HF2976/SF2914: UTMA Modernization
Minnesota State Bar Association

<u>**Background:**</u>

- ➢ Money owed or given to a minor can be placed in a custodial account under the Uniform Transfers to Minors Act (UTMA), which has only been modified once since it was enacted in 1985.
- ➢ This bill modernizes the statute to benefit minors, custodians, banks, and courts.

<u>**Elements of the bill**</u>:

- ➢ **Unifies the UTMA termination age:** UTMA accounts terminate at different ages (either 18 or 21) depending on the source of the funds.
    - The bill unifies the termination age for all UTMA accounts at 21, which will alleviate the burden on custodians and banks to trace the source of funds.
    - Existing accounts that terminate at age 18 would not be affected.

- ➢ **Modernizes the custodial standard of care:**
    - UTMA custodians currently operate under an outdated "prudent person" standard of care.
    - The bill applies the modern "prudent investor" standard to UTMA custodians, which aligns them with the standard applied to similar fiduciaries, such as conservators, trustees, and personal representatives.

- ➢ **Eliminates unnecessary court proceedings:** When an UTMA account terminates, the minor is entitled to the property, but banks require an *acting* custodian to turn over the property to the minor.
    - When there is no custodian or the custodian refuses to act, the minor must go to court to appoint a new custodian. This places an unnecessary burden on the probate court and on the minor's funds.
    - The bill creates an alternative method for the minor to collect funds directly by presenting an affidavit and birth certificate to the institution holding the property.

- ➢ **Allows transfers to qualified minor's trusts:** Property originally transferred to an UTMA account sometimes would be better served in a trust, with more robust administrative and distribution provisions.
    - The bill gives UTMA custodians an additional management tool to transfer UTMA property to a qualified minor's trust.
    - The minor would retain all beneficial interests in the transferred funds.