

STATE OF MINNESOTA

EIGHTY-FIRST SESSION — 2000

 NINETY-NINTH DAY

SAINT PAUL, MINNESOTA, THURSDAY, MARCH 30, 2000

The House of Representatives convened at 9:00 a.m. and was called to order by Steve Sviggum, Speaker of the House.

Prayer was offered by Pastor Gerry Gengenbach, Vang Lutheran Church, Kenyon, Minnesota.

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

The roll was called and the following members were present:

| | | | | | |
|--------------|------------|------------|----------|-------------|--------------|
| Abeler | Dorman | Holberg | Lieder | Paulsen | Swenson |
| Abrams | Dorn | Holsten | Lindner | Pawlenty | Sykora |
| Anderson, B. | Entenza | Howes | Luther | Paymar | Tingelstad |
| Anderson, I. | Erhardt | Huntley | Mahoney | Pelowski | Tomassoni |
| Bakk | Erickson | Jaros | Mares | Peterson | Trimble |
| Biernat | Finseth | Jennings | Mariani | Pugh | Tuma |
| Bishop | Folliard | Johnson | Marko | Rest | Tunheim |
| Boudreau | Fuller | Juhnke | McCollum | Reuter | Van Dellen |
| Bradley | Gerlach | Kahn | McElroy | Rhodes | Vandever |
| Broecker | Gleason | Kalis | McGuire | Rifenberg | Wagenius |
| Buesgens | Goodno | Kelliher | Milbert | Rostberg | Wejman |
| Carlson | Gray | Kielkucki | Molnau | Rukavina | Wenzel |
| Carruthers | Greenfield | Knobloch | Mulder | Schumacher | Westerberg |
| Cassell | Greiling | Koskinen | Mullery | Seagren | Westfall |
| Chaudhary | Gunther | Krinkie | Murphy | Seifert, M. | Westrom |
| Clark, J. | Haake | Kubly | Ness | Skoe | Wilkin |
| Clark, K. | Haas | Kuisle | Nornes | Skoglund | Winter |
| Daggett | Hackbarth | Larsen, P. | Olson | Smith | Wolf |
| Davids | Harder | Larson, D. | Opatz | Solberg | Spk. Sviggum |
| Dawkins | Hasskamp | Leighton | Osskopp | Stang | |
| Dehler | Hausman | Lenczewski | Otremba | Storm | |
| Dempsey | Hilty | Leppik | Ozment | Swapinski | |

A quorum was present.

Orfield and Seifert, J., were excused.

Osthoff was excused until 9:30 a.m. Workman was excused until 9:40 a.m. Stanek was excused until 11:15 a.m.

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

REPORTS OF CHIEF CLERK

S. F. No. 619 and H. F. No. 562, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Paulsen moved that S. F. No. 619 be substituted for H. F. No. 562 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2796 and H. F. No. 2999, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Mares moved that the rules be so far suspended that S. F. No. 2796 be substituted for H. F. No. 2999 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 2806 and H. F. No. 3615, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Holberg moved that the rules be so far suspended that S. F. No. 2806 be substituted for H. F. No. 3615 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 3533 and H. F. No. 3952, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Ozment moved that S. F. No. 3533 be substituted for H. F. No. 3952 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

March 28, 2000

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

Dear Speaker Sviggum:

It is my honor to inform you that I have received, approved, signed and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 3142, relating to highways; designating the Richard J. Mathiowetz Memorial Highway.

H. F. No. 3421, relating to utilities; regulating an electric cooperative's election to be regulated.

H. F. No. 3053, relating to motor vehicles; allowing collector-type vehicles to display a blue light as part of brake light.

H. F. No. 3196, relating to human services; allowing the director of nursing to serve as the administrator in a nursing home with less than 45 beds; allowing a nursing facility's employee pension benefit costs to be treated as PERA contributions.

Sincerely,

JESSE VENTURA
Governor

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

The Honorable Steve Sviggum
Speaker of the House of Representatives

The Honorable Allan H. Spear
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 2000 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

| <i>S.F. No.</i> | <i>H.F. No.</i> | <i>Session Laws Chapter No.</i> | <i>Time and Date Approved 2000</i> | <i>Date Filed 2000</i> |
|---------------------|---------------------|-------------------------------------|--|----------------------------|
| | 3142 | 288 | 2:30 p.m. March 28 | March 28 |
| 2652 | | 289 | 2:32 p.m. March 28 | March 28 |
| 2756 | | 290 | 2:33 p.m. March 28 | March 28 |
| 3097 | | 291 | 2:34 p.m. March 28 | March 28 |
| | 3421 | 292 | 2:35 p.m. March 28 | March 28 |
| | 3053 | 293 | 2:36 p.m. March 28 | March 28 |
| | 3196 | 294 | 2:36 p.m. March 28 | March 28 |
| 3161 | | 295 | 2:37 p.m. March 28 | March 28 |
| 3253 | | 296 | 2:38 p.m. March 28 | March 28 |
| 2691 | | 297 | 2:39 p.m. March 28 | March 28 |
| 2365 | | 298 | 2:40 p.m. March 28 | March 28 |
| 3330 | | 299 | 2:42 p.m. March 28 | March 28 |

Sincerely,

MARY KIFFMEYER
Secretary of State

REPORTS OF STANDING COMMITTEES

Pawlenty from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 2216, A resolution memorializing the President and Congress to honor Hmong and Lao combat veterans by easing naturalization requirements for those who served in the U.S. Secret Army during the Vietnam War and enacting H.R. 371, the Hmong Veterans' Naturalization Act of 1999.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

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

H. F. No. 3082, A bill for an act relating to higher education; increasing the higher education facilities authority bonding authority; amending Minnesota Statutes 1998, section 136A.29, subdivision 9.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

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

H. F. No. 3516, A bill for an act relating to natural resources; allowing expenditure of appropriated money for certain seminars and conferences; clarifying certain prohibitions related to the operation of snowmobiles, all-terrain vehicles, and motorboats; modifying composition of the outdoor recreation system; modifying disposition of certain receipts; designating a migratory waterfowl refuge; modifying certain rulemaking authority; eliminating trawling fees; providing for acquisition of critical aquatic habitat; modifying commissioner's authority to remove rough fish; providing for replacement licenses; modifying minnow retailer and turtle license provisions; clarifying forfeiture procedure; modifying mineral land provisions; increasing project amount for security in place of bonds; granting legislative approval for certain water usage; authorizing the commissioner of natural resources to use snowmobile grant-in-aid funds to reimburse eligible recipients for certain snowmobile trail grooming equipment expenses; amending Minnesota Statutes 1998, sections 9.071; 86A.04; 86B.331, subdivision 1; 93.05; 93.055; 93.14; 93.15; 93.16; 93.17; 93.193, subdivision 1; 93.21; 93.22; 93.25, subdivisions 1 and 2; 93.26; 93.27; 93.28; 93.285, subdivisions 2 and 3; 93.335, subdivision 1; 93.43; 97A.095, by adding a subdivision; 97A.405, by adding a subdivision; 97A.475, subdivision 30, and by adding a subdivision; 97C.041; 97C.501, subdivisions 1 and 2; and 97C.605, subdivisions 1 and 2; Minnesota Statutes 1999 Supplement, sections 84.91, subdivision 1; 97A.065, subdivision 2; 169.1217, subdivision 7a; 290.431; 290.432; and 574.264, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 84; 93; and 97C; repealing Minnesota Statutes 1998, sections 93.07; 93.08; 93.09; 93.10; 93.11; 93.12; 93.13; 93.18; 93.19; 93.191; 93.192; 93.202; 93.23; 93.24; 93.283; 93.285, subdivisions 4 and 5; 93.30; 93.31; 93.32; 93.335, subdivisions 4 and 5; 93.34, subdivisions 1 and 3; 93.351; 93.352; 93.353; 93.354; 93.355; 93.356; 93.357; 93.37; 93.38; 93.39; 93.42; and 97B.312.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Pawlenty from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 3965, A bill for an act relating to education finance; clarifying a timeline under the consolidation transition revenue program; amending Minnesota Statutes 1998, section 123A.485, subdivision 4.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Krinkie from the Committee on State Government Finance to which was referred:

H. F. No. 4133, A bill for an act relating to state government; specifying procedures to avoid conflicts of interest in state contracts; requiring certain procedures to be followed in making changes to certain state contracts and solicitation documents for certain state contracts; amending Minnesota Statutes 1998, section 16C.04, subdivision 2; and 16C.08, by adding a subdivision.

Reported the same back with the following amendments:

Page 2, line 14, delete "changes"

Page 2, line 15, before the colon, insert "is changed"

Page 2, line 18, delete "21" and insert "14" and after "from" insert "the"

Page 2, line 23, delete everything after "document"

Page 2, line 24, delete everything before the period

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

The report was adopted.

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

S. F. No. 884, A bill for an act relating to marriage; providing for a reduced marriage license fee for couples who obtain premarital education; increasing filing fee for marriage dissolution proceedings; amending Minnesota Statutes 1998, sections 357.021, subdivision 2; and 517.08, subdivisions 1b and 1c.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1998, section 517.08, subdivision 1b, is amended to read:

Subd. 1b. [TERM OF LICENSE; FEE; PREMARITAL EDUCATION.] (a) The court administrator shall examine upon oath the party applying for a license relative to the legality of the contemplated marriage. If at the expiration of a five-day period, on being satisfied that there is no legal impediment to it, the court administrator shall issue the license, containing the full names of the parties before and after marriage, and county and state of residence, with the district court seal attached, and make a record of the date of issuance. The license shall be valid for a period of

six months. In case of emergency or extraordinary circumstances, a judge of the district court of the county in which the application is made, may authorize the license to be issued at any time before the expiration of the five days. Except as provided in paragraph (b), the court administrator shall collect from the applicant a fee of \$70 \$95 for administering the oath, issuing, recording, and filing all papers required, and preparing and transmitting to the state registrar of vital statistics the reports of marriage required by this section. If the license should not be used within the period of six months due to illness or other extenuating circumstances, it may be surrendered to the court administrator for cancellation, and in that case a new license shall issue upon request of the parties of the original license without fee. A court administrator who knowingly issues or signs a marriage license in any manner other than as provided in this section shall pay to the parties aggrieved an amount not to exceed \$1,000.

(b) The marriage license fee for parties who have completed at least 12 hours of premarital education is \$45. In order to qualify for the reduced fee, the parties must submit a signed and dated statement from the person who provided the premarital education confirming that it was received. The premarital education must be provided by a licensed or ordained minister or the minister's designee, a person authorized to solemnize marriages under section 517.18, or a person authorized to practice marriage and family therapy under section 148B.33. The education must include the use of a premarital inventory, a discussion of the seriousness of marriage and that it is a commitment for life, the teaching of communication skills and conflict management skills, and a discussion of the desirability of seeking marital counseling in times of marital difficulties.

(c) The statement from the person who provided the premarital education under paragraph (b) must be in the following form:

"I, [name of educator], confirm that [names of both parties] received at least 12 hours of premarital education that complies with Minnesota Statutes, section 517.08, subdivision 1b, paragraph (b). I am a licensed or ordained minister, a person authorized to solemnize marriages under Minnesota Statutes, section 517.18, or a person licensed to practice marriage and family therapy under Minnesota Statutes, section 148B.33."

The names of the parties in the educator's statement must be identical to the legal names of the parties as they appear in the marriage license application. Notwithstanding section 138.17, the educator's statement must be retained for seven years, after which time it may be destroyed.

Sec. 2. Minnesota Statutes 1998, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] (a) Of the marriage license fee collected pursuant to subdivision 1b, paragraph (a), \$15 must be retained by the county. The court administrator ~~shall~~ must pay ~~\$55~~ \$80 to the state treasurer to be deposited as follows:

(1) ~~\$50~~ \$75 in the general fund;

(2) \$3 in the special revenue fund to be appropriated to the commissioner of children, families, and learning for supervised visitation facilities under section 119A.37; and

(3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255.

(b) Of the \$45 fee under subdivision 1b, paragraph (b), \$15 must be retained by the county. The state court administrator must pay \$30 to the state treasurer to be deposited as follows:

(1) \$25 to the state general fund; and

(2) the remainder must be distributed as provided in paragraph (a), clauses (2) and (3)."

Delete the title and insert:

"A bill for an act relating to marriage; changing the license fee; providing for a reduced fee for couples who obtain premarital education; providing for disposition of the fee; amending Minnesota Statutes 1998, section 517.08, subdivisions 1b and 1c."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 1288, A bill for an act relating to natural resources; exempting trappers from blaze orange requirements; providing that for certain turkey license applicants qualifying land may be noncontiguous; increasing hunting and fishing license fees; appropriating money; amending Minnesota Statutes 1998, sections 97A.435, subdivision 4; 97A.475, subdivisions 2, 3, 6, 7, 8, 11, 12, 13, and 20; 97A.485, subdivision 12; and 97B.071.

Reported the same back with the following amendments to the second unofficial engrossment:

Page 2, line 20, delete "\$500 for the" and insert "\$900 annually. The fee shall be deposited in the game and fish fund."

Page 2, delete line 21

Page 2, line 23, delete everything after the period

Page 2, delete line 24

Page 12, line 26, delete "resident"

Page 14, line 7, delete "and"

Page 14, line 10, before the period, insert "; and

(12) to take one antlered deer by firearm and one antlered deer by archery, \$44"

Page 16, line 19, delete "97C.376" and insert "97B.055, subdivision 2"

Page 16, after line 25, insert:

"Sec. 20. Minnesota Statutes 1998, section 97B.055, subdivision 2, is amended to read:

Subd. 2. [RESTRICTIONS RELATED TO MOTOR VEHICLE.] A person may not take a wild animal with a firearm or by archery from a motor vehicle except as permitted in this section. ~~An archer in a permitted bow fishing tournament~~ A person may transport ~~the~~ a bow uncased while in an electric motor-powered boat and may take rough fish while in the boat."

Pages 18 and 19, delete section 22 and insert:

"Sec. 23. Minnesota Statutes 1998, section 97B.106, is amended to read:

97B.106 [CROSSBOW PERMITS FOR HUNTING AND FISHING.]

Subdivision 1. [QUALIFICATIONS FOR CROSSBOW PERMITS.] (a) The commissioner may issue a special permit, without a fee, to take big game, small game, or turkey rough fish with a crossbow to a person that is unable to hunt or take rough fish by archery because of a permanent or temporary physical disability.

(b) To qualify ~~a person~~ for a special crossbow permit under this section, a temporary disability must render the person unable to hunt or fish by archery for a minimum of two years after application for the permit is made. The permanent or temporary disability; must be established by medical evidence, and the inability to hunt or fish by archery for the required period of time must be verified in writing by a licensed physician or chiropractor or certified physical therapist.

(c) The person must obtain the appropriate license.

Subd. 2. [CROSSBOW EQUIPMENT AND REQUIREMENTS.] ~~The~~ (a) A crossbow used for hunting under the provisions of this section 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~~.

(b) An arrow or bolt used to take big game or turkey under this section must meet the legal arrowhead requirements in section 97B.211, subdivision 2.

(c) An arrow or bolt used to take rough fish with a crossbow under this section must be tethered or controlled by an attached line."

Page 19, after line 23, insert:

"Sec. 26. Minnesota Statutes 1998, section 97B.301, subdivision 4, is amended to read:

Subd. 4. [TAKING MORE THAN ONE DEER.] (a) The commissioner may, by rule, allow a person to take more than one deer. The commissioner shall prescribe the conditions for taking the additional deer including:

- (1) taking by firearm or archery;
- (2) obtaining additional licenses; and
- (3) payment of a fee not more than the fee for a firearms deer license; and
- (4) the total number of deer that an individual may take.

(b) In Kittson, Lake of the Woods, Marshall, Pennington, Polk, and Roseau counties, a person may obtain one firearms deer license and one archery deer license in the same license year and may take one deer under each license. The commissioner may limit the use of this provision in certain years to protect the deer population in the area."

Page 20, line 32, delete "or"

Page 20, line 36, before the period, insert "; or

(3) all the contest participants are age 18 years or under"

Pages 24 and 25, delete section 36 and insert:

"Sec. 38. Minnesota Statutes 1998, section 97C.401, is amended by adding a subdivision to read:

Subd. 3. [YELLOW PERCH.] The commissioner may not promulgate a rule that would result in the daily limit for yellow perch being less than 20 and the possession limit being less than 50 for inland waters until March 1, 2001."

Page 25, line 10, before "\$25,000" insert "(a)"

Page 25, after line 12, insert:

"(b) \$9,000 is appropriated in fiscal year 2001 from the game and fish fund to the commissioner of natural resources to administer section 4."

Page 25, line 14, delete "and" and after "17" insert ", 19, 20, 23, 26, and 38"

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 8, delete "contest;" and insert "contests; modifying transportation requirements for archery bows; restricting rulemaking authority for taking yellow perch;"

Page 1, line 22, after the second semicolon, insert "97B.055, subdivision 2;"

Page 1, line 23, after "2," insert "4,"

Page 1, line 24, delete the first "and"

Page 1, line 25, after the semicolon, insert "and 97C.401, by adding a subdivision;"

Page 1, line 26, delete "Laws"

Page 1, line 27, delete everything before "proposing"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 1495, A bill for an act relating to commerce; enacting revised article 9 of the Uniform Commercial Code as adopted by the National Conference of Commissioners on Uniform State Laws; amending Minnesota Statutes 1998, sections 336.1-105; 336.1-201; 336.2-103; 336.2-210; 336.2-326; 336.2-502; 336.2-716; 336.2A-103; 336.2A-303; 336.2A-307; 336.2A-309; 336.4-210; 336.7-503; 336.8-103; 336.8-106; 336.8-110; 336.8-301; 336.8-302; and 336.8-510; proposing coding for new law in Minnesota Statutes, chapter 336; repealing Minnesota Statutes 1998, sections 336.9-101; 336.9-102; 336.9-103; 336.9-104; 336.9-105; 336.9-106; 336.9-107; 336.9-108;

336.9-109; 336.9-110; 336.9-112; 336.9-113; 336.9-114; 336.9-115; 336.9-116; 336.9-201; 336.9-202; 336.9-204; 336.9-205; 336.9-206; 336.9-207; 336.9-208; 336.9-301; 336.9-302; 336.9-303; 336.9-304; 336.9-305; 336.9-306; 336.9-307; 336.9-308; 336.9-309; 336.9-310; 336.9-311; 336.9-312; 336.9-313; 336.9-314; 336.9-315; 336.9-316; 336.9-317; 336.9-318; 336.9-403; 336.9-404; 336.9-405; 336.9-406; 336.9-407; 336.9-408; 336.9-410; 336.9-412; 336.9-413; 336.9-501; 336.9-502; 336.9-503; 336.9-504; 336.9-505; 336.9-506; 336.9-507; and 336.9-508; and Minnesota Statutes 1999 Supplement, sections 336.9-203; 336.9-401; 336.9-402; and 336.9-411.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

Revised Article 9

SECURED TRANSACTIONS

Part 1

GENERAL PROVISIONS

SUBPART 1. SHORT TITLE, DEFINITIONS,
AND GENERAL CONCEPTS

Section 1. [336.9-101] [SHORT TITLE.]

This article may be cited as Uniform Commercial Code - Secured Transactions.

Sec. 2. [336.9-102] [DEFINITIONS AND INDEX OF DEFINITIONS.]

(a) [DEFINITIONS.] In this article:

(1) "Accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost.

(2) "Account," except as used in "account for," means a right to payment of a monetary obligation, whether or not earned by performance, (i) for property that has been or is to be sold, leased, licensed, assigned, or otherwise disposed of, (ii) for services rendered or to be rendered, (iii) for a policy of insurance issued or to be issued, (iv) for a secondary obligation incurred or to be incurred, (v) for energy provided or to be provided, (vi) for the use or hire of a vessel under a charter or other contract, (vii) arising out of the use of a credit or charge card or information contained on or for use with the card, or (viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state, or person licensed or authorized to operate the game by a state or governmental unit of a state. The term includes health-care-insurance receivables. The term does not include (i) rights to payment evidenced by chattel paper or an instrument, (ii) commercial tort claims, (iii) deposit accounts, (iv) investment property, (v) letter of credit rights or letters of credit, or (vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card.

(3) "Account debtor" means a person obligated on an account, chattel paper, or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the instrument constitutes part of chattel paper.

(4) "Accounting," except as used in "accounting for," means a record:

(A) authenticated by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than 35 days earlier or 35 days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail.

(5) "Agricultural lien" means an interest, other than a security interest, in farm products:

(A) which secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) which is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property.

(6) "As-extracted collateral" means:

(A) oil, gas, or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas, or other minerals in which the debtor had an interest before extraction.

(7) "Authenticate" means:

(A) to sign; or

(B) to execute or otherwise adopt a symbol, or encrypt or similarly process a record in whole or in part, with the present intent of the authenticating person to identify the person and adopt or accept a record.

(8) "Bank" means an organization that is engaged in the business of banking. The term includes savings banks, savings and loan associations, credit unions, and trust companies.

(9) "Cash proceeds" means proceeds that are money, checks, deposit accounts, or the like.

(10) "Certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral.

(11) "Chattel paper" means a record or records that evidence both a monetary obligation and a security interest in specific goods, a security interest in specific goods and software used in the goods, a security interest in specific goods and license of software used in the goods, a lease of specific goods, or a lease of specific goods and license of software used in the goods. In this paragraph, "monetary obligation" means a monetary obligation secured by the goods or owed under a lease of the goods and includes a monetary obligation with respect to software used in the

goods. The term does not include (i) charters or other contracts involving the use or hire of a vessel or (ii) records that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card. If a transaction is evidenced by records that include an instrument or series of instruments, the group of records taken together constitutes chattel paper.

(12) "Collateral" means the property subject to a security interest or agricultural lien. The term includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles, and promissory notes that have been sold; and

(C) goods that are the subject of a consignment.

(13) "Commercial tort claim" means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual.

(14) "Commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer.

(15) "Commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option, or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities law; or

(B) traded on a foreign commodity board of trade, exchange, or market, and is carried on the books of a commodity intermediary for a commodity customer.

(16) "Commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books.

(17) "Commodity intermediary" means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law.

(18) "Communicate" means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing office rule.

(19) "Consignee" means a merchant to which goods are delivered in a consignment.

(20) "Consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is \$1,000 or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation.

(21) "Consignor" means a person that delivers goods to a consignee in a consignment.

(22) "Consumer debtor" means a debtor in a consumer transaction.

(23) "Consumer goods" means goods that are used or bought for use primarily for personal, family, or household purposes.

(24) "Consumer goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family, or household purposes; and

(B) a security interest in consumer goods secures the obligation.

(25) "Consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family, or household purposes.

(26) "Consumer transaction" means a transaction in which (i) an individual incurs an obligation primarily for personal, family, or household purposes, (ii) a security interest secures the obligation, and (iii) the collateral is held or acquired primarily for personal, family, or household purposes. The term includes consumer goods transactions.

(27) "Continuation statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement.

(28) "Debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles, or promissory notes; or

(C) a consignee.

(29) "Deposit account" means a demand, time, savings, passbook, or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument.

(30) "Document" means a document of title or a receipt of the type described in section 336.7-201(2).

(31) "Electronic chattel paper" means chattel paper evidenced by a record or records consisting of information stored in an electronic medium.

