STATE OF MINNESOTA

Journal of the Senate

EIGHTIETH LEGISLATURE

THIRTY-FOURTH DAY

St. Paul, Minnesota, Tuesday, April 8, 1997

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

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. Timothy Morin.

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

Anderson	Frederickson	Knutson	Murphy	Runbeck
Beckman	Hanson	Krentz	Novak	Sams
Belanger	Higgins	Laidig	Oliver	Samuelson
Berg	Hottinger	Langseth	Olson	Scheevel
Berglin	Johnson, D.E.	Larson	Ourada	Scheid
Betzold	Johnson, D.H.	Lesewski	Pappas	Solon
Cohen	Johnson, D.J.	Limmer	Piper	Spear
Day	Junge	Lourey	Pogemiller	Stevens
Dille	Kelley, S.P.	Marty	Price	Ten Eyck
Fischbach	Kelly, R.C.	Metzen	Ranum	Vickerman
Flynn	Kiscaden	Moe, R.D.	Robertson	Wiener
Foley	Kleis	Morse	Robling	Wiger

The President declared a quorum present.

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

MEMBERS EXCUSED

Ms. Johnson, J.B.; Mrs. Pariseau, Messrs. Stumpf and Terwilliger were excused from the Session of today.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

April 4, 1997

The Honorable Phil Carruthers
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1997 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:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1997	Date Filed 1997
	1088	18	11:00 a.m. April 4	April 4
	1093	19	11:05 a.m. April 4	April 4
	219	20	11:10 a.m. April 4	April 4

Sincerely,
Joan Anderson Growe
Secretary of State

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 368.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 7, 1997

Mr. President:

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

S.F. No. 1645: A bill for an act relating to public safety; appropriating money for costs relating to the 1837 treaty.

Senate File No. 1645 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 7, 1997

CONCURRENCE AND REPASSAGE

Mr. Moe, R.D. moved that the Senate concur in the amendments by the House to S.F. No. 1645 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1645 was read the third time, as amended by the House, and placed on its repassage.

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

The roll was called, and there were yeas 51 and nays 2, as follows:

Those who voted in the affirmative were:

Anderson	Cohen	Flynn	Higgins	Kelley, S.P.
Beckman	Day	Foley	Johnson, D.E.	Kiscaden
Belanger	Dille	Frederickson	Johnson, D.H.	Kleis
Betzold	Fischbach	Hanson	Junge	Knutson

Krentz	Moe, R.D.	Pappas	Runbeck	Vickerman
Laidig	Morse	Piper	Sams	Wiener
Langseth	Murphy	Pogemiller	Samuelson	Wiger
Lesewski	Novak	Price	Scheid	
Lourey	Oliver	Ranum	Solon	
Marty	Olson	Robertson	Stevens	
Metzen	Ourada	Robling	Ten Eyck	

Messrs. Berg and Larson voted in the negative.

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

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 1162 and 1382.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 7, 1997

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 1162: A bill for an act relating to state employment; making changes of a technical and housekeeping nature; amending Minnesota Statutes 1996, sections 43A.01, subdivision 2; 43A.02, subdivisions 1, 14, 20, 30, and 37; 43A.04, subdivisions 1, 2, 3, and 9; 43A.05, subdivisions 1 and 3; 43A.08, subdivisions 1 and 1a; 43A.13, subdivision 7; 43A.27, subdivision 1; 43A.30, subdivision 1; and 43A.36, subdivisions 1 and 2.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 363.

H.F. No. 1382: A bill for an act relating to boilers; modifying show boiler and engine provisions; amending Minnesota Statutes 1996, section 183.411, subdivisions 1, 2, and 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1051, now on General Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted, with the exception of the reports on S.F. Nos. 184, 1124, 1122, 254, 830, 693 and 1310. The motion prevailed.

Ms. Flynn from the Committee on Transportation, to which was referred

S.F. No. 569: A bill for an act relating to public safety; clarifying tax exemptions for implements of husbandry; increasing speed limit for towing heavy farm trailers not equipped with brakes; amending Minnesota Statutes 1996, sections 168.012, subdivision 2; 168A.01, subdivision 8; 169.01, subdivision 55; 169.145; 169.522, subdivision 1; and 169.801, subdivision 1.

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

Page 1, line 26, strike "and" and insert "or"

Page 2, line 7, delete "meeting the description"

Page 2, line 8, delete everything before "is" and insert "used in livestock raising operations"

Page 2, line 10, delete "and operated solely by" and insert "by and in control of"

Page 2, lines 11 and 36, delete "35" and insert "30"

Page 3, lines 7 and 15, delete "35" and insert "30"

Page 4, line 23, delete "35" and insert "30"

Page 4, line 25, after "farmer" insert "or implement dealer"

Page 4, line 27, after "farmland" insert "or implement dealership"

Page 4, line 28, before "and" insert "or implement dealer" and before "regularly" insert "or implement dealer"

Page 4, line 29, after "uses" insert ", sells, or leases"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was referred

S.F. No. 911: A bill for an act relating to employment; modifying provisions governing payment of wages; including the state in the definition of employer for certain purposes; amending Minnesota Statutes 1996, sections 181.02; 181.03; 181.063; 181.10; 181.13; and 181.171, by adding a subdivision.

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

Page 3, lines 9 and 10, reinstate the stricken language and delete the new language

Page 3, line 11, delete the new language

Page 3, after line 22, insert:

"Sec. 6. Minnesota Statutes 1996, section 181.14, is amended to read:

181.14 [~~NOTICE TO BE GIVEN~~ PAYMENT TO EMPLOYEES WHO QUIT OR RESIGN; SETTLEMENT OF DISPUTES.]

Subdivision 1. [PROMPT PAYMENT REQUIRED.] When any such employee~~, not having a contract for a definite period of service,~~ quits or resigns employment, the wages or commissions earned and unpaid at the time the employee quits or resigns shall ~~become due and payable within five days thereafter. Any employer failing or refusing to pay such~~ be paid in full not later than the first regularly scheduled payday following the employee's final day of employment, unless an employee is subject to a collective bargaining agreement with a different provision. If the first regularly scheduled payday is less than five calendar days following the employee's final day of employment, full payment may be delayed until the second regularly scheduled payday but shall not exceed a total of 20 calendar days following the employee's final day of employment.

Subd. 2. [NONPROMPT PAYMENT.] Wages or commissions~~, after they become due,~~ not paid within the required time period shall become immediately payable upon the demand of the employee~~,~~. If the employee's earned wages or commissions are not paid within 24 hours after the demand, the employer shall be liable to the employee ~~from the date of the demand~~ for an additional sum equal to the amount of the employee's average daily earnings provided in the contract of employment, for every day, not exceeding 15 days in all, until such payment or other settlement satisfactory to the employee is made. ~~If any employee having such a contract gives not less than five days' written notice to the employer of intention to quit, the wages or commissions of the employee giving notice may be demanded and shall become due 24 hours after the employee quits or resigns, and the penalty herein provided shall apply from the date of demand.~~

Subd. 3. [SETTLEMENT OF DISPUTES.] If the employer disputes the amount of wages or commissions claimed by the employee under the provisions of this section or section 181.13, and the employer makes a legal tender of the amount which the employer in good faith claims to be due, the employer shall not be liable for any sum greater than the amount so tendered and interest thereon at the legal rate, unless, in an action brought in a court having jurisdiction, the employee recovers a greater sum than the amount so tendered with interest thereon; and if, in the suit, the employee fails to recover a greater sum than that so tendered, with interest, the employee shall pay the cost of the suit, otherwise the cost shall be paid by the employer.

Subd. 4. [EMPLOYEES ENTRUSTED WITH MONEY OR PROPERTY.] In cases where the discharged or quitting employee was, during employment, entrusted with the collection, disbursement, or handling of money or property, the employer shall have ten ~~secular~~ calendar days after the termination of the employment to audit and adjust the accounts of the employee before the employee's wages or commissions shall ~~become due and payable~~ be paid as provided in this section, and the penalty herein provided shall apply in such case only from the date of demand made after the expiration of the period allowed for ~~audit and adjustment~~ payment of the employee's wages or commissions. If, upon such audit and adjustment of the accounts of the employee, it is found that any money or property entrusted to the employee by the employer has not been properly accounted for or paid over to the employer, as provided by the terms of the contract of employment, the employee shall not be entitled to the benefit of sections 181.13 to 181.17, but the claim for unpaid wages or commissions of such employee, if any, shall be disposed of as provided by existing law.

Subd. 5. [PLACE OF PAYMENT.] Wages and commissions paid under this section shall be paid at the usual place of payment unless the employee requests that the wages and commissions be sent to the employee through the mails. If, in accordance with a request by the employee, the employee's wages and commissions are sent to the employee through the mail, the wages and commissions shall be deemed to have been paid as of the date of their postmark for the purposes of this section."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 6, after the third semicolon, insert "181.14;"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Novak from the Committee on Jobs, Energy and Community Development, to which was referred

H.F. No. 889: A bill for an act relating to housing; providing for changes in rights of parties to mobile home park rentals; amending Minnesota Statutes 1996, sections 327C.02, subdivision 5; 327C.07, subdivision 2; and 327C.09, subdivision 4.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Solon from the Committee on Commerce, to which was referred

S.F. No. 349: A bill for an act relating to insurance; regulating companies and agents; providing immunity from suit and indemnification for receivers and their employees; regulating coverages; providing certain notices and filing requirements; providing for a study; making certain technical changes; amending Minnesota Statutes 1996, sections 60A.02, by adding a subdivision; 60A.052, subdivision 2, and by adding a subdivision; 60A.06, subdivision 2; 60A.075, subdivisions 1, 8, and 9; 60A.077, subdivisions 1, 2, 3, 5, 7, 8, and 10; 60A.092, subdivision 6; 60A.10, subdivision 1; 60A.111, subdivision 1; 60A.13, subdivision 1; 60A.19, subdivision 1; 60B.04, by adding a subdivision; 60B.21, subdivision 2; 60B.25; 60B.44, subdivisions 3, 4, and 6; 60D.20, subdivision 2; 60K.02, subdivision 1; 60K.03, subdivisions 2 and 3; 60K.14, subdivision 4; 60K.19, subdivisions 7 and 8; 61A.28, subdivisions 6, 9a, and 12; 61A.60, subdivision 1; 61B.19,

subdivision 3; 62A.04, subdivision 3; 62A.135, subdivision 5; 62A.50, subdivision 3; 62B.04, subdivision 2; 65A.01, subdivision 3, and by adding subdivisions; 65A.27, subdivision 4; 65B.48, subdivision 5; 67A.231; 72A.20, subdivision 34; 72B.04, subdivision 10; 79A.01, subdivision 10; 79A.02, subdivisions 1 and 4; 79A.03, subdivisions 6, 7, 9, and by adding a subdivision; 79A.06, subdivision 5; 79A.20, subdivision 1; 79A.21, subdivision 2; 79A.22, subdivision 7, and by adding a subdivision; 79A.23, subdivisions 1 and 2; 79A.24, subdivisions 1, 2, and 4; 79A.26, subdivision 2; and 79A.31, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 60B; and 65B; repealing Minnesota Statutes 1996, sections 60B.36; and 79A.04, subdivision 8.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 60A.02, subdivision 1a, is amended to read:

Subd. 1a. [ASSOCIATION OR ASSOCIATIONS.] (a) "Association" or "associations" means an organized body of people who have some interest in common and that has at the onset a minimum of 100 persons; is organized and maintained in good faith for purposes other than that of obtaining insurance; and has a constitution and bylaws which provide that: (1) the association or associations hold regular meetings not less frequently than annually to further purposes of the members; (2) except for credit unions, the association or associations collect dues or solicit contributions from members; (3) the members have voting privileges and representation on the governing board and committees, which provide the members with control of the association including the purchase and administration of insurance products offered to members; and (4) the members are not, within the first 30 days of membership, directly solicited, offered, or sold an insurance policy if the policy is available as an association benefit.

(b) An association may apply to the commissioner for a waiver of the 30-day waiting period to that association. The commissioner may grant the waiver upon a finding of ~~all~~ at least three of the following: (1) the association is in full compliance with this subdivision; (2) sanctions have not been imposed against the association as a result of significant disciplinary action by the commissioner; ~~and~~ (3) at least 80 percent of the association's income comes from dues, contributions, or sources other than income from the sale of insurance; or (4) the association has been organized and maintained for at least ten years.

Sec. 2. Minnesota Statutes 1996, section 60A.02, is amended by adding a subdivision to read:

Subd. 2b. [FILED.] In cases where a law requires documents to be filed with the commissioner, the documents will be considered filed when they are received by the department of commerce.

Sec. 3. Minnesota Statutes 1996, section 60A.052, subdivision 2, is amended to read:

Subd. 2. [SUSPENSION OR REVOCATION OF AUTHORITY OR CENSURE.] If the commissioner determines that one of the conditions listed in subdivision 1 exists, the commissioner may issue an order requiring the insurance company to show cause why any or all of the following should not occur: (1) revocation or suspension of any or all certificates of authority granted to the foreign or domestic insurance company or its agent; (2) censuring of the insurance company; ~~or~~ (3) cancellation of all or some of the company's insurance contracts then in force in this state; or (4) the imposition of a civil penalty. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. All hearings shall be conducted in accordance with chapter 14. The insurer may waive its right to the hearing. If the insurer is under the supervision or control of the insurance department of the insurer's state of domicile, that insurance department, acting on behalf of the insurer, may waive the insurer's right to the hearing. After the hearing, the commissioner shall enter an order disposing of the matter as the facts require. If the insurance company fails to appear at a hearing after having been duly notified of it, the company shall be considered in default, and the proceeding may be determined against the company upon consideration of the order to show cause, the allegations of which may be considered to be true.

Sec. 4. Minnesota Statutes 1996, section 60A.052, is amended by adding a subdivision to read:

Subd. 4a. [WITHDRAWAL OF INSURER FROM STATE.] No insurer shall withdraw from this state until its direct liability to its policyholders and obligees under all its insurance contracts then in force in this state have been assumed by another licensed insurer according to section 60A.09, subdivision 4a.

Sec. 5. Minnesota Statutes 1996, section 60A.06, subdivision 1, is amended to read:

Subdivision 1. [STATUTORY LINES.] Insurance corporations may be authorized to transact in any state or territory in the United States, in the Dominion of Canada, and in foreign countries, when specified in their charters or certificates of incorporation, either as originally granted or as thereafter amended, any of the following kinds of business, upon the stock plan, or upon the mutual plan when the formation of such mutual companies is otherwise authorized by law; and business trusts as authorized by law of this state shall only be authorized to transact in this state the following kind of business hereinafter specified in clause (7) hereof when specified in their "declaration of trust":

(1) To insure against loss or damage to property on land and against loss of rents and rental values, leaseholds of buildings, use and occupancy and direct or consequential loss or damage caused by fire, smoke or smudge, water or other fluid or substance, lightning, windstorm, tornado, cyclone, earthquake, collapse and slippage, rain, hail, frost, snow, freeze, change of temperature, weather or climatic conditions, excess or deficiency of moisture, floods, the rising of waters, oceans, lakes, rivers or their tributaries, bombardment, invasion, insurrection, riot, civil war or commotion, military or usurped power, electrical power interruption or electrical breakdown from any cause, railroad equipment, motor vehicles or aircraft, accidental injury to sprinklers, pumps, conduits or containers or other apparatus erected for extinguishing fires, explosion, whether fire ensues or not, except explosions on risks specified in clause (3); provided, however, that there may be insured hereunder the following: (a) explosion of any kind originating outside the insured building or outside of the building containing the property insured, (b) explosion of pressure vessels which do not contain steam or which are not operated with steam coils or steam jackets; and (c) risks under home owners multiple peril policies;

(2)(a) To insure vessels, freight, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interest, and every insurance appertaining to or connected with risks of transportation and navigation on and under water, on land or in the air;

(b) To insure all personal property floater risks;

(3) To insure against any loss from either direct or indirect damage to any property or interest of the assured or of another, resulting from the explosion of or injury to (a) any boiler, heater or other fired pressure vessel; (b) any unfired pressure vessel; (c) pipes or containers connected with any of said boilers or vessels; (d) any engine, turbine, compressor, pump or wheel; (e) any apparatus generating, transmitting or using electricity; (f) any other machinery or apparatus connected with or operated by any of the previously named boilers, vessels or machines; and including the incidental power to make inspections of and to issue certificates of inspection upon, any such boilers, apparatus, and machinery, whether insured or otherwise;

(4) To make contracts of life and endowment insurance, to grant, purchase, or dispose of annuities or endowments of any kind; and, in such contracts, or in contracts supplemental thereto to provide for additional benefits in event of death of the insured by accidental means, total permanent disability of the insured, or specific dismemberment or disablement suffered by the insured, or acceleration of life or endowment or annuity benefits in advance of the time they would otherwise be payable;

(5)(a) To insure against loss or damage by the sickness, bodily injury or death by accident of the assured or dependents or those for whom the assured has assumed a portion of the liability for the loss or damage, including liability for payment of medical care costs or for provisions of medical care;

(b) To insure against the legal liability, whether imposed by common law or by statute or assumed by contract, of employers for the death or disablement of, or injury to, employees;

(6) To guarantee the fidelity of persons in fiduciary positions, public or private, or to act as surety on official and other bonds, and for the performance of official or other obligations;

(7) To insure owners and others interested in real estate against loss or damage, by reason of defective titles, encumbrances, or otherwise;

(8) To insure against loss or damage by breakage of glass, located or in transit;

(9)(a) To insure against loss by burglary, theft, or forgery;

(b) To insure against loss of or damage to moneys, coins, bullion, securities, notes, drafts, acceptance or any other valuable paper or document, resulting from any cause, except while in the custody or possession of and being transported by any carrier for hire or in the mail;

(c) To insure individuals by means of an all risk type of policy commonly known as the "personal property floater" against any kind and all kinds of loss of or damage to, or loss of use of, any personal property other than merchandise;

(d) To insure against loss or damage by water or other fluid or substance;

(10) To insure against loss from death of domestic animals and to furnish veterinary service;

(11) To guarantee merchants and those engaged in business, and giving credit, from loss by reason of giving credit to those dealing with them; this shall be known as credit insurance;

(12) To insure against loss or damage to automobiles or other vehicles or aircraft and their contents, by collision, fire, burglary, or theft, and other perils of operation, and against liability for damage to persons, or property of others, by collision with such vehicles or aircraft, and to insure against any loss or hazard incident to the ownership, operation, or use of motor or other vehicles or aircraft;

(13) To insure against liability for loss or damage to the property or person of another caused by the insured or by those for whom the insured is responsible, including insurance of medical, hospital, surgical, funeral or other related expense of the insured or other person injured, irrespective of legal liability of the insured, when issued with or supplemental to policies of liability insurance;

(14) To insure against loss of or damage to any property of the insured, resulting from the ownership, maintenance or use of elevators, except loss or damage by fire;

(15) To insure against attorneys fees, court costs, witness fees and incidental expenses incurred in connection with the use of the professional services of attorneys at law.

Sec. 6. Minnesota Statutes 1996, section 60A.06, subdivision 2, is amended to read:

Subd. 2. [OTHER LINES.] Any insurance corporation or association heretofore or hereafter licensed to transact within the state any of the kinds or classes of insurance specifically authorized under the laws of this state may, when authorized by its charter, transact within and without the state any lines of insurance germane to its charter powers and not specifically provided for under the laws of this state when these lines, or combinations of lines, of insurance are not in violation of the constitution or the laws of the state and, in the opinion of the commissioner, not contrary to public policy, provided the company or association shall first obtain authority of the commissioner and meet ~~such requirements as to~~ capital or surplus~~, or both,~~ and other solvency and policy form requirements as the commissioner shall prescribe. These additional hazards may be insured against by attachment to, or in extension of, any policy which the company may be authorized to issue under the laws of this state. This subdivision shall apply to companies operating upon the stock or mutual plan, reciprocal or interinsurance exchanges.

Sec. 7. Minnesota Statutes 1996, section 60A.075, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the terms in this subdivision have the meanings given them.

(a) "Eligible member" means a policyholder whose policy is in force as of the record date, which is the date that the mutual company's board of directors adopts a plan of conversion or some other date specified as the record date in the plan of conversion and approved by the commissioner. Unless otherwise provided in the plan, a person insured under a group policy is not an eligible member, unless on the record date:

(1) the person is insured or covered under a group life policy or group annuity contract under which funds are accumulated and allocated to the respective covered persons;

(2) the person has the right to direct the application of the funds so allocated;

(3) the group policyholder makes no contribution to the premiums or deposits for the policy or contract; and

(4) the converting mutual company has the names and addresses of the persons covered under the group life policy or group annuity contract.

(b) "Reorganized company" means a Minnesota domestic stock insurance company that has converted from a Minnesota domestic mutual insurance company according to this section.

(c) "Plan of conversion" or "plan" means a plan adopted by a Minnesota domestic mutual insurance company's board of directors under this section to convert the mutual company into a Minnesota domestic stock insurance company.

(d) "Policy" means a policy or contract of insurance issued by a converting mutual company, including an annuity contract.

(e) "Commissioner" means the commissioner of commerce.

(f) "Converting mutual company" means a Minnesota domestic mutual insurance company seeking to convert to a Minnesota domestic stock insurance company according to this section.

(g) "Effective date of a conversion" means the date determined according to subdivision 6.

(h) "Membership interests" means all policyholders' rights as members of the converting mutual company, including but not limited to, rights to vote and to participate in any distributions of surplus, whether or not incident to the company's liquidation.

(i) "Equitable surplus" means the converting mutual company's surplus as regards policyholders as of the ~~effective~~ record date of the conversion or other date approved by the commissioner determined in a manner that is not unfair or inequitable to policyholders.

(j) "Permitted issuer" means: (1) a corporation organized and owned by the converting mutual company or by any other insurance company or insurance holding company for the purpose of purchasing and holding ~~all of the stock~~ securities representing a majority of voting control of the reorganized company; (2) a stock insurance company owned by the converting mutual company or by any other insurance company or insurance holding company into which the converting mutual company will be merged; or (3) any other corporation approved by the commissioner.

Sec. 8. Minnesota Statutes 1996, section 60A.075, subdivision 8, is amended to read:

Subd. 8. [SHARE CONVERSION.] A plan of conversion under this subdivision shall provide for exchange of policyholders' membership interests in return for shares in the reorganized company, according to paragraphs (a) to (c).

(a) The policyholders' membership interests shall be exchanged, in a manner that takes into account the estimated proportionate contribution of equitable surplus of each class of participating policies and contracts, for all of the common shares of the reorganized company or common shares of its parent company or a permitted issuer, or for a combination of the common shares of the reorganized company or common shares of its parent company or a permitted issuer.

(b) Unless the anticipated issuance within a shorter period is disclosed in the plan of

conversion, the issuer of common shares shall not, within two years after the effective date of reorganization, issue either of the following:

(1) any of its common shares or any securities convertible with or without consideration into the common shares or carrying any warrant to subscribe to or purchase common shares; and

(2) any warrant, right, or option to subscribe to or purchase the common shares or other securities described in paragraph (a), except for the issue of common shares to or for the benefit of policyholders according to the plan of conversion and the issue of ~~options~~ nontransferable subscription rights for the purchase of common shares being granted to officers, directors, or ~~employees~~ a tax qualified employee benefit plan of the reorganized company or its parent company, if any, or a permitted issuer, according to ~~this section~~ subdivision 11.

(c) Unless the common shares have a public market when issued, the issuer shall use its best efforts to encourage and assist in the establishment of a public market for the common shares within two years of the effective date of the conversion or a longer period as disclosed in the plan of conversion. Within one year after any offering of stock other than the initial distribution, but no later than six years after the effective date of the conversion, the reorganized company shall offer to make available to policyholders who received and retained shares of common stock or securities described in paragraph (b), clause (1), a procedure to dispose of those shares of stock at market value without brokerage commissions or similar fees.

Sec. 9. Minnesota Statutes 1996, section 60A.075, subdivision 9, is amended to read:

Subd. 9. [SURPLUS DISTRIBUTION.] A plan of conversion under this subdivision shall provide for the exchange of the policyholders' membership interests in return for the operation of the converting mutual company's participating policies as a closed block of business and for the distribution of the company's equitable surplus to policyholders, and shall provide for the issuance of new shares of the reorganized company or its parent corporation, each according to paragraphs (a) to (i).

(a) The converting mutual company's participating business, comprised of its participating policies and contracts in force on the effective date of the conversion or other reasonable date as provided in the plan, shall be operated by the reorganized company as a closed block of participating business. However, at the option of the converting mutual company, group policies and group contracts may be omitted from the closed block.

(b) Assets of the converting mutual company must be allocated to the closed block of participating business in an amount equal to the reserves and liabilities for the converting mutual life insurer's participating policies and contracts in force on the effective date of the conversion. The plan must be accompanied by an opinion of an independent qualified actuary who meets the standards set forth in the insurance laws or regulations for the submission of actuarial opinions as to the adequacy of reserves or assets. The opinion must relate to the adequacy of the assets allocated to support the closed block of business. The actuarial opinion must be based on methods of analysis considered appropriate for those purposes by the Actuarial Standards Board.

(c) The reorganized company shall keep a separate accounting for the closed block and shall make and include in the annual statement to be filed with the commissioner each year a separate statement showing the gains, losses, and expenses properly attributable to the closed block.

(d) Notwithstanding the establishment of a closed block, the entire assets of the reorganized company shall be available for the payment of benefits to policyholders. Payment must first be made from the assets supporting the closed block until exhausted, and then from the general assets of the reorganized company.

(e) The converting mutual company's equitable surplus shall be distributed to eligible participating policyholders in a form or forms selected by the converting mutual company. The form of distribution may consist of cash, securities of the reorganized company, securities of another institution, a certificate of contribution, additional life insurance, annuity benefits, increased dividends, reduced premiums, or other equitable consideration or any combination of

forms of consideration. The consideration, if any, given to a class or category of policyholders may differ from the consideration given to another class or category of policyholders. A certificate of contribution must be repayable in ten years, be equal to 100 percent of the value of the policyholders' membership interest, and bear interest at the highest rate charged by the reorganized company for policy loans on the effective date of the conversion.

(f) The consideration must be allocated among the policyholders in a manner that is fair and equitable to the policyholders.

(g) The reorganized company or its parent corporation shall issue and sell shares of one or more classes having a total price equal to the estimated value in the market of the shares on the initial offering date. The estimated value must take into account all of the following:

(1) the pro forma market value of the reorganized company;

(2) the consideration to be given to policyholders according to paragraph (e);

(3) the proceeds of the sale of the shares; and

(4) any additional value attributable to the shares as a result of a purchaser or a group of purchasers who acted in concert to obtain shares in the initial offering, attaining, through such purchase, control of the reorganized company or its parent corporation.

(h) If a purchaser or a group of purchasers acting in concert is to attain control in the initial offering, the mutual company shall not, directly or indirectly, pay for any of the costs or expenses of conversion of the mutual company, whether or not the conversion is effected, except with permission of the commissioner.

(i) Periodically, with the commissioner's approval, the reorganized company may share in the profits of the closed block of participating business for the benefit of stockholders if the assets allocated to the closed block are in excess of those necessary to support the closed block.

Sec. 10. Minnesota Statutes 1996, section 60A.077, subdivision 1, is amended to read:

Subdivision 1. [FORMATION.] (a) A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The commissioner, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval the modifications of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner shall retain jurisdiction over the mutual insurance holding company according to this section and chapter 60D to assure that policyholder and member interests are protected.

(b) All of the initial voting shares of the capital stock of the reorganized insurance company must be issued to the mutual insurance holding company or to an intermediate stock holding company ~~that is wholly owned by the mutual insurance holding company~~. The membership interests of the policyholders of the reorganized insurance company become membership interests in the mutual insurance holding company. "Membership interests" means those interests described in section 60A.075, subdivision 1, paragraph (h). Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company and their voting rights must be determined in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall, at all times, directly or through ~~an~~ one or more intermediate stock holding ~~company~~ companies, control a majority of the voting shares of the capital stock of the reorganized insurance company, taking into account any potential dilution resulting from convertible securities.

(c) A majority of the board of directors of a mutual insurance holding company must be disinterested directors. For purposes of this section, a director is disinterested if (i) the director is not or has not within the past two years been an officer or employee of the mutual insurance

holding company or any subsidiary or predecessor corporation, and (ii) the director does not hold, directly or indirectly, a material ownership interest in any subsidiary of the mutual insurance holding company. An ownership interest is material if it represents more than one-half of one percent of the voting securities of the issuer, or a larger percentage as the commissioner may approve.

Sec. 11. Minnesota Statutes 1996, section 60A.077, subdivision 2, is amended to read:

Subd. 2. [MERGER.] (a) A domestic or foreign mutual insurance company, upon the approval of the commissioner, may reorganize by merging its policyholders' membership interests into a mutual insurance holding company formed according to subdivision 1 and continuing the corporate existence of the reorganizing insurance company as a stock insurance company subsidiary of the mutual insurance holding company or of an intermediate stock holding company. "Membership interests" means those interests described in section 60A.075, subdivision 1, paragraph (h). The commissioner, if satisfied that the interests of the ~~policyholder~~ policyholders of the reorganizing company and the interests of the existing members of the mutual insurance holding company are properly protected and that the merger is fair and equitable to ~~the policyholders~~ those parties, may approve the proposed merger and may require as a condition of approval the modifications of the proposed merger as the commissioner finds necessary for the protection of the policyholders' or members' interests. The commissioner shall retain jurisdiction, under chapter 60D, over the mutual insurance holding company organized according to this section to assure that policyholder and member interests are protected.

(b) All of the initial voting shares of the capital stock of the reorganized insurance company must be issued to the mutual insurance holding company, or to an intermediate stock holding company ~~that is wholly owned by the mutual insurance holding company~~. The membership interests of the policyholders of the reorganized insurance company become membership interests in the mutual insurance holding company. Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company and their voting rights must be determined according to the articles of incorporation and bylaws of the mutual insurance holding company. The mutual insurance holding company shall, at all times, directly or through one or more intermediate stock holding companies, control a majority of the voting shares of the capital stock of the reorganized insurance company, taking into account any potential dilution resulting from convertible securities.

(c) A domestic mutual insurance holding company may merge with a domestic or foreign mutual insurance holding company in the manner prescribed for the merger of insurance companies set forth in section 60A.16, with any exceptions or modifications the commissioner may approve.

Sec. 12. Minnesota Statutes 1996, section 60A.077, subdivision 3, is amended to read:

Subd. 3. [PLAN OF REORGANIZATION; APPROVAL BY COMMISSIONER.] (a) ~~The~~ A reorganizing or merging insurer or a merging mutual insurance holding company shall ~~file a plan of reorganization, approved~~, by the affirmative vote of a majority of its board of directors, ~~for review and approval by the commissioner~~ adopt a plan of reorganization or merger consistent with the requirements of this section and file the plan with the commissioner. At any time before the approval of a plan by the commissioner, the company, by the affirmative vote of a majority of its directors, may amend or withdraw the plan. The plan must provide for the following:

(1) in the case of a reorganization under subdivision 1, establishing a mutual insurance holding company with at least one stock insurance company subsidiary, ~~the majority of shares of which must be owned, either directly or through an intermediate stock holding company, by the mutual insurance holding company~~ or in the case of a reorganization under subdivision 2, a description of the terms and conditions of the proposed merger;

(2) analyzing the benefits and risks attendant to the proposed reorganization, including the rationale for the reorganization and analysis of the comparative benefits and risks of a demutualization under section 60A.075;

(3) protecting the immediate and long-term interests of existing policyholders;

(4) ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic insurance company;

(5) describing a plan providing for membership interests of future policyholders;

(6) describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders;

(7) ~~ensuring that, in the event of proceedings under chapter 60B involving a stock insurance company subsidiary of the mutual insurance holding company that resulted from the reorganization of a domestic mutual insurance company, the assets of the mutual insurance holding company will be available to satisfy the policyholder obligations of the stock insurance company;~~

~~(8) for periodic distribution of accumulated holding company earnings to members~~ describing the mutual insurance holding company's plan for distributions to members or other uses of accumulated mutual holding company earnings;

~~(9)~~ (8) describing the nature and content of the annual report and financial statement to be sent to each member;

~~(10)~~ (9) a copy of the proposed mutual insurance holding company's articles of incorporation and bylaws specifying all membership rights;

~~(11)~~ (10) the names, addresses, and occupational information of all corporate officers and members of the proposed mutual insurance holding company board of directors;

~~(12)~~ (11) information sufficient to demonstrate that the financial condition of the reorganizing or merging company will not be materially diminished upon reorganization, including information concerning any subsidiaries of the reorganizing or merging insurers that will become subsidiaries of the mutual insurance holding company or an intermediate holding company as part of the reorganization;

~~(13)~~ (12) a copy of the articles of incorporation and bylaws for any proposed insurance company subsidiary or intermediate holding company subsidiary;

~~(14)~~ (13) describing any plans for ~~the~~ an initial sale or subscription of stock ~~for~~ or other securities of the reorganized insurance company or any intermediate holding company; and

~~(15)~~ (14) any other information requested by the commissioner or required by rule.

(b) The commissioner may approve the plan upon finding that the requirements of this section have been fully met and the plan will protect the immediate and long-term interests of policyholders.

(c) The commissioner may retain, at the reorganizing or merging mutual company's expense, any qualified experts not otherwise a part of the commissioner's staff to assist in reviewing the plan.

(d) The commissioner may, but need not, conduct a public hearing regarding the proposed plan. The hearing must be held within 30 days after submission of a completed plan of reorganization to the commissioner. The commissioner shall give the reorganizing mutual company at least 20 days' notice of the hearing. At the hearing, the reorganizing mutual company, its policyholders, and any other person whose interest may be affected by the proposed reorganization, may present evidence, examine and cross-examine witnesses, and offer oral and written arguments or comments according to the procedure for contested cases under chapter 14. The persons participating may conduct discovery proceedings in the same manner as prescribed for the district courts of this state. All discovery proceedings must be concluded no later than three days before the scheduled commencement of the public hearing.

Sec. 13. Minnesota Statutes 1996, section 60A.077, subdivision 5, is amended to read:

Subd. 5. [APPROVAL BY MEMBERS.] The plan shall be approved ~~by the members~~ as provided in section 60A.075, subdivision 5~~.~~ by the eligible members described in paragraphs (a) to (c).

(a) In the case of a formation under subdivision 1, the plan must be approved by the eligible members of the reorganizing insurance company.

(b) In the case of a merger under subdivision 2, paragraph (a), the plan must be approved by the eligible members of the merging insurance company and by the eligible members of the mutual insurance holding company into which the policyholders' membership interests are to be merged. The vote of the eligible members of the mutual insurance holding company is not required if the commissioner determines that the merger would not be material to the financial condition of the mutual insurance holding company.

(c) In the case of a merger of two mutual insurance holding companies under subdivision 2, paragraph (c), the plan must be approved by the eligible members of both companies. The vote of the eligible members of the surviving mutual holding company is not required if the commissioner determines that the merger would not be material to the financial condition of the surviving company.

Sec. 14. Minnesota Statutes 1996, section 60A.077, subdivision 6, is amended to read:

Subd. 6. [INCORPORATION.] A mutual insurance holding company ~~resulting from the reorganization of a domestic mutual insurance company organized under chapter 300~~ shall be incorporated pursuant to chapter 300. The articles of incorporation and any amendments to the articles of the mutual insurance holding company are subject to approval of the commissioner in the same manner as those of an insurance company. Members of a mutual insurance holding company shall be entitled to vote on all matters required to be submitted to members under chapter 300 and shall additionally be treated as shareholders for purposes of the voting approval requirements of section 300.09.

Sec. 15. Minnesota Statutes 1996, section 60A.077, subdivision 7, is amended to read:

Subd. 7. [APPLICABILITY OF CERTAIN PROVISIONS.] (a) ~~A~~ In the event of the insolvency of a mutual insurance holding company, the mutual insurance holding company is considered to be an insurer subject to chapter 60B. ~~and shall automatically be a party to any proceeding under chapter 60B involving an insurance company that, as a result of a reorganization according to subdivision 1 or 2, is a subsidiary of the mutual insurance holding company. In any proceeding under chapter 60B involving the reorganized insurance company, the assets of the mutual insurance holding company are considered to be assets of the estate of the reorganized insurance company for purposes of satisfying the claims of the reorganized insurance company's policyholders.~~ A mutual insurance holding company shall not dissolve or liquidate without the approval of the commissioner or as ordered by ~~the district~~ a court ~~according to chapter 60B~~ of competent jurisdiction.

(b) A mutual insurance holding company is subject to chapter 60D ~~to the extent consistent with this section~~.

(c) As a condition to approval of the plan, the commissioner may require the mutual insurance holding company to comply with any provision of the insurance laws necessary to protect the interests of the policyholders as if the mutual insurance holding company were a domestic mutual insurance company.

(d) No person or group of persons other than the chief executive officer of a mutual insurance holding company, or the chief executive officer's designee, shall seek to obtain proxies from the members of the mutual insurance holding company for the purposes of affecting a change of control of the mutual insurance holding company unless that person or persons have filed with the commissioner and have sent to the mutual insurance holding company a statement containing the information required by section 60D.17. Section 60D.17, subdivisions 2 to 7, apply in the event of a proxy solicitation regulated by this paragraph.

(e) For purposes of this subdivision, the term "control," including the terms "controlling," "controlled by," and "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through membership voting interests, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with, corporate office held by, or court appointment of, the person. Control is presumed to exist if any person directly or indirectly, owns, controls, holds with the power to vote, or holds proxies representing, ten percent or more of the membership voting interests of the mutual insurance holding company. This presumption may be rebutted by a showing made in the manner provided by section 60D.19, subdivision 11, that control does not exist in fact. The commissioner may determine after furnishing all persons in interest notice and opportunity to be heard and making specific findings of fact to support the determination, that control exists in fact, notwithstanding the absence of a presumption to that effect.

Sec. 16. Minnesota Statutes 1996, section 60A.077, subdivision 8, is amended to read:

Subd. 8. [APPLICABILITY OF DEMUTUALIZATION PROVISIONS.] (a) Except as otherwise provided, section 60A.075 is not applicable to a reorganization or merger according to this section~~, except for section 60A.075, subdivisions 14 to 16~~.

(b) Section 60A.075 is applicable to demutualization of a mutual insurance holding company ~~that resulted from the reorganization of a domestic mutual insurance company organized under chapter 300~~ as if it were a mutual insurance company.

(c) Section 60A.075, subdivisions 14 to 16, are applicable to a reorganization or merger under this section.

Sec. 17. Minnesota Statutes 1996, section 60A.077, subdivision 9, is amended to read:

Subd. 9. [MEMBERSHIP INTERESTS.] A membership interest in a domestic mutual insurance holding company does not constitute a security as defined in section 80A.14, subdivision 18. No member of a mutual insurance holding company may transfer or pledge membership in the mutual insurance holding company or any right arising from the membership except as attendant to the valid transfer or assignment of the member's policy in any reorganized company that gave rise to the member's membership interest. A member of a mutual insurance holding company is not, as a member, personally liable for the acts, debts, liabilities, or obligations of the company. No assessments of any kind may be imposed upon the members of a mutual insurance holding company by the directors or members, or because of any liability of any company owned or controlled by the mutual insurance holding company or because of any act, debt, or liability of the mutual insurance holding company. A member's interest in the mutual insurance holding company shall automatically terminate upon cancellation, nonrenewal, expiration, or termination of the member's policy in any insurance company that gave rise to the member's membership interest.

Sec. 18. Minnesota Statutes 1996, section 60A.077, subdivision 10, is amended to read:

Subd. 10. [FINANCIAL STATEMENT REQUIREMENTS.] (a) In addition to any items required under chapter 60D, each mutual insurance holding company shall file with the commissioner, by April 1 of each year, an annual statement consisting of the following:

(1) an income statement, balance sheet, and cashflow statement prepared in accordance with generally accepted accounting principles;

(2) complete information on the status of any closed block formed as part of a plan of reorganization;

(3) an investment plan covering all assets; and

(4) a statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the mutual insurance holding company or an intermediate stock holding company. ~~Action taken according to the statement is subject to the commissioner's prior written approval.~~

(b) The aggregate pledges and encumbrances of a mutual insurance holding company's assets shall not affect more than 49 percent of the ~~company's~~ stock in ownership of any subsidiary insurance holding company or subsidiary insurance company that resulted from a reorganization or merger.

(c) At least 50 percent of the generally accepted accounting principles (GAAP) net worth of a mutual insurance holding company must be invested in insurance company subsidiaries.

Sec. 19. Minnesota Statutes 1996, section 60A.077, subdivision 11, is amended to read:

Subd. 11. [SALE OF STOCK AND PAYMENT OF DIVIDENDS.] (a) A reorganized insurance company and an intermediate stock holding company may issue subscription rights and may issue or grant any other securities, rights, options, and similar items to the same extent as any business corporation organized under chapter 302A. However, except as provided in paragraphs (b), (c), and (d), no ~~solicitation for the~~ sale of ~~the stock~~ securities of the reorganized insurance company, or of an intermediate stock holding company ~~of the mutual insurance holding company,~~ that directly or indirectly controls a majority of voting shares of the reorganized insurance company, may be made without the commissioner's prior written approval.

(b) A registration statement covering securities that has been approved by the commissioner and filed with and declared effective by the Securities and Exchange Commission under the Securities Act of 1933 pursuant to any provision of that statute or rule that allows registration of securities to be sold on a delayed or continuous basis may be sold without further approval.

(c) Unless the commissioner has granted the mutual insurance holding company a written exemption from the requirements of this paragraph any securities which are regularly traded on the New York Stock Exchange, the American Stock Exchange, or another exchange approved by the commissioner, or designated on the National Association of Securities Dealers automated quotations (NASDAQ) national market system, shall be sold according to the procedure in this paragraph. If the mutual insurance holding company, an intermediate holding company, or a reorganized insurance company intends to offer securities that are governed by this paragraph, that entity shall deliver to the commissioner, not less than ten days before the offering, a notice of the planned offering and information regarding: (1) the approximate number of shares intended to be offered; (2) the target date of sale; (3) evidence the security is regularly traded on one of the public exchanges noted above; and (4) the recent history of the trading price and trading volume of the security. The commissioner is considered to have approved the sale unless within ten days following receipt of the notice, the commissioner issues an objection to the sale. If the commissioner issues an objection to the sale, the security may not be sold until the commissioner issues an order approving the sale.

(d) A reorganized insurance company or intermediate holding company that has issued securities that are regularly traded on one of the exchanges or markets described in paragraph (c), may establish stock option, incentive, and share ownership plans customary for publicly traded companies in the same or similar industries. If the reorganized insurance company or intermediate holding company intends to establish a stock option, incentive or share ownership plan, that entity shall deliver to the commissioner, not less than 30 days before the establishment of the plan, a notice of the proposed plan along with any information about the proposed plan the commissioner requires. The commissioner is considered to have approved the plan unless within 30 days following receipt of the notice, the commissioner issues an objection to the proposed plan. If the commissioner issues an objection to the proposed plan, the plan may not be established until the commissioner issues an order approving the plan. If the commissioner approves the establishment of the stock option, incentive or share ownership plan, the reorganized insurance company or the intermediate holding company that obtained the approval may sell or issue securities according to the approved plan without further approval.

(e) The total number of shares of capital stock issued by the reorganized insurance company or an intermediate holding company that may be held by directors and officers of the mutual insurance holding company, any intermediate holding company, and of any reorganized insurance company, and acquired according to subscription rights or stock option, incentive, and share ownership plans, may not exceed the percentage limits set forth in section 60A.075, subdivision

11, paragraph (b). Subject to the requirements of subdivision 1, paragraph (c), nothing in this section prohibits the acquisition of any securities of a reorganized insurance company or intermediate stock holding company through a licensed securities broker-dealer by any officer or director of the reorganized company, an intermediate stock holding company, or the mutual insurance holding company.

(f) Dividends and other distributions to the shareholders of the reorganized stock insurance company or of an intermediate stock holding company ~~shall not be made except in compliance~~ must comply with section 60D.20. Any dividends and other distributions to the members of the mutual insurance holding company must comply with section 60D.20 and any other approval requirements contained in the mutual insurance holding company's articles of incorporation.

(g) Unless previously approved as part of the plan of reorganization, the initial offering of any voting shares to the public by a reorganized company, a stock insurance company subsidiary, or an intermediate holding company which holds a majority of the voting shares of a reorganized insurance company or stock insurance company subsidiary, must be approved by a majority of votes cast at a regular or special meeting of the members of the mutual insurance holding company. Any issuer repurchase program, plan of exchange, recapitalization, or offering of capital securities to the public, shall, in addition to any other approvals required by law or by the issuer's articles of incorporation, be approved by a majority of the board of directors of the mutual insurance holding company and by a majority of the disinterested members of the board of directors of the mutual insurance holding company.

