following method:

(1) determine 120 percent of the federal poverty guidelines for a family size equal to two parents plus each legally dependent child;

(2) divide the amount determined under clause (1) by the family size determined under clause (1);

(3) multiply the amount calculated under clause (2) by the number of legally dependent children; and

(4) divide the amount calculated under clause (3) by two to determine the deduction amount for one parent. The amount determined for one parent must be divided by 12 to determine the amount of the deduction from a parent's monthly income.

(c) The commissioner of human services must publish a table listing the amount of the deduction for each legally dependent child by family size and must update the table for changes to the federal poverty guidelines by July 1 of each year.

Sec. 11. [517C.13] [IMPUTED INCOME.]

Subdivision 1. [NONAPPEARANCE OF A PARENT.] If a parent under the jurisdiction of the court does not appear at a court hearing after proper notice of the time and place of the hearing, the court must set income for that parent based on credible evidence before the court or in accordance with subdivision 3. Credible evidence may include documentation of current or recent income, testimony of the other parent concerning recent earnings and income levels, and the parent's wage reports filed with the Minnesota Department of Employment and Economic Development under section 268.044.

Subd. 2. [VOLUNTARY UNEMPLOYMENT OR UNDEREMPLOYMENT.] (a) The principles of income imputation apply equally to both parents.

(b) If the court finds that a parent is voluntarily unemployed or underemployed or was voluntarily unemployed or underemployed during the period for which past support is being sought, a court must calculate support based on a determination of imputed income.

(c) A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that:

(1) the unemployment or underemployment is temporary and will ultimately lead to an increase in income;

(2) the unemployment or underemployment represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child;

(3) the parent is a recipient of public assistance under section 256.741; or

(4) the parent is physically or mentally incapacitated.

(d) Imputed income means the estimated earning ability of a parent based on the parent's prior earnings history, education, and job skills, and on availability of jobs within the community for an individual with the parent's qualifications.

Subd. 3. [INSUFFICIENT INFORMATION.] If there is insufficient information to determine actual income or to impute income pursuant to subdivision 1 or 2, the court may calculate support based on full-time employment of 40 hours per week at 150 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher.

Subd. 4. [PARENT PROVIDING AT-HOME CHILD CARE.] If a parent stays home to care for a child who is the subject of the child support order, the court must consider the following factors when determining whether the parent is voluntarily unemployed or underemployed:

(1) the parties' parenting and child care arrangements before the child support action;

(2) the stay-at-home parent's employment history, including recency of employment and earnings, and the availability of jobs within the community for an individual with the parent's qualifications;

(3) the relationship between the employment-related expenses, including child care, transportation costs, suitable clothing, and other items required for the parent to be employed, and the income the stay-at-home parent could receive from available jobs within the community for an individual with the parent's qualifications;

(4) the child's age and health, including whether the child is physically or mentally disabled; and

(5) the availability of appropriate child care providers.

Sec. 12. [517C.14] [PRESUMPTIVE CHILD SUPPORT ORDER; GENERAL.]

Subdivision 1. [REBUTTABLE PRESUMPTION.] The guidelines in sections 517C.12 to 517C.18 are a rebuttable presumption and must be used in all cases when establishing or modifying child support.

Subd. 2. [CHILD'S INSURANCE BENEFIT.] In establishing or modifying child support, if a child receives a child's insurance benefit under United States Code, title 42, section 402, because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered must be offset by the amount of the child's benefit. The court must make findings regarding the obligor's income from all sources, the child support amount calculated under this chapter, the amount of the child's benefit, and the obligor's child support obligation. A benefit received by the child in a given month in excess of the child support obligation must not be treated as a payment of arrears or a future payment.

Sec. 13. [517C.15] [BASIC SUPPORT.]

Subdivision 1. [BASIC SUPPORT; SCHEDULE.] (a) Unless otherwise agreed to by the parents and approved by the court, the court must order that basic support be divided between the parents based on their proportionate share of the parents' combined monthly income, as determined under section 517C.12.

(b) For parents with a combined monthly income less than or equal to 100 percent of the federal poverty guidelines amount for two people, the commissioner of human services must determine the percentages in this paragraph by taking two times the minimum basic support amount under section 517C.18, subdivision 2, divided by 100 percent of the federal poverty guidelines amount for two people. For all other parents, basic support must be computed using the following schedule, prepared based on 2001 United States Department of Agriculture expenditure data:

<u>Parents'</u> <u>Combined</u> <u>Monthly</u> <u>Income</u>	<u>Number of Children</u>					
	<u>One</u>	<u>Two</u>	<u>Three</u>	<u>Four</u>	<u>Five</u>	<u>Six</u>
<u>Below \$1,000</u>	<u>10.0%</u>	<u>16.1%</u>	<u>18.6%</u>	<u>21.6%</u>	<u>25.1%</u>	<u>29.1%</u>
<u>\$1,000 - \$1,499</u>	<u>10.0%</u>	<u>16.1%</u>	<u>18.6%</u>	<u>21.6%</u>	<u>25.1%</u>	<u>29.1%</u>
<u>\$1,500 - \$1,999</u>	<u>19.4%</u>	<u>31.3%</u>	<u>36.2%</u>	<u>42.0%</u>	<u>48.7%</u>	<u>56.5%</u>
<u>\$2,000 - \$2,499</u>	<u>28.7%</u>	<u>46.3%</u>	<u>53.5%</u>	<u>62.1%</u>	<u>72.0%</u>	<u>83.5%</u>
<u>\$2,500 - \$2,999</u>	<u>25.0%</u>	<u>40.3%</u>	<u>46.5%</u>	<u>53.9%</u>	<u>62.6%</u>	<u>72.6%</u>
<u>\$3,000 - \$3,499</u>	<u>22.5%</u>	<u>36.3%</u>	<u>41.9%</u>	<u>48.6%</u>	<u>56.4%</u>	<u>65.4%</u>
<u>\$3,500 - \$3,999</u>	<u>20.7%</u>	<u>33.4%</u>	<u>38.5%</u>	<u>44.7%</u>	<u>51.8%</u>	<u>60.1%</u>
<u>\$4,000 - \$4,499</u>	<u>19.4%</u>	<u>31.2%</u>	<u>36.1%</u>	<u>41.9%</u>	<u>48.6%</u>	<u>56.3%</u>
<u>\$4,500 - \$4,999</u>	<u>18.3%</u>	<u>29.6%</u>	<u>34.1%</u>	<u>39.6%</u>	<u>45.9%</u>	<u>53.2%</u>
<u>\$5,000 - \$5,499</u>	<u>17.5%</u>	<u>28.2%</u>	<u>32.6%</u>	<u>37.8%</u>	<u>43.9%</u>	<u>50.9%</u>
<u>\$5,500 - \$5,999</u>	<u>16.8%</u>	<u>27.1%</u>	<u>31.3%</u>	<u>36.3%</u>	<u>42.1%</u>	<u>48.9%</u>
<u>\$6,000 - \$6,400</u>	<u>16.2%</u>	<u>26.2%</u>	<u>30.2%</u>	<u>35.0%</u>	<u>40.6%</u>	<u>47.1%</u>
<u>\$6,500 - \$6,999</u>	<u>15.8%</u>	<u>25.4%</u>	<u>29.3%</u>	<u>34.0%</u>	<u>39.4%</u>	<u>45.7%</u>
<u>\$7,000 - \$7,499</u>	<u>15.4%</u>	<u>24.8%</u>	<u>28.6%</u>	<u>33.2%</u>	<u>38.5%</u>	<u>44.6%</u>
<u>\$7,500 - \$7,999</u>	<u>15.0%</u>	<u>24.2%</u>	<u>27.9%</u>	<u>32.4%</u>	<u>37.5%</u>	<u>43.5%</u>
<u>\$8,000 - \$8,499</u>	<u>14.7%</u>	<u>23.7%</u>	<u>27.3%</u>	<u>31.7%</u>	<u>36.7%</u>	<u>42.6%</u>
<u>\$8,500 - \$8,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$9,000 - \$9,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$9,500 - \$9,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$10,000 - \$10,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$10,500 - \$10,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$11,000 - \$11,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$11,500 - \$11,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$12,000 - \$12,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$12,500 - \$12,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>

<u>\$13,000 - \$13,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$13,500 - \$13,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$14,000 - \$14,499</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$14,500 - \$14,999</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>
<u>\$15,000 or</u> <u>the amount</u> <u>in effect</u> <u>under subd. 4</u>	<u>14.4%</u>	<u>23.3%</u>	<u>26.8%</u>	<u>31.1%</u>	<u>36.1%</u>	<u>41.8%</u>

(c) The commissioner of human services must compute and publish a schedule of basic support amounts calculated using the percentages in paragraph (b). The schedule must show basic support amounts for combined monthly income increments of not more than \$100. The commissioner must determine the percentages for each income increment by interpolating between the percentages in paragraph (b). The commissioner may disregard a fractional part of a dollar unless it amounts to 50 cents or more, in which case the commissioner may increase the amount by \$1.

Subd. 2. [SEPARATE HOUSEHOLD ADJUSTMENT.] After determining each parent's basic support under subdivision 1, the court must reduce the basic support of each parent by 20 percent.

Subd. 3. [JOINT PHYSICAL CUSTODY.] (a) If a court order establishes a parenting time schedule wherein the obligor has care of the child at least 45 percent of the time, an obligor's basic support obligation is 50 percent of the difference between the parents' basic support obligation, as determined under subdivision 1.

(b) A parenting time division approximates joint physical custody if each parent provides, or is responsible for providing, care at least 45 percent of the days in a year.

Subd. 4. [INCOME CAP ON DETERMINING BASIC SUPPORT.] (a) The basic support obligation for parents with a combined monthly income in excess of the income limit currently in effect under subdivision 1 must be the same dollar amount as provided for parents with a combined monthly income equal to the income limit in effect under subdivision 1.

(b) A court may order a basic support obligation in a child support order in an amount that exceeds the income limit in subdivision 1 if it finds that a child has a disability or other substantial, demonstrated need for the additional support and that the additional support will directly benefit the child.

(c) The dollar amount for the cap in subdivision 1 must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The Supreme Court must select the index for the adjustment from the indices listed in section 517C.31. The state court administrator must make the changes in the dollar amounts required by this paragraph available to courts and the public on or before April 30 of the year in which the amount is to change.

Subd. 5. [MORE THAN SIX CHILDREN.] If a child support proceeding involves more than six children, the court may derive a support order without specifically following the guidelines. However, the court must consider the basic principles encompassed by the guidelines and must consider both parents' needs, resources, and circumstances.

Subd. 6. [REPORT TO LEGISLATURE.] By January 15 each year, the commissioner of human services must submit a report to the legislature on the basic support schedule. The report must include the following:

(1) information on any changes to the United States Department of Agriculture expenditure data used in constructing the basic support schedule under subdivision 1;

(2) information on any new sources of economic data that could be used to construct a basic support schedule; and

(3) a summary of any problems or concerns with implementing or applying the basic support schedule, and recommendations on how to resolve those problems or concerns.

Sec. 14. [517C.16] [CHILD CARE SUPPORT.]

Subdivision 1. [CHILD CARE COSTS.] Unless otherwise agreed to by the parties and approved by the court, the court must order that the child care costs be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly income, as determined under section 517C.12.

Subd. 2. [LOW-INCOME OBLIGOR.] (a) If the obligor's income as determined under section 517C.12 meets the income eligibility requirements for child care assistance under the basic sliding fee program under chapter 119B, the court must order the obligor to pay the lesser of the following amounts:

(1) the amount of the obligor's monthly co-payment for child care assistance under the basic sliding fee schedule established by the commissioner of education under chapter 119B, based on an obligor's monthly gross income as determined under section 517C.12 and the size of the obligor's household. For purposes of this subdivision, the obligor's household includes the obligor and the number of children for whom child support is being ordered; or

(2) the amount of the obligor's child care obligation under subdivision 1.

(b) The commissioner of human services must publish a table with the child care assistance basic sliding fee amounts and update the table for changes to the basic sliding fee schedule by July 1 of each year.

Subd. 3. [DETERMINING COSTS.] (a) The court must require verification of employment or school attendance and documentation of child care expenses from the obligee and the public authority, if applicable.

(b) If child care expenses fluctuate during the year because of the obligee's seasonal employment or school attendance or extended periods of parenting time with the obligor, the court must determine child care expenses based on an average monthly cost.

(c) The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 517C.31.

(d) The court may allow the parent with whom the child does not reside to care for the child while the parent with whom the child resides is working or attending school, as provided in section 517B.25, subdivision 8. Allowing the parent with whom the child does not reside to care for the child under section 517B.25, subdivision 8, is not a reason to deviate from the guidelines.

Subd. 4. [CHANGE IN CHILD CARE.] (a) When a court order provides for child care expenses and the public authority provides child support enforcement services, the public authority must suspend collecting the amount allocated for child care expenses when:

(1) either party informs the public authority that no child care costs are being incurred; and

(2) the public authority verifies the accuracy of the information.

The public authority will resume collecting child care expenses when either party provides information that child care costs have resumed.



(b) If the parties provide conflicting information to the public authority regarding whether child care expenses are being incurred, the public authority will continue or resume collecting child care expenses. Either party, by motion to the court, may challenge the suspension or resumption of the collection of child care expenses. If the public authority suspends collection activities for the amount allocated for child care expenses, all other provisions of the court order remain in effect.

(c) In cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 517C.31.

Sec. 15. [517C.17] [MEDICAL SUPPORT.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this chapter.

(a) "Health care coverage" means health care benefits that are provided by a health plan. Health care coverage does not include any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(b) "Health carrier" means a carrier as defined in sections 62A.011, subdivision 2, and 62L.02, subdivision 16.

(c) "Health plan" means a plan meeting the definition under section 62A.011, subdivision 3, a group health plan governed under the federal Employee Retirement Income Security Act of 1974 (ERISA), a self-insured plan under sections 43A.23 to 43A.317 and 471.617, or a policy, contract, or certificate issued by a community-integrated service network licensed under chapter 62N. Health plan includes plans: (1) provided on an individual and group basis; (2) provided by an employer or union; (3) purchased in the private market; and (4) available to a person eligible to carry insurance for the child. Health plan includes a plan providing for dependent-only dental or vision coverage and a plan provided through a party's spouse or parent.

(d) "Medical support" means providing health care coverage for a child by carrying health care coverage for the child or by contributing to the cost of health care coverage, public coverage, unreimbursed medical expenses, and uninsured medical expenses of the child.

(e) "National medical support notice" means an administrative notice issued by the public authority to enforce health insurance provisions of a support order in accordance with Code of Federal Regulations, title 45, section 303.32, in cases where the public authority provides support enforcement services.

(f) "Public coverage" means health care benefits provided by any form of medical assistance under chapter 256B or MinnesotaCare under chapter 256L.

(g) "Uninsured medical expenses" means a child's reasonable and necessary health-related expenses if the child is not covered by a health plan or public coverage when the expenses are incurred.

(h) "Unreimbursed medical expenses" means a child's reasonable and necessary health-related expenses if a child is covered by a health plan or public coverage and the plan or coverage does not pay for the total cost of the expenses when the expenses are incurred. Unreimbursed medical expenses do not include the cost of premiums. Unreimbursed medical expenses include, but are not limited to, deductibles, co-payments, and expenses for orthodontia, prescription eyeglasses and contact lenses, and over-the-counter medicine.

Subd. 2. [ORDER.] (a) A completed national medical support notice issued by the public authority or a court order that complies with this section is a qualified medical child support order under the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a).

(b) Every order addressing child support must state:

(1) the names, last known addresses, and Social Security numbers of the parents and the child that is a subject of the order unless the court prohibits the inclusion of an address or Social Security number and orders the parents to provide the address and Social Security number to the administrator of the health plan;

(2) whether appropriate health care coverage for the child is available and, if so, state:

(i) which party must carry health care coverage;

(ii) the cost of premiums and how the cost is allocated between the parties;

(iii) how unreimbursed expenses will be allocated and collected by the parties; and

(iv) the circumstances, if any, under which the obligation to provide health care coverage for the child will shift from one party to the other;

(3) if appropriate health care coverage is not available for the child, whether a contribution for medical support is required; and

(4) whether the amount ordered for medical support is subject to a cost-of-living adjustment under section 517C.31.

Subd. 3. [DETERMINING APPROPRIATE HEALTH CARE COVERAGE.] (a) In determining whether a party has appropriate health care coverage for the child, the court must evaluate the health plan using the following factors:

(1) accessible coverage. Dependent health care coverage is accessible if the covered child can obtain services from a health plan provider with reasonable effort by the parent with whom the child resides. Health care coverage is presumed accessible if:

(i) primary care coverage is available within 30 minutes or 30 miles of the child's residence and specialty care coverage is available within 60 minutes or 60 miles of the child's residence;

(ii) the coverage is available through an employer and the employee can be expected to remain employed for a reasonable amount of time; and

(iii) no preexisting conditions exist to delay coverage unduly;

(2) comprehensive coverage. Dependent health care coverage is comprehensive if it includes, at a minimum, medical and hospital coverage and provides for preventive, emergency, acute, and chronic care. If both parties have health care coverage that meets the minimum requirements, the court must determine which health care coverage is more comprehensive by considering whether the coverage includes:

(i) basic dental coverage;

(ii) orthodontia;

(iii) eyeglasses;

(iv) contact lenses;

(v) mental health services; or

(vi) substance abuse treatment;

(3) affordable coverage. Dependent health care coverage is affordable if a party's gross income is 150 percent of the federal poverty guidelines or more and the party's contribution to the health care coverage premium does not exceed five percent of the party's gross income. If a party's gross income is less than 150 percent of the federal poverty guidelines, it is presumed that the party is unable to contribute to the cost of health care coverage unless health care is available at no or low cost to that party; and

(4) the child's special medical needs, if any.

(b) If both parties have health care coverage available for a child, and the court determines under paragraph (a), clauses (1) and (2), that the available coverage is comparable with regard to accessibility and comprehensiveness, the least costly health care coverage is the appropriate health care coverage for the child.

Subd. 4. [ORDERING HEALTH CARE COVERAGE.] (a) If a child is presently enrolled in health care coverage, the court must order that the parent who currently has the child enrolled continue that enrollment unless the parties agree otherwise or a party requests a change in coverage and the court determines that other health care coverage is more appropriate.