(32) "Encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property.

(33) "Equipment" means goods other than inventory, farm products, or consumer goods.

(34) "Farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and which are:

(A) crops grown, growing, or to be grown, including:

(i) crops produced on trees, vines, and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states.

(35) "Farming operation" means raising, cultivating, propagating, fattening, grazing, or any other farming, livestock, or aquacultural operation.

(36) "File number" means the number assigned to an initial financing statement pursuant to section 336.9-519(a).

(37) "Filing office" means an office designated in section 336.9-501 as the place to file a financing statement.

(38) "Filing office rule" means a rule adopted pursuant to section 139.

(39) "Financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement.

(40) "Fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying section 336.9-502(a) and (b). The term includes the filing of a financing statement covering goods of a transmitting utility which are or are to become fixtures.

(41) "Fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law.

(42) "General intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter of credit rights, letters of credit, money, and oil, gas, or other minerals before extraction. The term includes payment intangibles and software.

(43) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing.

(44) "Goods" means all things that are movable when a security interest attaches. The term includes (i) fixtures, (ii) standing timber that is to be cut and removed under a conveyance or contract for sale, (iii) the unborn young of animals, (iv) crops grown, growing, or to be grown, even if the crops are produced on trees, vines, or bushes, and (v) manufactured homes. The term also includes a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods. The term does not include a computer program embedded in goods that consist solely of the medium in which the program is embedded. The term also does not include accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter of credit rights, letters of credit, money, or oil, gas, or other minerals before extraction.

(45) "Governmental unit" means a subdivision, agency, department, county, parish, municipality, or other unit of the government of the United States, a state, or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States.

(46) "Health-care-insurance receivable" means an interest in or claim under a policy of insurance which is a right to payment of a monetary obligation for health-care goods or services provided.

(47) "Instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease, and is of a type that in ordinary course of business is transferred by delivery with any necessary endorsement or assignment. The term does not include (i) investment property, (ii) letters of credit, or (iii) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card.

(48) "Inventory" means goods, other than farm products, which:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process, or materials used or consumed in a business.

(49) "Investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract, or commodity account.

(50) "Jurisdiction of organization," with respect to a registered organization, means the jurisdiction under whose law the organization is organized.

(51) "Letter of credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit.

(52) "Lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy, or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment.

(53) "Manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States Secretary of Housing and Urban Development and complies with the standards established under United States Code, title 42.

(54) "Manufactured home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral.

(55) "Mortgage" means a consensual interest in real property, including fixtures, which secures payment or performance of an obligation.

(56) "New debtor" means a person that becomes bound as debtor under section 336.9-203(d) by a security agreement previously entered into by another person.

(57) "New value" means (i) money, (ii) money's worth in property, services, or new credit, or (iii) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation.

(58) "Noncash proceeds" means proceeds other than cash proceeds.

(59) "Obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral, (i) owes payment or other performance of the obligation, (ii) has provided property other than the collateral to secure payment or other performance of the obligation, or (iii) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit.

(60) "Original debtor", except as used in section 336.9-310(c), means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under section 336.9-203(d).

(61) "Payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation.

(62) "Person related to," with respect to an individual, means:

(A) the spouse of the individual;

(B) a brother, brother-in-law, sister, or sister-in-law of the individual;

(C) an ancestor or lineal descendant of the individual or the individual's spouse; or

(D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

(63) "Person related to," with respect to an organization, means:

(A) a person directly or indirectly controlling, controlled by, or under common control with the organization;

(B) an officer or director of, or a person performing similar functions with respect to, the organization;

(C) an officer or director of, or a person performing similar functions with respect to, a person described in subparagraph (A);

(D) the spouse of an individual described in subparagraph (A), (B), or (C); or

(E) an individual who is related by blood or marriage to an individual described in subparagraph (A), (B), (C), or (D), and shares the same home with the individual.

(64) "Proceeds", except as used in section 336.9-609(b), means the following property:

(A) whatever is acquired upon the sale, lease, license, exchange, or other disposition of collateral;

(B) whatever is collected on, or distributed on account of, collateral;

(C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity, or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral.

(65) "Promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay, and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds.

(66) "Proposal" means a record authenticated by a secured party which includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to sections 336.9-620, 336.9-621, and 336.9-622.

(67) "Public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least 20 years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation, or assignor or assignee of a security interest is a state or a governmental unit of a state.

(68) "Pursuant to commitment," with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation.

(69) "Record," except as used in "for record," "of record," "record or legal title," and "record owner," means information that is inscribed on a tangible medium or which is stored in an electronic or other medium and is retrievable in perceivable form.

(70) "Registered organization" means an organization organized solely under the law of a single state or the United States and as to which the state or the United States must maintain a public record showing the organization to have been organized.

(71) "Secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor, or property of either.

(72) "Secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles, or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent, or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under section 336.2-401, 336.2-505, 336.2-711(3), 336.2A-508(5), 336.4-210, or 336.5-118.

(73) "Security agreement" means an agreement that creates or provides for a security interest.

(74) "Send," in connection with a record or notification, means:

(A) to deposit in the mail, deliver for transmission, or transmit by any other usual means of communication, with postage or cost of transmission provided for, addressed to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time that it would have been received if properly sent under subparagraph (A).

(75) "Software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods.

(76) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(77) "Supporting obligation" means a letter of credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument, or investment property.

(78) "Tangible chattel paper" means chattel paper evidenced by a record or records consisting of information that is inscribed on a tangible medium.

(79) "Termination statement" means an amendment of a financing statement which:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective.

(80) "Transmitting utility" means a person primarily engaged in the business of:

(A) operating a railroad, subway, street railway, or trolley bus;

(B) transmitting communications electrically, electromagnetically, or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas, or water.

(b) [DEFINITIONS IN OTHER ARTICLES.] The following definitions in other articles apply to this article:

| | |
|--|---------------------------|
| <u>"Applicant"</u> | <u>Section 336.5-102</u> |
| <u>"Beneficiary"</u> | <u>Section 336.5-102</u> |
| <u>"Broker"</u> | <u>Section 336.8-102</u> |
| <u>"Certificated security"</u> | <u>Section 336.8-102</u> |
| <u>"Check"</u> | <u>Section 336.3-104</u> |
| <u>"Clearing corporation"</u> | <u>Section 336.8-102</u> |
| <u>"Contract for sale"</u> | <u>Section 336.2-106</u> |
| <u>"Customer"</u> | <u>Section 336.4-104</u> |
| <u>"Entitlement holder"</u> | <u>Section 336.8-102</u> |
| <u>"Financial asset"</u> | <u>Section 336.8-102</u> |
| <u>"Holder in due course"</u> | <u>Section 336.3-302</u> |
| <u>"Issuer" (with respect to a letter of credit or letter of credit right)</u> | <u>Section 336.5-102</u> |
| <u>"Issuer" (with respect to a security)</u> | <u>Section 336.8-201</u> |
| <u>"Lease"</u> | <u>Section 336.2A-103</u> |
| <u>"Lease agreement"</u> | <u>Section 336.2A-103</u> |
| <u>"Lease contract"</u> | <u>Section 336.2A-103</u> |
| <u>"Leasehold interest"</u> | <u>Section 336.2A-103</u> |
| <u>"Lessee"</u> | <u>Section 336.2A-103</u> |
| <u>"Lessee in ordinary course of business"</u> | <u>Section 336.2A-103</u> |
| <u>"Lessor"</u> | <u>Section 336.2A-103</u> |
| <u>"Lessor's residual interest"</u> | <u>Section 336.2A-103</u> |
| <u>"Letter of credit"</u> | <u>Section 336.5-102</u> |
| <u>"Merchant"</u> | <u>Section 336.2-104</u> |
| <u>"Negotiable instrument"</u> | <u>Section 336.3-104</u> |
| <u>"Nominated person"</u> | <u>Section 336.5-102</u> |
| <u>"Note"</u> | <u>Section 336.3-104</u> |
| <u>"Proceeds of a letter of credit"</u> | <u>Section 336.5-114</u> |
| <u>"Prove"</u> | <u>Section 336.3-103</u> |
| <u>"Sale"</u> | <u>Section 336.2-106</u> |
| <u>"Securities account"</u> | <u>Section 336.8-501</u> |
| <u>"Securities intermediary"</u> | <u>Section 336.8-102</u> |
| <u>"Security"</u> | <u>Section 336.8-102</u> |
| <u>"Security certificate"</u> | <u>Section 336.8-102</u> |
| <u>"Security entitlement"</u> | <u>Section 336.8-102</u> |
| <u>"Uncertificated security"</u> | <u>Section 336.8-102</u> |

(c) [ARTICLE 1 DEFINITIONS AND PRINCIPLES.] Article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 3. [336.9-103] [PURCHASE-MONEY SECURITY INTEREST; APPLICATION OF PAYMENTS; BURDEN OF ESTABLISHING.]

(a) [DEFINITIONS.] In this section:

(1) "purchase-money collateral" means goods or software that secures a purchase-money obligation incurred with respect to that collateral; and

(2) "purchase-money obligation" means an obligation of an obligor incurred as all or part of the price of the collateral or for value given to enable the debtor to acquire rights in or the use of the collateral if the value is in fact so used.

(b) [PURCHASE-MONEY SECURITY INTEREST IN GOODS.] A security interest in goods is a purchase-money security interest:

(1) to the extent that the goods are purchase-money collateral with respect to that security interest;

(2) if the security interest is in inventory that is or was purchase-money collateral, also to the extent that the security interest secures a purchase-money obligation incurred with respect to other inventory in which the secured party holds or held a purchase-money security interest; and

(3) also to the extent that the security interest secures a purchase-money obligation incurred with respect to software in which the secured party holds or held a purchase-money security interest.

(c) [PURCHASE-MONEY SECURITY INTEREST IN SOFTWARE.] A security interest in software is a purchase-money security interest to the extent that the security interest also secures a purchase-money obligation incurred with respect to goods in which the secured party holds or held a purchase-money security interest if:

(1) the debtor acquired its interest in the software in an integrated transaction in which it acquired an interest in the goods; and

(2) the debtor acquired its interest in the software for the principal purpose of using the software in the goods.

(d) [CONSIGNOR'S INVENTORY PURCHASE-MONEY SECURITY INTEREST.] The security interest of a consignor in goods that are the subject of a consignment is a purchase-money security interest in inventory.

(e) [APPLICATION OF PAYMENT IN NONCONSUMER GOODS TRANSACTION.] In a transaction other than a consumer goods transaction, if the extent to which a security interest is a purchase-money security interest depends on the application of a payment to a particular obligation, the payment must be applied:

(1) in accordance with any reasonable method of application to which the parties agree;

(2) in the absence of the parties' agreement to a reasonable method, in accordance with any intention of the obligor manifested at or before the time of payment; or

(3) in the absence of an agreement to a reasonable method and a timely manifestation of the obligor's intention, in the following order:

(A) to obligations that are not secured; and

(B) if more than one obligation is secured, to obligations secured by purchase-money security interests in the order in which those obligations were incurred.

(f) [NO LOSS OF STATUS OF PURCHASE-MONEY SECURITY INTEREST IN NONCONSUMER GOODS TRANSACTION.] In a transaction other than a consumer goods transaction, a purchase-money security interest does not lose its status as such, even if:

- (1) the purchase-money collateral also secures an obligation that is not a purchase-money obligation;
- (2) collateral that is not purchase-money collateral also secures the purchase-money obligation; or
- (3) the purchase-money obligation has been renewed, refinanced, consolidated, or restructured.

(g) [BURDEN OF PROOF IN NONCONSUMER GOODS TRANSACTION.] In a transaction other than a consumer goods transaction, a secured party claiming a purchase-money security interest has the burden of establishing the extent to which the security interest is a purchase-money security interest.

(h) [NONCONSUMER GOODS TRANSACTION; NO INFERENCE.] The limitation of the rules in subsections (e), (f), and (g) to transactions other than consumer goods transactions is intended to leave to the court the determination of the proper rules in consumer goods transactions. The court may not infer from that limitation the nature of the proper rule in consumer goods transactions and may continue to apply established approaches.

Sec. 4. [336.9-104] [CONTROL OF DEPOSIT ACCOUNT.]

(a) [REQUIREMENTS FOR CONTROL.] A secured party has control of a deposit account if:

- (1) the secured party is the bank with which the deposit account is maintained;
- (2) the debtor, secured party, and bank have agreed in an authenticated record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor; or
- (3) the secured party becomes the bank's customer with respect to the deposit account.

(b) [DEBTOR'S RIGHT TO DIRECT DISPOSITION.] A secured party that has satisfied subsection (a) has control, even if the debtor retains the right to direct the disposition of funds from the deposit account.

Sec. 5. [336.9-105] [CONTROL OF ELECTRONIC CHATTEL PAPER.]

A secured party has control of electronic chattel paper if the record or records comprising the chattel paper are created, stored, and assigned in such a manner that:

- (1) a single authoritative copy of the record or records exists which is unique, identifiable, and, except as otherwise provided in paragraphs (4), (5), and (6), unalterable;
- (2) the authoritative copy identifies the secured party as the assignee of the record or records;
- (3) the authoritative copy is communicated to and maintained by the secured party or its designated custodian;
- (4) copies or revisions that add or change an identified assignee of the authoritative copy can be made only with the participation of the secured party;
- (5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and
- (6) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

Sec. 6. [336.9-106] [CONTROL OF INVESTMENT PROPERTY.]

(a) [CONTROL UNDER SECTION 336.8-106.] A person has control of a certificated security, uncertificated security, or security entitlement as provided in section 336.8-106.

(b) [CONTROL OF COMMODITY CONTRACT.] A secured party has control of a commodity contract if:

(1) the secured party is the commodity intermediary with which the commodity contract is carried; or

(2) the commodity customer, secured party, and commodity intermediary have agreed that the commodity intermediary will apply any value distributed on account of the commodity contract as directed by the secured party without further consent by the commodity customer.

(c) [EFFECT OF CONTROL OF SECURITIES ACCOUNT OR COMMODITY ACCOUNT.] A secured party having control of all security entitlements or commodity contracts carried in a securities account or commodity account has control over the securities account or commodity account.

Sec. 7. [336.9-107] [CONTROL OF LETTER OF CREDIT RIGHT.]

A secured party has control of a letter of credit right to the extent of any right to payment or performance by the issuer or any nominated person if the issuer or nominated person has consented to an assignment of proceeds of the letter of credit under section 336.5-114(c) or otherwise applicable law or practice.

Sec. 8. [336.9-108] [SUFFICIENCY OF DESCRIPTION.]

(a) [SUFFICIENCY OF DESCRIPTION.] Except as otherwise provided in subsections (c), (d), and (e), a description of personal or real property is sufficient, whether or not it is specific, if it reasonably identifies what is described.

(b) [EXAMPLES OF REASONABLE IDENTIFICATION.] Except as otherwise provided in subsection (d), a description of collateral reasonably identifies the collateral if it identifies the collateral by:

(1) specific listing;

(2) category;

(3) except as otherwise provided in subsection (e), a type of collateral defined in the Uniform Commercial Code;

(4) quantity;

(5) computational or allocational formula or procedure; or

(6) except as otherwise provided in subsection (c), any other method, if the identity of the collateral is objectively determinable.

(c) [SUPERGENERIC DESCRIPTION NOT SUFFICIENT.] A description of collateral as "all the debtor's assets" or "all the debtor's personal property" or using words of similar import does not reasonably identify the collateral.

(d) [INVESTMENT PROPERTY.] Except as otherwise provided in subsection (e), a description of a security entitlement, securities account, or commodity account is sufficient if it describes:

(1) the collateral by those terms or as investment property; or

(2) the underlying financial asset or commodity contract.

(e) [WHEN DESCRIPTION BY TYPE INSUFFICIENT.] A description only by type of collateral defined in the Uniform Commercial Code is an insufficient description of:

- (1) a commercial tort claim; or
- (2) in a consumer transaction, consumer goods, a security entitlement, a securities account, or a commodity account.

SUBPART 2. APPLICABILITY OF ARTICLE

Sec. 9. [336.9-109] [SCOPE.]

(a) [GENERAL SCOPE OF ARTICLE.] Except as otherwise provided in subsections (c) and (d), this article applies to:

- (1) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;
- (2) an agricultural lien;
- (3) a sale of accounts, chattel paper, payment intangibles, or promissory notes;
- (4) a consignment;
- (5) a security interest arising under section 336.2-401, 336.2-505, 336.2-711(3), or 336.2A-508(5), as provided in section 336.9-110; and
- (6) a security interest arising under section 336.4-210 or 336.5-118.

(b) [SECURITY INTEREST IN SECURED OBLIGATION.] The application of this article to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) [EXTENT TO WHICH ARTICLE DOES NOT APPLY.] This article does not apply to the extent that:

- (1) a statute, regulation, or treaty of the United States preempts this article;
- (2) another statute of this state expressly governs the creation, perfection, priority, or enforcement of a security interest created by this state or a governmental unit of this state;
- (3) a statute of another state, a foreign country, or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority, or enforcement of a security interest created by the state, country, or governmental unit; or
- (4) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under section 336.5-114.

(d) [INAPPLICABILITY OF ARTICLE.] This article does not apply to:

- (1) a landlord's lien, other than an agricultural lien;
- (2) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but section 336.9-333 applies with respect to priority of the lien;
- (3) an assignment of a claim for wages, salary, or other compensation of an employee;

(4) a sale of accounts, chattel paper, payment intangibles, or promissory notes as part of a sale of the business out of which they arose;

(5) an assignment of accounts, chattel paper, payment intangibles, or promissory notes which is for the purpose of collection only;

(6) an assignment of a right-to-payment under a contract to an assignee that is also obligated to perform under the contract;

(7) an assignment of a single account, payment intangible, or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right-to-payment, but sections 336.9-315 and 336.9-322 apply with respect to proceeds and priorities in proceeds;

(9) an assignment of a right represented by a judgment, other than a judgment taken on a right-to-payment that was collateral;

(10) a right of recoupment or set-off, but:

(A) section 336.9-340 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) section 336.9-404 applies with respect to defenses or claims of an account debtor;

(11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

(A) liens on real property in sections 336.9-203 and 336.9-308;

(B) fixtures in section 336.9-334;

(C) fixture filings in sections 336.9-501, 336.9-502, 336.9-512, 336.9-516, and 336.9-519; and

(D) security agreements covering personal and real property in section 336.9-604;

(12) an assignment of a claim arising in tort, other than a commercial tort claim, but sections 336.9-315 and 336.9-322 apply with respect to proceeds and priorities in proceeds;

(13) an assignment of a deposit account in a consumer transaction, but sections 336.9-315 and 336.9-322 apply with respect to proceeds and priorities in proceeds;

(14) a claim or right to receive compensation for injuries or sickness as described in United States Code, title 26, section 104(a)(1) or (2), as amended from time to time; or

(15) a claim or right to receive benefits under a special needs trust as described in United States Code, title 42, section 1396p(d)(4), as amended from time to time.

Sec. 10. [336.9-110] [SECURITY INTERESTS ARISING UNDER ARTICLE 2 OR 2A.]

A security interest arising under section 336.2-401, 336.2-505, 336.2-711(3), or 336.2A-508(5) is subject to this article. However, until the debtor obtains possession of the goods:

(1) the security interest is enforceable, even if section 336.9-203(b)(3) has not been satisfied;

- (2) filing is not required to perfect the security interest;
- (3) the rights of the secured party after default by the debtor are governed by article 2 or 2A; and
- (4) the security interest has priority over a conflicting security interest created by the debtor.

Part 2

EFFECTIVENESS OF SECURITY AGREEMENT;
ATTACHMENT OF SECURITY INTEREST;
RIGHTS OF PARTIES TO SECURITY AGREEMENT

SUBPART 1. EFFECTIVENESS AND ATTACHMENT

Sec. 11. [336.9-201] [GENERAL EFFECTIVENESS OF SECURITY AGREEMENT.]

(a) [GENERAL EFFECTIVENESS.] Except as otherwise provided in the Uniform Commercial Code, a security agreement is effective according to its terms between the parties, against purchasers of the collateral, and against creditors.

(b) [APPLICABLE CONSUMER LAWS AND OTHER LAW.] A transaction subject to this article is subject to any applicable rule of law which establishes a different rule for consumers and (i) any other statute or regulation that regulates the rates, charges, agreements, and practices for loans, credit sales, or other extensions of credit and (ii) any consumer protection statute or rule.

(c) [OTHER APPLICABLE LAW CONTROLS.] In case of conflict between this article and a rule of law, statute, or regulation described in subsection (b), the rule of law, statute, or regulation controls. Failure to comply with a statute or regulation described in subsection (b) has only the effect the statute or regulation specifies.

(d) [FURTHER DEFERENCE TO OTHER APPLICABLE LAW.] This article does not:

(1) validate any rate, charge, agreement, or practice that violates a rule of law, statute, or regulation described in subsection (b); or

(2) extend the application of the rule of law, statute, or regulation to a transaction not otherwise subject to it.

Sec. 12. [336.9-202] [TITLE TO COLLATERAL IMMATERIAL.]

Except as otherwise provided with respect to consignments or sales of accounts, chattel paper, payment intangibles, or promissory notes, the provisions of this article with regard to rights and obligations apply whether title to collateral is in the secured party or the debtor.

Sec. 13. [336.9-203] [ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST; PROCEEDS; SUPPORTING OBLIGATIONS; FORMAL REQUISITES.]

(a) [ATTACHMENT.] A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.

(b) [ENFORCEABILITY.] Except as otherwise provided in subsections (c) through (i), a security interest is enforceable against the debtor and third parties with respect to the collateral only if:

(1) value has been given;

(2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and

(3) one of the following conditions is met:

(A) the debtor has authenticated a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) the collateral is not a certificated security and is in the possession of the secured party under section 336.9-313 pursuant to the debtor's security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under section 336.8-301 pursuant to the debtor's security agreement; or

(D) the collateral is deposit accounts, electronic chattel paper, investment property, or letter of credit rights, and the secured party has control under section 336.9-104, 336.9-105, 336.9-106, or 336.9-107 pursuant to the debtor's security agreement.

(c) [OTHER UCC PROVISIONS.] Subsection (b) is subject to section 336.4-210 on the security interest of a collecting bank, section 336.5-118 on the security interest of a letter of credit issuer or nominated person, section 336.9-110 on a security interest arising under article 2 or 2A, and section 336.9-206 on security interests in investment property.

(d) [WHEN PERSON BECOMES BOUND BY ANOTHER PERSON'S SECURITY AGREEMENT.] A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than this article or by contract:

(1) the security agreement becomes effective to create a security interest in the person's property; or

(2) the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) [EFFECT OF NEW DEBTOR BECOMING BOUND.] If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) the agreement satisfies subsection (b)(3) with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) another agreement is not necessary to make a security interest in the property enforceable.

(f) [PROCEEDS AND SUPPORTING OBLIGATIONS.] The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by section 336.9-315 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) [LIEN SECURING RIGHT-TO-PAYMENT.] The attachment of a security interest in a right-to-payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage, or other lien.

(h) [SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT.] The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) [COMMODITY CONTRACTS CARRIED IN COMMODITY ACCOUNT.] The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account.

Sec. 14. [336.9-204] [AFTER-ACQUIRED PROPERTY; FUTURE ADVANCES.]