Sec. 20. Minnesota Statutes 1996, section 60A.077, is amended by adding a subdivision to read:

Subd. 12. [PROVISIONS IN THE EVENT OF INSURER INSOLVENCY.] (a) In the event of any insolvency proceeding involving an insolvent stock subsidiary, the assets of the mutual insurance holding company, together with any assets of any intermediate holding company that directly or indirectly controls the insolvent stock subsidiary, must be available to satisfy the policyholder obligations of the insolvent stock subsidiary in an amount determined by the commissioner, but in no event more than the total amount of nonpolicyholder dividends paid by the insolvent stock subsidiary to the mutual insurance holding company, or any intermediate holding company that controls the insolvent stock subsidiary, during the ten-year period immediately preceding the date of insolvency.

(b) In determining the required contribution by the mutual insurance holding company or any intermediate stock holding company which controls the insolvent stock subsidiary, the commissioner shall take into account among other factors:

(1) the possible direct or indirect negative effects of any required contribution on any insurance company affiliate of the insolvent stock subsidiary; and

(2) the possible direct or indirect, long-term, or short-term negative effects on the members of the mutual insurance holding company, other than those members who, are, or were policyholders of the insolvent stock subsidiary.

Nothing in this subdivision limits the powers of the commissioner or the liquidator under chapter 60B.

(c) For purposes of this subdivision, the following terms have the meanings given:

(1) "date of insolvency" means, as to an insolvent stock subsidiary, the date established in accordance with chapter 60B or comparable statute of another state governing the rehabilitation or liquidation of a foreign insolvent stock subsidiary;

(2) "insolvency proceeding" means any proceeding under chapter 60B or comparable statute of another state governing the rehabilitation and liquidation of a foreign insolvent stock subsidiary;

(3) "insolvent stock subsidiary" means any stock insurance company subsidiary of a mutual insurance holding company that resulted from the reorganization of a domestic or foreign mutual

insurance company according to subdivision 1 or 2, or any other stock insurance company subsidiary that is subject to an insolvency proceeding, which on the date of insolvency has in force policies that have given rise to membership interests in the mutual insurance holding company;

(4) "control" has the meaning given in section 60D.15, subdivision 4; and

(5) "dividends" include distributions of cash or any other assets.

Sec. 21. Minnesota Statutes 1996, section 60A.092, subdivision 6, is amended to read:

Subd. 6. [SINGLE ASSUMING INSURER; TRUST FUND REQUIREMENTS.] In the case of a single assuming insurer, the trust shall consist of a trusteed account representing the assuming insurer's liabilities attributable to business written in the United States and, in addition, ~~the assuming insurer shall maintain~~ a trusteed surplus of not less than $20,000,000 or such additional amount as the commissioner deems necessary, and the assuming insurer shall maintain ~~a~~ its surplus as regards policyholders in an amount not less than $50,000,000 for long-tail casualty reinsurers as provided under subdivision 3, paragraph (a), clause (5).

Sec. 22. Minnesota Statutes 1996, section 60A.092, subdivision 11, is amended to read:

Subd. 11. [REINSURANCE AGREEMENT REQUIREMENTS.] (a) If the assuming insurer is not licensed or accredited to transact insurance or reinsurance in this state, the credit authorized under subdivisions 4 and 5 shall not be allowed unless the assuming insurer agrees in the reinsurance agreements:

(1) that in the event of the failure of the assuming insurer to perform its obligations under the terms of the reinsurance agreement, the assuming insurer shall submit to the jurisdiction of any court of competent jurisdiction in any state of the United States, comply with all requirements necessary to give the court jurisdiction, and abide by the final decision of the court or of any appellate court in the event of an appeal; and

(2) to designate the commissioner or a designated attorney as its true and lawful attorney upon whom may be served any lawful process in any action, suit, or proceeding instituted by or on behalf of the ceding company.

(b) Paragraph (a) is not intended to conflict with or override the obligation of the parties to a reinsurance agreement to arbitrate their disputes, if an obligation to do so is created in the agreement.

(c) Credit will not be granted, nor an asset or a reduction from liability allowed to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of subdivision 2, 3, 4, 5, 6, or 7, unless the reinsurance contract provides that in the event of the insolvency of the ceding insurer, the reinsurance will be payable under the contract without diminution because of that insolvency.

Sec. 23. Minnesota Statutes 1996, section 60A.10, subdivision 1, is amended to read:

Subdivision 1. [DOMESTIC COMPANIES.] (1) [DEPOSIT AS SECURITY FOR ALL POLICYHOLDERS REQUIRED.] No company in this state, other than farmers' mutual, or real estate title insurance companies, shall do business in this state unless it has on deposit with the commissioner, for the protection of both its resident and nonresident policyholders, securities to an amount, the actual market value of which, exclusive of interest, shall never be less than ~~$200,000 until July 1, 1986, $300,000 until July 1, 1987, $400,000 until July 1, 1988, and~~ $500,000 ~~on and after July 1, 1988~~ or one-half the applicable financial requirement set forth in section 60A.07, whichever is less. The securities shall be retained under the control of the commissioner as long as any policies of the depositing company remain in force.

(2) [SECURITIES DEFINED.] For the purpose of this subdivision, the word "securities" means bonds or other obligations of, or bonds or other obligations insured or guaranteed by, the United States, any state of the United States, any municipality of this state, or any agency or instrumentality of the foregoing.

(3) [PROTECTION OF DEPOSIT FROM LEVY.] No judgment creditor or other claimant may levy upon any securities held on deposit with, or for the account of, the commissioner. Upon the entry of an order by a court of competent jurisdiction for the rehabilitation, liquidation or conservation of any depositing company as provided in chapter 60B, that company's deposit together with any accrued income thereon shall be transferred to the commissioner as rehabilitator, liquidator, or conservator.

Sec. 24. Minnesota Statutes 1996, section 60A.111, subdivision 1, is amended to read:

Subdivision 1. [REPORT.] Annually, or more frequently if determined by the commissioner to be necessary for the protection of policyholders, each foreign~~, alien~~ and domestic insurance company other than a life insurance company shall report to the commissioner the ratio of its qualified assets to its required liabilities.

Sec. 25. Minnesota Statutes 1996, section 60A.13, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL STATEMENTS REQUIRED.] Every insurance company, including fraternal benefit societies, and reciprocal exchanges, doing business in this state, shall ~~transmit to~~ file with the commissioner, annually, on or before March 1, the appropriate verified National Association of Insurance Commissioners' annual statement blank, prepared in accordance with the association's instructions handbook and following those accounting procedures and practices prescribed by the association's accounting practices and procedures manual, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. Another method of valuation permitted by the commissioner must be at least as conservative as those prescribed in the association's manual. All companies required to file an annual statement under this subdivision must also file with the commissioner a copy of their annual statement on computer diskette. All Minnesota domestic insurers required to file annual statements under this subdivision must also file quarterly statements with the commissioner for the first, second, and third calendar quarter on or before 45 days after the end of the applicable quarter, prepared in accordance with the association's instruction handbook. All companies required to file quarterly statements under this subdivision must also file a copy of their quarterly statement on computer diskette. In addition, the commissioner may require the filing of any other information determined to be reasonably necessary for the continual enforcement of these laws. The statement may be limited to the insurer's business and condition in the United States unless the commissioner finds that the business conducted outside the United States may detrimentally affect the interests of policyholders in this state. The statements shall also contain a verified schedule showing all details required by law for assessment and taxation. The statement or schedules shall be in the form and shall contain all matters the commissioner may prescribe, and it may be varied as to different types of insurers so as to elicit a true exhibit of the condition of each insurer.

Sec. 26. Minnesota Statutes 1996, section 60A.19, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENTS.] Any insurance company of another state, upon compliance with all laws governing such corporations in general and with the foregoing provisions so far as applicable and the following requirements, shall be admitted to do business in this state:

(1) It shall deposit with the commissioner a certified copy of its charter or certificate of incorporation and its bylaws, and a statement showing its financial condition and business, verified by its president and secretary or other proper officers;

(2) It shall furnish the commissioner satisfactory evidence of its legal organization and authority to transact the proposed business and that its capital, assets, deposits with the proper official of its own state, amount insured, number of risks, reserve and other securities, and guaranties for protection of policyholders, creditors, and the public, comply with those required of like domestic companies;

(3) By a duly executed instrument filed in the office of the commissioner, it shall appoint the commissioner and successors in office its lawful attorneys in fact and therein irrevocably agree that legal process in any action or proceeding against it may be served upon them with the same force and effect as if personally served upon it, so long as any of its liability exists in this state;

(4) It shall appoint, as its agents in this state, residents thereof, and obtain from the commissioner a license to transact business;

(5) Regardless of what lines of business an insurer of another state is seeking to write in this state, the lines of business it is licensed to write in its state of incorporation shall be the basis for establishing the financial requirements it must meet for admission in this state or for continuance of its authority to write business in this state;

(6) No insurer of another state shall be admitted to do business in this state for a line of business that it is not authorized to write in its state of incorporation, unless the statutes of that state prohibit all insurers from writing that line of business.

Sec. 27. [60B.085] [IMMUNITY AND INDEMNIFICATION OF THE RECEIVER AND EMPLOYEES.]

Subdivision 1. [SCOPE.] The persons entitled to protection under this section are:

(1) all receivers responsible for the conduct of a delinquency proceeding under this chapter, including present and former receivers; and

(2) their employees, meaning all present and former special deputies and assistant special deputies, and all persons whom the commissioner, special deputies, or assistant special deputies have employed to assist in a delinquency proceeding under this chapter. Attorneys, accountants, auditors, and other professional persons or firms, who are retained by the receiver as independent contractors and their employees shall not be considered employees of the receiver for purposes of this section.

Subd. 2. [IMMUNITY FROM LIABILITY.] The receiver and the receiver's employees shall have official immunity and shall be immune from suit and liability, both personally and in their official capacities, for a claim for damage to or loss of property or personal injury or other civil liability caused by or resulting from an alleged act, error, or omission of the receiver or an employee arising out of or by reason of their duties or employment. Nothing in this subdivision shall be construed to hold the receiver or an employee immune from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the receiver or an employee.

Subd. 3. [INDEMNIFICATION.] If a legal action is commenced against the receiver or any employee, whether against the receiver or employee personally or in their official capacity, alleging property damage, property loss, personal injury, or other civil liability caused by or resulting from an alleged act, error, or omission of the receiver or an employee arising out of or by reason of their duties or employment, the receiver and employee must be indemnified from the assets of the insurer for all expenses, attorneys' fees, judgments, settlements, decrees, or amounts due and owing or paid in satisfaction or incurred in the defense of the legal action unless it is determined upon a final adjudication on the merits that the alleged act, error, or omission of the receiver or employee giving rise to the claim did not arise out of or by reason of the receiver's or employee's duties or employment, or was caused by intentional or willful and wanton misconduct.

(a) Attorney's fees and related expenses incurred in defending a legal action for which immunity or indemnity is available under this section must be paid from the assets of the insurer, as they are incurred, in advance of the final disposition of the action upon receipt of an undertaking by or on behalf of the receiver or employee to repay the attorneys' fees and expenses if it is ultimately determined upon a final adjudication on the merits that the receiver or employee is not entitled to immunity or indemnity under this section.

(b) Indemnification for expense payments, judgments, settlements, decrees, attorneys' fees, surety bond premiums, or other amounts paid or to be paid from the insurer's assets according to this section is an administrative expense of the insurer.

(c) In the event of an actual or threatened litigation against a receiver or an employee for which immunity or indemnity may be available under this section, a reasonable amount of funds which in the judgment of the commissioner may be needed to provide immunity or indemnity must be

segregated and reserved from the assets of the insurer as security for the payment of indemnity until all applicable statutes of limitation have run and all actual or threatened actions against the receiver or an employee have been completely and finally resolved, and all obligations of the insurer and the commissioner under this section have been satisfied.

(d) In lieu of segregation and reserving of funds, the commissioner may, in the commissioner's discretion, obtain a surety bond or make other arrangements that will enable the commissioner to fully secure the payment of all obligations under this section.

Subd. 4. [SETTLEMENT COVERAGE.] If a legal action against an employee for which indemnity may be available under this section is settled before final adjudication on the merits, the insurer must pay the settlement amount on behalf of the employee, or indemnify the employee for the settlement amount, unless the commissioner determines:

(1) that the claim did not arise out of or by reason of the employee's duties or employment; or

(2) that the claim was caused by the intentional or willful and wanton misconduct of the employee.

Subd. 5. [SETTLEMENT APPROVAL.] In a legal action in which the receiver is a defendant, that portion of a settlement relating to the alleged act, error, or omission of the receiver is subject to the approval of the court before which the delinquency proceeding is pending. The court shall not approve that portion of the settlement if it determines:

(1) that the claim did not arise out of or by reason of the receiver's duties or employment; or

(2) that the claim was caused by the intentional or willful and wanton misconduct of the receiver.

Subd. 6. [CONSTRUCTION.] Nothing contained or implied in this section operates, or shall be construed or applied, to deprive the receiver or an employee of immunity, indemnity, benefits of law, rights, or any defense otherwise available.

Sec. 28. Minnesota Statutes 1996, section 60B.21, subdivision 2, is amended to read:

Subd. 2. [FIXING OF RIGHTS.] Upon issuance of the order, the rights and liabilities of any such insurer and of its creditors, policyholders, shareholders, members, and all other persons interested in its estate are fixed as of the date of filing of the petition for liquidation, except as provided in sections 60B.22, 60B.25, clause (22), and 60B.39.

Sec. 29. Minnesota Statutes 1996, section 60B.25, is amended to read:

60B.25 [POWERS OF LIQUIDATOR.]

The liquidator shall report to the court monthly, or at other intervals specified by the court, on the progress of the liquidation in whatever detail the court orders. The liquidator shall coordinate activities with those of each guaranty association having an interest in the liquidation and shall submit a report detailing how coordination will be achieved to the court for its approval within 30 days following appointment, or within the time which the court, in its discretion, may establish. Subject to the court's control, the liquidator may:

(1) Appoint a special deputy to act under sections 60B.01 to 60B.61 and determine the deputy's compensation. The special deputy shall have all powers of the liquidator granted by this section. The special deputy shall serve at the pleasure of the liquidator.

(2) Appoint or engage employees and agents, actuaries, accountants, appraisers, consultants, and other personnel deemed necessary to assist in the liquidation without regard to chapter 14.

(3) Fix the compensation of persons under clause (2), subject to the control of the court.

(4) Defray all expenses of taking possession of, conserving, conducting, liquidating, disposing of, or otherwise dealing with the business and property of the insurer. If the property of the insurer

does not contain sufficient cash or liquid assets to defray the costs incurred, the liquidator may advance the costs so incurred out of the appropriation made to the department of commerce. Any amounts so paid shall be deemed expense of administration and shall be repaid for the credit of the department of commerce out of the first available money of the insurer.

(5) Hold hearings, subpoena witnesses and compel their attendance, administer oaths, examine any person under oath and compel any person to subscribe to testimony after it has been correctly reduced to writing, and in connection therewith require the production of any books, papers, records, or other documents which the liquidator deems relevant to the inquiry.

(6) Collect all debts and money due and claims belonging to the insurer, wherever located, and for this purpose institute timely action in other jurisdictions, in order to forestall garnishment and attachment proceedings against such debts; do such other acts as are necessary or expedient to collect, conserve, or protect its assets or property, including sell, compound, compromise, or assign for purposes of collection, upon such terms and conditions as the liquidator deems best, any bad or doubtful debts; and pursue any creditor's remedies available to enforce claims.

(7) Conduct public and private sales of the property of the insurer in a manner prescribed by the court.

(8) Use assets of the estate to transfer coverage obligations to a solvent assuming insurer, if the transfer can be arranged without prejudice to applicable priorities under section 60B.44.

(9) Acquire, hypothecate, encumber, lease, improve, sell, transfer, abandon, or otherwise dispose of or deal with any property of the insurer at its market value or upon such terms and conditions as are fair and reasonable, except that no transaction involving property the market value of which exceeds $10,000 shall be concluded without express permission of the court. The liquidator may also execute, acknowledge, and deliver any deeds, assignments, releases, and other instruments necessary or proper to effectuate any sale of property or other transaction in connection with the liquidation. In cases where real property sold by the liquidator is located other than in the county where the liquidation is pending, the liquidator shall cause to be filed with the county recorder for the county in which the property is located a certified copy of the order of appointment.

(10) Borrow money on the security of the insurer's assets or without security and execute and deliver all documents necessary to that transaction for the purpose of facilitating the liquidation.

(11) Enter into such contracts as are necessary to carry out the order to liquidate, and affirm or disavow any contracts to which the insurer is a party.

(12) Continue to prosecute and institute in the name of the insurer or in the liquidator's own name any suits and other legal proceedings, in this state or elsewhere, and abandon the prosecution of claims the liquidator deems unprofitable to pursue further. If the insurer is dissolved under section 60B.23, the liquidator may apply to any court in this state or elsewhere for leave to be substituted for the insurer as plaintiff.

(13) Prosecute any action which may exist in behalf of the creditors, members, policyholders, or shareholders of the insurer against any officer of the insurer, or any other person.

(14) Remove any records and property of the insurer to the offices of the commissioner or to such other place as is convenient for the purposes of efficient and orderly execution of the liquidation.

(15) Deposit in one or more banks in this state such sums as are required for meeting current administration expenses and dividend distributions.

(16) Deposit with the state board of investment for investment pursuant to section 11A.24, all sums not currently needed, unless the court orders otherwise.

(17) File any necessary documents for record in the office of any county recorder or record office in this state or elsewhere where property of the insurer is located.

(18) Assert all defenses available to the insurer as against third persons, including statutes of limitations, statutes of frauds, and the defense of usury. A waiver of any defense by the insurer after a petition for liquidation has been filed shall not bind the liquidator.

(19) Exercise and enforce all the rights, remedies, and powers of any creditor, shareholder, policyholder, or member, including any power to avoid any transfer or lien that may be given by law and that is not included within sections 60B.30 and 60B.32.

(20) Intervene in any proceeding wherever instituted that might lead to the appointment of a receiver or trustee, and act as the receiver or trustee whenever the appointment is offered.

(21) Enter into agreements with any receiver or commissioner of any other state relating to the rehabilitation, liquidation, conservation, or dissolution of an insurer doing business in both states.

(22) Collect from an insured any unpaid earned premium or retrospectively rated premium due the insurer based on the termination of coverage under section 60B.22. Premium on surety business is considered earned at inception if no policy term can be determined. All other premium will be considered earned and will be prorated over the determined policy term, regardless of any provision in the bond, guaranty, contract, or other agreement.

~~(22)~~ (23) Exercise all powers now held or hereafter conferred upon receivers by the laws of this state not inconsistent with sections 60B.01 to 60B.61.

~~(23)~~ (24) The enumeration in this section of the powers and authority of the liquidator is not a limitation, nor does it exclude the right to do such other acts not herein specifically enumerated or otherwise provided for as are necessary or expedient for the accomplishment of or in aid of the purpose of liquidation.

~~(24)~~ (25) The power of the liquidator of a health maintenance organization includes the power to transfer coverage obligations to a solvent and voluntary health maintenance organization, insurer, or nonprofit health service plan, and to assign provider contracts of the insolvent health maintenance organization to an assuming health maintenance organization, insurer, or nonprofit health service plan permitted to enter into such agreements. The liquidator is not required to meet the notice requirements of section 62D.121. Transferees of coverage obligations or provider contracts shall have no liability to creditors or obligees of the health maintenance organization except those liabilities expressly assumed.

Sec. 30. [60B.365] [REINSURER'S LIABILITY.]

Subdivision 1. [GENERALLY.] The amount recoverable by the liquidator from reinsurers must not be reduced as a result of the delinquency proceedings, regardless of any provision in the reinsurance contract or other agreement.

Subd. 2. [PAYMENTS.] Payments by the reinsurer must be made directly to the ceding insurer or its receiver, except where the contract of insurance or reinsurance specifically provides for another payee for the reinsurance in the event of insolvency of the ceding insurer according to the applicable requirements of statutes, rules, or orders of the domiciliary state of the ceding insurer. The receiver and reinsurer are entitled to recover from a person who unsuccessfully makes a claim directly against the reinsurer the receiver's attorneys' fees and expenses incurred in preventing any collection by the person.

Sec. 31. Minnesota Statutes 1996, section 60B.44, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATION COSTS.] The costs and expenses of administration, including but not limited to the following: The actual and necessary costs of preserving or recovering the assets of the insurer; compensation for all services rendered in the liquidation; any necessary filing fees; the fees and mileage payable to witnesses; and reasonable attorney's fees. This includes administration costs incurred by a guaranty association.

Sec. 32. Minnesota Statutes 1996, section 60B.44, subdivision 4, is amended to read:

Subd. 4. [LOSS CLAIMS; INCLUDING CLAIMS NOT COVERED BY A GUARANTY ASSOCIATION.] All claims under policies or contracts of coverage for losses incurred including third party claims, and all claims against the insurer for liability for bodily injury or for injury to or destruction of tangible property which are not under policies or contracts. All claims under life insurance and annuity policies, whether for death proceeds, annuity proceeds, or investment values, shall be treated as loss claims. That portion of any loss for which indemnification is provided by other benefits or advantages recovered or recoverable by the claimant shall not be included in this class, other than benefits or advantages recovered or recoverable in discharge of familial obligations of support or by way of succession at death or as proceeds of life insurance, or as gratuities. No payment made by an employer to an employee shall be treated as a gratuity. Claims not covered by a guaranty association are loss claims. ~~If any portion of a claim is covered by a reinsurance treaty or similar contractual obligation, that claim shall be entitled to a pro rata share, based upon the relationship the claim amount bears to all claims payable under the treaty or contract, of the proceeds received under that treaty or contractual obligation.~~

~~Claims receiving pro rata payments shall not, as to any remaining unpaid portion of their claim, be treated in a different manner than if no such payment had been received.~~

Sec. 33. Minnesota Statutes 1996, section 60B.44, is amended by adding a subdivision to read:

Subd. 4a. [WAGES.] (a) Debts due to employees for services performed, not to exceed $1,000 to each employee, which have been earned within one year before the filing of the petition for liquidation, subject to payment of applicable federal, state, or local government taxes required by law to be withheld from the debts. Officers are not entitled to the benefit of this priority. In cases where there are no claims and no potential claims of the federal government in the estate, these claims will have priority over claims in subdivision 4.

(b) The priority in paragraph (a) is in lieu of any other similar priority authorized by law as to wages or compensation of employees.

Sec. 34. Minnesota Statutes 1996, section 60B.44, subdivision 6, is amended to read:

Subd. 6. [RESIDUAL CLASSIFICATION.] All other claims including claims of ~~the federal or~~ any state or local government, not falling within other classes under this section. Claims, including those of any governmental body for a penalty or forfeiture, shall be allowed in this class only to the extent of the pecuniary loss sustained from the act, transaction, or proceeding out of which the penalty or forfeiture arose, with reasonable and actual costs occasioned thereby. The remainder of such claims shall be postponed to the class of claims under subdivision 9.

Sec. 35. Minnesota Statutes 1996, section 60D.20, subdivision 2, is amended to read:

Subd. 2. [DIVIDENDS AND OTHER DISTRIBUTIONS.] (a) Subject to the limitations and requirements of this subdivision, the board of directors of any domestic insurer within an insurance holding company system may authorize and cause the insurer to declare and pay any dividend or distribution to its shareholders as the directors deem prudent from the earned surplus of the insurer. An insurer's earned surplus, also known as unassigned funds, shall be determined in accordance with the accounting procedures and practices governing preparation of its annual statement~~, minus 25 percent of earned surplus attributable to net unrealized capital gains~~. Dividends which are paid from sources other than an insurer's earned surplus as of the end of the immediately preceding quarter for which the insurer has filed a quarterly or annual statement as appropriate, or are extraordinary dividends or distributions may be paid only as provided in paragraphs (d), (e), and (f).

(b) The insurer shall notify the commissioner within five business days following declaration of a dividend declared pursuant to paragraph (a) and at least ten days prior to its payment. The commissioner shall promptly consider the notification filed pursuant to this paragraph, taking into consideration the factors described in subdivision 4.

(c) The commissioner shall review at least annually the dividends paid by an insurer pursuant to paragraph (a) for the purpose of determining if the dividends are reasonable based upon (1) the

adequacy of the level of surplus as regards policyholders remaining after the dividend payments, and (2) the quality of the insurer's earnings and extent to which the reported earnings include extraordinary items, such as surplus relief reinsurance transactions and reserve destrengthening.

(d) No domestic insurer shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until: (1) 30 days after the commissioner has received notice of the declaration of it and has not within the period disapproved the payment; or (2) the commissioner has approved the payment within the 30-day period.

(e) For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding 12 months exceeds the greater of (1) ten percent of the insurer's surplus as regards policyholders ~~as of the 31st day of December next preceding~~ on December 31 of the preceding year; or (2) the net gain from operations of the insurer, if the insurer is a life insurer, or the net income, if the insurer is not a life insurer, not including realized capital gains, for the 12-month period ending ~~the 31st day of December next preceding~~ on December 31 of the preceding year, but does not include pro rata distributions of any class of the insurer's own securities.

(f) Notwithstanding any other provision of law, an insurer may declare an extraordinary dividend or distribution that is conditional upon the commissioner's approval, and the declaration shall confer no rights upon shareholders until: (1) the commissioner has approved the payment of such a dividend or distribution; or (2) the commissioner has not disapproved the payment within the 30-day period referred to above.

Sec. 36. Minnesota Statutes 1996, section 60K.02, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] No person shall act or assume to act as an insurance agent in the solicitation or procurement of applications for insurance, nor in the sale of insurance or policies of insurance, nor in any manner aid as an insurance agent in the negotiation of insurance by or with an insurer, including resident agents or reciprocal or interinsurance exchanges and fraternal benefit societies, until that person obtains from the commissioner a license for that purpose. The license must specifically set forth the name of the person authorized to act as an agent and the class or classes of insurance for which that person is authorized to solicit or countersign policies. An insurance agent may qualify for a license ~~in the following classes~~ to sell: (1) life and health; ~~and~~ (2) life and health and variable contracts; (3) property and casualty; (4) travel baggage; (5) bail bonds; (6) title insurance; and (7) farm property and liability.

No insurer shall appoint or reappoint a natural person, partnership, or corporation to act as an insurance agent on its behalf until that natural person, partnership, or corporation obtains a license as an insurance agent.

Sec. 37. Minnesota Statutes 1996, section 60K.03, subdivision 2, is amended to read:

Subd. 2. [RESIDENT AGENT.] The commissioner shall issue a resident insurance agent's license to a qualified resident of this state as follows:

(a) A person may qualify as a resident of this state if that person resides in this state or the principal place of business of that person is maintained in this state. Application for a license claiming residency in this state for licensing purposes constitutes an election of residency in this state. A license issued upon an application claiming residency in this state is void if the licensee, while holding a resident license in this state, also holds, or makes application for, a resident license in, or thereafter claims to be a resident of, any other state or jurisdiction or if the licensee ceases to be a resident of this state; provided, however, if the applicant is a resident of a community or trade area, the border of which is contiguous with the state line of this state, the applicant may qualify for a resident license in this state and at the same time hold a resident license from the contiguous state.

(b) The commissioner shall subject each applicant who is a natural person to a written examination as to the applicant's competence to act as an insurance agent. The examination must be held at a reasonable time and place designated by the commissioner.

(c) The examination shall be approved for use by the commissioner and shall test the applicant's knowledge of the lines of insurance, policies, and transactions to be handled under the class of license applied for, of the duties and responsibilities of the licensee, and pertinent insurance laws of this state.

(d) The examination shall be given only after the applicant has completed a program of classroom studies in a school, which shall not include a school sponsored by, offered by, or affiliated with an insurance company or its agents; except that this limitation does not preclude a bona fide professional association of agents, not acting on behalf of an insurer, from offering courses. The course of study shall consist of 30 hours of classroom study devoted to the basic fundamentals of insurance for those seeking a Minnesota license for the first time,; three hours devoted to state laws, regulations, and rules applicable to the line or lines of insurance for which licensure is being applied; 15 hours devoted to specific life and health topics for those seeking a life and health license,; and 15 hours devoted to specific property and casualty topics for those seeking a property and casualty license. The program of studies or study course shall have been approved by the commissioner in order to qualify under this paragraph. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course shall be waived. A certification of compliance by the organization offering the course shall accompany the applicant's license application. This program of studies in a school or a study course shall not apply to farm property perils and farm liability applicants, or to agents writing such other lines of insurance as the commissioner may exempt from examination by order.

(e) The applicant must pass the examination with a grade determined by the commissioner to indicate satisfactory knowledge and understanding of the class or classes of insurance for which the applicant seeks qualification. The commissioner shall inform the applicant as to whether or not the applicant has passed. Examination results are valid for a period of three years from the date of the examination. The applicant must pass the examination with a grade determined by the commissioner.

(f) An applicant who has failed to pass an examination may take subsequent examinations. Examination fees for subsequent examinations shall not be waived.

(g) Any applicant for a license covering the same class or classes of insurance for which the applicant was licensed under a similar license in this state, other than a temporary license, within the three years preceding the date of the application shall be exempt from the requirement of a written examination, unless the previous license was revoked or suspended by the commissioner. An applicant whose license is not renewed under section 60K.12 is exempt from the requirement of a written examination.

Sec. 38. Minnesota Statutes 1996, section 60K.03, subdivision 3, is amended to read:

Subd. 3. [NONRESIDENT AGENT.] The commissioner shall issue a nonresident insurance agent's license to a qualified person who is a resident of another state or country as follows:

(a) A person may qualify for a license under this section as a nonresident only if that person holds a license in another state, province of Canada, or other foreign country which, in the opinion of the commissioner, qualifies that person for the same activity as that for which a license is sought.

(b) The commissioner shall not issue a license to a nonresident applicant until that person files with the commissioner a designation of the commissioner and the commissioner's successors in office as the applicant's true and lawful attorney upon whom may be served all lawful process in an action, suit, or proceeding instituted by or on behalf of an interested person arising out of the applicant's insurance business in this state. This designation constitutes an agreement that this service of process is of the same legal force and validity as personal service of process in this state upon that applicant.

Service of process upon a licensee in an action or proceeding begun in a court of competent jurisdiction of this state may be made in compliance with section 45.028, subdivision 2.

(c) A nonresident agent shall be held to the same knowledge of insurance law, regulations, and rules as that required of a resident agent according to subdivision 2, paragraph (d).

~~(c)~~ (d) A nonresident license terminates automatically when the resident license for that class of license in the state, province, or foreign country in which the licensee is a resident is terminated for any reason.

Sec. 39. Minnesota Statutes 1996, section 60K.08, is amended to read:

60K.08 [BROKERAGE BUSINESS.]

(a) Every insurance agent duly licensed to transact business in this state shall have the right to procure the insurance of risks, or parts of risks, in the class or classes of insurance for which the agent is licensed in other insurers duly authorized to transact business in this state, but the insurance shall only be consummated through a duly appointed ~~resident~~ agent of the insurer taking the risk.

(b) If the law of another state imposes on a nonresident agent who is a resident agent of Minnesota any obligation of countersignature by a resident agent of that state, then any licensed nonresident agent of that state will be obliged to have the same kind of policies countersigned by a resident agent of Minnesota.

(c) If the law of another state requires a nonresident agent who is a resident agent of Minnesota to pay a portion of the premium to or share commissions with a licensed resident agent of that state, then ~~the~~ in the same cases a licensed resident agent of Minnesota ~~when consummating and countersigning~~ shall be required to countersign the policies for a licensed nonresident agent of that state and shall receive ~~five percent of the total premium or 25 percent of the commission, whichever is less~~ the same portion of the premium or share of the commission as required by the laws of the nonresident agent's state.

Sec. 40. Minnesota Statutes 1996, section 60K.14, subdivision 4, is amended to read:

Subd. 4. [SUITABILITY OF INSURANCE.] In recommending the purchase of any life, endowment, individual accident and sickness, long-term care, annuity, life-endowment, or Medicare supplement insurance to a customer, an agent must have reasonable grounds for believing that the recommendation is suitable for the customer and must make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined ~~by reference to the totality of the particular customer's circumstances~~ upon the basis of the facts disclosed by the customer as to the customer's other insurance and financial situation and needs, including, but not limited to, the customer's ~~income~~ financial status, the customer's need for insurance, and the values, benefits, and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

Sec. 41. Minnesota Statutes 1996, section 60K.19, subdivision 7, is amended to read:

Subd. 7. [CRITERIA FOR COURSE ACCREDITATION.] (a) The commissioner may accredit a course only to the extent it is designed to impart substantive and procedural knowledge of the insurance field. The burden of demonstrating that the course satisfies this requirement is on the individual or organization seeking accreditation. The commissioner shall approve any educational program approved by Minnesota Continuing Legal Education relating to the insurance field. The commissioner is authorized to establish a procedure for renewal of course accreditation.

(b) The commissioner shall approve or disapprove professional designation examinations that are recommended for approval by the advisory task force. In order for an agent to receive full continuing education credit for a professional designation examination, the agent must pass the examination. An agent may not receive credit for classroom instruction preparing for the professional designation examination and also receive continuing education credit for passing the professional designation examination.

(c) The commissioner may not accredit a course:

(1) that is designed to prepare students for a license examination;

(2) in mechanical office or business skills, including typing, speedreading, use of calculators, or other machines or equipment;

(3) in sales promotion, including meetings held in conjunction with the general business of the licensed agent;

(4) in motivation, the art of selling, psychology, or time management; or

(5) which can be completed by the student at home or outside the classroom without the supervision of an instructor approved by the department of commerce, except that home-study courses may be accredited by the commissioner if the student is a nonresident agent residing in a state which is not contiguous to Minnesota.

(d) The commissioner has discretion to establish a pilot program to explore delivery of accredited courses using new delivery technology, including interactive technology. This pilot program expires August 1, 2000.

Sec. 42. Minnesota Statutes 1996, section 60K.19, subdivision 8, is amended to read:

Subd. 8. [MINIMUM EDUCATION REQUIREMENT.] Each person subject to this section shall complete a minimum of 30 credit hours of courses accredited by the commissioner during each 24-month licensing period ~~after the expiration of the person's initial licensing period~~, two hours of which must be devoted to state law, regulations, and rules applicable to the line or lines of insurance for which the agent is licensed. At least 15 of the 30 credit hours must be completed during the first 12 months of the 24-month licensing period. Any person whose initial licensing period extends more than six months shall complete 15 hours of courses accredited by the commissioner during the initial license period. Any person teaching or lecturing at an accredited course qualifies for 1-1/2 times the number of credit hours that would be granted to a person completing the accredited course. No more than 15 credit hours per licensing period may be credited to a person for courses sponsored by, offered by, or affiliated with an insurance company or its agents. Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

Sec. 43. Minnesota Statutes 1996, section 61A.28, subdivision 6, is amended to read:

Subd. 6. [STOCKS, OBLIGATIONS, AND OTHER INVESTMENTS.] (a) Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of a business entity organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, if the net earnings of the business entity after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period.

(b) Preferred stock of, or common or preferred stock guaranteed as to dividends by a business entity organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, under the following conditions: (1) No investment may be made under this paragraph in a stock upon which any dividend, current or cumulative, is in arrears; (2) the company may not invest in stocks under this paragraph and in common stocks under paragraph (a) if the investment causes the company's aggregate investments in the common or preferred stocks to exceed 25 percent of the company's total admitted assets, provided that no more than 20 percent of the company's admitted assets may be invested in common stocks under paragraph (a); and (3) the company may not invest in any preferred stock or common stock guaranteed as to dividends, which is rated in the four lowest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment causes the company's aggregate investment in the lower rated preferred or common stock guaranteed as to dividends to exceed five percent of its total admitted assets.

(c) Warrants, options, and rights to purchase stock if the stock, at the time of the acquisition of

the warrant, option, or right to purchase, would qualify as an investment under paragraph (a) or (b), whichever is applicable. A company shall not invest in a warrant, option, or right to purchase stock if, upon purchase and immediate exercise thereof, the acquisition of the stock violates any of the concentration limitations contained in paragraphs (a) and (b).

(d) In addition to amounts that may be invested under subdivision 8 and without regard to the percentage limitation applicable to stocks, warrants, options, and rights to purchase, the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the Investment Company Act of 1940 as from time to time amended. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, the accounts in accordance with the provisions of sections 61A.13 to 61A.21. A company may not invest in a security authorized under this paragraph if the investment causes the company's aggregate investments in the securities to exceed five percent of its total admitted assets, except that for a health service plan corporation operating under chapter 62C, and for a health maintenance organization operating under chapter 62D, the company's aggregate investments may not exceed 20 percent of its total admitted assets. No more than five percent of the allowed investment by health service plan corporations or health maintenance organizations may be invested in funds that invest in assets not backed by the federal government. When investing in money market mutual funds, nonprofit health service plans regulated under chapter 62C, and health maintenance organizations regulated under chapter 62D, shall establish a trustee custodial account for the transfer of cash into the money market mutual fund.

(e) Investment grade obligations that are:

(1) bonds, obligations, notes, debentures, repurchase agreements, or other evidences of indebtedness of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof; and

(2) rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or are rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(f) Noninvestment grade obligations: A company may acquire noninvestment grade obligations as defined in subclause (i) (hereinafter noninvestment grade obligations) which meet the earnings test set forth in subclause (ii). A company may not acquire a noninvestment grade obligation if the acquisition will cause the company to exceed the limitations set forth in subclause (iii).

(i) A noninvestment grade obligation is an obligation of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, that is not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or is not rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(ii) Noninvestment grade obligations authorized by this subdivision may be acquired by a company if the business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has had net earnings after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence of less than five years, has averaged not less than 1-1/4 times its average annual fixed charges applicable to the period; provided, however, that if a business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has undergone an acquisition, recapitalization, or reorganization within the immediately preceding 12 months, or will use the proceeds of the obligation for an acquisition, recapitalization, or reorganization, then such business entity shall also have, on a pro forma basis, for the next succeeding 12 months, net earnings averaging 1-1/4 times its average annual fixed charges applicable to such period after elimination of extraordinary nonrecurring items of income and expense and before taxes and fixed charges; no investment may be made under this section upon which any interest obligation is in default.

(iii) Limitation on aggregate interest in noninvestment grade obligations. A company may not invest in a noninvestment grade obligation if the investment will cause the company's aggregate investments in noninvestment grade obligations to exceed the applicable percentage of admitted assets set forth in the following table:

Effective Date	Percentage of Admitted Assets
January 1, 1992	20
January 1, 1993	17.5
January 1, 1994	15

Nothing in this paragraph limits the ability of a company to invest in noninvestment grade obligations as provided under subdivision 12.

(g) Obligations for the payment of money under the following conditions: (1) The obligation must be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; (2) the lease or leases must be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; (3) the rents payable under the lease or leases must be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a governmental entity or business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada, or any province thereof, that has assumed or guaranteed any lessee's performance thereunder, must be a governmental entity or business entity whose obligations would qualify as an investment under subdivision 2 or paragraph (e) or (f). A company may acquire leases assumed or guaranteed by a noninvestment grade lessee unless the value of the lease, when added to the other noninvestment grade obligations owned by the company, exceeds 15 percent of the company's admitted assets.

(h) A company may sell ~~exchange-traded~~ call options against stocks or other securities owned by the company and may purchase ~~exchange-traded~~ call options in a closing transaction against a call option previously written by the company. In addition to the authority granted by paragraph (c), to the extent and on the terms and conditions the commissioner determines to be consistent with the purposes of this chapter, a company may purchase or sell other exchange-traded call options, and may sell or purchase exchange-traded put options.

(i) A company may not invest in a security or other obligation authorized under this subdivision if the investment, valued at cost at the date of purchase, causes the company's aggregate investment in any one business entity to exceed two percent of the company's admitted assets.

(j) For nonprofit health service plan corporations regulated under chapter 62C, and for health maintenance organizations regulated under chapter 62D, a company may invest in commercial paper rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, or rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment, valued at cost at the date of purchase, does not cause the company's aggregate investment in any one business entity to exceed six percent of the company's admitted assets.

Sec. 44. Minnesota Statutes 1996, section 61A.28, subdivision 9a, is amended to read:

Subd. 9a. [HEDGING.] A domestic life insurance company may enter into financial transactions solely for the purpose of ~~managing~~ reducing the ~~interest rate~~ risk associated with ~~the company's~~ assets and liabilities that the company has acquired or incurred or has legally contracted to acquire or incur, and not for speculative or other purposes. For purposes of this subdivision, "financial transactions" include, but are not limited to, futures, options to buy or sell fixed income securities, repurchase and reverse repurchase agreements, and interest rate swaps, caps, and floors. This authority is in addition to any other authority of the insurer.

Sec. 45. Minnesota Statutes 1996, section 61A.28, subdivision 12, is amended to read:

Subd. 12. [ADDITIONAL INVESTMENTS.] Investments of any kind, without regard to the

categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds $675,000. Except as provided in section 61A.281, a company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in section 61A.284, may not exceed ten percent of the common stock of the corporation. No investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, with the written order of the commissioner, a domestic life insurance company may make qualified investments in any ~~additional securities or property of the type authorized by subdivision 6, paragraph (e), (f), or (g), with the written order of the commissioner~~ other type of investment or exceed any limitations of quality, quantity, or percentage of admitted assets contained in this section, section 61A.29 or 61A.31, or other provision governing the investments of a domestic life insurance company. This approval is at the discretion of the commissioner, provided that the additional investments allowed by the commissioner's written order may not exceed five percent of the company's admitted assets. ~~This authorization does not negate or reduce the investment authority granted in subdivision 6, paragraph (e), (f), or (g), or this subdivision.~~

Sec. 46. Minnesota Statutes 1996, section 61A.32, is amended to read:

61A.32 [DOMESTIC MUTUAL AND STOCK AND MUTUAL COMPANIES; VOTING RIGHTS OF MEMBERS.]

Every person insured by a domestic mutual life insurance company, and every participating policyholder of a domestic stock and mutual life insurance company as defined in sections 61A.33 to 61A.36, shall be a member, entitled to one vote and one vote additional for each $1,000 of insurance in excess of the first $1,000; provided, that no member shall be entitled to more than 100 votes; and, provided, further, that in the case of group insurance on employees such group shall be deemed to be a single member and the employer shall be deemed to be such member for the purpose of voting, having not to exceed 100 votes, provided, that in cases where the employees pay all or any part of the premium, either directly or by payroll deductions, the employees shall be allowed to choose their representative, who shall exercise a voting power in proportion to the percentage of premium paid by such employees. Every member shall be notified of its annual meetings by a written notice mailed to the member's address, or by an imprint on the back of the policy, premium notice, receipt or certificate of renewal, as follows:

"The insured is hereby notified that by virtue of this policy the insured is a member of the ..... Insurance Company, and that the annual meetings of said company are held at its home office on the ..... day of ..... in each year, at ..... o'clock."

The blanks shall be duly filled in print. Any such member may vote by proxy by filing written proxy appointment with the secretary of the company at its home office at least five days before the first meeting at which it is to be used. Such proxy appointment may be for a specified period of time not to exceed one year. A proxy may be revoked by a member at any time by written notice to the secretary of the company or by executing a new proxy appointment and filing it as required

herein: provided, however, that any member may always appear personally and exercise rights as a member at any meeting of the company.

No person or group of persons other than the chief executive officer of a domestic mutual life insurance company, or the officer's designee, shall seek to obtain proxies from the members of the domestic mutual life insurance company for the purposes of affecting a change of control of the domestic mutual life insurance company unless that person or group has filed with the commissioner and has sent to the domestic mutual life insurance company a statement containing the information required by section 60D.17. Section 60D.17, subdivisions 2 to 7, apply in the event of any such solicitation.

A domestic mutual life insurance company may by its articles of incorporation or bylaws provide for a representative system of voting in any meeting of members. The articles or bylaws may provide for the selection of representatives from districts as therein specified, such representatives to represent approximately equal numbers of members with power to exercise all the voting powers, rights and privileges of the members they represent with the same force and effect as might be exercised by the members themselves. In such a representative system the votes cast by the representative shall be one vote for each member, notwithstanding the amount of insurance carried, and proxy voting shall not be permitted; provided, however, that any member may always appear personally and exercise rights as a member of the company at any meeting of the membership.

Sec. 47. Minnesota Statutes 1996, section 61A.60, subdivision 1, is amended to read:

Subdivision 1. [NOTICE FORM; AGENT SALES.] The notice required where sections 61A.53 to 61A.60 refer to this subdivision is as follows:

IMPORTANT NOTICE

DEFINITION	REPLACEMENT is any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)
IF YOU INTEND TO REPLACE COVERAGE	In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.
	You should BE AWARE that you may be required to provide EVIDENCE OF INSURABILITY and
	(1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
	(2) Your present occupation or activities may not be covered or could require additional premiums.

(3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a CLAIM under the new policy BEING DENIED that would otherwise have been paid.

(4) Current law ~~DOES~~ MAY NOT REQUIRE your present insurer(s) to REFUND any premiums.

(5) It is to your advantage to OBTAIN INFORMATION regarding your existing policies or annuity contracts [FROM THE INSURER OR AGENT FROM WHOM YOU PURCHASED THE POLICY OR ANNUITY CONTRACT.]

(If you are purchasing an annuity, clauses (1), (2), and (3) above would not apply to the new annuity contract.)