(b) If a child is not presently enrolled in health care coverage, upon motion of a party or the public authority, the court must determine whether one or both parties have appropriate health care coverage for the child and order the party with appropriate health care coverage available to carry the coverage for the child.

(c) If only one party has appropriate health care coverage available, the court must order that party to carry the coverage for the child.

(d) If both parties have appropriate health care coverage available, the court must order the parent with whom the child resides to carry the coverage for the child, unless:

(1) either party expresses a preference for coverage available through the parent with whom the child does not reside;

(2) the parent with whom the child does not reside is already carrying dependent health care coverage for other children and the cost of contributing to the premiums of the other parent's coverage would cause the parent with whom the child does not reside extreme hardship; or

(3) the parents agree to provide coverage and agree on the allocation of costs.

(e) If the exception in paragraph (d), clause (1) or (2), applies, the court must determine which party has the most appropriate coverage available and order that party to carry coverage for the child. If the court determines under subdivision 3, paragraph (a), clauses (1) and (2), that the parties' health care coverage for the child is comparable with regard to accessibility and comprehensiveness, the court must order the party with the least costly health care coverage to carry coverage for the child.

(f)(1) If neither party has appropriate health care coverage available, the court must order the parents to:

(i) contribute toward the actual health care costs of the children based on a pro rata share; or

(ii) if the child is receiving any form of assistance under chapter 256B or MinnesotaCare under chapter 256L, the parent with whom the child does not reside shall contribute a monthly amount toward the actual cost of medical assistance under chapter 256B or MinnesotaCare under chapter 256L determined by the court to be just and appropriate. The contribution of the parent with whom the child resides is the monthly contribution as determined by the eligibility requirements for public coverage.

(2) If the court finds pro rata apportionment unjust or inappropriate, the court shall:

(i) order the parties to contribute the amount of the health care costs the court finds just and appropriate; and

(ii) make findings regarding the factors considered, the amount of each parent's share of the cost, and the reasons the court did not order pro rata apportionment.

A presumption of no less than \$50 per month must be applied to the actual health care costs of the children or to the cost of health care coverage.

(g) The commissioner of human services must publish a table with the premium schedule for public coverage and update the chart for changes to the schedule by July 1 of each year.

Subd. 5. [MEDICAL SUPPORT COSTS; UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.]

(a) Unless otherwise agreed to by the parties and approved by the court, the court must order that the cost of health care coverage and all unreimbursed and uninsured medical expenses be divided between the obligor and obligee based on their proportionate share of the parties' combined monthly income, as determined under section 517C.12.

(b) If a party owes a child support obligation for a child and is ordered to carry health care coverage for the child, and the other party is ordered to contribute to the carrying party's cost for coverage, the carrying party's child support payment must be reduced by the amount of the contributing party's contribution.

(c) If a party owes a child support obligation for a child and is ordered to contribute to the other party's cost for carrying health care coverage for the child, the contributing party's child support payment must be increased by the amount of the contribution.

(d) If the party ordered to carry health care coverage for the child already carries dependent health care coverage for other dependents and would incur no additional premium costs to add the child to the existing coverage, the court must not order the other party to contribute to the premium costs for coverage of the child.

(e) If a party ordered to carry health care coverage for the child does not already carry dependent health care coverage but has other dependents who may be added to the ordered coverage, the full premium costs of the dependent health care coverage must be allocated between the parties in proportion to the party's share of the parties' combined income, unless the parties agree otherwise.

(f) If a party ordered to carry health care coverage for the child is required to enroll in a health plan so that the child can be enrolled in dependent health care coverage under the plan, the court must allocate the costs of the dependent health care coverage between the parties. The costs of the health care coverage for the party ordered to carry the coverage for the child must not be allocated between the parties.

Subd. 6. [HEALTH PLAN REQUIREMENTS.] (a) If a health plan administrator receives a completed national medical support notice or court order, the plan administrator must notify the parties, and the public authority if the public authority provides support enforcement services, within 40 business days after the date of the notice or after receipt of the court order, of the following:

(1) whether coverage is available to the child under the terms of the health plan and, if not, the reason why coverage is not available;

(2) whether the child is covered under the health plan;

(3) the effective date of the child's coverage under the health plan; and

(4) what steps, if any, are required to effectuate the child's coverage under the health plan.

(b) If the employer or union offers more than one plan and the national medical support notice or court order does not specify the plan to be carried, the plan administrator must notify the parents and the public authority if the public authority provides support enforcement services. When there is more than one option available under the plan, the public authority, in consultation with the parent with whom the child resides, must promptly select from available plan options.

(c) The plan administrator must provide the parents and public authority, if the public authority provides support enforcement services, with a notice of the child's enrollment, description of the coverage, and any documents necessary to effectuate coverage.

(d) The health plan must send copies of all correspondence regarding the health care coverage to the parents.

(e) An insured child's parent's signature is a valid authorization to a health plan for purposes of processing an insurance reimbursement payment to the medical services provider or to the parent, if medical services have been prepaid by that parent.

Subd. 7. [EMPLOYER OR UNION LIABILITY.] (a) An employer or union that willfully fails to comply with the order or notice is liable for any uninsured medical expenses incurred by the dependents while the dependents were eligible to be enrolled in the health plan and for any other premium costs incurred because the employer or union willfully failed to comply with the order or notice.

(b) An employer or union that fails to comply with the order or notice is subject to a contempt finding, a \$250 civil penalty under section 517C.57, and is subject to a civil penalty of \$500 to be paid to the party entitled to reimbursement or the public authority. Penalties paid to the public authority are designated for child support enforcement services.

Subd. 8. [DISENROLLMENT; CONTINUATION OF COVERAGE; COVERAGE OPTIONS.] (a) Unless a court order provides otherwise, a child for whom a party is required to provide health care coverage under this section must be covered as a dependent of the party until the child is emancipated, until further order of the court, or as consistent with the terms of the coverage.

(b) The health carrier, employer, or union may not disenroll or eliminate coverage for the child unless:

(1) the health carrier, employer, or union is provided satisfactory written evidence that the court order is no longer in effect;

(2) the child is or will be enrolled in comparable health care coverage through another health plan that will take effect no later than the effective date of the disenrollment;

(3) the employee is no longer eligible for dependent coverage; or

(4) the required premium has not been paid by or on behalf of the child.

(c) The health plan must provide 30 days' written notice to the child's parents, and the public authority if the public authority provides support enforcement services, before the health plan disenrolls or eliminates the child's coverage.

(d) A child enrolled in health care coverage under a qualified medical child support order, including a national medical support notice, under this section is a dependent and a qualified beneficiary under the Consolidated Omnibus Budget and Reconciliation Act of 1985 (COBRA), Public Law 99-272. Upon expiration of the order, the child is entitled to the opportunity to elect continued coverage that is available under the health plan. The employer or union must provide notice to the parties and the public authority, if it provides support services, within ten days of the termination date.

(e) If the public authority provides support enforcement services and a plan administrator reports to the public authority that there is more than one coverage option available under the health plan, the public authority, in consultation with the parent with whom the child resides, must promptly select coverage from the available options.

Subd. 9. [DISCLOSURE OF INFORMATION.] (a) If the public authority provides support enforcement services, the parties must provide the public authority with the following information:

(1) information relating to dependent health care coverage or public coverage available for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section;

(2) verification that application for court-ordered health care coverage was made within 30 days of the court's order; and

(3) the reason that a child is not enrolled in court-ordered health care coverage, if a child is not enrolled in coverage or subsequently loses coverage.

(b) Upon request from the public authority under section 256.978, an employer, union, or plan administrator, including an employer subject to the federal Employee Retirement Income Security Act of 1974 (ERISA), United States Code, title 29, section 1169(a), must provide the public authority the following information:

(1) information relating to dependent health care coverage available to a party for the benefit of the child for whom support is sought, including all information required to be included in a medical support order under this section; and

(2) information that will enable the public authority to determine whether a health plan is appropriate for a child, including, but not limited to, all available plan options, any geographic service restrictions, and the location of service providers.

(c) The employer, union, or plan administrator must not release information regarding one party to the other party. The employer, union, or plan administrator must provide both parties with insurance identification cards and all necessary written information to enable the parties to utilize the insurance benefits for the covered dependent.

(d) The public authority is authorized to release to a party's employer, union, or health plan information necessary to verify availability of dependent health care coverage, or to establish, modify, or enforce medical support.

(e) An employee must disclose to an employer if medical support is required to be withheld under this section and the employer must begin withholding according to the terms of the order and under section 517C.52. If an employee discloses an obligation to obtain health care coverage and coverage is available through the employer, the employer must make all application processes known to the individual and enroll the employee and dependent in the plan.

Subd. 10. [INCOME WITHHOLDING; OFFSET.] (a) If a party owes no child support obligation for a child and is an obligor ordered to contribute to the other party's cost for carrying health care coverage for the child, the obligor is subject to an offset under subdivision 5 or income withholding under section 517C.52.

(b) If a party's court-ordered health care coverage for the child terminates and the child is not enrolled in other health care coverage or public coverage, and a modification motion is not pending, the public authority may remove the offset to a party's child support obligation or terminate income withholding instituted against a party under section 517C.52. The public authority must provide notice to the parties of the action.

(c) A party may contest the public authority's action to remove the offset to the child support obligation or terminate income withholding if the party makes a written request for a hearing within 30 days after receiving written notice. If a party makes a timely request for a hearing, the public authority must schedule a hearing and send written notice of the hearing to the parties by mail to the parties' last known addresses at least 14 days before the hearing. The hearing must be conducted in district court or in the expedited child support process if section 484.702 applies. The district court or child support magistrate must determine whether removing the offset or terminating income withholding is appropriate and, if appropriate, the effective date for the removal or termination.

(d) If the party does not request a hearing, the district court or child support magistrate must order the offset or income withholding termination effective the first day of the month following termination of the child's health care coverage.

Subd. 11. [COLLECTING UNREIMBURSED AND UNINSURED MEDICAL EXPENSES.] (a) A party must initiate a request for reimbursement of unreimbursed and uninsured medical expenses within two years of the date that the party incurred the unreimbursed or uninsured medical expenses. The time period in this paragraph does not apply if the location of the other party is unknown.

(b) A party seeking reimbursement of unreimbursed and uninsured medical expenses must mail a written notice of intent to collect the expenses and a copy of an affidavit of health care expenses to the other party at the other party's last known address.

(c) The written notice must include a statement that the party has 30 days from the date the notice was mailed to (1) pay in full; (2) enter a payment agreement; or (3) file a motion requesting a hearing contesting the matter. If the public authority provides support enforcement services, the written notice also must include a statement that the requesting party must submit the amount due to the public authority for collection.

(d) The affidavit of health care expenses must itemize and document the child's unreimbursed or uninsured medical expenses and include copies of all bills, receipts, and insurance company explanations of benefits.

(e) If the public authority provides support enforcement services, the party seeking reimbursement must send to the public authority a copy of the written notice, the original affidavit, and copies of all bills, receipts, and insurance company explanations of benefits.

(f) If the party does not respond to the request for reimbursement within 30 days, the party seeking reimbursement or public authority, if the public authority provides support enforcement services, must commence an enforcement action against the party under subdivision 12.

(g) The public authority must serve the other party with a notice of intent to enforce unreimbursed and uninsured medical expenses and file an affidavit of service by mail with the district court administrator. The notice must state that, unless the party (1) pays in full; (2) enters into a payment agreement; or (3) files a motion contesting the matter within 14 days of service of the notice, the public authority will commence enforcement of the expenses as medical support arrears under subdivision 12.

(h) If the party files a timely motion for a hearing contesting the requested reimbursement, the contesting party must schedule a hearing in district court or in the expedited child support process if section 484.702 applies. The contesting party must provide the party seeking reimbursement and the public authority, if the public authority provides support enforcement services, with written notice of the hearing at least 14 days before the hearing by mailing notice of the hearing to the public authority and the party at the party's last known address. The party seeking reimbursement must file the original affidavit of health care expenses with the court at least five days before the hearing. Based upon the evidence presented, the district court or child support magistrate must determine liability for the expenses and order that the liable party is subject to enforcement of the expenses as medical support arrears under subdivision 12.

Subd. 12. [ENFORCING AN ORDER FOR MEDICAL SUPPORT ARREARS.] (a) If a party liable for unreimbursed and uninsured medical expenses owes a child support obligation to the party seeking reimbursement of the expenses, the expenses must be collected as medical support arrears.

(b) If a party liable for unreimbursed and uninsured medical expenses does not owe a child support obligation to the party seeking reimbursement, and the party seeking reimbursement owes the liable party basic support arrears, the liable party's medical support arrears must be deducted from the amount of the basic support arrears.

(c) If a liable party owes medical support arrears after deducting the amount owed from the amount of the child support arrears owed by the party seeking reimbursement, it must be collected as follows:

(1) if the party seeking reimbursement owes a child support obligation to the liable party, the child support obligation must be reduced by 20 percent until the medical support arrears are satisfied;

(2) if the party seeking reimbursement does not owe a child support obligation to the liable party, the liable party's income must be subject to income withholding under section 517C.52 for an amount required under section 517C.71 until the medical support arrears are satisfied; or

(3) if the party seeking reimbursement does not owe a child support obligation, and income withholding under section 517C.52 is not available, payment of the medical support arrears must be required under a payment agreement under section 517C.71.

(d) If a liable party fails to enter into or comply with a payment agreement, the party seeking reimbursement or the public authority, if it provides support enforcement services, may schedule a hearing to have a court order payment. The party seeking reimbursement or the public authority must provide the liable party with written notice of the hearing at least 14 days before the hearing.

Sec. 16. [517C.18] [SELF-SUPPORT ADJUSTMENT.]

Subdivision 1. [ADJUSTMENT.] (a) If the sum of the obligor's basic support, child care support, and medical support obligation leaves the obligor with remaining income in an amount less than 120 percent of the federal poverty guidelines for one person, the court must reduce the obligor's child support obligation by an amount equal to the lesser of: (1) the difference between the obligor's remaining income and 120 percent of the federal poverty guidelines amount; or (2) the obligor's total child support obligation. If the self-support adjustment results in an order amount less than \$50 per month for one or two children or \$75 per month for three or more children, the court must order basic support under subdivision 2.

(b) The court must apply the reduction to the obligor's child support obligation in the following order:

(1) medical support obligation;



(2) child care support obligation; and

(3) basic support obligation.

Subd. 2. [MINIMUM BASIC SUPPORT AMOUNT.] (a) If the reduction under subdivision 1 equals the sum of the obligor's basic support, child care support, and medical support obligation, the court must order support as follows:

(1) for one or two children, the obligor's basic support obligation is \$50 per month; or

(2) for three or more children, the obligor's basic support obligation is \$75 per month.

(b) If the court orders the obligor to pay the minimum basic support amount under this subdivision, the obligor is presumed unable to pay child care support and medical support.

(c) If the court finds that an obligor receives no income and completely lacks the ability to earn income, the minimum basic support amount under this subdivision does not apply.

Sec. 17. [517C.19] [WORKSHEET.]

The commissioner of human services must create and publish a worksheet to assist in calculating child support under sections 517C.12 to 517C.18. The worksheet must not impose substantive requirements other than requirements contained in sections 517C.12 to 517C.18. The commissioner must update the worksheet by July 1 of each year. The commissioner must make an interactive version of the worksheet available on the Department of Human Services Web site.

Sec. 18. [517C.20] [DEVIATIONS.]

Subdivision 1. [GENERAL FACTORS.] In addition to the child support guidelines, the court must take into consideration the following factors in setting or modifying child support or in determining whether to deviate from the guidelines:

(1) all earnings, income, and resources of the parents, including real and personal property, but excluding income from excess employment of the obligor or obligee that meets the criteria of section 517C.12, subdivision 6;

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child to be supported;

(3) the standard of living the child would have enjoyed had the marriage not been dissolved, but recognizing that the parents now have separate households;

(4) which parent receives the income taxation dependency exemption and the financial benefit the parent receives from it;

(5) the parents' debts as provided in subdivision 2;

(6) the obligor's receipt of public assistance under the AFDC program formerly codified under sections 256.72 to 256.82 or 256B.01 to 256B.40 and chapter 256J or 256K;

(7) the child spends between 33 and 45 percent of overnights with the obligor pursuant to a court order or with the consent of the obligee, which results in an increased financial burden on the obligor; and

(8) the best interests of the child.

Subd. 2. [DEBT OWED TO PRIVATE CREDITORS.] (a) In establishing or modifying a support obligation, the court may consider debts owed to private creditors, but only if:

(1) the right to support has not been assigned under section 256.741;

(2) the court determines that the debt was reasonably incurred for necessary support of the child or parent or for the necessary generation of income. If the debt was incurred for the necessary generation of income, the court may consider only the amount of debt that is essential to the continuing generation of income; and

(3) the party requesting a departure produces a sworn schedule of the debts, with supporting documentation, showing goods or services purchased, the recipient of them, the original debt amount, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(b) A schedule prepared under paragraph (a), clause (3), must contain a statement that the debt will be fully paid after the number of months shown in the schedule, barring emergencies beyond the party's control.

(c) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors must not exceed 18 months in duration. After 18 months the support must increase automatically to the level ordered by the court. This section does not prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(d) If payment of debt is ordered pursuant to this section, the payment must be ordered to be in the nature of child support.

Subd. 3. [EVIDENCE.] The court may receive evidence on the factors in this section to determine if the guidelines should be exceeded or modified in a particular case.

Subd. 4. [NO DEVIATION WHEN PAYMENTS ARE ASSIGNED TO PUBLIC AUTHORITY EXCEPT FOR EXTREME HARDSHIP.] If the child support payments are assigned to the public authority under section 256.741, the court may not deviate downward from the child support guidelines unless the court specifically finds that the failure to deviate downward would impose an extreme hardship on the obligor.

Subd. 5. [NO DEPARTURE BASED ON JOINT LEGAL CUSTODY.] An award of joint legal custody is not a reason for departure from the guidelines.

Sec. 19. [517C.21] [WRITTEN FINDINGS.]

Subdivision 1. [NO DEVIATION.] If the court does not deviate from the guidelines, the court must make written findings concerning the amount of the parties' income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the child support determination.

Subd. 2. [DEVIATION.] (a) If the court deviates from the guidelines, the court must make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and must specifically address the criteria in section 517C.20 and how the deviation serves the best interests of the child.