(a) [AFTER-ACQUIRED COLLATERAL.] Except as otherwise provided in subsection (b), a security agreement may create or provide for a security interest in after-acquired collateral.

(b) [WHEN AFTER-ACQUIRED PROPERTY CLAUSE NOT EFFECTIVE.] A security interest does not attach under a term constituting an after-acquired property clause to:

(1) consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten days after the secured party gives value; or

(2) a commercial tort claim.

(c) [FUTURE ADVANCES AND OTHER VALUE.] A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles, or promissory notes are sold in connection with future advances or other value, whether or not the advances or value are given pursuant to commitment.

Sec. 15. [336.9-205] [USE OR DISPOSITION OF COLLATERAL PERMISSIBLE.]

(a) [WHEN SECURITY INTEREST NOT INVALID OR FRAUDULENT.] A security interest is not invalid or fraudulent against creditors solely because:

(1) the debtor has the right or ability to:

(A) use, commingle, or dispose of all or part of the collateral, including returned or repossessed goods;

(B) collect, compromise, enforce, or otherwise deal with collateral;

(C) accept the return of collateral or make repossessions; or

(D) use, commingle, or dispose of proceeds; or

(2) the secured party fails to require the debtor to account for proceeds or replace collateral.

(b) [REQUIREMENTS OF POSSESSION NOT RELAXED.] This section does not relax the requirements of possession if attachment, perfection, or enforcement of a security interest depends upon possession of the collateral by the secured party.

Sec. 16. [336.9-206] [SECURITY INTEREST ARISING IN PURCHASE OR DELIVERY OF FINANCIAL ASSET.]

(a) [SECURITY INTEREST WHEN PERSON BUYS THROUGH SECURITIES INTERMEDIARY.] A security interest in favor of a securities intermediary attaches to a person's security entitlement if:

(1) the person buys a financial asset through the securities intermediary in a transaction in which the person is obligated to pay the purchase price to the securities intermediary at the time of the purchase; and

(2) the securities intermediary credits the financial asset to the buyer's securities account before the buyer pays the securities intermediary.

(b) [SECURITY INTEREST SECURES OBLIGATION TO PAY FOR FINANCIAL ASSET.] The security interest described in subsection (a) secures the person's obligation to pay for the financial asset.

(c) [SECURITY INTEREST IN PAYMENT AGAINST DELIVERY TRANSACTION.] A security interest in favor of a person that delivers a certificated security or other financial asset represented by a writing attaches to the security or other financial asset if:

(1) the security or other financial asset:

(A) in the ordinary course of business is transferred by delivery with any necessary endorsement or assignment; and

(B) is delivered under an agreement between persons in the business of dealing with such securities or financial assets; and

(2) the agreement calls for delivery against payment.

(d) [SECURITY INTEREST SECURES OBLIGATION TO PAY FOR DELIVERY.] The security interest described in subsection (c) secures the obligation to make payment for the delivery.

SUBPART 2. RIGHTS AND DUTIES

Sec. 17. [336.9-207] [RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL.]

(a) [DUTY OF CARE WHEN SECURED PARTY IN POSSESSION.] Except as otherwise provided in subsection (d), a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) [EXPENSES, RISKS, DUTIES, AND RIGHTS WHEN SECURED PARTY IN POSSESSION.] Except as otherwise provided in subsection (d), if a secured party has possession of collateral:

(1) reasonable expenses, including the cost of insurance and payment of taxes or other charges incurred in the custody, preservation, use, or operation of the collateral, are chargeable to the debtor and are secured by the collateral;

(2) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) the secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) [DUTIES AND RIGHTS WHEN SECURED PARTY IN POSSESSION OR CONTROL.] Except as otherwise provided in subsection (d), a secured party having possession of collateral or control of collateral under section 336.9-104, 336.9-105, 336.9-106, or 336.9-107:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

(d) [BUYER OF CERTAIN RIGHTS TO PAYMENT.] If the secured party is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor:

(1) subsection (a) does not apply unless the secured party is entitled under an agreement:

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) subsections (b) and (c) do not apply.

Sec. 18. [336.9-208] [ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL.]

(a) [APPLICABILITY OF SECTION.] This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) [DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR.] Within ten days after receiving an authenticated demand by the debtor:

(1) a secured party having control of a deposit account under section 336.9-104(a)(2) shall send to the bank with which the deposit account is maintained an authenticated statement that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) a secured party having control of a deposit account under section 336.9-104(a)(3) shall:

(A) pay the debtor the balance on deposit in the deposit account; or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control of electronic chattel paper under section 336.9-105 shall:

(A) communicate the authoritative copy of the electronic chattel paper to the debtor or its designated custodian;

(B) if the debtor designates a custodian that is the designated custodian with which the authoritative copy of the electronic chattel paper is maintained for the secured party, communicate to the custodian an authenticated record releasing the designated custodian from any further obligation to comply with instructions originated by the secured party and instructing the custodian to comply with instructions originated by the debtor; and

(C) take appropriate action to enable the debtor or its designated custodian to make copies of or revisions to the authoritative copy which add or change an identified assignee of the authoritative copy without the consent of the secured party;

(4) a secured party having control of investment property under section 336.8-106(d)(2) or 336.9-106(b) shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained an authenticated record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party; and

(5) a secured party having control of a letter of credit right under section 336.9-107 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party an authenticated release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party.

Sec. 19. [336.9-209] [DUTIES OF SECURED PARTY IF ACCOUNT DEBTOR HAS BEEN NOTIFIED OF ASSIGNMENT.]

(a) [APPLICABILITY OF SECTION.] Except as otherwise provided in subsection (c), this section applies if:

(1) there is no outstanding secured obligation; and

(2) the secured party is not committed to make advances, incur obligations, or otherwise give value.

(b) [DUTIES OF SECURED PARTY AFTER RECEIVING DEMAND FROM DEBTOR.] Within ten days after receiving an authenticated demand by the debtor, a secured party shall send to an account debtor that has received notification of an assignment to the secured party as assignee under section 336.9-406(a) an authenticated record that releases the account debtor from any further obligation to the secured party.

(c) [INAPPLICABILITY TO SALES.] This section does not apply to an assignment constituting the sale of an account, chattel paper, or payment intangible.

Sec. 20. [336.9-210] [REQUEST FOR ACCOUNTING; REQUEST REGARDING LIST OF COLLATERAL OR STATEMENT OF ACCOUNT.]

(a) [DEFINITIONS.] In this section:

(1) "Request" means a record of a type described in paragraph (2), (3), or (4).

(2) "Request for an accounting" means a record authenticated by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request.

(3) "Request regarding a list of collateral" means a record authenticated by a debtor requesting that the recipient approve or correct a list of what the debtor believes to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request.

(4) "Request regarding a statement of account" means a record authenticated by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) [DUTY TO RESPOND TO REQUESTS.] Subject to subsections (c), (d), (e), and (f), a secured party, other than a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignor, shall comply with a request within 14 days after receipt:

(1) in the case of a request for an accounting, by authenticating and sending to the debtor an accounting; and

(2) in the case of a request regarding a list of collateral or a request regarding a statement of account, by authenticating and sending to the debtor an approval or correction.

(c) [REQUEST REGARDING LIST OF COLLATERAL; STATEMENT CONCERNING TYPE OF COLLATERAL.] A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor an authenticated record including a statement to that effect within 14 days after receipt.

(d) [REQUEST REGARDING LIST OF COLLATERAL; NO INTEREST CLAIMED.] A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request, and claimed an interest in the collateral at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(1) disclaiming any interest in the collateral; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(e) [REQUEST FOR ACCOUNTING OR REGARDING STATEMENT OF ACCOUNT; NO INTEREST IN OBLIGATION CLAIMED.] A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request, and claimed an interest in the obligations at an earlier time shall comply with the request within 14 days after receipt by sending to the debtor an authenticated record:

(1) disclaiming any interest in the obligations; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) [CHARGES FOR RESPONSES.] A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding \$25 for each additional response.

Part 3

PERFECTION AND PRIORITY

SUBPART 1. LAW GOVERNING PERFECTION AND PRIORITY

Sec. 21. [336.9-301] [LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS.]

Except as otherwise provided in sections 336.9-303 through 336.9-306, the following rules determine the law governing perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral:

(1) Except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in collateral.

(2) While collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a possessory security interest in that collateral.

(3) Except as otherwise provided in paragraph (4), while negotiable documents, goods, instruments, money, or tangible chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral.

(4) The local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in as-extracted collateral.

Sec. 22. [336.9-302] [LAW GOVERNING PERFECTION AND PRIORITY OF AGRICULTURAL LIENS.]

While farm products are located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of an agricultural lien on the farm products.

Sec. 23. [336.9-303] [LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY A CERTIFICATE OF TITLE.]

(a) [APPLICABILITY OF SECTION.] This section applies to goods covered by a certificate of title, even if there is no other relationship between the jurisdiction under whose certificate of title the goods are covered and the goods or the debtor.

(b) [WHEN GOODS COVERED BY CERTIFICATE OF TITLE.] Goods become covered by a certificate of title when a valid application for the certificate of title and the applicable fee are delivered to the appropriate authority. Goods cease to be covered by a certificate of title at the earlier of the time the certificate of title ceases to be effective under the law of the issuing jurisdiction or the time the goods become covered subsequently by a certificate of title issued by another jurisdiction.

(c) [APPLICABLE LAW.] The local law of the jurisdiction under whose certificate of title the goods are covered governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in goods covered by a certificate of title from the time the goods become covered by the certificate of title until the goods cease to be covered by the certificate of title.

Sec. 24. [336.9-304] [LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNTS.]

(a) [LAW OF BANK'S JURISDICTION GOVERNS.] The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a deposit account maintained with that bank.

(b) [BANK'S JURISDICTION.] The following rules determine a bank's jurisdiction for purposes of this part:

(1) If an agreement between the bank and the debtor governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of this part, this article, or this chapter, that jurisdiction is the bank's jurisdiction.

(2) If paragraph (1) does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction.

(4) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located.

(5) If none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located.

Sec. 25. [336.9-305] [LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY.]

(a) [GOVERNING LAW: GENERAL RULES.] Except as otherwise provided in subsection (c), the following rules apply:

(1) While a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in the certificated security represented thereby.

(2) The local law of the issuer's jurisdiction as specified in section 336.8-110(d), governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in an uncertificated security.

(3) The local law of the securities intermediary's jurisdiction as specified in section 336.8-110(e), governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a security entitlement or securities account.

(4) The local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a commodity contract or commodity account.

(b) [COMMODITY INTERMEDIARY'S JURISDICTION.] The following rules determine a commodity intermediary's jurisdiction for purposes of this part:

(1) If an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of this part, this article, or this chapter, that jurisdiction is the commodity intermediary's jurisdiction.

(2) If paragraph (1) does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(3) If neither paragraph (1) nor paragraph (2) applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction.

(4) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located.

(5) If none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) [WHEN PERFECTION GOVERNED BY LAW OF JURISDICTION WHERE DEBTOR LOCATED.] The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in investment property by filing;

(2) automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary.

Sec. 26. [336.9-306] [LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN LETTER OF CREDIT RIGHTS.]

(a) [GOVERNING LAW: ISSUER'S OR NOMINATED PERSON'S JURISDICTION.] Subject to subsection (c), the local law of the issuer's jurisdiction or a nominated person's jurisdiction governs perfection, the effect of perfection or nonperfection, and the priority of a security interest in a letter of credit right if the issuer's jurisdiction or nominated person's jurisdiction is a state.

(b) [ISSUER'S OR NOMINATED PERSON'S JURISDICTION.] For purposes of this part, an issuer's jurisdiction or nominated person's jurisdiction is the jurisdiction whose law governs the liability of the issuer or nominated person with respect to the letter of credit right as provided in section 336.5-116.

(c) [WHEN SECTION NOT APPLICABLE.] This section does not apply to a security interest that is perfected only under section 336.9-308(d).

Sec. 27. [336.9-307] [LOCATION OF DEBTOR.]

(a) [PLACE OF BUSINESS.] In this section, "place of business" means a place where a debtor conducts its affairs.

(b) [DEBTOR'S LOCATION: GENERAL RULES.] Except as otherwise provided in this section, the following rules determine a debtor's location:

(1) A debtor who is an individual is located at the individual's principal residence.

(2) A debtor that is an organization and has only one place of business is located at its place of business.

(3) A debtor that is an organization and has more than one place of business is located at its chief executive office.

(c) [LIMITATION OF APPLICABILITY OF SUBSECTION (B).] Subsection (b) applies only if a debtor's residence, place of business, or chief executive office, as applicable, is located in a jurisdiction whose law generally requires information concerning the existence of a nonpossessory security interest to be made generally available in a filing, recording, or registration system as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. If subsection (b) does not apply, the debtor is located in the District of Columbia.

(d) [CONTINUATION OF LOCATION: CESSATION OF EXISTENCE, ETC.] A person that ceases to exist, have a residence, or have a place of business continues to be located in the jurisdiction specified by subsections (b) and (c).

(e) [LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER STATE LAW.] A registered organization that is organized under the law of a state is located in that state.

(f) [LOCATION OF REGISTERED ORGANIZATION ORGANIZED UNDER FEDERAL LAW; BANK BRANCHES AND AGENCIES.] Except as otherwise provided in subsection (i), a registered organization that is organized under the law of the United States and a branch or agency of a bank that is not organized under the law of the United States or a state are located:

(1) in the state that the law of the United States designates, if the law designates a state of location;

(2) in the state that the registered organization, branch, or agency designates, if the law of the United States authorizes the registered organization, branch, or agency to designate its state of location; or

(3) in the District of Columbia, if neither paragraph (1) nor paragraph (2) applies.

(g) [CONTINUATION OF LOCATION: CHANGE IN STATUS OF REGISTERED ORGANIZATION.] A registered organization continues to be located in the jurisdiction specified by subsection (e) or (f) notwithstanding:

(1) the suspension, revocation, forfeiture, or lapse of the registered organization's status as such in its jurisdiction of organization; or

(2) the dissolution, winding up, or cancellation of the existence of the registered organization.

(h) [LOCATION OF UNITED STATES.] The United States is located in the District of Columbia.

(i) [LOCATION OF FOREIGN BANK BRANCH OR AGENCY IF LICENSED IN ONLY ONE STATE.] A branch or agency of a bank that is not organized under the law of the United States or a state is located in the state in which the branch or agency is licensed, if all branches and agencies of the bank are licensed in only one state.

(j) [LOCATION OF FOREIGN AIR CARRIER.] A foreign air carrier under the Federal Aviation Act of 1958, as amended, is located at the designated office of the agent upon which service of process may be made on behalf of the carrier.

(k) [SECTION APPLIES ONLY TO THIS PART.] This section applies only for purposes of this part.

SUBPART 2. PERFECTION

Sec. 28. [336.9-308] [WHEN SECURITY INTEREST OR AGRICULTURAL LIEN IS PERFECTED; CONTINUITY OF PERFECTION.]

(a) [PERFECTION OF SECURITY INTEREST.] Except as otherwise provided in this section and section 336.9-309, a security interest is perfected if it has attached and all of the applicable requirements for perfection in sections 336.9-310 through 336.9-316 have been satisfied. A security interest is perfected when it attaches if the applicable requirements are satisfied before the security interest attaches.

(b) [PERFECTION OF AGRICULTURAL LIEN.] An agricultural lien is perfected if it has become effective and all of the applicable requirements for perfection in section 336.9-310 have been satisfied. An agricultural lien is perfected when it becomes effective if the applicable requirements are satisfied before the agricultural lien becomes effective.

(c) [CONTINUOUS PERFECTION; PERFECTION BY DIFFERENT METHODS.] A security interest or agricultural lien is perfected continuously if it is originally perfected by one method under this article and is later perfected by another method under this article, without an intermediate period when it was unperfected.

(d) [SUPPORTING OBLIGATION.] Perfection of a security interest in collateral also perfects a security interest in a supporting obligation for the collateral.

(e) [LIEN SECURING RIGHT-TO-PAYMENT.] Perfection of a security interest in a right-to-payment or performance also perfects a security interest in a security interest, mortgage, or other lien on personal or real property securing the right.

(f) [SECURITY ENTITLEMENT CARRIED IN SECURITIES ACCOUNT.] Perfection of a security interest in a securities account also perfects a security interest in the security entitlements carried in the securities account.

(g) [COMMODITY CONTRACT CARRIED IN COMMODITY ACCOUNT.] Perfection of a security interest in a commodity account also perfects a security interest in the commodity contracts carried in the commodity account.

Sec. 29. [336.9-309] [SECURITY INTEREST PERFECTED UPON ATTACHMENT.] The following security interests are perfected when they attach:

(1) a purchase-money security interest in consumer goods, except as otherwise provided in section 336.9-311(b) with respect to consumer goods that are subject to a statute or treaty described in section 336.9-311(a);

(2) an assignment of accounts or payment intangibles which does not by itself or in conjunction with other assignments to the same assignee transfer a significant part of the assignor's outstanding accounts or payment intangibles;

- (3) a sale of a payment intangible;
- (4) a sale of a promissory note;
- (5) a security interest created by the assignment of a health-care-insurance receivable to the provider of the health-care goods or services;
- (6) a security interest arising under section 336.2-401, 336.2-505, 336.2-711(3), or 336.2A-508(5), until the debtor obtains possession of the collateral;
- (7) a security interest of a collecting bank arising under section 336.4-210;
- (8) a security interest of an issuer or nominated person arising under section 336.5-118;
- (9) a security interest arising in the delivery of a financial asset under section 336.9-206(c);
- (10) a security interest in investment property created by a broker or securities intermediary;
- (11) a security interest in a commodity contract or a commodity account created by a commodity intermediary;
- (12) an assignment for the benefit of all creditors of the transferor and subsequent transfers by the assignee thereunder; and
- (13) a security interest created by an assignment of a beneficial interest in a decedent's estate.

Sec. 30. [336.9-310] [WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN; SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY.]

(a) [GENERAL RULE: PERFECTION BY FILING.] Except as otherwise provided in subsection (b) and section 336.9-312(b), a financing statement must be filed to perfect all security interests and agricultural liens.

(b) [EXCEPTIONS: FILING NOT NECESSARY.] The filing of a financing statement is not necessary to perfect a security interest:

- (1) that is perfected under section 336.9-308(d), (e), (f), or (g);
- (2) that is perfected under section 336.9-309 when it attaches;
- (3) in property subject to a statute, regulation, or treaty described in section 336.9-311(a);
- (4) in goods in possession of a bailee which is perfected under section 336.9-312(d)(1) or (2);
- (5) in certificated securities, documents, goods, or instruments which is perfected without filing or possession under section 336.9-312(e), (f), or (g);
- (6) in collateral in the secured party's possession under section 336.9-313;
- (7) in a certificated security which is perfected by delivery of the security certificate to the secured party under section 336.9-313;
- (8) in deposit accounts, electronic chattel paper, investment property, or letter of credit rights which is perfected by control under section 336.9-314;

(9) in proceeds which is perfected under section 336.9-315; or

(10) that is perfected under section 336.9-316.

(c) [ASSIGNMENT OF PERFECTED SECURITY INTEREST.] If a secured party assigns a perfected security interest or agricultural lien, a filing under this article is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor.

Sec. 31. [336.9-311] [PERFECTION OF SECURITY INTERESTS IN PROPERTY SUBJECT TO CERTAIN STATUTES, REGULATIONS, AND TREATIES.]

(a) [SECURITY INTEREST SUBJECT TO OTHER LAW.] Except as otherwise provided in subsection (d), the filing of a financing statement is not necessary or effective to perfect a security interest in property subject to:

(1) a statute, regulation, or treaty of the United States whose requirements for a security interest's obtaining priority over the rights of a lien creditor with respect to the property preempt section 336.9-310(a);

(2) sections 86B.820 to 86B.920 and 168A.01 to 168A.31; but during any period which collateral is inventory held for sale by a person who is in the business of selling goods of that kind, the filing provisions of this article (part 5) apply to a security interest in the collateral created by the person as a debtor; or sections 300.11 to 300.115; or

(3) a certificate-of-title statute of another jurisdiction which provides for a security interest to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the property.

(b) [COMPLIANCE WITH OTHER LAW.] Compliance with the requirements of a statute, regulation, or treaty described in subsection (a) for obtaining priority over the rights of a lien creditor is equivalent to the filing of a financing statement under this article. Except as otherwise provided in subsection (d) and sections 336.9-313 and 336.9-316(d) and (e) for goods covered by a certificate of title, a security interest in property subject to a statute, regulation, or treaty described in subsection (a) may be perfected only by compliance with those requirements, and a security interest so perfected remains perfected notwithstanding a change in the use or transfer of possession of the collateral.

(c) [DURATION AND RENEWAL OF PERFECTED SECURITY INTEREST.] Except as otherwise provided in subsection (d) and section 336.9-316(d) and (e), duration and renewal of perfection of a security interest perfected by compliance with the requirements prescribed by a statute, regulation, or treaty described in subsection (a) are governed by the statute, regulation, or treaty. In other respects, the security interest is subject to this article.

(d) [INAPPLICABILITY TO CERTAIN INVENTORY.] During any period in which collateral subject to a statute specified in subsection (a)(2) is inventory held for sale or lease by a person or leased by that person as lessor and that person is in the business of selling goods of that kind, this section does not apply to a security interest in that collateral created by that person.

Sec. 32. [336.9-312] [PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER OF CREDIT RIGHTS, AND MONEY; PERFECTED BY PERMISSIVE FILING; TEMPORARY PERFECTED WITHOUT FILING OR TRANSFER OF POSSESSION.]

(a) [PERFECTION BY FILING PERMITTED.] A security interest in chattel paper, negotiable documents, instruments, or investment property may be perfected by filing.

(b) [CONTROL OR POSSESSION OF CERTAIN COLLATERAL.] Except as otherwise provided in section 336.9-315(c) and (d) for proceeds:

(1) a security interest in a deposit account may be perfected only by control under section 336.9-314;

(2) and except as otherwise provided in section 336.9-308(d), a security interest in a letter of credit right may be perfected only by control under section 336.9-314; and

(3) a security interest in money may be perfected only by the secured party's taking possession under section 336.9-313.

(c) [GOODS COVERED BY NEGOTIABLE DOCUMENT.] While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) [GOODS COVERED BY NONNEGOTIABLE DOCUMENT.] While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

(1) issuance of a document in the name of the secured party;

(2) the bailee's receipt of notification of the secured party's interest; or

(3) filing as to the goods.

(e) [TEMPORARY PERFECTION: NEW VALUE.] A security interest in certificated securities, negotiable documents, or instruments is perfected without filing or the taking of possession for a period of 20 days from the time it attaches to the extent that it arises for new value given under an authenticated security agreement.

(f) [TEMPORARY PERFECTION: GOODS OR DOCUMENTS MADE AVAILABLE TO DEBTOR.] A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for 20 days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

(1) ultimate sale or exchange; or

(2) loading, unloading, storing, shipping, transshipping, manufacturing, processing, or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) [TEMPORARY PERFECTION: DELIVERY OF SECURITY CERTIFICATE OR INSTRUMENT TO DEBTOR.] A perfected security interest in a certificated security or instrument remains perfected for 20 days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

(1) ultimate sale or exchange; or

(2) presentation, collection, enforcement, renewal, or registration of transfer.