THE INSURANCE OR ANNUITY I INTEND TO PURCHASE FROM _____INSURANCE CO. MAY REPLACE OR ALTER EXISTING LIFE INSURANCE POLICY(IES) OR ANNUITY CONTRACT(S).

The following policy(ies) or annuity contract(s) may be replaced as a result of this transaction:

Insurer as it appears on the policy or contract	Insured as it appears on the policy or contract
_____	_____
_____	_____
_____	_____
_____	_____
Policy or contract number	Insured birthdate
_____	_____
_____	_____
_____	_____
_____	_____

The proposed policy or contract is:

_____ $_____

type of policy- or contract-generic name face amount

_____

signature of applicant date

_____

address of applicant city state

I certify that this form was given to and completed by

_____

(applicant-please print or type)

prior to taking an application and that I am leaving a signed copy for the applicant.

_____

agent's signature date

address

city state

Note important statement on reverse side

Sec. 48. Minnesota Statutes 1996, section 61B.19, subdivision 3, is amended to read:

Subd. 3. [LIMITATION OF COVERAGE.] Sections 61B.18 to 61B.32 do not provide coverage for:

(1) a portion of a policy or contract under which the investment risk is borne by the policy or contract holder;

(2) a policy or contract of reinsurance, unless assumption certificates have been issued and the insured has consented to the assumption as provided under section 60A.09, subdivision 4a;

(3) a policy or contract issued by an assessment benefit association operating under section 61A.39, or a fraternal benefit society operating under chapter 64B;

(4) any obligation to nonresident participants of a covered retirement plan or to the plan sponsor, employer, trustee, or other party who owns the contract; in these cases, the association is obligated under this chapter only to participants in a covered plan who are residents of the state of Minnesota on the date of impairment or insolvency;

(5) an annuity contract issued in connection with and for the purpose of funding a structured settlement of a liability claim, where the liability insurer remains liable;

(6) a portion of an unallocated annuity contract which is not issued to or in connection with a specific employee, union, or association of natural persons benefit plan or a governmental lottery, including but not limited to, a contract issued to, or purchased at the direction of, any governmental bonding authority, such as a municipal guaranteed investment contract;

(7) a plan or program of an employer, association, or similar entity to provide life, health, or annuity benefits to its employees or members to the extent that the plan or program is self-funded or uninsured, including benefits payable by an employer, association, or similar entity under:

(i) a multiple employer welfare arrangement as defined in the Employee Retirement Income Security Act of 1974, United States Code, title 29, section 1002(40)(A), as amended;

(ii) a minimum premium group insurance plan;

(iii) a stop-loss group insurance plan; or

(iv) an administrative services only contract;

(8) any policy or contract issued by an insurer at a time when it was not licensed or did not have a certificate of authority to issue the policy or contract in this state;

(9) an unallocated annuity contract issued to an employee benefit plan protected under the federal Pension Benefit Guaranty Corporation; ~~and~~

(10) a portion of a policy or contract to the extent that it provides dividends or experience rating credits except to the extent the dividends or experience rating credits have actually become due and payable or have been credited to the policy or contract before the date of impairment or insolvency, or provides that a fee or allowance be paid to a person, including the policy or contract holder, in connection with the service to, or administration of, the policy or contract~~.~~; and

(11) a contractual agreement that establishes the member insurer's obligations to provide a book value accounting guaranty for defined contribution benefit plan participants by reference to a portfolio of assets that is owned by the benefit plan or its trustee, which in each case is not an affiliate of the member insurer.

Sec. 49. Minnesota Statutes 1996, section 62A.04, subdivision 3, is amended to read:

Subd. 3. [OPTIONAL PROVISIONS.] Except as provided in subdivision 4, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth below unless such provisions are in the words in which the same appear in this section. The insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subdivision or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(1) A provision as follows:

CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed occupations to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premiums paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes occupations to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation will reduce the premium rate accordingly, and will return the excess pro rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change of occupation.

(2) A provision as follows:

MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

(3) A provision as follows:

OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for ..... (insert type of coverage or coverages) in excess of $..... (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to the insured's estate, or, in lieu thereof:

Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, or the insured's beneficiary or estate, as the case may be, and the insurer will return all premiums paid for all other such policies.

(4) A provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expense incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro rata portion

for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage.

If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase "EXPENSE INCURRED BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

(5) A provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro rata portion for the indemnities thus determined.

If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase -- "OTHER BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

(6) A provision as follows:

RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or the insured's average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two

years as shall exceed the pro rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of $200 or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

The foregoing policy provision may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50, or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workers' compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.

(7) A provision as follows:

UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(8) A provision as follows:

CANCELLATION: The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to the insured's last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. ~~If~~ Regardless of whether it is the insurer or the insured who cancels, ~~the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels,~~ the earned premium shall be computed pro rata, unless the mode of payment is monthly or less, or if the unearned amount is for more than one month. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(9) A provision as follows:

CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

(10) A provision as follows:

ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

(11) A provision as follows:

NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being under the influence of any narcotic unless administered on the advice of a physician.

Sec. 50. Minnesota Statutes 1996, section 62A.135, subdivision 5, is amended to read:

Subd. 5. [~~SUPPLEMENT TO ANNUAL STATEMENTS~~ SUPPLEMENTAL FILINGS.] Each

insurer that has fixed indemnity policies in force in this state shall, ~~as a supplement to the annual statement required by section 60A.13~~ upon request by the commissioner, submit, in a form prescribed by the commissioner, ~~the~~ experience data ~~for the calendar year~~ showing its incurred claims, earned premiums, incurred to earned loss ratio, and the ratio of the actual loss ratio to the expected loss ratio for each fixed indemnity policy form in force in Minnesota. The experience data must be provided on both a Minnesota only and a national basis. If in the opinion of the company's actuary, the deviation of the actual loss ratio from the expected loss ratio for a policy form is due to unusual reserve fluctuations, economic conditions, or other nonrecurring conditions, the insurer should also file that opinion with appropriate justification.

If the data submitted does not confirm that the insurer has satisfied the loss ratio requirements of this section, the commissioner shall notify the insurer in writing of the deficiency. The insurer shall have 30 days from the date of receipt of the commissioner's notice to file amended rates that comply with this section or a request for an exemption with appropriate justification. If the insurer fails to file amended rates within the prescribed time and the commissioner does not exempt the policy form from the need for a rate revision, the commissioner shall order that the insurer's filed rates for the nonconforming policy be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The insurer's failure to file amended rates within the specified time of the issuance of the commissioner's order amending the rates does not preclude the insurer from filing an amendment of its rates at a later time.

Sec. 51. Minnesota Statutes 1996, section 62A.316, is amended to read:

62A.316 [BASIC MEDICARE SUPPLEMENT PLAN; COVERAGE.]

(a) The basic Medicare supplement plan must have a level of coverage that will provide:

(1) coverage for all of the Medicare part A inpatient hospital coinsurance amounts, and 100 percent of all Medicare part A eligible expenses for hospitalization not covered by Medicare, after satisfying the Medicare part A deductible;

(2) coverage for the daily copayment amount of Medicare part A eligible expenses for the calendar year incurred for skilled nursing facility care;

(3) coverage for the copayment amount of Medicare eligible expenses under Medicare part B regardless of hospital confinement, subject to the Medicare part B deductible amount;

(4) 80 percent of the hospital and medical expenses and supplies incurred during travel outside the United States as a result of a medical emergency;

(5) coverage for the reasonable cost of the first three pints of blood, or equivalent quantities of packed red blood cells as defined under federal regulations under Medicare parts A and B, unless replaced in accordance with federal regulations; ~~and~~

(6) 100 percent of the cost of immunizations and routine screening procedures for cancer screening including mammograms and pap smears; and

(7) 80 percent of coverage for all physician prescribed medically appropriate and necessary equipment and supplies used in the management and treatment of diabetes. Coverage must include persons with gestational, type I, or type II diabetes.

(b) Only the following optional benefit riders may be added to this plan:

(1) coverage for all of the Medicare part A inpatient hospital deductible amount;

(2) a minimum of 80 percent of eligible medical expenses and supplies not covered by Medicare part B, not to exceed any charge limitation established by the Medicare program or state law;

(3) coverage for all of the Medicare part B annual deductible;

(4) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses;

(5) coverage for the following preventive health services:

(i) an annual clinical preventive medical history and physical examination that may include tests and services from clause (ii) and patient education to address preventive health care measures;

(ii) any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:

(A) fecal occult blood test and/or digital rectal examination;

(B) dipstick urinalysis for hematuria, bacteriuria, and proteinuria;

(C) pure tone (air only) hearing screening test, administered or ordered by a physician;

(D) serum cholesterol screening every five years;

(E) thyroid function test;

(F) diabetes screening;

(iii) any other tests or preventive measures determined appropriate by the attending physician.

Reimbursement shall be for the actual charges up to 100 percent of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association current procedural terminology (AMA CPT) codes, to a maximum of $120 annually under this benefit. This benefit shall not include payment for a procedure covered by Medicare;

(6) coverage for services to provide short-term at-home assistance with activities of daily living for those recovering from an illness, injury, or surgery:

(i) For purposes of this benefit, the following definitions apply:

(A) "activities of daily living" include, but are not limited to, bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings;

(B) "care provider" means a duly qualified or licensed home health aide/homemaker, personal care aid, or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry;

(C) "home" means a place used by the insured as a place of residence, provided that the place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured’s place of residence;

(D) "at-home recovery visit" means the period of a visit required to provide at-home recovery care, without limit on the duration of the visit, except each consecutive four hours in a 24-hour period of services provided by a care provider is one visit;

(ii) Coverage requirements and limitations:

(A) at-home recovery services provided must be primarily services that assist in activities of daily living;

(B) the insured’s attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare;

(C) coverage is limited to:

(I) no more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare-approved home care visits under a Medicare-approved home care plan of treatment;

(II) the actual charges for each visit up to a maximum reimbursement of $40 per visit;

(III) $1,600 per calendar year;

(IV) seven visits in any one week;

(V) care furnished on a visiting basis in the insured's home;

(VI) services provided by a care provider as defined in this section;

(VII) at-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded;

(VIII) at-home recovery visits received during the period the insured is receiving Medicare-approved home care services or no more than eight weeks after the service date of the last Medicare-approved home health care visit;

(iii) Coverage is excluded for:

(A) home care visits paid for by Medicare or other government programs; and

(B) care provided by family members, unpaid volunteers, or providers who are not care providers; and

(7) coverage for at least 50 percent, or the equivalent of 50 percent, of usual and customary prescription drug expenses to a maximum of $1,200 paid by the issuer annually under this benefit. An issuer of Medicare supplement insurance policies that elects to offer this benefit rider shall also make available coverage that contains the rider specified in clause (4).

Sec. 52. Minnesota Statutes 1996, section 62A.50, subdivision 3, is amended to read:

Subd. 3. [DISCLOSURES.] No long-term care policy shall be offered or delivered in this state, whether or not the policy is issued in this state, and no certificate of coverage under a group long-term care policy shall be offered or delivered in this state, unless a statement containing at least the following information is delivered to the applicant at the time the application is made:

(1) a description of the benefits and coverage provided by the policy and the differences between this policy, a supplemental Medicare policy and the benefits to which an individual is entitled under parts A and B of Medicare;

(2) a statement of the exceptions and limitations in the policy including the following language, as applicable, in bold print: "THIS POLICY DOES NOT COVER ALL NURSING CARE FACILITIES OR NURSING HOME, HOME CARE, OR ADULT DAY CARE EXPENSES AND DOES NOT COVER RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY.";

(3) a statement of the renewal provisions including any reservation by the insurer of the right to change premiums;

(4) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions;

(5) an explanation of the policy's loss ratio including at least the following language: "This means that, on the average, policyholders may expect that $..... of every $100 in premium will be returned as benefits to policyholders over the life of the contract.";

(6) a statement of the out-of-pocket expenses, including deductibles and copayments for which

the insured is responsible, and an explanation of the specific out-of-pocket expenses that may be accumulated toward any out-of-pocket maximum as specified in the policy;

(7) the following language, in bold print: "YOUR PREMIUMS CAN BE INCREASED IN THE FUTURE. THE RATE SCHEDULE THAT LISTS YOUR PREMIUM NOW CAN CHANGE.";

~~(8) the following language, if applicable, in bold print: "IF YOU ARE NOT HOSPITALIZED PRIOR TO ENTERING A NURSING HOME OR NEEDING HOME CARE, YOU WILL NOT BE ABLE TO COLLECT ANY BENEFITS UNDER THIS PARTICULAR POLICY.";~~

~~(9)~~ (8) the following language in bold print, with any provisions that are inapplicable to the particular policy omitted or crossed out: "THIS POLICY HAS A WAITING PERIOD OF ..... (CALENDAR OR BENEFIT) DAYS FOR NURSING CARE SERVICES AND A WAITING PERIOD OF ..... (CALENDAR OR BENEFIT) DAYS FOR HOME CARE SERVICES. THIS MEANS THAT THIS POLICY WILL NOT COVER YOUR CARE FOR THE FIRST ..... (CALENDAR OR BENEFIT) DAYS AFTER YOU ENTER A NURSING HOME, OR THE FIRST ..... (CALENDAR OR BENEFIT) DAYS AFTER YOU BEGIN TO USE HOME CARE SERVICES. YOU WOULD NEED TO PAY FOR YOUR CARE FROM OTHER SOURCES FOR THOSE WAITING PERIODS."; and

~~(10)~~ (9) a signed and completed copy of the application for insurance is left with the applicant at the time the application is made.

Sec. 53. Minnesota Statutes 1996, section 62B.02, is amended by adding a subdivision to read:

Subd. 8. [ACTUAL NET DEBT.] "Actual net debt" means the amount necessary to liquidate the actual unpaid indebtedness in a single lump-sum payment, excluding all unearned interest and other unearned finance charges, if any, but including any prepayment penalty.

Sec. 54. Minnesota Statutes 1996, section 62B.02, is amended by adding a subdivision to read:

Subd. 9. [SCHEDULED NET DEBT.] "Scheduled net debt" means the amount necessary to liquidate the scheduled unpaid indebtedness in a single lump-sum, excluding all unearned interest and other unearned finance charges, if any, but including any prepayment penalty, and assuming that all payments have been made according to the terms of the contract of indebtedness.

Sec. 55. Minnesota Statutes 1996, section 62B.04, subdivision 1, is amended to read:

Subdivision 1. [CREDIT LIFE INSURANCE.] (1) The ~~initial~~ amount of credit life insurance shall ~~not~~ at no time exceed the ~~amount of principal repayable under the contract of indebtedness plus an amount equal to one monthly payment. Thereafter, if the indebtedness is repayable in substantially equal installments according to a predetermined schedule, the amount of insurance on which the premium is calculated shall be equal to the scheduled indebtedness plus one monthly payment~~ greater of the actual net debt or the scheduled net debt. If the coverage is written on the actual net debt, then the amount payable at the time of loss may not be less than the actual net debt less any payments more than two months overdue. If the coverage is written on the scheduled net debt, then the amount payable at the time of loss shall be:

(1) if the actual net debt is less than or equal to the scheduled net debt, then the scheduled net debt;

(2) if the actual net debt is greater than the scheduled net debt but less than or equal to the scheduled debt plus two months of payments, then the actual net debt; or

(3) if the actual net debt is greater than the scheduled net debt plus two months of payments, then the scheduled net debt plus two months of payments. If the contract of indebtedness provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of indebtedness and subsequent changes to the rate must be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

(2) Notwithstanding clause (1), the amount of credit life insurance written in connection with credit transactions repayable over a specified term exceeding 63 months shall not exceed the greater of: (i) the actual amount of unpaid indebtedness as it exists from time to time; or (ii) where an indebtedness is repayable in substantially equal installments according to a predetermined schedule, the scheduled amount of unpaid indebtedness, less any unearned interest or finance charges, plus an amount equal to two monthly payments. If the credit transaction provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of unpaid indebtedness and subsequent changes in the rate must be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

(3) Notwithstanding clauses (1) and (2), insurance on educational, agricultural, and horticultural credit transaction commitments may be written on a nondecreasing or level term plan for the amount of the loan commitment.

(4) If the contract of indebtedness provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index shall be used in determining the scheduled amount of indebtedness, and subsequent changes to the rate shall be disregarded in determining whether the contract is repayable in substantially equal installments according to a predetermined schedule.

Sec. 56. Minnesota Statutes 1996, section 62B.04, subdivision 2, is amended to read:

Subd. 2. [CREDIT ACCIDENT AND HEALTH INSURANCE.] (a) The total amount of periodic indemnity payable by credit accident and health insurance in the event of disability, as defined in the policy, shall not exceed the aggregate of the periodic scheduled unpaid installments of the indebtedness; and the amount of each periodic indemnity payment shall not exceed the original indebtedness divided by the number of periodic installments. If the credit transaction provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the aggregate of the periodic scheduled unpaid installments of the indebtedness.

(b) If for any reason a policy of disability insurance will not or may not provide the policyholder or certificate holder with coverage for the total amount of indebtedness on the related loan or debt in the event of any one instance of disability, the following notice must be provided to the applicant. The disclosure must be on a separate 8-1/2 by 11 sheet of paper in 14 point bold face capital letters. The disclosure must state:

WARNING: IF YOU BECOME DISABLED, THIS POLICY (WILL NOT/MAY NOT) PROVIDE COVERAGE FOR THE FULL AMOUNT YOU OWE THE LENDER AS A RESULT OF YOUR LOAN. BEFORE SUBMITTING YOUR APPLICATION FOR COVERAGE, YOU SHOULD MAKE SURE YOU FULLY UNDERSTAND THE CIRCUMSTANCES UNDER WHICH YOU WOULD NOT BE ENTITLED TO FULL COVERAGE. IF YOU WANT COVERAGE FOR THE FULL AMOUNT OF YOUR INDEBTEDNESS IN THE EVENT YOU BECOME DISABLED AND THE INSURER IS UNABLE OR UNWILLING TO PROVIDE SUCH COVERAGE, YOU SHOULD INVESTIGATE THE AVAILABILITY OF SUCH COVERAGE THROUGH OTHER INSURERS.

This disclosure must be signed by the debtor and a copy provided to the debtor at the time the debtor applies for coverage. A copy of the signed disclosure must also be maintained by the insurer for at least the term of the policy if coverage is issued.

(c) Any policy or certificate of disability insurance which contains a critical period must for any single instance of disability provide monthly indemnity benefit payments for the term of the loan or 24 months, whichever is less. For purposes of this section, critical period means the period of time during which benefits will be paid to the policyholder or certificate holder as a result of any one instance of disability.

(d) Nothing in this section shall be deemed as requiring an insurer to provide benefits equal to

the net schedule indebtedness of the policyholder or the certificate holder under the related loan unless such benefits are specifically provided by the policy.

Sec. 57. Minnesota Statutes 1996, section 62E.12, is amended to read:

62E.12 [MINIMUM BENEFITS OF COMPREHENSIVE HEALTH INSURANCE PLAN.]

The association through its comprehensive health insurance plan shall offer policies which provide the benefits of a number one qualified plan and a number two qualified plan, except that the maximum lifetime benefit on these plans shall be ~~$1,500,000~~ $2,000,000, and an extended basic plan and a basic Medicare plan as described in sections 62A.31 to 62A.44 and 62E.07. The requirement that a policy issued by the association must be a qualified plan is satisfied if the association contracts with a preferred provider network and the level of benefits for services provided within the network satisfies the requirements of a qualified plan. If the association uses a preferred provider network, payments to nonparticipating providers must meet the minimum requirements of section 72A.20, subdivision 15. They shall offer health maintenance organization contracts in those areas of the state where a health maintenance organization has agreed to make the coverage available and has been selected as a writing carrier. Notwithstanding the provisions of section 62E.06 and unless those charges are billed by a provider that is part of the association's preferred provider network, the state plan shall exclude coverage of services of a private duty nurse other than on an inpatient basis and any charges for treatment in a hospital located outside of the state of Minnesota in which the covered person is receiving treatment for a mental or nervous disorder, unless similar treatment for the mental or nervous disorder is medically necessary, unavailable in Minnesota and provided upon referral by a licensed Minnesota medical practitioner.

Sec. 58. Minnesota Statutes 1996, section 62Q.16, is amended to read:

62Q.16 [MIDMONTH TERMINATION PROHIBITED.]

~~The termination of a person's coverage under any health plan as defined in section 62A.011, subdivision 3, with the exception of individual health plans, issued or renewed on or after January 1, 1995, must provide coverage until the end of the month in which coverage was terminated.~~ Any health plan as defined in section 62A.011, subdivision 3, with the exception of individual health plans, issued or renewed on or after January 1, 1995, must provide coverage until the end of the month in which coverage was terminated, contingent on payment of premium to the end of the month. The responsibility for payment of the premium to the end of the month is a matter between the person and the person's employer or former employer. An employer may require the person to pay the premium on a pro rata basis to extend coverage from the date employment terminated to the end of that month.

Sec. 59. Minnesota Statutes 1996, section 65A.01, subdivision 3, is amended to read:

Subd. 3. [POLICY PROVISIONS.] On said policy following such matter as provided in subdivisions 1 and 2, printed in the English language in type of such size or sizes and arranged in such manner, as is approved by the commissioner of commerce, the following provisions and subject matter shall be stated in the following words and in the following sequence, but with the convenient placing, if desired, of such matter as will act as a cover or back for such policy when folded, with the blanks below indicated being left to be filled in at the time of the issuing of the policy, to wit:

(Space for listing the amounts of insurance, rates and premiums for the basic coverages provided under the standard form of policy and for additional coverages or perils provided under endorsements attached. The description and location of the property covered and the insurable value(s) of any building(s) or structure(s) covered by the policy or its attached endorsements; also in the above space may be stated whether other insurance is limited and if limited the total amount permitted.)

In consideration of the provisions and stipulations herein or added hereto and of the premium above specified this company, for a term of ..... from ..... (At 12:01 a.m. Standard Time) to ..... (At 12:01 a.m. Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified does insure ..... and legal representatives .....

(In above space may be stated whether other insurance is limited.) (And if limited the total amount permitted.)

Subject to form No.(s) ..... attached hereto.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such provisions, stipulations and agreements as may be added hereto as provided in this policy.

The insurance effected above is granted against all loss or damage by fire originating from any cause, except as hereinafter provided, also any damage by lightning and by removal from premises endangered by the perils insured against in this policy, to the property described hereinafter while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere. The amount of said loss or damage, except in case of total loss on buildings, to be estimated according to the actual value of the insured property at the time when such loss or damage happens.

If the insured property shall be exposed to loss or damage from the perils insured against, the insured shall make all reasonable exertions to save and protect same.

This entire policy shall be void if, whether before a loss, the insured has willfully, or after a loss, the insured has willfully and with intent to defraud, concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interests of the insured therein.

This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion, or manuscripts.

This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, providing that such fire did not originate from any of the perils excluded by this policy.

Other insurance may be prohibited or the amount of insurance may be limited by so providing in the policy or an endorsement, rider or form attached thereto.

Unless otherwise provided in writing added hereto this company shall not be liable for loss occurring:

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while the described premises, whether intended for occupancy by owner or tenant, are vacant or unoccupied beyond a period of 60 consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

The extent of the application of insurance under this policy and the contributions to be made by this company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be

held to be waived by any requirements or proceeding on the part of this company relating to appraisal or to any examination provided for herein.

This policy shall be canceled at any time at the request of the insured, in which case this company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be canceled at any time by this company by giving to the insured ~~30 days'~~ a written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

If loss hereunder is made payable, in whole or in part, to a designated mortgagee or contract for deed vendor not named herein as insured, such interest in this policy may be canceled by giving to such mortgagee or vendor a ten days' written notice of cancellation.

Notwithstanding any other provisions of this policy, if this policy shall be made payable to a mortgagee or contract for deed vendor of the covered real estate, no act or default of any person other than such mortgagee or vendor or the mortgagee's or vendor's agent or those claiming under the mortgagee or vendor, whether the same occurs before or during the term of this policy, shall render this policy void as to such mortgagee or vendor nor affect such mortgagee's or vendor's right to recover in case of loss on such real estate; provided, that the mortgagee or vendor shall on demand pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee or vendor for any sum for loss under this policy for which no liability exists as to the mortgagor, vendee, or owner, and this company shall elect by itself, or with others, to pay the mortgagee or vendor the full amount secured by such mortgage or contract for deed, then the mortgagee or vendor shall assign and transfer to the company the mortgagee's or vendor's interest, upon such payment, in the said mortgage or contract for deed together with the note and debts thereby secured.

This company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved.

In case of any loss under this policy the insured shall give immediate written notice to this company of any loss, protect the property from further damage, and a statement in writing, signed and sworn to by the insured, shall within 60 days be rendered to the company, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

The insured, as often as may be reasonably required, shall exhibit to any person designated by this company all that remains of any property herein described, and, after being informed of the right to counsel and that any answers may be used against the insured in later civil or criminal proceedings, the insured shall, within a reasonable period after demand by this company, submit to examinations under oath by any person named by this company, and subscribe the oath. The insured, as often as may be reasonably required, shall produce for examination all records and documents reasonably related to the loss, or certified copies thereof if originals are lost, at a reasonable time and place designated by this company or its representatives, and shall permit extracts and copies thereof to be made.

In case the insured and this company, except in case of total loss on buildings, shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within 20 days of such demand. In case either fails to select an appraiser within the time provided, then a presiding judge of the district court of the county wherein the loss occurs may appoint such appraiser for such party upon application of the other party in writing by giving five days' notice thereof in writing to the party failing to appoint. The appraisers shall first select a competent and disinterested umpire; and failing for 15 days to agree upon such umpire, then a presiding judge of the above mentioned court may appoint such an umpire upon application of party in writing by

giving five days' notice thereof in writing to the other party. The appraisers shall then appraise the loss, stating separately actual value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this company shall determine the amount of actual value and loss. Each appraiser shall be paid by the selecting party, or the party for whom selected, and the expense of the appraisal and umpire shall be paid by the parties equally.

It shall be optional with this company to take all of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within 30 days after the receipt of the proof of loss herein required.

There can be no abandonment to this company of any property.

The amount of loss for which this company may be liable shall be payable 60 days after proof of loss, as herein provided, is received by this company and ascertainment of the loss is made either by agreement between the insured and this company expressed in writing or by the filing with this company of an award as herein provided. It is moreover understood that there can be no abandonment of the property insured to the company, and that the company will not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy have been complied with, and unless commenced within two years after inception of the loss.

This company is subrogated to, and may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this company; and the insurer may prosecute therefor in the name of the insured retaining such amount as the insurer has paid.

Assignment of this policy shall not be valid except with the written consent of this company.

IN WITNESS WHEREOF, this company has executed and attested these presents.

.....	.....
(Signature)	(Signature)
.....	.....
(Name of office)	(Name of office)

Sec. 60. Minnesota Statutes 1996, section 65A.01, is amended by adding a subdivision to read:

Subd. 3c. [TIME REQUIREMENTS.] (a) In the event of a policy less than 60 days old that is not being renewed, or a policy that it is being canceled for nonpayment of premium, the notice must be mailed to the insured so that it is received at least ten days before the effective cancellation date. If a policy is being canceled for underwriting considerations, the insured must be informed of the source from which the information was received.

(b) In the event of a mid-term cancellation, for reasons listed in subdivision 3a, or according to policy provisions, the insured must receive a 30-day notice.

(c) In the event of a nonrenewal, a 60-day notice must be sent to the insured, containing the specific underwriting or other reason for the indicated actions.

This subdivision does not apply to commercial policies regulated under sections 60A.36 and 60A.37.

Sec. 61. Minnesota Statutes 1996, section 65A.27, subdivision 4, is amended to read:

Subd. 4. "Homeowner's insurance" means insurance coverage, as provided in section 60A.06,

subdivision 1, clause (1)(c), normally written by the insurer as a standard homeowner's package policy or as a standard residential renter's package policy. This definition includes, but is not limited to, policies that are generally described as homeowners' policies, mobile/manufactured homeowners' policies, dwelling owner policies, condominium owner policies, and tenant policies.

Sec. 62. Minnesota Statutes 1996, section 65A.29, subdivision 4, is amended to read:

Subd. 4. [FORM REQUIREMENTS.] Any notice or statement required by subdivisions 1 to 3, or any other notice canceling a homeowner's insurance policy must be written in language which is easily readable and understandable by a person of average intelligence and understanding. The statement of reason must be sufficiently specific to convey, clearly and without further inquiry, the basis for the insurer's refusal to renew or to write the insurance coverage.

The notice or statement must also inform the insured of:

(1) the possibility of coverage through the Minnesota property insurance placement facility under sections 65A.31 to 65A.42;

(2) the right to object to the commissioner under subdivision 9; and

(3) the right to the return of unearned premium in appropriate situations under subdivision 10.

Sec. 63. Minnesota Statutes 1996, section 65B.48, subdivision 5, is amended to read:

Subd. 5. (a) Every owner of a motorcycle registered or required to be registered in this state or operated in this state by the owner or with the owner's permission shall provide and maintain security for the payment of tort liabilities arising out of the maintenance or use of the motorcycle in this state. Security may be provided by a contract of liability insurance complying with section 65B.49, subdivision 3, or by qualifying as a self insurer in the manner provided in subdivision 3.

(b) At the time an application for motorcycle insurance without personal injury protection coverage is completed, there must be attached to the application a separate form containing a written notice in at least 10-point bold type, if printed, or in capital letters, if typewritten that states:

"Under Minnesota law, a policy of motorcycle coverage issued in the State of Minnesota must provide liability coverage only, and there is no requirement that the policy provide personal injury protection (PIP) coverage in the case of injury sustained by the insured. No PIP coverage provided by an automobile insurance policy you may have in force will extend to provide coverage in the event of a motorcycle accident."

Sec. 64. [65B.492] [TOTAL DISABILITY; WAIVER OF WAGE LOSS REIMBURSEMENT.]

A plan of reparation security issued to or renewed with a person who is totally disabled may contain a waiver of wage loss reimbursement coverage, provided that the rate for any plan for which this coverage has been excluded or reduced must be reduced accordingly. For purposes of this section, the term "total disability" means the inability of an insured who is ill or injured to engage in any paid employment or work. The reparation obligor may request the insured to provide written certification of the disability by a licensed practicing physician so long as the written certification is required no more frequently than on an annual basis. This section applies to self-insurance.

Sec. 65. Minnesota Statutes 1996, section 65B.56, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL EXAMINATIONS AND DISCOVERY OF CONDITION OF CLAIMANT.] Any person with respect to whose injury benefits are claimed under a plan of reparation security shall, upon request of the reparation obligor from whom recovery is sought, submit to a physical examination by a physician or physicians selected by the obligor as may reasonably be required.

The costs of any examinations requested by the obligor shall be borne entirely by the requesting obligor. Such examinations shall be conducted within ~~the city, town, or statutory city~~ 75 miles of the residence of the injured person. If there is no qualified physician to conduct the examination within ~~the city, town, or statutory city~~ 75 miles of the residence of the injured person, then such examination shall be conducted at another place of the closest proximity to the injured person's residence. Obligors are authorized to include reasonable provisions in policies for mental and physical examination of those injured persons.

If requested by the person examined, a party causing an examination to be made shall deliver to the examinee a copy of every written report concerning the examination rendered by an examining physician to that person, at least one of which reports must set out in detail the findings and conclusions of such examining physician.

An injured person shall also do all things reasonably necessary to enable the obligor to obtain medical reports and other needed information to assist in determining the nature and extent of the injured person's injuries and loss, and the medical treatment received. If the claimant refuses to cooperate in responding to requests for examination and information as authorized by this section, evidence of such noncooperation shall be admissible in any suit or arbitration filed for damages for such personal injuries or for the benefits provided by sections 65B.41 to 65B.71.

The provisions of this section apply before and after the commencement of suit.

Sec. 66. Minnesota Statutes 1996, section 67A.231, is amended to read:

67A.231 [DEPOSIT OF FUNDS; INVESTMENT; LIMITATIONS.]

The directors of any township mutual insurance company may authorize the treasurer to invest any of its funds and accumulations in:

(a) Bonds, notes, mortgages, or other obligations guaranteed by the full faith and credit of the United States of America and those for which the credit of the United States is pledged to pay principal, interest or dividends, including United States agency and instrumentality bonds, debentures, or obligations;

(b) Bonds, notes, evidence of indebtedness, or other public authority obligations guaranteed by this state;

(c) Bonds, notes, evidence of the indebtedness or other obligations guaranteed by the full faith and credit of any county, municipality, school district, or other duly authorized political subdivision of this state;

(d) Bonds or other interest bearing obligations, payable from revenues, provided that the bonds or other interest bearing obligations are at the time of purchase rated among the highest four quality categories used by a nationally recognized rating agency for rating the quality of similar bonds or other interest bearing obligations, and are not rated lower by any other such agency; or obligations of a United States agency or instrumentality that have been rated in one of the two highest categories established by the Securities Valuation Office of the National Association of Insurance Commissioners. A company may not invest more than 20 percent of its admitted assets in the obligations of any one corporation. This is not applicable to bonds or other interest bearing obligations in default as to principal;

(e) Investments in the obligations stated in paragraphs (a), (b), (c), and (d), may be made either directly or in the form of securities of, or other interests in, an investment company registered under the Federal Investment Company Act of 1940. Investment company shares authorized pursuant to this subdivision shall not exceed 20 percent of the company's surplus. These obligations must be carried at the lower of cost or market on the annual statement filed with the commissioner and adjusted to market on an annual basis;

(f) Loans upon improved and unencumbered real property in this state worth at least twice the amount loaned thereon, not including buildings, unless insured by property insurance policies payable to and held by the security holder;

(g) Real estate, including land, buildings and fixtures, located in this state and used primarily as home office space for the insurance company;

(h) Demand or time deposits or savings accounts in federally insured depositories located in this state to the extent that the deposit or investment is insured by the Federal Deposit Insurance Corporation, Federal Savings and Loan Corporation, or the National Credit Union Administration. An additional deposit not to exceed 50 percent of the township mutual insurance company's policyholder surplus may be located in these depositories if covered by private deposit insurance written by an insurer licensed by the department of commerce;

(i) Guarantee fund certificates of a mutual insurer which reinsures the business of the township mutual insurance company. The commissioner may by rule limit the amount of guarantee fund certificates which the township mutual insurance company may purchase and this limit may be a function of the size of the township mutual insurance company; and

(j) Up to $1,500 in stock of an insurer which issues directors and officers liability insurance to township mutual insurance company directors and officers.

Sec. 67. Minnesota Statutes 1996, section 72A.20, subdivision 34, is amended to read:

Subd. 34. [SUITABILITY OF INSURANCE FOR CUSTOMER.] In recommending or issuing life, endowment, individual accident and sickness, long-term care, annuity, life-endowment, or Medicare supplement insurance to a customer, an insurer, either directly or through its agent, must have reasonable grounds for believing that the recommendation is suitable for the customer, upon the basis of facts disclosed by the customer as to the customer's other insurance and financial situation and needs, including, but not limited to, the customer's financial status, the customer's need for insurance, and the values, benefits, and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies.

In the case of group insurance marketed on a direct response basis without the use of direct agent contact, this subdivision is satisfied if the insurer has reasonable grounds to believe that the insurance offered is generally suitable for the group to whom the offer is made.

Sec. 68. Minnesota Statutes 1996, section 72B.04, subdivision 10, is amended to read:

Subd. 10. [FEES.] A fee of $40 is imposed for each initial license or temporary permit and $25 for each renewal thereof or amendment thereto. ~~A fee of $20 is imposed for each examination taken.~~ A fee of $20 is imposed for the registration of each nonlicensed adjuster who is required to register under section 72B.06. All fees shall be transmitted to the commissioner and shall be payable to the ~~state treasurer~~ department of commerce. ~~If a fee is paid for an examination and if within one year from the date of that payment no written request for a refund is received by the commissioner or the examination for which the fee was paid is not taken, the fee is forfeited to the state of Minnesota.~~

Sec. 69. Minnesota Statutes 1996, section 79A.01, subdivision 10, is amended to read:

Subd. 10. [COMMON CLAIMS FUND.] "Common claims fund," with respect to group self-insurers, means the cash, cash equivalents, or investment accounts maintained by the ~~mutual~~ self-insurance group to pay its workers' compensation liabilities.

Sec. 70. Minnesota Statutes 1996, section 79A.01, is amended by adding a subdivision to read:

Subd. 11. [DIMINUTIVE APPLICANTS.] "Diminutive applicants" to group self-insurance means applicants to existing self-insurance groups whose equity and premium are both less than five percent of the total group's equity and premium.

Sec. 71. Minnesota Statutes 1996, section 79A.02, subdivision 1, is amended to read:

Subdivision 1. [MEMBERSHIP.] For the purposes of assisting the commissioner, there is established a workers' compensation self-insurers' advisory committee of five members that are

employers authorized to self-insure in Minnesota. Three of the members and three alternates shall be elected by the self-insurers' security fund board of trustees and two members and two alternates shall be appointed by the commissioner.

Sec. 72. Minnesota Statutes 1996, section 79A.02, subdivision 4, is amended to read:

Subd. 4. [RECOMMENDATIONS TO COMMISSIONER REGARDING REVOCATION.] After each fifth anniversary from the date each individual and group self-insurer becomes certified to self-insure, the committee shall review all relevant financial data filed with the department of commerce that is otherwise available to the public and make a recommendation to the commissioner about whether each self-insurer's certificate should be revoked. For group self-insurers who have been in existence for five years or more and have been granted renewal authority, a level of funding in the common claims fund must be maintained at not less than the greater of either: (1) one year's claim losses paid in the most recent year; or (2) one-third of the security deposit posted with the department of commerce according to section 79A.04, subdivision 2. This provision supersedes any requirements under section 79A.03, subdivision 10, and Minnesota Rules, part 2780.5000.

Sec. 73. Minnesota Statutes 1996, section 79A.03, subdivision 6, is amended to read:

Subd. 6. [APPLICATIONS FOR GROUP SELF-INSURANCE.] (a) Two or more employers may apply to the commissioner for the authority to self-insure as a group, using forms available from the commissioner. This initial application shall be accompanied by a copy of the bylaws or plan of operation adopted by the group. Such bylaws or plan of operation shall conform to the conditions prescribed by law or rule. The commissioner shall approve or disapprove the bylaws within 60 days unless a question as to the legality of a specific bylaw or plan provision has been referred to the attorney general's office. The commissioner shall make a determination as to the application within 15 days after receipt of the requested response from the attorney general's office.

(b) After the initial application and the bylaws or plan of operation have been approved by the commissioner or at the time of the initial application, the group shall submit the names of employers that will be members of the group; an indemnity agreement providing for joint and several liability for all group members for any and all workers' compensation claims incurred by any member of the group, as set forth in Minnesota Rules, part 2780.9920, signed by an officer of each member; and an accounting review performed by a certified public accountant. A certified financial audit may be filed in lieu of an accounting review.

(c) When a group has obtained its authority to self-insure, additional applicants who wish to join the group must apply for approval by submitting: (1) an application; (2) an indemnity agreement providing for joint and several liability as set forth in Minnesota Rules, part 2780.9920, signed by an officer of the applicant; and (3) a certified financial audit performed by a certified public accountant at least 45 days before joining the group. An accounting review performed by a certified public accountant may be filed in lieu of a certified audit.

New diminutive applicants to the group, as defined in section 79A.01, subdivision 11, applying for membership in groups in existence longer than one year, who have a combined equity of all group members in excess of 15 times the last retention limit selected by the group with the workers' compensation reinsurance association, and have posted 125 percent of the group's total estimated future liability, must submit the items in this paragraph at least ten days before joining the group.

If the cumulative total of premium added to the group by diminutive new members is greater than 50 percent in a fiscal year of the group, all subsequent new members' applications must be submitted at least 45 days before joining the group.

In all cases of new membership, evidence that cash premiums equal to not less than 20 percent of the current year's modified premium of each applicant have been paid into a common claims fund, maintained by the group in a designated depository must be filed with the department at least ten days before joining the group.

Sec. 74. Minnesota Statutes 1996, section 79A.03, subdivision 7, is amended to read:

Subd. 7. [FINANCIAL STANDARDS.] A self-insurer group ~~proposing to self-insure~~ shall have and maintain:

(a) A combined net worth of all of the members of an amount at least equal to the greater of ten times the retention selected with the workers' compensation reinsurance association or one-third of the current annual modified premium of the members.

(b) Sufficient assets, net worth, and liquidity to promptly and completely meet all obligations of its members under chapter 176 or this chapter. In determining whether a group is in sound financial condition, consideration shall be given to the combined net worth of the member companies; the consolidated long-term and short-term debt to equity ratios of the member companies; any excess insurance other than reinsurance with the workers' compensation reinsurance association, purchased by the group from an insurer licensed in Minnesota or from an authorized surplus line carrier; other financial data requested by the commissioner or submitted by the group; and the combined workers' compensation experience of the group for the last four years.

Sec. 75. Minnesota Statutes 1996, section 79A.03, subdivision 9, is amended to read:

Subd. 9. [FILING REPORTS.] (a) Incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation shall be reported to the commissioner by each self-insurer on a calendar year basis, in a manner and on forms available from the commissioner. Payroll information must be filed by April 1 of the following year~~, and loss information and total workers' compensation liability must be filed by August 1 of the following year~~.

(b) Each self-insurer shall, under oath, attest to the accuracy of each report submitted pursuant to paragraph (a). Upon sufficient cause, the commissioner shall require the self-insurer to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors: where the losses reported appear significantly different from similar types of businesses; where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of that employer. If any discrepancy is found, the commissioner shall require changes in the self-insurer's or workers' compensation service company record keeping practices.

(c) ~~With the~~ An annual ~~loss~~ status report due August 1, by each self-insurer shall ~~report to the commissioner any workers' compensation claim from the previous year where the full, undiscounted value is estimated to exceed $50,000,~~ be filed in a manner and on forms prescribed by the commissioner.

(d) Each individual self-insurer shall, within four months after the end of its fiscal year, annually file with the commissioner its latest 10K report required by the Securities and Exchange Commission. If an individual self-insurer does not prepare a 10K report, it shall file an annual certified financial statement, together with such other financial information as the commissioner may require to substantiate data in the financial statement.

(e) Each member of the group shall, within four months after the end of each fiscal year for that group, file the most recent annual financial statement, reviewed by a certified public accountant in accordance with the Statements on Standards for Accounting and Review Services, Volume 2, the American Institute of Certified Public Accountants Professional Standards, or audited in accordance with generally accepted auditing standards, together with such other financial information the commissioner may require. In addition, the group shall file, within four months after the end of each fiscal year for that group, combining financial statements of the group members, compiled by a certified public accountant in accordance with the Statements on

Standards for Accounting and Review Services, Volume 2, the American Institute of Certified Public Accountants Professional Standards. The combining financial statements shall include, but not be limited to, a balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Each combining financial statement shall include a column for each individual group member along with a total column.

Where a group has 50 or more members, the group shall file, in lieu of the combining financial statements, a combined financial statement showing only the total column for the entire group's balance sheet, income statement, statement of changes in net worth, and statement of cash flow. Additionally, the group shall disclose, for each member, the total assets, net worth, revenue, and income for the most recent fiscal year. The combining and combined financial statements may omit all footnote disclosures.

(f) In addition to the financial statements required by paragraphs (d) and (e), interim financial statements or 10Q reports required by the Securities and Exchange Commission may be required by the commissioner upon an indication that there has been deterioration in the self-insurer's financial condition, including a worsening of current ratio, lessening of net worth, net loss of income, the downgrading of the company's bond rating, or any other significant change that may adversely affect the self-insurer's ability to pay expected losses. Any self-insurer that files an 8K report with the Securities and Exchange Commission shall also file a copy of the report with the commissioner within 30 days of the filing with the Securities and Exchange Commission.

Sec. 76. Minnesota Statutes 1996, section 79A.03, subdivision 10, is amended to read:

Subd. 10. [ANNUAL AUDIT AND REFUNDS.] (a) The accounts and records of the group self-insurer's fund shall be audited annually. Audits shall be made by certified public accountants, based on generally accepted accounting principles and generally accepted auditing standards, and supported by actuarial review and opinion of the future contingent liabilities, in order to determine the solvency of the self-insurer's fund. All audits required by this subdivision shall be filed with the commissioner 90 days after the close of the fiscal year for the group self-insurer. The commissioner may require a special audit to be made at other times if the financial stability of the fund or the adequacy of its monetary reserves is in question.

(b) One hundred percent of any surplus money for a fund year in excess of 125 percent of the amount necessary to fulfill all obligations under chapter 176 for that fund year may be declared refundable to a member at any time after 18 months following the end of such fund year. There can be no more than one refund in any 12-month period. When all claims of any one fund year have been fully paid, as certified by an actuary, all surplus money from that fund year may be declared refundable.

Sec. 77. Minnesota Statutes 1996, section 79A.03, is amended by adding a subdivision to read:

Subd. 13. [ANNUAL REQUIREMENTS.] The financial requirements set forth in subdivisions 3, 4, 5, and 7 must be met on an annual basis.