(b) The court may deviate from the guidelines if both parties agree and the court makes written findings that it is in the best interests of the child, except that in cases where child support payments are assigned to the public authority under section 256.741, the court may deviate downward only as provided in section 517C.20, subdivision 4. Nothing in this section prohibits the court from deviating in other cases.

Subd. 3. [WRITTEN FINDINGS REQUIRED IN EVERY CASE.] The provisions of this section apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court must review stipulations presented to it for conformity to the guidelines. The court is not required to conduct a hearing, but the parties must provide the documentation of earnings required under section 517C.10.

Sec. 20. [517C.22] [GUIDELINES REVIEW.]

No later than 2008 and every four years after that, the Department of Human Services must conduct a review of the child support guidelines.

Sec. 21. [517C.23] [EDUCATION TRUST FUND.]

The parties may agree to designate a sum of money above court-ordered child support as a trust fund for the costs of postsecondary education.

Sec. 22. [517C.25] [MODIFICATION; GENERAL.]

Subdivision 1. [AUTHORITY.] After a child support order is established, the court may, on motion of a party or the public authority, modify the order respecting the amount and payment of support. The court may make an order respecting any matters it had authority to address in the original proceeding, except as otherwise provided in section 517C.29. A party or the public authority also may make a motion for contempt of court if the obligor is in arrears in support payments.

Subd. 2. [GUIDELINES REMAIN APPLICABLE.] On a motion for modification of support, the guidelines in this chapter remain applicable.

Subd. 3. [EVIDENTIARY HEARING NOT REQUIRED.] The court need not hold an evidentiary hearing on a motion for child support modification.

Subd. 4. [FORM.] The state court administrator must prepare and make available to courts, obligors, and obligees a form to be submitted in support of a motion for a child support modification or for contempt of court.

Subd. 5. [SUBSTANTIAL CHANGE IN CIRCUMSTANCES.] An enactment, amendment, or repeal of law does not constitute a substantial change in the circumstances for purposes of modifying a child support order.

Subd. 6. [MODIFICATION OF ORDER.] There may be no modification of an existing child support order during the first year following the effective date of this chapter except as follows:

(1) there is at least a 20 percent change in the gross income of the obligor;

(2) there is a change in the number of joint children for whom the obligor is legally responsible and is actually supporting;

(3) the child supported by the existing child support order becomes disabled; or

(4) both parents consent to modification of the existing order in compliance with the new income shares guidelines.

This subdivision expires January 1, 2008.

Subd. 7. [BASIC SUPPORT; LIMITATION.] On the first modification under the income shares method of calculation, the modification of basic support may be limited if the amount of the full variance would create hardship for either the obligor or the obligee.

Sec. 23. [517C.26] [REOPENING AN ORDER.]

Subdivision 1. [FACTORS.] Upon a party's motion, the court may rescind a child support order or judgment and may order a new trial or grant other relief as may be just for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;

(2) newly discovered evidence that could not have been discovered by due diligence in time to move for a new trial under the Minnesota Rules of Civil Procedure;

(3) fraud, whether denominated intrinsic or extrinsic, misrepresentation, or other misconduct of an adverse party;

(4) the judgment or order is void;

(5) the judgment has been satisfied, released, or discharged;

(6) the judgment is based on a prior order that has been reversed or otherwise vacated; or

(7) it is no longer equitable that the order should have prospective application.

Subd. 2. [PROCEDURE; EFFECT.] A party's motion must be made within a reasonable time, and, for a reason under subdivision 1, clause (1), (2), or (3), not more than one year after the judgment and decree, order, or proceeding was entered or taken. A motion under this section does not affect the finality of an order or suspend its operation. This section does not limit the power of a court to entertain an independent action to relieve a party from an order or proceeding or to grant relief to a party not actually personally notified as provided in the Minnesota Rules of Civil Procedure, or to set aside a judgment for fraud upon the court.

Sec. 24. [517C.27] [CHANGE IN CUSTODY OR PARENTING TIME.]

Subdivision 1. [OFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT SUSPENDED.] If an obligee has been granted sole physical custody of a child, the child subsequently lives with the obligor, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Subd. 2. [UNOFFICIAL CHANGE IN CUSTODY; CHILD SUPPORT OBLIGATION SATISFIED.] The court may conclude that an obligor has satisfied a child support obligation by providing a home, care, and support for the child while the child is living with the obligor, if the court finds that the child was integrated into the family of the obligor with the consent of the obligee and child support payments were not assigned to the public authority.

Subd. 3. [30-DAY CHANGE; CHILD SUPPORT REDUCED.] A support order issued under this chapter may provide that, during any period of time of 30 consecutive days or longer that the child is residing with the obligor, the support amount otherwise due under the order may be reduced.

Sec. 25. [517C.28] [SUBSTANTIAL CHANGE IN CIRCUMSTANCES, EARNINGS, OR NEEDS.]

Subdivision 1. [FACTORS.] (a) A court may modify the terms of a child support order upon a showing of one or more of the following:

- (1) substantially increased or decreased earnings of a party;
  - (2) substantially increased or decreased need of a party or the child that is the subject of these proceedings;
  - (3) receipt of assistance under the AFDC program formerly codified under sections 256.72 to 256.87 or 256B.01 to 256B.40 or chapter 256J or 256K;
  - (4) a change in the cost of living for either party, as measured by the federal Bureau of Labor Statistics, that makes the terms unreasonable and unfair;
  - (5) extraordinary medical expenses of the child not provided for under section 517C.17;
  - (6) the addition of the obligee's work-related or education-related child care expenses or a substantial increase or decrease in existing work-related or education-related child care expenses; or
  - (7) upon the emancipation of a child if there is still a child under the order. A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until modified or until the emancipation of the last child for whose benefit the order was made.
- (b) Implementation of this chapter is not a basis for modification unless the requirements under this section are met.

Subd. 2. [PRESUMPTIONS.] It is presumed that there has been a substantial change in circumstances under subdivision 1 and the terms of a current support order are rebuttably presumed to be unreasonable and unfair if:

- (1) when applied to the parties' current circumstances, the presumptive child support amount derived under this chapter is at least 20 percent and at least \$50 per month higher or lower than the current support order;
- (2) the medical support provisions of the order established under section 517C.17 are not enforceable by the public authority or the obligee;
- (3) health insurance coverage ordered under section 517C.17 is not available to the child for whom the order is established by the parent ordered to provide it; or
- (4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

Sec. 26. [517C.29] [MODIFICATION EFFECTIVE DATE.]

Subdivision 1. [DATE OF MOTION DETERMINATIVE.] A court may make a modification of support, including interest that accrued pursuant to section 548.091, effective no sooner than the date of service of notice of the motion for modification on the responding parties.

Subd. 2. [RETROACTIVE MODIFICATION PERMITTED ONLY IN LIMITED CIRCUMSTANCES.] Notwithstanding subdivision 1, a court may apply a modification to an earlier period if the court makes express findings that:

(1) the party seeking modification was precluded from serving a motion by reason of a significant physical or mental disability, a material misrepresentation of another party, or fraud upon the court; and the party seeking modification, when no longer precluded, promptly served a motion;

(2) the party seeking modification was a recipient of federal Supplemental Security Income (SSI), Title II Older Americans Insurance, Survivor's Disability Insurance (OASDI), other disability benefits, or public assistance based upon need during the period for which retroactive modification is sought;

(3) the order the party seeks to amend was entered by default, the party shows good cause for not appearing, and the record contains no factual evidence, or clearly erroneous evidence, regarding the obligor's ability to pay; or

(4) the party seeking modification was institutionalized or incarcerated for an offense other than nonsupport of a child during the period for which retroactive modification is sought and lacked the financial ability to pay the support ordered during that time period. In determining whether to allow the retroactive modification, the court must consider whether and when a request was made to the public authority for support modification.

Subd. 3. [CHILD CARE EXCEPTION.] The court may provide that a reduction in the amount allocated for child care expenses based on a substantial decrease in the expenses is effective as of the date the expenses decreased.

Sec. 27. [517C.30] [TERMINATION OF CHILD SUPPORT.]

Subdivision 1. [DEATH OF OBLIGOR.] Unless otherwise agreed in writing or expressly provided in the order, provisions for a child's support are not terminated by the death of a parent obligated to support the child. When a parent obligated to pay support dies, the amount of support may be modified, revoked, or commuted to a lump-sum payment, to the extent just and appropriate in the circumstances.

Subd. 2. [AUTOMATIC TERMINATION.] (a) Unless a court order provides otherwise, a child support obligation in a specific amount per child terminates automatically and without any action by the obligor to reduce, modify, or terminate the order upon the child's emancipation.

(b) A child support obligation for two or more children that is not a support obligation in a specific amount per child continues in the full amount until the emancipation of the last child for whose benefit the order was made, or until further order of the court.

(c) The obligor may request a modification of the obligor's child support order upon a child's emancipation if there are still minor children under the order. The court must determine the child support obligation based on the parties' income at the time the modification is sought.

Sec. 28. [517C.31] [COST-OF-LIVING ADJUSTMENTS.]

Subdivision 1. [GENERAL.] An order establishing, modifying, or enforcing child support must provide for a biennial adjustment in the amount to be paid based on a change in the cost of living. Cost-of-living adjustments are compounded.

Subd. 2. [WAIVER.] A court may waive the requirement of the cost-of-living clause if it expressly finds that the obligor's occupation or income, or both, does not provide for cost-of-living adjustment or that the order for child support has a provision such as a step increase that has the effect of a cost-of-living clause.

Subd. 3. [INDEX; AMOUNT.] (a) The court must specify the cost-of-living index to be applied in an order that provides for a cost-of-living adjustment. The court may use the Consumer Price Index for all urban consumers, Minneapolis-St. Paul (CPI-U), the Consumer Price Index for wage earners and clerical, Minneapolis-St. Paul (CPI-W), or another cost-of-living index published by the United States Department of Labor that the court specifically finds is more appropriate.

(b) The court may increase the amount by more than the cost-of-living adjustment by agreement of the parties or by making further findings.

Subd. 4. [EFFECTIVE DATE.] If payment is made to the public authority, an adjustment is effective on May 1 of the year it is made. If payment is not made to the public authority, an adjustment may be made in any month but no adjustment may be made sooner than two years after the date of the dissolution decree. A support order must specify the effective date of cost-of-living adjustments.

Subd. 5. [NOTICE.] A cost-of-living adjustment may not be made unless:

(1) the support order requires it; and

(2) the obligee or public authority notifies the obligor of the adjustment by mail at the obligor's last known address at least 20 days before the effective date of the adjustment. The notice must inform the obligor of the effective date of the adjustment, the right to contest the adjustment, and the procedures to contest the adjustment.

Subd. 6. [PROCEDURE FOR CONTESTING ADJUSTMENT.] (a) To contest a cost-of-living adjustment initiated by the public authority or an obligee who has applied for or is receiving child support collection services from the public authority, other than income withholding-only services, the obligor must:

(1) file a motion contesting the cost-of-living adjustment with the court administrator; and

(2) serve the motion by first class mail on the public authority and the obligee.

The obligor must file and serve the motion before the effective date of the adjustment. The hearing must take place in the expedited child support process under section 484.702.

(b) To contest a cost-of-living adjustment initiated by an obligee who is not receiving child support collection services from the public authority, or for an obligee who receives income withholding-only services from the public authority, the obligor must:

(1) file a motion contesting the cost-of-living adjustment with the court administrator; and

(2) serve the motion by first class mail on the obligee.

The obligor must file and serve the motion before the effective date of the adjustment. The hearing must take place in district court.

(c) Upon receipt of a motion contesting the cost-of-living adjustment, the public authority or court must stay the cost-of-living adjustment pending further order of the court.

Subd. 7. [HEARING.] (a) At a hearing under this section, if the obligor establishes an insufficient increase in income to fulfill the adjusted child support obligation, the district court or child support magistrate may direct that all or part of the adjustment not take effect.

(b) At a hearing under this section, if the obligor does not establish an insufficient increase in income, the adjustment must take effect as of the date originally specified in the support order.

Subd. 8. [FORM.] The state court administrator must prepare and make available to the court and obligors a pro se motion form to be submitted in support of a request for a hearing under this section.

Subd. 9. [RULES.] The commissioner of human services may promulgate rules for child support adjustments under this section in accordance with the rulemaking provisions of chapter 14.

Sec. 29. [517C.35] [ASSIGNMENT.]

Subdivision 1. [GENERAL.] The court must direct that all payments ordered for support be made to the public authority if the obligee is receiving or has applied for public assistance. Amounts received by the public authority greater than the amount granted to the obligee must be remitted to the obligee pursuant to federal requirements.

Subd. 2. [JUDGMENTS.] The court administrator must enter and docket a judgment obtained by operation of law under section 548.091, subdivision 1, in the name of the public authority to the extent that the obligation has been assigned. When arrears are reduced to judgment and section 548.091 is not applicable, the court must grant judgment in favor of, and in the name of, the public authority to the extent that the arrears are assigned. The public authority must file notice of an assignment with the court administrator, who must enter the notice in the docket. The public authority may then enforce a judgment entered before the assignment of rights as if the judgment were granted to it, and in its name, to the extent that the arrears in that judgment are assigned.

Subd. 3. [PROPERTY LIEN.] The court may make any child support order a lien or charge upon the obligor's property, either at the time of the entry of the judgment or by subsequent order upon proper application.

Sec. 30. [517C.36] [PARTY STATUS.]

Subdivision 1. [OBLIGEE RECEIVES PUBLIC ASSISTANCE; PUBLIC AUTHORITY IS A PARTY.] The public authority is joined as a party and is a real party in interest if the obligee is receiving, or subsequently applies for, public assistance and rights are assigned under section 256.741, subdivision 2.

Subd. 2. [NO PUBLIC ASSISTANCE; APPLICATION FOR SERVICES.] If the obligee is not receiving public assistance, but has applied for child support collection services, the public authority has a pecuniary interest, as well as an interest in the welfare of a child. The public authority may intervene as a matter of right in those cases to ensure that child support orders are obtained, enforced, and provide for an appropriate and accurate level of child, medical, and child care support. If the public authority participates in a case where the action taken by the public authority requires the use of an attorney's services, the public authority must be represented by an attorney consistent with the provisions in section 517C.37.

Sec. 31. [517C.37] [ROLE OF PUBLIC AUTHORITY.]

Subdivision 1. [PUBLIC AUTHORITY DOES NOT REPRESENT OBLIGOR OR OBLIGEE.] The provision of services under the child support enforcement program that includes services by an attorney or an attorney's representative employed by, under contract to, or representing the public authority does not create an attorney-client relationship with any party other than the public authority. Attorneys employed by or under contract with the public authority have an affirmative duty to inform applicants and recipients of services under the child support enforcement program that no attorney-client relationship exists between the attorney and the applicant or recipient. This section applies to all legal services provided by the child support enforcement program.



Subd. 2. [WRITTEN NOTICE.] The public authority must provide written notice to an applicant or recipient of services that:

- (1) no attorney-client relationship exists between the attorney and the applicant or recipient;
- (2) the rights of the individual as a subject of data are controlled by section 13.04, subdivision 2; and
- (3) the individual has a right to have an attorney represent the individual.

Subd. 3. [POWER TO REPRESENT OTHER PUBLIC AUTHORITIES.] The public authority may act on behalf of a public authority from another jurisdiction. This includes the authority to represent the legal interests of, or execute documents on behalf of, the other public authority in connection with the establishment, enforcement, and collection of child support and collection on judgments.

Sec. 32. [517C.38] [SERVICE FEES.]

Subdivision 1. [OBLIGOR FEE.] When the public authority provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public authority may upon written notice to the obligor charge a monthly collection fee equivalent to the full monthly cost to the county of providing collection services, in addition to the amount of the child support ordered by the court. The public authority must deposit the fee in the county general fund. The service fee assessed is limited to ten percent of the monthly court-ordered child support and must not be assessed to obligors who are current in payment of the monthly court-ordered child support.

Subd. 2. [OBLIGEE FEE.] A \$25 application fee must be paid by the person who applies for child support and maintenance collection services, except persons who are receiving public assistance as defined in section 256.741, persons who transfer from public assistance to nonpublic assistance status, and minor parents and parents enrolled in a public secondary school, area learning center, or alternative learning program approved by the commissioner of education.

Subd. 3. [TAX INTERCEPT FEES.] Fees assessed by state and federal tax agencies for collection of overdue support owed to or on behalf of a person not receiving public assistance must be imposed on the person for whom these services are provided. The public authority upon written notice to the obligee must assess a fee of \$25 to the person not receiving public assistance for each successful federal tax interception. The public authority must withhold the fee before the release of the funds received from each interception and must deposit the fee in the general fund.

Subd. 4. [COMPLIANCE WITH FEDERAL LAW.] The limitations of this section on the assessment of fees do not apply to the extent they are inconsistent with the requirements of federal law for receiving funds for the programs under Title IV-A and Title IV-D of the Social Security Act, United States Code, title 42, sections 601 to 613 and 651 to 662.

Sec. 33. [517C.39] [PUBLIC AUTHORITY PROCEDURES FOR CHILD SUPPORT AND PARENTAGE ORDERS.]

The public authority may use the provisions of sections 517C.40 to 517C.44 when support rights are assigned under section 256.741, subdivision 2, or when the public authority is providing services under an application for child support collection services.

## Sec. 34. [517C.40] [NONATTORNEY EMPLOYEE DUTIES.]

Subdivision 1. [DUTIES PERFORMED UNDER SUPERVISION OF COUNTY ATTORNEY.] (a) The county attorney must review and approve as to form and content all pleadings and other legal documents prepared by nonattorney employees of the public authority for use in the expedited child support process.

(b) Under the direction of, and in consultation with, the county attorney, nonattorney employees of the public authority may perform the following legal duties:

- (1) meet and confer with parties by mail, telephone, electronic, or other means regarding legal issues;
- (2) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding legal issues;
- (3) prepare pleadings, including, but not limited to, summonses and complaints, notices, motions, subpoenas, orders to show cause, proposed orders, administrative orders, and stipulations and agreements;
- (4) issue administrative subpoenas;
- (5) prepare judicial notices;
- (6) negotiate settlement agreements;
- (7) attend and participate as a witness in hearings and other proceedings and, if requested by the child support magistrate, present evidence, agreements and stipulations of the parties, and any other information deemed appropriate by the magistrate;
- (8) participate in other activities and perform other duties delegated by the county attorney; and
- (9) exercise other powers and perform other duties as permitted by statute or court rule.