(h) [EXPIRATION OF TEMPORARY PERFECTION.] After the 20-day period specified in subsection (e), (f), or (g) expires, perfection depends upon compliance with this article.

Sec. 33. [336.9-313] [WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.]

(a) [PERFECTION BY POSSESSION OR DELIVERY.] Except as otherwise provided in subsection (b), a secured party may perfect a security interest in negotiable documents, goods, instruments, money, or tangible chattel paper by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under section 336.8-301.

(b) [GOODS COVERED BY CERTIFICATE OF TITLE.] With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in section 336.9-316(e).

(c) [COLLATERAL IN POSSESSION OF PERSON OTHER THAN DEBTOR.] With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party, or a lessee of the collateral from the debtor in the ordinary course of the debtor's business, when:

(1) the person in possession authenticates a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) the person takes possession of the collateral after having authenticated a record acknowledging that it will hold possession of collateral for the secured party's benefit.

(d) [TIME OF PERFECTION BY POSSESSION; CONTINUATION OF PERFECTION.] If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs no earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) [TIME OF PERFECTION BY DELIVERY; CONTINUATION OF PERFECTION.] A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under section 336.8-301 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) [ACKNOWLEDGMENT NOT REQUIRED.] A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) [EFFECTIVENESS OF ACKNOWLEDGMENT; NO DUTIES OR CONFIRMATION.] If a person acknowledges that it holds possession for the secured party's benefit:

(1) the acknowledgment is effective under subsection (c) or section 336.8-301(a), even if the acknowledgment violates the rights of a debtor; and

(2) unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) [SECURED PARTY'S DELIVERY TO PERSON OTHER THAN DEBTOR.] A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) to hold possession of the collateral for the secured party's benefit; or

(2) to redeliver the collateral to the secured party.

(i) [EFFECT OF DELIVERY UNDER SUBSECTION (H); NO DUTIES OR CONFIRMATION.] A secured party does not relinquish possession, even if a delivery under subsection (h) violates the rights of a debtor. A person to which collateral is delivered under subsection (h) does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than this article otherwise provides.

Sec. 34. [336.9-314] [PERFECTION BY CONTROL.]

(a) [PERFECTION BY CONTROL.] A security interest in investment property, deposit accounts, letter of credit rights, or electronic chattel paper may be perfected by control of the collateral under section 336.9-104, 336.9-105, 336.9-106, or 336.9-107.

(b) [SPECIFIED COLLATERAL: TIME OF PERFECTION BY CONTROL; CONTINUATION OF PERFECTION.] A security interest in deposit accounts, electronic chattel paper, or letter of credit rights is perfected by control under section 336.9-104, 336.9-105, or 336.9-107 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) [INVESTMENT PROPERTY: TIME OF PERFECTION BY CONTROL; CONTINUATION OF PERFECTION.] A security interest in investment property is perfected by control under section 336.9-106 from the time the secured party obtains control and remains perfected by control until:

(1) the secured party does not have control; and

(2) one of the following occurs:

(A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder.

Sec. 35. [336.9-315] [SECURED PARTY'S RIGHTS ON DISPOSITION OF COLLATERAL AND IN PROCEEDS.]

(a) [DISPOSITION OF COLLATERAL: CONTINUATION OF SECURITY INTEREST OR AGRICULTURAL LIEN; PROCEEDS.] Except as otherwise provided in this article and in section 336.2-403(2):

(1) a security interest or agricultural lien continues in collateral notwithstanding sale, lease, license, exchange, or other disposition thereof unless the secured party authorized the disposition free of the security interest or agricultural lien; and

(2) a security interest attaches to any identifiable proceeds of collateral.

(b) [WHEN COMMINGLED PROCEEDS IDENTIFIABLE.] Proceeds that are commingled with other property are identifiable proceeds:

(1) if the proceeds are goods, to the extent provided by section 336.9-336; and

(2) if the proceeds are not goods, to the extent that the secured party identifies the proceeds by a method of tracing, including application of equitable principles, that is permitted under law other than this article with respect to commingled property of the type involved.

(c) [PERFECTION OF SECURITY INTEREST IN PROCEEDS.] A security interest in proceeds is a perfected security interest if the security interest in the original collateral was perfected.

(d) [CONTINUATION OF PERFECTION.] A perfected security interest in proceeds becomes unperfected on the 21st day after the security interest attaches to the proceeds unless:

(1) the following conditions are satisfied:

(A) a filed financing statement covers the original collateral;

(B) the proceeds are collateral in which a security interest may be perfected by filing in the office in which the financing statement has been filed; and

(C) the proceeds are not acquired with cash proceeds;

(2) the proceeds are identifiable cash proceeds; or

(3) the security interest in the proceeds is perfected other than under subsection (c) when the security interest attaches to the proceeds or within 20 days thereafter.

(e) [WHEN PERFECTED SECURITY INTEREST IN PROCEEDS BECOMES UNPERFECTED.] If a filed financing statement covers the original collateral, a security interest in proceeds which remains perfected under subsection (d)(1) becomes unperfected at the later of:

(1) when the effectiveness of the filed financing statement lapses under section 336.9-515 or is terminated under section 336.9-513; or

(2) the 21st day after the security interest attaches to the proceeds.

Sec. 36. [336.9-316] [CONTINUED PERFECTION OF SECURITY INTEREST FOLLOWING CHANGE IN GOVERNING LAW.]

(a) [GENERAL RULE: EFFECT ON PERFECTION OF CHANGE IN GOVERNING LAW.] A security interest perfected pursuant to the law of the jurisdiction designated in section 336.9-301(1) or 336.9-305(c) remains perfected until the earliest of:

(1) the time perfection would have ceased under the law of that jurisdiction;

(2) the expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) [SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW JURISDICTION.] If a security interest described in subsection (a) becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) [POSSESSORY SECURITY INTEREST IN COLLATERAL MOVED TO NEW JURISDICTION.] A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) the collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) thereafter the collateral is brought into another jurisdiction; and

(3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) [GOODS COVERED BY CERTIFICATE OF TITLE FROM THIS STATE.] Except as otherwise provided in subsection (e), a security interest in goods covered by a certificate of title which is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) [WHEN SUBSECTION (D) SECURITY INTEREST BECOMES UNPERFECTED AGAINST PURCHASERS.] A security interest described in subsection (d) becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under section 336.9-311(b) or 336.9-313 are not satisfied before the earlier of:

(1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) the expiration of four months after the goods had become so covered.

(f) [CHANGE IN JURISDICTION OF BANK, ISSUER, NOMINATED PERSON, SECURITIES INTERMEDIARY, OR COMMODITY INTERMEDIARY.] A security interest in deposit accounts, letter of credit rights, or investment property which is perfected under the law of the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction, or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) the time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) [SUBSECTION (F) SECURITY INTEREST PERFECTED OR UNPERFECTED UNDER LAW OF NEW JURISDICTION.] If a security interest described in subsection (f) becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

SUBPART 3. PRIORITY

Sec. 37. [336.9-317] [INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN.]

(a) [CONFLICTING SECURITY INTERESTS AND RIGHTS OF LIEN CREDITORS.] A security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under section 336.9-322; and

(2) except as otherwise provided in subsection (e), a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one of the conditions specified in section 336.9-203(b)(3) is met

and a financing statement covering the collateral is filed.

(b) [BUYERS THAT RECEIVE DELIVERY.] Except as otherwise provided in subsection (e), a buyer, other than a secured party, of tangible chattel paper, documents, goods, instruments, or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) [LESSEES THAT RECEIVE DELIVERY.] Except as otherwise provided in subsection (e), a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) [LICENSEES AND BUYERS OF CERTAIN COLLATERAL.] A licensee of a general intangible or a buyer, other than a secured party, of accounts, electronic chattel paper, general intangibles, or investment property other than a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) [PURCHASE-MONEY SECURITY INTEREST.] Except as otherwise provided in sections 336.9-320 and 336.9-321, if a person files a financing statement with respect to a purchase-money security interest before or within 20 days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee, or lien creditor which arise between the time the security interest attaches and the time of filing.

Sec. 38. [336.9-318] [NO INTEREST RETAINED IN RIGHT TO PAYMENT THAT IS SOLD; RIGHTS AND TITLE OF SELLER OF ACCOUNT OR CHATTEL PAPER WITH RESPECT TO CREDITORS AND PURCHASERS.]

(a) [SELLER RETAINS NO INTEREST.] A debtor that has sold an account, chattel paper, payment intangible, or promissory note does not retain a legal or equitable interest in the collateral sold.

(b) [DEEMED RIGHTS OF DEBTOR IF BUYER'S SECURITY INTEREST UNPERFECTED.] For purposes of determining the rights of creditors of, and purchasers for value of an account or chattel paper from, a debtor that has sold an account or chattel paper, while the buyer's security interest is unperfected, the debtor is deemed to have rights and title to the account or chattel paper identical to those the debtor sold.

Sec. 39. [336.9-319] [RIGHTS AND TITLE OF CONSIGNEE WITH RESPECT TO CREDITORS AND PURCHASERS.]

(a) [CONSIGNEE HAS CONSIGNOR'S RIGHTS.] Except as otherwise provided in subsection (b), for purposes of determining the rights of creditors of, and purchasers for value of goods from, a consignee, while the goods are in the possession of the consignee, the consignee is deemed to have rights and title to the goods identical to those the consignor had or had power to transfer.

(b) [APPLICABILITY OF OTHER LAW.] For purposes of determining the rights of a creditor of a consignee, law other than this article determines the rights and title of a consignee while goods are in the consignee's possession if, under this part, a perfected security interest held by the consignor would have priority over the rights of the creditor.

Sec. 40. [336.9-320] [BUYER OF GOODS.]

(a) [BUYER IN ORDINARY COURSE OF BUSINESS.] Except as otherwise provided in subsection (e), a buyer in ordinary course of business, other than a person buying farm products from a person engaged in farming operations, takes free of a security interest created by the buyer's seller, even if the security interest is perfected and the buyer knows of its existence.

(b) [BUYER OF CONSUMER GOODS.] Except as otherwise provided in subsection (e), a buyer of goods from a person who used or bought the goods for use primarily for personal, family, or household purposes takes free of a security interest, even if perfected, if the buyer buys:

(1) without knowledge of the security interest;

(2) for value;

(3) primarily for the buyer's personal, family, or household purposes; and

(4) before the filing of a financing statement covering the goods.

(c) [EFFECTIVENESS OF FILING FOR SUBSECTION (B).] To the extent that it affects the priority of a security interest over a buyer of goods under subsection (b), the period of effectiveness of a filing made in the jurisdiction in which the seller is located is governed by section 336.9-316(a) and (b).

(d) [BUYER IN ORDINARY COURSE OF BUSINESS AT WELLHEAD OR MINEHEAD.] A buyer in ordinary course of business buying oil, gas, or other minerals at the wellhead or minehead or after extraction takes free of an interest arising out of an encumbrance.

(e) [POSSESSORY SECURITY INTEREST NOT AFFECTED.] Subsections (a) and (b) do not affect a security interest in goods in the possession of the secured party under section 336.9-313.

Sec. 41. [336.9-321] [LICENSEE OF GENERAL INTANGIBLE AND LESSEE OF GOODS IN ORDINARY COURSE OF BUSINESS.]

(a) [LICENSEE IN ORDINARY COURSE OF BUSINESS.] In this section, "licensee in ordinary course of business" means a person that becomes a licensee of a general intangible in good faith, without knowledge that the license violates the rights of another person in the general intangible, and in the ordinary course from a person in the business of licensing general intangibles of that kind. A person becomes a licensee in the ordinary course if the license to the person comports with the usual or customary practices in the kind of business in which the licensor is engaged or with the licensor's own usual or customary practices.

(b) [RIGHTS OF LICENSEE IN ORDINARY COURSE OF BUSINESS.] A licensee in ordinary course of business takes its rights under a nonexclusive license free of a security interest in the general intangible created by the licensor, even if the security interest is perfected and the licensee knows of its existence.

(c) [RIGHTS OF LESSEE IN ORDINARY COURSE OF BUSINESS.] A lessee in ordinary course of business takes its leasehold interest free of a security interest in the goods created by the lessor, even if the security interest is perfected and the lessee knows of its existence.

Sec. 42. [336.9-322] [PRIORITIES AMONG CONFLICTING SECURITY INTERESTS IN AND AGRICULTURAL LIENS ON SAME COLLATERAL.]

(a) [GENERAL PRIORITY RULES.] Except as otherwise provided in this section, priority among conflicting security interests and agricultural liens in the same collateral is determined according to the following rules:

(1) Conflicting perfected security interests and agricultural liens rank according to priority in time of filing or perfection. Priority dates from the earlier of the time a filing covering the collateral is first made or the security interest or agricultural lien is first perfected, if there is no period thereafter when there is neither filing nor perfection.

(2) A perfected security interest or agricultural lien has priority over a conflicting unperfected security interest or agricultural lien.

(3) The first security interest or agricultural lien to attach or become effective has priority if conflicting security interests and agricultural liens are unperfected.

(b) [TIME OF PERFECTION: PROCEEDS AND SUPPORTING OBLIGATIONS.] For the purposes of subsection (a)(1):

(1) the time of filing or perfection as to a security interest in collateral is also the time of filing or perfection as to a security interest in proceeds; and

(2) the time of filing or perfection as to a security interest in collateral supported by a supporting obligation is also the time of filing or perfection as to a security interest in the supporting obligation.

(c) [SPECIAL PRIORITY RULES: PROCEEDS AND SUPPORTING OBLIGATIONS.] Except as otherwise provided in subsection (f), a security interest in collateral which qualifies for priority over a conflicting security interest under section 336.9-327, 336.9-328, 336.9-329, 336.9-330, or 336.9-331 also has priority over a conflicting security interest in:

(1) any supporting obligation for the collateral; and

(2) proceeds of the collateral if:

(A) the security interest in proceeds is perfected;

(B) the proceeds are cash proceeds or of the same type as the collateral; and

(C) in the case of proceeds that are proceeds of proceeds, all intervening proceeds are cash proceeds, proceeds of the same type as the collateral, or an account relating to the collateral.

(d) [FIRST-TO-FILE PRIORITY RULE FOR CERTAIN COLLATERAL.] Subject to subsection (e) and except as otherwise provided in subsection (f), if a security interest in chattel paper, deposit accounts, negotiable documents, instruments, investment property, or letter of credit rights is perfected by a method other than filing, conflicting perfected security interests in proceeds of the collateral rank according to priority in time of filing.

(e) [APPLICABILITY OF SUBSECTION (D).] Subsection (d) applies only if the proceeds of the collateral are not cash proceeds, chattel paper, negotiable documents, instruments, investment property, or letter of credit rights.

(f) [LIMITATIONS ON SUBSECTIONS (A) THROUGH (E).] Subsections (a) through (e) are subject to:

(1) subsection (g) and the other provisions of this part;

(2) section 336.4-210 with respect to a security interest of a collecting bank;

(3) section 336.5-118 with respect to a security interest of an issuer or nominated person; and

(4) section 336.9-110 with respect to a security interest arising under article 2 or 2A.

(g) [PRIORITY UNDER AGRICULTURAL LIEN STATUTE.] A perfected agricultural lien on collateral has priority over a conflicting security interest in or agricultural lien on the same collateral if the statute creating the agricultural lien so provides.

Sec. 43. [336.9-323] [FUTURE ADVANCES.]

(a) [WHEN PRIORITY BASED ON TIME OF ADVANCE.] Except as otherwise provided in subsection (c), for purposes of determining the priority of a perfected security interest under section 336.9-322(a)(1), perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) is made while the security interest is perfected only;

(A) under section 336.9-309 when it attaches; or

(B) temporarily under section 336.9-312(e), (f), or (g); and

(2) is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under section 336.9-309 or 336.9-312(e), (f), or (g).

(b) [LIEN CREDITOR.] Except as otherwise provided in subsection (c), a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than 45 days after the person becomes a lien creditor unless the advance is made:

(1) without knowledge of the lien; or

(2) pursuant to a commitment entered into without knowledge of the lien.

(c) [BUYER OF RECEIVABLES.] Subsections (a) and (b) do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles, or promissory notes or a consignee.

(d) [BUYER OF GOODS.] Except as otherwise provided in subsection (e), a buyer of goods other than a buyer in ordinary course of business takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the buyer's purchase; or

(2) 45 days after the purchase.

(e) [ADVANCES MADE PURSUANT TO COMMITMENT: PRIORITY OF BUYER OF GOODS.] Subsection (d) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the 45-day period.

(f) [LESSEE OF GOODS.] Except as otherwise provided in subsection (g), a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the lease; or

(2) 45 days after the lease contract becomes enforceable.

(g) [ADVANCES MADE PURSUANT TO COMMITMENT: PRIORITY OF LESSEE OF GOODS.] Subsection (f) does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.

Sec. 44. [336.9-324] [PRIORITY OF PURCHASE-MONEY SECURITY INTERESTS.]

(a) [GENERAL RULE: PURCHASE-MONEY PRIORITY.] Except as otherwise provided in subsection (g), a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in section 336.9-327, a perfected security interest in its identifiable proceeds also has priority, if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within 20 days thereafter.

(b) [INVENTORY PURCHASE-MONEY PRIORITY.] Subject to subsection (c) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument

constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in section 336.9-330, and, except as otherwise provided in section 336.9-327, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) [HOLDERS OF CONFLICTING INVENTORY SECURITY INTERESTS TO BE NOTIFIED.] Subsection (b)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 336.9-312(f), before the beginning of the 20-day period thereunder.

(d) [LIVESTOCK PURCHASE-MONEY PRIORITY.] Subject to subsection (e) and except as otherwise provided in subsection (g), a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in section 336.9-327, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) the purchase-money secured party sends an authenticated notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) [HOLDERS OF CONFLICTING LIVESTOCK SECURITY INTERESTS TO BE NOTIFIED.] Subsection (d)(2) through (4) apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under section 336.9-312(f), before the beginning of the 20-day period thereunder.

(f) [SOFTWARE PURCHASE-MONEY PRIORITY.] Except as otherwise provided in subsection (g), a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in section 336.9-327, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) [CONFLICTING PURCHASE-MONEY SECURITY INTERESTS.] If more than one security interest qualifies for priority in the same collateral under subsection (a), (b), (d), or (f):

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, section 336.9-322(a) applies to the qualifying security interests.

Sec. 45. [336.9-325] [PRIORITY OF SECURITY INTERESTS IN TRANSFERRED COLLATERAL.]

(a) [SUBORDINATION OF SECURITY INTEREST IN TRANSFERRED COLLATERAL.] Except as otherwise provided in subsection (b), a security interest created by a debtor is subordinate to a security interest in the same collateral created by another person if:

(1) the debtor acquired the collateral subject to the security interest created by the other person;

(2) the security interest created by the other person was perfected when the debtor acquired the collateral; and

(3) there is no period thereafter when the security interest is unperfected.

(b) [LIMITATION OF SUBSECTION (A) SUBORDINATION.] Subsection (a) subordinates a security interest only if the security interest:

(1) otherwise would have priority solely under section 336.9-322(a) or 336.9-324; or

(2) arose solely under section 336.2-711(3) or 336.2A-508(5).

Sec. 46. [336.9-326] [PRIORITY OF SECURITY INTERESTS CREATED BY NEW DEBTOR.]

(a) [SUBORDINATION OF SECURITY INTEREST CREATED BY NEW DEBTOR.] Subject to subsection (b), a security interest created by a new debtor which is perfected by a filed financing statement that is effective solely under section 336.9-508 in collateral in which a new debtor has or acquires rights is subordinate to a security interest in the same collateral which is perfected other than by a filed financing statement that is effective solely under section 336.9-508.

(b) [PRIORITY UNDER OTHER PROVISIONS; MULTIPLE ORIGINAL DEBTORS.] The other provisions of this part determine the priority among conflicting security interests in the same collateral perfected by filed financing statements that are effective solely under section 336.9-508. However, if the security agreements to which a new debtor became bound as debtor were not entered into by the same original debtor, the conflicting security interests rank according to priority in time of the new debtor's having become bound.

Sec. 47. [336.9-327] [PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNT.]

The following rules govern priority among conflicting security interests in the same deposit account:

(1) A security interest held by a secured party having control of the deposit account under section 336.9-104 has priority over a conflicting security interest held by a secured party that does not have control.

(2) Except as otherwise provided in paragraphs (3) and (4), security interests perfected by control under section 336.9-314 rank according to priority in time of obtaining control.

(3) Except as otherwise provided in paragraph (4), a security interest held by the bank with which the deposit account is maintained has priority over a conflicting security interest held by another secured party.

(4) A security interest perfected by control under section 336.9-104(a)(3) has priority over a security interest held by the bank with which the deposit account is maintained.

Sec. 48. [336.9-328] [PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY.]

The following rules govern priority among conflicting security interests in the same investment property:

(1) A security interest held by a secured party having control of investment property under section 336.9-106 has priority over a security interest held by a secured party that does not have control of the investment property.

(2) Except as otherwise provided in paragraphs (3) and (4), conflicting security interests held by secured parties each of which has control under section 336.9-106 rank according to priority in time of:

(A) if the collateral is a security, obtaining control;

(B) if the collateral is a security entitlement carried in a securities account and:

(i) if the secured party obtained control under section 336.8-106(d)(1), the secured party's becoming the person for which the securities account is maintained;

(ii) if the secured party obtained control under section 336.8-106(d)(2), the securities intermediary's agreement to comply with the secured party's entitlement orders with respect to security entitlements carried or to be carried in the securities account; or

(iii) if the secured party obtained control through another person under section 336.8-106(d)(3), the time on which priority would be based under this paragraph if the other person were the secured party; or

(C) if the collateral is a commodity contract carried with a commodity intermediary, the satisfaction of the requirement for control specified in section 336.9-106(b)(2) with respect to commodity contracts carried or to be carried with the commodity intermediary.

(3) A security interest held by a securities intermediary in a security entitlement or a securities account maintained with the securities intermediary has priority over a conflicting security interest held by another secured party.

(4) A security interest held by a commodity intermediary in a commodity contract or a commodity account maintained with the commodity intermediary has priority over a conflicting security interest held by another secured party.

(5) A security interest in a certificated security in registered form which is perfected by taking delivery under section 336.9-313(a) and not by control under section 336.9-314 has priority over a conflicting security interest perfected by a method other than control.

(6) Conflicting security interests created by a broker, securities intermediary, or commodity intermediary which are perfected without control under section 336.9-106 rank equally.

(7) In all other cases, priority among conflicting security interests in investment property is governed by sections 336.9-322 and 336.9-323.

Sec. 49. [336.9-329] [PRIORITY OF SECURITY INTERESTS IN LETTER OF CREDIT RIGHT.]

The following rules govern priority among conflicting security interests in the same letter of credit right:

(1) A security interest held by a secured party having control of the letter of credit right under section 336.9-107 has priority to the extent of its control over a conflicting security interest held by a secured party that does not have control.

(2) Security interests perfected by control under section 336.9-314 rank according to priority in time of obtaining control.

Sec. 50. [336.9-330] [PRIORITY OF PURCHASER OF CHATTEL PAPER OR INSTRUMENT.]

(a) [PURCHASER'S PRIORITY: SECURITY INTEREST CLAIMED MERELY AS PROCEEDS.] A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 336.9-105; and

(2) the chattel paper does not indicate that it has been assigned to an identified assignee other than the purchaser.