Sec. 78. Minnesota Statutes 1996, section 79A.06, subdivision 5, is amended to read:

Subd. 5. [PRIVATE EMPLOYERS WHO HAVE CEASED TO BE SELF-INSURED.] Private employers who have ceased to be private self-insurers shall discharge their continuing obligations to secure the payment of compensation which is accrued during the period of self-insurance, for purposes of Laws 1988, chapter 674, sections 1 to 21, by compliance with all of the following obligations of current certificate holders:

(1) Filing reports with the commissioner to carry out the requirements of this chapter;

(2) Depositing and maintaining a security deposit for accrued liability for the payment of any compensation which may become due, pursuant to chapter 176. However, if a private employer who has ceased to be a private self-insurer purchases an insurance policy from an insurer authorized to transact workers' compensation insurance in this state which provides coverage of all claims for compensation arising out of injuries occurring during the period the employer was self-insured, whether or not reported during that period, the policy will discharge the obligation of

the employer to maintain a security deposit for the payment of the claims covered under the policy. The policy may not be issued by an insurer unless it has previously been approved as to form and substance by the commissioner; and

(3) Paying within 30 days all assessments of which notice is sent by the security fund, for a period of seven years from the last day its certificate of self-insurance was in effect. Thereafter, the private employer who has ceased to be a private self-insurer may either: (a) continue to pay within 30 days all assessments of which notice is sent by the security fund until it has no incurred liabilities for the payment of compensation arising out of injuries during the period of self-insurance; or (b) pay the security fund a cash payment equal to four percent of the net present value of all remaining incurred liabilities for the payment of compensation under sections 176.101 and 176.111 as certified by a member of the casualty actuarial society. Assessments shall be based on the benefits paid by the employer during the calendar year immediately preceding the calendar year in which the employer's right to self-insure is terminated or withdrawn.

(4) With respect to a self-insurer who terminates its self-insurance authority after the effective date of this clause, that member shall obtain and file with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment before termination.

(5) A former member who terminated its self-insurance authority before the effective date of this clause who has paid assessments to the self-insurers' security fund for seven years, and whose annualized assessment is $500 or less, may buy out of its outstanding liabilities to the self-insurers' security fund by an amount calculated as follows: 1.35 multiplied by the indemnity case reserves at the time of the calculation, multiplied by the then current self-insurers' security fund annualized assessment rate.

(6) A former member who terminated its self-insurance authority before the effective date of this clause, and who is paying assessments within the first seven years after ceasing to be self-insured under clause (3), may elect to buy out its outstanding liabilities to the self-insurers' security fund by obtaining and filing with the commissioner an actuarial opinion of its outstanding liabilities as determined by an associate or fellow of the Casualty Actuarial Society. The opinion must separate liability for indemnity benefits from liability from medical benefits, and must discount each up to four percent per annum to net present value. Within 30 days after notification of approval of the actuarial opinion by the commissioner, the member shall pay to the security fund an amount equal to 120 percent of that discounted outstanding indemnity liability, multiplied by the greater of the average annualized assessment rate since inception of the security fund or the annual rate at the time of the most recent assessment.

(7) A former member who has paid the security fund according to clauses (4) to (6) and subsequently receives authority from the commissioner to again self-insure shall be assessed under section 79A.12, subdivision 2, only on indemnity benefits paid on injuries that occurred after the former member received authority to self-insure again; provided that the member furnishes verified data regarding those benefits to the security fund.

In addition to proceedings to establish liabilities and penalties otherwise provided, a failure to comply may be the subject of a proceeding before the commissioner. An appeal from the commissioner's determination may be taken pursuant to the contested case procedures of chapter 14 within 30 days of the commissioner's written determination.

Any current or past member of the self-insurers' security fund is subject to service of process on any claim arising out of chapter 176 or this chapter in the manner provided by section 5.25, or as otherwise provided by law. The issuance of a certificate to self-insure to the private self-insured employer shall be deemed to be the agreement that any process which is served in accordance with this section shall be of the same legal force and effect as if served personally within this state.

Sec. 79. Minnesota Statutes 1996, section 79A.21, subdivision 2, is amended to read:

Subd. 2. [REQUIRED DOCUMENTS.] All first year applications must be accompanied by the following:

(a) A detailed business plan including the risk profile of the proposed membership, underwriting guidelines, marketing plan, minimum financial criteria for each member, and financial projections for the first year of operation.

(b) A plan describing the method in which premiums are to be charged to the employer members. The plan shall be accompanied by copies of the member's workers' compensation insurance policies in force at the time of application. In developing the premium for the group, the commercial self-insurance group shall base its premium on the Minnesota workers' compensation insurers association's manual of rules, loss costs, and classifications approved for use in Minnesota by the commissioner. Each member applicant shall, on a form approved by the commissioner, complete estimated payrolls for the first 12-month period that the applicant will be self-insured. Premium volume discounts per the plan will be permitted if they can be shown to be consistent with actuarial standards.

(c) A schedule indicating actual or anticipated operational expenses of the commercial self-insurance group. No authority to self-insure will be granted unless, over the term of the policy year, at least 65 percent of total revenues from all sources for the year are available for the payment of its claim and assessment obligations. For purposes of this calculation, claim and assessment obligations include the cost of allocated loss expenses as well as special compensation fund and commercial self-insurance group security fund assessments but exclude the cost of unallocated loss expenses.

(d) An indemnity agreement from each member who will participate in the commercial self-insurance group, signed by an officer of each member, providing for joint and several liability for all claims and expenses of all of the members of the commercial self-insurance group arising in any fund year in which the member was a participant on a form approved by the commissioner. The indemnity agreement shall provide for assessments according to the group's bylaws on an individual and proportionate basis.

(e) A copy of the commercial self-insurance group bylaws.

(f) Evidence of the security deposit required under section 79A.24, accompanied by the actuarial certification study for the minimum security deposit as required under section 79A.24.

(g) Each initial member of the commercial self-insurance group shall submit to the commercial self-insurance group accountant its most recent annual financial statement. Financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit, signed by a company officer under oath, stating that there has been no material lessening of the net worth nor other adverse changes in its financial condition since the end of the period. Individual group members constituting at least 75 percent of the group's annual premium shall submit reviewed or audited financial statements. The remaining members may submit compilation level statements. Statements for a period ending more than 12 months prior to the date of application cannot be accepted.

(h) A compiled combined financial statement of all group members prepared by the commercial self-insurance group's accountant and a list of members included in such statements.

(i) A copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

(j) A list of all members and the percentage of premium each represents to the total group's annual premium for the policy year.

Sec. 80. Minnesota Statutes 1996, section 79A.22, subdivision 7, is amended to read:

Subd. 7. [INVESTMENTS.] (a) Any securities purchased by the common claims fund shall be

in such denominations and with dates of maturity to ensure securities may be redeemable at sufficient time and in sufficient amounts to meet the fund's current and long-term liabilities.

~~(b) Cash assets of the common claims fund may be invested in the following securities:~~

~~(1) direct obligations of the United States government, except mortgage-backed securities of the Government National Mortgage Association;~~

~~(2) bonds, notes, debentures, and other instruments which are obligations of agencies and instrumentalities of the United States including, but not limited to, the federal National Mortgage Association, the federal Home Loan Mortgage Corporation, the federal Home Loan Bank, the Student Loan Marketing Association, and the Farm Credit System, and their successors, but not including collateralized mortgage obligations or mortgage pass-through instruments;~~

~~(3) bonds or securities that are issued by the state of Minnesota and that are secured by the full faith and credit of the state;~~

~~(4) certificates of deposit which are insured by the federal Deposit Insurance Corporation and are issued by a Minnesota depository institution;~~

~~(5) obligations of, or instruments unconditionally guaranteed by, Minnesota depository institutions whose long-term debt rating is at least AA-, or Aa3, or their equivalent by at least two nationally recognized rating agencies.~~

(b) Cash assets of the self-insurer's fund may be invested as provided in section 60A.11 for a casualty insurance company, provided that investment in real estate of or indebtedness from any member company or affiliates prohibited. In addition, investment in the following is allowed:

(1) savings accounts or certificates of deposit in a duly chartered commercial bank located within the state of Minnesota and insured through the Federal Deposit Insurance Corporation;

(2) share accounts or savings certificates in a duly chartered savings and loan association located within the state of Minnesota and insured through the Federal Savings and Loan Insurance Corporation;

(3) direct obligations of the United States Treasury, such as notes, bonds, or bills;

(4) a bond or security issued by the state of Minnesota and backed by the full faith and credit of the state;

(5) a credit union where the employees of the self-insurer are members if the credit union is located in Minnesota, licensed by the state of Minnesota, and insured through the Federal Deposit Insurance Corporation; or

(6) real estate, common stock, preferred stock, or corporate bonds listed on the New York, American Stock Exchange or NASDAQ Stock Market, so long as these investments are not issued by any member company or affiliate and the total in all other allowable categories make up at least 75 percent of the total required in the common claims fund.

Sec. 81. Minnesota Statutes 1996, section 79A.22, is amended by adding a subdivision to read:

Subd. 13. [COMMON CLAIMS FUND; FIVE-YEAR EXCEPTION.] For commercial group self-insurers who have been in existence for five years or more, a level of funding in the common claims fund must be maintained at not less than the greater of either:

(1) one year's claim losses paid in the most recent year; or

(2) one-third of the security deposit posted with the department of commerce according to section 79A.24, subdivision 2.

This provision supersedes any requirements under subdivisions 11 and 12 and Minnesota Rules, part 2780.5000.

Sec. 82. Minnesota Statutes 1996, section 79A.23, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED REPORTS TO COMMISSIONER.] Each commercial self-insurance group shall submit the following documents to the commissioner.

(a) An annual report shall be submitted by April 1 showing the incurred losses, paid and unpaid, specifying indemnity and medical losses by classification, payroll by classification, and current estimated outstanding liability for workers' compensation on a calendar year basis, in a manner and on forms available from the commissioner. In addition each group will submit a quarterly interim loss report showing incurred losses for all its membership.

(b) Each commercial self-insurance group shall submit within 45 days of the end of each quarter:

(1) a schedule showing all the members who participate in the group, their date of inception, and date of withdrawal, if applicable;

(2) a separate section identifying which members were added or withdrawn during that quarter; and

(3) an internal financial statement and copies of the fiscal agent's statements supporting the balances in the common claims fund.

(c) The commercial self-insurance group shall submit an annual certified financial audit report of the commercial self-insurance group fund by April 1 of the following year. The report must be accompanied by an expense schedule showing the commercial self-insurance group's operational costs for the same year including service company charges, accounting and actuarial fees, fund administration charges, reinsurance premiums, commissions, and any other costs associated with the administration of the group program.

(d) An officer of the commercial self-insurance group shall, under oath, attest to the accuracy of each report submitted under paragraphs (a), (b), and (c). Upon sufficient cause, the commissioner shall require the commercial self-insurance group to submit a certified audit of payroll and claim records conducted by an independent auditor approved by the commissioner, based on generally accepted accounting principles and generally accepted auditing standards, and supported by an actuarial review and opinion of the future contingent liabilities. The basis for sufficient cause shall include the following factors:

(1) where the losses reported appear significantly different from similar types of groups;

(2) where major changes in the reports exist from year to year, which are not solely attributable to economic factors; or

(3) where the commissioner has reason to believe that the losses and payroll in the report do not accurately reflect the losses and payroll of the commercial self-insurance group.

If any discrepancy is found, the commissioner shall require changes in the commercial self-insurance group's business plan or service company recordkeeping practices.

(e) Each commercial self-insurance group shall submit by ~~August~~ September 15 a copy of the group's annual federal and state income tax returns or provide proof that it has received an exemption from these filings.

(f) With the annual loss report each commercial self-insurance group shall report to the commissioner any worker's compensation claim where the full, undiscounted value is estimated to exceed $50,000, in a manner and on forms prescribed by the commissioner.

(g) Each commercial self-insurance group shall submit by May 1 a list of all members and the percentage of premium each represents to the total group's premium for the previous calendar year.

(h) Each commercial self-insurance group shall submit by May 1 the following documents prepared by the group's certified public accountant:

(1) a compiled combined financial statement of group members and a list of members included in this statement; and

(2) a report that the statements which were combined have met the requirements of subdivision 2.

(i) If any group member comprises over 25 percent of total group premium, that member's financial statement must be reviewed or audited, and ~~must be submitted to the commissioner~~, at the commissioner's option, must be filed with the department of commerce by May 1 of the following year.

(j) Each commercial self-insurance group shall submit a copy of each member's accountant's report letter from the reports used in compiling the combined financial statements.

Sec. 83. Minnesota Statutes 1996, section 79A.23, subdivision 2, is amended to read:

Subd. 2. [REQUIRED REPORTS FROM MEMBERS TO GROUP.] Each member of the commercial self-insurance group shall, by April 1, submit to the group its most recent annual financial statement, together with other financial information the group may require. These financial statements submitted must not have a fiscal year end date older than January 15 of the group's calendar year end. Individual group members constituting at least ~~75~~ 50 percent of the group's annual premium shall submit to the group reviewed or audited financial statements. The remaining members may submit compilation level statements.

Sec. 84. Minnesota Statutes 1996, section 79A.24, subdivision 1, is amended to read:

Subdivision 1. [ANNUAL SECURING OF LIABILITY.] Each year every commercial self-insurance group shall secure its estimated future ~~incurred liabilities~~ liability for the payment of compensation and the performance of the obligations of its membership imposed under chapter 176. A new deposit must be posted within 30 days of the filing of the commercial self-insurance group's annual actuarial report with the commissioner.

Sec. 85. Minnesota Statutes 1996, section 79A.24, subdivision 2, is amended to read:

Subd. 2. [MINIMUM DEPOSIT.] The minimum deposit is 150 percent of the commercial self-insurance group's estimated future ~~incurred liabilities~~ liability for the payment of compensation as determined by an actuary. If all the members of the commercial self-insurance group have submitted reviewed or audited financial statements to the group's accountant, this minimum deposit shall be 110 percent of the commercial self-insurance group's estimated future ~~incurred liabilities~~ liability for the payment of workers' compensation as determined by an actuary. The group must file a letter with the commissioner from the group's accountant which confirms that the compiled combined financial statements were prepared from members reviewed or audited financial statements only before the lower security deposit is allowed. Each actuarial study shall include a projection of future losses during a one-year period until the next scheduled actuarial study, less payments anticipated to be made during that time. Deduction should be made for the total amount which is estimated to be returned to the commercial self-insurance group from any specific excess insurance coverage, aggregate excess insurance coverage, and any supplementary benefits which are estimated to be reimbursed by the special compensation fund. Supplementary benefits will not be reimbursed by the special compensation fund unless the special compensation fund assessment pursuant to section 176.129 is paid and the required reports are filed with the special compensation fund. In the case of surety bonds, bonds shall secure administrative and legal costs in addition to the liability for payment of compensation reflected on the face of the bond. In no event shall the security be less than the group's selected retention limit of the workers' compensation reinsurance association. The posting or depositing of security under this section shall release all previously posted or deposited security from any obligations under the posting or depositing and any surety bond so released shall be returned to the surety. Any other security shall be returned to the depositor or the person posting the bond.

Sec. 86. Minnesota Statutes 1996, section 79A.24, subdivision 4, is amended to read:

Subd. 4. [CUSTODIAL ACCOUNTS.] (a) All surety bonds, irrevocable letters of credit, and

documents showing issuance of any irrevocable letter of credit shall be deposited in accordance with the provisions of section 79A.071.

(b) Upon the commissioner sending a request to renew, request to post, or request to increase a security deposit, a perfected security interest is created in the commercial self-insurance group's and member's assets in favor of the commissioner to the extent of any then unsecured portion of the commercial self-insurance group's incurred liabilities. The perfected security interest is transferred to any cash or securities thereafter posted by the commercial self-insurance group with the state treasurer and is released only upon either of the following:

(1) the acceptance by the commissioner of a surety bond or irrevocable letter of credit for the full amount of the incurred liabilities for the payment of compensation; or

(2) the return of cash or securities by the commissioner. The commercial self-insurance group loses all right, title, and interest in and any right to control all assets or obligations posted or left on deposit as security. In the event of a declaration of bankruptcy or insolvency by a court of competent jurisdiction, or in the event of the issuance of a certificate of default by the commissioner, the commissioner shall liquidate the deposit as provided in this chapter, and transfer it to the commercial self-insurance group security fund for application to the commercial self-insurance group's incurred liability.

(c) No securities in physical form on deposit with the state treasurer or the commissioner or custodial accounts assigned to the state shall be released or exchanged without an order from the commissioner. No security can be exchanged more than once every 90 days.

(d) Any securities deposited with the state treasurer or with a custodial account assigned to the state treasurer or letters of credit or surety bonds held by the commissioner may be exchanged or replaced by the depositor with any other acceptable securities or letters of credit or surety bond of like amount so long as the market value of the securities or amount of the surety bonds or letter of credit equals or exceeds the amount of the deposit required. If securities are replaced by surety bond, the commercial self-insurance group must maintain securities on deposit in an amount sufficient to meet all outstanding workers' compensation liability arising during the period covered by the deposit of the replaced securities.

~~(e) The commissioner shall return on an annual basis to the commercial self-insurance group all amounts of security determined by the commissioner to be in excess of the statutory requirements for the group to self-insure, including that necessary for administrative costs, legal fees, and the payment of any future workers' compensation claims.~~

Sec. 87. Minnesota Statutes 1996, section 79A.26, subdivision 2, is amended to read:

Subd. 2. [BOARD OF TRUSTEES.] The commercial security fund shall be governed by a board consisting of a minimum of three and maximum of five trustees. The trustees shall be representatives of commercial self-insurance groups who shall be elected by the participants of the commercial security fund, each group having one vote. The trustees initially elected by the participants shall serve staggered terms of either two or three years. Thereafter, trustees shall be elected to three-year terms and shall serve until their successors are elected and assume office pursuant to the bylaws of the commercial security fund. Two additional trustees shall be appointed by the commissioner. ~~These trustees shall serve four-year terms.~~ Initially, one of these trustees shall serve a two-year term. Thereafter, the trustees shall be appointed to four-year terms, and shall serve until their successors are appointed and assume office according to the bylaws of the commercial security fund. In addition to the trustees elected by the participants or appointed by the commissioner, the commissioner of labor and industry or the commissioner's designee shall be an ex officio, nonvoting member of the board of trustees. A member of the board of trustees may designate another person to act in the member's place as though the member were acting and the designee's actions shall be deemed those of the member.

Sec. 88. Minnesota Statutes 1996, section 79A.31, subdivision 1, is amended to read:

Subdivision 1. [WITHDRAWAL.] Any group self-insurer that is a member ~~as of August 1,~~

~~1995,~~ of the self-insurers' security fund established under section 79A.09, may ~~until January 1, 1996,~~ elect to withdraw from that fund and become a member of the commercial self-insurance group security fund established under section 79A.26. The transferring group shall be subject to the provisions and requirements of sections 79A.19 to 79A.32 as of the date of transfer. Additional security may be required pursuant to section 79A.24. Group self-insurers electing to transfer to the commercial self-insurance group fund shall not be subject to the provisions of section 79A.06, subdivision 5, including, but not limited to, assessments by the self-insurers' security fund. Notice of transfer must be filed by November 1 for all transfers that must be effective at midnight on December 31.

Sec. 89. [WARRANTY PRODUCTS AND EXTENDED SERVICE CONTRACTS; STUDY.]

The commissioner of commerce shall conduct a study to determine the appropriate regulatory framework for warranty products and extended service contracts offered for sale in Minnesota.

The commissioner shall make a written report to the legislature on or before February 15, 1998, discussing the types of warranty and extended service contracts available to Minnesota consumers. The report must also include recommendations as to how these products should be regulated in Minnesota, including a discussion as to when these products should be regulated as insurance. In examining these issues, the commissioner may seek the advice of representatives from the attorney general's office, the retail merchants industry, public utilities, and the insurance industry.

Sec. 90. [APPLICATION.]

(a) Section 27, subdivision 2, applies to a suit based in whole or in part on an alleged act, error, or omission that takes place on or after the effective date of the section.

(b) No legal action lies against the receiver or any employee based in whole or in part on any alleged act, error, or omission that took place before the effective date of the section, unless suit is filed and valid service of process is obtained within 12 months after the effective date of the section.

(c) Section 27, subdivisions 3 to 5, apply to a suit that is pending on or filed after the effective date of the section without regard to when the alleged act, error, or omission took place.

(d) Section 30 applies to all contracts entered into, renewed, extended, or amended on or after its effective date and to obligations arising from any business written or transaction occurring covered by reinsurance after the effective date according to any contract including those in existence before the effective date.

Sec. 91. [REPEALER.]

Minnesota Statutes 1996, sections 60A.11, subdivision 24a; 60B.36; 60B.44, subdivision 3; 65A.29, subdivision 12; and 79A.04, subdivision 8, are repealed.

Sec. 92. [EFFECTIVE DATE.]

Sections 1, 2, 25, 36, 41, 47, 49, 52, 59, 61, 68, and 87 are effective the day after final enactment.

Sections 37, 38, and 42 are effective January 1, 1998."

Delete the title and insert:

"A bill for an act relating to insurance; regulating companies and agents; providing immunity from suit and indemnification for receivers and their employees; regulating coverages; providing certain notices and filing requirements; providing for a study; making certain technical changes; amending Minnesota Statutes 1996, sections 60A.02, subdivision 1a, and by adding a subdivision; 60A.052, subdivision 2, and by adding a subdivision; 60A.06, subdivisions 1 and 2; 60A.075, subdivisions 1, 8, and 9; 60A.077, subdivisions 1, 2, 3, 5, 6, 7, 8, 9, 10, 11, and by adding a subdivision; 60A.092, subdivisions 6 and 11; 60A.10, subdivision 1; 60A.111, subdivision 1;

60A.13, subdivision 1; 60A.19, subdivision 1; 60B.21, subdivision 2; 60B.25; 60B.44, subdivisions 2, 4, 6, and by adding a subdivision; 60D.20, subdivision 2; 60K.02, subdivision 1; 60K.03, subdivisions 2 and 3; 60K.08; 60K.14, subdivision 4; 60K.19, subdivisions 7 and 8; 61A.28, subdivisions 6, 9a, and 12; 61A.32; 61A.60, subdivision 1; 61B.19, subdivision 3; 62A.04, subdivision 3; 62A.135, subdivision 5; 62A.316; 62A.50, subdivision 3; 62B.02, by adding subdivisions; 62B.04, subdivisions 1 and 2; 62E.12; 62Q.16; 65A.01, subdivision 3, and by adding a subdivision; 65A.27, subdivision 4; 65A.29, subdivision 4; 65B.48, subdivision 5; 65B.56, subdivision 1; 67A.231; 72A.20, subdivision 34; 72B.04, subdivision 10; 79A.01, subdivision 10, and by adding a subdivision; 79A.02, subdivisions 1 and 4; 79A.03, subdivisions 6, 7, 9, 10, and by adding a subdivision; 79A.06, subdivision 5; 79A.21, subdivision 2; 79A.22, subdivision 7, and by adding a subdivision; 79A.23, subdivisions 1 and 2; 79A.24, subdivisions 1, 2, and 4; 79A.26, subdivision 2; and 79A.31, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 60B; and 65B; repealing Minnesota Statutes 1996, sections 60A.11, subdivision 24a; 60B.36; 60B.44, subdivision 3; 65A.29, subdivision 12; and 79A.04, subdivision 8."

And when so amended the bill do pass. Amendments adopted. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

H.F. No. 949: A bill for an act relating to the environment; making manufacturers of electric relays or other electrical devices responsible for the waste management costs of these devices; amending Minnesota Statutes 1996, sections 115A.932, subdivision 1; and 116.92, subdivision 3, and by adding a subdivision.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 184: A bill for an act relating to the environment; modifying requirements relating to toxics in products; amending Minnesota Statutes 1996, section 115A.9651.

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

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1996, section 115A.9651, is amended to read:

115A.9651 [~~TOXICS~~ LISTED METALS IN SPECIFIED PRODUCTS; ENFORCEMENT.]

Subdivision 1. [PROHIBITION.] ~~(a) Except as provided in paragraphs (d) and (e), no person may distribute for sale or use in this state any ink, dye, pigment, paint, or fungicide manufactured after September 1, 1994, into which lead, cadmium, mercury, or hexavalent chromium has been intentionally introduced.~~

~~(b) For the purposes of this subdivision, "intentionally introduce" means to deliberately use a metal listed in paragraph (a) as an element during manufacture or distribution of an item listed in paragraph (a). Intentional introduction does not include the incidental presence of any of the prohibited elements.~~

~~(c) The concentration of a listed metal in an item listed in paragraph (a) may not exceed 100 parts per million.~~

~~(d) The prohibition on the use of lead in substances utilized in marking road, street, highway, and bridge pavements does not take effect until July 1, 1998.~~

~~(e) The use of lead in substances utilized in marking road, street, highway, and bridge pavements is exempt from this subdivision until July 1, 1998.~~ After July 1, 1998, no person may distribute a listed product for sale or use in this state.

~~Subd. 2. [TEMPORARY EXEMPTION.] (a) An item listed in subdivision 1 is exempt from this section until July 1, 1998, if the manufacturer of the item submitted to the commissioner a written request for an exemption by August 1, 1994. The request must include at least:~~

~~(1) an explanation of why compliance is not technically feasible at the time of the request;~~

~~(2) how the manufacturer will comply by July 1, 1997; and~~

~~(3) the name, address, and telephone number of a person the commissioner can contact for further information.~~

~~(b) By September 1, 1994, a person who uses an item listed in subdivision 1, into which one of the listed metals has been intentionally introduced, may submit, on behalf of the manufacturer, a request for temporary exemption only if the manufacturer fails to submit an exemption request as provided in paragraph (a). The request must include:~~

~~(1) an explanation of why the person must continue to use the item and a discussion of potential alternatives;~~

~~(2) an explanation of why it is not technically feasible at the time of the request to formulate or manufacture the item without intentionally introducing a listed metal;~~

~~(3) that the person will seek alternatives to using the item by July 1, 1997, if it still contains an intentionally introduced listed metal; and~~

~~(4) the name, address, and telephone number of a person the commissioner can contact for further information.~~

~~(c) A person who submits a request for temporary exemption under paragraph (b) may submit a request for a temporary exemption after September 1, 1994, for an item that the person will use as an alternative to the item for which the request was originally made as long as the new item has a total concentration level of all the listed metals that is significantly less than in the original item. An exemption under this paragraph expires July 1, 1998, and the person who requests it must submit the progress description required in paragraph (e).~~

~~(d) By October 1, 1994, and annually thereafter if requests are received under paragraph (c), the commissioner shall submit to the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance a list of manufacturers and persons that have requested an exemption under this subdivision and the items for which exemptions were sought, along with copies of the requests.~~

~~(e) By July 1, 1996, each manufacturer on the list shall submit to the commissioner a description of the progress the manufacturer has made toward compliance with subdivision 1, and the date compliance has been achieved or the date on or before July 1, 1998, by which the manufacturer anticipates achieving compliance. By July 1, 1996, each person who has requested an exemption under paragraph (b) or (c) shall submit to the commissioner:~~

~~(1) a description of progress made to eliminate the listed metal or metals from the item or progress made by the person to find a replacement item that does not contain an intentionally introduced listed metal; and~~

~~(2) the date or anticipated date the item is or will be free of intentionally introduced metals or the date the person has stopped or will stop using the item.~~

~~By October 1, 1996, the commissioner shall submit to the environment and natural resources committees of the senate and house of representatives, the finance division of the senate committee on environment and natural resources, and the house of representatives committee on environment and natural resources finance a summary of the progress made by the manufacturers and other persons and any recommendations for appropriate legislative or other action to ensure that products are not distributed in the state after July 1, 1998, that violate subdivision 1.~~

Subd. 2. [DEFINITIONS.] (a) For the purposes of this section, the following terms have the meanings given them.

(b) "Council" means the council established under subdivision 5.

(c) "Essential product" means a specified product into which the introduction of a listed metal is required under military specifications or to ensure the integrity of a product essential for aviation or railroad safety, and which is being used only in that application.

(d) "Intentionally introduce" means to deliberately use a listed metal as an element during manufacture or distribution of a specified product. Intentional introduction does not include the incidental presence of a listed metal.

(e) "Listed metal" means lead, cadmium, mercury, or hexavalent chromium.

(f) "Listed product" means a specified product that is included on the prohibited products list published under subdivision 4.

(g) "New product" means a specified product which was not used, sold, or distributed in the state before July 2, 1998, or which has been reformulated so that it contains more of a listed metal.

(h) "Official" means an officer of a corporation, a general partner of a partnership or limited partnership, a sole proprietor, or, in the case of any other entity, a person with high level management responsibilities.

(i) "Specified product" means an ink, dye, pigment, paint, or fungicide into which a listed metal has been intentionally introduced or in which the incidental presence of a listed metal exceeds a concentration of 100 parts per million.

Subd. 3. [~~APPLICATION; ENFORCEMENT~~ CERTIFICATION OF COMPLIANCE.] (a) ~~This section does not apply to art supplies.~~

~~(b) This section may be enforced under sections 115.071 and 116.072. The attorney general or the commissioner of the agency shall coordinate enforcement of this section with the director of the office.~~ By July 1, 1998, each person who has filed the progress report specified in Laws 1994, chapter 585, section 30, subdivision 2, paragraph (e), indicating compliance would be achieved by July 1, 1998, shall certify to the commissioner that the products referenced in that report have been reformulated and no longer meet the definition of a specified product. The certification must be in writing and signed by an official of the company. If, due to significant change in circumstances, the person cannot so certify by July 1, 1998, a product review report and fee shall be submitted as provided under subdivision 6.

(b) The person submitting the certification shall keep a copy on file and make copies available to the commissioner or the attorney general upon request or to any member of the public within 60 days of receipt of a written request that specifies the type of product for which the information is requested.

Subd. 4. [PROHIBITED PRODUCTS LIST.] By October 1, 1998, the commissioner shall publish in the State Register a list of specified products for which the commissioner has received certifications as provided under subdivision 3.

Subd. 5. [TOXICS ADVISORY COUNCIL.] (a) The purpose of the toxics advisory council is to promote sustainable development, as defined in section 4A.07, the public health and welfare and protect the environment and the state's economy by removing listed metals from specified products so that the listed metals do not contribute to bioaccumulation and burden taxpayers with unnecessary disposal costs.

(b) By July 1, 1997, the commissioner shall appoint a toxics advisory council consisting of the following five permanent members: a chair, a representative of government, a representative of business, a representative of a citizens' organization, and a representative from a relevant field of academia. Temporary members of the council shall be appointed by the commissioner under

paragraph (f). No permanent or temporary member of the council who is an employee of a manufacturer or user of a specified product may sit in consideration of that product.

(c) The council shall have the following duties:

(1) review reports submitted under subdivisions 6, 7, and 8 and provide advice to the commissioner pursuant to paragraph (d); and

(2) report to the commissioner on October 1, 2000, and October 1, 2005, on any reasonable measures that would allow the criteria in paragraph (d) to be met with regard to products reviewed based on information obtained during the review of products.

(d) The council's advice to the commissioner under paragraph (c), clause (1), shall be based on an evaluation of the environmental impact of the product and the ability of the manufacturer or user to reduce or eliminate the listed metal. Before making a recommendation that the commissioner take action under subdivision 9, the council must conclude that:

(1) there is an alternative to the specified product that does not contain the listed metal that performs the same technical function, is commercially available, and is economically practicable; and

(2) replacement of the product with the alternative will result in an environmental benefit in the state.

(e) A recommendation that the commissioner take action under subdivision 9 shall include the information required by section 14.131 to the extent the council, through reasonable effort, can ascertain this information.

(f) Before the council evaluates a specific product or group of products, the commissioner shall appoint temporary council members in an even number up to six. The commissioner shall seek to appoint as temporary members persons having expertise on the product or group of products under review as well as persons representing community interests. The temporary members shall be voting members of the council on all matters related to consideration of the product or group of products. The terms of the temporary members shall expire when the council has completed its review of the product or group of products and has submitted its recommendation to the commissioner pursuant to this subdivision.

(g) The permanent members of the council must prioritize the council's review of a specific product or group of products by publishing a notice in the State Register by October 1, 1998, identifying those specified products, or groups of products, which will be reviewed by July 1, 2000. By October 1, 2000, the council shall publish a notice in the State Register identifying those specified products, or groups of products, which will be reviewed by July 1, 2005. The council shall consider potential environmental impacts in prioritizing its review. The council shall notify manufacturers and users who have submitted product review reports of the appropriate review schedule. A manufacturer who has submitted a product review report may request an expedited review by the council.

(h) The commissioner shall provide staff and administrative services to the council. Compensation and removal of council members shall be as provided in section 15.059, subdivisions 3 and 4. The council shall dissolve on June 30, 2006.

Subd. 6. [PRODUCT REVIEW REPORTS.] (a) Except as provided under subdivision 7, the manufacturer, or an association of manufacturers, of any specified product distributed for sale or use in this state that is not listed pursuant to subdivision 4 shall submit a product review report and fee as provided in paragraph (c) to the commissioner for each product by July 1, 1998. Each product review report shall contain at least the following:

(1) a policy statement articulating upper management support for eliminating or reducing intentional introduction of listed metals into its products;

(2) a description of the product and the amount of each listed metal distributed for use in this state;

(3) a description of past and ongoing efforts to eliminate or reduce the listed metal in the product;

(4) an assessment of options available to reduce or eliminate the intentional introduction of the listed metal including any alternatives to the specified product that do not contain the listed metal, perform the same technical function, are commercially available, and are economically practicable;

(5) a statement of objectives in numerical terms and a schedule for achieving the elimination of the listed metals and an environmental assessment of alternative products;

(6) a listing of options considered not to be technically or economically practicable; and

(7) certification attesting to the accuracy of the information in the report signed and dated by an official of the manufacturer or user.

If the manufacturer fails to submit a product review report, a user of a specified product may submit a report and fee which comply with this subdivision by August 15, 1998.

(b) By July 1, 1999, and annually thereafter until the commissioner takes action under subdivision 9, the manufacturer or user must submit a progress report and fee as provided in paragraph (c) updating the information presented under paragraph (a).

(c) The fee shall be $275 for each report. The fee shall be deposited in the state treasury and credited to the environmental fund.

(d) Where it cannot be determined from a progress report submitted by a person pursuant to Laws 1994, chapter 585, section 30, subdivision 2, paragraph (e), the number of products for which product review reports are due under this subdivision, the commissioner shall have the authority to determine, after consultation with that person, the number of products for which product review reports are required.

(e) The commissioner shall summarize, aggregate, and publish data reported under paragraphs (a) and (b) annually.

(f) A product that is the subject of a decision under section 115A.965 is exempt from this section.

Subd. 7. [ESSENTIAL PRODUCTS; PUBLISHED LIST.] (a) By January 1, 1998, a manufacturer or user of an essential product must submit a certification to the commissioner that the product meets the definition in subdivision 2, paragraph (c). By July 1, 2002, each manufacturer or user of an essential product shall submit a report to the commissioner which includes the information required in subdivision 6, paragraph (a), and a statement of whether the product continues to meet the definition in subdivision 2, paragraph (c).

(b) By October 1, 1998, the commissioner shall publish in the State Register a list of essential products for which the commissioner has received certification pursuant to this subdivision. By October 1, 2002, the commissioner shall publish in the State Register a list of essential products based on reports submitted by July 1, 2002, as provided in paragraph (a).

Subd. 8. [NEW PRODUCTS; CRITERIA FOR REVIEW.] (a) After July 1, 1998, but before July 1, 2005, no person shall sell, distribute, or offer for sale in this state a new product prior to the manufacturer or user submitting a product review report and fee specified in subdivision 6.

(b) The council shall review reports submitted under this subdivision and provide advice to the commissioner. The council's advice to the commissioner under this subdivision shall be based on an evaluation of the environmental impact of the product and the ability of the manufacturer or user to reduce or eliminate the listed metal. Before making a recommendation that the commissioner take action under subdivision 9, the council must conclude that:

(1) there is an alternative to the specified product that does not contain the listed metal that performs the same technical function, is commercially available, and is economically practicable,

and replacement of the product with the alternative will result in an environmental benefit in the state; or

(2) if there is no alternative to the new product, that the use of the listed metal in the new product presents a significant threat to the safe and efficient operation of waste facilities, or use of the listed metal does not increase the useful life span of the new product, reduce the overall toxicity of the final product or of material used in production of the final product, or otherwise provide a net environmental benefit to the state.

(c) Notwithstanding subdivision 5, paragraph (f), where the commissioner determines that a new product subject to paragraph (a) is sufficiently similar to a product or products previously reviewed by the council, the commissioner may authorize the permanent members of the council to perform the duties established in paragraph (b) without the appointment of temporary members. In performing those duties, the council shall utilize information gathered in any previous review of a similar product or products.

(d) Beginning July 1, 2005, no person shall sell, distribute, or offer for sale in this state a new product without the commissioner's approval. A person seeking approval of a new product shall submit a product review report including the information and fee specified in subdivision 6. The commissioner shall not approve the new product unless the commissioner determines that it meets the criteria in paragraph (b). The commissioner shall make a determination within six months of receipt of a complete request.

Subd. 9. [AUTHORITY OF COMMISSIONER.] (a) The commissioner may, upon the recommendation of the council, prohibit the distribution for sale or use in this state of a specified product that is not an essential product.

(b) Before taking action under this subdivision, the commissioner must conclude that:

(1) there is an alternative to the specified product that does not contain the listed metal that performs the same technical function, is commercially available, and is economically practicable, and replacement of the product with the alternative will result in an environmental benefit to the state; or

(2) if there is no alternative to the new product, that the use of the listed metal in the new product presents a significant threat to the safe and efficient operation of waste facilities, or use of the listed metal does not increase the useful life span of the new product, reduce the overall toxicity of the final product or of material used in production of the final product, or otherwise provide a net environmental benefit to the state.

(c) If the commissioner fails to take action under this subdivision as recommended by the council, the commissioner shall submit a report to the legislature explaining the reasons for not taking such action.

(d) The commissioner shall provide the legislature a report and recommendations based on any report prepared by the council under subdivision 5, paragraph (c), clause (2).

Subd. 10. [APPLICATION; ENFORCEMENT.] (a) This section does not apply to art supplies.

(b) This section may be enforced under sections 115.071 and 116.072. The attorney general or the commissioner of the agency shall coordinate enforcement of this section with the director of the office.

Subd. 11. [RULEMAKING AUTHORITY.] (a) The pollution control agency may adopt, amend, suspend, and repeal rules to implement this section.

(b) Publication of notice under subdivision 5, paragraph (g), shall be deemed to satisfy the requirements of section 14.101.

(c) The commissioner may adopt a council recommendation under subdivision 5 as the agency's statement of need and reasonableness. A recommendation adopted in this manner shall

be deemed to satisfy any content requirements for a statement of need and reasonableness imposed by law.

(d) Any hearings on rules adopted under this section shall be conducted in accordance with sections 14.14 to 14.20 and address whether the rule meets the standards for review under which the judge is required to approve or disapprove the rule.

(e) Section 14.125 does not apply to the agency's rulemaking authority under this section.

(f) A rule adopted under this section is effective until repealed by the agency.

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

And when so amended the bill do pass and be re-referred to the Committee on Governmental Operations and Veterans.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 1124: A bill for an act relating to natural resources; requiring the commissioner of natural resources to negotiate to prevent erosion and loss of old growth forest.

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

Delete everything after the enacting clause and insert:

"Section 1. [PROTECTION OF SCENIC PINE FOREST AREA.]

The commissioner of natural resources shall negotiate with the city of Duluth, the Duluth Airport Authority, and other federal, state, and local parties to classify the land subject to the 1939 conveyance to provide a level of protection sufficient to ensure the continued ecological integrity of the area and to prohibit further cutting of the scenic pine forest area."

Delete the title and insert:

"A bill for an act relating to natural resources; requiring the commissioner of natural resources to negotiate to prevent loss of scenic pine forest area."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Vickerman from the Committee on Local and Metropolitan Government, to which was referred

S.F. No. 175: A bill for an act relating to the metropolitan council; providing for an elected metropolitan council; providing for public financing of campaigns for council seats; imposing penalties; amending Minnesota Statutes 1996, sections 15.0597, subdivision 1; 204B.09, subdivisions 1 and 1a; 204B.135, subdivision 2; 204B.32, subdivision 2; 353D.01, subdivision 2; and 473.123, subdivisions 1, 2a, 3a, 4, 7, and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 473; repealing Minnesota Statutes 1996, section 473.123, subdivision 3.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Election Laws. Report adopted.

Mr. Vickerman from the Committee on Local and Metropolitan Government, to which was referred

S.F. No. 1122: A bill for an act relating to local governments; establishing an advisory council on local government roles and responsibilities; appropriating money.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Governmental Operations and Veterans.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was referred

S.F. No. 1823: A bill for an act relating to labor relations; requiring arbitration in certain circumstances; establishing procedures; providing penalties; amending Minnesota Statutes 1996, sections 179.06, by adding a subdivision; and 179A.16, subdivision 3, and by adding a subdivision.

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

Page 1, line 11, delete "exclusive"

Page 1, line 12, after "representative" insert "of employees or labor organization"

Page 1, line 14, delete "exclusive" and after " representative" insert "of employees or labor organization"

Page 1, line 16, delete "180" and insert "270"

Page 1, line 18, delete "an exclusive" and insert "a" and after "representative" insert "of employees or labor organization"

Page 1, line 20, delete "exclusive" and after "representative" insert "of employees or labor organization"

Page 3, lines 10, 23, 35, and 36, delete "shall" and insert "must"

Page 3, line 30, delete "shall" and delete "have" and insert "has"

Page 4, lines 2 and 5, delete "shall be" and insert "is"

Page 4, line 22, delete "shall be paid" and insert "are entitled to reimbursement for"

Page 4, line 26, delete "shall" and insert "must"

Page 5, line 4, delete "180" and insert "270"

And when so amended the bill do pass and be re-referred to the Committee on Jobs, Energy and Community Development. Amendments adopted. Report adopted.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was referred

S.F. No. 351: A bill for an act relating to administrative rules; assigning responsibility for legislative review of administrative rules to the legislative coordinating commission; abolishing authority to suspend rules without enactment of a statute; amending Minnesota Statutes 1996, sections 3.841; 3.842, subdivisions 2 and 4a; 3.843; 14.05, subdivision 5; 14.131; 14.14, subdivision 1a; 14.15, subdivision 4; 14.18, subdivision 1; 14.19; 14.22, subdivision 1; 14.225; 14.23; 14.26, subdivisions 1 and 3; and 14.47, subdivision 6; repealing Minnesota Statutes 1996, sections 3.842, subdivisions 4, 5, 6, and 7; 3.844; 3.845; and 15.065.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 254: A bill for an act relating to game and fish; modifying certain fish habitat and propagation provisions; authorizing the commissioner to establish special hunts for youth; authorizing rules to restrict airboats; modifying provisions relating to taking minnows; authorizing the commissioner to sell merchandise; modifying stamp provisions; modifying the procedure for vacating or modifying a state game refuge; defining terms; prohibiting airboats on certain lakes; modifying license provisions; providing criminal penalties; appropriating money; amending Minnesota Statutes 1996, sections 17.4982, by adding subdivisions; 17.4983, by adding a subdivision; 17.4993; 17.4998; 84.0855; 97A.015, subdivisions 49, 53, and by adding a subdivision; 97A.045, subdivision 7; 97A.075, subdivision 3; 97A.085, subdivision 8; 97A.101, by adding a subdivision; 97A.411, subdivision 3; 97A.421, subdivision 1; 97A.465, subdivision 4; 97A.485, subdivision 9; 97B.655, subdivision 1; 97B.805, subdivision 2; 97C.035, subdivision 1; 97C.211, subdivisions 1, 2a, and by adding a subdivision; 97C.505, by adding a subdivision; and 168.1291, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 1996, sections 97A.111; and 97C.515, subdivision 4.

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

Page 1, delete section 1

Page 1, line 36, delete "18b" and insert "18a"

Page 2, line 10, delete "18c" and insert "18b"

Page 2, line 12, delete "a genotype from" and insert "an original source"

Page 2, line 14, delete ", genetically"

Page 2, line 15, delete "selected strain," and insert "or" and delete ", or genetically"

Page 2, line 16, delete "altered species"

Page 2, line 18, delete "genotype" and insert "original source"

Page 2, line 22, delete "18d" and insert "18c"

Pages 2 and 3, delete section 6

Page 3, line 20, after "from" insert "harmful"

Page 5, after line 19, insert:

"Sec. 11. Minnesota Statutes 1996, section 97A.055, subdivision 1, is amended to read:

Subdivision 1. [ESTABLISHMENT; PURPOSES.] The game and fish fund is established as a fund in the state treasury. Money in the fund may be used only for the purpose of administration, licensing, enforcement, and programs that are authorized in:

(1) the game and fish laws under chapters 97A, 97B, and 97C;

(2) fish and wildlife planning laws under section 84.942;

(3) aquaculture laws under sections 17.4981 to 17.4998;

(4) wild rice management laws under section 84.0911; and

(5) aquatic nuisance control laws under section 103G.615."