Subd. 2. [DUTIES PERFORMED WITHOUT DIRECTION FROM COUNTY ATTORNEY.] Nonattorney employees of the public authority may perform the following duties without direction from the county attorney:

- (1) gather information on behalf of the public authority;
- (2) prepare financial worksheets;
- (3) obtain income information from the Department of Employment and Economic Development and other sources;
- (4) serve documents on parties;
- (5) file documents with the court;
- (6) meet and confer with parties by mail, telephone, electronic, or other means regarding nonlegal issues;
- (7) explain to parties the purpose, procedure, and function of the expedited child support process and the role and authority of nonattorney employees of the public authority regarding nonlegal issues; and
- (8) perform other routine nonlegal duties as assigned.

Subd. 3. [PRACTICE OF LAW.] Performance of the duties prescribed in subdivisions 1 and 2 by nonattorney employees of the public authority does not constitute the unauthorized practice of law for purposes of section 481.02.

Sec. 35. [517C.41] [PLEADINGS; CASE INFORMATION SHEET.]

Subdivision 1. [PLEADINGS.] In cases involving establishment or modification of a child support order, the initiating party must include the following information, if known, in the pleadings:

- (1) the parties' names, addresses, and dates of birth;
- (2) Social Security numbers of the parties and the parties' minor children. This information is considered private information and is available only to the parties, the court, and the public authority;
- (3) number of members in each party's household and dependents of the parties;
- (4) the parties' other support obligations;
- (5) names and addresses of the parties' employers;
- (6) the parties' income as defined in section 517C.12;
- (7) amounts and sources of the parties' other earnings and income;
- (8) the parties' health insurance coverage;
- (9) types and amounts of public assistance the parties receive, including Minnesota family investment program, child care assistance, medical assistance, MinnesotaCare, title IV-E foster care, or other forms of assistance as defined in section 256.741, subdivision 1; and
- (10) any other information relevant to the determination of child support under this chapter.

Subd. 2. [CASE INFORMATION SHEET.] For all matters scheduled in the expedited process, the nonattorney employee of the public authority must file with the court and serve on the parties the following information:

- (1) income information available to the public authority from the Department of Employment and Economic Development;
- (2) a statement of the monthly amount of child support, child care, medical support, and arrears currently being charged the parties in Minnesota IV-D cases;
- (3) a statement of the types and amount of any public assistance, as defined in section 256.741, subdivision 1, received by the parties; and
- (4) any other information relevant to determining support that is known to the public authority and that the parties have not otherwise provided.

Subd. 3. [FILING INFORMATION.] The public authority must file the case information with the district court or child support magistrate at least five days before a hearing involving child support, medical support, or child care reimbursement issues.

Sec. 36. [517C.42] [NONCONTESTED MATTERS.]

Under the direction of the county attorney and based on agreement of the parties, nonattorney employees of the public authority may prepare a stipulation, findings of fact, conclusions of law, and proposed order. The county attorney must approve and sign the documents as to form and content before the nonattorney employees submit the documents to the district court or child support magistrate for approval.

Sec. 37. [517C.43] [ADMINISTRATIVE AUTHORITY; PARENTAGE; SUPPORT.]

Subdivision 1. [POWERS.] The public authority may take the following actions relating to establishing paternity or to establishing, modifying, or enforcing support orders, without the necessity of obtaining an order from a judicial or administrative tribunal:

(1) recognize and enforce orders of child support agencies of other states;

(2) upon request for genetic testing by a child, parent, or an alleged parent, and using the procedure in subdivision 2, order the child, parent, or alleged parent to submit to blood or genetic testing for the purpose of establishing paternity;

(3) subpoena financial or other information needed to establish, modify, or enforce a child support order and sanction a party for failure to respond to a subpoena;

(4) upon notice to the obligor, obligee, and the appropriate court, direct the obligor or other payor to change the payee to the central collections unit under section 517C.50;

(5) order income withholding of child support under section 517C.52 and sanction an employer or payor of funds under section 393.07, subdivision 9a, for failing to comply with an income withholding notice;

(6) secure assets to satisfy a support debt or arrears by:

(i) intercepting or seizing periodic or lump-sum payments from state or local agencies, including unemployment insurance benefits, workers' compensation payments, judgments, settlements, lotteries, and other lump-sum payments;

(ii) attaching and seizing the obligor's assets held in financial institutions or public or private retirement funds; and

(iii) imposing liens in accordance with section 548.091, and, in appropriate cases, forcing the sale of property and the distribution of proceeds;

(7) for the purpose of securing overdue support, increase the amount of the monthly support payments by an additional amount equal to 20 percent of the monthly support payment to include amounts for debts or arrears; and

(8) subpoena an employer or payor of funds to provide promptly information on the employment, compensation, and benefits of an individual employed by that employer as an employee or contractor, and sanction an employer or payor of funds under section 393.07, subdivision 9a, for failure to respond to the subpoena as provided by law.

Subd. 2. [GENETIC TESTING.] (a) A child, parent, or alleged parent who requests genetic testing must support the request with a sworn statement that:

(1) alleges paternity and sets forth facts establishing a reasonable possibility of the requisite sexual contact between the parties; or

(2) denies paternity and sets forth facts establishing a reasonable possibility of the nonexistence of sexual contact between the alleged parties.

(b) The order for genetic tests may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of subpoenas issued by the district court of this state.

(c) If the child, parent, or alleged parent fails to comply with the genetic testing order, the public authority may seek to enforce that order in district court through a motion to compel testing.

(d) No results obtained through genetic testing done in response to an order issued under this section may be used in a criminal proceeding.

Subd. 3. [SUBPOENAS.] (a) Subpoenas may be served anywhere within the state and served outside the state in the same manner as prescribed by law for service of process of subpoenas issued by the district court of this state. When a subpoena under this subdivision is served on a third-party record keeper, written notice of the subpoena must be mailed to the person who is the subject of the subpoenaed material at the person's last known address within three days of the day the subpoena is served. This notice provision does not apply if there is reasonable cause to believe the giving of the notice may lead to interference with the production of the subpoenaed documents.

(b) A person served with a subpoena may make a written objection to the public authority or court before the time specified in the subpoena for compliance. The public authority or the court may cancel or modify the subpoena, if appropriate. The public authority must pay the reasonable costs of producing the documents, if requested.

(c) Subpoenas are enforceable in the same manner as subpoenas of the district court. Upon motion of the county attorney, the court may issue an order directing the production of the records. A person who fails to comply with the court order may be subject to civil or criminal contempt of court.

Subd. 4. [DUE PROCESS.] The administrative actions under this section are subject to due process safeguards, including requirements for notice, opportunity to contest the action, and opportunity to appeal the order to a judge, judicial officer, or child support magistrate.

#### Sec. 38. [517C.44] [SHARING OF INFORMATION; DATA.]

Subdivision 1. [GENERAL.] The public authority may share available and relevant information on the parties in order to perform its duties under sections 517C.40 to 517C.43 or under Supreme Court rules governing the expedited child support hearing process under section 484.702, subject to the limitations of subdivision 3 and sections 256.87, subdivision 8, and 257.70.

Subd. 2. [DATA DISCLOSED TO AN ATTORNEY OF PUBLIC AUTHORITY.] (a) Data disclosed by an applicant for, or recipient of, child support services to an attorney employed by, or under contract with, the public authority is private data on an individual. However, the data may be disclosed under sections 13.46, subdivision 2, clauses (1) to (3) and (6) to (19), and 517C.11, subdivision 3, in order to obtain, modify, or enforce child support, medical support, and parentage determinations.

(b) An attorney employed by, or under contract with, the public authority may disclose additional information received from an applicant for, or recipient of, services for other purposes with the consent of the individual applicant for, or recipient of, child support services.

Subd. 3. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter and chapter 517A in which public assistance is assigned under section 256.741, or the public authority provides services to a party or parties to the proceedings, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, the public authority may not release information on the location of one party to the other party if:

(1) the public authority has knowledge that a protective order with respect to the other party has been entered; or

(2) the public authority has reason to believe that the release of the information may result in physical or emotional harm to the other party.

Sec. 39. [517C.45] [SUFFICIENCY OF NOTICE.]

Automated child support notices sent by the public authority which do not require service are sufficient notice when issued and mailed by first class mail to the person's last known address.

Sec. 40. [517C.50] [CHILD SUPPORT PAYMENT CENTER; CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [CREATION.] (a) The commissioner of human services must create and maintain a central collections unit to receive, process, and disburse payments, and to maintain a record of payments in all cases when:

(1) the public authority is a party;

(2) the public authority provides child support enforcement services to a party; or

(3) payment is collected through income withholding.

(b) The commissioner may contract for services to carry out these provisions if the commissioner first meets and negotiates with the affected exclusive representatives.

Subd. 2. [CREDITOR COLLECTIONS.] The central collections unit under this section is not a third party under chapters 550, 552, and 571 for purposes of creditor collection efforts against child support and maintenance order obligors or obligees, and is not subject to creditor levy, attachment, or garnishment.

Subd. 3. [CREDIT FOR PAYMENT.] Payments made to the public authority that are not collected through income withholding must be credited as of the date the payment is received by the central collections unit.

Sec. 41. [517C.51] [MANDATORY PAYMENT OF OBLIGATIONS TO CENTRAL COLLECTIONS UNIT.]

Subdivision 1. [GENERAL.] All payments described in section 517C.50 must be made to the central collections unit.

Subd. 2. [LOCAL PAYMENT; TRANSMITTAL.] Each local child support agency must provide a location within the agency to receive payments. When the local agency receives a payment it must transmit the funds to the central collections unit within one working day of receipt of the payment.

Subd. 3. [INCENTIVES.] Notwithstanding a rule to the contrary, incentives must be paid to the county providing services and maintaining the case to which the payment is applied. Incentive payments awarded for the collection of child support must be based solely upon payments processed by the central collections unit. Incentive payments received by the county under this subdivision must be used for county child support collection efforts.

Subd. 4. [ELECTRONIC FUNDS TRANSFER.] The central collections unit is authorized to engage in the electronic transfer of funds for the receipt and disbursement of funds.

Subd. 5. [REQUIRED CONTENT OF ORDER.] A tribunal issuing an order that establishes or modifies a payment must issue an income withholding order in conformity with section 517C.52. The automatic income withholding order must include the obligor's name, the obligor's Social Security number, the obligor's date of birth, and the name and address of the obligor's employer. The street mailing address and the electronic mail address for the central collections unit must be included in each automatic income withholding order issued by a tribunal.

Subd. 6. [TRANSMITTAL OF ORDER TO PUBLIC AUTHORITY BY TRIBUNAL.] The tribunal must transmit a copy of the order establishing or modifying the payment, and a copy of the automatic income withholding order, to the local child support agency within two working days of the approval of the order by the judge or child support magistrate or other person or entity authorized to sign the automatic withholding order.

Subd. 7. [TRANSMITTAL OF FUNDS FROM OBLIGOR OR PAYOR OF FUNDS TO CENTRAL COLLECTIONS UNIT.] The obligor or other payor of funds must identify the obligor on the check or remittance by name, payor number, and Social Security number, and must comply with section 517C.52.

Subd. 8. [SANCTION FOR CHECKS DRAWN ON INSUFFICIENT FUNDS.] A notice may be directed to a person or entity submitting a check drawn on insufficient funds stating that future payments must be made by cash or certified funds. The central collections unit and the public authority may refuse a check from a person or entity that has been given notice that payments must be in cash or certified funds.

Subd. 9. [ADMISSIBILITY OF PAYMENT RECORDS.] A copy of the record of payments maintained by the central collections unit is admissible evidence in all tribunals as proof of payments made through the central collections unit without the need of testimony to prove authenticity.

Subd. 10. [TRANSITION PROVISIONS.] (a) The commissioner of human services must develop a plan for the implementation of the central collections unit. The plan must require that payments be redirected to the central collections unit. Payments may be redirected in groups according to county of origin, county of payment, method of payment, type of case, or any other distinguishing factor designated by the commissioner.

(b) Notice that payments must be made to the central collections unit must be provided to the obligor and to the payor of funds within 30 days before payments are redirected to the central collections unit. After the notice has been provided to the obligor or payor of funds, mailed payments received by the local child support agency must be forwarded to the central collections unit. A notice must be sent to the obligor or payor of funds stating that payment application may be delayed and must provide directions to submit future payments to the central collections unit.

Subd. 11. [COLLECTIONS UNIT RECOUPMENT ACCOUNT.] The commissioner of human services may establish a revolving account to cover funds issued in error due to insufficient funds or other reasons. The commissioner must deposit appropriations for this purpose and all recoupments against payments from the account in the collections unit's recoupment account. The recoupments are appropriated to the commissioner. An unexpended balance in the account does not cancel, but is available until expended.

Subd. 12. [UNCLAIMED SUPPORT FUNDS.] (a) If the public authority cannot disburse support payments to an obligee because the obligee cannot be located, the public authority must continue its efforts to locate the obligee for one year from the date it determines that it cannot locate the obligee.

(b) If the public authority is unable to locate the obligee after one year, the public authority must mail a written notice to the obligee at the obligee's last known address giving the obligee 60 days to contact the public authority.

(c) If the obligee does not contact the public authority within 60 days from the date of notice, the public authority must:

(1) close the nonpublic assistance portion of the case;

(2) disburse unclaimed support funds to pay public assistance arrears. If public assistance arrears remain after disbursing the unclaimed support funds, the public authority may continue to enforce and collect child support until all public assistance arrears have been paid. If there are not public assistance arrears, or unclaimed support funds remain after the public assistance arrears have been paid, the public authority must return the remaining unclaimed support funds to the obligor; and

(3) when all public assistance arrears have been paid to the public authority, mail a written notice of termination of income withholding and case closure to the obligor at the obligor's last known address. The notice must indicate that the obligor's support obligation will remain in effect until further order of the court and that the obligor may contact the public authority for assistance to modify the order. The public authority must include a copy of the form prepared by the state court administrator's office under section 517C.25, subdivision 4, with the notice.

(d) If the public authority cannot locate the obligor to return unclaimed support funds, the public authority must continue its efforts to locate the obligor for one year from the date the public authority determines that the obligor cannot be located. If the public authority is unable to locate the obligor after one year, the public authority must treat the funds as unclaimed property according to federal law and chapter 345.

Sec. 42. [517C.52] [INCOME WITHHOLDING; GENERAL.]

Subdivision 1. [APPLICATION.] Sections 517C.51 to 517C.62 apply to all support orders issued by a court or an administrative tribunal and orders for or notices of withholding issued by the public authority according to section 517C.43, subdivision 1, clause (5).

Subd. 2. [ORDER.] (a) Every support order must address income withholding. Whenever a support order is initially entered or modified, the full amount of the support order must be withheld from the income of the obligor and forwarded to the public authority. Sections 517C.51 to 517C.62 apply regardless of the source of income of the person obligated to pay the child support.

(b) Every order for child support must provide for a conspicuous notice of the provisions in this section that complies with section 517C.99, subdivision 3. An order without this notice remains subject to this section.

(c) A payor of funds must implement income withholding according to sections 517C.51 to 517C.62 upon receipt of an order for or notice of withholding. The notice of withholding must be on a form provided by the commissioner of human services.

Subd. 3. [NOTICE; INCOME WITHHOLDING AND COLLECTION SERVICES.] (a) The commissioner of human services must prepare and make available to the courts a notice of services that explains child support and maintenance collection services available through the public authority, including income withholding. Upon receiving a petition for dissolution of marriage or legal separation, the court administrator must promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

(b) Upon receipt of a support order requiring income withholding, a petitioner or respondent, who is not a recipient of public assistance and does not receive child support collection services from the public authority, must apply to the public authority for either full child support collection services or for services only to withhold income.



(c) For those persons applying for services only to withhold income, the public authority must charge a monthly service fee of \$15 to the obligor. This fee is in addition to the amount of the support order and must be withheld through income withholding. The public authority must explain the service options in this section to the affected parties and encourage the application for full child support collection services.

Subd. 4. [CONTRACT FOR SERVICE.] To carry out income withholding, the public authority may contract for services, including the use of electronic funds transfer.

Subd. 5. [ELECTRONIC TRANSMISSION.] Orders or notices for income withholding may be transmitted for enforcement purposes by electronic means.

Subd. 6. [TIMING OF AUTOMATED ENFORCEMENT REMEDIES.] The public authority must make reasonable efforts to ensure that automated enforcement remedies take into consideration the time periods allowed under sections 517C.51 to 517C.62.

Sec. 43. [517C.53] [WAIVER OF INCOME WITHHOLDING.]

(a) If child support is not assigned to the public authority under section 256.741, the court may waive income withholding requirements if it finds there are no arrears as of the date of the hearing and:

(1) one party demonstrates and the court finds there is good cause to waive the requirements of sections 517C.51 to 517C.62 or to terminate an order for or notice of income withholding previously entered; or

(2) all parties reach an agreement and the agreement is approved by the court after a finding that the agreement is likely to result in regular and timely payments. The court's findings waiving the requirements of this paragraph must include a written explanation of the reasons why income withholding would not be in the child's best interests.

(b) In addition to the other requirements in this section, if the case involves a modification of support, the court must make a finding that support has been timely made.

(c) If the court waives income withholding, the obligee or obligor may at any time request subsequent income withholding under section 517C.59.

Sec. 44. [517C.54] [PAYOR OF FUNDS RESPONSIBILITIES.]

Subdivision 1. [ACTIVATION.] An order for or notice of withholding is binding on a payor of funds upon receipt. Withholding must begin no later than the first pay period that occurs after 14 days following the date of receipt of the order for or notice of withholding. In the case of a financial institution, preauthorized transfers must occur in accordance with a court-ordered payment schedule.

Subd. 2. [PROCEDURE.] A payor of funds must withhold from the income payable to the obligor the amount specified in the order or notice of withholding and amounts specified under sections 517C.58 and 517C.63 and must remit the amounts withheld to the public authority within seven business days of the date the obligor is paid the remainder of the income. The payor of funds must include with the remittance the obligor's Social Security number, the case type indicator as provided by the public authority, and the date the obligor is paid the remainder of the income. The obligor is considered to have paid the amount withheld as of the date the obligor received the remainder of the income. A payor of funds may combine all amounts withheld from one pay period into one payment to each public authority, but must separately identify each obligor making payment.