(b) [PURCHASER'S PRIORITY: OTHER SECURITY INTERESTS.] A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value and takes possession of the chattel paper or obtains control of the chattel paper under section 336.9-105 in good faith, in the ordinary course of the purchaser's business, and without knowledge that the purchase violates the rights of the secured party.

(c) [CHATTEL PAPER PURCHASER'S PRIORITY IN PROCEEDS.] Except as otherwise provided in section 336.9-327, a purchaser having priority in chattel paper under subsection (a) or (b) also has priority in proceeds of the chattel paper to the extent that:

(1) section 336.9-322 provides for priority in the proceeds; or

(2) the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) [INSTRUMENT PURCHASER'S PRIORITY.] Except as otherwise provided in section 336.9-331(a), a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) [HOLDER OF PURCHASE-MONEY SECURITY INTEREST GIVES NEW VALUE.] For purposes of subsections (a) and (b), the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) [INDICATION OF ASSIGNMENT GIVES KNOWLEDGE.] For purposes of subsections (b) and (d), if chattel paper or an instrument indicates that it has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party.

Sec. 51. [336.9-331] [PRIORITY OF RIGHTS OF PURCHASERS OF INSTRUMENTS, DOCUMENTS, AND SECURITIES UNDER OTHER ARTICLES; PRIORITY OF INTERESTS IN FINANCIAL ASSETS AND SECURITY ENTITLEMENTS UNDER ARTICLE 8.]

(a) [RIGHTS UNDER ARTICLES 3, 7, AND 8 NOT LIMITED.] This article does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated, or a protected purchaser of a security. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in articles 3, 7, and 8.

(b) [PROTECTION UNDER ARTICLE 8.] This article does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under article 8.

(c) [FILING NOT NOTICE.] Filing under this article does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in subsections (a) and (b).

Sec. 52. [336.9-332] [TRANSFER OF MONEY; TRANSFER OF FUNDS FROM DEPOSIT ACCOUNT.]

(a) [TRANSFEREE OF MONEY.] A transferee of money takes the money free of a security interest unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

(b) [TRANSFEREE OF FUNDS FROM DEPOSIT ACCOUNT.] A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account unless the transferee acts in collusion with the debtor in violating the rights of the secured party.

Sec. 53. [336.9-333] [PRIORITY OF CERTAIN LIENS ARISING BY OPERATION OF LAW.]

(a) [POSSESSORY LIEN.] In this section, "possessory lien" means an interest, other than a security interest or an agricultural lien:

(1) which secures payment or performance of an obligation for services or materials furnished with respect to goods by a person in the ordinary course of the person's business;

(2) which is created by statute or rule of law in favor of the person; and

(3) whose effectiveness depends on the person's possession of the goods.

(b) [PRIORITY OF POSSESSORY LIEN.] A possessory lien on goods has priority over a security interest in the goods unless the lien is created by a statute that expressly provides otherwise.

Sec. 54. [336.9-334] [PRIORITY OF SECURITY INTERESTS IN FIXTURES AND CROPS.]

(a) [SECURITY INTEREST IN FIXTURES UNDER THIS ARTICLE.] A security interest under this article may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(b) [SECURITY INTEREST IN FIXTURES UNDER REAL PROPERTY LAW.] This article does not prevent creation of an encumbrance upon fixtures under real property law.

(c) [GENERAL RULE: SUBORDINATION OF SECURITY INTEREST IN FIXTURES.] In cases not governed by subsections (d) through (h), a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) [FIXTURES PURCHASE-MONEY PRIORITY.] Except as otherwise provided in subsection (h), a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(1) the security interest is a purchase-money security interest;

(2) the interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) the security interest is perfected by a fixture filing before the goods become fixtures or within 20 days thereafter.

(e) [PRIORITY OF SECURITY INTEREST IN FIXTURES OVER INTERESTS IN REAL PROPERTY.] A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(A) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) before the goods become fixtures, the security interest is perfected by any method permitted by this article and the fixtures are readily removable:

(A) factory or office machines;

(B) equipment that is not primarily used or leased for use in the operation of the real property; or

(C) replacements of domestic appliances that are consumer goods;

(3) the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(4) the security interest is:

(A) created in a manufactured home in a manufactured home transaction; and

(B) perfected pursuant to a statute described in section 336.9-311(a)(2).

(f) [PRIORITY BASED ON CONSENT, DISCLAIMER, OR RIGHT TO REMOVE.] A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the encumbrancer or owner has, in an authenticated record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) the debtor has a right to remove the goods as against the encumbrancer or owner.

(g) [CONTINUATION OF PARAGRAPH (F)(2) PRIORITY.] The priority of the security interest under paragraph (f)(2) continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) [PRIORITY OF CONSTRUCTION MORTGAGE.] A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in subsections (e) and (f), a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage.

(i) [PRIORITY OF SECURITY INTEREST IN CROPS.] A perfected security interest in crops growing on real property has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property.

(j) [SUBSECTION (i) PREVAILS.] Subsection (i) prevails over any inconsistent provisions of the following statutes:

(1) section 557.12; and

(2) section 559.2091.

Sec. 55. [336.9-335] [ACCESSIONS.]

(a) [CREATION OF SECURITY INTEREST IN ACCESSION.] A security interest may be created in an accession and continues in collateral that becomes an accession.

(b) [PERFECTION OF SECURITY INTEREST.] If a security interest is perfected when the collateral becomes an accession, the security interest remains perfected in the collateral.

(c) [PRIORITY OF SECURITY INTEREST.] Except as otherwise provided in subsection (d), the other provisions of this part determine the priority of a security interest in an accession.

(d) [COMPLIANCE WITH CERTIFICATE OF TITLE STATUTE.] A security interest in an accession is subordinate to a security interest in the whole which is perfected by compliance with the requirements of a certificate of title statute under section 336.9-311(b).

(e) [REMOVAL OF ACCESSION AFTER DEFAULT.] After default, subject to Part 6, a secured party may remove an accession from other goods if the security interest in the accession has priority over the claims of every person having an interest in the whole.

(f) [REIMBURSEMENT FOLLOWING REMOVAL.] A secured party that removes an accession from other goods under subsection (e) shall promptly reimburse any holder of a security interest or other lien on, or owner of, the whole or of the other goods, other than the debtor, for the cost of repair of any physical injury to the whole or the other goods. The secured party need not reimburse the holder or owner for any diminution in value of the whole or the other goods caused by the absence of the accession removed or by any necessity for replacing it. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 56. [336.9-336] [COMMINGLED GOODS.]

(a) [COMMINGLED GOODS.] In this section, "commingled goods" means goods that are physically united with other goods in such a manner that their identity is lost in a product or mass.

(b) [NO SECURITY INTEREST IN COMMINGLED GOODS AS SUCH.] A security interest does not exist in commingled goods as such. However, a security interest may attach to a product or mass that results when goods become commingled goods.

(c) [ATTACHMENT OF SECURITY INTEREST TO PRODUCT OR MASS.] If collateral becomes commingled goods, a security interest attaches to the product or mass.

(d) [PERFECTION OF SECURITY INTEREST.] If a security interest in collateral is perfected before the collateral becomes commingled goods, the security interest that attaches to the product or mass under subsection (c) is perfected.

(e) [PRIORITY OF SECURITY INTEREST.] Except as otherwise provided in subsection (f), the other provisions of this part determine the priority of a security interest that attaches to the product or mass under subsection (c).

(f) [CONFLICTING SECURITY INTERESTS IN PRODUCT OR MASS.] If more than one security interest attaches to the product or mass under subsection (c), the following rules determine priority:

(1) A security interest that is perfected under subsection (d) has priority over a security interest that is unperfected at the time the collateral becomes commingled goods.

(2) If more than one security interest is perfected under subsection (d), the security interests rank equally in proportion to the value of the collateral at the time it became commingled goods.

Sec. 57. [336.9-337] [PRIORITY OF SECURITY INTERESTS IN GOODS COVERED BY CERTIFICATE OF TITLE.]

If, while a security interest in goods is perfected by any method under the law of another jurisdiction, this state issues a certificate of title that does not show that the goods are subject to the security interest or contain a statement that they may be subject to security interests not shown on the certificate:

(1) a buyer of the goods, other than a person in the business of selling goods of that kind, takes free of the security interest if the buyer gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest; and

(2) the security interest is subordinate to a conflicting security interest in the goods that attaches, and is perfected under section 336.9-311(b), after issuance of the certificate and without the conflicting secured party's knowledge of the security interest.

Sec. 58. [336.9-338] [PRIORITY OF SECURITY INTEREST OR AGRICULTURAL LIEN PERFECTED BY FILED FINANCING STATEMENT PROVIDING CERTAIN INCORRECT INFORMATION.]

If a security interest or agricultural lien is perfected by a filed financing statement providing information described in section 336.9-516(b)(5) which is incorrect at the time the financing statement is filed:

(1) the security interest or agricultural lien is subordinate to a conflicting perfected security interest in the collateral to the extent that the holder of the conflicting security interest gives value in reasonable reliance upon the incorrect information; and

(2) a purchaser, other than a secured party, of the collateral takes free of the security interest or agricultural lien to the extent that, in reasonable reliance upon the incorrect information, the purchaser gives value and, in the case of chattel paper, documents, goods, instruments, or a security certificate, receives delivery of the collateral.

Sec. 59. [336.9-339] [PRIORITY SUBJECT TO SUBORDINATION.]

This article does not preclude subordination by agreement by a person entitled to priority.

SUBPART 4. RIGHTS OF BANK

Sec. 60. [336.9-340] [EFFECTIVENESS OF RIGHT OF RECOUPMENT OR SET-OFF AGAINST DEPOSIT ACCOUNT.]

(a) [EXERCISE OF RECOUPMENT OR SET-OFF.] Except as otherwise provided in subsection (c), a bank with which a deposit account is maintained may exercise any right of recoupment or set-off against a secured party that holds a security interest in the deposit account.

(b) [RECOUPMENT OR SET-OFF NOT AFFECTED BY SECURITY INTEREST.] Except as otherwise provided in subsection (c), the application of this article to a security interest in a deposit account does not affect a right of recoupment or set-off of the secured party as to a deposit account maintained with the secured party.

(c) [WHEN SET-OFF INEFFECTIVE.] The exercise by a bank of a set-off against a deposit account is ineffective against a secured party that holds a security interest in the deposit account which is perfected by control under section 336.9-104(a)(3), if the set-off is based on a claim against the debtor.

Sec. 61. [336.9-341] [BANK'S RIGHTS AND DUTIES WITH RESPECT TO DEPOSIT ACCOUNT.]

Except as otherwise provided in section 336.9-340(c), and unless the bank otherwise agrees in an authenticated record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended, or modified by:

(1) the creation, attachment, or perfection of a security interest in the deposit account;

(2) the bank's knowledge of the security interest; or

(3) the bank's receipt of instructions from the secured party.

Sec. 62. [336.9-342] [BANK'S RIGHT TO REFUSE TO ENTER INTO OR DISCLOSE EXISTENCE OF CONTROL AGREEMENT.]

This article does not require a bank to enter into an agreement of the kind described in section 336.9-104(a)(2), even if its customer so requests or directs. A bank that has entered into such an agreement is not required to confirm the existence of the agreement to another person unless requested to do so by its customer.

Part 4

RIGHTS OF THIRD PARTIES

Sec. 63. [336.9-401] [ALIENABILITY OF DEBTOR'S RIGHTS.]

(a) [OTHER LAW GOVERNS ALIENABILITY; EXCEPTIONS.] Except as otherwise provided in subsection (b) and sections 336.9-406, 336.9-407, 336.9-408, and 336.9-409, whether a debtor's rights in collateral may be voluntarily or involuntarily transferred is governed by law other than this article.

(b) [AGREEMENT DOES NOT PREVENT TRANSFER.] An agreement between the debtor and secured party which prohibits a transfer of the debtor's rights in collateral or makes the transfer a default does not prevent the transfer from taking effect.

Sec. 64. [336.9-402] [SECURED PARTY NOT OBLIGATED ON CONTRACT OF DEBTOR OR IN TORT.]

The existence of a security interest, agricultural lien, or authority given to a debtor to dispose of or use collateral, without more, does not subject a secured party to liability in contract or tort for the debtor's acts or omissions.

Sec. 65. [336.9-403] [AGREEMENT NOT TO ASSERT DEFENSES AGAINST ASSIGNEE.]

(a) [VALUE.] In this section, "value" has the meaning provided in section 336.3-303(a).

(b) [AGREEMENT NOT TO ASSERT CLAIM OR DEFENSE.] Except as otherwise provided in this section, an agreement between an account debtor and an assignor not to assert against an assignee any claim or defense that the account debtor may have against the assignor is enforceable by an assignee that takes an assignment:

(1) for value;

(2) in good faith;

(3) without notice of a claim of a property or possessory right to the property assigned; and

(4) without notice of a defense or claim in recoupment of the type that may be asserted against a person entitled to enforce a negotiable instrument under section 336.3-305(a).

(c) [WHEN SUBSECTION (B) NOT APPLICABLE.] Subsection (b) does not apply to defenses of a type that may be asserted against a holder in due course of a negotiable instrument under section 336.3-305(b).

(d) [OMISSION OF REQUIRED STATEMENT IN CONSUMER TRANSACTION.] In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the rights of an assignee are subject to claims or defenses that the account debtor could assert against the original obligee, and the record does not include such a statement:

(1) the record has the same effect as if the record included such a statement; and

(2) the account debtor may assert against an assignee those claims and defenses that would have been available if the record included such a statement.

(e) [RULE FOR INDIVIDUAL UNDER OTHER LAW.] This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(f) [OTHER LAW NOT DISPLACED.] Except as otherwise provided in subsection (d), this section does not displace law other than this article which gives effect to an agreement by an account debtor not to assert a claim or defense against an assignee.

Sec. 66. [336.9-404] [RIGHTS ACQUIRED BY ASSIGNEE; CLAIMS AND DEFENSES AGAINST ASSIGNEE.]

(a) [ASSIGNEE'S RIGHTS SUBJECT TO TERMS, CLAIMS, AND DEFENSES; EXCEPTIONS.] Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to subsections (b) through (e), the rights of an assignee are subject to:

(1) all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment authenticated by the assignor or the assignee.

(b) [ACCOUNT DEBTOR'S CLAIM REDUCES AMOUNT OWED TO ASSIGNEE.] Subject to subsection (c) and except as otherwise provided in subsection (d), the claim of an account debtor against an assignor may be asserted against an assignee under subsection (a) only to reduce the amount the account debtor owes.

(c) [RULE FOR INDIVIDUAL UNDER OTHER LAW.] This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) [OMISSION OF REQUIRED STATEMENT IN CONSUMER TRANSACTION.] In a consumer transaction, if a record evidences the account debtor's obligation, law other than this article requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) [INAPPLICABILITY TO HEALTH-CARE-INSURANCE RECEIVABLE.] This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 67. [336.9-405] [MODIFICATION OF ASSIGNED CONTRACT.]

(a) [EFFECT OF MODIFICATION ON ASSIGNEE.] A modification of or substitution for an assigned contract is effective against an assignee if made in good faith. The assignee acquires corresponding rights under the modified or substituted contract. The assignment may provide that the modification or substitution is a breach of contract by the assignor. This subsection is subject to subsections (b) through (d).

(b) [APPLICABILITY OF SUBSECTION (A).] Subsection (a) applies to the extent that:

(1) the right to payment or a part thereof under an assigned contract has not been fully earned by performance;
or

(2) the right to payment or a part thereof has been fully earned by performance and the account debtor has not received notification of the assignment under section 336.9-406(a).

(c) [RULE FOR INDIVIDUAL UNDER OTHER LAW.] This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(d) [INAPPLICABILITY TO HEALTH-CARE-INSURANCE RECEIVABLE.] This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 68. [336.9-406] [DISCHARGE OF ACCOUNT DEBTOR; NOTIFICATION OF ASSIGNMENT; IDENTIFICATION AND PROOF OF ASSIGNMENT; RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, AND PROMISSORY NOTES INEFFECTIVE.]

(a) [DISCHARGE OF ACCOUNT DEBTOR; EFFECT OF NOTIFICATION.] Subject to subsections (b) through (i), an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) [WHEN NOTIFICATION INEFFECTIVE.] Subject to subsection (h), notification is ineffective under subsection (a):

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) [PROOF OF ASSIGNMENT.] Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) [TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE.] Except as otherwise provided in subsection (e) and sections 336.2A-303 and 336.9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) [INAPPLICABILITY OF SUBSECTION (D) TO CERTAIN SALES.] Subsection (d) does not apply to the sale of a payment intangible or promissory note.

(f) [LEGAL RESTRICTIONS ON ASSIGNMENT GENERALLY INEFFECTIVE.] Except as otherwise provided in sections 336.2A-303 and 336.9-407, and subject to subsections (h) and (i), a rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) [SUBSECTION (B)(3) NOT WAIVABLE.] Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) [RULE FOR INDIVIDUAL UNDER OTHER LAW.] This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) [INAPPLICABILITY TO HEALTH-CARE-INSURANCE RECEIVABLE.] This section does not apply to an assignment of a health-care-insurance receivable.

Sec. 69. [336.9-407] [RESTRICTIONS ON CREATION OR ENFORCEMENT OF SECURITY INTEREST IN LEASEHOLD INTEREST OR IN LESSOR'S RESIDUAL INTEREST.]

(a) [TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE.] Except as otherwise provided in subsection (b), a term in a lease agreement is ineffective to the extent that it:

(1) prohibits, restricts, or requires the consent of a party to the lease to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, an interest of a party under the lease contract or in the lessor's residual interest in the goods; or

(2) provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the lease.

(b) [EFFECTIVENESS OF CERTAIN TERMS.] Except as otherwise provided in section 336.2A-303(7), a term described in subsection (a)(2) is effective to the extent that there is:

(1) a transfer by the lessee of the lessee's right of possession or use of the goods in violation of the term; or

(2) a delegation of a material performance of either party to the lease contract in violation of the term.

(c) [SECURITY INTEREST NOT MATERIAL IMPAIRMENT.] The creation, attachment, perfection, or enforcement of a security interest in the lessor's interest under the lease contract or the lessor's residual interest in the goods is not a transfer that materially impairs the lessee's prospect of obtaining return performance or materially changes the duty of or materially increases the burden or risk imposed on the lessee within the purview of section 336.2A-303(4) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the lessor. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective.

Sec. 70. [336.9-408] [RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH-CARE-INSURANCE RECEIVABLES, AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE.]

(a) [TERM RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE.] Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) [APPLICABILITY OF SUBSECTION (A) TO SALES OF CERTAIN RIGHTS TO PAYMENT.] Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note.

(c) [LEGAL RESTRICTIONS ON ASSIGNMENT GENERALLY INEFFECTIVE.] A rule of law, statute, or regulation, that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) would impair the creation, attachment, or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) [LIMITATION ON INEFFECTIVENESS UNDER SUBSECTIONS (A) AND (C).] To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection

(c) would be effective under law other than this article but is ineffective under subsection (a) or (c), the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

Sec. 71. [336.9-409] [RESTRICTIONS ON ASSIGNMENT OF LETTER OF CREDIT RIGHTS INEFFECTIVE.]

(a) [TERM OR LAW RESTRICTING ASSIGNMENT GENERALLY INEFFECTIVE.] A term in a letter of credit or a rule of law, statute, regulation, custom, or practice applicable to the letter of credit which prohibits, restricts, or requires the consent of an applicant, issuer, or nominated person to a beneficiary's assignment of or creation of a security interest in a letter of credit right is ineffective to the extent that the term or rule of law, statute, regulation, custom, or practice:

(1) would impair the creation, attachment, or perfection of a security interest in the letter of credit right; or

(2) provides that the assignment or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the letter of credit right.

(b) [LIMITATION ON INEFFECTIVENESS UNDER SUBSECTION (A).] To the extent that a term in a letter of credit is ineffective under subsection (a) but would be effective under law other than this article or a custom or practice applicable to the letter of credit, to the transfer of a right to draw or otherwise demand performance under the letter of credit, or to the assignment of a right to proceeds of the letter of credit, the creation, attachment, or perfection of a security interest in the letter of credit right:

(1) is not enforceable against the applicant, issuer, nominated person, or transferee beneficiary;

(2) imposes no duties or obligations on the applicant, issuer, nominated person, or transferee beneficiary; and

(3) does not require the applicant, issuer, nominated person, or transferee beneficiary to recognize the security interest, pay or render performance to the secured party, or accept payment or other performance from the secured party.

Part 5

FILING

SUBPART 1. FILING OFFICE; CONTENTS AND EFFECTIVENESS
OF FINANCING STATEMENT

Sec. 72. [336.9-501] [FILING OFFICE.]

(a) [FILING OFFICES.] Except as otherwise provided in subsection (b), if the local law of this state governs perfection of a security interest or agricultural lien, the office in which to file a financing statement to perfect the security interest or agricultural lien is:

(1) the office designated for the filing or recording of a record of a mortgage on the related real property, if:

(A) the collateral is as-extracted collateral or timber to be cut; or

(B) the financing statement is filed as a fixture filing and the collateral is goods that are or are to become fixtures;
or

(2) the central filing system operated by the office of the secretary of state, in all other cases, including a case in which the collateral is goods that are or are to become fixtures and the financing statement is not filed as a fixture filing.

(b) [FILING OFFICE FOR TRANSMITTING UTILITIES.] The office in which to file a financing statement to perfect a security interest in collateral, including fixtures, of a transmitting utility is the central filing system operated by the office of the secretary of state. The financing statement also constitutes a fixture filing as to the collateral indicated in the financing statement which is or is to become fixtures.

Sec. 73. [336.9-502] [CONTENTS OF FINANCING STATEMENT; RECORD OF MORTGAGE AS
FINANCING STATEMENT; TIME OF FILING FINANCING STATEMENT.]

(a) [SUFFICIENCY OF FINANCING STATEMENT.] Subject to subsection (b), a financing statement is sufficient only if it:

(1) provides the name of the debtor;

(2) provides the name of the secured party or a representative of the secured party; and

(3) indicates the collateral covered by the financing statement.

(b) [REAL PROPERTY-RELATED FINANCING STATEMENTS.] Except as otherwise provided in section 336.9-501(b), to be sufficient, a financing statement that covers as-extracted collateral or timber to be cut, or which is filed as a fixture filing and covers goods that are or are to become fixtures, must satisfy subsection (a) and also:

(1) indicate that it covers this type of collateral;

(2) indicate that it is to be filed for record in the real property records;

(3) provide a description of the real property to which the collateral is related sufficient to give constructive notice of a mortgage under the law of this state if the description were contained in a record of the mortgage of the real property; and

(4) if the debtor does not have an interest of record in the real property, provide the name of a record owner.

(c) [RECORD OF MORTGAGE AS FINANCING STATEMENT.] A record of a mortgage is effective, from the date of recording, as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut only if:

(1) the record indicates the goods or accounts that it covers;

(2) the goods are or are to become fixtures related to the real property described in the record or the collateral is related to the real property described in the record and is as-extracted collateral or timber to be cut;

(3) the record satisfies the requirements for a financing statement in this section other than an indication that it is to be filed in the real property records; and

(4) the record is recorded in the office of the county recorder or registrar of titles in the county where the real property is located.

(d) [FILING BEFORE SECURITY AGREEMENT OR ATTACHMENT.] A financing statement may be filed before a security agreement is made or a security interest otherwise attaches.