Page 5, line 28, strike "and stocking" and after "salmon" insert "and stocking of trout and salmon" and strike the second "trout"

Page 5, line 31, delete everything after "waters" and insert a semicolon

Page 5, delete line 32 and insert:

"(4) identifying easement and fee title areas along trout waters; and"

Page 5, line 33, delete "(4)" and insert "(5)"

Page 6, line 13, after "AIRBOATS" insert "AND PERSONAL WATERCRAFT" and after "airboats" insert "and personal watercraft, as defined in section 86B.005, subdivision 14a,"

Page 6, line 15, before the period, insert "unless otherwise authorized by the commissioner"

Page 6, after line 15, insert:

"Sec. 15. Minnesota Statutes 1996, section 97A.411, subdivision 1, is amended to read:

Subdivision 1. [LICENSE PERIOD.] (a) Except as provided in paragraph (b), a license is valid during the lawful time within the license year that the licensed activity may be performed. A license year begins on the first day of March and ends on the last day of February.

(b) A license issued under section 97A.475, subdivision 6, clause (5), or section 97A.475, subdivision 7, clause (2), (3), (5), or (6), or 97A.475, subdivision 12, clause (2), is valid for the full license period even if this period extends into the next license year, provided that the license period selected by the licensee begins at the time of issuance."

Page 8, after line 4, insert:

"Sec. 20. Minnesota Statutes 1996, section 97A.485, is amended by adding a subdivision to read:

Subd. 12. [YOUTH DEER LICENSE.] The commissioner may, for a fee of $5, issue to a resident under the age of 16 a license, without a tag, to take deer with firearms. A youth holding a license issued under this subdivision may hunt under the license only if accompanied by a licensed hunter who is at least 18 years of age and possesses a valid tag. A deer taken by a youth holding a license issued under this subdivision must be promptly tagged by the licensed hunter accompanying the youth. Section 97B.301, subdivision 6, does not apply to a youth holding a license issued under this subdivision.

Sec. 21. Minnesota Statutes 1996, section 97B.035, subdivision 1, is amended to read:

Subdivision 1. [HUNTING WITH BOWS RELEASED BY MECHANICAL DEVICES.] (a) A person may not hunt with a bow drawn, held, or released by a mechanical device, except with a ~~disabled hunter~~ permit issued under section 97B.106 or as provided in paragraph (b).

(b) A person may use a mechanical device attached to the bowstring if the person's own strength draws, holds, and releases the bowstring.

Sec. 22. Minnesota Statutes 1996, section 97B.075, is amended to read:

97B.075 [HUNTING RESTRICTED BETWEEN EVENING AND MORNING.]

A person may not take protected wild animals, except raccoon and fox, with a firearm between the evening and morning times established by commissioner's rule, except big game may be taken from one-half hour before sunrise until one-half hour after sunset, and, except as otherwise prescribed by the commissioner during the first Saturday and Sunday of the season, waterfowl may be taken by a minor or an adult accompanying a minor from one-half hour before sunrise until sunset during the entire season prescribed by the commissioner.

Sec. 23. Minnesota Statutes 1996, section 97B.106, is amended to read:

97B.106 [CROSSBOW PERMITS FOR HUNTING.]

(a) [ELIGIBILITY.] The commissioner may issue a special permit, without a fee, to take big game or turkey with a crossbow to a person ~~that~~ who:

(1) is unable to hunt by archery because of a permanent or temporary physical disability; or

(2) is 65 years of age or older.

(b) [REQUIREMENTS; DISABILITY.] To qualify a person for a special permit under this section, a temporary disability must render the person unable to hunt by archery for a minimum of two years after application for the permit is made. The permanent or temporary disability, established by medical evidence, and the inability to hunt by archery for the required period of time must be verified in writing by a licensed physician. ~~The~~

(c) [REQUIREMENTS; GENERAL.] A person issued a special permit under this section must obtain the appropriate license. The crossbow must:

(1) be fired from the shoulder;

(2) deliver at least 42 foot-pounds of energy at a distance of ten feet;

(3) have a stock at least 30 inches long;

(4) have a working safety; and

(5) be used with arrows or bolts at least ten inches long with a broadhead."

Page 8, after line 11, insert:

"Sec. 25. Minnesota Statutes 1996, section 97B.301, subdivision 6, is amended to read:

Subd. 6. [RESIDENTS UNDER AGE 16 MAY TAKE DEER OF EITHER SEX.] A resident under the age of 16 may take a deer of either sex except in those antlerless permit areas and seasons where no antlerless permits are offered. In antlerless permit areas where no antlerless permits are offered, the commissioner may provide a limited number of youth either sex permits to residents under age 16, under the procedures provided in section 97B.305, and may give preference to residents under the age of 16 that have not previously been selected. This subdivision does not authorize the taking of an antlerless deer by another member of a party under subdivision 3."

Page 8, line 23, strike "bring the entire animal to" and insert "notify"

Page 9, line 2, delete "for taking migratory waterfowl" and insert "during the migratory waterfowl season"

Page 9, line 6, strike "endangered"

Page 9, line 7, before the comma, insert "in danger of dying"

Pages 9 and 10, delete section 25

Page 10, line 19, delete "sections" and insert "section" and delete "; and 97C.515,"

Page 10, line 20, delete "subdivision 4"

Page 10, line 22, delete "8" and insert "6"

Renumber the sections in sequence

Delete the title and insert:

"A bill for an act relating to game and fish; modifying certain fish habitat and propagation provisions; authorizing the commissioner to establish special hunts for youth; permitting youth residents to hunt deer without a license tag; authorizing rules to restrict airboats; modifying

provisions relating to taking minnows; authorizing the commissioner to sell merchandise; providing purposes for the game and fish fund; modifying stamp provisions; modifying the procedure for vacating or modifying a state game refuge; defining terms; prohibiting airboats on certain lakes; permitting persons 65 years of age or older to take certain game with a crossbow; establishing shooting hours for migratory game birds; modifying license provisions; providing criminal penalties; appropriating money; amending Minnesota Statutes 1996, sections 17.4982, by adding subdivisions; 17.4983, by adding a subdivision; 17.4998; 84.0855; 97A.015, subdivisions 49, 53, and by adding a subdivision; 97A.045, subdivision 7; 97A.055, subdivision 1; 97A.075, subdivision 3; 97A.085, subdivision 8; 97A.101, by adding a subdivision; 97A.411, subdivisions 1 and 3; 97A.421, subdivision 1; 97A.465, subdivision 4; 97A.485, subdivision 9, and by adding a subdivision; 97B.035, subdivision 1; 97B.075; 97B.106; 97B.301, subdivision 6; 97B.655, subdivision 1; 97B.805, subdivision 2; 97C.035, subdivision 1; 97C.211, subdivision 1, and by adding a subdivision; 97C.505, by adding a subdivision; and 168.1291, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 97B; repealing Minnesota Statutes 1996, section 97A.111."

And when so amended the bill do pass.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Lessard from the Committee on Environment and Natural Resources, to which was referred

S.F. No. 780: A bill for an act relating to the environment; modifying requirements for mercury testing in incinerator emissions; amending Minnesota Statutes 1996, section 116.85, subdivision 1.

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

Page 1, line 21, before "an" insert "a facility holding"

Page 1, line 24, after the period, insert "Hospital waste incinerators having a design capacity of less than three million BTUs per hour may use mercury segregation practices as an alternative to stack testing if allowed by applicable federal requirements, with the approval of the commissioner."

Page 1, line 25, delete "An incinerator" and insert "A facility"

Page 2, line 1, strike "90 days" and insert "three months" and delete "Incinerators" and insert "An incinerator facility"

Page 2, line 6, after the period, insert "With the approval of the commissioner, an incinerator facility may use methods other than stack testing for determining mercury in air emissions."

Page 2, line 8, delete "permit's" and insert "facility's permitted"

Page 2, line 10, delete everything after "facility"

Page 2, line 11, delete "waste per day"

Page 2, line 16, delete "ensures" and insert "ensure"

Page 2, lines 21 and 23, delete "permit's" and insert "facility's permitted"

Page 2, lines 24 and 25, delete "applicable standard" and insert "facility's permitted mercury limit"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Ms. Ranum from the Committee on Judiciary, to which was referred

S.F. No. 830: A bill for an act relating to family law; child support; classifying data on certain obligors; reducing the time period for remitting amounts withheld to the public authority; requiring a report on independent contractors; amending Minnesota Statutes 1996, sections 171.12, by adding a subdivision; and 518.611, subdivision 4.

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

Delete everything after the enacting clause and insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1996, section 8.35, is amended to read:

8.35 [PUBLIC EDUCATION CAMPAIGN.]

The attorney general, in consultation with the commissioner of human services, may establish a public service campaign designed to educate the public about the necessity of the payment of child support to the well-being of the state's children and taxpayers. The commissioner shall enter into a contract with the attorney general pursuant to Laws 1994, chapter 630, article 11, section 24, subdivision 2, for implementation of the campaign. The campaign may include public service announcements for broadcast through television, radio, and billboard media. The name of the office of the attorney general, or the person holding the office, shall not appear in any of the campaign materials.

Sec. 2. Minnesota Statutes 1996, section 13.99, is amended by adding a subdivision to read:

Subd. 101d. [CHILD SUPPORT PARTIES.] Certain data regarding the location of parties in connection with child support proceedings are governed by sections 256.87, subdivision 8; 257.70; and 518.005, subdivision 5, certain data regarding the suspension of licenses of persons owing child support are governed by section 518.551, subdivision 13a.

Sec. 3. [256.741] [CHILD SUPPORT AND MAINTENANCE.]

Subdivision 1. [PUBLIC ASSISTANCE.] (a) The term "public assistance" as used in this chapter and chapters 257, 518, and 518C, includes any form of cash assistance provided under Title IV-A of the Social Security Act; child care assistance provided through the child care fund pursuant to chapter 119B; any form of medical assistance as defined under Title XIX of the United States Code, including MinnesotaCare; and foster care, including the cost of care, examination, and treatment, as provided under Title IV-E of the Social Security Act and chapter 260.

(b) The term "child support agency" as used in this section refers to the public authority responsible for child support enforcement.

(c) The term "public assistance agency" as used in this section refers to a public authority providing public assistance to an individual.

Subd. 2. [ASSIGNMENT OF SUPPORT AND MAINTENANCE RIGHTS.] (a) An individual receiving public assistance in the form of cash assistance is considered to have assigned to the state at the time of application all rights to child support and maintenance from any other person the applicant or recipient may have in the individual's own behalf or in the behalf of any other family member for whom application for public assistance is made. An assistance unit is ineligible for aid to families with dependent children or its successor program unless the caregiver assigns all rights to child support and spousal maintenance benefits according to this section.

(1) An assignment made according to this section is effective as to:

(i) any current child support and current spousal maintenance; and

(ii) any accrued child support and spousal maintenance arrears.

(2) An assignment made after September 30, 1997, is effective as to:

(i) any current child support and current spousal maintenance;

(ii) any accrued child support and spousal maintenance arrears collected before October 1, 2000, or the date the individual terminates assistance, whichever is later; and

(iii) any accrued child support and spousal maintenance arrears collected under federal tax intercept.

(b) An individual receiving public assistance in the form of medical assistance, including MinnesotaCare, is considered to have assigned to the state at the time of application all rights to medical support from any other person the individual may have in the individual's own behalf or in the behalf of any other family member for whom medical assistance is provided.

An assignment made after September 30, 1997, is effective as to any medical support accruing after the date of medical assistance or MinnesotaCare eligibility.

(c) An individual receiving public assistance in the form of child care assistance under the child care fund pursuant to chapter 119B is considered to have assigned to the state at the time of application all rights to child care support from any other person the individual may have in the individual's own behalf or in the behalf of any other family member for whom child care assistance is provided.

An assignment made according to this paragraph is effective as to:

(1) any current child care support and any child care support arrears assigned and accruing after the effective date of this section that are collected before October 1, 2000; and

(2) any accrued child care support arrears collected under federal tax intercept.

(d) An individual whose child is receiving public assistance in the form of foster care assistance is considered to have assigned to the state at the time of application all rights to benefits the individual may have in the individual's own behalf or in the behalf of any other family member for whom foster care is provided, including, but not limited to, child support, social security, supplemental security income, veteran's benefits, railroad retirement benefits, and medical support.

Subd. 3. [EXISTING ASSIGNMENTS.] Assignments based on the receipt of public assistance in existence prior to the effective date of this section are permanently assigned to the state.

Subd. 4. [EFFECT OF ASSIGNMENT.] Assignments in this section take effect upon a determination that the applicant is eligible for public assistance. The amount of support assigned under this subdivision may not exceed the total amount of public assistance issued or the total support obligation, whichever is less.

Subd. 5. [COOPERATION WITH CHILD SUPPORT ENFORCEMENT.] After notification from a public assistance agency that an individual has applied for or is receiving any form of public assistance, the child support agency shall determine whether the party is cooperating with the agency in establishing paternity, child support, modification of an existing child support order, or enforcement of an existing child support order. The public assistance agency shall notify each applicant or recipient in writing of the right to claim a good cause exemption from cooperating with the requirements in this section. A copy of the notice must be furnished to the applicant or recipient, and the applicant or recipient and a representative from the public authority shall acknowledge receipt of the notice by signing and dating a copy of the notice. The individual shall cooperate with the child support agency by:

(1) providing all known information regarding the alleged father or obligor, including name, address, social security number, telephone number, place of employment or school, and the names and addresses of any relatives;

(2) appearing at interviews, hearings and legal proceedings;

(3) submitting to genetic tests including genetic testing of the child, under a judicial or administrative order; and

(4) providing additional information known by the individual as necessary for cooperating in good faith with the child support agency.

The caregiver of a minor child must cooperate with the efforts of the public authority to collect support according to this subdivision. A caregiver must forward to the public authority all support the caregiver receives during the period the assignment of support required under subdivision 1 is in effect. Support received by a caregiver and not forwarded to the public authority must be repaid to the child support enforcement unit for any month following the date on which initial eligibility is determined, except as provided under subdivision 8, paragraph (b), clause (4).

Subd. 6. [DETERMINATION.] If the individual cannot provide the information required in subdivision 5, before making a determination that the individual is cooperating, the child support agency shall make a finding that the individual could not reasonably be expected to provide the information. In making this finding, the child support agency shall consider:

(1) the age of the child for whom support is being sought;

(2) the circumstances surrounding the conception of the child;

(3) the age and mental capacity of the parent or caregiver of the child for whom support is being sought;

(4) the time period that has expired since the parent or caregiver of the child for whom support is sought last had contact with the alleged father or obligor, or the person's relatives; and

(5) statements from the applicant or recipient or other individuals that show evidence of an inability to provide correct information about the alleged father or obligor because of deception by the alleged father or obligor.

Subd. 7. [NONCOOPERATION.] Unless good cause is found to exist under subdivision 10, upon a determination of noncooperation by the child support agency, the agency shall promptly notify the individual and each public assistance agency providing public assistance to the individual that the individual is not cooperating with the child support agency. Upon notice of noncooperation, the individual shall be sanctioned in the amount determined according to the public assistance agency responsible for enforcing the sanction.

Subd. 8. [REFUSAL TO COOPERATE WITH SUPPORT REQUIREMENTS.] (a) Failure by a caregiver to satisfy any of the requirements of subdivision 2 constitutes refusal to cooperate, and the sanctions under paragraph (b) apply. The IV-D agency must determine whether a caregiver has refused to cooperate according to subdivision 5.

(b) Determination by the IV-D agency that a caregiver has refused to cooperate has the following effects:

(1) after adequate notice, the grant of a caregiver who refuses to cooperate must be reduced by 25 percent if no other sanction is in effect, or by an additional ten percent if one other sanction is already in effect;

(2) a caregiver who is not a parent of a minor child in an assistance unit may choose to remove the child from the assistance unit unless the child is required to be in the assistance unit;

(3) a parental caregiver who refuses to cooperate is ineligible for medical assistance; and

(4) direct support retained by a caregiver must be counted as unearned income when determining the amount of the assistance payment.

This paragraph only applies to the cash portion of any public assistance recommended by the caregiver.

Subd. 9. [GOOD CAUSE EXEMPTION FROM COOPERATING WITH SUPPORT REQUIREMENTS.] The IV-A or IV-D agency must notify the caregiver that the caregiver may claim a good cause exemption from cooperating with the requirements in subdivision 5. Good cause may be claimed and exemptions determined according to subdivisions 10 to 13.

Subd. 10. [GOOD CAUSE EXEMPTION.] (a) Cooperation with the child support agency under subdivision 5 is not necessary if the individual asserts, and both the child support agency and the public assistance agency find, good cause exists under this subdivision for failing to cooperate. An individual may request a good cause exemption by filing a written claim with the public assistance agency on a form provided by the commissioner of human services. Upon notification of a claim for good cause exemption, the child support agency shall cease all child support enforcement efforts until the claim for good cause exemption is reviewed and the validity of the claim is determined. Designated representatives from public assistance agencies and at least one representative from the child support enforcement agency shall review each claim for a good cause exemption and determine its validity.

(b) Good cause exists when an individual documents that pursuit of child support enforcement services could reasonably result in:

(1) physical or emotional harm to the child for whom support is sought;

(2) physical harm to the parent or caregiver with whom the child is living that would reduce the ability to adequately care for the child; or

(3) emotional harm to the parent or caregiver with whom the child is living, of such nature or degree that it would reduce the person's ability to adequately care for the child.

Physical and emotional harm under this paragraph must be of a serious nature in order to justify a finding of good cause exemption. A finding of good cause exemption based on emotional harm may only be based upon a demonstration of emotional impairment that substantially affects the individual's ability to function.

(c) Good cause also exists when the designated representatives in this subdivision believe that pursuing child support enforcement would be detrimental to the child for whom support is sought and the individual applicant or recipient documents any of the following:

(1) the child for whom child support enforcement is sought was conceived as a result of incest or rape;

(2) legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(3) the parent or caregiver of the child is currently being assisted by a public or licensed private social service agency to resolve the issues of whether to keep the child or place the child for adoption.

The parent or caregiver's right to claim a good cause exemption based solely on this paragraph expires if the assistance lasts more than 90 days.

(d) The public authority shall consider the best interests of the child in determining good cause.

Subd. 11. [PROOF OF GOOD CAUSE.] (a) An individual seeking a good cause exemption has 20 days from the date the good cause claim was provided to the public assistance agency to supply evidence supporting the claim. The public assistance agency may extend the time period in this section if it believes the individual is cooperating and needs additional time to submit the evidence required by this section. Failure to provide this evidence shall result in the child support agency resuming child support enforcement efforts.

(b) Evidence supporting a good cause claim includes, but is not limited to:

(1) a birth certificate or medical or law enforcement records indicating that the child was conceived as the result of incest or rape;

(2) court documents or other records indicating that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) court, medical, criminal, child protective services, social services, domestic violence advocate services, psychological, or law enforcement records indicating that the alleged father or obligor might inflict physical or emotional harm on the child, parent, or caregiver;

(4) medical records or written statements from a licensed medical professional indicating the emotional health history or status of the custodial parent, child, or caregiver, or indicating a diagnosis or prognosis concerning their emotional health;

(5) a written statement from a public or licensed private social services agency that the individual is deciding whether to keep the child or place the child for adoption; or

(6) sworn statements from individuals other than the applicant or recipient that provide evidence supporting the good cause claim.

(c) The child support agency and the public assistance agency shall assist an individual in obtaining the evidence in this section upon request of the individual.

Subd. 12. [DECISION.] A good cause exemption must be granted if the individual's claim and the investigation of the supporting evidence satisfy the investigating agencies that the individual has good cause for refusing to cooperate.

Subd. 13. [DURATION.] (a) A good cause exemption may not continue for more than one year without redetermination of cooperation and good cause pursuant to this section. The child support agency may redetermine cooperation and the designated representatives in subdivision 7 may redetermine the granting of a good cause exemption before the one year expiration in this subdivision.

(b) A good cause exemption must be allowed under subsequent applications and redeterminations without additional evidence when the factors that led to the exemption continue to exist. A good cause exemption must end when the factors that led to the exemption have changed.

Subd. 14. [TRAINING.] The commissioner shall establish domestic violence and sexual abuse training programs for child support agency employees. The training programs must be developed in consultation with experts on domestic violence and sexual assault. To the extent possible, representatives of the child support agency involved in making a determination of cooperation under subdivision 6 or reviewing a claim for good cause exemption under subdivision 8 shall receive training in accordance with this subdivision.

Sec. 4. Minnesota Statutes 1996, section 256.87, subdivision 1, is amended to read:

Subdivision 1. [ACTIONS AGAINST PARENTS FOR ASSISTANCE FURNISHED.] A parent of a child is liable for the amount of public assistance, as defined in section 256.741, furnished ~~under sections 256.031 to 256.0361, 256.72 to 256.87, or under Title IV-E of the Social Security Act or medical assistance under chapter 256, 256B, or 256D~~ to and for the benefit of the child, including any assistance furnished for the benefit of the caretaker of the child, which the parent has had the ability to pay. Ability to pay must be determined according to chapter 518. The parent's liability is limited to the two years immediately preceding the commencement of the action, except that where child support has been previously ordered, the state or county agency providing the assistance, as assignee of the obligee, shall be entitled to judgments for child support payments accruing within ten years preceding the date of the commencement of the action up to the full amount of assistance furnished. The action may be ordered by the state agency or county agency and shall be brought in the name of the county ~~by the county attorney of the county in which the assistance was granted,~~ or ~~by~~ in the name of the state agency against the parent for the recovery of the amount of assistance granted, together with the costs and disbursements of the action.

Sec. 5. Minnesota Statutes 1996, section 256.87, subdivision 1a, is amended to read:

Subd. 1a. [CONTINUING SUPPORT CONTRIBUTIONS.] In addition to granting the county or state agency a money judgment, the court may, upon a motion or order to show cause, order continuing support contributions by a parent found able to reimburse the county or state agency. The order shall be effective for the period of time during which the recipient receives public assistance from any county or state agency and thereafter. The order shall require support according to chapter 518. An order for continuing contributions is reinstated without further hearing upon notice to the parent by any county or state agency that public assistance, as defined in section 256.741, is again being provided for the child of the parent ~~under sections 256.031 to 256.0361, 256.72 to 256.87, or under Title IV-E of the Social Security Act or medical assistance under chapter 256, 256B, or 256D~~. The notice shall be in writing and shall indicate that the parent may request a hearing for modification of the amount of support or maintenance.

Sec. 6. Minnesota Statutes 1996, section 256.87, subdivision 3, is amended to read:

Subd. 3. [CONTINUING CONTRIBUTIONS TO FORMER RECIPIENT.] The order for continuing support contributions shall remain in effect following the period after public assistance, as defined in section 256.741, granted ~~under sections 256.72 to 256.87~~ is terminated unless the former recipient files an affidavit with the court requesting termination of the order.

Sec. 7. Minnesota Statutes 1996, section 256.87, subdivision 5, is amended to read:

Subd. 5. [CHILD NOT RECEIVING ASSISTANCE.] A person or entity having physical custody of a dependent child not receiving public assistance ~~under sections 256.031 to 256.0361, or 256.72 to 256.87~~ as defined in section 256.741 has a cause of action for child support against the child's ~~absent~~ noncustodial parents. Upon a motion served on the ~~absent~~ noncustodial parent, the court shall order child support payments, including medical support and child care support, from the ~~absent~~ noncustodial parent under chapter 518. ~~The absent~~ A noncustodial parent's liability may include up to the two years immediately preceding the commencement of the action. This subdivision applies only if the person or entity has physical custody with the consent of a custodial parent or approval of the court.

Sec. 8. Minnesota Statutes 1996, section 256.87, is amended by adding a subdivision to read:

Subd. 8. [DISCLOSURE PROHIBITED.] Notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released to the other party by the public authority 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. 9. Minnesota Statutes 1996, section 256.978, subdivision 1, is amended to read:

Subdivision 1. [REQUEST FOR INFORMATION.] (a) The ~~commissioner of human services~~ public authority responsible for child support in this state or any other state, in order to locate a person to establish paternity~~,~~ and child support or to modify or enforce child support, ~~or to enforce a child support obligation in arrears,~~ may request information reasonably necessary to the inquiry from the records of all departments, boards, bureaus, or other agencies of this state, which shall, notwithstanding the provisions of section 268.12, subdivision 12, or any other law to the contrary, provide the information necessary for this purpose. Employers, utility companies, insurance companies, financial institutions, and labor associations doing business in this state shall provide information as provided under subdivision 2 upon written or electronic request by an agency responsible for child support enforcement regarding individuals owing or allegedly owing a duty to support within 30 days of ~~the receipt~~ service of the ~~written~~ request made by the public authority. Information requested and used or transmitted by the commissioner ~~pursuant~~ according to the authority conferred by this section may be made available ~~only to public officials and agencies of this state and its political subdivisions and other states of the union and their political subdivisions who are seeking to enforce the support liability of parents or to locate parents. The commissioner~~

~~may not release the information to an agency or political subdivision of another state unless the agency or political subdivision is directed to maintain the data consistent with its classification in this state. Information obtained under this section may not be released except to the extent necessary for the administration of the child support enforcement program or when otherwise authorized by law.~~ to other agencies, statewide systems, and political subdivisions of this state, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program.

(b) For purposes of this section, "state" includes the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

Sec. 10. Minnesota Statutes 1996, section 256.978, subdivision 2, is amended to read:

Subd. 2. [ACCESS TO INFORMATION.] (a) A ~~written~~ request for information by the public authority responsible for child support of this state or any other state may be made to:

(1) employers when there is reasonable cause to believe that the subject of the inquiry is or was an employee or independent contractor of the employer. Information to be released by employers is limited to place of residence, employment status, wage or payment information, benefit information, and social security number;

(2) utility companies when there is reasonable cause to believe that the subject of the inquiry is or was a retail customer of the utility company. Customer information to be released by utility companies is limited to place of residence, home telephone, work telephone, source of income, employer and place of employment, and social security number;

(3) insurance companies when there is ~~an arrearage of child support and there is~~ reasonable cause to believe that the subject of the inquiry is or was receiving funds either in the form of a lump sum or periodic payments. Information to be released by insurance companies is limited to place of residence, home telephone, work telephone, employer, social security number, and amounts and type of payments made to the subject of the inquiry;

(4) labor organizations when there is reasonable cause to believe that the subject of the inquiry is or was a member of the labor association. Information to be released by labor associations is limited to place of residence, home telephone, work telephone, social security number, and current and past employment information; and

(5) financial institutions when ~~there is an arrearage of child support and~~ there is reasonable cause to believe that the subject of the inquiry has or has had accounts, stocks, loans, certificates of deposits, treasury bills, life insurance policies, or other forms of financial dealings with the institution. Information to be released by the financial institution is limited to place of residence, home telephone, work telephone, identifying information on the type of financial relationships, social security number, current value of financial relationships, and current indebtedness of the subject with the financial institution.

(b) For purposes of this subdivision, utility companies include telephone companies, radio common carriers, and telecommunications carriers as defined in section 237.01, and companies that provide electrical, telephone, natural gas, propane gas, oil, coal, or cable television services to retail customers. The term financial institution includes banks, savings and loans, credit unions, brokerage firms, mortgage companies, ~~and~~ insurance companies., benefit associations, safe deposit companies, money market mutual funds, or similar entities authorized to do business in the state.

Sec. 11. Minnesota Statutes 1996, section 256.979, subdivision 5, is amended to read:

Subd. 5. [PATERNITY ESTABLISHMENT AND CHILD SUPPORT ORDER ESTABLISHMENT AND MODIFICATION BONUS INCENTIVES.] (a) A bonus incentive program is created to increase the number of paternity establishments and establishment and modifications of child support orders done by county child support enforcement agencies.

(b) A bonus must be awarded to a county child support agency for each ~~child~~ case for which the agency completes a paternity or child support order establishment or modification through judicial~~,~~ or administrative~~, or expedited~~ processes ~~and for each instance in which the agency reviews a case for a modification of the child support order~~.

(c) The rate of bonus incentive is $100 for each paternity or child support order establishment and ~~$50 for each review for modification of a child support order~~ modification set in a specific dollar amount.

(d) A bonus may not be paid for a modification that is a result of a termination of child care costs according to section 518.551, subdivision 5, or due solely to a reduction of child care expenses.

Sec. 12. Minnesota Statutes 1996, section 256.979, subdivision 6, is amended to read:

Subd. 6. [CLAIMS FOR BONUS INCENTIVE.] (a) The commissioner of human services and the county agency shall develop procedures for the claims process and criteria using automated systems where possible.

(b) Only one county agency may receive a bonus per paternity establishment or child support order establishment or modification for each case. ~~The county agency making the initial preparations for the case resulting in the establishment of paternity or modification of an order is the county agency entitled to claim the bonus incentive, even if the case is transferred to another county agency prior to the time the order is established or modified.~~ The county agency completing the action or procedure needed to establish paternity or a child support order or modify an order is the county agency entitled to claim the bonus incentive.

(c) Disputed claims must be submitted to the commissioner of human services and the commissioner's decision is final.

(d) For purposes of this section, "case" means a family unit for whom the county agency is providing child support enforcement services.

Sec. 13. Minnesota Statutes 1996, section 256.979, subdivision 7, is amended to read:

Subd. 7. [DISTRIBUTION.] (a) Bonus incentives must be issued to the county agency quarterly, within 45 days after the last day of each quarter for which a bonus incentive is being claimed, and must be paid in the order in which claims are received.

(b) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

(c) The county agency shall repay any bonus erroneously issued.

(d) A county agency shall maintain a record of bonus incentives claimed and received for each quarter.

(e) Payment of bonus incentives is limited by the amount of the appropriation for this purpose. If the appropriation is insufficient to cover all claims, the commissioner of human services may prorate payments among the county agencies.

Sec. 14. Minnesota Statutes 1996, section 256.979, subdivision 8, is amended to read:

Subd. 8. [MEDICAL PROVIDER REIMBURSEMENT.] (a) A fee to the providers of medical services is created for the purpose of increasing the numbers of signed and notarized recognition of parentage forms completed in the medical setting.

(b) A fee of $25 shall be paid to each medical provider for each properly completed recognition of parentage form sent to the department of vital statistics.

(c) The office of vital statistics shall notify the department of human services quarterly of the numbers of completed forms received and the amounts paid.

(d) The department of human services shall remit quarterly to each medical provider a payment for the number of signed recognition of parentage forms completed by that medical provider and sent to the office of vital statistics.

(e) The commissioners of the department of human services and the department of health shall develop procedures for the implementation of this provision.

(f) Payments will be made to the medical provider within the limit of available appropriations.

(g) Federal matching funds received as reimbursement for the costs of the medical provider reimbursement shall be retained by the commissioner of human services for educational programs dedicated to the benefits of paternity establishment.

Sec. 15. Minnesota Statutes 1996, section 256.979, is amended by adding a subdivision to read:

Subd. 10. [TRANSFERABILITY BETWEEN BONUS INCENTIVE ACCOUNTS AND GRANTS TO COUNTY AGENCIES.] The commissioner of human services may transfer money appropriated for child support enforcement county performance incentives under this section and section 256.9791 among county performance incentive accounts. Incentive funds to counties transferred under this section must be reinvested in the child support enforcement program and may not be used to supplant money now spent by counties for child support enforcement.

Sec. 16. Minnesota Statutes 1996, section 256.9791, subdivision 1, is amended to read:

Subdivision 1. [BONUS INCENTIVE.] (a) A bonus incentive program is created to increase the identification and enforcement by county agencies of dependent health insurance coverage for persons who are receiving medical assistance under section 256B.055 and for whom the county agency is providing child support enforcement services.

(b) The bonus shall be awarded to a county child support agency for each person for whom coverage is identified and enforced by the child support enforcement program when the obligor is under a court order to provide dependent health insurance coverage.

(c) Bonus incentive funds under this section must be reinvested in the county child support enforcement program and a county may not reduce funding of the child support enforcement program by the amount of the bonus earned.

Sec. 17. Minnesota Statutes 1996, section 256.9792, subdivision 1, is amended to read:

Subdivision 1. [ARREARAGE COLLECTIONS.] Arrearage collection projects are created to increase the revenue to the state and counties, reduce ~~AFDC~~ public assistance expenditures for former public assistance cases, and increase payments of arrearages to persons who are not receiving public assistance by submitting cases for arrearage collection to collection entities, including but not limited to, the department of revenue and private collection agencies.

Sec. 18. Minnesota Statutes 1996, section 256.9792, subdivision 2, is amended to read:

Subd. 2. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section:

(b) "Public assistance arrearage case" means a case where current support may be due, no payment, with the exception of tax offset, has been made within the last 90 days, and the arrearages are assigned to the public agency ~~pursuant~~ according to section ~~256.74, subdivision 5~~ 256.741.

(c) "Public authority" means the public authority responsible for child support enforcement.

(d) "Nonpublic assistance arrearage case" means a support case where arrearages have accrued that have not been assigned ~~pursuant~~ according to section ~~256.74, subdivision 5~~ 256.741.

Sec. 19. Minnesota Statutes 1996, section 256.998, subdivision 1, is amended to read:

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Date of hiring" means the earlier of: (1) the first day for which an employee is owed compensation by an employer; or (2) the first day that an employee reports to work or performs labor or services for an employer.

(c) "Earnings" means payment owed by an employer for labor or services rendered by an employee.

(d) "Employee" means a person who resides or works in Minnesota ~~and~~, performs services for compensation, in whatever form, for an employer and satisfies the criteria of an employee under chapter 24 of the Internal Revenue Code. Employee does not include:

(1) persons hired for domestic service in the private home of the employer, as defined in the Federal Tax Code~~.~~; or

(2) an employee of the federal or state agency performing intelligence or counterintelligence functions, if the head of such agency has determined that reporting according to this law would endanger the safety of the employee or compromise an ongoing investigation or intelligence mission.

(e) "Employer" means a person or entity located or doing business in this state that employs one or more employees for payment, and satisfies the criteria of an employer under chapter 24 of the Internal Revenue Code. Employer includes a labor organization as defined in paragraph (g). Employer also includes the state, political or other governmental subdivisions of the state, and the federal government.

(f) "Hiring" means engaging a person to perform services for compensation and includes the reemploying or return to work of any previous employee who was laid off, furloughed, separated, granted a leave without pay, or terminated from employment when a period of 90 days elapses from the date of layoff, furlough, separation, leave, or termination to the date of the person's return to work.

(g) "Labor organization" means entities located or doing business in this state that meet the criteria of labor organization under section 2(5) of the National Labor Relations Act. This includes any entity, that may also be known as a hiring hall, used to carry out requirements described in chapter 7 of the National Labor Relations Act.

(h) "Payor" means a person or entity located or doing business in Minnesota who pays money to an independent contractor according to an agreement for the performance of services.

Sec. 20. Minnesota Statutes 1996, section 256.998, subdivision 6, is amended to read:

Subd. 6. [SANCTIONS.] If an employer fails to report under this section, the commissioner of human services, by certified mail, shall send the employer a written notice of noncompliance requesting that the employer comply with the reporting requirements of this section. The notice of noncompliance must explain the reporting procedure under this section and advise the employer of the penalty for noncompliance. An employer who has received a notice of noncompliance and later incurs a second violation is subject to a civil penalty of ~~$50~~ $25 for each intentionally unreported employee. An employer who has received a notice of noncompliance ~~and later incurs a third or subsequent violation~~ is subject to a civil penalty of $500 for each intentionally unreported employee, if noncompliance is the result of a conspiracy between an employer and an employee not to supply the required report or to supply a false or incomplete report. These penalties may be imposed and collected by the commissioner of human services. An employer who has been served with a notice of noncompliance and incurs a second or subsequent violation resulting in a civil penalty, has the right to a contested case hearing under chapter 14. An employer has 20 days from the date of service of the notice, to file a request for a contested case hearing with the commissioner. The order of the administrative law judge constitutes the final decision in the case.

Sec. 21. Minnesota Statutes 1996, section 256.998, subdivision 7, is amended to read:

Subd. 7. [ACCESS TO DATA.] The commissioner of human services shall retain the information reported to the work reporting system for a period of six months. Data in the work

reporting system may be disclosed to the public authority responsible for child support enforcement, federal agencies, ~~and~~ state and local agencies of other states for the purposes of enforcing state and federal laws governing child support, and agencies responsible for the administration of programs under Title IV-A of the Social Security Act, the department of economic security, and the department of labor and industry.

Sec. 22. Minnesota Statutes 1996, section 256.998, subdivision 9, is amended to read:

Subd. 9. [INDEPENDENT CONTRACTORS.] The state and all political subdivisions of the state, when acting in the capacity of an employer, shall report the hiring of any person as an independent contractor to the centralized work reporting system in the same manner as the hiring of an employee is reported.

~~The attorney general and the commissioner of human services shall work with representatives of the employment community and industries that utilize independent contractors in the regular course of business to develop a plan to include the reporting of independent contractors by all employers to the centralized work reporting system by July 1, 1996. The attorney general and the commissioner of human services shall present the resulting plan in the form of proposed legislation to the legislature by February 1, 1996.~~ Other payors may report independent contractors to whom they make payments that require the filing of a 1099-MISC report. Payors reporting independent contractors shall report by use of the same means and provide the same information required under subdivisions 4 and 5. The commissioner of human services shall establish procedures for payors reporting under this section.

Sec. 23. Minnesota Statutes 1996, section 257.62, subdivision 1, is amended to read:

Subdivision 1. [BLOOD OR GENETIC TESTS REQUIRED.] (a) The court or public authority may, and upon request of a party shall, require the child, mother, or alleged father to submit to blood or genetic tests. A mother or alleged father requesting the tests shall file with the court an affidavit either alleging or denying paternity and setting forth facts that establish the reasonable possibility that there was, or was not, the requisite sexual contact between the parties.

(b) A copy of the test results must be served on ~~the parties as provided in section 543.20~~ each party by first class mail to the party's last known address. Any objection to the results of blood or genetic tests must be made in writing no later than ~~15 days prior to a hearing at which time those test results may be introduced into evidence~~ 30 days after service of the results. Test results served upon a party must include notice of this right to object.

(c) If the alleged father is dead, the court may, and upon request of a party shall, require the decedent's parents or brothers and sisters or both to submit to blood or genetic tests. However, in a case involving these relatives of an alleged father, who is deceased, the court may refuse to order blood or genetic tests if the court makes an express finding that submitting to the tests presents a danger to the health of one or more of these relatives that outweighs the child's interest in having the tests performed. Unless the person gives consent to the use, the results of any blood or genetic tests of the decedent's parents, brothers, or sisters may be used only to establish the right of the child to public assistance including but not limited to social security and veterans' benefits. The tests shall be performed by a qualified expert appointed by the court.

Sec. 24. Minnesota Statutes 1996, section 257.62, subdivision 2, is amended to read:

Subd. 2. ~~The court, upon reasonable request by a party, shall order that independent tests be performed by other qualified experts.~~ Unless otherwise agreed by the parties, a party wanting additional testing must first contest the original tests in subdivision 1, paragraph (b), and must pay in advance for the additional testing. The additional testing must be performed by another qualified expert.

Sec. 25. Minnesota Statutes 1996, section 257.66, subdivision 3, is amended to read:

Subd. 3. [JUDGMENT; ORDER.] The judgment or order shall contain provisions concerning the duty of support, the custody of the child, the name of the child, the social security number of the mother, father, and child, if known at the time of adjudication, visitation privileges with the

child, the furnishing of bond or other security for the payment of the judgment, or any other matter in the best interest of the child. Custody and visitation and all subsequent motions related to them shall proceed and be determined under section 257.541. The remaining matters and all subsequent motions related to them shall proceed and be determined in accordance with chapter 518. The judgment or order may direct the appropriate party to pay all or a proportion of the reasonable expenses of the mother's pregnancy and confinement, after consideration of the relevant facts, including the relative financial means of the parents; the earning ability of each parent; and any health insurance policies held by either parent, or by a spouse or parent of the parent, which would provide benefits for the expenses incurred by the mother during her pregnancy and confinement. Pregnancy and confinement expenses and genetic testing costs, submitted by the public authority, are admissible as evidence without third-party foundation testimony and constitute prima facie evidence of the amounts incurred for those services or for the genetic testing. Remedies available for the collection and enforcement of child support apply to confinement costs and are considered additional child support.

Sec. 26. Minnesota Statutes 1996, section 257.66, is amended by adding a subdivision to read:

Subd. 6. [REQUIRED INFORMATION.] Upon entry of judgment or order, each parent who is a party in a paternity proceeding shall:

(1) file with the public authority responsible for child support enforcement the party's social security number, residential and mailing address, telephone number, driver's license number, and name, address, and telephone number of any employer if the party is receiving services from the public authority or begins receiving services from the public authority;

(2) file the information in clause (1) with the district court; and

(3) notify the court and, if applicable, the public authority responsible for child support enforcement of any change in the information required under this section within ten days of the change.

Sec. 27. Minnesota Statutes 1996, section 257.70, is amended to read:

257.70 [HEARINGS AND RECORDS; CONFIDENTIALITY.]

(a) Notwithstanding any other law concerning public hearings and records, any hearing or trial held under sections 257.51 to 257.74 shall be held in closed court without admittance of any person other than those necessary to the action or proceeding. All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in the state department of human services or elsewhere, are subject to inspection only upon consent of the court and all interested persons, or in exceptional cases only upon an order of the court for good cause shown.

(b) In all actions under this chapter in which public assistance is assigned under section 256.741 or the public authority provides services to a party or parties to the action, notwithstanding statutory or other authorization for the public authority to release private data on the location of a party to the action, information on the location of one party may not be released by the public authority 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. 28. Minnesota Statutes 1996, section 257.75, subdivision 1a, is amended to read:

Subd. 1a. [JOINDER IN RECOGNITION BY HUSBAND.] A man who is a presumed father under section 257.55, subdivision 1, paragraph (a), may join in a recognition of parentage that recognizes that another man is the child's biological father. The man who is the presumed father under section 257.55, subdivision 1, paragraph (a), must sign an acknowledgment under oath

before a notary public that he is renouncing the presumption under section 257.55, subdivision 1, paragraph (a), and recognizing that the father who is executing the recognition under subdivision 1 is the biological father of the child. A joinder in a recognition under this subdivision must be executed within one year after the child's birth and ~~at the same time as the recognition under subdivision 1 or within ten days following execution of the recognition.~~ the joinder must be ~~included in the recognition form or incorporated by reference within the recognition and attached to the form when it is~~ filed with the state registrar of vital statistics. The joinder must be on a form prepared by the commissioner of human services. Failure to properly execute a joinder in a recognition does not affect the validity of the recognition under subdivision 1. A joinder without a corresponding recognition of parentage has no legal effect.

Sec. 29. Minnesota Statutes 1996, section 257.75, subdivision 2, is amended to read:

Subd. 2. [REVOCATION OF RECOGNITION.] A recognition may be revoked in a writing signed by the mother or father before a notary public and filed with the state registrar of vital statistics within the earlier of 30 days after the recognition is executed or the date of an administrative or judicial hearing relating to the child in which the revoking party is a party to the related action. A joinder in a recognition may be revoked in a writing signed by the man who executed the joinder and filed with the state registrar of vital statistics within 30 days after the joinder is executed. Upon receipt of a revocation of the recognition of parentage or joinder in a recognition, the state registrar of vital statistics shall forward a copy of the revocation to the nonrevoking parent, or, in the case of a joinder in a recognition, to the mother and father who executed the recognition.

Sec. 30. Minnesota Statutes 1996, section 257.75, subdivision 3, is amended to read:

Subd. 3. [EFFECT OF RECOGNITION.] Subject to subdivision 2 and section 257.55, subdivision 1, paragraph (g) or (h), the recognition has the force and effect of a judgment or order determining the existence of the parent and child relationship under section 257.66. If the conditions in section 257.55, subdivision 1, paragraph (g) or (h), exist, the recognition creates only a presumption of paternity for purposes of sections 257.51 to 257.74. Once a recognition has been properly executed and filed with the state registrar of vital statistics, if there are no competing presumptions of paternity, a judicial or administrative court may not allow further action to determine parentage regarding the signator of the recognition. Until an order is entered granting custody to another, the mother has sole custody. The recognition is:

(1) a basis for bringing an action to award custody or visitation rights to either parent, establishing a child support obligation which may include up to the two years immediately preceding the commencement of the action, ordering a contribution by a parent under section 256.87, or ordering a contribution to the reasonable expenses of the mother's pregnancy and confinement, as provided under section 257.66, subdivision 3, or ordering reimbursement for the costs of blood or genetic testing, as provided under section 257.69, subdivision 2;

(2) determinative for all other purposes related to the existence of the parent and child relationship; and

(3) entitled to full faith and credit in other jurisdictions.