Subd. 3. [RETALIATION PROHIBITED.] A payor of funds must not discharge, or refuse to hire, or otherwise discipline an employee as a result of wage or salary withholding authorized by this chapter.

Subd. 4. [UPDATED ORDERS.] If more than one order for or notice of withholding exists involving the same obligor and child, the public authority must enforce the most recent order or notice. An order for or notice of withholding that was previously implemented according to this chapter ends as of the date of the most recent order. The public authority must notify the payor of funds to withhold under the most recent withholding order or notice.

Subd. 5. [NOTIFICATION OF TERMINATION.] When an order for or notice of withholding is in effect and the obligor's employment is terminated, the obligor and the payor of funds must notify the public authority of the termination within ten days of the termination date. The termination notice must include the obligor's home address and the name and address of the obligor's new payor of funds, if known.

Subd. 6. [EXPENSES.] A payor of funds may deduct \$1 from the obligor's remaining salary for each payment made pursuant to an order for or notice of withholding under this chapter to cover the expenses of withholding.

Sec. 45. [517C.55] [LUMP-SUM PAYMENTS.]

Subdivision 1. [APPLICATION.] (a) This section applies to lump-sum payments of \$500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits.

(b) The Consumer Credit Protection Act, United States Code, title 15, section 1673(b), does not apply to lump-sum payments.

Subd. 2. [PAYOR OF FUNDS RESPONSIBILITIES.] Before transmitting a lump-sum payment to an obligor, a payor of funds who has been served with an order for or notice of income withholding under this chapter or a sworn affidavit of arrears from the public authority must:

(1) notify the public authority of the lump-sum payment that is to be paid to the obligor; and

(2) hold the lump-sum payment for 30 days after the date the lump-sum payment would otherwise have been paid to the obligor, notwithstanding sections 176.221, 176.225, 176.521, 181.08, 181.101, 181.11, 181.13, and 181.145, and Minnesota Rules, part 1415.2000, subpart 10.

Subd. 3. [PUBLIC AUTHORITY OPTIONS.] (a) The public authority may direct the payor of funds to pay the lump-sum payment, up to the amount of judgments or arrears, to the public authority if:

(1) the public authority serves by mail a sworn affidavit of arrears from the public authority or a court order upon the payor of funds;

(2) a judgment entered pursuant to section 548.09 or 548.091, subdivision 1a, exists against the obligor, or other support arrears exist; and

(3) a portion of the judgment or arrears remains unpaid.

(b) If no judgment or arrears exist, the public authority may seek a court order directing the payor of funds to transmit all or a portion of the lump-sum payment to the public authority for future support. To obtain a court order under this paragraph, the public authority must show an obligor's past willful nonpayment of support.

Sec. 46. [517C.56] [PAYOR OF FUNDS LIABILITY.]

Subdivision 1. [LIABILITY TO OBLIGEE.] A payor of funds is liable to the obligee for amounts required to be withheld. A payor of funds that fails to withhold or transfer funds in accordance with this chapter is liable to the obligee for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date

the funds were required to be withheld or transferred. A payor of funds is liable for reasonable attorney fees of the obligee or public authority incurred in enforcing the liability under this subdivision. A payor of funds that has failed to comply with the requirements of sections 517C.51 to 517C.62 is subject to contempt sanctions under section 517C.57. If the payor of funds is an employer or independent contractor and violates this subdivision, a court may award the obligor twice the wages lost as a result of this violation. If a court finds a payor of funds violated this subdivision, the court must impose a civil fine of not less than \$500. The liabilities under this subdivision apply to intentional noncompliance by a payor of funds with the requirements of sections 517C.51 to 517C.62.

Subd. 2. [NONLIABILITY FOR COMPLIANCE.] A payor of funds is not subject to civil liability to any individual or agency for taking action in compliance with an income withholding order or notice of withholding that appears regular on its face according to this chapter or chapter 518C.

Sec. 47. [517C.57] [EMPLOYER CONTEMPT.]

Subdivision 1. [ORDERS BINDING.] Notices or orders for income withholding or medical support issued pursuant to this chapter are binding on the employer, trustee, or other payor of funds after the order or notice has been transmitted to the employer, trustee, or payor of funds.

Subd. 2. [CONTEMPT ACTION.] (a) An obligee or the public authority may initiate a contempt action against an employer, trustee, or payor of funds, within the action that created the support obligation, by serving an order to show cause upon the employer, trustee, or payor of funds.

(b) The employer, trustee, or payor of funds is presumed to be in contempt:

(1) if the employer, trustee, or payor of funds has intentionally failed to withhold support after receiving the order or notice for income withholding or notice of enforcement of medical support; or

(2) upon presentation of pay stubs or similar documentation showing that the employer, trustee, or payor of funds withheld support and demonstrating that the employer, trustee, or payor of funds intentionally failed to remit support to the public authority.

Subd. 3. [LIABILITY; SANCTIONS.] The employer, trustee, or payor of funds is liable to the obligee or the public authority for amounts required to be withheld that were not paid. The court may enter judgment against the employer, trustee, or payor of funds for support not withheld or remitted. An employer, trustee, or payor of funds found guilty of contempt must be punished by a fine of not more than \$250 as provided in chapter 588. The court may also impose other contempt sanctions authorized under chapter 588.

Sec. 48. [517C.58] [PRIORITY OF INCOME WITHHOLDING ORDERS; MAXIMUM WITHHOLDING.]

Subdivision 1. [PRIORITY.] An order for or notice of withholding under this chapter or execution or garnishment upon a judgment for child support arrears or preadjudicated expenses has priority over an attachment, execution, garnishment, or wage assignment and is not subject to the statutory limitations on amounts levied against the income of the obligor. Amounts withheld from an employee's income must not exceed the maximum permitted under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b).

Subd. 2. [MULTIPLE ORDERS.] If a single employee is subject to multiple withholding orders or multiple notices of withholding for the support of more than one child, the payor of funds must comply with all of the orders or notices to the extent that the total amount withheld from the obligor's income does not exceed the limits imposed under the Consumer Credit Protection Act, United States Code, title 15, section 1673(b), giving priority to amounts designated in each order or notice as current support as follows:

(1) if the total of the amounts designated in the orders for or notices of withholding as current support exceeds the amount available for income withholding, the payor of funds must allocate to each order or notice an amount for current support equal to the amount designated in that order or notice as current support, divided by the total of the amounts designated in the orders or notices as current support, multiplied by the amount of the income available for income withholding; and

(2) if the total of the amounts designated in the orders for or notices of withholding as current support does not exceed the amount available for income withholding, the payor of funds must pay the amounts designated as current support, and must allocate to each order or notice an amount for past due support, equal to the amount designated in that order or notice as past due support, divided by the total of the amounts designated in the orders or notices as past due support, multiplied by the amount of income remaining available for income withholding after the payment of current support.

Sec. 49. [517C.59] [SUBSEQUENT INCOME WITHHOLDING.]

Subdivision 1. [APPLICATION.] This section applies to support orders that do not contain provisions for income withholding.

Subd. 2. [PUBLIC AUTHORITY PROVIDES CHILD SUPPORT ENFORCEMENT SERVICES.] If the public authority provides child support enforcement services to the parties, income withholding under this section takes effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding must be initiated when:

(1) the obligor requests it in writing to the public authority;

(2) the obligee or obligor serves on the public authority a copy of the notice of income withholding, a copy of the court's order, an application, and the fee to use the public authority's collection services; or

(3) the public authority commences withholding under section 517C.43.

Subd. 3. [PUBLIC AUTHORITY DOES NOT PROVIDE CHILD SUPPORT ENFORCEMENT SERVICES.] If the public authority does not provide child support enforcement services to the parties, income withholding under this section must be initiated when an obligee requests it by making a written motion to the court and the court finds that previous support has not been paid on a timely consistent basis or that the obligor has threatened expressly or otherwise to stop or reduce payments.

Subd. 4. [NOTICE.] Within two days after the public authority commences withholding under this section, the public authority must send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice must include the information provided to the payor of funds in the notice of withholding.

Subd. 5. [CONTEST.] (a) The obligor may contest withholding under this section on the limited grounds that the withholding or the amount withheld is improper due to mistake of fact. An obligor who chooses to contest the withholding must do so no later than 15 days after the employer commences withholding, by bringing a proper motion under section 484.702 and the expedited child support process rules.

(b) The income withholding must remain in place while the obligor contests the withholding.

(c) If the court finds a mistake in the amount of the arrears to be withheld, the court must continue the income withholding, but it must correct the amount of the arrears to be withheld.

## Sec. 50. [517C.60] [INCOME WITHHOLDING; ARREARS ORDER.]

(a) In addition to ordering income withholding for current support, the court may order the payor of funds to withhold amounts to satisfy the obligor's previous arrears in support order payments. Use of this remedy does not exclude the use of other remedies to enforce judgments. The employer or payor of funds must withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support obligation until the arrears are paid.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 517C.12, subdivision 1, whether periodic or lump-sum, are not exempt from attachment or execution upon a judgment for child support arrears.

(c) Absent an order to the contrary, if arrears exist at the time a support order would otherwise terminate, income withholding continues in effect or may be implemented in an amount equal to the support order plus an additional 20 percent of the monthly child support obligation, until all arrears have been paid in full.

## Sec. 51. [517C.61] [INTERSTATE INCOME WITHHOLDING.]

(a) Upon receipt of an order for support entered in another state and the specified documentation from an authorized agency, the public authority must implement income withholding. A payor of funds in this state must withhold income under court orders for withholding issued by other states or territories.

(b) An employer receiving an income withholding notice from another state must withhold and distribute the funds as directed in the withholding notice and must apply the law of the obligor's principal place of employment when determining:

(1) the employer's fee for processing an income withholding notice;

(2) the maximum amount permitted to be withheld from the obligor's income; and

(3) deadlines for implementing and forwarding the child support payment.

(c) An obligor may contest withholding under this section pursuant to section 518C.506.

## Sec. 52. [517C.62] [ORDER TERMINATING INCOME WITHHOLDING.]

Subdivision 1. [GENERAL PROCEDURE.] (a) An order terminating income withholding must specify the effective date of the order and reference the initial order or decree that establishes the support obligation. A court must enter an order terminating income withholding if:

(1) the obligor serves written notice of the application for termination of income withholding by mail upon the obligee at the obligee's last known mailing address, and serves a duplicate copy of the application on the public authority;

(2) the application for termination of income withholding specifies the event that terminates the support obligation, the effective date of the termination of the support obligation, and the applicable provisions of the order or decree that established the support obligation; and

(3) the application includes the complete name of the obligor's payor of funds, the business mailing address, the court action and court file number, and the support and collections file number, if known.

(b) The obligee or the public authority may request a contested hearing on the issue of whether income withholding should continue. The request must be made within 20 days of receiving an application for termination of income withholding. The request must clearly specify the basis for continuing income withholding. The obligee or public authority may make an ex parte motion to stay the service of an order terminating income withholding upon the obligor's payor of funds pending the outcome of the contested hearing.

Subd. 2. [TERMINATION BY PUBLIC AUTHORITY.] (a) If the public authority determines that income withholding is no longer applicable, the public authority must notify the obligee and the obligor of intent to terminate income withholding.

(b) Five days after notification to the obligee and obligor, the public authority must issue a notice to the payor of funds terminating income withholding. A court order is not required unless the obligee has requested an expedited child support hearing under section 484.702.

Sec. 53. [517C.63] [CHILD SUPPORT DEPOSIT ACCOUNT; FINANCIAL INSTITUTIONS.]

Subdivision 1. [APPLICATION.] If income withholding is ineffective due to the obligor's method of obtaining income, the court must order the obligor to identify a child support deposit account owned solely by the obligor, or to establish an account, in a financial institution located in this state for the purpose of depositing court-ordered child support payments. The court must order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from the obligor's child support account payable to an account of the public authority. The court must order the obligor to disclose to the court all deposit accounts owned by the obligor in whole or in part in any financial institution. The court may order the obligor to disclose to the court the opening or closing of any deposit account owned in whole or in part by the obligor within 30 days of the opening or closing. The court may order the obligor to execute an agreement with the appropriate public authority for preauthorized transfers from any deposit account owned in whole or in part by the obligor to the obligor's child support deposit account if necessary to satisfy court-ordered child support payments. The court may order a financial institution to disclose to the court the account number and any other information regarding accounts owned in whole or in part by the obligor. An obligor who fails to comply with this subdivision, fails to deposit funds in at least one deposit account sufficient to pay court-ordered child support, or stops payment or revokes authorization of a preauthorized transfer is subject to contempt of court procedures under chapter 588.

Subd. 2. [TRANSFERS.] A financial institution must execute preauthorized transfers for the obligor's deposit accounts in the amount specified in the order and amounts required under this section as directed by the public authority. A financial institution is liable to the obligee if funds in any of the obligor's deposit accounts identified in the court order equal the amount stated in the preauthorization agreement but are not transferred by the financial institution in accordance with the agreement.

Sec. 54. [517C.64] [ESCROW ACCOUNT.]

Subdivision 1. [STAY OF SERVICE.] (a) If the court finds there is no arrearage in child support as of the date of the court hearing, the court must stay service of the income withholding order under sections 517C.51 to 517C.62 if the obligor:

(1) establishes a savings account for a sum equal to two months of the monthly child support obligation; and

(2) provides proof of establishing the savings account to the court and the public authority on or before the day of the court hearing determining the obligation.

(b) The obligor must hold the sum under paragraph (a) in a financial institution in an interest-bearing account with only the public authority authorized as drawer of funds. The obligor's proof of establishing the account must include the financial institution name and address, account number, and the deposit amount.

Subd. 2. [RELEASE OF STAY.] Within three working days of receipt of notice of default, the public authority must direct the financial institution to release to the public authority the sum held under this section when the following conditions are met:

(1) the obligor fails to pay the support amount to the obligee or the public authority within ten days of the date it is ordered to be paid;

(2) the obligee transmits a notice of default to the public authority and makes application to the public authority for child support and maintenance collection services. The obligee must verify the notice and the notice must contain the title of the action, the court file number, the obligee's full name and address, the obligor's name and last known address, the obligor's last known employer or other payor of funds, the date of the first unpaid amount, the date of the last unpaid amount, and the total amount unpaid; and

(3) within three working days of receipt of notice from the obligee, the public authority sends a copy of the notice of default and a notice of intent to implement income withholding by mail to the obligor at the address given. The notice of intent must state that the public authority will serve the order establishing the child support or maintenance obligation on the obligor's employer or payor of funds unless, within 15 days after the mailing of the notice, the obligor requests a hearing on the issue of whether payment was in default as of the date of the notice of default. The obligor must serve notice of the request for hearing on the public authority and the obligee.

Subd. 3. [DUTIES OF PUBLIC AUTHORITY.] Within three working days of receipt of sums released under subdivision 2, the public authority shall remit to the obligee all amounts not assigned under section 256.741 as current support or maintenance. The public authority must also serve a copy of the court's order and the provisions of this section and sections 517C.51 to 517C.62 on the obligor's employer or other payor of funds unless, within 15 days after mailing of the notice of intent to implement income withholding, the obligor makes a proper motion pursuant to section 484.702 and the rules of the expedited child support process. The public authority must inform the employer or payor of funds pursuant to sections 517C.51 to 517C.62 of the effective date on which the next support or maintenance payment is due. The withholding process must begin on that date and must reflect the total credits of principal and interest amounts received from the escrow account.

Subd. 4. [HEARING.] Within 30 days of the date of the notice of default under subdivision 2, clause (2), the court must hold a hearing if a motion is brought by the obligor as set forth in subdivision 2. If the court finds that there was a default, the court must order the immediate withholding of support or maintenance from the obligor's income. If the court finds that there was no default, the court must order either the obligor or obligee to reestablish the escrow account and continue the stay of income withholding.

Subd. 5. [TERMINATION OF STAY.] When the obligation for support of a child or for spousal maintenance ends under the terms of the order or decree establishing the obligation and the sum held under this section has not otherwise been released, the public authority must release the sum and interest to the obligor when the following conditions are met:

(1) the obligor transmits a notice of termination to the public authority. The obligor must verify the notice and the notice must contain the title of the action, the court file number, the full name and address of the obligee, specify the event that ends the support or maintenance obligation, the effective date of the termination of support or maintenance obligation, and the applicable provisions of the order or decree that established the support or maintenance obligation;

(2) the public authority sends a copy of the notice of termination to the obligee; and

(3) the obligee fails within 20 days after mailing of the notice under clause (2) to request a hearing on the issue of whether the support or maintenance obligation continues and serve notice of the request for hearing on the obligor and the public authority.

Sec. 55. [517C.65] [TRUSTEE.]

Subdivision 1. [APPOINTMENT.] Upon its own motion or upon motion of either party, the court may appoint a trustee, when it is deemed expedient, to receive money ordered to be paid as child support for remittance to the person entitled to receive the payments. The trustee may also receive property that is part of an award for division of marital property. The trustee must hold the property in trust to invest and pay over the income in the manner the court directs, or to pay over the principal sum in the proportions and at the times the court orders. In all cases, the court must consider the situation and circumstances of the recipient, and the children, if any. The trustee must give a bond, as the court requires, for the faithful performance of the trust. If it appears that the recipient of money ordered to be paid as support will receive public assistance, the court must appoint the public authority as trustee.

Subd. 2. [RECORDS.] The trustee must maintain records listing the amount of payments, the date when payments are required to be made, and the names and addresses of the parties affected by the order.

Subd. 3. [COMMUNICATION.] The parties affected by the order must inform the trustee of a change of address or of other conditions that may affect the administration of the order.

Subd. 4. [LATE PAYMENT.] If a required support payment is not made within ten days of the due date, the trustee must send the obligor notice of the arrears by first class mail. If payment of the sum due is not received by the trustee within ten days after sending notice, the trustee must certify the amount due to the public authority, whenever that authority is not the trustee. If the public authority refers the arrears to the county attorney, the county attorney may initiate enforcement proceedings against the obligor for support.

Sec. 56. [517C.66] [OVERPAYMENTS.]

If child support is not assigned under section 256.741, and an obligor has overpaid a child support obligation because of a modification or error in the amount owed, the public authority must:

(1) apply the amount of the overpayment to reduce the amount of child support arrears or debts owed to the obligee; and

(2) if an overpayment exists after the reduction of arrears or debt, reduce the amount of the child support remitted to the obligee by an amount no greater than 20 percent of the current monthly support obligation and remit this amount to the obligor until the overpayment is reduced to zero.