Sec. 74. [336.9-503] [NAME OF DEBTOR AND SECURED PARTY.]

(a) [SUFFICIENCY OF DEBTOR'S NAME.] A financing statement sufficiently provides the name of the debtor:

(1) if the debtor is a registered organization, only if the financing statement provides the name of the debtor indicated on the public record of the debtor's jurisdiction of organization which shows the debtor to have been organized;

(2) if the debtor is a decedent's estate, only if the financing statement provides the name of the decedent and indicates that the debtor is an estate;

(3) if the debtor is a trust or a trustee acting with respect to property held in trust, only if the financing statement:

(A) provides the name specified for the trust in its organic documents or, if no name is specified, provides the name of the settlor and additional information sufficient to distinguish the debtor from other trusts having one or more of the same settlors; and

(B) indicates, in the debtor's name or otherwise, that the debtor is a trust or is a trustee acting with respect to property held in trust; and

(4) in other cases:

(A) if the debtor has a name, only if it provides the individual or organizational name of the debtor; and

(B) if the debtor does not have a name, only if it provides the names of the partners, members, associates, or other persons comprising the debtor.

(b) [ADDITIONAL DEBTOR-RELATED INFORMATION.] A financing statement that provides the name of the debtor in accordance with subsection (a) is not rendered ineffective by the absence of:

(1) a trade name or other name of the debtor; or

(2) unless required under subsection (a)(4)(B), names of partners, members, associates, or other persons comprising the debtor.

(c) [DEBTOR'S TRADE NAME INSUFFICIENT.] A financing statement that provides only the debtor's trade name does not sufficiently provide the name of the debtor.

(d) [REPRESENTATIVE CAPACITY.] Failure to indicate the representative capacity of a secured party or representative of a secured party does not affect the sufficiency of a financing statement.

(e) [MULTIPLE DEBTORS AND SECURED PARTIES.] A financing statement may provide the name of more than one debtor and the name of more than one secured party.

Sec. 75. [336.9-504] [INDICATION OF COLLATERAL.]

A financing statement sufficiently indicates the collateral that it covers if the financing statement provides:

(1) a description of the collateral pursuant to section 336.9-108; or

(2) an indication that the financing statement covers all assets or all personal property.

Sec. 76. [336.9-505] [FILING AND COMPLIANCE WITH OTHER STATUTES AND TREATIES FOR CONSIGNMENTS, LEASES, OTHER BAILMENTS, AND OTHER TRANSACTIONS.]

(a) [USE OF TERMS OTHER THAN DEBTOR AND SECURED PARTY.] A consignor, lessor, or other bailor of goods, a licensor, or a buyer of a payment intangible or promissory note may file a financing statement, or may comply with a statute or treaty described in section 336.9-311(a), using the terms "consignor," "consignee," "lessor," "lessee," "bailor," "bailee," "licensor," "licensee," "owner," "registered owner," "buyer," "seller," or words of similar import, instead of the terms "secured party" and "debtor."

(b) [EFFECT OF FINANCING STATEMENT UNDER SUBSECTION (A).] This part applies to the filing of a financing statement under subsection (a) and, as appropriate, to compliance that is equivalent to filing a financing statement under section 336.9-311(b), but the filing or compliance is not of itself a factor in determining whether the collateral secures an obligation. If it is determined for another reason that the collateral secures an obligation, a security interest held by the consignor, lessor, bailor, licensor, owner, or buyer which attaches to the collateral is perfected by the filing or compliance.

Sec. 77. [336.9-506] [EFFECT OF ERRORS OR OMISSIONS.]

(a) [MINOR ERRORS AND OMISSIONS.] A financing statement substantially satisfying the requirements of this part is effective, even if it has minor errors or omissions, unless the errors or omissions make the financing statement seriously misleading.

(b) [FINANCING STATEMENT SERIOUSLY MISLEADING.] Except as otherwise provided in subsection (c), a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 336.9-503(a) is seriously misleading.

(c) [FINANCING STATEMENT NOT SERIOUSLY MISLEADING.] If a search of the records of the filing office under the debtor's correct name, using the filing office's standard search logic, if any, would disclose a financing statement that fails sufficiently to provide the name of the debtor in accordance with section 336.9-503(a), the name provided does not make the financing statement seriously misleading.

(d) [DEBTOR'S CORRECT NAME.] For purposes of section 336.9-508(b), the "debtor's correct name" in subsection (c) means the correct name of the new debtor.

Sec. 78. [336.9-507] [EFFECT OF CERTAIN EVENTS ON EFFECTIVENESS OF FINANCING STATEMENT.]

(a) [DISPOSITION.] A filed financing statement remains effective with respect to collateral that is sold, exchanged, leased, licensed, or otherwise disposed of and in which a security interest or agricultural lien continues, even if the secured party knows of or consents to the disposition.

(b) [INFORMATION BECOMING SERIOUSLY MISLEADING.] Except as otherwise provided in subsection (c) and section 336.9-508, a financing statement is not rendered ineffective if, after the financing statement is filed, the information provided in the financing statement becomes seriously misleading under section 336.9-506.

(c) [CHANGE IN DEBTOR'S NAME.] If a debtor so changes its name that a filed financing statement becomes seriously misleading under section 336.9-506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the debtor before, or within four months after, the change; and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless an amendment to the financing statement which renders the financing statement not seriously misleading is filed within four months after the change.

Sec. 79. [336.9-508] [EFFECTIVENESS OF FINANCING STATEMENT IF NEW DEBTOR BECOMES BOUND BY SECURITY AGREEMENT.]

(a) [FINANCING STATEMENT NAMING ORIGINAL DEBTOR.] Except as otherwise provided in this section, a filed financing statement naming an original debtor is effective to perfect a security interest in collateral in which a new debtor has or acquires rights to the extent that the financing statement would have been effective had the original debtor acquired rights in the collateral.

(b) [FINANCING STATEMENT BECOMING SERIOUSLY MISLEADING.] If the difference between the name of the original debtor and that of the new debtor causes a filed financing statement that is effective under subsection (a) to be seriously misleading under section 336.9-506:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under section 336.9-203(d); and

(2) the financing statement is not effective to perfect a security interest in collateral acquired by the new debtor more than four months after the new debtor becomes bound under section 336.9-203(d) unless an initial financing statement providing the name of the new debtor is filed before the expiration of that time.

(c) [WHEN SECTION NOT APPLICABLE.] This section does not apply to collateral as to which a filed financing statement remains effective against the new debtor under section 336.9-507(a).

Sec. 80. [336.9-509] [PERSONS ENTITLED TO FILE A RECORD.]

(a) [PERSON ENTITLED TO FILE RECORD.] A person may file an initial financing statement, amendment that adds collateral covered by a financing statement, or amendment that adds a debtor to a financing statement only if:

(1) the debtor authorizes the filing in an authenticated record or pursuant to subsection (b) or (c); or

(2) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) [SECURITY AGREEMENT AS AUTHORIZATION.] By authenticating or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under section 336.9-315(a)(2), whether or not the security agreement expressly covers proceeds.

(c) [PERSON ENTITLED TO FILE CERTAIN AMENDMENTS.] A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) the secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by section 336.9-513(a) or (c), the debtor authorizes the filing, and the termination statement indicates that the debtor authorized it to be filed.

(d) [MULTIPLE SECURED PARTIES OF RECORD.] If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under subsection (c).

Sec. 81. [336.9-510] [EFFECTIVENESS OF FILED RECORD.]

(a) [FILED RECORD EFFECTIVE IF AUTHORIZED.] A filed record is effective only to the extent that it was filed by a person that may file it under section 336.9-509.

(b) [AUTHORIZATION BY ONE SECURED PARTY OF RECORD.] A record authorized by one secured party of record does not affect the financing statement with respect to another secured party of record.

(c) [CONTINUATION STATEMENT NOT TIMELY FILED.] A continuation statement that is not filed within the six-month period prescribed by section 336.9-515(d) is ineffective.

Sec. 82. [336.9-511] [SECURED PARTY OF RECORD.]

(a) [SECURED PARTY OF RECORD.] A secured party of record with respect to a financing statement is a person whose name is provided as the name of the secured party or a representative of the secured party in an initial financing statement that has been filed. If an initial financing statement is filed under section 336.9-514(a), the assignee named in the initial financing statement is the secured party of record with respect to the financing statement.

(b) [AMENDMENT NAMING SECURED PARTY OF RECORD.] If an amendment of a financing statement which provides the name of a person as a secured party or a representative of a secured party is filed, the person named in the amendment is a secured party of record. If an amendment is filed under section 336.9-514(b), the assignee named in the amendment is a secured party of record.

(c) [AMENDMENT DELETING SECURED PARTY OF RECORD.] A person remains a secured party of record until the filing of an amendment of the financing statement which deletes the person.

Sec. 83. [336.9-512] [AMENDMENT OF FINANCING STATEMENT.]

(a) [AMENDMENT OF INFORMATION IN FINANCING STATEMENT.] Subject to section 336.9-509, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or, subject to subsection (e), otherwise amend the information provided in, a financing statement by filing an amendment that:

(1) identifies, by its file number, the initial financing statement to which the amendment relates; and

(2) if the amendment relates to an initial financing statement filed or recorded in a filing office described in section 336.9-501(a)(1), provides the information specified in section 336.9-502(b).

(b) [PERIOD OF EFFECTIVENESS NOT AFFECTED.] Except as otherwise provided in section 336.9-515, the filing of an amendment does not extend the period of effectiveness of the financing statement.

(c) [EFFECTIVENESS OF AMENDMENT ADDING COLLATERAL.] A financing statement that is amended by an amendment that adds collateral is effective as to the added collateral only from the date of the filing of the amendment.

(d) [EFFECTIVENESS OF AMENDMENT ADDING DEBTOR.] A financing statement that is amended by an amendment that adds a debtor is effective as to the added debtor only from the date of the filing of the amendment.

(e) [CERTAIN AMENDMENTS INEFFECTIVE.] An amendment is ineffective to the extent it:

(1) purports to delete all debtors and fails to provide the name of a debtor to be covered by the financing statement;
or

(2) purports to delete all secured parties of record and fails to provide the name of a new secured party of record.

Sec. 84. [336.9-513] [TERMINATION STATEMENT.]

(a) [CONSUMER GOODS.] A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) the debtor did not authorize the filing of the initial financing statement.

(b) [TIME FOR COMPLIANCE WITH SUBSECTION (A).] To comply with subsection (a), a secured party shall cause the secured party of record to file the termination statement:

(1) within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value; or

(2) if earlier, within 20 days after the secured party receives an authenticated demand from a debtor.

(c) [OTHER COLLATERAL.] In cases not governed by subsection (a), within 20 days after a secured party receives an authenticated demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation, or otherwise give value;

(2) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) the debtor did not authorize the filing of the initial financing statement.

(d) [EFFECT OF FILING TERMINATION STATEMENT.] Except as otherwise provided in section 336.9-510, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in section 336.9-510, for purposes of sections 336.9-519(g), 336.9-522(a), and 336.9-523(c), the filing with the filing office of a termination statement relating to a filing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse.

Sec. 85. [336.9-514] [ASSIGNMENT OF POWERS OF SECURED PARTY OF RECORD.]

(a) [ASSIGNMENT REFLECTED ON INITIAL FINANCING STATEMENT.] Except as otherwise provided in subsection (c), an initial financing statement may reflect an assignment of all of the secured party's power to authorize an amendment to the financing statement by providing the name and mailing address of the assignee as the name and address of the secured party.

(b) [ASSIGNMENT OF FILED FINANCING STATEMENT.] Except as otherwise provided in subsection (c), a secured party of record may assign of record all or part of its power to authorize an amendment to a financing statement by filing in the filing office an amendment of the financing statement which:

(1) identifies, by its file number, the initial financing statement to which it relates;

(2) provides the name of the assignor; and

(3) provides the name and mailing address of the assignee.

(c) [ASSIGNMENT OF RECORD OF MORTGAGE.] An assignment of record of a security interest in a fixture covered by a record of a mortgage which is effective as a financing statement filed as a fixture filing under section 336.9-502(c) may be made only by an assignment of record of the mortgage in the manner provided by law of this state other than the Uniform Commercial Code.

Sec. 86. [336.9-515] [DURATION AND EFFECTIVENESS OF FINANCING STATEMENT; EFFECT OF LAPSED FINANCING STATEMENT.]

(a) [FIVE-YEAR EFFECTIVENESS.] Except as otherwise provided in subsections (b), (e), (f), and (g), a filed financing statement is effective for a period of five years after the date of filing.

(b) [PUBLIC FINANCE OR MANUFACTURED HOME TRANSACTION.] Except as otherwise provided in subsections (e), (f), and (g), an initial financing statement filed in connection with a public finance transaction or manufactured home transaction is effective for a period of 30 years after the date of filing if it indicates that it is filed in connection with a public finance transaction or manufactured home transaction.

(c) [LAPSE AND CONTINUATION OF FINANCING STATEMENT.] The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to subsection (d). Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected, unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) [WHEN CONTINUATION STATEMENT MAY BE FILED.] A continuation statement may be filed only within six months before the expiration of the five-year period specified in subsection (a) or the 30-year period specified in subsection (b), whichever is applicable.

(e) [EFFECT OF FILING CONTINUATION STATEMENT.] Except as otherwise provided in section 336.9-510, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the

absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in subsection (c), unless, before the lapse, another continuation statement is filed pursuant to subsection (d). Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) [TRANSMITTING UTILITY FINANCING STATEMENT.] If a debtor is a transmitting utility and a filed financing statement so indicates, the financing statement is effective until a termination statement is filed.

(g) [RECORD OF MORTGAGE AS FINANCING STATEMENT.] A record of a mortgage that is effective as a financing statement filed as a fixture filing under section 336.9-502(c) remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property.

Sec. 87. [336.9-516] [WHAT CONSTITUTES FILING; EFFECTIVENESS OF FILING.]

(a) [WHAT CONSTITUTES FILING.] Except as otherwise provided in subsection (b), communication of a record to a filing office and tender of the filing fee or acceptance of the record by the filing office constitutes filing.

(b) [REFUSAL TO ACCEPT RECORD; FILING DOES NOT OCCUR.] Filing does not occur with respect to a record that a filing office refuses to accept because:

(1) the record is not communicated by a method or medium of communication authorized by the filing office;

(2) an amount equal to or greater than the applicable filing fee is not tendered;

(3) the filing office is unable to index the record because:

(A) in the case of an initial financing statement, the record does not provide a name for the debtor;

(B) in the case of an amendment or correction statement, the record:

(i) does not identify the initial financing statement as required by section 336.9-512 or 336.9-518, as applicable;
or

(ii) identifies an initial financing statement whose effectiveness has lapsed under section 336.9-515;

(C) in the case of an initial financing statement that provides the name of a debtor identified as an individual or an amendment that provides a name of a debtor identified as an individual which was not previously provided in the financing statement to which the record relates, the record does not identify the debtor's last name; or

(D) in the case of a record filed or recorded in the filing office described in section 336.9-501(a)(1), the record does not provide a sufficient description of the real property to which it relates;

(4) in the case of an initial financing statement or an amendment that adds a secured party of record, the record does not provide a name and mailing address for the secured party of record;

(5) in the case of an initial financing statement or an amendment that provides a name of a debtor which was not previously provided in the financing statement to which the amendment relates, the record does not:

(A) provide a mailing address for the debtor;

(B) indicate whether the debtor is an individual or an organization; or

(C) if the financing statement indicates that the debtor is an organization, provide:

(i) a type of organization for the debtor;

(ii) a jurisdiction of organization for the debtor; or

(iii) an organizational identification number for the debtor or indicate that the debtor has none;

(6) in the case of an assignment reflected in an initial financing statement under section 336.9-514(a) or an amendment filed under section 336.9-514(b), the record does not provide a name and mailing address for the assignee; or

(7) in the case of a continuation statement, the record is not filed within the six-month period prescribed by section 336.9-515(d).

(c) [RULES APPLICABLE TO SUBSECTION (B).] For purposes of subsection (b):

(1) a record does not provide information if the filing office is unable to read or decipher the information; and

(2) a record that does not indicate that it is an amendment or identify an initial financing statement to which it relates, as required by section 336.9-512, 336.9-514, or 336.9-518, is an initial financing statement.

(d) [REFUSAL TO ACCEPT RECORD; RECORD EFFECTIVE AS FILED RECORD.] A record that is communicated to the filing office with tender of the filing fee, but which the filing office refuses to accept for a reason other than one set forth in subsection (b), is effective as a filed record except as against a purchaser of the collateral which gives value in reasonable reliance upon the absence of the record from the files.

Sec. 88. [336.9-517] [EFFECT OF INDEXING ERRORS.]

The failure of the filing office to index a record correctly does not affect the effectiveness of the filed record.

Sec. 89. [336.9-518] [CLAIM CONCERNING INACCURATE OR WRONGFULLY FILED RECORD.]

(a) [CORRECTION STATEMENT.] A person may file in the filing office a correction statement with respect to a record indexed there under the person's name if the person believes that the record is inaccurate or was wrongfully filed.

(b) [SUFFICIENCY OF CORRECTION STATEMENT.] A correction statement must:

(1) identify the record to which it relates by the file number assigned to the initial financing statement to which the record relates;

(2) indicate that it is a correction statement; and

(3) provide the basis for the person's belief that the record is inaccurate and indicate the manner in which the person believes the record should be amended to cure any inaccuracy or provide the basis for the person's belief that the record was wrongfully filed.

(c) [RECORD NOT AFFECTED BY CORRECTION STATEMENT.] The filing of a correction statement does not affect the effectiveness of an initial financing statement or other filed record.

SUBPART 2. DUTIES AND OPERATION OF FILING OFFICE

Sec. 90. [336.9-519] [NUMBERING, MAINTAINING, AND INDEXING RECORDS; COMMUNICATING INFORMATION PROVIDED IN RECORDS.]

(a) [FILING OFFICE DUTIES.] For each record filed in a filing office, the filing office shall:

(1) assign a unique number to the filed record;

(2) create a record that bears the number assigned to the filed record and the date and time of filing;

(3) maintain the filed record for public inspection; and

(4) index the filed record in accordance with subsections (c), (d), and (e).

(b) [FILE NUMBER.] A file number assigned after July 1, 2001, must include a digit that:

(1) is mathematically derived from or related to the other digits of the file number; and

(2) enables the filing office to detect whether a number communicated as the file number includes a single-digit or transpositional error.

(c) [INDEXING: GENERAL.] Except as otherwise provided in subsections (d) and (e), the filing office shall:

(1) index an initial financing statement according to the name of the debtor and index all filed records relating to the initial financing statement in a manner that associates with one another an initial financing statement and all filed records relating to the initial financing statement; and

(2) index a record that provides a name of a debtor which was not previously provided in the financing statement to which the record relates also according to the name that was not previously provided.

(d) [INDEXING: REAL PROPERTY-RELATED FINANCING STATEMENT.] If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, it must be filed for record and the filing office shall index it:

(1) under the names of the debtor and of each owner of record shown on the financing statement as if they were the mortgagors under a mortgage of the real property described; and

(2) to the extent that the law of this state provides for indexing of records of mortgages under the name of the mortgagee, under the name of the secured party as if the secured party were the mortgagee thereunder, or, if indexing is by description, as if the financing statement were a record of a mortgage of the real property described.

(e) [INDEXING: REAL PROPERTY-RELATED ASSIGNMENT.] If a financing statement is filed as a fixture filing or covers as-extracted collateral or timber to be cut, the filing office shall index an assignment filed under section 336.9-514(a) or an amendment filed under section 336.9-514(b):

(1) under the name of the assignor as grantor; and

(2) to the extent that the law of this state provides for indexing a record of the assignment of a mortgage under the name of the assignee, under the name of the assignee.

(f) [RETRIEVAL AND ASSOCIATION CAPABILITY.] The filing office shall maintain a capability:

(1) to retrieve a record by the name of the debtor and by the file number assigned to the initial financing statement to which the record relates; and

(2) to associate and retrieve with one another an initial financing statement and each filed record relating to the initial financing statement.

(g) [REMOVAL OF DEBTOR'S NAME.] The filing office may not remove a debtor's name from the index until one year after the effectiveness of a financing statement naming the debtor lapses under section 336.9-515 with respect to all secured parties of record.

(h) [TIMELINESS OF FILING OFFICE PERFORMANCE.] The filing office shall perform the acts required by subsections (a) through (e) at the time and in the manner prescribed by filing office rule, but not later than two business days after the filing office receives the record in question.

(i) [INAPPLICABILITY TO REAL PROPERTY-RELATED FILING OFFICE.] Subsections (b) and (h) do not apply to a filing office described in section 336.9-501(a)(1).

Sec. 91. [336.9-520] [ACCEPTANCE AND REFUSAL TO ACCEPT RECORD.]

(a) [MANDATORY REFUSAL TO ACCEPT RECORD.] A filing office shall refuse to accept a record for filing for a reason set forth in section 336.9-516(b) and may refuse to accept a record for filing only for a reason set forth in section 336.9-516(b).

(b) [COMMUNICATION CONCERNING REFUSAL.] If a filing office refuses to accept a record for filing, it shall communicate to the person that presented the record the fact of and reason for the refusal and the date and time the record would have been filed had the filing office accepted it. The communication must be made at the time and in the manner prescribed by filing office rule, but in no event more than two business days after the filing office receives the record.

(c) [WHEN FILED FINANCING STATEMENT EFFECTIVE.] A filed financing statement satisfying section 336.9-502(a) and (b) is effective, even if the filing office is required to refuse to accept it for filing under subsection (a). However, section 336.9-338 applies to a filed financing statement providing information described in section 336.9-516(b)(5) which is incorrect at the time the financing statement is filed.

(d) [SEPARATE APPLICATION TO MULTIPLE DEBTORS.] If a record communicated to a filing office provides information that relates to more than one debtor, this part applies as to each debtor separately.

Sec. 92. [336.9-521] [UNIFORM FORM OF WRITTEN FINANCING STATEMENT AND AMENDMENT.]

(a) [INITIAL FINANCING STATEMENT FORM.] A filing office that accepts written records may not refuse to accept a written initial financing statement in the form and format adopted by the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in section 336.9-516(b).

(b) [AMENDMENT FORM.] A filing office that accepts written records may not refuse to accept a written record in the form and format adopted by the National Conference of Commissioners on Uniform State Laws, except for a reason set forth in section 336.9-516(b).

Sec. 93. [336.9-522] [MAINTENANCE AND DESTRUCTION OF RECORDS.]

(a) [POST-LAPSE MAINTENANCE AND RETRIEVAL OF INFORMATION.] The filing office shall maintain a record of the information provided in a filed financing statement for at least one year after the effectiveness of the financing statement has lapsed under section 336.9-515 with respect to all secured parties of record. The record must be retrievable by using the name of the debtor and by using the file number assigned to the initial financing statement to which the record relates.

(b) [DESTRUCTION OF WRITTEN RECORDS.] Except to the extent that a statute governing disposition of public records provides otherwise, the filing office immediately may destroy any written record evidencing a financing statement. However, if the filing office destroys a written record, it shall maintain another record of the financing statement which complies with subsection (a).

Sec. 94. [336.9-523] [INFORMATION FROM FILING OFFICE; SALE OR LICENSE OF RECORDS.]