Sec. 31. Minnesota Statutes 1996, section 257.75, subdivision 4, is amended to read:

Subd. 4. [ACTION TO VACATE RECOGNITION.] (a) An action to vacate a recognition of paternity may be brought by the mother, father, husband or former husband who executed a joinder, or the child. An action to vacate a recognition of parentage may be brought by the public authority if it is combined with an action to establish parentage of another man. A mother, father, or husband or former husband who executed a joinder must bring the action within one year of the execution of the recognition or within six months after the person bringing the action obtains the results of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child. A child must bring an action to vacate within six months after the child obtains the result of blood or genetic tests that indicate that the man who executed the recognition is not the father of the child, or within one year of reaching the age of majority, whichever is later. If the

court finds a prima facie basis for vacating the recognition, the court shall order the child, mother, father, and husband or former husband who executed a joinder to submit to blood tests. If the court issues an order for the taking of blood tests, the court shall require the party seeking to vacate the recognition to make advance payment for the costs of the blood tests. If the party fails to pay for the costs of the blood tests, the court shall dismiss the action to vacate with prejudice. The court may also order the party seeking to vacate the recognition to pay the other party's reasonable attorney fees, costs, and disbursements. If the results of the blood tests establish that the man who executed the recognition is not the father, the court shall vacate the recognition. If a recognition is vacated, any joinder in the recognition under subdivision 1a is also vacated. The court shall terminate the obligation of a party to pay ongoing child support based on the recognition. A modification of child support based on a recognition may be made retroactive with respect to any period during which the moving party has pending a motion to vacate the recognition but only from the date of service of notice of the motion on the responding party.

(b) The burden of proof in an action to vacate the recognition is on the moving party. The moving party must request the vacation on the basis of fraud, duress, or material mistake of fact. The legal responsibilities in existence at the time of an action to vacate, including child support obligations, may not be suspended during the proceeding, except for good cause shown.

Sec. 32. Minnesota Statutes 1996, section 257.75, subdivision 5, is amended to read:

Subd. 5. [RECOGNITION FORM.] The commissioner of human services shall prepare a form for the recognition of parentage under this section. In preparing the form, the commissioner shall consult with the individuals specified in subdivision 6. The recognition form must be drafted so that the force and effect of the recognition, the alternatives to executing a recognition, and the benefits and responsibilities of establishing paternity are clear and understandable. The form must include a notice regarding the finality of a recognition and the revocation procedure under subdivision 2. The form must include a provision for each parent to verify that the parent has read or viewed the educational materials prepared by the commissioner of human services describing the recognition of paternity. If feasible, the individual providing the form to the parents for execution shall provide oral notice of the rights, responsibilities, and alternatives to executing the recognition. Notice may be provided by audiotape, videotape, or similar means. Each parent must receive a copy of the recognition.

Sec. 33. Minnesota Statutes 1996, section 257.75, subdivision 7, is amended to read:

Subd. 7. [HOSPITAL AND DEPARTMENT OF HEALTH DISTRIBUTION OF EDUCATIONAL MATERIALS; RECOGNITION FORM.] Hospitals that provide obstetric services and the state registrar of vital statistics shall distribute the educational materials and recognition of parentage forms prepared by the commissioner of human services to new parents and shall assist parents in understanding the recognition of parentage form, including following the provisions for notice under subdivision 5. On and after January 1, 1994, hospitals may not distribute the declaration of parentage forms.

Sec. 34. Minnesota Statutes 1996, section 299C.46, subdivision 3, is amended to read:

Subd. 3. [AUTHORIZED USE, FEE.] (a) The data communications network shall be used exclusively by:

(1) criminal justice agencies in connection with the performance of duties required by law;

(2) agencies investigating federal security clearances of individuals for assignment or retention in federal employment with duties related to national security, as required by Public Law Number 99-1691; ~~and~~

(3) other agencies to the extent necessary to provide for protection of the public or property in an emergency or disaster situation; and

(4) the public authority responsible for child support enforcement in connection with the performance of its duties.

(b) The commissioner of public safety shall establish a monthly network access charge to be paid by each participating criminal justice agency. The network access charge shall be a standard fee established for each terminal, computer, or other equipment directly addressable by the criminal justice data communications network, as follows: January 1, 1984 to December 31, 1984, $40 connect fee per month; January 1, 1985 and thereafter, $50 connect fee per month.

(c) The commissioner of public safety is authorized to arrange for the connection of the data communications network with the criminal justice information system of the federal government, any adjacent state, or Canada.

Sec. 35. Minnesota Statutes 1996, section 518.005, is amended by adding a subdivision to read:

Subd. 5. [PROHIBITED DISCLOSURE.] In all proceedings under this chapter 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, information on the location of one party may not be released by the public authority 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. 36. Minnesota Statutes 1996, section 518.10, is amended to read:

518.10 [REQUISITES OF PETITION.]

The petition for dissolution of marriage or legal separation shall state and allege:

(a) The name ~~and~~, address, and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the petitioner and any prior or other name used by the petitioner;

(b) The name and, if known, the address and, in circumstances in which child support or spousal maintenance will be addressed, social security number of the respondent and any prior or other name used by the respondent and known to the petitioner;

(c) The place and date of the marriage of the parties;

(d) In the case of a petition for dissolution, that either the petitioner or the respondent or both:

(1) Has resided in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(2) Has been a member of the armed services and has been stationed in this state for not less than 180 days immediately preceding the commencement of the proceeding, or

(3) Has been a domiciliary of this state for not less than 180 days immediately preceding the commencement of the proceeding;

(e) The name at the time of the petition and any prior or other name, age and date of birth of each living minor or dependent child of the parties born before the marriage or born or adopted during the marriage and a reference to, and the expected date of birth of, a child of the parties conceived during the marriage but not born;

(f) Whether or not a separate proceeding for dissolution, legal separation, or custody is pending in a court in this state or elsewhere;

(g) In the case of a petition for dissolution, that there has been an irretrievable breakdown of the marriage relationship;

(h) In the case of a petition for legal separation, that there is a need for a decree of legal separation; and

(i) Any temporary or permanent maintenance, child support, child custody, disposition of property, attorneys' fees, costs and disbursements applied for without setting forth the amounts.

The petition shall be verified by the petitioner or petitioners, and its allegations established by competent evidence.

Sec. 37. [518.111] [SUFFICIENCY OF NOTICE.]

(a) Automated child support notices sent by the public authority that do not require service are sufficient notice when issued and mailed by first class mail to the person's last known address.

(b) It is not a defense that a person failed to notify the public authority of a change of address as required by state law.

Sec. 38. Minnesota Statutes 1996, section 518.148, subdivision 2, is amended to read:

Subd. 2. [REQUIRED INFORMATION.] The certificate shall include the following information:

(1) the full caption and file number of the case and the title "Certificate of Dissolution";

(2) the names and any prior or other names of the parties to the dissolution;

(3) the names of any living minor or dependent children as identified in the judgment and decree;

(4) that the marriage of the parties is dissolved; ~~and~~

(5) the date of the judgment and decree; and

(6) the social security number of the parties to the dissolution and the social security number of any living minor or dependent children identified in the judgment and decree.

Sec. 39. Minnesota Statutes 1996, section 518.171, subdivision 1, is amended to read:

Subdivision 1. [ORDER.] Compliance with this section constitutes compliance with a qualified medical child support order as described in the federal Employee Retirement Income Security Act of 1974 (ERISA) as amended by the federal Omnibus Budget Reconciliation Act of 1993 (OBRA).

(a) Every child support order must:

(1) expressly assign or reserve the responsibility for maintaining medical insurance for the minor children and the division of uninsured medical and dental costs; and

(2) contain the names ~~and~~, last known addresses, ~~if any~~ and social security number of the custodial parent and noncustodial parent, of the dependents unless the court prohibits the inclusion of an address or social security number and orders the custodial parent to provide the address and social security number to the administrator of the health plan. The court shall order the party with the better group dependent health and dental insurance coverage or health insurance plan to name the minor child as beneficiary on any health and dental insurance plan that is available to the party on:

(i) a group basis;

(ii) through an employer or union; or

(iii) through a group health plan governed under the ERISA and included within the definitions relating to health plans found in section 62A.011, 62A.048, or 62E.06, subdivision 2.

"Health insurance" or "health insurance coverage" as used in this section means coverage that is comparable to or better than a number two qualified plan as defined in section 62E.06, subdivision 2. "Health insurance" or "health insurance coverage" as used in this section does not include medical assistance provided under chapter 256, 256B, or 256D.

(b) If the court finds that dependent health or dental insurance is not available to the obligor or obligee on a group basis or through an employer or union, or that group insurance is not accessible to the obligee, the court may require the obligor (1) to obtain other dependent health or dental insurance, (2) to be liable for reasonable and necessary medical or dental expenses of the child, or (3) to pay no less than $50 per month to be applied to the medical and dental expenses of the children or to the cost of health insurance dependent coverage.

(c) If the court finds that the available dependent health or dental insurance does not pay all the reasonable and necessary medical or dental expenses of the child, including any existing or anticipated extraordinary medical expenses, and the court finds that the obligor has the financial ability to contribute to the payment of these medical or dental expenses, the court shall require the obligor to be liable for all or a portion of the medical or dental expenses of the child not covered by the required health or dental plan. Medical and dental expenses include, but are not limited to, necessary orthodontia and eye care, including prescription lenses.

(d) Unless otherwise agreed by the parties and approved by the court, if the court finds that the obligee is not receiving public assistance for the child and has the financial ability to contribute to the cost of medical and dental expenses for the child, including the cost of insurance, the court shall order the obligee and obligor to each assume a portion of these expenses based on their proportionate share of their total net income as defined in section 518.54, subdivision 6.

(e) Payments ordered under this section are subject to section 518.611. An obligee who fails to apply payments received to the medical expenses of the dependents may be found in contempt of this order.

Sec. 40. Minnesota Statutes 1996, section 518.171, subdivision 4, is amended to read:

Subd. 4. [EFFECT OF ORDER.] (a) The order is binding on the employer or union and the health and dental insurance plan when service under subdivision 3 has been made. In the case of an obligor who changes employment and is required to provide health coverage for the child, a new employer that provides health care coverage shall enroll the child in the obligor's health plan upon receipt of an order or notice for health insurance, unless the obligor contests the enrollment. The obligor may contest the enrollment on the limited grounds that the enrollment is improper due to mistake of fact or that the enrollment meets the requirements of section 518.64, subdivision 2. If the obligor chooses to contest the enrollment, the obligor must do so no later than 15 days after the employer notifies the obligor of the enrollment, by doing all of the following:

(1) filing a request for contested hearing according to section 518.5511, subdivision 3a;

(2) serving a copy of the request for contested hearing upon the public authority and the obligee; and

(3) securing a date for the contested hearing no later than 45 days after the notice of enrollment.

(b) The enrollment must remain in place during the time period in which the obligor contests the withholding.

An employer or union that is included under ERISA may not deny enrollment based on exclusionary clauses described in section 62A.048. Upon ~~receipt of the order, or upon~~ application of the obligor ~~pursuant~~ according to the order or notice, the employer or union and its health and dental insurance plan shall enroll the minor child as a beneficiary in the group insurance plan and withhold any required premium from the obligor's income or wages. If more than one plan is offered by the employer or union, the child shall be enrolled in the least costly health insurance plan otherwise available to the obligor that is comparable to a number two qualified plan. If the obligor is not enrolled in a health insurance plan, the employer or union shall also enroll the

obligor in the chosen plan if enrollment of the obligor is necessary in order to obtain dependent coverage under the plan. Enrollment of dependents and the obligor shall be immediate and not dependent upon open enrollment periods. Enrollment is not subject to the underwriting policies described in section 62A.048.

(b) An employer or union that willfully fails to comply with the order is liable for any health or dental expenses incurred by the dependents during the period of time the dependents were eligible to be enrolled in the insurance program, and for any other premium costs incurred because the employer or union willfully failed to comply with the order. An employer or union that fails to comply with the order is subject to contempt under section 518.615 and is also subject to a fine of $500 to be paid to the obligee or public authority. Fines paid to the public authority are designated for child support enforcement services.

(c) Failure of the obligor to execute any documents necessary to enroll the dependent in the group health and dental insurance plan will not affect the obligation of the employer or union and group health and dental insurance plan to enroll the dependent in a plan. Information and authorization provided by the public authority responsible for child support enforcement, or by the custodial parent or guardian, is valid for the purposes of meeting enrollment requirements of the health plan. The insurance coverage for a child eligible under subdivision 5 shall not be terminated except as authorized in subdivision 5.

Sec. 41. Minnesota Statutes 1996, section 518.54, is amended by adding a subdivision to read:

Subd. 4a. [SUPPORT ORDER.] "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, for the support and maintenance 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, that provides for monetary support, child care, medical support including expenses for confinement and pregnancy, arrearages, or reimbursement, and that may include related costs and fees, interest and penalties, income withholding, and other relief. This definition applies to orders issued under this chapter and chapters 256, 257, and 518C.

Sec. 42. Minnesota Statutes 1996, section 518.54, subdivision 6, is amended to read:

Subd. 6. [INCOME.] (a) "Income" means any form of periodic payment to an individual including, but not limited to, wages, salaries, payments to an independent contractor, workers' compensation, reemployment insurance, annuity, military and naval retirement, pension and disability payments. Benefits received under ~~sections 256.72 to 256.87 and chapter 256D~~ Title IV-A of the Social Security Act are not income under this section.

(b) Income also includes other resources of an individual including, but not limited to, nonperiodic distributions of workers' compensation claims, reemployment claims, personal injury recoveries, proceeds from a lawsuit, severance pay, bonuses, and lottery or gambling winnings.

Sec. 43. Minnesota Statutes 1996, section 518.551, subdivision 5, is amended to read:

Subd. 5. [NOTICE TO PUBLIC AUTHORITY; GUIDELINES.] (a) The petitioner shall 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 aid to families with dependent children 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. After receipt of the notice, the court shall set child support as provided in this subdivision. The court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for the child's support, without regard to marital misconduct. The court shall approve a child support stipulation of the parties if each party is represented by independent counsel, unless the stipulation does not meet the conditions of paragraph (i). In other cases the court shall determine and order child support in a specific dollar amount in accordance with the guidelines and the other factors set forth in paragraph (c) and any departure therefrom. The court may also order the 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.

(b) The court shall derive a specific dollar amount for child support by multiplying the obligor's net income by the percentage indicated by the following guidelines:

Net Income Per Month of Obligor	Number of Children						
	1	2	3	4	5	6	7 or more
$550 and Below	Order based on the ability of the obligor to provide support at these income levels, or at higher levels, if the obligor has the earning ability.						
$551 - 600	16%	19%	22%	25%	28%	30%	32%
$601 - 650	17%	21%	24%	27%	29%	32%	34%
$651 - 700	18%	22%	25%	28%	31%	34%	36%
$701 - 750	19%	23%	27%	30%	33%	36%	38%
$751 - 800	20%	24%	28%	31%	35%	38%	40%
$801 - 850	21%	25%	29%	33%	36%	40%	42%
$851 - 900	22%	27%	31%	34%	38%	41%	44%
$901 - 950	23%	28%	32%	36%	40%	43%	46%
$951 - 1000	24%	29%	34%	38%	41%	45%	48%
$1001- 5000	25%	30%	35%	39%	43%	47%	50%
or the amount in effect under paragraph (k)							

Guidelines for support for an obligor with a monthly income in excess of the income limit currently in effect under paragraph (k) shall be the same dollar amounts as provided for in the guidelines for an obligor with a monthly income equal to the limit in effect.

Net Income defined as:

Total monthly income less

*(i) Federal Income Tax
*(ii) State Income Tax
(iii) Social Security Deductions
(iv) Reasonable Pension Deductions
(v) Union Dues
(vi) Cost of Dependent Health Insurance Coverage
(vii) Cost of Individual or Group Health/Hospitalization Coverage or an Amount for Actual Medical Expenses
(viii) A Child Support or Maintenance Order that is Currently Being Paid.

*Standard Deductions apply for single person with one exemption -use of tax tables recommended

"Net income" does not include:

(1) the income of the obligor's spouse, but does include 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; or

(2) compensation received by a party for employment in excess of a 40-hour work week, provided that:

(i) support is nonetheless ordered in an amount at least equal to the guidelines amount based on income not excluded under this clause; and

(ii) the party demonstrates, and the court finds, that:

(A) the excess employment began after the filing of the petition for dissolution;

(B) the excess employment reflects an increase in the work schedule or hours worked over that of the two years immediately preceding the filing of the petition;

(C) the excess employment is voluntary and not a condition of employment;

(D) the excess employment is in the nature of additional, part-time or overtime employment compensable by the hour or fraction of an hour; and

(E) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation.

The court shall review the work-related and education-related child care costs paid and shall allocate the costs to each parent in proportion to each parent's net income, as determined under this subdivision, after the transfer of child support and spousal maintenance, unless the allocation would be substantially unfair to either parent. There is a presumption of substantial unfairness if after the sum total of child support, spousal maintenance, and child care costs is subtracted from the noncustodial parent's income, the income is at or below 100 percent of the federal poverty guidelines. The cost of child care for purposes of this paragraph is 75 percent of the actual cost paid for child care, to reflect the approximate value of state and federal tax credits available to the custodial parent. The actual cost paid for child care is the total amount received by the child care provider for the child or children of the obligor from the obligee or any public agency. The court shall require verification of employment or school attendance and documentation of child care expenses from the obligee and the public agency, if applicable. If child care expenses fluctuate during the year because of seasonal employment or school attendance of the obligee or extended periods of visitation with the obligor, the court shall determine child care expenses based on an average monthly cost. The amount allocated for child care expenses is considered child support but is not subject to a cost-of-living adjustment under section 518.641. The amount allocated for child care expenses terminates when either party notifies the public authority that the child care costs have ended and without any legal action on the part of either party. The public authority shall verify the information received under this provision before authorizing termination. The termination is effective as of the date of the notification. In other cases where there is a substantial increase or decrease in child care expenses, the parties may modify the order under section 518.64.

The court may allow the noncustodial parent to care for the child while the custodial parent is working, as provided in section 518.175, subdivision 8. Allowing the noncustodial parent to care for the child under section 518.175, subdivision 8, is not a reason to deviate from the guidelines.

(c) In addition to the child support guidelines, the court shall 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 paragraph (b), clause (2)(ii);

(2) the financial needs and resources, physical and emotional condition, and educational needs of the child or children 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 what financial benefit the parent receives from it;

(5) the parents' debts as provided in paragraph (d); and

(6) the obligor's receipt of assistance under ~~sections 256.72 to 256.87 or 256B.01 to 256B.40~~ section 256.741.

(d) 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 ~~256.74~~ 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 shall 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 amount of the original debt, the outstanding balance, the monthly payment, and the number of months until the debt will be fully paid.

(e) Any schedule prepared under paragraph (d), clause (3), shall 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.

(f) Any further departure below the guidelines that is based on a consideration of debts owed to private creditors shall not exceed 18 months in duration, after which the support shall increase automatically to the level ordered by the court. Nothing in this section shall be construed to prohibit one or more step increases in support to reflect debt retirement during the 18-month period.

(g) If payment of debt is ordered pursuant to this section, the payment shall be ordered to be in the nature of child support.

(h) Nothing shall preclude the court from receiving evidence on the above factors to determine if the guidelines should be exceeded or modified in a particular case.

(i) The guidelines in this subdivision are a rebuttable presumption and shall be used in all cases when establishing or modifying child support. If the court does not deviate from the guidelines, the court shall make written findings concerning the amount of the obligor's income used as the basis for the guidelines calculation and any other significant evidentiary factors affecting the determination of child support. If the court deviates from the guidelines, the court shall make written findings giving the amount of support calculated under the guidelines, the reasons for the deviation, and shall specifically address the criteria in paragraph (c) and how the deviation serves the best interest of the child. 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 agency under section ~~256.74~~ 256.741, the court may deviate downward only as provided in paragraph (j). Nothing in this paragraph prohibits the court from deviating in other cases. The provisions of this paragraph apply whether or not the parties are each represented by independent counsel and have entered into a written agreement. The court shall review stipulations presented to it for conformity to the guidelines and the court is not required to conduct a hearing, but the parties shall provide the documentation of earnings required under subdivision 5b.

(j) If the child support payments are assigned to the public agency under section ~~256.74~~ 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.

(k) The dollar amount of the income limit for application of the guidelines must be adjusted on July 1 of every even-numbered year to reflect cost-of-living changes. The supreme court shall select the index for the adjustment from the indices listed in section 518.641. The state court administrator shall make the changes in the dollar amount 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.

Sec. 44. Minnesota Statutes 1996, section 518.551, subdivision 5b, is amended to read:

Subd. 5b. [DETERMINATION OF INCOME.] (a) The parties shall timely serve and file documentation of earnings and income. When there is a prehearing conference, the court must receive the documentation of income at least ten days prior to the prehearing conference. Documentation of earnings and income also 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, including W-2 forms, 1099 forms, reemployment insurance statements, workers' compensation statements, and all other documents evidencing income as received that provide verification of income over a longer period.

(b) In addition to the requirements of paragraph (a), at any time after an action seeking child support has been commenced 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 party's most recent federal tax returns that were filed with the Internal Revenue Service. The party shall provide a copy of the tax returns within 30 days of receipt of the request unless the request is not made in good faith. A request under this paragraph may not be made more than once every two years, in the absence of good cause.

(c) 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 shall set income for that parent based on credible evidence before the court or in accordance with paragraph (d). 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 economic security under section 268.121.

(d) If the court finds that a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of imputed income. A parent is not considered voluntarily unemployed or underemployed upon a showing by the parent that the unemployment or underemployment: (1) is temporary and will ultimately lead to an increase in income; or (2) represents a bona fide career change that outweighs the adverse effect of that parent's diminished income on the child. 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. If the court is unable to determine or estimate the earning ability of a parent, the court may calculate child support based on full-time employment of 40 hours per week at 200 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher. Any medical support or child care contribution must be calculated based upon the obligor's proportionate share of the child care expenses using 40 hours per week at 200 percent of the federal minimum wage or the Minnesota minimum wage, whichever is higher. If a parent is a recipient of ~~public~~ cash or medical assistance under ~~sections 256.72 to 256.87 or chapter 256D~~ section 256.741, or is physically or mentally incapacitated, it shall be presumed that the parent is not voluntarily unemployed or underemployed.

(e) Income from self employment is equal to gross receipts minus ordinary and necessary expenses. Ordinary and necessary expenses do not 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. A person seeking to deduct an expense, including depreciation, has the burden of proving, if challenged, that the expense is ordinary and necessary. Net income under this section may be different from taxable income.

Sec. 45. Minnesota Statutes 1996, section 518.551, subdivision 7, is amended to read:

Subd. 7. [SERVICE FEE.] When the public agency responsible for child support enforcement provides child support collection services either to a public assistance recipient or to a party who does not receive public assistance, the public agency 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 which was ordered by the court. The fee shall be deposited in the county general fund. The service fee assessed is limited to ten percent of the monthly court ordered child support and shall not be assessed to obligors who are current in payment of the monthly court ordered child support.

An application fee of $25 shall 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 and persons who transfer from public assistance to nonpublic assistance status. 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 shall assess a fee of $25 to the person not receiving public assistance for each successful federal tax interception. The fee must be withheld prior to the release of the funds received from each interception and deposited in the general fund.

However, the limitations of this subdivision on the assessment of fees shall not apply to the extent 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 United States Code, title 42, sections 651 to 662.

Sec. 46. Minnesota Statutes 1996, section 518.551, subdivision 12, is amended to read:

Subd. 12. [OCCUPATIONAL LICENSE SUSPENSION.] (a) Upon motion of an obligee, 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 occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the administrative law judge, or the court shall direct the licensing board or other licensing agency to suspend the license under section 214.101. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages. The payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective. If the obligor is a licensed attorney, the court shall report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement 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 occupational license and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority shall direct the licensing board or other licensing agency to suspend the license under section 214.101. If the obligor is a licensed attorney, the public authority may report the matter to the lawyers professional responsibility board for appropriate action in accordance with the rules of professional conduct. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days before notifying a licensing authority or the lawyers professional

responsibility board under paragraph (b), the public authority shall mail a written notice to the license holder addressed to the license holder's last known address that the public authority intends to seek license suspension under this subdivision and that the license holder must request a hearing within 30 days in order to contest the suspension. If the license holder makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the license holder must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the license holder. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by the ~~court, an administrative law judge or the~~ public authority within 90 days of the date of the notice, the public authority shall direct the licensing board or other licensing agency to suspend the obligor's license under paragraph (b), or shall report the matter to the lawyers professional responsibility board.

(d) The administrative law judge, on behalf of the public authority, or the court shall notify the lawyers professional responsibility board for appropriate action in accordance with the rules of professional responsibility conduct or order the licensing board or licensing agency to suspend the license if the judge finds that:

(1) the person is licensed by a licensing board or other state agency that issues an occupational license;

(2) the person has not made full payment of arrearages found to be due by the public authority; and

(3) the person has not executed or is not in compliance with a payment plan approved by the court, an administrative law judge, or the public authority.

(e) Within 15 days of the date on which the obligor either makes full payment of arrearages found to be due by the court or public authority or executes and initiates good faith compliance with a written payment plan approved by the court, an administrative law judge, or the public authority, the court, an administrative law judge, or the public authority responsible for child support enforcement shall notify the licensing board or licensing agency or the lawyers professional responsibility board that the obligor is no longer ineligible for license issuance, reinstatement, or renewal under this subdivision.

(f) In addition to the criteria established under this section for the suspension of an obligor's occupational license, a court, an administrative law judge, or the public authority may direct the licensing board or other licensing agency to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding.

(g) The license of an obligor who fails to remain in compliance with an approved payment agreement may be suspended. Notice to the obligor of an intent to suspend under this paragraph must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with an approved payment agreement, the judge shall notify the occupational licensing board or agency to suspend the obligor's license under paragraph (c). If the obligor fails to appear at the hearing, the public authority may notify the occupational or licensing board to suspend the obligor's license under paragraph (c).

Sec. 47. Minnesota Statutes 1996, section 518.551, subdivision 13, is amended to read:

Subd. 13. [DRIVER'S LICENSE SUSPENSION.] (a) Upon motion of an obligee, which has been properly served on the obligor and upon which there has been an opportunity for hearing, if a court finds that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and is not in compliance with a written payment agreement regarding both

current support and arrearages approved by the court, an administrative law judge, or the public authority, the court shall order the commissioner of public safety to suspend the obligor's driver's license. The court's order must be stayed for 90 days in order to allow the obligor to execute a written payment agreement regarding both current support and arrearages, which payment agreement must be approved by either the court or the public authority responsible for child support enforcement. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages after the 90 days expires, the court's order becomes effective and the commissioner of public safety shall suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the court. An obligee may not bring a motion under this paragraph within 12 months of a denial of a previous motion under this paragraph.

(b) If a public authority responsible for child support enforcement determines that the obligor has been or may be issued a driver's license by the commissioner of public safety and the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments and not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license. The remedy under this subdivision is in addition to any other enforcement remedy available to the public authority.

(c) At least 90 days prior to notifying the commissioner of public safety ~~pursuant~~ according to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known address, that it intends to seek suspension of the obligor's driver's license and that the obligor must request a hearing within 30 days in order to contest the suspension. If the obligor makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice, and the obligor does not execute a written payment agreement regarding both current support and arrearages approved by ~~the court, an administrative law judge, or~~ the public authority within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to suspend the obligor's driver's license under paragraph (b).

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the commissioner of public safety to suspend the obligor's driver's license or operating privileges unless the court or administrative law judge determines that the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority.

(e) An obligor whose driver's license or operating privileges are suspended may provide proof to the ~~court or the~~ public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages. Within 15 days of the receipt of that proof, the ~~court or~~ public authority shall inform the commissioner of public safety that the obligor's driver's license or operating privileges should no longer be suspended.

(f) On January 15, 1997, and every two years after that, the commissioner of human services shall 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; and

(6) the cost of implementation and operation of the requirements of this section.

(g) In addition to the criteria established under this section for the suspension of an obligor's driver's license, a court, an administrative law judge, or the public authority may direct the commissioner of public safety to suspend the license of a party who has failed, after receiving notice, to comply with a subpoena relating to a paternity or child support proceeding. Notice to an obligor of intent to suspend must be served by first class mail at the obligor's last known address. The notice must inform the obligor of the right to request a hearing. If the obligor makes a written request within ten days of the date of the hearing, a contested administrative proceeding must be held under section 518.5511, subdivision 4. At the hearing, the only issues to be considered are mistake of fact and whether the obligor received the subpoena.

(h) The license of an obligor who fails to remain in compliance with an approved payment agreement may be suspended. Notice to the obligor of an intent to suspend under this paragraph must be served by first class mail at the obligor's last known address and must include a notice of hearing. The notice must be served upon the obligor not less than ten days before the date of the hearing. If the obligor appears at the hearing and the judge determines that the obligor has failed to comply with an approved payment agreement, the judge shall notify the department of public safety to suspend the obligor's license under paragraph (c). If the obligor fails to appear at the hearing, the public authority may notify the department of public safety to suspend the obligor's license under paragraph (c).

Sec. 48. Minnesota Statutes 1996, section 518.551, is amended by adding a subdivision to read:

Subd. 13a. [DATA ON SUSPENSIONS FOR SUPPORT ARREARS.] Notwithstanding section 13.03, subdivision 4, paragraph (c), data on an occupational license suspension under subdivision 12 or a driver license suspension under subdivision 13 that are transferred by the department of human services to respectively the department of public safety or any state, county or municipal occupational licensing agency 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. 49. Minnesota Statutes 1996, section 518.5511, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) An administrative process is established to obtain, modify, and enforce child and medical support orders and parentage orders and ~~modify~~ enforce maintenance if combined with a child support proceeding. All laws governing these actions apply insofar as they are not inconsistent with the provisions of this section and section 518.5512. Wherever other laws or rules are inconsistent with this section and section 518.5512, the provisions in this section and section 518.5512 shall apply.

(b) All proceedings for obtaining, modifying, or enforcing child and medical support orders and ~~modifying~~ enforcing maintenance orders if combined with a child support proceeding, are required to be conducted in the administrative process when the public authority is a party or provides services to a party or parties to the proceedings. Cases in which there is no assignment of support or in which the public authority is not providing services may not be conducted in the administrative process. At county option, the administrative process may include contempt motions or actions to establish parentage. Nothing contained herein shall prevent a party, upon timely notice to the public authority, from commencing an action or bringing a motion for the establishment, modification, or enforcement of child support or ~~modification~~ enforcement of maintenance orders if combined with a child support proceeding in district court, if additional

issues involving domestic abuse, establishment or modification of custody or visitation, property issues, or other issues outside the jurisdiction of the administrative process, are part of the motion or action, or from proceeding with a motion or action brought by another party containing one or more of these issues if it is pending in district court.

(c) A party may make a written request to the public authority to initiate an uncontested administrative proceeding. If the public authority denies the request, the public authority shall issue a ~~summary~~ notice of denial within 30 days of the request which denies the request for relief within 30 days of receiving the written request, states the reasons for the denial, and notifies the party of the right to ~~commence an action for relief~~ proceed directly to a contested administrative proceeding according to subdivision 3a, paragraph (a). If the party ~~commences an action or serves and files a motion~~ proceeds directly to a contested hearing and files the requisite documents, as provided by the commissioner, with the court administrator within 30 days after the public authority's denial and the party's action results in a modification of a child support order, the modification may be retroactive to the date the written request was received by the public authority. If the public authority accepts the request and proceeds with the uncontested administrative process, any order or modification may be retroactive to the date the written request was received by the public authority.

(d) ~~After August 1, 1994, all counties shall participate in the administrative process established in this section in accordance with a statewide implementation plan to be set forth by the commissioner of human services. No county shall be required to participate in the administrative process until after the county has been trained. The implementation plan shall include provisions for training the counties by region no later than July 1, 1995.~~ The public authority may initiate actions in the administrative process.

(e) For the purpose of the administrative process, all powers, duties, and responsibilities conferred on judges of district court to obtain and enforce child and medical support and parentage and maintenance obligations, subject to the limitations of this section are conferred on administrative law judges, including the power to determine controlling interstate orders, and to issue subpoenas, orders to show cause, and bench warrants for failure to appear.

The administrative law judge has the authority to enter parentage orders in which the custody and visitation provisions are uncontested.

(f) Nonattorney employees of the public authority responsible for child support may prepare, sign, serve, and file notices, summary notices, proposed orders, default orders, consent orders, orders for blood or genetic tests, and other documents related to the administrative process for obtaining, modifying, or enforcing child and medical support orders, orders establishing paternity, and related documents, and orders to enforce maintenance if combined with a child support order. The nonattorney employee may issue administrative subpoenas, conduct prehearing conferences, and participate in proceedings before an administrative law judge. This activity is not considered the unauthorized practice of law. Nonattorney employees may not represent the interests of any party other than the public authority, and may not give legal advice. The nonattorney employees may act subject to the limitations of section 518.5512. In performing their duties under this paragraph, the nonattorney employees shall consult with the county attorney and act consistently with the county attorney's legal advice but they are not under the direction or control of the county attorney.

(g) After the commencement of the administrative process, any party may make a written request to the office of administrative hearings for a subpoena compelling the attendance of a witness or the production of books, papers, records, or other documents relevant to the administrative process. Subpoenas shall be enforceable through the district court. The public authority may also request a subpoena from the office of administrative hearings for the production of a witness or documents. The nonattorney employee of the public authority may issue subpoenas subject to the limitations in section 518.5512, subdivision 6, paragraph (a), clause (2).

(h) At all stages of the administrative process, the county attorney, or other attorney under contract, shall act as the legal adviser for the public authority.

(i) The commissioner of human services shall:

(1) provide training to child support officers and other persons involved in the administrative process;

(2) timely prepare simple and easy to understand forms, in consultation with the office of administrative hearings, for all notices and orders prescribed in this section, including a support order worksheet form, with the exception of orders issued by the district court or the office of administrative hearings under subdivision 4; and

(3) distribute money to cover the costs of the administrative process, including the salaries of administrative law judges. If available appropriations are insufficient to cover the costs, the commissioner shall prorate the amount among the counties.

(j) The commissioner of human services, in consultation with the office of administrative hearings, is responsible for the supervision of the administrative process.

(k) The public authority, the office of administrative hearings, court administrators, and other entities involved in the administrative process shall use the forms prepared by the commissioner.

(l) The office of administrative hearings may reject orders that have not been prepared using the commissioner's forms or on forms that have not been approved by the commissioner.

(m) The office of administrative hearings is responsible for training and monitoring the performance of administrative law judges, maintaining records of proceedings, providing transcripts upon request, and maintaining the integrity of the district court file.

Sec. 50. Minnesota Statutes 1996, section 518.5511, subdivision 2, is amended to read:

Subd. 2. [UNCONTESTED ADMINISTRATIVE PROCEEDING.] (a) ~~A party may petition the chief administrative law judge, the chief district court judge, or the chief family court referee to proceed immediately to a contested hearing upon good cause shown.~~

~~(b) The public authority shall give the parties written notice requesting the submission of information necessary for the public authority to prepare a proposed order. The written notice shall be sent by first class mail to the parties' last known addresses. The written notice shall describe the information requested, state the purpose of the request, state the date by which the information must be postmarked or received (which shall be at least 30 days from the date of the mailing of the written notice), state that if the information is not postmarked or received by that date, the public authority will prepare a proposed order on the basis of the information available, and identify the type of information which will be considered.~~

~~(c)~~ Following ~~the submission of information or following the date when the information was due~~ the initiation of the administrative process under subdivision 1, paragraph (c) or (d), the public authority shall, on the basis of all information available, complete and sign a proposed order and notice. The public authority shall attach a support order worksheet. In preparing the proposed order, the public authority will establish child support in the highest amount permitted under section 518.551, subdivision 5. The proposed order shall include written findings in accordance with section 518.551, subdivision 5, clauses (i) and (j). If the public authority has incomplete or insufficient information upon which to prepare a proposed order, the public authority shall use the default standard established in section 518.551, subdivision 5b, paragraph (d), to prepare the proposed order. The notice shall state that the proposed order will be entered as a final and binding default order unless one of the parties ~~requests a conference under subdivision 3~~ contacts the public authority regarding the proposed order within ~~21~~ 30 days following the date of service of the proposed order. ~~The method for requesting the conference shall be stated in the notice.~~ The notice and proposed order shall be served under the rules of civil procedure on the noninitiating party and by first class mail on the initiating party. If the action was initiated by the public authority, the notice and proposed order shall be served under the rules of civil procedure. After receipt of the notice and proposed order, the court administrator shall file the documents.

For the purposes of the ~~contested hearing~~ administrative process, and notwithstanding any law

or rule to the contrary, the service of the proposed order ~~pursuant to~~ under this paragraph shall be deemed to have commenced a proceeding and the judge~~, including an administrative law judge or a referee~~, shall have jurisdiction over ~~the~~ a contested ~~hearing~~ administrative proceeding.

~~(d)~~ (b) If ~~a conference under subdivision 3 is not requested~~ the public authority is not contacted by a party within ~~21~~ 30 days after the date of service of the proposed order, the public authority may submit the proposed order as the default order. The default order becomes enforceable upon signature by an administrative law judge~~, district court judge, or referee~~. ~~The public authority may also prepare and serve a new notice and proposed order if new information is subsequently obtained.~~ The default order shall be a final order, and shall be served under the rules of civil procedure.

(c) If the public authority obtains new information after service of the proposed order, the public authority may prepare one notice and revised proposed order. The revised order must be served by first class mail on the parties. If the public authority is not contacted within seven days after the date of service of the revised order, the public authority may submit the revised order as a default order but in no event sooner than 30 days after the service of the original proposed order.

~~(e)~~ (d) The public authority shall file in the district court copies of all notices served on the parties, proof of service, the support order worksheet, and all orders.

Sec. 51. Minnesota Statutes 1996, section 518.5511, subdivision 3, is amended to read:

Subd. 3. [ADMINISTRATIVE CONFERENCE.] (a) If a party ~~requests a conference~~ contacts the public authority within ~~21~~ 30 days of the date of service of the proposed order, and the public authority does not choose to proceed directly to a contested administrative proceeding, the public authority shall schedule a conference, and shall serve written notice of the date, time, and place of the conference and the date, time, and place of a contested administrative proceeding in the event the administrative conference fails to resolve all of the issues on the parties. The public authority may request any additional information necessary to establish child support. The public authority may choose to go directly to a contested administrative proceeding and is not required to conduct an administrative conference. The date of the contested administrative proceeding must be set within 31 days of the administrative conference or not more than 60 days from the date of the notice of the administrative conference.

(b) The purpose of the conference is to review all available information and seek an agreement to ~~enter~~ a consent order. The notice shall state the purpose of the conference, and that the proposed order will be entered as a final and binding default order if ~~the requesting party fails~~ both parties fail to appear at the conference. The notice must also state that if only one party appears at the conference and agrees with the proposed order and there is no new information provided, the matter will proceed by default. The notice shall be served on the parties by first class mail at their last known addresses, and the method of service shall be documented in the public authority file. All available and relevant information must be shared with the parties at the conference, subject to the limitations of sections 256.87, subdivision 8, 257.70, and 518.005, subdivision 5. If a conference is not held, information that would have been shared at the conference by the public authority must be provided to a party or the party's attorney within 15 days of receipt of a written request.

(c) A party alleging domestic abuse by the other party shall not be required to participate in a conference. In such a case, the public authority shall meet separately with the parties in order to determine whether an agreement can be reached.

(d) If all parties appear at the conference and agree to all issues, and the public authority approves the agreement, the public authority shall prepare a consent order for the parties and the public authority to sign. The public authority shall submit the consent order to the administrative law judge. Upon signature, the order is a final order and must be served on the parties by first class mail.

~~(d) If the party requesting the conference does not appear and fails to provide a written excuse (with supporting documentation if relevant) to the public authority within seven days after the date~~

~~of the conference which constitutes good cause~~ (e) If only one party appears at the conference and agrees with the proposed order and there is no new information available, or if both of the parties fail to appear at the conference and there is no new information available, the public authority ~~may enter~~ shall submit a default order through the uncontested administrative process. ~~The public authority shall not enter the default order until at least seven days after the date of the conference.~~

~~For purposes of this section, misrepresentation, excusable neglect, or circumstances beyond the control of the person who requested the conference which prevented the person's appearance at the conference constitutes good cause for failure to appear. If the public authority finds good cause, the conference shall be rescheduled by the public authority and the public authority shall send notice as required under this subdivision.~~

~~(e)~~ (f) If the parties appear at the conference~~, the public authority shall seek~~ and do not reach agreement ~~of the parties~~ to the entry of a consent order ~~which establishes child support in accordance with applicable law.~~, the public authority shall advise the parties that ~~if a consent order is not entered,~~ the matter ~~will be~~ remains scheduled for a ~~hearing before an administrative law judge, or a district court judge or referee~~ contested administrative proceeding, and that the public authority will seek the establishment of child support at the ~~hearing~~ proceeding in accordance with the highest amount permitted under section 518.551, subdivision 5~~. If an agreement to enter the consent order is not reached at the conference, the public authority shall schedule the matter for a .ontested hearing~~ or 5b.

~~(f) If an agreement is reached by the parties at the conference, a consent order shall be prepared by the public authority, and shall be signed by the parties. All consent and default orders shall be signed by the nonattorney employee of the public authority and shall be submitted to an administrative law judge or the district court for approval and signature. The order is enforceable upon the signature by the administrative law judge or the district court. The consent order shall be served on the parties under the rules of civil procedure.~~

(g) If one or both of the parties appear at the administrative conference and there is new information that makes the proposed order unreasonable or inappropriate, the public authority may issue a revised proposed order or proceed directly to a contested administrative proceeding.

Sec. 52. Minnesota Statutes 1996, section 518.5511, is amended by adding a subdivision to read:

Subd. 3a. [ALTERNATIVE ADMINISTRATIVE RESOLUTIONS.] (a)(1) Any party may proceed directly to a contested administrative proceeding under subdivision 4 by making a written request to the public authority. After the public authority receives a written request, the public authority shall request or schedule a contested administrative proceeding and inform the requestor of the date, time, and place of the hearing. The public authority shall also provide the requestor with the contested administrative documents necessary for the proceeding. These documents must be completed by the requestor, served on the other party and the public authority and filed with the court administrator at least 21 days before the hearing. If the documents are not filed with the court administrator, the contested administrative proceeding shall be canceled.

(2) The public authority may also proceed directly to a contested administrative proceeding.

(b) At any time in the administrative process, including prior to the issuance of the proposed order, if the parties and the public authority are in agreement, the public authority shall prepare a consent order to be signed by the public authority and the parties. The parties must waive any of their rights to the notices and time frames required by this section. The public authority shall submit the order to the administrative law judge. Upon signature by the court, the order is a final order and must be filed with the court administrator and served by first class mail on the parties.

Sec. 53. Minnesota Statutes 1996, section 518.5511, subdivision 4, is amended to read:

Subd. 4. [CONTESTED ADMINISTRATIVE PROCEEDING.] (a) All counties shall participate in the contested administrative process established in this section as designated in a statewide implementation plan to be set forth by the commissioner of human services. No county

shall be required to participate in the contested administrative process until after the county has been trained. The contested administrative process shall be in operation in all counties no later than July 1, 1998~~, with the exception of Hennepin county which shall have a pilot program in operation no later than July 1, 1996~~.

~~The Hennepin county pilot program shall be jointly planned, implemented, and evaluated by the department of human services, the office of administrative hearings, the fourth judicial district court, and Hennepin county. The pilot program shall provide that one-half of the case load use the contested administrative process. The pilot program shall include an evaluation which shall be conducted after one year of program operation. A preliminary evaluation report shall be submitted by the commissioner to the legislature by March 1, 1997. A final evaluation report shall be submitted by the commissioner to the legislature by January 15, 1998. The pilot program shall continue pending final decision by the legislature, or until the commissioner determines that the pilot program shall discontinue and that Hennepin county shall not participate in the contested administrative process.~~

In counties designated by the commissioner, contested ~~hearings~~ administrative proceedings required under this section shall be scheduled before administrative law judges, and shall be conducted in accordance with the provisions under this section. In counties not designated by the commissioner, contested ~~hearings~~ administrative proceedings shall be conducted in district court in accordance with the rules of civil procedure and the rules of family court. The district court may not conduct administrative proceedings in counties designated by the commissioner.

(b) An administrative law judge may conduct ~~hearings~~ administrative proceedings and approve a stipulation reached on a contempt motion brought by the public authority. Any stipulation that involves a finding of contempt and a jail sentence, whether stayed or imposed, shall require the review and signature of a district court judge.

(c) A party, witness, or attorney may appear or testify by telephone, audiovisual means, or other electronic means, at the discretion of the administrative law judge.

(d) Before implementing the process in a county, the chief administrative law judge, the commissioner of human services, the director of the county human services agency, the county attorney, the county court administrator, and the county sheriff shall jointly establish procedures, and the county shall provide hearing facilities for implementing this process in the county. A contested administrative ~~hearing~~ proceeding shall be conducted in a courtroom, if one is available, or a conference or meeting room with at least two exits and of sufficient size to permit adequate physical separation of the parties. The court administrator shall, to the extent practical, provide administrative support for the contested ~~hearing~~ administrative proceeding. Security personnel shall either be present during the administrative ~~hearings~~ proceedings, or be available to respond to a request for emergency assistance.