Sec. 57. [517C.67] [ALTERNATE NOTICE OF COURT ORDER.]

Whenever this chapter requires service of a court's order on an employer, union, or payor of funds, service of a verified notice of order may be made in lieu of the order. The verified notice must contain the title of the action, the name of the court, the court file number, the date of the court order, and must recite the operative provisions of the order.

Sec. 58. [517C.70] [CHILD SUPPORT AND PARENTING TIME ARE INDEPENDENT.]

(a) Failure by a party to make support payments is not a defense to:



(1) interference with parenting time; or

(2) removing a child from this state without the permission of the court or the other parent.

(b) Interference with parenting time or taking a child from this state without permission of the court or the other parent is not a defense to nonpayment of support.

(c) If a party fails to make support payments, interferes with parenting time, or removes a child from this state without permission of the court or the other parent, the other party may petition the court for an appropriate order.

Sec. 59. [517C.705] [SIX-MONTH REVIEW.]

A request for a six-month review hearing form must be attached to a decree or order that initially establishes child support rights and obligations according to section 517A.29.

Sec. 60. [517C.71] [PAYMENT AGREEMENTS.]

Subdivision 1. [GENERAL REQUIREMENTS.] An obligor who has child support arrears may enter into a payment agreement that addresses payment of both current and overdue support. Payment agreements must:

(1) be in writing;

(2) address both current support and arrears; and

(3) be approved by the district court, a child support magistrate, or the public authority.

Subd. 2. [CONSIDERATIONS.] In proposing or approving proposed payment agreements for purposes of this chapter, the district court, a child support magistrate, or the public authority must take into consideration the amount of the arrears, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The district court, child support magistrate, or public authority must consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay a proposed payment agreement and must propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor. The district court, child support magistrate, or public authority also must consider a graduated payment plan tailored to the individual financial circumstances of each obligor.

Sec. 61. [517C.72] [SEEK EMPLOYMENT ORDERS.]

Subdivision 1. [COURT ORDER.] (a) When the public authority is enforcing a support order, the public authority may seek a court order requiring an obligor to seek employment if:

(1) the obligor's employment cannot be verified;

(2) the obligor has child support arrears amounting to at least three times the obligor's total monthly support payments; and

(3) the obligor is not in compliance with a payment agreement.

(b) Upon proper notice to the obligor, the court may enter a seek employment order if it finds that the obligor has not provided proof of gainful employment and has not consented to an order for income withholding or entered into a payment agreement.

Subd. 2. [CONTENTS OF ORDER.] The order to seek employment must:

(1) order that the obligor seek employment within a determinate amount of time;

(2) order that the obligor file with the public authority a weekly report of at least five new attempts to find employment or of having found employment. The report must include the names, addresses, and telephone numbers of the employers or businesses with whom the obligor attempted to obtain employment and the name of the individual contact at each employer or business to whom the obligor made application for employment or to whom an inquiry was directed;

(3) notify the obligor that failure to comply with the order is evidence of a willful failure to pay support under section 517C.74;

(4) order that the obligor provide the public authority with verification of any reason for noncompliance with the order; and

(5) specify the duration of the order, not to exceed three months.

Sec. 62. [517C.73] [ORDER FOR COMMUNITY SERVICES.]

If the court finds that the obligor earns \$400 or less per month and does not have the ability to provide support based on the guidelines and factors in this chapter, the court may order the obligor to perform community services to fulfill the obligor's support obligation. In ordering community services under this section, the court must consider whether the obligor has the physical capability to perform community services, and must order community services that are appropriate for the obligor's abilities.

Sec. 63. [517C.74] [CONTEMPT PROCEEDINGS FOR NONPAYMENT OF SUPPORT.]

Subdivision 1. [GROUNDS.] If a person against whom an order or decree for support has been entered under this chapter, chapter 256, or a comparable law from another jurisdiction has child support arrears amounting to at least three times the obligor's total monthly support obligation and is not in compliance with a payment agreement, a court may cite and punish a person for contempt under section 517C.25, subdivision 1, chapter 588, or this section. An obligor's failure to comply with a seek employment order entered under section 517C.72 is evidence of willful failure to pay support.

Subd. 2. [COURT OPTIONS.] (a) If a court cites a person for contempt under this section, and the obligor lives in a county that contracts with the commissioner of human services under section 256.997, the court may order the performance of community service work up to 32 hours per week for six weeks for each finding of contempt if the obligor:

(1) is able to work full time;

(2) works an average of less than 32 hours per week; and

(3) has actual weekly gross income averaging less than 40 times the federal minimum hourly wage under United States Code, title 29, section 206(a)(1), or is voluntarily earning less than the obligor has the ability to earn, as determined by the court.

(b) An obligor is presumed to be able to work full time. The obligor has the burden of proving inability to work full time.

Subd. 3. [RELEASE.] A person ordered to do community service work under subdivision 2 may, during the six-week period, apply to the district court, a child support magistrate, or the public authority to be released from the community service work requirement if the person:

(1) provides proof to the district court, a child support magistrate, or the public authority that the person is gainfully employed and submits to an order for income withholding under section 517C.52;

(2) enters into a payment agreement under section 517C.71; or

(3) provides proof to the district court, a child support magistrate, or the public authority that, after entry of the order, the person's circumstances have so changed that the person is no longer able to fulfill the terms of the community service order.

Subd. 4. [CONTINUING OBLIGATIONS.] An obligor's performance of community service work does not relieve the obligor of a current support obligation or arrears.

Sec. 64. [517C.745] [SECURITY; SEQUESTRATION; CONTEMPT.]

(a) In all cases when the court orders support payments, the court may require sufficient security to be given for the payment of them according to the terms of the order. Upon neglect or refusal to give security, or upon failure to pay the support, the court may sequester the obligor's personal estate and the rents and profits of real estate of the obligor, and appoint a receiver of them. The court may cause the personal estate and the rents and profits of the real estate to be applied according to the terms of the order.

(b) The obligor is presumed to have an income from a source sufficient to pay the support order. A child support order constitutes prima facie evidence that the obligor has the ability to pay the award. If the obligor disobeys the order, it is prima facie evidence of contempt. The court may cite the obligor for contempt under this section, section 517C.74, or chapter 588.

Sec. 65. [517C.75] [DRIVER'S LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's driver's license must be suspended if the court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and if:

(1) the obligor has arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [SUSPENSION INITIATED BY OBLIGEE.] (a) An obligee may bring a motion to suspend an obligor's driver's license. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court. An obligee may not bring a motion under this subdivision within 12 months of a denial of a previous motion under this subdivision.

(b) At the hearing, if the court finds that a factor under subdivision 1 exists, the court must:

(1) order the commissioner of public safety to suspend the obligor's driver's license; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court's order becomes effective and the commissioner of public safety must suspend the obligor's driver's license.

Subd. 3. [SUSPENSION INITIATED BY PUBLIC AUTHORITY.] (a) If the public authority determines that a factor in subdivision 1 exists, the public authority must initiate the suspension of the obligor's driver's license.

(b) The public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to seek suspension of the obligor's driver's license; and

(2) the obligor must make a written request for a hearing to contest the driver's license suspension within 30 days of the date of the notice.

(c) If the obligor requests a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve notice on the obligor personally or by mail at the obligor's last known address of the following:

(1) the hearing time and place;

(2) the allegations against the obligor; and

(3) a statement informing the obligor of the requirement to enter into a payment agreement under section 517C.71 to avoid license suspension.

(d) If a hearing is held and the court finds a factor under subdivision 1 exists, the court must order the commissioner of public safety to suspend the obligor's driver's license.

(e) If the obligor does not request a hearing within 30 days of the date of the notice and has not executed a written payment agreement under section 517C.71 that is approved by the public authority within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to suspend the obligor's driver's license.

Subd. 4. [SUSPENSION FOR FAILURE TO COMPLY WITH SUBPOENA.] (a) A court, child support magistrate, or the public authority may direct the commissioner of public safety to suspend an obligor's driver's license if the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) The notice to an obligor of intent to suspend a driver's license must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to make a written request for a hearing.

(c) If the obligor makes a written request within ten days of the date of the notice, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

Subd. 5. [SUSPENSION FOR FAILURE TO REMAIN IN COMPLIANCE WITH PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement under section 517C.71 may be suspended. A party or the public authority must serve notice upon the obligor of intent to

suspend under this subdivision. The party or public authority must serve the notice upon the obligor by first class mail at the obligor's last known address not less than ten days before the hearing date. The notice must include a notice of hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement under section 517C.71, the judge must notify the Department of Public Safety to suspend the obligor's driver's license. If the obligor fails to appear at the hearing, the public authority may notify the Department of Public Safety to suspend the obligor's driver's license.

Subd. 6. [REINSTATEMENT.] (a) An obligor whose driver's license or operating privileges are suspended may:

(1) provide proof to the public authority that the obligor is in compliance with all payment agreements under section 517C.71;

(2) bring a motion for reinstatement of the driver's license. At the hearing, the district court or child support magistrate must establish a payment agreement under section 517C.71 if the district court or child support magistrate orders reinstatement of the driver's license; or

(3) seek a limited license under section 171.30. A limited license issued to an obligor under section 171.30 expires 90 days after the date it is issued.

(b) Within 15 days of the receipt of the proof under paragraph (a), clause (1), or a court order, the public authority must inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

Subd. 7. [REMEDIES AVAILABLE.] The remedy under this section is in addition to any other enforcement remedy available to the court or public authority.

Subd. 8. [REPORT TO LEGISLATURE.] On January 15, 2007, and every two years after that, the commissioner of human services must submit a report to the legislature that identifies the following information relevant to the implementation of this section:

(1) the number of child support obligors notified of an intent to suspend a driver's license;

(2) the amount collected in payments from the child support obligors notified of an intent to suspend a driver's license;

(3) the number of cases paid in full and payment agreements executed in response to notification of an intent to suspend a driver's license;

(4) the number of cases in which there has been notification and no payments or payment agreements;

(5) the number of driver's licenses suspended;

(6) the cost of implementation and operation of the requirements of this section; and

(7) the number of limited licenses issued and number of cases in which payment agreements are executed and cases are paid in full following issuance of a limited license.

## Sec. 66. [517C.76] [OCCUPATIONAL LICENSE SUSPENSION.]

Subdivision 1. [FACTORS WARRANTING SUSPENSION.] An obligor's occupational license must be suspended if the court finds that the obligor is or may be licensed by a licensing board listed in section 214.01 or other state, county, or municipal agency or board that issues an occupation license and if:

(1) the obligor has arrears amounting to at least three times the obligor's total monthly support obligation and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

Subd. 2. [SUSPENSION INITIATED BY OBLIGEE.] (a) An obligee may bring a motion to suspend an obligor's occupational license. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court.

(b) At the hearing, if the court finds that a factor under subdivision 1 exists, the court must:

(1) order the licensing board or agency to suspend the obligor's occupational license under section 214.101; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court order becomes effective and the licensing board or agency must suspend the obligor's occupational license.

(d) If the obligor is a licensed attorney, the court must comply with the procedure under subdivision 4 for notifying the Lawyers Professional Responsibility Board.

Subd. 3. [SUSPENSION INITIATED BY PUBLIC AUTHORITY.] (a) If the public authority determines that a factor in subdivision 1 exists, the public authority must initiate the suspension of the obligor's occupational license.

(b) The public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to seek suspension of the obligor's occupational license; and

(2) the obligor must make a written request for a hearing to contest the occupational license suspension within 30 days of the date of the notice.

(c) If the obligor requests a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve notice on the obligor personally or by mail at the obligor's last known address of the following:

(1) the hearing time and place;

(2) the allegations against the obligor; and

(3) a statement informing the obligor of the requirement to enter into a payment agreement under section 517C.71 to avoid license suspension.

(d) If a hearing is held and the court finds a factor warranting suspension under subdivision 1 exists, the court must order the occupational licensing board or agency to suspend the obligor's occupational license.

(e) If the obligor does not request a hearing within 30 days of the date of the notice and has not executed a written payment agreement under section 517C.71 that is approved by the public authority within 90 days of the date of the notice, the public authority must direct the occupational licensing board or agency to suspend the obligor's occupational license.

(f) If the obligor is a licensed attorney, the court or public authority must comply with the procedure under subdivision 4 for notifying the Lawyers Professional Responsibility Board.

Subd. 4. [OBLIGOR IS LICENSED ATTORNEY.] If an obligor is a licensed attorney and the court finds that a factor warranting suspension under subdivision 1 exists, the court or public authority must notify the Lawyers Professional Responsibility Board for appropriate action in accordance with the rules of professional conduct or order the licensing board or agency to suspend the obligor's license if the court finds that the obligor:

(1) is licensed by a licensing board or other state agency that issues an occupational license;

(2) has not made full payment of arrears found to be due by the public authority; and

(3) has not executed or is not in compliance with a payment agreement.

Subd. 5. [SUSPENSION FOR FAILURE TO COMPLY WITH SUBPOENA.] (a) A court, child support magistrate, or the public authority may direct the occupational licensing board or agency to suspend an obligor's occupational license if the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) The notice to an obligor of intent to suspend an occupational license must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to make a written request for a hearing.

(c) If the obligor makes a written request within ten days of the date of the notice, a hearing must be held. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

Subd. 6. [FAILURE TO REMAIN IN COMPLIANCE WITH APPROVED PAYMENT AGREEMENT.] The license of an obligor who fails to remain in compliance with a payment agreement under section 517C.71 may be suspended. A party must serve notice upon the obligor of an intent to suspend under this subdivision. A party must serve the notice by first class mail at the obligor's last known address not less than ten days before the date of the hearing. The notice must include a notice of hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with a payment agreement under section 517C.71, the judge must notify the licensing board or agency to suspend the obligor's license. If the obligor fails to appear at the hearing, the public authority may notify the licensing board or agency to suspend the obligor's license.

Subd. 7. [REINSTATEMENT.] An obligor whose occupational license is suspended may provide proof to the public authority that the obligor is in compliance with all payment agreements under section 517C.71. Within 15 days of the receipt of that proof, the public authority must inform the licensing board or agency or the Lawyers Professional Responsibility Board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this section.

Subd. 8. [REMEDIES AVAILABLE.] The remedy under this section is in addition to any other enforcement remedy available to the court or public authority.

## Sec. 67. [517C.77] [DATA ON SUSPENSIONS FOR SUPPORT ARREARS.]

Notwithstanding section 13.03, subdivision 4, paragraph (c), data on an occupational license suspension under section 517C.76 or a driver's license suspension under section 517C.75, that are transferred by the Department of Human Services to the Department of Public Safety or a state, county, or municipal occupational licensing agency respectively must have the same classification at the Department of Public Safety or other receiving agency under section 13.02 as other license suspension data held by the receiving agency. The transfer of the data does not affect the classification of the data in the hands of the Department of Human Services.

## Sec. 68. [517C.78] [RECREATIONAL LICENSE SUSPENSION.]

Subdivision 1. [MOTION; FACTORS.] (a) An obligee or the public authority may bring a motion to suspend the recreational license or licenses of an obligor. An obligee or the public authority must serve the motion on the obligor in person or by first class mail at the obligor's last known address. There must be an opportunity for a hearing. The court may direct the commissioner of natural resources to suspend or bar receipt of the obligor's recreational license or licenses if it finds that:

(1) the obligor has child support arrears amounting to at least six times the obligor's total monthly support payments and the obligor is not in compliance with a payment agreement under section 517C.71; or

(2) the obligor has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(b) Before utilizing this section, the court must find that other substantial enforcement mechanisms have been attempted but have not resulted in compliance.

Subd. 2. [AFFECTED LICENSES.] For purposes of this section, a recreational license includes all licenses, permits, and stamps issued centrally by the commissioner of natural resources under sections 97B.301, 97B.401, 97B.501, 97B.515, 97B.601, 97B.715, 97B.721, 97B.801, 97C.301, and 97C.305.

Subd. 3. [REINSTATEMENT.] An obligor whose recreational license has been suspended or barred may provide proof to the court that the obligor is in compliance with all payment agreements under section 517C.71. Within 15 days of receipt of that proof, the court must notify the commissioner of natural resources that the obligor's recreational license or licenses must no longer be suspended nor may receipt be barred.

## Sec. 69. [517C.79] [MOTOR VEHICLE LIEN.]

Subdivision 1. [FACTORS WARRANTING LIEN.] A lien in the name of the obligee or the state of Minnesota, as appropriate, in accordance with section 168A.05, subdivision 8, must be entered on any motor vehicle certificate of title subsequently issued in the obligor's name if the obligor:

(1) is a debtor for a judgment debt resulting from child support arrears in an amount at least three times the total monthly support obligation; and

(2) is not in compliance with a payment agreement under section 517C.71.

Subd. 2. [LIEN INITIATED BY OBLIGEE.] (a) An obligee may bring a motion for the entry of a lien on any motor vehicle certificate of title issued in the obligor's name. The obligee must properly serve the motion on the obligor pursuant to court rules and file the motion with the court.

(b) At the hearing, if the court finds that the factors under subdivision 1 exist, the court must:



(1) order the commissioner of public safety to enter a lien in the obligee's name or in the name of the state of Minnesota, as appropriate under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the obligor's name; and

(2) stay the order for 90 days to allow the obligor the opportunity to enter into a payment agreement under section 517C.71.

(c) If after 90 days the obligor has not entered into or is not in compliance with a payment agreement under section 517C.71, the court's order becomes effective and the commissioner of public safety must enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 3. [LIEN INITIATED BY PUBLIC AUTHORITY.] (a) If the public authority determines that the factors in subdivision 1 exist, the public authority must direct the commissioner of public safety to enter a lien in the name of the obligee or in the name of the state of Minnesota, as appropriate, under section 168A.05, subdivision 8, on any motor vehicle certificate of title subsequently issued in the obligor's name.

(b) At least 90 days before directing the entry of a lien under this section, the public authority must mail a written notice to the obligor at the obligor's last known address indicating that:

(1) the public authority intends to enter a lien on any motor vehicle certificate of title subsequently issued in the obligor's name; and

(2) the obligor must make a written request for a hearing within 30 days of the date of the notice to contest the action.

(c) If the obligor makes a written request for a hearing within 30 days of the date of the notice, a court hearing must be held. At least 14 days before the hearing, the public authority must serve the obligor personally or by mail at the obligor's last known address with a notice including the hearing time and place and the allegations against the obligor.