(a) [ACKNOWLEDGMENT OF FILING WRITTEN RECORD.] If a person that files a written record requests an acknowledgment of the filing, the filing office shall send to the person an image of the record showing the number assigned to the record pursuant to section 336.9-519(a)(1) and the date and time of the filing of the record. However, if the person furnishes a copy of the record to the filing office, the filing office may instead:

(1) note upon the copy the number assigned to the record pursuant to section 336.9-519(a)(1) and the date and time of the filing of the record; and

(2) send the copy to the person.

(b) [ACKNOWLEDGMENT OF FILING OTHER RECORD.] If a person files a record other than a written record, the filing office shall communicate to the person an acknowledgment that provides:

(1) the information in the record;

(2) the number assigned to the record pursuant to section 336.9-519(a)(1); and

(3) the date and time of the filing of the record.

(c) [COMMUNICATION OF REQUESTED INFORMATION.] The filing office shall communicate or otherwise make available in a record the following information to any person that requests it:

(1) whether there is on file on a date and time specified by the filing office, but not a date earlier than three business days before the filing office receives the request, any financing statement that:

(A) designates a particular debtor (or, if the request so states, designates a particular debtor at the address specified in the request);

(B) has not lapsed under section 336.9-515 with respect to all secured parties of record; and

(C) if the request so states, has lapsed under section 336.9-515 and a record of which is maintained by the filing office under section 336.9-522(a);

(2) the date and time of filing of each financing statement; and

(3) the information provided in each financing statement.

(d) [MEDIUM FOR COMMUNICATING INFORMATION.] In complying with its duty under subsection (c), the filing office may communicate information in any medium. However, if requested, the filing office shall communicate information by issuing its written certificate.

(e) [TIMELINESS OF FILING OFFICE PERFORMANCE.] The filing office shall perform the acts required by subsections (a) through (d) at the time and in the manner prescribed by filing office rule, but not later than two business days after the filing office receives the request.

(f) [PUBLIC AVAILABILITY OF RECORDS.] At least weekly, the secretary of state shall offer to sell or license to the public on a nonexclusive basis, in bulk, copies of all records filed in it under this part, in every medium from time to time available to the filing office.

Sec. 95. [336.9-524] [DELAY BY FILING OFFICE.]

Delay by the filing office beyond a time limit prescribed by this part is excused if:

(1) the delay is caused by interruption of communication or computer facilities, war, emergency conditions, failure of equipment, or other circumstances beyond control of the filing office; and

(2) the filing office exercises reasonable diligence under the circumstances.

Sec. 96. [336.9-525] [FEES.]

(a) [INITIAL FINANCING STATEMENT OR OTHER RECORD: GENERAL RULE.] Except as otherwise provided in subsection (d), the fee for filing and indexing a record under this part is \$20.

(b) [NUMBER OF NAMES.] The number of names required to be indexed does not affect the amount of the fee in subsection (a).

(c) [RESPONSE TO INFORMATION REQUEST.] The fee for responding to a request for information from the filing office, including for issuing a certificate showing whether there is on file any financing statement naming a particular debtor, is \$20.

(d) [RECORD OF MORTGAGE.] This section does not require a fee with respect to a record of a mortgage which is effective as a financing statement filed as a fixture filing or as a financing statement covering as-extracted collateral or timber to be cut under section 336.9-502(c). However, the recording and satisfaction fees that otherwise would be applicable to the record of the mortgage apply.

Sec. 97. [336.9-526] [DUTY TO REPORT.]

The secretary of state shall report annually on or before January 1 to the legislature on the operation of the filing office.

Sec. 98. [336.9-527] [SATELLITE OFFICES AUTHORIZED.]

The secretary of state may establish satellite offices by written agreements with public officials within the state for the purpose of meeting the filing officer responsibilities described in sections 336.9-528 to 336.9-530. The term of the agreement must be set by, and may be renewed by, mutual agreement. The agreement may be terminated upon 60 days' notice. The secretary must maintain a list of those public officials authorized to act as satellite offices. The secretary of state must make this list available in an electronic format and the list must be updated at least monthly.

Sec. 99. [336.9-528] [FILING; ASSIGNMENT OF FILING INFORMATION AT SATELLITE OFFICES.]

Satellite offices shall accept Uniform Commercial Code documents and respond to requests for information pursuant to the provisions of sections 336.9-101 to 336.9-708. A filing made at a satellite office is filed and effective at the same time and under the same rules provided for filing in any other manner in the Uniform Commercial Code information system. The filing date, time, and file number for any Uniform Commercial Code document accepted at a satellite office must be automatically assigned by the Uniform Commercial Code information management system operated by the secretary of state, and the file number must be the next available file number in the Uniform Commercial Code information management system.

Sec. 100. [336.9-529] [MAINTENANCE AND RETRIEVAL OF DOCUMENTS AND DATA.]

The secretary of state shall maintain all Uniform Commercial Code documents and the database used to index them regardless of where or how the Uniform Commercial Code document was filed. The Uniform Commercial Code documents and database must be housed in the Uniform Commercial Code information management system. Uniform Commercial Code documents and data shall be available from the secretary of state or any satellite office. The secretary of state shall arrange by mutual agreement with county recorders for the storage and retrieval of existing Uniform Commercial Code documents.

Any filing office within the Uniform Commercial Code information management system may respond to requests for information, and the secretary of state shall establish and administer a system to facilitate those responses.

Sec. 101. [336.9-530] [SATELLITE OFFICES; UNIFORMITY OF SERVICES ASSURED.]

Subdivision 1. [PERFORMANCE STANDARDS.] All filing officers must perform the responsibilities in sections 336.9-501 to 336.9-530 and rules adopted under section 139 in a uniform manner, whether services are provided by the secretary of state or at a satellite office location. Reports by citizens describing concerns with performance of filing officer responsibilities must be made to the secretary of state. The secretary of state is responsible for responding to reports about performance in a manner the secretary of state determines is appropriate.

Subd. 2. [FAILURE TO MEET PERFORMANCE STANDARDS.] If, upon investigation of citizen reports described in subdivision 1, the secretary of state determines that performance by a satellite office of the filing officer responsibilities has been so unsatisfactory that customer service has been severely impaired, the secretary of state must terminate the satellite office's status and ability to perform filing office responsibilities. If a satellite office's ability to perform filing office responsibilities is terminated by the secretary of state, the change in status must be posted in the former satellite office and must also be publicly posted in the county courthouse in the county in which the former satellite office is located and must be made available in an electronic format.

Part 6

DEFAULT

SUBPART 1. DEFAULT AND ENFORCEMENT OF
SECURITY INTEREST

Sec. 102. [336.9-601] [RIGHTS AFTER DEFAULT; JUDICIAL ENFORCEMENT; CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES, OR PROMISSORY NOTES.]

(a) [RIGHTS OF SECURED PARTY AFTER DEFAULT.] After default, a secured party has the rights provided in this part and, except as otherwise provided in section 336.9-602, those provided by agreement of the parties. A secured party:

(1) may reduce a claim to judgment, foreclose, or otherwise enforce the claim, security interest, or agricultural lien by any available judicial procedure; and

(2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) [RIGHTS AND DUTIES OF SECURED PARTY IN POSSESSION OR CONTROL.] A secured party in possession of collateral or control of collateral under section 336.9-104, 336.9-105, 336.9-106, or 336.9-107 has the rights and duties provided in section 336.9-207.

(c) [RIGHTS CUMULATIVE; SIMULTANEOUS EXERCISE.] The rights under subsections (a) and (b) are cumulative and may be exercised simultaneously.

(d) [RIGHTS OF DEBTOR AND OBLIGOR.] Except as otherwise provided in subsection (g) and section 336.9-605, after default, a debtor and an obligor have the rights provided in this part and by agreement of the parties.

(e) [LIEN OF LEVY AFTER JUDGMENT.] If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) the date of perfection of the security interest or agricultural lien in the collateral;

(2) the date of filing a financing statement covering the collateral; or

(3) any date specified in a statute under which the agricultural lien was created.

(f) [EXECUTION SALE.] A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this article.

(g) [CONSIGNOR OR BUYER OF CERTAIN RIGHTS TO PAYMENT.] Except as otherwise provided in section 336.9-607(c), this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles, or promissory notes.

Sec. 103. [336.9-602] [WAIVER AND VARIANCE OF RIGHTS AND DUTIES.]

Except as otherwise provided in section 336.9-624, to the extent that they give rights to a debtor or obligor and impose duties on a secured party, the debtor or obligor may not waive or vary the rules stated in the following listed sections:

- (1) section 336.9-207(b)(4)(C), which deals with use and operation of the collateral by the secured party;
- (2) section 336.9-210, which deals with requests for an accounting and requests concerning a list of collateral and statement of account;
- (3) section 336.9-607(c), which deals with collection and enforcement of collateral;
- (4) sections 336.9-608(a) and 336.9-615(c) to the extent that they deal with application or payment of noncash proceeds of collection, enforcement, or disposition;
- (5) sections 336.9-608(a) and 336.9-615(d) to the extent that they require accounting for or payment of surplus proceeds of collateral;
- (6) section 336.9-609 to the extent that it imposes upon a secured party that takes possession of collateral without judicial process the duty to do so without breach of the peace;
- (7) sections 336.9-610(b), 336.9-611, 336.9-613, and 336.9-614, which deal with disposition of collateral;
- (8) section 336.9-615(f), which deals with calculation of a deficiency or surplus when a disposition is made to the secured party, a person related to the secured party, or a secondary obligor;
- (9) section 336.9-616, which deals with explanation of the calculation of a surplus or deficiency;
- (10) sections 336.9-620, 336.9-621, and 336.9-622, which deal with acceptance of collateral in satisfaction of obligation;
- (11) section 336.9-623, which deals with redemption of collateral;
- (12) section 336.9-624, which deals with permissible waivers; and
- (13) sections 336.9-625 and 336.9-626, which deal with the secured party's liability for failure to comply with this article.

Sec. 104. [336.9-603] [AGREEMENT ON STANDARDS CONCERNING RIGHTS AND DUTIES.]

(a) [AGREED STANDARDS.] The parties may determine by agreement the standards measuring the fulfillment of the rights of a debtor or obligor and the duties of a secured party under a rule stated in section 336.9-602 if the standards are not manifestly unreasonable.

(b) [AGREED STANDARDS INAPPLICABLE TO BREACH OF PEACE.] Subsection (a) does not apply to the duty under section 336.9-609 to refrain from breaching the peace.

Sec. 105. [336.9-604] [PROCEDURE IF SECURITY AGREEMENT COVERS REAL PROPERTY OR FIXTURES.]

(a) [ENFORCEMENT: PERSONAL AND REAL PROPERTY.] If a security agreement covers both personal and real property, a secured party may proceed:

(1) under this part as to the personal property without prejudicing any rights with respect to the real property; or

(2) as to both the personal property and the real property in accordance with the rights with respect to the real property, in which case the other provisions of this part do not apply.

(b) [ENFORCEMENT: FIXTURES.] Subject to subsection (c), if a security agreement covers goods that are or become fixtures, a secured party may proceed:

(1) under this part; or

(2) in accordance with the rights with respect to real property, in which case the other provisions of this part do not apply.

(c) [REMOVAL OF FIXTURES.] Subject to the other provisions of this part, if a secured party holding a security interest in fixtures has priority over all owners and encumbrancers of the real property, the secured party, after default, may remove the collateral from the real property.

(d) [INJURY CAUSED BY REMOVAL.] A secured party that removes collateral shall promptly reimburse any encumbrancer or owner of the real property, other than the debtor, for the cost of repair of any physical injury caused by the removal. The secured party need not reimburse the encumbrancer or owner for any diminution in value of the real property caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate assurance for the performance of the obligation to reimburse.

Sec. 106. [336.9-605] [UNKNOWN DEBTOR OR SECONDARY OBLIGOR.]

A secured party does not owe a duty based on its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

Sec. 107. [336.9-606] [TIME OF DEFAULT FOR AGRICULTURAL LIEN.]

For purposes of this part, a default occurs in connection with an agricultural lien at the time the secured party becomes entitled to enforce the lien in accordance with the statute under which it was created.

Sec. 108. [336.9-607] [COLLECTION AND ENFORCEMENT BY SECURED PARTY.]

(a) [COLLECTION AND ENFORCEMENT GENERALLY.] If so agreed, and in any event after default, a secured party:

(1) may notify an account debtor or other person obligated on collateral to make payment or otherwise render performance to or for the benefit of the secured party;

(2) may take any proceeds to which the secured party is entitled under section 336.9-315;

(3) may enforce the obligations of an account debtor or other person obligated on collateral and exercise the rights of the debtor with respect to the obligation of the account debtor or other person obligated on collateral to make payment or otherwise render performance to the debtor, and with respect to any property that secures the obligations of the account debtor or other person obligated on the collateral;

(4) if it holds a security interest in a deposit account perfected by control under section 336.9-104(a)(1), may apply the balance of the deposit account to the obligation secured by the deposit account;

(5) if it holds a security interest in a deposit account perfected by control under section 336.9-104(a)(2) or (3), may instruct the bank to pay the balance of the deposit account to or for the benefit of the secured party; and

(6) if the obligation of the account debtor or other person obligated on collateral is secured by an interest in real property and the account debtor or other person obligated on collateral satisfies its obligation, must furnish the account debtor or the other person obligated on collateral with a release or satisfaction of the interest in real property sufficient for recording in the real property records applicable to that real property.

(b) [NONJUDICIAL ENFORCEMENT OF MORTGAGE.] (1) To exercise under subsection (a)(3) the right of a debtor to enforce a mortgage nonjudicially, the secured party must record in the office in which a record of the mortgage is recorded:

(A) an assignment of the mortgage to the secured party; or

(B) the secured party's sworn affidavit of assignment in recordable form stating:

(i) a default has occurred under a security agreement that creates or provides for a security interest in the obligation secured by the mortgage;

(ii) a true and correct copy of the security agreement is attached to the affidavit;

(iii) the secured party is entitled to enforce the mortgage nonjudicially;

(iv) the legal description of the real property encumbered by the mortgage;

(v) the parties to the mortgage, the date of the mortgage, the date of recording of the mortgage, the place of recording of the mortgage, and the identifying number or other indexing information that identifies the mortgage in the office of the county recorder or registrar of titles where the mortgage is recorded;

(vi) the secured party has succeeded to the interest of the debtor under the mortgage; and

(vii) the affidavit of assignment shall be an assignment to the secured party of the interest of the debtor under the mortgage.

(2) The affidavit of assignment is entitled to be recorded with the county recorder or the registrar of titles and upon recording, the affidavit of assignment shall be deemed an assignment to the secured party of the interest of the debtor under the mortgage.

(c) [COMMERCIALY REASONABLE COLLECTION AND ENFORCEMENT.] A secured party shall proceed in a commercially reasonable manner if the secured party:

(1) undertakes to collect from or enforce an obligation of an account debtor or other person obligated on collateral; and

(2) is entitled to charge back uncollected collateral or otherwise to full or limited recourse against the debtor or a secondary obligor.

(d) [EXPENSES OF COLLECTION AND ENFORCEMENT.] A secured party may deduct from the collections made pursuant to subsection (c) reasonable expenses of collection and enforcement, including reasonable attorneys fees and legal expenses incurred by the secured party.

(e) [DUTIES TO SECURED PARTY NOT AFFECTED.] This section does not determine whether an account debtor, bank, or other person obligated on collateral owes a duty to a secured party.

(f) [SECURED PARTY TO OBTAIN ASSIGNMENT OF DEBTOR'S INTEREST UNDER THE MORTGAGE.] If the obligation of an account debtor or other person obligated on collateral is secured by an interest in real property, the secured party promptly after commencing exercise of any of its rights under this section shall:

(1) file an assignment of the mortgage to the secured party;

(2) proceed under section 336.9-619 and record a transfer statement in the office of the county recorder or registrar of titles where the mortgage is recorded; or

(3) file an affidavit of assignment as provided under subsection (b).

Sec. 109. [336.9-608] [APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT; LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS.]

(a) [APPLICATION OF PROCEEDS, SURPLUS, AND DEFICIENCY IF OBLIGATION SECURED.] If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under section 336.9-607 in the following order to:

(A) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorneys fees and legal expenses incurred by the secured party;

(B) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives an authenticated demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under paragraph (1)(C).

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under section 336.9-607 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) [NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT.] If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency.

Sec. 110. [336.9-609] [SECURED PARTY'S RIGHT TO TAKE POSSESSION AFTER DEFAULT.]

(a) [POSSESSION; RENDERING EQUIPMENT UNUSABLE; DISPOSITION ON DEBTOR'S PREMISES.] After default, a secured party:

(1) may take possession of the collateral; and

(2) without removal, may render equipment unusable and dispose of collateral on a debtor's premises under section 336.9-610.

(b) [JUDICIAL AND NONJUDICIAL PROCESS.] A secured party may proceed under subsection (a):

(1) pursuant to judicial process; or

(2) without judicial process, if it proceeds without breach of the peace.

(c) [ASSEMBLY OF COLLATERAL.] If so agreed, and in any event after default, a secured party may require the debtor to assemble the collateral and make it available to the secured party at a place to be designated by the secured party which is reasonably convenient to both parties.

Sec. 111. [336.9-610] [DISPOSITION OF COLLATERAL AFTER DEFAULT.]

(a) [DISPOSITION AFTER DEFAULT.] After default, a secured party may sell, lease, license, or otherwise dispose of any or all of the collateral in its present condition or following any commercially reasonable preparation or processing.

(b) [COMMERCIALLY REASONABLE DISPOSITION.] Every aspect of a disposition of collateral, including the method, manner, time, place, and other terms, must be commercially reasonable. If commercially reasonable, a secured party may dispose of collateral by public or private proceedings, by one or more contracts, as a unit or in parcels, and at any time and place and on any terms.

(c) [PURCHASE BY SECURED PARTY.] A secured party may purchase collateral:

(1) at a public disposition; or

(2) at a private disposition only if the collateral is of a kind that is customarily sold on a recognized market or the subject of widely distributed standard price quotations.

(d) [WARRANTIES ON DISPOSITION.] A contract for sale, lease, license, or other disposition includes the warranties relating to title, possession, quiet enjoyment, and the like which by operation of law accompany a voluntary disposition of property of the kind subject to the contract.

(e) [DISCLAIMER OF WARRANTIES.] A secured party may disclaim or modify warranties under subsection (d):

(1) in a manner that would be effective to disclaim or modify the warranties in a voluntary disposition of property of the kind subject to the contract of disposition; or

(2) by communicating to the purchaser a record evidencing the contract for disposition and including an express disclaimer or modification of the warranties.

(f) [RECORD SUFFICIENT TO DISCLAIM WARRANTIES.] A record is sufficient to disclaim warranties under subsection (e) if it indicates "there is no warranty relating to title, possession, quiet enjoyment, or the like in this disposition" or uses words of similar import.

Sec. 112. [336.9-611] [NOTIFICATION BEFORE DISPOSITION OF COLLATERAL.]

(a) [NOTIFICATION DATE.] In this section, "notification date" means the earlier of the date on which:

(1) a secured party sends to the debtor and any secondary obligor an authenticated notification of disposition; or

(2) the debtor and any secondary obligor waive the right to notification.

(b) [NOTIFICATION OF DISPOSITION REQUIRED.] Except as otherwise provided in subsection (d), a secured party that disposes of collateral under section 336.9-610 shall send to the persons specified in subsection (c) a reasonable authenticated notification of disposition.

(c) [PERSONS TO BE NOTIFIED.] To comply with subsection (b), the secured party shall send an authenticated notification of disposition to:

(1) the debtor;

(2) any secondary obligor; and

(3) if the collateral is other than consumer goods:

(A) any other person from which the secured party has received, before the notification date, an authenticated notification of a claim of an interest in the collateral;

(B) any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(i) identified the collateral;

(ii) was indexed under the debtor's name as of that date; and

(iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 336.9-311(a).

(d) [SUBSECTION (B) INAPPLICABLE: PERISHABLE COLLATERAL; RECOGNIZED MARKET.] Subsection (b) does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) [COMPLIANCE WITH SUBSECTION (C)(3)(B).] A secured party complies with the requirement for notification prescribed by subsection (c)(3)(B) if:

(1) not later than 20 days or earlier than 30 days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in subsection (c)(3)(B); and

(2) before the notification date, the secured party:

(A) did not receive a response to the request for information; or

(B) received a response to the request for information and sent an authenticated notification of disposition to each secured party named in that response whose financing statement covered the collateral.

Sec. 113. [336.9-612] [TIMELINESS OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL.]

(a) [REASONABLE TIME IS QUESTION OF FACT.] Except as otherwise provided in subsection (b), whether a notification is sent within a reasonable time is a question of fact.

(b) [TEN-DAY PERIOD SUFFICIENT IN NONCONSUMER TRANSACTION.] In a transaction other than a consumer transaction, a notification of disposition sent after default and ten days or more before the earliest time of disposition set forth in the notification is sent within a reasonable time before the disposition.

Sec. 114. [336.9-613] [CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL: GENERAL.]

Except in a consumer goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) describes the debtor and the secured party;

(B) describes the collateral that is the subject of the intended disposition;

(C) states the method of intended disposition;

(D) states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) states the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in paragraph (1) are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in paragraph (1) are sufficient, even if the notification includes:

(A) information not specified by that paragraph; or

(B) minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in section 336.9-614(3), when completed, each provides sufficient information:

NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor, or other person to which the notification is sent)

From: (Name, address, and telephone number of secured party)

Name of Debtor(s): (Include only if debtor(s) are not an addressee)

(For a public disposition:)

We will sell (or lease or license, as applicable) the . . . (describe collateral). . . (to the highest qualified bidder) in public as follows:

Day and Date:
Time:
Place:

(For a private disposition:)

We will sell (or lease or license, as applicable) the . . . (describe collateral). . . privately sometime after . . . (day and date). . .

You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell (or lease or license, as applicable) (for a charge of \$. . .). You may request an accounting by calling us at . . . (telephone number). . .

Sec. 115. [336.9-614] [CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL: CONSUMER GOODS TRANSACTION.]

In a consumer goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) the information specified in section 336.9-613(1);

(B) a description of any liability for a deficiency of the person to which the notification is sent;

(C) a telephone number from which the amount that must be paid to the secured party to redeem the collateral under section 336.9-623 is available; and

(D) a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed, provides sufficient information:

(Name and address of secured party)

(Date)

NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: . . . (Identification of Transaction). . .

We have your . . . (describe collateral). . . , because you broke promises in our agreement.

(For a public disposition:)

We will sell . . . (describe collateral). . . at public sale. A sale could include a lease or license. The sale will be held as follows:

| | |
|---------------|-------|
| <u>Date:</u> | |
| <u>Time:</u> | |
| <u>Place:</u> | |

You may attend the sale and bring bidders if you want.

(For a private disposition:)

We will sell . . . (describe collateral). . . at private sale sometime after . . . (date). . . A sale could include a lease or license.

The money that we get from the sale (after paying our costs) will reduce the amount you owe. If we get less money than you owe, you ... (will or will not, as applicable)... still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

You can get the property back at any time before we sell it by paying us the full amount you owe (not just the past due payments), including our expenses. To learn the exact amount you must pay, call us at ... (telephone number). . .

If you want us to explain to you in writing how we have figured the amount that you owe us, you may call us at .. (telephone number). (or write us at .. (secured party's address). . .) and request a written explanation. (We will charge you \$. for the explanation if we sent you another written explanation of the amount you owe us within the last six months.)