(e) The contested administrative hearings shall be conducted under the rules of the office of administrative hearings, Minnesota Rules, parts 1400.5275, 1400.5500, 1400.6000 to 1400.6400, 1400.6600 to 1400.7000, 1400.7100 to 1400.7500, 1400.7700, 1400.7800, and 1400.8100, as adopted by the chief administrative law judge. For matters not initiated under subdivision 2, documents from the moving party shall be served and filed at least ~~21~~ 14 days prior to the hearing and the opposing party shall serve and file documents raising new issues at least ten days prior to the hearing. In all contested administrative proceedings, the administrative law judge may limit the extent and timing of discovery. Except as provided under this section, other aspects of the case, including, but not limited to, discovery, shall be conducted under the rules of family court, the rules of civil procedure, and chapter 518.

(f) ~~Pursuant to~~ Following a contested administrative hearing, the administrative law judge shall make findings of fact, conclusions, and a final decision and issue an order. Orders issued by an administrative law judge may be enforceable by the contempt powers of the district courts.

(g) At the time the matter is scheduled for a contested ~~hearing~~ administrative proceeding, the public authority shall file in the district court copies of all relevant documents sent to or received from the parties that have been provided to all parties, in addition to ~~the~~ any documents filed under

subdivision 2, paragraph ~~(e)~~ (d). These documents may be used as evidence by the judge in deciding the case without need for further foundation testimony. For matters scheduled for a contested ~~hearing~~ administrative proceeding which were not initiated under subdivision 2, the public authority shall obtain any income information available to the public authority through the department of economic security and serve this information on all parties and file the information with the court at least five days prior to the hearing.

(h) When only one party appears at the contested administrative proceeding, a hearing must be conducted. The administrative law judge shall prepare an order and file it with the district court. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(i) If neither party appears at the contested administrative proceeding and no new information has been submitted or made available to the court or public authority, the public authority shall submit the default order to the administrative law judge, district court judge, or referee for signature. If neither party appears and new information is available to the court or public authority, the administrative law judge or district court judge shall prepare an order based on the new information. The court shall serve the order on the parties by first class mail at the last known address and shall provide a copy of the order to the public authority.

(j) The decision and order of the administrative law judge is appealable to the court of appeals in the same manner as a decision of the district court.

Sec. 54. Minnesota Statutes 1996, section 518.5512, subdivision 2, is amended to read:

Subd. 2. [PATERNITY.] (a) After service of the notice and proposed order, a nonattorney employee of the public authority may ~~request an administrative law judge or the district court to~~ order the child, mother, or alleged father to submit to blood or genetic tests. ~~The order is effective when signed by an administrative law judge or the district court.~~ Failure to comply with the order for blood or genetic tests may result in a default determination of parentage.

(b) If parentage is contested at the administrative ~~hearing~~ proceeding, the administrative law judge may order temporary child support under section 257.62, subdivision 5, and shall refer the case to the district court. The district court shall have the authority to decide the case based on the administrative process documents and shall not require the issuance of any alternate pleadings.

(c) The district court may appoint counsel for an indigent alleged father only after the return of the blood or genetic test results from the testing laboratory.

Sec. 55. Minnesota Statutes 1996, section 518.5512, subdivision 3, is amended to read:

Subd. 3. [COST-OF-LIVING ADJUSTMENT.] ~~The notice of application for adjustment shall be treated as a proposed order under section 518.5511, subdivision 2, paragraph (c).~~ The public authority shall send notice of its application for a cost-of-living adjustment on the obligor in accord with section 518.641. The public authority shall stay the adjustment of support upon receipt by the public authority of a request ~~for an administrative conference~~ by the obligor to proceed directly to a contested administrative proceeding under section 518.5511, subdivision 4. ~~An obligor requesting an administrative conference shall provide all relevant information that establishes an insufficient increase in income to justify the adjustment of the support obligation. If the obligor fails to submit any evidence at the administrative conference, the cost-of-living adjustment will immediately go into effect.~~

Sec. 56. Minnesota Statutes 1996, section 518.5512, is amended by adding a subdivision to read:

Subd. 3a. [FORM.] The public authority shall prepare and make available to the court and obligors a form, to be submitted to the public authority by the obligor, to request to proceed directly to a contested administrative proceeding regarding a cost-of-living adjustment. The rulemaking provisions of chapter 14 do not apply to the preparation of the form.

Sec. 57. Minnesota Statutes 1996, section 518.5512, is amended by adding a subdivision to read:

Subd. 6. [ADMINISTRATIVE AUTHORITY.] (a) In each case in which support rights are assigned under section 256.741, subdivision 2, or where the public authority is providing services under an application for child support services, a nonattorney employee of the public authority may, without requirement of a court order:

(1) recognize and enforce orders of child support agencies of other states;

(2) compel by subpoena the production of all papers, books, records, documents, or other evidentiary material needed to establish a parentage or child support order or to modify or enforce a child support order;

(3) change the payee to the appropriate person, organization, or agency authorized to receive or collect child support or any other person or agency designated as the caretaker of the child by agreement of the legal custodian or by court order;

(4) order income withholding of child support under section 518.6111;

(5) secure assets to satisfy the debt or arrearage in cases in which there is a support debt or arrearage by: (i) intercepting or seizing periodic or lump sum payments from state or local agencies, including reemployment insurance, workers' compensation payments, judgments, settlements, and lotteries; (ii) attaching and seizing assets of the obligor held in financial institutions or public or private retirement funds; and (iii) imposing liens and, in appropriate cases, forcing the sale of property and the distribution of proceeds; and

(6) increase the amount of the monthly support payments to include amounts for debts or arrearages for the purpose of securing overdue support.

In performing their duties under this paragraph, the nonattorney employees shall consult with the county attorney and act consistently with the county attorney's legal advice but they are not under the direction or control of the county attorney.

(b) 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 recordkeeper, written notice of the subpoena shall 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.

(c) 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 shall cancel or modify the subpoena, if appropriate. The public authority shall pay the reasonable costs of producing the documents, if requested.

(d) Subpoenas shall be enforceable in the same manner as subpoenas of the district court, in proceedings initiated by complaint of the public authority in the district court.

Sec. 58. Minnesota Statutes 1996, section 518.5512, is amended by adding a subdivision to read:

Subd. 7. [CONTROLLING ORDER DETERMINATION.] The public authority or a party may request the office of administrative hearings to determine a controlling order according to section 518C.207, paragraph (c).

Sec. 59. Minnesota Statutes 1996, section 518.575, is amended to read:

518.575 [PUBLICATION OF NAMES OF DELINQUENT CHILD SUPPORT OBLIGORS.]

Subdivision 1. [~~PUBLICATION OF~~ MAKING NAMES PUBLIC.] ~~Twice each year,~~ At least once each year, The commissioner of human services, in consultation with the attorney general, shall publish a list of the names ~~and last known addresses of each person~~ and other identifying

information of no more than 25 persons who (1) ~~is a~~ are child support ~~obligor~~ obligors, (2) ~~is~~ are at least ~~$3,000~~ $10,000 in arrears, ~~and~~ (3) ~~is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority. The commissioner of human services shall publish the name of each obligor in the newspaper or newspapers of widest circulation in the area where the obligor is most likely to be residing. For each publication, the commissioner shall release the list of all names being published not earlier than the first day on which names appear in any newspaper. An obligor's name may not be published if the obligor claims in writing, and the commissioner of human services determines, there is good cause for the nonpayment of child support. Good cause includes the following: (i) there is a mistake in the obligor's identity or the amount of the obligor's arrears; (ii) arrears are reserved by the court or there is a pending legal action concerning the unpaid child support; or (iii) other circumstances as determined by the commissioner. The list must be based on the best information available to the state at the time of publication~~ are not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, 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.

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 subdivision will only be made public subsequent to that person's selection by the commissioner and attorney general.

Before ~~publishing~~ making public the name of the obligor, the department of human services shall send a notice to the obligor's last known address which states the department's intention to ~~publish the obligor's name and the amount of child support the obligor owes~~ 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 arrearage or by entering into an agreement to pay the arrearage, ~~and~~ 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.

The department of human services shall ~~insert with the notices sent to the obligee, a notice stating the intent to publish the obligor's name, and the criteria used to determine the publication of the obligor's name~~ obtain the written consent of the obligee to make the name of the obligor public.

Subd. 2. [NAMES PUBLISHED IN ERROR.] If the commissioner ~~publishes~~ makes public a name under subdivision 1 which is in error, the commissioner must also offer to publish a printed retraction and a public apology acknowledging that the name was ~~published~~ 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 ~~each publication that included~~ the same medium and the same format as the original notice with the name listed in error~~, and it must appear in the same type size and appear the same number of times as the original notice~~.

Sec. 60. [518.6111] [INCOME WITHHOLDING.]

Subdivision 1. [DEFINITIONS.] (a) For the purpose of this section, the following terms have the meanings provided in this subdivision unless otherwise stated.

(b) "Payor of funds" means any person or entity that provides funds to an obligor, including an employer as defined under chapter 24 of the Internal Revenue Code, section 3401(d), an independent contractor, payor of worker's compensation benefits or reemployment insurance, or a financial institution as defined in section 13B.06.

(c) "Business day" means a day on which state offices are open for regular business.

(d) "Arrears" means amounts owed under a support order that are past due.

Subd. 2. [APPLICATION.] This section applies 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 518.5512, subdivision 6, paragraph (a), clause (4).

Subd. 3. [ORDER.] 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. Every order for support or maintenance shall provide for a conspicuous notice of the provisions of this section that complies with section 518.68, subdivision 2. An order without this notice remains subject to this section. This section applies regardless of the source of income of the person obligated to pay the support or maintenance.

A payor of funds shall implement income withholding according to this section upon receipt of an order for or notice of withholding. The notice of withholding shall be on a form provided by the commissioner of human services.

Subd. 4. [COLLECTION SERVICES.] The commissioner of human services shall 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 shall promptly send the notice of services to the petitioner and respondent at the addresses stated in the petition.

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 services from the public authority, shall apply to the public authority for either full child support collection services or for income withholding only services.

For those persons applying for income withholding only services, a monthly service fee of $15 must be charged to the obligor. This fee is in addition to the amount of the support order and shall be withheld through income withholding. The public authority shall explain the service options in this section to the affected parties and encourage the application for full child support collection services.

Subd. 5. [PAYOR OF FUNDS RESPONSIBILITIES.] (a) 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.

(b) A payor of funds shall withhold from the income payable to the obligor the amount specified in the order or notice of withholding and amounts specified under subdivisions 6 and 9 and shall 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 shall include with the remittance the social security number of the obligor, 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 shall separately identify each obligor making payment.

(c) A payor of funds shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of wage or salary withholding authorized by this section. A payor of funds shall be liable to the obligee for any amounts required to be withheld. A payor of funds that fails to withhold or transfer funds in accordance with this section is also 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 paragraph. A payor of funds that has failed to comply with the requirements of this section is subject to contempt sanctions under section 518.615. 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 shall impose a civil fine of not less than $500.

(d) 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 shall 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, Chapter 15 of the United States Code section 1637(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 shall 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 shall pay the amounts designated as current support, and shall 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.

(e) 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 shall notify the public authority of the termination within ten days of the termination date. The termination notice shall include the obligor's home address and the name and address of the obligor's new payor of funds, if known.

(f) A payor of funds may deduct one dollar from the obligor's remaining salary for each payment made pursuant to an order for or notice of withholding under this section to cover the expenses of withholding.

Subd. 6. [FINANCIAL INSTITUTIONS.] (a) If income withholding is ineffective due to the obligor's method of obtaining income, the court shall 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 shall 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 shall 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 any preauthorized transfer is subject to contempt of court procedures under chapter 588.

(b) A financial institution shall execute preauthorized transfers for the deposit accounts of the obligor 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.

Subd. 7. [SUBSEQUENT INCOME WITHHOLDING.] (a) This subdivision applies to support orders that do not contain provisions for income withholding.

(b) For cases in which the public authority is providing child support enforcement services to the parties, the income withholding under this subdivision shall take effect without prior judicial notice to the obligor and without the need for judicial or administrative hearing. Withholding shall result 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 according to section 518.5512, subdivision 6, paragraph (a), clause (4).

(c) For cases in which the public authority is not providing child support services to the parties, income withholding under this subdivision shall take effect 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;

(d) Within two days after the public authority commences withholding under this subdivision, the public authority shall send to the obligor at the obligor's last known address, notice that withholding has commenced. The notice shall include the information provided to the payor of funds in the notice of withholding.

Subd. 8. [CONTEST.] (a) The obligor may contest withholding under subdivision 7 on the limited grounds that the withholding or the amount withheld is improper due to mistake of fact. If the obligor chooses to contest the withholding, the obligor must do so no later than 15 days after the employer commences withholding, by doing all of the following:

(1) file a request for contested hearing according to section 518.5511, subdivision 4, and include in the request the alleged mistake of fact;

(2) serve a copy of the request for contested hearing upon the public authority and the obligee; and

(3) secure a date for the contested hearing no later than 45 days after receiving notice that withholding has commenced.

(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 arrearage to be withheld, the court shall continue the income withholding, but it shall correct the amount of the arrearage to be withheld.

Subd. 9. [PRIORITY.] (a) An order for or notice of withholding under this section or execution or garnishment upon a judgment for child support arrearage or preadjudicated expenses shall have priority over an attachment, execution, garnishment, or wage assignment and shall not be 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, title 15 of the United States Code, section 1673(b).

(b) If more than one order for or notice of withholding exists involving the same obligor and child, the public authority shall enforce the most current order or notice. An order for or notice of withholding that was previously implemented according to this section shall end as of the date of the most current order. The public authority shall notify the payor of funds to withhold under the most current withholding order or notice.

Subd. 10. [ARREARAGE ORDER.] (a) This section does not prevent the court from ordering

the payor of funds to withhold amounts to satisfy the obligor's previous arrearage in support order payments. This remedy shall not operate to exclude availability of other remedies to enforce judgments. The employer or payor of funds shall withhold from the obligor's income an additional amount equal to 20 percent of the monthly child support or maintenance obligation until the arrearage is paid.

(b) Notwithstanding any law to the contrary, funds from income sources included in section 518.54, subdivision 6, whether periodic or lump sum, are not exempt from attachment or execution upon a judgment for child support arrearage.

(c) Absent an order to the contrary, if an arrearage exists at the time a support order would otherwise terminate, income withholding shall continue 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.

Subd. 11. [LUMP-SUM PAYMENTS.] Before transmittal to the obligor of a lump-sum payment of $500 or more including, but not limited to, severance pay, accumulated sick pay, vacation pay, bonuses, commissions, or other pay or benefits, a payor of funds:

(1) who has been served with an order for or notice of income withholding under this section shall:

(i) notify the public authority of the lump-sum payment that is to be paid to the obligor;

(ii) hold the lump-sum payment for 30 days after the date on which 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; and

(iii) upon order of the court, and after a showing of past willful nonpayment of support, pay any specified amount of the lump-sum payment to the public authority for future support; or

(2) shall pay the lessor of the amount of the lump-sum payment or the total amount of the judgment and arrearages upon service by United States mail of a sworn affidavit from the public authority or a court order that includes the following information:

(i) that a judgment entered pursuant to section 548.091, subdivision 1a, exists against the obligor, or that other support arrearages exist;

(ii) the current balance of the judgment or arrearage; and

(iii) that a portion of the judgment or arrearage remains unpaid.

The Consumer Credit Protection Act, title 15 of the United States Code, section 1673(b), does not apply to lump-sum payments.

Subd. 12. [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 shall implement income withholding. A payor of funds in this state shall withhold income under court orders for withholding issued by other states or territories.

(b) An employer receiving an income withholding notice from another state shall withhold and distribute the funds as directed in the withholding notice and shall 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 subdivision pursuant to section 518C.506.

Subd. 13. [ORDER TERMINATING INCOME WITHHOLDING.] (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 and shall be entered once the following conditions have been met:

(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 a duplicate copy of the application is served 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) After receipt of the application for termination of income withholding, the obligee or the public authority fails within 20 days to request a contested hearing on the issue of whether income withholding of support should continue clearly specifying the basis for the continued support obligation and, ex parte, to stay the service of the order terminating income withholding upon the obligor's payor of funds, pending the outcome of the contest hearing.

Subd. 14. [TERMINATION BY THE PUBLIC AUTHORITY.] If the public authority determines that income withholding is no longer applicable, the public authority shall notify the obligee and the obligor of intent to terminate income withholding.

Five days following notification to the obligee and obligor, the public authority shall issue a notice to the payor of funds terminating income withholding, without a requirement for a court order unless the obligee has requested a contested hearing under section 518.5511, subdivision 4.

Subd. 15. [CONTRACT FOR SERVICE.] To carry out the provisions of this section, the public authority responsible for child support enforcement may contract for services, including the use of electronic funds transfer.

Subd. 16. [WAIVER.] (a) If child support or maintenance is not assigned under section 256.741, the court may waive the requirements of this section if the court finds there is no arrearage in child support and maintenance 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 this section or to terminate an order for or notice of income withholding previously entered under this section; 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 shall include a written explanation of the reasons why income withholding would not be in the best interests of the child.

In addition to the other requirements in this subdivision, if the case involves a modification of support, the court shall make a finding that support has been timely made.

(b) If the court waives income withholding, the obligee or obligor may at any time request income withholding under subdivision 7.

Subd. 17. [NONLIABILITY; PAYOR OF FUNDS.] A payor of funds who complies with an income withholding order or notice of withholding according to this chapter or chapter 518C, that appears regular on its face shall not be subject to civil liability to any individual or agency for taking action in compliance with the order or notice.

Subd. 18. [ELECTRONIC TRANSMISSION.] Orders or notices for withholding under this section may be transmitted for enforcement purposes by electronic means.

Sec. 61. Minnesota Statutes 1996, section 518.616, is amended by adding a subdivision to read:

Subd. 1a. [COURT ORDERS FOR CHILDREN RECEIVING PUBLIC ASSISTANCE.] For any order enforced by the public authority for children receiving assistance under any of the programs referred to in section 256.741, subdivision 1, the public authority may seek a court order requiring the obligor to participate in work activities if the obligor is in arrears in child support. Work activities include the following:

(1) unsubsidized employment;

(2) subsidized private sector employment;

(3) subsidized public sector employment or work experience only if sufficient private sector employment is unavailable;

(4) on-the-job training;

(5) job search and job readiness;

(6) education directly related to employment, in the case of an obligor who:

(i) has not attained 20 years of age; and

(ii) has not received a high school diploma or certificate of high school equivalency;

(7) job skills training directly related to employment;

(8) satisfactory attendance at a secondary school in the case of an obligor who:

(i) has not completed secondary school; and

(ii) is a dependent child, or a head of a household and who has not attained 20 years of age; and

(9) vocational educational training, not to exceed 12 months with respect to any individual.

Sec. 62. [518.618] [COLLECTION; ARREARS ONLY.]

(a) Remedies available for the collection and enforcement of support in this chapter and chapters 256, 257, and 518C also apply to cases in which the child or children for whom support is owed are emancipated and the obligor owes past support or has an accumulated arrearage as of the date of the youngest child's emancipation.

(b) This section applies retroactively to any support arrearage that accrued on or before the date of enactment and to all arrearages accruing after the date of enactment.

Sec. 63. Minnesota Statutes 1996, section 518.64, subdivision 2, is amended to read:

Subd. 2. [MODIFICATION.] (a) The terms of an order respecting maintenance or support may be modified 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 or children that are the subject of these proceedings; (3) receipt of assistance under sections 256.72 to 256.87 or 256B.01 to 256B.40; (4) a change in the cost of living for either party as measured by the federal bureau of statistics, any of which makes the terms unreasonable and unfair; (5) extraordinary medical expenses of the child not provided for under section 518.171; or (6) the addition of work-related or education-related child care expenses of the obligee or a substantial increase or decrease in existing work-related or education-related child care expenses.

(b) It is presumed that there has been a substantial change in circumstances under ~~clause (1), (2), or (4)~~ paragraph (a) and the terms of a current support order shall be rebuttably presumed to be unreasonable and unfair if:

(1) the application of the child support guidelines in section 518.551, subdivision 5, to the current circumstances of the parties results in a calculated court order that 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 518.171 are not enforceable by the public authority or the custodial parent;

(3) health coverage ordered under section 518.171 is not available to the child for whom the order is established by the parent ordered to provide; or

(4) the existing support obligation is in the form of a statement of percentage and not a specific dollar amount.

~~(b)~~ (c) On a motion for modification of maintenance, including a motion for the extension of the duration of a maintenance award, the court shall apply, in addition to all other relevant factors, the factors for an award of maintenance under section 518.552 that exist at the time of the motion. On a motion for modification of support, the court:

(1) shall apply section 518.551, subdivision 5, and shall not consider the financial circumstances of each party's spouse, if any; and

(2) shall not consider compensation received by a party for employment in excess of a 40-hour work week, provided that the party demonstrates, and the court finds, that:

(i) the excess employment began after entry of the existing support order;

(ii) the excess employment is voluntary and not a condition of employment;

(iii) the excess employment is in the nature of additional, part-time employment, or overtime employment compensable by the hour or fractions of an hour;

(iv) the party's compensation structure has not been changed for the purpose of affecting a support or maintenance obligation;

(v) in the case of an obligor, current child support payments are at least equal to the guidelines amount based on income not excluded under this clause; and

(vi) in the case of an obligor who is in arrears in child support payments to the obligee, any net income from excess employment must be used to pay the arrearages until the arrearages are paid in full.

~~(c)~~ (d) A modification of support or maintenance may be made retroactive only with respect to any period during which the petitioning party has pending a motion for modification but only from the date of service of notice of the motion on the responding party and on the public authority if public assistance is being furnished or the county attorney is the attorney of record. However, modification may be applied to an earlier period if the court makes express findings that 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 that the party seeking modification, when no longer precluded, promptly served a motion. 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.

~~(d)~~ (e) Except for an award of the right of occupancy of the homestead, provided in section 518.63, all divisions of real and personal property provided by section 518.58 shall be final, and may be revoked or modified only where the court finds the existence of conditions that justify reopening a judgment under the laws of this state, including motions under section 518.145, subdivision 2. The court may impose a lien or charge on the divided property at any time while the property, or subsequently acquired property, is owned by the parties or either of them, for the payment of maintenance or support money, or may sequester the property as is provided by section 518.24.

~~(e)~~ (f) The court need not hold an evidentiary hearing on a motion for modification of maintenance or support.

~~(f)~~ (g) Section 518.14 shall govern the award of attorney fees for motions brought under this subdivision.

Sec. 64. Minnesota Statutes 1996, section 518.641, subdivision 2, is amended to read:

Subd. 2. [CONDITIONS.] No adjustment under this section may be made unless the order provides for it and until the following conditions are met:

(a) the obligee ~~or public authority~~ serves notice of ~~its~~ the application for adjustment by mail on the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment;

(b) the notice to the obligor informs the obligor of the date on which the adjustment in payments will become effective; ~~and~~

(c) after receipt of notice and before the effective day of the adjustment, the obligor fails to request a hearing on the issue of whether the adjustment should take effect, and ex parte, to stay imposition of the adjustment pending outcome of the hearing; or

(d) the public authority sends notice of its application for adjustment to the obligor at the obligor's last known address at least 20 days before the effective date of the adjustment, and the notice informs the obligor of the date on which the adjustment will become effective and the procedures for contesting the adjustment according to section 518.5512.

Sec. 65. Minnesota Statutes 1996, section 518.68, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] The required notices must be substantially as follows:

IMPORTANT NOTICE

1. PAYMENTS TO PUBLIC AGENCY

~~Pursuant~~ According to Minnesota Statutes, section 518.551, subdivision 1, 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), ~~pursuant~~ according to Minnesota Statutes, section 609.26. A copy of that section is available from any district court clerk.

3. RULES OF SUPPORT, MAINTENANCE, VISITATION

(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 rights of visitation 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 visitation. 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 there is a layoff or a pay reduction, support may be reduced as of the time of the layoff or pay reduction if a motion to reduce the support is served and filed with the court at that time, but any such reduction must be ordered by the court. The court is not permitted to reduce support retroactively, except as provided in Minnesota Statutes, section 518.64, subdivision 2, paragraph (c).

4. PARENTAL RIGHTS FROM MINNESOTA STATUTES, SECTION 518.17, SUBDIVISION 3

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 children. Each party has the right of access to information regarding health or dental insurance available to the minor children. Presentation of a copy of this order to the custodian of a record or other information about the minor children constitutes sufficient authorization for the release of the record or information to the requesting party.

(b) Each party shall keep the other informed as to the name and address of the school of attendance of the minor children. Each party has the right to be informed by school officials about the children'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 shall 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 children.

5. 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 518.611 and 518.613, have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, ~~the person responsible to make support or maintenance payments~~ each party shall notify the ~~person entitled to receive the payment~~ other party, the court, and the public authority responsible for collection, if applicable, of ~~a change of address or residence~~ the following information within ~~60~~ ten days of ~~the address or residence change~~ 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.

7. 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 518.641, are met. Cost of living increases are compounded. A copy of Minnesota Statutes, section 518.641, and forms necessary to request or contest a cost of living increase are available from any district court clerk.

8. 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, ~~pursuant~~ according to Minnesota Statutes, section 548.091, subdivision 1a.

9. JUDGMENTS FOR UNPAID 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.

10. 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 section 518.14, subdivision 2, are met. A copy of section 518.14 and forms necessary to request or contest these attorney fees and collection costs are available from any district court clerk.

11. VISITATION EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a visitation expeditor to resolve visitation disputes under Minnesota Statutes, section 518.1751. A copy of that section and a description of the expeditor process is available from any district court clerk.

12. VISITATION REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of visitation rights are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory visitation; 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. 66. Minnesota Statutes 1996, section 550.37, subdivision 24, is amended to read:

Subd. 24. [EMPLOYEE BENEFITS.] The debtor's right to receive present or future payments, or payments received by the debtor, under a stock bonus, pension, profit sharing, annuity, individual retirement account, individual retirement annuity, simplified employee pension, or similar plan or contract on account of illness, disability, death, age, or length of service:

(1) to the extent the plan or contract is described in section 401(a), 403, 408, or 457 of the Internal Revenue Code of 1986, as amended, or payments under the plan or contract are or will be rolled over as provided in section 402(a)(5), 403(b)(8), or 408(d)(3) of the Internal Revenue Code of 1986, as amended; or

(2) to the extent of the debtor's aggregate interest under all plans and contracts up to a present value of $30,000 and additional amounts under all the plans and contracts to the extent reasonably necessary for the support of the debtor and any spouse or dependent of the debtor.

The exemptions in this subdivision do not apply when the debt is owed pursuant to a support order as defined in section 518.54, subdivision 4a.

Sec. 67. [CHILD SUPPORT ENFORCEMENT PROGRAM; SERVICES DELIVERY STUDY.]

The commissioner of human services, in consultation with the commissioner's advisory committee, shall conduct a study of the overall state child support enforcement delivery system and shall recommend to the legislature a program design that will best meet the following goals:

(1) comply with all state and federal laws and regulations;

(2) deliver child support and paternity services in a timely manner;

(3) meet federal performance criteria;

(4) provide respectful and efficient service to custodial and noncustodial parents;

(5) make efficient use of public money funding the program; and

(6) provide a consistent level of services throughout the state.

The study may make specific recommendations regarding staffing, training, program administration, customer access to services, use of technology, and other features of a successful child support program. The commissioner may contract with a private vendor to complete the study. The commissioner shall provide the study and recommendations to the legislature by July 1, 1998.

Sec. 68. [AGENCY CONSULTATION ON SUSPENDING RECREATIONAL LICENSES.]

The commissioner shall consult with other state agencies to establish procedures to meet federal requirements to suspend recreational licenses of child support obligors who fail to pay child support.

Sec. 69. [INSTRUCTION TO REVISOR.]

In each section of Minnesota Statutes listed below, the revisor shall delete the references to sections 518.611 or 518.613 and insert a reference to section 518.6111: 69.51; 69.62; 144C.09, subdivision 2; 268.072, subdivision 6; 352.15, subdivision 1; 352.96, subdivision 6; 352B.071; 353.15, subdivision 1; 354.10, subdivision 1; 354A.11; 354B.30; 354C.165; 383B.51; 422A.24; 423.39; 423.61; 423.813; 423A.16; 423B.17; 424.27; 424A.02, subdivision 6; 490.126, subdivision 5; 518.171, subdivisions 1, 2a, and 8; 518.5853, subdivision 7; 5518.614, subdivision 3; 518.615, subdivision 1; 518.616, subdivision 1; 518.617, subdivision 2; 518.645; 518.68, subdivision 2; 550.136, subdivision 4; 551.06, subdivision 4; 571.81, subdivision 2; 571.923; 518.5853, subdivision 5; 518.614, subdivision 1; 518.615, subdivision 1; 518.616, subdivision 1; 518.617, subdivision 2; 518.68, subdivision 2; 518C.101; 518C.501; 518C.605; and 548.091, subdivision 1a.

The revisor shall change the coding of Minnesota Statutes 1996, section 518C.502, to section 518C.507.

Sec. 70. [REPEALER.]

(a) Minnesota Statutes 1996, section 518C.9011, is repealed.

(b) Minnesota Statutes 1996, sections 256.74; 256.979, subdivision 9; 518.5511, subdivisions 5, 6, 7, 8, and 9; 518.611; 518.613; 518.645; and 518C.502, are repealed effective July 1, 1997.

ARTICLE 2

Section 1. Minnesota Statutes 1996, section 13.46, subdivision 2, is amended to read:

Subd. 2. [GENERAL.] (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

(1) pursuant to section 13.05;

(2) pursuant to court order;

(3) pursuant to a statute specifically authorizing access to the private data;

(4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;

(5) to personnel of the welfare system who require the data to determine eligibility, amount of assistance, and the need to provide services of additional programs to the individual;

(6) to administer federal funds or programs;

(7) between personnel of the welfare system working in the same program;

(8) the amounts of cash public assistance and relief paid to welfare recipients in this state, including their names, social security numbers, income, addresses, and other data as required, upon request by the department of revenue to administer the property tax refund law, supplemental housing allowance, early refund of refundable tax credits, and the income tax. "Refundable tax credits" means the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund under section 290A.04, and, if the required federal waiver or waivers are granted, the federal earned income tax credit under section 32 of the Internal Revenue Code;

(9) to the Minnesota department of economic security for the purpose of monitoring the eligibility of the data subject for reemployment insurance, for any employment or training program administered, supervised, or certified by that agency, or for the purpose of administering any rehabilitation program, whether alone or in conjunction with the welfare system, and to verify receipt of energy assistance for the telephone assistance plan;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state pursuant to Part C of Public Law Number 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the higher education services office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant social security numbers and names collected by the telephone assistance program may be disclosed to the department of revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a recipient of aid to families with dependent children may be disclosed to law enforcement officers who provide the name and social security number of the recipient and satisfactorily demonstrate that: (i) the recipient is a fugitive felon, including the grounds for this determination; (ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and (iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance, work readiness, or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient, and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food stamp applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the food stamp act, in accordance with Code of Federal Regulations, title 7, section 272.1(c);

(18) ~~data on a~~ certain information regarding child support ~~obligor~~ obligors who ~~is~~ are in arrears may be ~~disclosed for purposes of publishing the data pursuant~~ made public according to section 518.575;

(19) data on child support payments made by a child support obligor, data on the enforcement actions undertaken by the public authority and the status of those actions, and data on the income of the obligor or obligee may be disclosed to the ~~obligee~~ other party;

(20) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(21) to the department of children, families, and learning for the purpose of matching department of children, families, and learning student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk pursuant to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to produce accurate numbers of students receiving aid to families with dependent children as required by section 124.175; and to allocate federal and state funds that are distributed based on income of the student's family; ~~or~~

(22) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person; or

(23) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program.

(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed in accordance with the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), or (17), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

Sec. 2. [13B.06] [CHILD SUPPORT OR MAINTENANCE OBLIGOR DATA MATCHES.]

Subdivision 1. [DEFINITIONS.] The definitions in this subdivision apply to this section.

(a) "Account" means a demand deposit account, checking or negotiable withdraw order account, savings account, time deposit account, or money market mutual fund.

(b) "Account information" means the type of account, the account number, whether the account is singly or jointly owned, and in the case of jointly owned accounts the name and address of the nonobligor account owner if available.

(c) "Financial institution" means any of the following that do business within the state:

(1) federal or state commercial banks and federal or state savings banks, including savings and loan associations and cooperative banks;

(2) federal and state chartered credit unions;

(3) benefit associations;

(4) life insurance companies;

(5) safe deposit companies; and

(6) money market mutual funds.

(d) "Obligor" means an individual who is in arrears in court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments made public according

(e) "Public authority" means the public authority responsible for child support enforcement.

Subd. 2. [DATA MATCH SYSTEM ESTABLISHED.] The commissioner of human services shall establish a process for the comparison of account information data held by financial institutions with the public authority's database of child support obligors. The commissioner shall inform the financial industry of the requirements of this section and the means by which financial institutions can comply. The commissioner may contract for services to carry out this section.

Subd. 3. [DUTY TO PROVIDE DATA.] On written request by a public authority, a financial institution shall provide to the public authority on a quarterly basis the name, address, social security number, tax identification number if known, and all account information for each obligor who maintains an account at the financial institution.

Subd. 4. [METHOD TO PROVIDE DATA.] To comply with the requirements of this section, a financial institution may either:

(1) provide to the public authority a list of all account holders for the public authority to compare against its list of child support obligors for the purpose of identifying which obligors maintain an account at the financial institution; or

(2) obtain a list of child support obligors from the public authority and compare that data to the data maintained at the financial institution to identify which of the identified obligors maintains an account at the financial institution.

A financial institution shall elect either method in writing upon written request of the public authority, and the election remains in effect unless the public authority agrees in writing to a change.

Subd. 5. [MEANS TO PROVIDE DATA.] A financial institution may provide the required data by submitting electronic media in a compatible format, delivering, mailing, or telefaxing a copy of the data, or by other means authorized by the commissioner of human services that will result in timely reporting.

Subd. 6. [ACCESS TO DATA.] (a) With regard to account information on all account holders provided by a financial institution under subdivision 4, clause (1), the commissioner of human services shall retain the reported information only until the account information is compared against the public authority's obligor database. All account information that does not pertain to an obligor listed in the public authority's database must be immediately discarded, and no retention or publication may be made of that data by the public authority. All account information that does pertain to an obligor listed in the public authority's database must be incorporated into the public authority's database. Access to that data is governed by chapter 13.

(b) With regard to data on obligors provided by the public authority to a financial institution under subdivision 4, clause (2), the financial institution shall retain the reported information only until the financial institution's database is compared against the public authority's database. Data that do not pertain to an account holder at the financial institution must be immediately discarded, and no retention or publication may be made of that data by the financial institution.

Subd. 7. [FEES.] A financial institution may charge and collect a fee from the public authority for providing account information to the public authority. No financial institution shall charge or collect a fee that exceeds its actual costs of complying with this section. The commissioner, together with an advisory group consisting of representatives of the financial institutions in the state, shall determine a fee structure that minimizes the cost to the state and reasonably meets the needs of the financial institutions, and shall report to the chairs of the judiciary committees in the house of representatives and the senate by February 1, 1998, a recommended fee structure for inclusion in this section.

Subd. 8. [FAILURE TO RESPOND TO REQUEST FOR INFORMATION.] The public authority shall send by certified mail a written notice of noncompliance to a financial institution that fails to respond to a first written request for information under this section. The notice of noncompliance must explain the requirements of this section and advise the financial institution of

the penalty for noncompliance. A financial institution that receives a second notice of noncompliance is subject to a civil penalty of $1,000 for its failure to comply. A financial institution that continues to fail to comply with this section is subject to a civil penalty of $5,000 for the second and each subsequent failure to comply. These penalties may be imposed and collected by the public authority.

A financial institution that has been served with a notice of noncompliance and incurs a second or subsequent notice of noncompliance has the right to a contested case hearing under chapter 14. A financial institution has 20 days from the date of the service of the notice of noncompliance to file a request for a contested case hearing with the commissioner. The order of the administrative law judge constitutes the final decision in the case.

Subd. 9. [IMMUNITY.] A financial institution that provides or reasonably attempts to provide information to the public authority in compliance with this section is not liable to any person for disclosing the information or for taking any other action in good faith as authorized by this section or chapter 552.

Subd. 10. [CIVIL ACTION FOR UNAUTHORIZED DISCLOSURE BY FINANCIAL INSTITUTION.] (a) An account holder may bring a civil action in district court against a financial institution for unauthorized disclosure of data received from the public authority under subdivision 4, clause (2). A financial institution found to have violated this subdivision shall be liable as provided in paragraph (b) or (c).

(b) Any financial institution that willfully and maliciously discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to the sum of:

(1) any actual damages sustained by the consumer as a result of the disclosure; and

(2) in the case of any successful action to enforce any liability under this section, the costs of the action taken plus reasonable attorney's fees as determined by the court.

(c) Any financial institution that negligently discloses data received from the public authority under subdivision 4 is liable to that account holder in an amount equal to any actual damages sustained by the account holder as a result of the disclosure.

(d) A financial institution may not be held liable in any action brought under this subdivision if the financial institution shows, by a preponderance of evidence, that the disclosure was not intentional and resulted from a bona fide error notwithstanding the maintenance of procedures reasonably adapted to avoid any error.

Sec. 3. Minnesota Statutes 1996, section 168A.05, subdivision 8, is amended to read:

Subd. 8. [LIENS FILED FOR ENFORCEMENT OF CHILD SUPPORT.] This subdivision applies if the court or a public authority responsible for child support enforcement orders or directs the commissioner to enter a lien, as provided in section 518.551, subdivision 14. If a certificate of title is applied for by the owner, the department shall enter a lien on the title in the name of the state of Minnesota or in the name of the obligee in accordance with the notice if the value of the motor vehicle determined in accordance with either the definitions of section 297B.01, subdivision 8, or the retail value described in the N.A.D.A. Official Used Car Guide, Midwest Edition, for the current year exceeds the exemption allowed in section 550.37. The lien on the title is subordinate to any bona fide purchase money security interest as defined in section 336.9-107 regardless of when the purchase money security interest is perfected. With respect to all other security interests, the lien is perfected as of the date entered on the title. ~~The lien is subject to an exemption in the amount currently in effect under section 518.551, subdivision 14.~~

Sec. 4. Minnesota Statutes 1996, section 171.19, is amended to read:

171.19 [PETITION FOR LICENSE REINSTATEMENT.]

Any person whose driver's license has been refused, revoked, suspended, or canceled by the

commissioner, except where the license is revoked under section 169.123 or section 171.186, may file a petition for a hearing in the matter in the district court in the county wherein such person shall reside and, in the case of a nonresident, in the district court in any county, and such court is hereby vested with jurisdiction, and it shall be its duty, to set the matter for hearing upon 15 days' written notice to the commissioner, and thereupon to take testimony and examine into the facts of the case to determine whether the petitioner is entitled to a license or is subject to revocation, suspension, cancellation, or refusal of license, and shall render judgment accordingly. The petition shall be heard by the court without a jury and may be heard in or out of term. The commissioner may appear in person, or by agents or representatives, and may present evidence upon the hearing by affidavit personally, by agents, or by representatives. The petitioner may present evidence by affidavit, except that the petitioner must be present in person at such hearing for the purpose of cross-examination. In the event the department shall be sustained in these proceedings, the petitioner shall have no further right to make further petition to any court for the purpose of obtaining a driver's license until after the expiration of one year after the date of such hearing.

Sec. 5. Minnesota Statutes 1996, section 508.63, is amended to read:

508.63 [REGISTRATION OF INSTRUMENTS CREATING LIENS; JUDGMENTS.]

No judgment requiring the payment of money shall be a lien upon registered land, except as herein provided. Any person claiming such lien shall file with the registrar a certified copy of the judgment, together with a written statement containing a description of each parcel of land in which the judgment debtor has a registered interest and upon which the lien is claimed, and a proper reference to the certificate or certificates of title to such land. Upon filing such copy and statement, the registrar shall enter a memorial of such judgment upon each certificate designated in such statement, and the judgment shall thereupon be and become a lien upon the judgment debtor's interest in the land described in such certificate or certificates. At any time after filing the certified copy of such judgment, any person claiming the lien may, by filing a written statement, as herein provided, cause a memorial of such judgment to be entered upon any certificate of title to land in which the judgment debtor has a registered interest and not described in any previous statement and the judgment shall thereupon be and become a lien upon the judgment debtor's interest in such land. The public authority for child support enforcement may present for filing a notice of judgment lien under section 548.091 with identifying information for a parcel of real property. Upon receipt of the notice of judgment lien, the registrar shall enter a memorial of it upon each certificate which can reasonably be identified as owned by the judgment debtor on the basis of the information provided. The judgment shall survive and the lien thereof shall continue for a period of ten years from the date of the judgment and no longer, and the registrar of titles shall not carry forward to a new certificate of title the memorial of the judgment after that period. In every case where an instrument of any description, or a copy of any writ, order, or decree, is required by law to be filed or recorded in order to create or preserve any lien, writ, or attachment upon unregistered land, such instrument or copy, if intended to affect registered land, shall, in lieu of recording, be filed and registered with the registrar. In addition to any facts required by law to be stated in such instruments to entitle them to be filed or recorded, they shall also contain a reference to the number of the certificate of title of the land to be affected, and, if the attachment, charge, or lien is not claimed on all the land described in any certificate of title, such instrument shall contain a description sufficient to identify the land.

Sec. 6. Minnesota Statutes 1996, section 508A.63, is amended to read:

508A.63 [REGISTRATION OF INSTRUMENTS CREATING LIENS; JUDGMENTS.]

No judgment requiring the payment of money shall be a lien upon land registered under sections 508A.01 to 508A.85, except as herein provided. Any person claiming a lien shall file with the registrar a certified copy of the judgment, together with a written statement containing a description of each parcel of land in which the judgment debtor has a registered interest and upon which the lien is claimed, and a proper reference to the CPT or CPTs to the land. Upon filing the copy and statement, the registrar shall enter a memorial of the judgment upon each CPT designated in the statement, and the judgment shall then be and become a lien upon the judgment debtor's interest in the land described in CPT or CPTs. At any time after filing the certified copy

of the judgment, any person claiming the lien may, by filing a written statement, as herein provided, cause a memorial of the judgment to be entered upon any CPT to land in which the judgment debtor has a registered interest and not described in any previous statement and the judgment shall then be and become a lien upon the judgment debtor's interest in the land. The public authority for child support enforcement may present for filing a notice of judgment lien under section 548.091 with identifying information for a parcel of real property. Upon receipt of the notice of judgment lien, the registrar shall enter a memorial of it upon each certificate of possessory title which reasonably can be identified as owned by the judgment debtor on the basis of the information provided. The judgment shall survive and the lien thereof shall continue for a period of ten years from the date of the judgment and no longer; and the registrar shall not carry forward to a new certificate of title the memorial of the judgment after that period. In every case where an instrument of any description, or a copy of any writ, order, or decree, is required by law to be filed or recorded in order to create or preserve any lien, writ, or attachment upon unregistered land, the instrument or copy, if intended to affect registered land, shall, in lieu of recording, be filed and registered with the registrar. In addition to any facts required by law to be stated in the instruments to entitle them to be filed or recorded, they shall also contain a reference to the number of the CPT of the land to be affected. If the attachment, charge, or lien is not claimed on all the land described in any CPT, the instrument shall contain a description sufficient to identify the land.

Sec. 7. Minnesota Statutes 1996, section 518.551, subdivision 14, is amended to read:

Subd. 14. [MOTOR VEHICLE LIEN.] (a) Upon motion of an obligee, if a court finds that the obligor ~~is the registered owner of a motor vehicle and the obligor~~ is a debtor for a judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the court shall order 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, in accordance with section 168A.05, subdivision 8, unless the court finds that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority ~~or that the obligor's interest in the motor vehicle is valued at less than $4,500~~. The court's order must be stayed for 90 days in order to allow the obligor to ~~either~~ execute a written payment agreement regarding both current support and arrearages, which agreement shall be approved by either the court or the public authority responsible for child support enforcement~~, or to allow the obligor to demonstrate that the ownership interest in the motor vehicle is valued at less than $4,500~~. If the obligor has not executed or is not in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority ~~or has not demonstrated that the ownership interest in the motor vehicle is valued at less than $4,500~~ within the 90-day period, the court's order becomes effective and the commissioner of public safety shall record the lien on any motor vehicle certificate of title subsequently issued in the name of the obligor. The remedy under this subdivision is in addition to any other enforcement remedy available to the court.

(b) If a public authority responsible for child support enforcement determines that the obligor ~~is the registered owner of a motor vehicle and the obligor~~ is a debtor for judgment debt resulting from nonpayment of court-ordered child support or maintenance payments, or both, in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the public authority shall 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 name of the obligor unless the public authority determines that the obligor is in compliance with a written payment agreement regarding both current support and arrearages approved by the court, an administrative law judge, or the public authority ~~or that the obligor's ownership interest in the motor vehicle is valued at less than $4,500~~. The remedy under this subdivision is in addition to any other enforcement remedy available to the public agency.