(d) If a hearing is held and the court finds the factors under subdivision 1 exist, the court must order the commissioner of public safety to enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

(e) If the obligor does not make a written request for a hearing within 30 days of the date of the notice and has not entered into or is not in compliance with a payment agreement under section 517C.71 approved by the public authority within 90 days of the date of the notice, the public authority must direct the commissioner of public safety to enter the lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 4. [RELEASE.] An obligor may provide proof to the court or the public authority that the obligor is in compliance with all written payment agreements under section 517C.71 or that the motor vehicle's value is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority must:

(1) execute a release of security interest under section 168A.20, subdivision 4, and mail or deliver the release to the owner or other authorized person; or

(2) in instances where a lien has not yet been entered, direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the obligor's name.

Subd. 5. [NONEXEMPT VALUE.] A lien recorded against a motor vehicle certificate of title under this section and section 168A.05, subdivision 8, attaches only to the nonexempt value of the motor vehicle as determined in accordance with section 550.37. The value of a motor vehicle must be determined in accordance with the retail value described in the National Auto Dealers Association Official Used Car Guide, Midwest Edition, for the current year, or in accordance with the purchase price as defined in section 297B.01, subdivision 8.

Subd. 6. [REMEDIES AVAILABLE.] The remedy available under this section is in addition to any other enforcement remedies available to the court or public authority.

Sec. 70. [517C.80] [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

Subdivision 1. [MAKING NAMES PUBLIC.] At least once each year, the commissioner of human services, in consultation with the attorney general, may publish a list of the names and other identifying information of no more than 25 persons who:

- (1) are child support obligors;
- (2) are at least \$10,000 in arrears;
- (3) are not in compliance with a payment agreement regarding both current support and arrears approved by the district court, a child support magistrate, or the public authority;
- (4) cannot currently be located by the public authority for the purposes of enforcing a support order; and
- (5) have not made a support payment except tax intercept payments in the preceding 12 months.

Subd. 2. [IDENTIFYING INFORMATION.] Identifying information may include the obligor's name, last known address, amount owed, date of birth, photograph, the number of children for whom support is owed, and any additional information about the obligor that would assist in identifying or locating the obligor. The commissioner and attorney general may use posters, media presentations, electronic technology, and other means that the commissioner and attorney general determine are appropriate for dissemination of the information, including publication on the Internet. The commissioner and attorney general may make any or all of the identifying information regarding these persons public. Information regarding an obligor who meets the criteria in this section will only be made public after that person's selection by the commissioner and attorney general.

Subd. 3. [NOTICE.] (a) Before making the obligor's name public, the Department of Human Services must send a notice to the obligor's last known address stating the department's intention to make public information on the obligor. The notice must also provide an opportunity to have the obligor's name removed from the list by paying the arrears or by entering into an agreement to pay the arrears, or by providing information to the public authority that there is good cause not to make the information public. The notice must include the final date when the payment or agreement can be accepted.

(b) The Department of Human Services must obtain the obligee's written consent to make the obligor's name public.

Subd. 4. [NAMES PUBLISHED IN ERROR.] If the commissioner makes a name public under subdivision 1 in error, the commissioner must also offer to publish a printed retraction and a public apology acknowledging that the name was made public in error. If the person whose name was made public in error elects the public retraction and apology, the retraction and apology must appear in the same medium and the same format as the original notice where the name was listed in error. In addition to the right of a public retraction and apology, a person whose name was made public in error has a civil action for damages caused by the error.

## Sec. 71. [517C.81] [COLLECTION; ARREARS.]

Subdivision 1. [COLLECTION OF ARREARS TO CONTINUE AFTER CHILD IS EMANCIPATED.] Remedies available for collecting and enforcing support in this chapter and chapters 256, 257, and 518C also apply to cases in which a child for whom support is owed is emancipated and the obligor owes past support or has accumulated arrears as of the date of the youngest child's emancipation. Child support arrears under this section include arrears for child support, medical support, child care, pregnancy and birth expenses, and unreimbursed medical expenses as defined in section 517C.15.

Subd. 2. [RETROACTIVE APPLICATION.] This section applies retroactively to support arrears that accrued on or before the date of enactment and to all arrears accruing after the date of enactment.

Subd. 3. [LIMITATIONS.] Past support or pregnancy and confinement expenses ordered for which the obligor has specific court-ordered terms for repayment may not be enforced using drivers' and occupational or professional license suspension, credit bureau reporting, and additional income withholding under section 517C.60, unless the obligor fails to comply with the terms of the court order for repayment.

Subd. 4. [PAYMENT OF ARREARS.] Absent a court order to the contrary, if an arrearage exists at the time a support order would otherwise terminate and section 517C.60 does not apply, the obligor must repay the arrearage in an amount equal to the current support order until all arrears have been paid in full.

Subd. 5. [PAYMENT AGREEMENT.] If arrears exist according to a support order which fails to establish a monthly support obligation in a specific dollar amount, the public authority, if it provides child support collection services, or the obligee may establish a payment agreement. The payment agreement must equal what the obligor would pay for current child support, plus an additional 20 percent of the current child support obligation, until all arrears are paid in full. If the obligor fails to enter into or comply with a payment agreement, the public authority, if it provides child support collection services, or the obligee may file a motion in district court or the expedited child support process, if section 484.702 applies, for a court order establishing repayment terms.

## Sec. 72. [517C.82] [COLLECTION; REVENUE RECAPTURE.]

The public authority may submit debt under chapter 270A only if the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount greater than the obligor's total monthly support and maintenance payments or if the debt has been entered and docketed as a judgment.

## Sec. 73. [517C.83] [CASE REVIEWER.]

The commissioner must make a case reviewer available to obligors and obligees. The reviewer must be available to answer questions concerning the collection process and to review the collection activity taken. A reviewer who reasonably believes that a particular action being taken is unreasonable or unfair may make recommendations to the commissioner and the applicable county in regard to the collection action.

## Sec. 74. [517C.84] [ATTORNEY FEES; COLLECTION COSTS.]

Subdivision 1. [GENERAL.] (a) A child support obligee is entitled to recover from the obligor reasonable attorney fees and other collection costs incurred to enforce a child support judgment, as provided in this section if the child support arrears are:

(1) at least \$500;

(2) at least 90 days past due; and

(3) docketed as a judgment under sections 548.09 and 548.091.

(b) If the obligor pays in full the judgment rendered under section 548.091 within 20 days of receipt of notice of entry of judgment, the obligee is not entitled to recover attorney fees or collection costs under this section.

Subd. 2. [ENFORCEMENT.] Attorney fees and collection costs obtained under this section are considered child support and entitled to the applicable remedies for child support collection and enforcement.

Subd. 3. [NOTICE TO PUBLIC AUTHORITY.] If the public authority is a party to a case, an obligee must provide written notice to the public authority within five days of:

(1) contracting with an attorney or collection entity to enforce a child support judgment; or

(2) receipting payments received on a child support judgment.

Subd. 4. [NOTICE TO OBLIGOR; HEARING.] (a) The obligee must serve notice of the obligee's intent to recover attorney fees and collection costs by certified or registered mail on the obligor at the obligor's last known address. The notice must itemize the attorney fees and collection costs being sought by the obligee. It must inform the obligor that the fees and costs will become an additional judgment for child support unless, within 20 days of mailing of the notice, the obligor requests a hearing:

(1) on the reasonableness of the fees and costs; or

(2) to contest the child support judgment on grounds limited to mistake of fact.

(b) If the obligor requests a hearing, the only issues to be determined by the court are:

(1) whether the attorney fees or collection costs were reasonably incurred by the obligee for the enforcement of a child support judgment against the obligor; or

(2) the validity of the child support judgment on grounds limited to mistake of fact.

(c) The fees and costs may not exceed 30 percent of the arrears. The court may modify the amount of attorney fees and costs as appropriate and must enter judgment accordingly.

(d) If the obligor fails to request a hearing within 20 days of mailing of the notice under paragraph (a), the amount of the attorney fees or collection costs requested by the obligee in the notice automatically becomes an additional judgment for child support.

Subd. 5. [FORMS.] The state court administrator must prepare and make available to the court and the parties forms for use in providing for notice and requesting a hearing under this section.

Sec. 75. [517C.99] [REQUIRED NOTICES.]

Subdivision 1. [REQUIREMENT.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or parenting time must contain certain notices as set out in subdivision 3. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 3 relating to parental rights if it finds it is necessary to protect the welfare of a party or child.

Subd. 2. [COPIES OF LAWS AND FORMS.] The district court administrator must make copies of the sections referred to in subdivision 3 available at no charge and must provide forms to request or contest attorney fees and collection costs under section 517C.84, and cost-of-living increases under section 517C.31.

Subd. 3. [CONTENTS.] The required notices must be substantially as follows:

"IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

According to Minnesota Statutes, section 517C.35, payments ordered for maintenance and support must be paid to the public agency responsible for child support enforcement as long as the person entitled to receive the payments is receiving or has applied for public assistance or has applied for support and maintenance collection services. MAIL PAYMENTS TO:

2. DEPRIVING ANOTHER OF CUSTODIAL OR PARENTAL RIGHTS -- A FELONY

A person may be charged with a felony who conceals a minor child or takes, obtains, retains, or fails to return a minor child from or to the child's parent (or person with custodial or visitation rights), according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. NONSUPPORT OF A SPOUSE OR CHILD -- CRIMINAL PENALTIES

A person who fails to pay court-ordered child support or maintenance may be charged with a crime, which may include misdemeanor, gross misdemeanor, or felony charges, according to Minnesota Statutes, section 609.375. A copy of that section is available from any district court clerk.

4. RULES OF SUPPORT, MAINTENANCE, PARENTING TIME

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If the obligor is laid off from employment or receives a pay reduction, support may be reduced, but only if the obligor or public authority serves and files a motion to reduce the support with the court. Any reduction will take effect only if ordered by the court and may only relate back to the time that the obligor files a motion. If the obligor or public authority does not file a motion, the support obligation will continue at the current level. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 517C.29.

(h) Reasonable parenting time guidelines are contained in Appendix B, which is available from the court administrator.

(i) The nonpayment of support may be enforced through the denial of student grants; interception of state and federal tax refunds; suspension of driver's, recreational, and occupational licenses; referral to the Department of Revenue or private collection agencies; seizure of assets, including bank accounts and other assets held by financial institutions; reporting to credit bureaus; interest charging, income withholding, and contempt proceedings; and other enforcement methods allowed by law.

#### 5. PARENTAL RIGHTS REGARDING INFORMATION AND CONTACT

Unless otherwise provided by the court:

(a) Each party has the right of access to, and to receive copies of, school, medical, dental, religious training, and other important records and information about the minor child. Each party has the right of access to information regarding health or dental insurance available to the minor child. Presentation of a copy of this order to the custodian of a record or other information about the minor child constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party must keep the other informed as to the name and address of the school of attendance of the minor child. Each party has the right to be informed by school officials about the child's welfare, educational progress and status, and to attend school and parent teacher conferences. The school is not required to hold a separate conference for each party.

(c) In case of an accident or serious illness of a minor child, each party must notify the other party of the accident or illness, and the name of the health care provider and the place of treatment.

(d) Each party has the right of reasonable access and telephone contact with the minor child.

#### 6. WAGE AND INCOME DEDUCTION OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be withheld from income, with or without notice to the person obligated to pay, when the conditions of Minnesota Statutes, sections 517C.51 to 517C.62, have been met. A copy of those sections is available from any district court clerk.

#### 7. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party must notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address; telephone number; driver's license number; Social Security number; and name, address, and telephone number of the employer.

#### 8. COST-OF-LIVING INCREASE OF SUPPORT AND MAINTENANCE

Child support and/or spousal maintenance may be adjusted every two years based upon a change in the cost of living (using Department of Labor Consumer Price Index ....., unless otherwise specified in this order) when the conditions of Minnesota Statutes, section 517C.31, are met. Cost-of-living increases are compounded. A copy of Minnesota Statutes, section 517C.31, and forms necessary to request or contest a cost-of-living increase are available from any district court clerk.

## 9. JUDGMENTS FOR UNPAID SUPPORT

If a person fails to make a child support payment, the payment owed becomes a judgment against the person responsible to make the payment by operation of law on or after the date the payment is due, and the person entitled to receive the payment or the public agency may obtain entry and docketing of the judgment WITHOUT NOTICE to the person responsible to make the payment under Minnesota Statutes, section 548.091. Interest begins to accrue on a payment or installment of child support whenever the unpaid amount due is greater than the current support due, according to Minnesota Statutes, section 548.091, subdivision 1a.

## 10. JUDGMENTS FOR UNPAID SPOUSAL MAINTENANCE

A judgment for unpaid spousal maintenance may be entered when the conditions of Minnesota Statutes, section 548.091, are met. A copy of that section is available from any district court clerk.

## 11. ATTORNEY FEES AND COLLECTION COSTS FOR ENFORCEMENT OF CHILD SUPPORT

A judgment for attorney fees and other collection costs incurred in enforcing a child support order will be entered against the person responsible to pay support when the conditions of Minnesota Statutes, section 517C.84, are met. A copy of Minnesota Statutes, section 517C.84, and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

## 12. PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a parenting time expeditor to resolve parenting time disputes under Minnesota Statutes, section 517B.26. A copy of that section and a description of the expeditor process is available from any district court clerk.

## 13. PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of parenting time are available under Minnesota Statutes, section 517B.25, subdivision 7. These include compensatory parenting time, civil penalties, bond requirements, contempt, and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk."

### Sec. 76. [APPROPRIATIONS.]

\$2,601,000 is appropriated in fiscal year 2006 from the general fund to the commissioner of human services to fund implementation of the Minnesota Child Support Act and to reimburse counties for their implementation costs. The commissioner of human services shall devise an equitable system to reimburse counties for their costs of implementing the Minnesota Child Support Act. This is a onetime appropriation. Any unencumbered balance remaining in the first year does not cancel and is available the second year of the biennium.

\$1,087,000 is appropriated in fiscal year 2007 from the general fund to the Supreme Court administrator to fund implementation of the Minnesota Child Support Act.

[EFFECTIVE DATE.] This section is effective July 1, 2005.

### Sec. 77. [REVISOR'S INSTRUCTION.]

(a) The revisor of statutes must correct internal cross-references to sections that are now in Minnesota Statutes, chapter 517C, throughout Minnesota Statutes and Minnesota Rules.

(b) If a provision of a section of Minnesota Statutes amended by this act is amended by the 2005 regular legislative session or 2005 special legislative session, if any, the revisor shall codify the amendment consistent with the recodification of the affected section by this act, notwithstanding any law to the contrary. In sections affected by this instruction, the revisor may make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning.

Sec. 78. [REPEALER.]

Minnesota Statutes 2004, sections 518.111; 518.171; 518.255; 518.54, subdivisions 2, 4a, 13, and 14; 518.551, subdivisions 1, 5, 5a, 5b, 5c, 5d, 5e, 5f, 6, 7, 9, 11, 12, 13, 13a, 14, and 15; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; and 518.68, are repealed.

Sec. 79. [EFFECTIVE DATE.]

Unless otherwise specified, this act is effective July 1, 2007, and applies to all actions commenced and motions served on or after July 1, 2007.

ARTICLE 3

MISCELLANEOUS

Section 1. Minnesota Statutes 2004, section 518.1705, subdivision 7, is amended to read:

Subd. 7. [MOVING THE CHILD TO ANOTHER STATE.] Parents may agree, ~~but the court must not require, that in a parenting plan the factors in section 518.17 or 257.025, as applicable, upon the legal standard that~~ will govern a decision concerning removal of a child's residence from this state, provided that:

- (1) both parents were represented by counsel when the parenting plan was approved; or
- (2) the court found the parents were fully informed, the agreement was voluntary, and the parents were aware of its implications.

Sec. 2. Minnesota Statutes 2004, section 518.175, subdivision 3, is amended to read:

Subd. 3. [MOVE TO ANOTHER STATE.] The parent with whom the child resides shall not move the residence of the child to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree. If the purpose of the move is to interfere with parenting time given to the other parent by the decree, the court shall not permit the child's residence to be moved to another state.

The court shall apply a best interests standard when considering the request of the parent with whom the child resides to move the child's residence to another state. The factors the court must consider in determining the child's best interests include, but are not limited to, the following:

- (1) the nature, quality, extent of involvement, and duration of the child's relationship with the person proposing to relocate and with the nonrelocating person, siblings, and other significant persons in the child's life;
- (2) the age, developmental stage, needs of the child, and the likely impact the relocation will have on the child's physical, educational, and emotional development, taking into consideration any special needs of the child;



(3) the feasibility of preserving the relationship between the nonrelocating person and the child through suitable parenting time arrangements, considering the logistics and financial circumstances of the parties;

(4) the child's preference, taking into consideration the age and maturity of the child;

(5) whether there is an established pattern of conduct of the person seeking the relocation either to promote or thwart the relationship of the child and the nonrelocating person;

(6) whether the relocation of the child will enhance the general quality of the life for both the custodial parent seeking the relocation and the child including, but not limited to, financial or emotional benefit or educational opportunity;

(7) the reasons of each person for seeking or opposing the relocation;

(8) the effect on the safety and welfare of the child, or the parent requesting to move the child's residence, of domestic abuse, as defined in section 518B.01; and

(9) any other factor affecting the best interests of the child.

The burden of proof is upon the parent requesting to move the residence of the child to another state, except that if the court finds the existence of domestic abuse between the parents, the burden of proof is upon the parent opposing the move.

Sec. 3. Minnesota Statutes 2004, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order or a parenting plan provision which specifies the child's primary residence unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established parenting time schedule, that have arisen since the prior order or that were unknown to the court at the time of the prior order, that a change has occurred in the circumstances of the child or the parties and that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement or the parenting plan provision specifying the child's primary residence that was established by the prior order unless:

(i) the court finds that a change in the custody arrangement or primary residence is in the best interests of the child and the parties previously agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable; and, with respect to agreements approved by a court on or after April 28, 2000, both parties were represented by counsel when the agreement was approved or the court found the parties were fully informed, the agreement was voluntary, and the parties were aware of its implications;

(ii) both parties agree to the modification;

(iii) the child has been integrated into the family of the petitioner with the consent of the other party; ~~or~~

(iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child; or

(v) the court has denied a request of the primary custodial parent to move the residence of the child to another state, and the primary custodial parent has relocated to another state despite the court's order.

In addition, a court may modify a custody order or parenting plan under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

(f) If a parent has been granted sole physical custody of a minor and the child subsequently lives with the other parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the obligor's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Sec. 4. Minnesota Statutes 2004, section 518.58, subdivision 4, is amended to read:

Subd. 4. [PENSION PLANS.] (a) The division of marital property that represents pension plan benefits or rights in the form of future pension plan payments:

(1) is payable only to the extent of the amount of the pension plan benefit payable under the terms of the plan;

(2) is not payable for a period that exceeds the time that pension plan benefits are payable to the pension plan benefit recipient;

(3) is not payable in a lump sum amount from defined benefit pension plan assets attributable in any fashion to a spouse with the status of an active member, deferred retiree, or benefit recipient of a pension plan;

(4) if the former spouse to whom the payments are to be made dies prior to the end of the specified payment period with the right to any remaining payments accruing to an estate or to more than one survivor, is payable only to a trustee on behalf of the estate or the group of survivors for subsequent apportionment by the trustee; and

(5) in the case of defined benefit public pension plan benefits or rights, may not commence until the public plan member submits a valid application for a public pension plan benefit and the benefit becomes payable.

(b) The individual retirement account plans established under chapter 354B may provide in its plan document, if published and made generally available, for an alternative marital property division or distribution of individual retirement account plan assets. If an alternative division or distribution procedure is provided, it applies in place of paragraph (a), clause (5).

Sec. 5. Minnesota Statutes 2004, section 518.64, is amended by adding a subdivision to read:

Subd. 7. [MILITARY SERVICE.] (a) An increase or decrease in an obligor's income because of active military service is grounds for a motion for a modification of support even if the increase or decrease in the obligor's income would not otherwise qualify for modification under this section.

(b) If an obligor who makes a motion to modify support is unable to appear at a proceeding because of being called into active duty, the court must, upon request of the obligor, stay further proceedings until the obligor returns from active duty or is able to appear by alternate means. If the obligor chooses to proceed without appearing, the court may determine the current support obligation based upon documentary evidence of the obligor's income without requiring the obligor's appearance. The state court administrator shall prepare a form to allow an obligor to request a modification without appearance.

(c) If there has been a modification under this subdivision, the obligor's return from active military service is grounds for a motion for modification of support even if the increase or decrease in the obligor's income would not otherwise qualify for a modification under this section.

(d) An obligor whose support obligation has been modified under this subdivision shall notify the obligee and the public authority, if the public authority is providing support enforcement services, within 30 days of the obligor's return from active military service.

(e) For purposes of this subdivision, "active military service" has the meaning given to the term "active service" in section 190.05, subdivision 5, when the obligor has been ordered to active military service for 30 or more days.

Sec. 6. [EFFECTIVE DATE.]

Section 5 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to civil law; reforming and recodifying the law relating to marriage dissolution, child custody, child support, maintenance, and property division; changing a fee; making style and form changes; appropriating money; amending Minnesota Statutes 2004, sections 357.021, by adding a subdivision; 518.17, subdivisions 1, 2; 518.1705, subdivision 7; 518.175, subdivision 3, by adding a subdivision; 518.18; 518.58, subdivision 4; 518.64, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 518; proposing coding for new law as Minnesota Statutes, chapter 517C; repealing Minnesota Statutes 2004, sections 518.111; 518.171; 518.255; 518.54, subdivisions 2, 4a, 13, 14; 518.551, subdivisions 1, 5, 5a, 5b, 5c, 5d, 5e, 5f, 6, 7, 9, 11, 12, 13, 13a, 14, 15; 518.5513; 518.553; 518.57; 518.575; 518.585; 518.5851; 518.5852; 518.5853; 518.61; 518.6111; 518.614; 518.615; 518.616; 518.617; 518.618; 518.6195; 518.6196; 518.68."

The motion prevailed and the amendment was adopted.

The Speaker called Abrams to the Chair.

Entenza, Kelliher and Sviggum were excused for the remainder of today's session.

Mahoney and Eastlund moved to amend S. F. No. 630, as amended, as follows:

Page 2, after line 6, insert:

"Sec. 2. Minnesota Statutes 2004, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care, and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties. Joint physical custody does not require an equal division of time between the parties.

(e) Wherever used in this chapter, the term "custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including parenting time, but does not include a decision relating to child support or any other monetary obligation of any person.

(g) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce, or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse, and paternity.

Sec. 3. Minnesota Statutes 2004, section 518.156, is amended by adding a subdivision to read:

Subd. 3. [DEADLINE FOR CUSTODY AGREEMENT OR PARENTING PLAN.] Within 90 days after a custody proceeding is commenced by a parent or when the matter is set for determination by the court, whichever is earlier, the parents must enter a parenting plan under section 518.1705. If the parents fail to meet this deadline, the court must use the rebuttable presumption regarding joint physical custody provided by section 518.17, subdivision 2, paragraph (b)."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Mahoney and Eastlund amendment and the roll was called. There were 110 yeas and 17 nays as follows:

Those who voted in the affirmative were:

Abeler	Dempsey	Hausman	Lanning	Opatz	Simpson
Abrams	Dill	Heidgerken	Larson	Otremba	Smith
Anderson, B.	Dittrich	Hilty	Latz	Ozment	Soderstrom
Anderson, I.	Dorman	Holberg	Lenczewski	Paulsen	Solberg
Beard	Dorn	Hoppe	Lesch	Pelowski	Sykora
Bernardy	Eastlund	Hortman	Lieder	Penas	Thissen
Blaine	Eken	Hosch	Lillie	Peppin	Tingelstad
Bradley	Ellison	Howes	Magnus	Peterson, A.	Urdahl
Brod	Emmer	Huntley	Mahoney	Peterson, N.	Vandever
Buesgens	Erhardt	Jaros	Marquart	Peterson, S.	Wardlow
Charron	Erickson	Johnson, J.	McNamara	Poppe	Walti
Cornish	Finstad	Johnson, R.	Meslow	Powell	Westerberg
Cox	Garofalo	Johnson, S.	Moe	Rukavina	Westrom
Cybart	Gazelka	Juhnke	Murphy	Ruth	Wilkin
Davids	Greiling	Klinzing	Nelson, M.	Sailer	Zellers
Davnie	Gunther	Knoblach	Nelson, P.	Samuelson	
Dean	Hackbarth	Koenen	Newman	Seifert	
DeLaForest	Hamilton	Kohls	Nornes	Severson	
Demmer	Hansen	Krinkie	Olson	Simon	

Those who voted in the negative were:

Atkins	Hilstrom	Liebling	Mullery	Scalze	Thao
Carlson	Hornstein	Loeffler	Paymar	Sieben	Wagenius
Fritz	Kahn	Mariani	Ruud	Slawik	

The motion prevailed and the amendment was adopted.

S. F. No. 630, A bill for an act relating to civil law; increasing fees related to marriage and child support; reforming law relating to child support; establishing criteria for support obligations; defining parents' rights and responsibilities; appropriating money; amending Minnesota Statutes 2004, sections 357.021, subdivisions 1a, 2; 518.005, by adding a subdivision; 518.54; 518.55, subdivision 4; 518.551, subdivisions 5, 5b; 518.62; 518.64, subdivision 2, by adding subdivisions; 518.68, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 518; repealing Minnesota Statutes 2004, sections 518.171; 518.54, subdivisions 2, 4, 4a; 518.551, subdivisions 1, 5a, 5c, 5f.

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

The question was taken on the passage of the bill and the roll was called. There were 117 yeas and 12 nays as follows:

Those who voted in the affirmative were:

Abeler	Anderson, I.	Blaine	Buesgens	Clark	Cybart
Abrams	Atkins	Bradley	Carlson	Cornish	Davids
Anderson, B.	Beard	Brod	Charron	Cox	Davnie

Dean	Greiling	Johnson, S.	Marquart	Peppin	Smith
DeLaForest	Gunther	Juhnke	McNamara	Peterson, A.	Soderstrom
Demmer	Hackbarth	Klinzing	Meslow	Peterson, N.	Solberg
Dempsey	Hamilton	Knoblach	Moe	Peterson, S.	Sykora
Dill	Hansen	Koenen	Mullery	Poppe	Thissen
Dittrich	Hausman	Kohls	Murphy	Powell	Tingelstad
Dorman	Heidgerken	Krinkie	Nelson, M.	Rukavina	Urdahl
Dorn	Hilty	Lanning	Nelson, P.	Ruth	Vandever
Eastlund	Holberg	Larson	Newman	Ruud	Wardlow
Eken	Hoppe	Latz	Nornes	Sailer	Welti
Ellison	Hortman	Lenczewski	Olson	Samuelson	Westerberg
Emmer	Hosch	Lesch	Opatz	Scalze	Westrom
Erhardt	Howes	Lieder	Otremba	Seifert	Wilkin
Erickson	Huntley	Lillie	Ozment	Severson	Zellers
Finstad	Jaros	Magnus	Paulsen	Sieben	
Garofalo	Johnson, J.	Mahoney	Pelowski	Simon	
Gazelka	Johnson, R.	Mariani	Penas	Simpson	

Those who voted in the negative were:

Bernardy	Goodwin	Hornstein	Liebling	Paymar	Thao
Fritz	Hilstrom	Kahn	Loeffler	Slawik	Wagenius

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

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

#### ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1915:

Zellers, Abrams and Carlson.

There being no objection, the order of business reverted to Reports of Standing Committees.

#### REPORTS OF STANDING COMMITTEES

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2063, A bill for an act relating to public safety; modifying motor vehicle, traffic regulation, and driver's license provisions relating to commercial motor vehicles; making technical and clarifying changes; modifying definitions of recreational vehicle, motor home, state, and tank vehicle; prohibiting issuance of identification card to holder of driving instruction permit; modifying driver's license classifications, restrictions, exceptions, and exemptions; modifying driver records provisions; incorporating federal regulations; amending Minnesota Statutes 2004, sections 168.011, subdivision 25; 169.01, subdivisions 75, 76; 169A.52, subdivision 3; 171.01, subdivisions 22, 35, 47, by adding a subdivision; 171.02; 171.03; 171.04, subdivision 2; 171.09; 171.12,

subdivision 3; 171.165, subdivisions 1, 2, 6; proposing coding for new law in Minnesota Statutes, chapter 171; repealing Minnesota Statutes 2004, sections 169.99, subdivision 1b; 171.12, subdivision 6; 171.165, subdivisions 3, 4, 4a, 4b; Minnesota Rules, part 7503.2400.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2097, A bill for an act relating to motor vehicles; regulating registration tax refunds; modifying registration procedures; making technical and clarifying changes; amending Minnesota Statutes 2004, sections 168.011, subdivisions 3, 4, 5, 5a, 6, 7, by adding subdivisions; 168.15, subdivision 1; 168.16; 168.31, subdivision 5; repealing Minnesota Statutes 2004, sections 168.011, subdivision 19; 168.15, subdivision 2.

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

The report was adopted.

Paulsen from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2255, A bill for an act relating to vehicle insurance; requiring the commissioner of public safety to discontinue insurance verification sampling program until the commissioner modifies program; declaring charges for violations of sampling program laws to be void; providing remediation; reinstating certain drivers' licenses; requiring report; authorizing resumption of sampling program; appropriating money.

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

The report was adopted.

## **SECOND READING OF HOUSE BILLS**

H. F. Nos. 2063, 2097 and 2255 were read for the second time.

## **MESSAGES FROM THE SENATE**

The following messages were received from the Senate:

Mr. Speaker:

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

H. F. No. 1385, A bill for an act relating to higher education; allocating money for educational and related purposes with certain conditions; modifying various loan, grant, and financial aid provisions; requiring institutions to provide certain data; permitting disclosure of certain data to determine eligibility; amending various reciprocity

provisions; providing definitions; directing the Board of Trustees to designate centers of excellence; amending the Minnesota college savings plan; authorizing transfer of certain bonding authority; amending provisions related to private career schools; establishing fees; providing for merger with the Higher Education Facilities Authority; establishing the Rochester University Development Committee; appropriating money; amending Minnesota Statutes 2004, sections 13.46, subdivision 2; 135A.031, subdivisions 3, 4; 135A.052, subdivision 1; 135A.30, subdivisions 3, 4, 5; 135A.52, subdivisions 1, 2; 136A.01, subdivision 2; 136A.031, subdivisions 2, 3, 4; 136A.08, by adding subdivisions; 136A.121, subdivisions 2, 5, 6, 9, by adding a subdivision; 136A.125, subdivision 2; 136A.1701, by adding subdivisions; 136F.04, subdivision 4; 136F.32, subdivision 2; 136G.03, subdivisions 3, 21a, 22, 32; 136G.05, subdivision 8; 136G.09, subdivisions 11, 12; 136G.11, subdivisions 1, 2, 3, 13; 136G.13, subdivisions 1, 5; 136G.14; 137.0245, subdivisions 1, 2, 4; 141.21, by adding a subdivision; 141.25, subdivisions 3, 5, 8, 9, 12; 141.251; 141.26, subdivision 5; 141.271, subdivisions 4, 7, 10, by adding subdivisions; 141.28, subdivision 1, by adding a subdivision; 141.29, subdivision 3; 141.30; 141.35; 192.502, subdivision 1; 299A.45, subdivisions 1, 4; proposing coding for new law in Minnesota Statutes, chapters 136A; 137; 141; repealing Minnesota Statutes 2004, sections 136A.011; 136A.031, subdivision 1; Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120; 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100; 4830.8110; 4830.8120; 4830.8130; 4830.8140; 4830.8150.

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

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1507, A bill for an act relating to health; modifying provisions for isolation and quarantine of persons exposed to or infected with a communicable disease; amending Minnesota Statutes 2004, sections 144.419, subdivision 1; 144.4195, subdivisions 1, 2, 5; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 144.

The Senate has appointed as such committee:

Senators Lourey, McGinn and Dibble.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1555, A bill for an act relating to health; modifying the Minnesota Emergency Health Powers Act; modifying authority of out-of-state license holders; amending Minnesota Statutes 2004, sections 12.03, subdivision 4d, by adding a subdivision; 12.22, subdivision 2a, by adding a subdivision; 12.31, subdivisions 1, 2; 12.32; 12.34, subdivision 1; 12.381; 12.39; 12.42; 13.3806, subdivision 1a; Laws 2002, chapter 402, section 21, as amended; proposing coding for new law in Minnesota Statutes, chapter 12.



The Senate has appointed as such committee:

Senators Lourey, McGinn and Dibble.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1809, A bill for an act relating to insurance; regulating agency terminations, coverages, fees, forms, disclosures, reports, information security, and premiums; amending Minnesota Statutes 2004, sections 60A.14, subdivision 1; 60A.171, subdivision 11; 60A.23, subdivision 8; 60A.966; 60A.969; 62A.136; 62A.31, subdivision 1h; 62A.315; 62A.316; 62E.12; 62E.13, subdivision 2; 62Q.471; 62Q.65; 65A.29, subdivision 11; 65B.48, subdivision 3; 72A.20, subdivisions 13, 36; 79.211, by adding a subdivision; 79.40; 79.56, subdivisions 1, 3; 79.62, subdivision 3; 79A.03, subdivision 9; 79A.04, subdivisions 2, 10; 79A.06, subdivision 5; 79A.12, subdivision 2; 79A.22, subdivision 11, by adding a subdivision; 123A.21, by adding a subdivision; 176.191, subdivision 3; Laws 1985, chapter 85, section 1; proposing coding for new law in Minnesota Statutes, chapters 60A; 60D; 65A; 65B; repealing Minnesota Statutes 2004, sections 61A.072, subdivision 2; 62E.03.

The Senate has appointed as such committee:

Senators Scheid, Pappas and Reiter.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 894, A bill for an act relating to waters; modifying authority for public waters inventory; modifying public waters work permit and water use permit provisions; modifying enforcement authority; modifying a restriction on private land sale in Scott County; amending Minnesota Statutes 2004, sections 103G.201; 103G.2372, subdivision 1; 103G.245, subdivision 4; 103G.251, subdivision 2; 103G.301, subdivision 2; Laws 2003, First Special Session chapter 13, section 25.

PATRICK E. FLAHAVEN, Secretary of the Senate

Cox moved that the House refuse to concur in the Senate amendments to H. F. No. 894, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendments the concurrence of the House is respectfully requested:

H. F. No. 874, A bill for an act relating to elections; providing for approval and purpose of certain voting equipment; appropriating money; amending Minnesota Statutes 2004, sections 201.022, by adding a subdivision; 206.80; proposing coding for new law in Minnesota Statutes, chapter 206.

PATRICK E. FLAHAVEN, Secretary of the Senate

Brod moved that the House refuse to concur in the Senate amendments to H. F. No. 874, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

### **MOTIONS AND RESOLUTIONS**

Rukavina moved that the name of Sailer be added as an author on H. F. No. 169. The motion prevailed.

Abeler moved that the name of Sailer be added as an author on H. F. No. 770. The motion prevailed.

Ruud moved that the name of Sailer be added as an author on H. F. No. 780. The motion prevailed.

Cox moved that the name of Sailer be added as an author on H. F. No. 1391. The motion prevailed.

Peterson, A., moved that the name of Loeffler be added as an author on H. F. No. 1798. The motion prevailed.

Ellison moved that the name of Loeffler be added as an author on H. F. No. 1836. The motion prevailed.

Dean moved that the name of Slawik be added as an author on H. F. No. 1925. The motion prevailed.

Nelson, P., moved that the names of Olson and Cox be added as authors on H. F. No. 2118. The motion prevailed.

Lenczewski moved that the name of Sailer be added as an author on H. F. No. 2130. The motion prevailed.

Walker moved that the name of Sailer be added as an author on H. F. No. 2169. The motion prevailed.

Severson moved that his name be stricken as an author and the name of Holberg be added as chief author on H. F. No. 2255. The motion prevailed.

Paymar moved that the name of Charron be added as an author on H. F. No. 2526. The motion prevailed.

### **ADJOURNMENT**

Paulsen moved that when the House adjourns today it adjourn until 9:00 a.m., Saturday, May 21, 2005. The motion prevailed.

Paulsen moved that the House adjourn. The motion prevailed, and Speaker pro tempore Abrams declared the House stands adjourned until 9:00 a.m., Saturday, May 21, 2005.

ALBIN A. MATHIOWETZ, Chief Clerk, House of Representatives