(c) At least 90 days prior to notifying the commissioner of public safety pursuant to paragraph (b), the public authority must mail a written notice to the obligor at the obligor's last known

address, that it intends to record a lien on ~~the obligor's~~ any motor vehicle certificate of title subsequently issued in the name of the obligor and that the obligor must request a hearing within 30 days in order to contest the action. If the obligor makes a written request for a hearing within 30 days of the date of the notice, either a court hearing or a contested administrative proceeding must be held under section 518.5511, subdivision 4. Notwithstanding any law to the contrary, the obligor must be served with 14 days' notice in writing specifying the time and place of the hearing and the allegations against the obligor. The notice may be served personally or by mail. If the public authority does not receive a request for a hearing within 30 days of the date of the notice and the obligor does not execute or is not in compliance with a written payment agreement regarding both current support and arrearages approved by the ~~court, an administrative law judge, or the~~ public authority ~~or demonstrate to the public authority that the obligor's ownership interest in the motor vehicle is valued at less than $4,500~~ within 90 days of the date of the notice, the public authority shall direct the commissioner of public safety to record the lien under paragraph (b).

(d) At a hearing requested by the obligor under paragraph (c), and on finding that the obligor is in arrears in court-ordered child support or maintenance payments or both in an amount equal to or greater than three times the obligor's total monthly support and maintenance payments, the district court or the administrative law judge shall order the commissioner of public safety to record the lien unless the court or administrative law judge determines that~~:~~

~~(1)~~ the obligor has executed and is in compliance with a written payment agreement regarding both current support and arrearages determined to be acceptable by the court, an administrative law judge, or the public authority~~; or~~

~~(2) the obligor has demonstrated that the ownership interest in the motor vehicle is valued at less than $4,500~~.

(e) An obligor ~~who has had a lien recorded against a motor vehicle certificate of title~~ may provide proof to the court or the public authority responsible for child support enforcement that the obligor is in compliance with all written payment agreements regarding both current support and arrearages or that the value of the motor vehicle is less than the exemption provided under section 550.37. Within 15 days of the receipt of that proof, the court or public authority shall either 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 shall direct the commissioner of public safety not to enter a lien on any motor vehicle certificate of title subsequently issued in the name of the obligor in instances where a lien has not yet been entered. ~~The dollar amounts in this section shall change periodically in the manner provided in section 550.37, subdivision 4a.~~

(f) Any 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 shall be determined in accordance with the retail value described in the N.A.D.A. 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.

Sec. 8. Minnesota Statutes 1996, section 518.553, is amended to read:

518.553 [PAYMENT AGREEMENTS.]

In proposing or approving proposed written payment agreements for purposes of section 518.551, the court, an administrative law judge, or the public authority shall take into consideration the amount of the arrearages, the amount of the current support order, any pending request for modification, and the earnings of the obligor. The court, administrative law judge, or public authority shall consider the individual financial circumstances of each obligor in evaluating the obligor's ability to pay any proposed payment agreement and shall propose a reasonable payment agreement tailored to the individual financial circumstances of each obligor.

Sec. 9. [518.618] [CASE REVIEWER.]

The commissioner shall 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. 10. Minnesota Statutes 1996, section 548.091, subdivision 1a, is amended to read:

Subd. 1a. [CHILD SUPPORT JUDGMENT BY OPERATION OF LAW.] (a) Any payment or installment of support required by a judgment or decree of dissolution or legal separation, determination of parentage, an order under chapter 518C, an order under section 256.87, or an order under section 260.251, that is not paid or withheld from the obligor's income as required under section 518.611 or 518.613, or which is ordered as child support by judgment, decree, or order by a court in any other state, is a judgment by operation of law on and after the date it is due and is entitled to full faith and credit in this state and any other state. Except as otherwise provided by paragraph (b), interest accrues from the date the unpaid amount due is greater than the current support due at the annual rate provided in section 549.09, subdivision 1, plus two percent, not to exceed an annual rate of 18 percent. A payment or installment of support that becomes a judgment by operation of law between the date on which a party served notice of a motion for modification under section 518.64, subdivision 2, and the date of the court's order on modification may be modified under that subdivision.

(b) Notwithstanding the provisions of section 549.09, upon motion to the court and upon proof by the obligor of 36 consecutive months of complete and timely payments of both current support and court-ordered paybacks of a child support debt or arrearage, the court may order interest on the remaining debt or arrearage to stop accruing. Timely payments are those made in the month in which they are due. If, after that time, the obligor fails to make complete and timely payments of both current support and court-ordered paybacks of child support debt or arrearage, the public authority or the obligee may move the court for the reinstatement of interest as of the month in which the obligor ceased making complete and timely payments.

The court shall provide copies of all orders issued under this section to the public authority. The commissioner of human services shall prepare and make available to the court and the parties forms to be submitted by the parties in support of a motion under this paragraph.

Sec. 11. Minnesota Statutes 1996, section 548.091, subdivision 2a, is amended to read:

Subd. 2a. [DOCKETING OF CHILD SUPPORT JUDGMENT.] On or after the date an unpaid amount becomes a judgment by operation of law under subdivision 1a, the obligee or the public authority may file with the court administrator, either electronically or by other means:

(1) a statement identifying, or a copy of, the judgment or decree of dissolution or legal separation, determination of parentage, order under chapter 518C, an order under section 256.87, ~~or~~ an order under section 260.251, or judgment, decree, or order for child support by a court in any other state, which provides for ~~installment or~~ periodic ~~payments~~ installments of child support, or a judgment or notice of attorney fees and collection costs under section 518.14, subdivision 2;

(2) an affidavit of default. The affidavit of default must state the full name, occupation, place of residence, and last known post office address of the obligor, the name and post office address of the obligee, the date or dates payment was due and not received and judgment was obtained by operation of law, ~~and~~ the total amount of the judgments to the date of filing, and the amount and frequency of the periodic installments of child support that will continue to become due and payable subsequent to the date of filing; and

(3) an affidavit of service of a notice of ~~entry of judgment or notice of~~ intent to docket judgment and to recover attorney fees and collection costs on the obligor, in person or by mail at the obligor's last known post office address. Service is completed upon mailing in the manner designated. Where applicable, a notice of interstate lien in the form promulgated under United States Code, title 42, section 652(a), is sufficient to satisfy the requirements of clauses (1) and (2).

Sec. 12. Minnesota Statutes 1996, section 548.091, subdivision 3a, is amended to read:

Subd. 3a. [ENTRY, DOCKETING, AND SURVIVAL OF CHILD SUPPORT JUDGMENT.] Upon receipt of the documents filed under subdivision 2a, the court administrator shall enter and docket the judgment in the amount of the ~~default specified in the affidavit of default~~ unpaid obligation identified in the affidavit of default and note the amount and frequency of the periodic installments of child support that will continue to become due and payable after the date of docketing. From the time of docketing, the judgment is a lien upon all the real property in the county owned by the judgment debtor, but it is not a lien on registered land unless the obligee or the public authority causes a notice of judgment lien or certified copy of the judgment to be memorialized on the certificate of title or certificate of possessory title under section 508.63 or 508A.63. The judgment survives and the lien continues for ten years after the date the judgment was docketed. Child support judgments may be renewed by service of notice upon the debtor. Service shall be by certified mail at the last known address of the debtor or in the manner provided for the service of civil process. Upon the filing of the notice and proof of service the court administrator shall renew the judgment for child support without any additional filing fee.

Sec. 13. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 5. [AUTOMATIC INCREASES; SATISFACTION.] After docketing and until satisfied by the obligee, public authority, or the court administrator, the amount of the docketed judgment automatically increases by the total amount of periodic installments of child support that became due and payable subsequent to the date of docketing, plus attorney's fees and collection costs incurred by the public authority, and less any payment made by the obligor to partially satisfy the docketed judgment. The court administrator shall not satisfy any child support judgment without first obtaining a written judgment payoff statement from the public authority or obligee. If no such statement can be obtained within two business days, the court administrator shall only satisfy the judgment if the amount paid to the court administrator equals the judgment amount plus interest and costs, and the amount of the periodic installment times the number of payments due since the date of docketing of the judgment.

Sec. 14. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 6. [NOTE ON JUDGMENT ROLL.] The court administrator shall note on the judgment roll which judgments are filed pursuant to this section and the amount and frequency of the periodic installment of child support that will continue to become due and payable after the date of docketing.

Sec. 15. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 7. [FEES.] The public authority is exempt from payment of fees when a judgment is docketed or a certified copy of a judgment is issued by a court administrator, or a notice of judgment lien or a certified copy of a judgment is presented to a registrar of titles for recording. If a notice or certified copy is recorded by the public authority under this subdivision, the registrar of titles may collect from a party presenting for recording a satisfaction or release of the notice or certified copy the fees for recording and memorializing both the notice or certified copy and the satisfaction or release.

Sec. 16. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 8. [REGISTERED LAND.] If requested by the public authority and upon the public authority's providing a notice of judgment lien or a certified copy of a judgment for child support debt, together with a street address, tax parcel identifying number, or a legal description for a parcel of real property, the county recorder shall search the registered land records in that county and cause the notice of judgment lien or certified copy of the judgment to be memorialized on every certificate of title or certificate of possessory title of registered land in that county that can be reasonably identified as owned by the obligor who is named on a docketed judgment. The fees for memorializing the lien or judgment must be paid in the manner prescribed by subdivision 7. The county recorders and their employees and agents are not liable for any loss or damages arising from failure to identify a parcel of registered land owned by the obligor who is named on the docketed judgment.

Sec. 17. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 9. [PAYOFF STATEMENT.] The public authority shall issue to the obligor, attorneys, lenders, and closers, or their agents, a payoff statement setting forth conclusively the amount necessary to satisfy the lien. Payoff statements must be issued within three business days after receipt of a request by mail, personal delivery, telefacsimile, or e-mail transmission, and must be delivered to the requester by telefacsimile or e-mail transmission if requested and if appropriate technology is available to the commissioner.

Sec. 18. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 10. [RELEASE OF LIEN.] Upon payment of the amount due under subdivision 5, the public authority shall execute and deliver a satisfaction of the judgment lien within five business days.

Sec. 19. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 11. [SPECIAL PROCEDURES.] The public authority shall negotiate a release of lien on specific property for less than the full amount due where the proceeds of a sale or financing, less reasonable and necessary closing expenses, are not sufficient to satisfy all encumbrances on the licensed property. Partial releases do not release the obligor's personal liability for the amount unpaid.

Sec. 20. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 12. [CORRECTING ERRORS.] The public authority shall maintain a process to review the identity of the obligor and to issue releases of lien in cases of misidentification. The commissioner shall maintain a process to review the amount of child support determined to be delinquent and to issue amended notices of judgment lien in cases of incorrectly docketed judgments.

Sec. 21. Minnesota Statutes 1996, section 548.091, is amended by adding a subdivision to read:

Subd. 13. [FORMS.] The department of human services, after consultation with registrars of title, shall prescribe the notice of judgment lien. These forms are not subject to chapter 14.

Sec. 22. [552.01] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purposes of this chapter, the terms defined in this section have the meanings given them.

Subd. 2. [PUBLIC AUTHORITY.] "Public authority" means the public authority responsible for child support enforcement.

Subd. 3. [JUDGMENT DEBTOR.] "Judgment debtor" means a party against whom the public authority has a judgment for the recovery of money owed purusant to support order as defined in section 518.54.

Subd. 4. [THIRD PARTY.] "Third party" means the person or entity upon whom the execution levy is served.

Subd. 5. [CLAIM.] "Claim" means the unpaid balance of the public authority's judgment against the judgment debtor, including all lawful interest and costs incurred.

Subd. 6. [FINANCIAL INSTITUTION.] "Financial institution" means all entities identified in section 13B.06.

Sec. 23. [552.02] [PUBLIC AUTHORITY'S SUMMARY EXECUTION OF SUPPORT JUDGMENT DEBTS; WHEN AUTHORIZED.]

The public authority may execute on a money judgment resulting from money owed pursuant to a support order by levying under this chapter on indebtedness owed to the judgment debtor by a

third party. The public authority may execute under this chapter upon service of a notice of support judgment levy for which the seal of the court is not required.

Sec. 24. [552.03] [SCOPE OF GENERAL AND SPECIFIC PROVISIONS.]

General provisions relating to the public authority's summary execution as authorized in this chapter are set forth in section 552.04. Specific provisions relating to summary execution on funds at a financial institution are set forth in section 552.05. When the public authority levies against funds at a financial institution, the specific provisions of section 552.05 must be complied with in addition to the general provisions of section 552.04. Provisions contained in the statutory forms are incorporated in this chapter and have the same force of law as any other provisions in this chapter.

Sec. 25. [552.04] [GENERAL PROVISIONS.]

Subdivision 1. [RULES OF CIVIL PROCEDURE.] Unless this chapter specifically provides otherwise, the Minnesota Rules of Civil Procedure for the District Courts and section 518.511 apply in all proceedings under this chapter.

Subd. 2. [PROPERTY ATTACHABLE BY SERVICE OF LEVY.] Subject to the exemptions provided by subdivision 3 and section 550.37, and any other applicable statute, to the extent the exemptions apply in cases of child support enforcement, the service by the public authority of a notice of support judgment levy under this chapter attaches all nonexempt indebtedness or money due or belonging to the judgment debtor and owing by the third party or in the possession or under the control of the third party at the time of service of the notice of support judgment levy, whether or not the indebtedness or money has become payable. The third party shall not be compelled to pay or deliver the same before the time specified by any agreement unless the agreement was fraudulently contracted to defeat an execution levy or other collection remedy.

Subd. 3. [PROPERTY NOT ATTACHABLE.] The following property is not subject to attachment by a notice of support judgment levy served under this chapter:

(1) any indebtedness or money due to the judgment debtor, unless at the time of the service of the notice of support judgment levy the same is due absolutely or does not depend upon any contingency;

(2) any judgment owing by the third party to the judgment debtor, if the third party or the third party's property is liable on an execution levy upon the judgment;

(3) any debt owing by the third party to the judgment debtor for which any negotiable instrument has been issued or endorsed by the third party;

(4) any indebtedness or money due to the judgment debtor with a cumulative value of less than $10; and

(5) any disposable earnings, indebtedness, or money that is exempt under state or federal law to the extent the exemptions apply in cases of child support enforcement.

Subd. 4. [SERVICE OF THIRD PARTY LEVY; NOTICE AND DISCLOSURE FORMS.] When levying upon money owed to the judgment debtor by a third party, the public authority shall serve a copy of the notice of support judgment levy upon the third party either by registered or certified mail, or by personal service. Along with a copy of the notice of support judgment levy, the public authority shall serve upon the third party a notice of support judgement levy and disclosure form that must be substantially in the form set forth below.

OFFICE OF ADMINISTRATIVE HEARINGS

File No.....

..... (Public authority)
against
..... (Judgment Debtor)
and
..... (Third Party)

NOTICE OF SUPPORT JUDGMENT LEVY AND DISCLOSURE (OTHER THAN EARNINGS)

PLEASE TAKE NOTICE that pursuant to Minnesota Statutes, chapters 518 and 522, the undersigned, as representative of the public authority responsible for child support enforcement, makes demand and levies execution upon all money due and owing by you to the judgment debtor for the amount of the judgment specified below. A copy of the notice of support judgment levy is enclosed. The unpaid judgment balance is $.....

In responding to this levy, you are to complete the attached disclosure form and mail it to the public authority, together with your check payable to the public authority, for the nonexempt amount owed by you to the judgment debtor or for which you are obligated to the judgment debtor, within the time limits in chapter 552.

Public Authority
Address
(.....)
Phone number

DISCLOSURE

On the ... day of ....., 19..., the time of service of the execution levy herein, there was due and owing the judgment debtor from the third party the following:

(1) Money. Enter on the line below any amounts due and owing the judgment debtor, except earnings, from the third party.

.....

(2) Setoff. Enter on the line below the amount of any setoff, defense, lien, or claim which the third party claims against the amount set forth on line (1). State the facts by which the setoff, defense, lien, or claim is claimed. (Any indebtedness to you incurred by the judgment debtor within ten days prior to the receipt of the first execution levy on a debt may not be claimed as a setoff, defense, lien, or claim against the amount set forth on line (1).)

.....

(3) Exemption. Enter on the line below any amounts or property claimed by the judgment debtor to be exempt from execution.

.....

(4) Adverse Interest. Enter on the line below any amounts claimed by other persons by reason of ownership or interest in the judgment debtor's property.

.....

(5) Enter on the line below the total of lines (2), (3), and (4).

.....

(6) Enter on the line below the difference obtained (never less than zero when line (5) is subtracted from the amount on line (1)).

.....

(7) Enter on the line below 100 percent of the amount of the public authority 's claim which remains unpaid.

.....

(8) Enter on the line below the lesser of line (6) and line (7). You are instructed to remit this amount only if it is $10 or more.

.....

AFFIRMATION

I, ... (person signing Affirmation), am the third party or I am authorized by the third party to complete this nonearnings disclosure, and have done so truthfully and to the best of my knowledge.

Dated:..... Signature

.....

Title

.....

Telephone Number

Subd. 5. [THIRD PARTY DISCLOSURE AND REMITTANCE.] Within 15 days after receipt of the notice of support judgment levy, unless governed by section 552.05, the third party shall disclose and remit to the public authority as much of the amount due as the third party's own debt equals to the judgment debtor.

Subd. 6. [ORAL DISCLOSURE.] Before or after the service of a written disclosure by a third party under subdivision 5, upon a showing by affidavit upon information and belief that an oral examination of the third party would provide a complete disclosure of relevant facts, any party to the execution proceedings may obtain an ex parte order requiring the third party, or a representative of the third party designated by name or by title, to appear for oral examination before the court or a referee appointed by the court. Notice of the examination must be given to all parties.

Subd. 7. [SUPPLEMENTAL COMPLAINT.] If a third party holds property, money, earnings, or other indebtedness by a title that is void as to the judgment debtor's creditors, the property may be levied on although the judgment debtor would be barred from maintaining an action to recover the property, money, earnings, or other indebtedness. In this and all other cases where the third party denies liability, the public authority may move the court at any time before the third party is discharged, on notice to both the judgment debtor and the third party for an order making the third party a party to supplemental action and granting the public authority leave to file a supplemental complaint against the third party and the judgment debtor. The supplemental complaint shall set forth the facts upon which the public authority claims to charge the third party. If probable cause is shown, the motion shall be granted. The supplemental complaint shall be served upon the third party and the judgment debtor and any other parties. The parties served shall answer or respond pursuant to the Minnesota Rules of Civil Procedure for the District Courts, and if they fail to do so, judgment by default may be entered against them.

Subd. 8. [JUDGMENT AGAINST THIRD PARTY UPON FAILURE TO DISCLOSE OR REMIT.] Judgment may be entered against a third party who has been served with a notice of child support judgment levy and fails to disclose or remit the levied funds as required in this chapter. Upon order to show cause served on the third party and notice of motion supported by affidavit of facts and affidavit of service upon both the judgment debtor and third party, the court may render judgment against the third party for an amount not exceeding 100 percent of the amount claimed in the execution. Judgment against the third party under this section shall not bar the public authority from further remedies under this chapter as a result of any subsequent defaults by the third party. The court upon good cause shown may remove the default and permit the third party to disclose or remit on just terms.

Subd. 9. [SATISFACTION.] Upon expiration, the public authority making the execution may file a partial satisfaction by amount or, if the applicable shall file the total satisfaction with the court administrator without charge.

Subd. 10. [THIRD PARTY GOOD FAITH REQUIREMENT.] The third party is not liable to the judgment debtor, public authority, or other person for wrongful retention if the third party retains or remits disposable earnings, indebtedness, or money of the judgment debtor or any other person, pending the third party's disclosure or consistent with the disclosure the third party makes,

if the third party has a good faith belief that the property retained or remitted is subject to the execution. In addition, the third party may, at any time before or after disclosure, proceed under Rule 67 of the Minnesota rules of civil procedure to make deposit into court. No third party is liable for damages if the third party complies with the provisions of this chapter.

Subd. 11. [BAD FAITH CLAIM.] If, in a proceeding brought under section 552.05, subdivision 9, or a similar proceeding under this chapter to determine a claim of exemption, the claim of exemption is not upheld, and the court finds that it was asserted in bad faith, the public authority shall be awarded actual damages, costs, reasonable attorney's fees resulting from the additional proceedings, and an amount not to exceed $100. If the claim of exemption is upheld, and the court finds that the public authority disregarded the claim of exemption in bad faith, the judgment debtor shall be awarded actual damages, costs, reasonable attorney's fees resulting from the additional proceedings, and an amount not to exceed $100. The underlying judgment shall be modified to reflect assessment of damages, costs, and attorney's fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to that party's attorney for fees, the attorney's fee award shall be made directly to the attorney, and if not paid, an appropriate judgment in favor of the attorney shall be entered. Any action by a public authority made in bad faith and in violation of this chapter renders the execution levy void and the public authority liable to the judgment debtor named in the execution levy in the amount of $100, actual damages, and reasonable attorney's fees and costs.

Subd. 12. [DISCHARGE OF A THIRD PARTY.] Subject to subdivisions 6 and 13, the third party, after disclosure, shall be discharged of any further obligation to the public authority when one of the following conditions is met:

(a) The third party discloses that the third party is not indebted to the judgment debtor or does not possess any earnings, property, money, or indebtedness belonging to the judgment debtor that is attachable as defined in subdivision 2. The disclosure is conclusive against the public authority and discharges the third party from any further obligation to the public authority other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor which was disclosed.

(b) The third party discloses that the third party is indebted to the judgment debtor as indicated on the execution disclosure form. The disclosure is conclusive against the public authority and discharges the third party from any further obligation to the public authority other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor that was disclosed.

(c) The court may, upon motion of an interested person, discharge the third party as to any disposable earnings, money, property, or indebtedness in excess of the amount that may be required to satisfy the public authority's claim.

Subd. 13. [EXCEPTIONS TO DISCHARGE OF A THIRD PARTY.] The third party is not discharged if:

(a) Within 20 days of the service of the third party's disclosure, an interested person serves a motion relating to the execution levy. The hearing on the motion must be scheduled to be heard within 30 days of the service of the motion.

(b) The public authority moves the court for leave to file a supplemental complaint against the third party, as provided for in subdivision 7, and the court upon proper showing vacates the discharge of the third party.

Subd. 14. [JOINDER AND INTERVENTION BY PERSONS IN INTEREST.] If it appears that a person, who is not a party to the action, has or claims an interest in any of the disposable earnings, other indebtedness, or money, the court shall permit that person to intervene or join in the execution proceeding under this chapter. If that person does not appear, the court may summon that person to appear or order the claim barred. The person so appearing or summoned shall be joined as a party and be bound by the judgment.

Subd. 15. [APPEAL.] A party to an execution proceeding aggrieved by an order or final judgment may appeal as allowed by law.

Subd. 16. [PRIORITY OF LEVY.] Notwithstanding section 52.12, a levy by the public authority made under this section on an obligor's funds on deposit in a financial institution located in this state has priority over any unexercised right of setoff of the financial institution to apply the levied funds toward the balance of an outstanding loan or loans owed by the obligor to the financial institution. A claim by the financial institution that it exercised its right to setoff prior to the levy by the public authority must be substantiated by evidence of the date of the setoff and must be verified by the sworn statement of a responsible corporate officer of the financial institution. For purposes of determining the priority of a levy made under this section, the levy must be treated as if it were an execution made under chapter 550.

Sec. 26. [552.05] [SUMMARY EXECUTION UPON FUNDS AT A FINANCIAL INSTITUTION.]

Subdivision 1. [PROCEDURE.] In addition to the provisions of section 552.04, when levying upon funds at a financial institution, the public authority must comply with this section. If the notice of support judgment levy is being used by the public authority to levy funds of a judgment debtor who is a natural person and if the funds to be levied are held on deposit at any financial institution, in lieu of service the public authority shall send with the notice of support judgment levy and disclosure required by section 552.04, subdivision 4, one copy of an exemption and right to hearing notice. The notice must be substantially in the form determined by the commissioner in accordance with section 552.05, subdivision 10. Failure of the public authority to send the notice renders the execution levy void, and the financial institution shall take no action. Upon receipt of the notice of support judgment levy and exemption and right to hearing notice, the financial institution shall retain as much of the amount due as the financial institution has on deposit owing to the judgment debtor, but not more than 100 percent of the amount remaining due on the judgment until directed by the public authority or the court to release the funds to the public authority or the judgment debtor in accordance with this chapter.

Subd. 2. [DUTIES OF FINANCIAL INSTITUTION.] Within two business days after receipt of the execution levy and exemption and right to hearing notice, the financial institution shall serve upon the judgment debtor the exemption and right to hearing notice. The financial institution shall serve the notice by first class mail to the last known address of the judgment debtor. If no claim of exemption or request for hearing is received by the public authority within 14 days after the notice is mailed to the judgment debtor, the public authority shall notify the financial institution within seven days that the funds remain subject to the execution levy and shall be remitted to the public authority. If a claim of exemption or a request for hearing is received by the public authority within 14 days after the exemption notice is mailed to the judgment debtor, the public authority shall within seven days notify the financial institution either to release the funds to the judgment debtor or that the funds remain subject to the execution levy pending the determination of an administrative law judge at a requested contested case proceeding. When notified by the public authority to release the funds, the financial institution shall release the funds to the public authority or to the judgment debtor, as directed by the public authority, within two business days.

Subd. 3. [PROCESS TO CLAIM EXEMPTION.] If the judgment debtor elects to claim an exemption, the judgment debtor shall complete the applicable portion of the exemption and right to hearing notice, sign it under penalty of perjury, and deliver one copy to the public authority within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption and right to hearing notice. Failure of the judgment debtor to deliver the executed exemption and right to hearing notice does not constitute a waiver of any claimed right to an exemption. Upon timely receipt of a claim of exemption, funds not claimed to be exempt by the judgment debtor remain subject to the execution levy. Within seven days after the date postmarked on the envelope containing the executed exemption and right to hearing notice mailed to the public authority, or the date of personal delivery of the executed exemption and right to hearing notice to the public authority, the public authority shall either notify the financial institution to release the exempt portion of the funds to the judgment debtor or schedule a contested administrative proceeding pursuant to subdivision 5.

Subd. 4. [PROCESS TO REQUEST HEARING.] If the judgment debtor elects to request a hearing on any issue specified in subdivision 6, the judgment debtor shall complete the applicable portion of the exemption and right to hearing notice, sign it under penalty of perjury, and deliver one copy to the public authority within 14 days of the date postmarked on the correspondence mailed to the judgment debtor containing the exemption and right to hearing notice. Upon timely receipt of a request for hearing, funds not claimed to be exempt by the judgment debtor remain subject to the execution levy. Within seven days after the date postmarked on the envelope containing the executed request for hearing mailed to the public authority, or the date of personal delivery of the executed request for hearing to the public authority, the public authority shall either notify the financial institution to release the exempt portion of the funds to the judgment debtor or schedule a contested administrative proceeding under section 518.5511 and notify the judgment debtor of the time and place of the scheduled hearing.

Subd. 5. [DUTIES OF PUBLIC AUTHORITY IF HEARING IS REQUESTED.] Within seven days of the receipt of a request for hearing or a claim of exemption to which the public authority does not consent, the public authority shall schedule a contested administrative proceeding under section 518.5511. The hearing must be scheduled to occur within five business days. The public authority shall send written notice of the hearing date, time, and place to the judgment debtor by first class mail. The hearing may be conducted by telephone, audiovisual means or other electronic means, at the discretion of the administrative law judge. If the hearing is to be conducted by telephone, audiovisual means, or other electronic means, the public authority shall provide reasonable assistance to the judgment debtor to facilitate the submission of all necessary documentary evidence to the administrative law judge, including access to the public authority's facsimile transmission machine.

Subd. 6. [ISSUES RELEVANT AT HEARING.] At any hearing requested by the judgment debtor under this chapter, the only issues to be determined are whether:

(1) the public authority complied with the process required by this chapter;

(2) the amount stated in the notice of support judgment levy is owed by the judgment debtor;

(3) the amount stated in the notice of support judgment levy is correct; or

(4) any of the funds levied upon are exempt.

Subd. 7. [NOTICE OF ORDER.] Within one business day of receipt of the order of the administrative law judge, the public authority shall send a copy of the order to the judgment debtor at the judgment debtor's last known address and to the financial institution.

Subd. 8. [RELEASE OF FUNDS.] At any time during the procedure specified in this section, the judgment debtor or the public authority may direct the financial institution to release the funds in question to the other party. Upon receipt of a release, the financial institution shall release the funds as directed.

Subd. 9. [SUBSEQUENT PROCEEDINGS; BAD FAITH CLAIM.] If in subsequent proceedings brought by the judgment debtor or the public authority, the claim of exemption is not upheld, and the office of administrative hearings finds that it was asserted in bad faith, the public authority shall be awarded actual damages, costs, and reasonable attorney fees resulting from the additional proceedings, and an amount not to exceed $100. The underlying judgment must be modified to reflect assessment of damages, costs, and attorney fees. However, if the party in whose favor a penalty assessment is made is not actually indebted to the party's attorney for fees, the attorney's fee award shall be made directly to the attorney and if not paid, an appropriate judgment in favor of the attorney shall be entered. Upon motion of any party in interest, on notice, the office of administrative hearings shall determine the validity of any claim of exemption, and may make any order necessary to protect the rights of those interested. No financial institution is liable for damages for complying with this section. The financial institution may rely on the date of mailing or delivery of a notice to it in computing any time periods in this section.

Subd. 10. [FORMS.] The commissioner of human services shall develop statutory forms for

use as required under this chapter. In developing these forms, the commissioner shall consult with the attorney general, representatives of financial institutions, and legal services. The commissioner shall report back to the legislature by February 1, 1998, with recommended forms to be included in this chapter.

Sec. 27. Minnesota Statutes 1996, section 609.375, is amended by adding a subdivision to read:

Subd. 7. [CONDITIONS OF WORK RELEASE; PROBATION VIOLATION.] Upon conviction under this section, a defendant may obtain work release only upon the imposition of an automatic income withholding order, and may be required to post a bond in avoidance of jail time and conditioned upon payment of all child support owed. Nonpayment of child support is a violation of any probation granted following conviction under subdivision 2a.

Sec. 28. [INDEPENDENT CONTRACTORS.]

The department of human services shall report to the chairs of the judiciary committees in the house of representatives and the senate by February 1, 1998, on the state's experience including independent contractors for the state in the work reporting system.

Sec. 29. [APPROPRIATION.]

Subdivision 1. [DEPARTMENT OF HUMAN SERVICES.] $..... is appropriated from the general fund to the department of human services for fiscal year 1998 for the purposes specified in sections 2, 7, 12, and 14.

Subd. 2. [PUBLIC EDUCATION.] $..... is appropriated from the general fund to the attorney general for fiscal year 1998 for the continuation of the public education campaign specified in Minnesota Statutes, section 8.35.

Subd. 3. [ATTORNEY GENERAL.] $..... is appropriated from the general fund to the attorney general for fiscal year 1998 for the purposes specified in section 6.

Sec. 30. [REPEALER.]

Minnesota Statutes 1996, section 609.375, subdivisions 3, 4, and 6, are repealed.

Sec. 31. [EFFECTIVE DATE.]

Sections 2 and 10 to 26 are effective July 1, 1998. Sections 1 and 7 and 8 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to child support enforcement; modifying provisions governing the establishment and enforcement of child support and maintenance; authorizing disclosure of certain data to the attorney general; providing for certain financial data matches; changing provisions for driver's license suspension, motor vehicle liens, payment agreements, and child support judgments; modifying provisions governing publication of names of delinquent obligors; providing for case reviewers; providing for a child support lien; regulating work release and probation violation for criminal nonsupport for certain offenders; requiring a study; appropriating money; specifying penalties; amending Minnesota Statutes 1996, sections 13.46, subdivision 2; 13.99, by adding a subdivision; 171.19; 256.87, subdivisions 1, 1a, 3, 5, and by adding a subdivision; 256.978, subdivisions 1 and 2; 256.979, subdivisions 5, 6, 7, 8, and by adding a subdivision; 256.9791, subdivision 1; 256.9792, subdivisions 1 and 2; 256.998, subdivisions 1, 6, 7, and 9; 257.62, subdivisions 1 and 2; 257.66, subdivision 3, and by adding a subdivision; 257.70; 257.75, subdivisions 1a, 2, 3, 4, 5, and 7; 299C.46, subdivision 3; 508.63; 508A.63; 518.005, by adding a subdivision; 518.10; 518.148, subdivision 2; 518.171, subdivisions 1 and 4; 518.54, subdivision 6, and by adding a subdivision; 518.551, subdivisions 5, 5b, 7, 12, 13, 14, and by adding a subdivision; 518.5511, subdivisions 1, 2, 3, 4, and by adding a subdivision; 518.5512, subdivisions 2, 3, and by adding subdivisions; 518.553; 518.575; 518.616, by adding a subdivision; 518.64, subdivision 2; 518.641, subdivision 2; 518.68, subdivision 2; 548.091,

subdivisions 1a, 2a, 3a, and by adding subdivisions; 550.37, subdivision 24; 609.375, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 13B; 256; 518; proposing coding for new law as Minnesota Statutes, chapter 552; repealing Minnesota Statutes 1996, sections 8.35; 256.74; 256.979, subdivision 9; 518.5511, subdivisions 5, 6, 7, 8, and 9; 518.611; 518.613; 518.645; 518C.502; 518C.9011; and 609.375, subdivisions 3, 4, and 6."

And when so amended the bill do pass and be re-referred to the Committee on Health and Family Security.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Vickerman from the Committee on Local and Metropolitan Government, to which was referred

S.F. No. 693: A bill for an act relating to local government; specifying manufactured home parks as a permitted use in certain circumstances; amending Minnesota Statutes 1996, sections 394.25, by adding a subdivision; and 462.357, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 366.

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

Delete everything after the enacting clause and insert:

"Section 1. [366.152] [PERMITTED USES.]

A manufactured home park, as defined in section 327.14, subdivision 3, is a conditional use in a zoning district that allows the construction or placement of a building used or intended to be used by two or more families.

Sec. 2. Minnesota Statutes 1996, section 394.25, is amended by adding a subdivision to read:

Subd. 3b. [PERMITTED USES.] A manufactured home park, as defined in section 327.14, subdivision 3, is a conditional use in a zoning district that allows the construction or placement of a building used or intended to be used by two or more families.

Sec. 3. Minnesota Statutes 1996, section 462.357, is amended by adding a subdivision to read:

Subd. 1b. [PERMITTED USES.] A manufactured home park, as defined in section 327.14, subdivision 3, is a conditional use in a zoning district that allows the construction or placement of a building used or intended to be used by two or more families."

And when so amended the bill do pass and be re-referred to the Committee on Jobs, Energy and Community Development.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

Mr. Metzen from the Committee on Governmental Operations and Veterans, to which was referred

S.F. No. 1310: A bill for an act relating to public administration; authorizing spending to acquire and better public land and buildings and other public improvements of a capital nature with certain conditions; authorizing the commissioner of administration, with the approval of the commissioner of finance, to enter into lease-purchase agreements and to provide for the issuance of certificates of participation; prescribing certain conditions; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16B.

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

Page 1, line 13, delete "[16B.242]"

Page 1, line 18, after "new" insert "or existing building for use as a"

Page 1, line 24, before "section" insert "Minnesota Statutes,"

Page 3, line 8, delete "n" and insert "in"

Page 5, line 5, after "headquarters" insert "or another existing building determined by the commissioner to be suitable for use as a headquarters building for the department of revenue"

Page 5, line 17, delete "$2,300,000" and insert "$....."

Page 5, line 23, after "new" insert "or existing"

Amend the title as follows:

Page 1, line 10, delete everything after "money"

Page 1, line 11, delete everything before the period

And when so amended the bill do pass and be re-referred to the Committee on State Government Finance.

Pursuant to Joint Rule 2.03, the bill was referred to the Committee on Rules and Administration.

SECOND READING OF SENATE BILLS

S.F. Nos. 569, 911, 349, 351 and 780 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 889 and 949 were read the second time.

MOTIONS AND RESOLUTIONS

Mr. Stevens moved that the name of Mr. Hottinger be added as a co-author to S.F. No. 309. The motion prevailed.

Ms. Runbeck moved that her name be stricken as a co-author to S.F. No. 606. The motion prevailed.

Mr. Samuelson moved that the name of Mr. Ten Eyck be added as a co-author to S.F. No. 1690. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Mses. Runbeck, Robertson and Mr. Neuville introduced--

S.F. No. 1869: A bill for an act relating to taxes; sales and use; modifying the rate; amending Minnesota Statutes 1996, section 297A.02, subdivision 1.

Referred to the Committee on Taxes.

Ms. Runbeck, Mrs. Pariseau, Mses. Olson and Lesewski introduced--

S.F. No. 1870: A bill for an act proposing an amendment to the Minnesota Constitution; adding a section to article IV; requiring a special vote on new taxes, tax increases, and tax extensions.

Referred to the Committee on Local and Metropolitan Government.

Ms. Runbeck, Messrs. Limmer; Johnson, D.H.; Beckman and Ourada introduced--

S.F. No. 1871: A bill for an act relating to utilities; authorizing public utilities commission to levy civil penalties for violations by public utilities and telecommunications companies; making technical changes; amending Minnesota Statutes 1996, sections 216B.54; 216B.57; 216B.59; 216B.60; 216B.61; and 237.27.

Referred to the Committee on Jobs, Energy and Community Development.

Mr. Janezich introduced--

S.F. No. 1872: A bill for an act relating to education; appropriating money for equipment for the East Range Secondary Technical Center.

Referred to the Committee on Children, Families and Learning.

Mr. Janezich introduced--

S.F. No. 1873: A bill for an act relating to education; appropriating money for a media specialist for independent school district No. 707, Nett Lake.

Referred to the Committee on Children, Families and Learning.

Mr. Janezich introduced--

S.F. No. 1874: A bill for an act relating to education; appropriating money for the Nett Lake community center.

Referred to the Committee on Children, Families and Learning.

Mr. Pogemiller and Ms. Pappas introduced--

S.F. No. 1875: A bill for an act relating to taxation; eliminating soils condition tax increment financing districts; expanding the definition of redevelopment tax increment financing districts; amending Minnesota Statutes 1996, sections 469.174, subdivisions 10 and 12; 469.175, subdivision 3; and 469.176, subdivisions 1b and 4j; repealing Minnesota Statutes 1996, sections 469.174, subdivision 19; and 469.176, subdivision 4b.

Referred to the Committee on Local and Metropolitan Government.

Messrs. Novak; Kelley, S.P. and Johnson, D.J. introduced--

S.F. No. 1876: A bill for an act relating to telecommunications; providing for single statewide local access and transport area (LATA) for telephone and other telecommunications services; amending Minnesota Statutes 1996, section 237.17.

Referred to the Committee on Jobs, Energy and Community Development.

Mr. Janezich introduced--

S.F. No. 1877: A bill for an act relating to education; appropriating money for a Northeast Minnesota telecommunications access grant.

Referred to the Committee on Children, Families and Learning.

Mr. Janezich introduced--

S.F. No. 1878: A bill for an act relating to public employment; making it an unfair labor practice to unilaterally modify benefits received by retired employees; amending Minnesota Statutes 1996, section 179A.13, subdivision 2.

Referred to the Committee on Governmental Operations and Veterans.

Mr. Janezich introduced--

S.F. No. 1879: A bill for an act relating to education; appropriating money for grants to independent school district No. 707, Nett Lake, for insurance and unemployment compensation; amending Laws 1995, First Special Session chapter 3, article 8, section 25, subdivision 12.

Referred to the Committee on Children, Families and Learning.

Mr. Kelly, R.C.; Ms. Ranum, Messrs. Neuville and Spear introduced--

S.F. No. 1880: A bill for an act relating to the organization and operation of state government; appropriating money for the judicial branch, public safety, public defense, corrections, criminal justice, crime prevention programs, and other related purposes; implementing, clarifying, and modifying certain criminal and juvenile provisions; prescribing, clarifying, and modifying certain penalty provisions; modifying and enacting various arson provisions; making various changes to the data privacy laws; establishing, modifying, and expanding permanent programs, pilot programs, grant programs, studies, offices, strike forces, task forces, councils, committees, and working groups; requiring reports; providing for an adjustment to the soft body armor reimbursement fund; authorizing the board on judicial standards to award attorneys fees; changing the name of the "superintendent" of the bureau of criminal apprehension to the "director" of the bureau of criminal apprehension; authorizing testing for HIV or Hepatitis B under certain circumstances; permitting the sale of ten or fewer unused hypodermic needles or syringes without a prescription; providing for statewide arson training courses; creating a criminal gang investigative data system; requiring the department of corrections to submit an annual performance report; expanding the commissioner of corrections' authority to release inmates on conditional medical release and the commissioner's authority related to rules and guidelines; requiring the department of corrections to amend a rule; ending the state's operation of the Minnesota correctional facility-Sauk Centre; requiring the commissioner of administration to issue a request for proposals and select a vendor to operate the facility; requiring the commissioner of corrections to charge counties for juveniles placed at the Minnesota correctional facility-Red Wing and to develop admissions criteria for the facility; striking the requirement that the Minnesota correctional facility-Red Wing accept all juveniles; establishing a state policy discouraging the out-of-state placement of juveniles; lowering the per se standard for alcohol concentration from 0.10 to 0.08 for adults, and to 0.04 for persons under 21 years of age, for driving motor vehicles, snowmobiles, all-terrain vehicles, and motorboats while impaired, as well as for criminal vehicular operation and hunting; providing orders for protection in the case of domestic abuse perpetrated by a minor; amending Minnesota Statutes 1996, sections 13.99, by adding a subdivision; 84.91, subdivision 1; 84.911, subdivision 1; 86B.331, subdivisions 1 and 4; 86B.335, subdivision 1; 97B.065, subdivision 1; 97B.066, subdivision 1; 119A.31, subdivision 1; 144.761, subdivisions 5 and 7; 144.762, subdivision 2; 144.765; 144.767, subdivision 1; 151.40; 152.01, subdivision 18; 152.021, subdivisions 1 and 2; 152.022, subdivisions 1 and 2; 152.023, subdivision 2; 169.121, subdivisions 1, 2, and 10a; 169.123, subdivisions 2, 4, 5a, and 6; 171.29, subdivision 2; 241.01, subdivision 3b; 242.19, subdivision 2; 242.32, by adding a subdivision; 242.55; 244.05, subdivision 8; 244.17, subdivision 2; 256E.03, subdivision 2; 257.071, subdivisions 3, 4, and by adding subdivisions; 257.072, subdivision 1; 259.41; 259.59, by adding a subdivision; 259.67, subdivision 2; 260.012; 260.015, subdivisions 2a and 29; 260.131, subdivisions 1 and 2; 260.155, subdivisions 1a, 2, 3, 4, and 8; 260.161, subdivisions 1, 1a, and by adding a subdivision; 260.165, subdivisions 1 and 3; 260.171, subdivision 2; 260.191, subdivisions 1, 3a, 3b, and 4; 260.192;

260.221, subdivisions 1 and 5; 260.241, subdivisions 1 and 3; 299A.38, subdivision 2, and by adding a subdivision; 299A.61, subdivision 1; 299C.065, subdivision 1; 299C.095; 299C.10, subdivisions 1 and 4; 299C.13; 299F.051; 299F.06, subdivisions 1 and 3; 326.3386, subdivision 3, and by adding subdivisions; 363.073, subdivision 1; 401.13; 609.035, subdivision 1, and by adding a subdivision; 609.10; 609.101, subdivision 5; 609.115, subdivision 1; 609.125; 609.135, subdivision 1; 609.21, subdivisions 1, 2, 2a, 2b, 3, 4, and 4a; 609.221; 609.748, subdivision 1; 609.902, subdivision 4; 611A.038; 611A.675; 611A.71, subdivision 5; 611A.74, subdivisions 1, 3, and by adding a subdivision; and 611A.75; Laws 1995, chapter 226, article 2, section 37, subdivision 2; article 3, section 60, subdivision 4, and by adding a subdivision; and Laws 1996, chapter 408, article 8, sections 21; 22, subdivision 1; and 24; proposing coding for new law in Minnesota Statutes, chapters 241; 242; 257; 259; 299A; 299C; 299F; 609; 611A; and 626; repealing Minnesota Statutes 1996, sections 119A.30; 242.51; 244.09, subdivision 11a; 259.33; and 299F.07.

Referred to the Committee on Human Resources Finance.

Ms. Johnson, J.B. introduced--

S.F. No. 1881: A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and other agencies with certain conditions; regulating certain activities and practices; providing for fees; establishing revolving account; requiring a study; amending Minnesota Statutes 1996, sections 16B.335, subdivision 1; 168.011, subdivision 9; 168.018; 168A.29, subdivision 1; 169.974, subdivision 2; 171.06, subdivision 2a; 171.13, by adding a subdivision; 173.13, subdivision 4; 296.16, subdivision 1; 360.015, by adding a subdivision; 360.017, subdivision 1; and 457A.04, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 299A.

Referred to the Committee on State Government Finance.

MEMBERS EXCUSED

Messrs. Hottinger and Limmer were excused from the Session of today from 12:00 noon to 12:20 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 11:45 a.m., Wednesday, April 9, 1997. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate

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