If you need more information about the sale call us at . . . (telephone number). . . (or write us at . . . (secured party's address). . .).

We are sending this notice to the following other people who have an interest in . . . (describe collateral). . . or who owe money under your agreement:

. . . (Names of all other debtors and obligors, if any). . .

(4) A notification in the form of paragraph (3) is sufficient, even if additional information appears at the end of the form.

(5) A notification in the form of paragraph (3) is sufficient, even if it includes errors in information not required by paragraph (1), unless the error is misleading with respect to rights arising under this article.

(6) If a notification under this section is not in the form of paragraph (3), law other than this article determines the effect of including information not required by paragraph (1).

Sec. 116. [336.9-615] [APPLICATION OF PROCEEDS OF DISPOSITION; LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS.]

(a) [APPLICATION OF PROCEEDS.] A secured party shall apply or pay over for application the cash proceeds of disposition under section 336.9-610 in the following order to:

(1) the reasonable expenses of retaking, holding, preparing for disposition, processing, and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorneys fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) the secured party receives from the holder of the subordinate security interest or other lien an authenticated demand for proceeds before distribution of the proceeds is completed; and

(B) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the collateral if the secured party receives from the consignor an authenticated demand for proceeds before distribution of the proceeds is completed.

(b) [PROOF OF SUBORDINATE INTEREST.] If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under subsection (a)(3).

(c) [APPLICATION OF NONCASH PROCEEDS.] A secured party need not apply or pay over for application noncash proceeds of disposition under section 336.9-610 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) [SURPLUS OR DEFICIENCY IF OBLIGATION SECURED.] If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by subsection (a) and permitted by subsection (c):

(1) unless subsection (a)(4) requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) the obligor is liable for any deficiency.

(e) [NO SURPLUS OR DEFICIENCY IN SALES OF CERTAIN RIGHTS TO PAYMENT.] If the underlying transaction is a sale of accounts, chattel paper, payment intangibles, or promissory notes:

(1) the debtor is not entitled to any surplus; and

(2) the obligor is not liable for any deficiency.

(f) [CALCULATION OF SURPLUS OR DEFICIENCY IN DISPOSITION TO PERSON RELATED TO SECURED PARTY.] The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party, or a secondary obligor if:

(1) the transferee in the disposition is the secured party, a person related to the secured party, or a secondary obligor; and

(2) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(g) [CASH PROCEEDS RECEIVED BY JUNIOR SECURED PARTY.] A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

(1) takes the cash proceeds free of the security interest or other lien;

(2) is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and

(3) is not obligated to account to or pay the holder of the security interest or other lien for any surplus.

Sec. 117. [336.9-616] [EXPLANATION OF CALCULATION OF SURPLUS OR DEFICIENCY.]

(a) [DEFINITIONS.] In this section:

(1) "Explanation" means a writing that:

(A) states the amount of the surplus or deficiency;

(B) provides an explanation in accordance with subsection (c) of how the secured party calculated the surplus or deficiency;

(C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates, and expenses may affect the amount of the surplus or deficiency; and

(D) provides a telephone number or mailing address from which additional information concerning the transaction is available.

(2) "Request" means a record:

(A) authenticated by a debtor or consumer obligor;

(B) requesting that the recipient provide an explanation; and

(C) sent after disposition of the collateral under section 336.9-610.

(b) [EXPLANATION OF CALCULATION.] In a consumer goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under section 336.9-615, the secured party shall:

(1) send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes written demand on the consumer obligor after the disposition for payment of the deficiency; and

(B) within 14 days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within 14 days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) [REQUIRED INFORMATION.] To comply with subsection (a)(1)(B), a writing must provide the following information in the following order:

(1) the aggregate amount of obligations secured by the security interest under which the disposition was made, and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than 35 days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than 35 days before the disposition;

(2) the amount of proceeds of the disposition;

(3) the aggregate amount of the obligations after deducting the amount of proceeds;

(4) the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing, and disposing of the collateral, and attorneys fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to be entitled and which are not reflected in the amount in paragraph (1); and

(6) the amount of the surplus or deficiency.

(d) [SUBSTANTIAL COMPLIANCE.] A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of subsection (a) is sufficient, even if it includes minor errors that are not seriously misleading.

(e) [CHARGES FOR RESPONSES.] A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to subsection (b)(1). The secured party may require payment of a charge not exceeding \$25 for each additional response.

Sec. 118. [336.9-617] [RIGHTS OF TRANSFEREE OF COLLATERAL.]

(a) [EFFECTS OF DISPOSITION.] A secured party's disposition of collateral after default:

(1) transfers to a transferee for value all of the debtor's rights in the collateral;

(2) discharges the security interest under which the disposition is made; and

(3) discharges any subordinate security interest or other subordinate lien other than liens created under (cite acts or statutes providing for liens, if any, that are not to be discharged).

(b) [RIGHTS OF GOOD FAITH TRANSFEREE.] A transferee that acts in good faith takes free of the rights and interests described in subsection (a), even if the secured party fails to comply with this article or the requirements of any judicial proceeding.

(c) [RIGHTS OF OTHER TRANSFEREE.] If a transferee does not take free of the rights and interests described in subsection (a), the transferee takes the collateral subject to:

(1) the debtor's rights in the collateral;

(2) the security interest or agricultural lien under which the disposition is made; and

(3) any other security interest or other lien.

Sec. 119. [336.9-618] [RIGHTS AND DUTIES OF CERTAIN SECONDARY OBLIGORS.]

(a) [RIGHTS AND DUTIES OF SECONDARY OBLIGOR.] A secondary obligor acquires the rights and becomes obligated to perform the duties of the secured party after the secondary obligor:

(1) receives an assignment of a secured obligation from the secured party;

(2) receives a transfer of collateral from the secured party and agrees to accept the rights and assume the duties of the secured party; or

(3) is subrogated to the rights of a secured party with respect to collateral.

(b) [EFFECT OF ASSIGNMENT, TRANSFER, OR SUBROGATION.] An assignment, transfer, or subrogation described in subsection (a):

(1) is not a disposition of collateral under section 336.9-610; and

(2) relieves the secured party of further duties under this article.

Sec. 120. [336.9-619] [TRANSFER OF RECORD OR LEGAL TITLE.]

(a) [TRANSFER STATEMENT.] (1) In this section, "transfer statement" means a record authenticated by a secured party stating:

(A) that the debtor has defaulted in connection with an obligation secured by specified collateral;

(B) that the secured party has exercised its postdefault remedies with respect to the collateral;

(C) that, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral;

(D) the name and mailing address of the secured party, debtor, and transferee; and

(E) in addition, if the statement is to be filed in the real property records concerning a mortgage or other record evidencing an interest in real property, the statement must state the following information concerning the mortgage or other record evidencing an interest in real property:

(i) the name and title on the record;

(ii) the date on the record;

(iii) the names of the parties on the record;

(iv) the identity of the office of the county recorder or registrar of titles where the record is filed;

(v) the date the record was filed; and

(vi) the identifying number of the record in the office of the county recorder or registrar of titles.

(2) A transfer statement that is to be filed in the real property records must contain an acknowledgment by the secured party in a form sufficient to satisfy the requirements of chapter 358.

(b) [EFFECT OF TRANSFER STATEMENT.] A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration, or certificate of title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) accept the transfer statement;

(2) promptly amend its records to reflect the transfer; and

(3) if applicable, issue a new appropriate certificate of title in the name of transferee.

(c) [TRANSFER NOT A DISPOSITION; NO RELIEF OF SECURED PARTY'S DUTIES.] A transfer of the record or legal title to collateral to a secured party under subsection (b) or otherwise is not of itself a disposition of collateral under this article and does not of itself relieve the secured party of its duties under this article.

Sec. 121. [336.9-620] [ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF OBLIGATION; COMPULSORY DISPOSITION OF COLLATERAL.]

(a) [CONDITIONS TO ACCEPTANCE IN SATISFACTION.] Except as otherwise provided in subsection (g), a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) the debtor consents to the acceptance under subsection (c);

(2) the secured party does not receive, within the time set forth in subsection (d), a notification of objection to the proposal authenticated by:

(A) a person to which the secured party was required to send a proposal under section 336.9-621; or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) subsection (e) does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to section 336.9-624.

(b) [PURPORTED ACCEPTANCE INEFFECTIVE.] A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) the secured party consents to the acceptance in an authenticated record or sends a proposal to the debtor; and

(2) the conditions of subsection (a) are met.

(c) [DEBTOR'S CONSENT.] For purposes of this section:

(1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default; and

(2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record authenticated after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection authenticated by the debtor within 20 days after the proposal is sent.

(d) [EFFECTIVENESS OF NOTIFICATION.] To be effective under subsection (a)(2), a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to section 336.9-621, within 20 days after notification was sent to that person; and

(2) in other cases:

(A) within 20 days after the last notification was sent pursuant to section 336.9-621; or

(B) if a notification was not sent, before the debtor consents to the acceptance under subsection (c).

(e) [MANDATORY DISPOSITION OF CONSUMER GOODS.] A secured party that has taken possession of collateral shall dispose of the collateral pursuant to section 336.9-610 within the time specified in subsection (f) if:

(1) 60 percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) 60 percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) [COMPLIANCE WITH MANDATORY DISPOSITION REQUIREMENT.] To comply with subsection (e), the secured party shall dispose of the collateral:

(1) within 90 days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and authenticated after default.

(g) [NO PARTIAL SATISFACTION IN CONSUMER TRANSACTION.] In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures.

Sec. 122. [336.9-621] [NOTIFICATION OF PROPOSAL TO ACCEPT COLLATERAL.]

(a) [PERSONS TO WHICH PROPOSAL TO BE SENT.] A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) any person from which the secured party has received, before the debtor consented to the acceptance, an authenticated notification of a claim of an interest in the collateral;

(2) any other secured party or lienholder that, ten days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) identified the collateral;

(B) was indexed under the debtor's name as of that date; and

(C) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) any other secured party that, ten days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation, or treaty described in section 336.9-311(a).

(b) [PROPOSAL TO BE SENT TO SECONDARY OBLIGOR IN PARTIAL SATISFACTION.] A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in subsection (a).

Sec. 123. [336.9-622] [EFFECT OF ACCEPTANCE OF COLLATERAL.]

(a) [EFFECT OF ACCEPTANCE.] A secured party's acceptance of collateral in full or partial satisfaction of the obligation it secures:

(1) discharges the obligation to the extent consented to by the debtor;

(2) transfers to the secured party all of a debtor's rights in the collateral;

(3) discharges the security interest or agricultural lien that is the subject of the debtor's consent and any subordinate security interest or other subordinate lien; and

(4) terminates any other subordinate interest.

(b) [DISCHARGE OF SUBORDINATE INTEREST NOTWITHSTANDING NONCOMPLIANCE.] A subordinate interest is discharged or terminated under subsection (a), even if the secured party fails to comply with this article.

Sec. 124. [336.9-623] [RIGHT TO REDEEM COLLATERAL.]

(a) [PERSONS THAT MAY REDEEM.] A debtor, any secondary obligor, or any other secured party or lienholder may redeem collateral.

(b) [REQUIREMENTS FOR REDEMPTION.] To redeem collateral, a person shall tender:

(1) fulfillment of all obligations secured by the collateral; and

(2) the reasonable expenses and attorneys fees described in section 336.9-615(a)(1).

(c) [WHEN REDEMPTION MAY OCCUR.] A redemption may occur at any time before a secured party:

(1) has collected collateral under section 336.9-607;

(2) has disposed of collateral or entered into a contract for its disposition under section 336.9-610; or

(3) has accepted collateral in full or partial satisfaction of the obligation it secures under section 336.9-622.

Sec. 125. [336.9-624] [WAIVER.]

(a) [WAIVER OF DISPOSITION NOTIFICATION.] A debtor or secondary obligor may waive the right to notification of disposition of collateral under section 336.9-611 only by an agreement to that effect entered into and authenticated after default.

(b) [WAIVER OF MANDATORY DISPOSITION.] A debtor may waive the right to require disposition of collateral under section 336.9-620(e) only by an agreement to that effect entered into and authenticated after default.

(c) [WAIVER OF REDEMPTION RIGHT.] Except in a consumer goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under section 336.9-623 only by an agreement to that effect entered into and authenticated after default.

SUBPART 2. NONCOMPLIANCE WITH ARTICLE

Sec. 126. [336.9-625] [REMEDIES FOR SECURED PARTY'S FAILURE TO COMPLY WITH ARTICLE.]

(a) [JUDICIAL ORDERS CONCERNING NONCOMPLIANCE.] If it is established that a secured party is not proceeding in accordance with this article, a court may order or restrain collection, enforcement, or disposition of collateral on appropriate terms and conditions.

(b) [DAMAGES FOR NONCOMPLIANCE LOSSES.] Subject to subsections (c), (d), and (f), a person is liable for damages in the amount of any loss caused by a failure to comply with this article. Loss caused by a failure to comply may include loss resulting from the debtor's inability to obtain, or increased costs of, alternative financing.

(c) [PERSONS ENTITLED TO RECOVER DAMAGES; STATUTORY DAMAGES IN CONSUMER GOODS TRANSACTION.] Except as otherwise provided in section 336.9-628:

(1) a person that, at the time of the failure, was a debtor, was an obligor, or held a security interest in or other lien on the collateral may recover damages under subsection (b) for its loss; and

(2) if the collateral is consumer goods, a person that was a debtor or a secondary obligor at the time a secured party failed to comply with this part may recover for that failure in any event an amount not less than the credit service charge plus ten percent of the principal amount of the obligation or the time-price differential plus ten percent of the cash price.

(d) [RECOVERY WHEN DEFICIENCY ELIMINATED OR REDUCED.] A debtor whose deficiency is eliminated under section 336.9-626 may recover damages for the loss of any surplus. However, a debtor or secondary obligor whose deficiency is eliminated or reduced under section 336.9-626 may not otherwise recover under subsection (b) for noncompliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(e) [STATUTORY DAMAGES: NONCOMPLIANCE WITH SPECIFIED PROVISIONS.] In addition to any damages recoverable under subsection (b), the debtor, consumer obligor, or person named as a debtor in a filed record, as applicable, may recover \$500 in each case from a person who:

(1) fails to comply with section 336.9-208;

(2) fails to comply with section 336.9-209;

(3) files a record that the person is not entitled to file under section 336.9-509(a);

(4) fails to cause the secured party of record to file or send a termination statement as required by section 336.9-513(a) or (c);

(5) fails to comply with section 336.9-616(b)(1) and whose failure is part of a pattern, or consistent with a practice, of noncompliance; or

(6) fails to comply with section 336.9-616(b)(2).

(f) [STATUTORY DAMAGES: NONCOMPLIANCE WITH SECTION 336.9-210.] A debtor or consumer obligor may recover damages under subsection (b) and, in addition, \$500 in each case from a person that, without reasonable cause, fails to comply with a request under section 336.9-210. A recipient of a request under section 336.9-210 which never claimed an interest in the collateral or obligations that are the subject of a request under that section has a reasonable excuse for failure to comply with the request within the meaning of this subsection.

(g) [LIMITATION OF SECURITY INTEREST: NONCOMPLIANCE WITH SECTION 336.9-210.] If a secured party fails to comply with a request regarding a list of collateral or a statement of account under section 336.9-210, the secured party may claim a security interest only as shown in the list or statement included in the request as against a person that is reasonably misled by the failure.

Sec. 127. [336.9-626] [ACTION IN WHICH DEFICIENCY OR SURPLUS IS IN ISSUE.]

(a) [APPLICABLE RULES IF AMOUNT OF DEFICIENCY OR SURPLUS IS IN ISSUE.] In an action arising from a transaction, other than a consumer transaction, in which the amount of a deficiency or surplus is in issue, the following rules apply:

(1) A secured party need not prove compliance with the provisions of this part relating to collection, enforcement, disposition, or acceptance unless the debtor or a secondary obligor places the secured party's compliance in issue.

(2) If the secured party's compliance is placed in issue, the secured party has the burden of establishing that the collection, enforcement, disposition, or acceptance was conducted in accordance with this part.

(3) Except as otherwise provided in section 336.9-628, if a secured party fails to prove that the collection, enforcement, disposition, or acceptance was conducted in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance, the liability of a debtor or a secondary obligor for a deficiency is limited to an amount by which the sum of the secured obligation, expenses, and attorneys fees exceeds the greater of:

(A) the proceeds of the collection, enforcement, disposition, or acceptance; or

(B) the amount of proceeds that would have been realized had the noncomplying secured party proceeded in accordance with the provisions of this part relating to collection, enforcement, disposition, or acceptance.

(4) For purposes of paragraph (3)(B), the amount of proceeds that would have been realized is equal to the sum of the secured obligation, expenses, and attorneys fees unless the secured party proves that the amount is less than that sum.

(5) If a deficiency or surplus is calculated under section 336.9-615(f), the debtor or obligor has the burden of establishing that the amount of proceeds of the disposition is significantly below the range of prices that a complying disposition to a person other than the secured party, a person related to the secured party, or a secondary obligor would have brought.

(b) [NONCONSUMER TRANSACTIONS; NO INFERENCE.] The limitation of the rules in subsection (a) to transactions other than consumer transactions is intended to leave to the court the determination of the proper rules in consumer transactions. The court may not infer from that limitation the nature of the proper rule in consumer transactions and may continue to apply established approaches.

Sec. 128. [336.9-627] [DETERMINATION OF WHETHER CONDUCT WAS COMMERCIALY REASONABLE.]

(a) [GREATER AMOUNT OBTAINABLE UNDER OTHER CIRCUMSTANCES; NO PRECLUSION OF COMMERCIAL REASONABLENESS.] The fact that a greater amount could have been obtained by a collection, enforcement, disposition, or acceptance at a different time or in a different method from that selected by the secured party is not of itself sufficient to preclude the secured party from establishing that the collection, enforcement, disposition, or acceptance was made in a commercially reasonable manner.

(b) [DISPOSITIONS THAT ARE COMMERCIALY REASONABLE.] A disposition of collateral is made in a commercially reasonable manner if the disposition is made:

(1) in the usual manner on any recognized market;

(2) at the price current in any recognized market at the time of the disposition; or

(3) otherwise in conformity with reasonable commercial practices among dealers in the type of property that was the subject of the disposition.

(c) [APPROVAL BY COURT OR ON BEHALF OF CREDITORS.] A collection, enforcement, disposition, or acceptance is commercially reasonable if it has been approved:

(1) in a judicial proceeding;

(2) by a bona fide creditors' committee;

(3) by a representative of creditors; or

(4) by an assignee for the benefit of creditors.

(d) [APPROVAL UNDER SUBSECTION (C) NOT NECESSARY; ABSENCE OF APPROVAL HAS NO EFFECT.] Approval under subsection (c) need not be obtained, and lack of approval does not mean that the collection, enforcement, disposition, or acceptance is not commercially reasonable.

Sec. 129. [336.9-628] [NONLIABILITY AND LIMITATION ON LIABILITY OF SECURED PARTY; LIABILITY OF SECONDARY OBLIGOR.]

(a) [LIMITATION OF LIABILITY OF SECURED PARTY FOR NONCOMPLIANCE WITH ARTICLE.] Unless a secured party knows that a person is a debtor or obligor, knows the identity of the person, and knows how to communicate with the person:

(1) the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with this article; and

(2) the secured party's failure to comply with this article does not affect the liability of the person for a deficiency.

(b) [LIMITATION OF LIABILITY BASED ON STATUS AS SECURED PARTY.] A secured party is not liable because of its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

(A) that the person is a debtor or obligor;

(B) the identity of the person; and

(C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

(A) that the person is a debtor; and

(B) the identity of the person.

(c) [LIMITATION OF LIABILITY IF GOOD FAITH BELIEF THAT TRANSACTION IS NOT A CONSUMER GOODS TRANSACTION OR CONSUMER TRANSACTION.] A secured party is not liable to any person, and a persons liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) a debtor's representation concerning the purpose for which collateral was to be used, acquired, or held; or

(2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) [LIMITATION OF LIABILITY FOR STATUTORY DAMAGES.] A secured party is not liable to any person under section 336.9-625(c)(2) for its failure to comply with section 336.9-616.

(e) [LIMITATION OF MULTIPLE LIABILITY FOR STATUTORY DAMAGES.] A secured party is not liable under section 336.9-625(c)(2) more than once with respect to any one secured obligation.

Part 7

TRANSITION

Sec. 130. [336.9-701] [EFFECTIVE DATE.]

This act takes effect July 1, 2001.

Sec. 131. [336.9-702] [SAVINGS CLAUSE.]

(a) [PREEFFECTIVE DATE TRANSACTIONS OR LIENS.] Except as otherwise provided in this part, this act applies to a transaction or lien within its scope, even if the transaction or lien was entered into or created before this act takes effect.

(b) [CONTINUING VALIDITY.] Except as otherwise provided in subsection (c) and sections 336.9-703 through 336.9-709:

(1) transactions and liens that were not governed by former article 9, were validly entered into or created before this act takes effect, and would be subject to this act if they had been entered into or created after this act takes effect, and the rights, duties, and interests flowing from those transactions and liens remain valid after this act takes effect; and

(2) the transactions and liens may be terminated, completed, consummated, and enforced as required or permitted by this act or by the law that otherwise would apply if this act had not taken effect.

(c) [PREEFFECTIVE DATE PROCEEDINGS.] This act does not affect an action, case, or proceeding commenced before this act takes effect.

Sec. 132. [336.9-703] [SECURITY INTEREST PERFECTED BEFORE EFFECTIVE DATE.]

(a) [CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS SATISFIED.] A security interest that is enforceable immediately before this act takes effect and would have priority over the rights of a person that becomes a lien creditor at that time is a perfected security interest under this act if, when this act takes effect, the applicable requirements for enforceability and perfection under this act are satisfied without further action.

(b) [CONTINUING PRIORITY OVER LIEN CREDITOR: PERFECTION REQUIREMENTS NOT SATISFIED.] Except as otherwise provided in section 336.9-705, if, immediately before this act takes effect, a security interest is enforceable and would have priority over the rights of a person that becomes a lien creditor at that time, but the applicable requirements for enforceability or perfection under this act are not satisfied when this act takes effect, the security interest:

(1) is a perfected security interest for one year after this act takes effect;

(2) remains enforceable thereafter only if the security interest becomes enforceable under section 336.9-203 before the year expires; and

(3) remains perfected thereafter only if the applicable requirements for perfection under this act are satisfied before the year expires.

Sec. 133. [336.9-704] [SECURITY INTEREST UNPERFECTED BEFORE EFFECTIVE DATE.]

A security interest that is enforceable immediately before this act takes effect but which would be subordinate to the rights of a person that becomes a lien creditor at that time:

(1) remains an enforceable security interest for one year after this act takes effect;

(2) remains enforceable thereafter if the security interest becomes enforceable under section 336.9-203 when this act takes effect or within one year thereafter; and

(3) becomes perfected:

(A) without further action, when this act takes effect if the applicable requirements for perfection under this act are satisfied before or at that time; or

(B) when the applicable requirements for perfection are satisfied if the requirements are satisfied after that time.

Sec. 134. [336.9-705] [EFFECTIVENESS OF ACTION TAKEN BEFORE EFFECTIVE DATE.]

(a) [PREEFFECTIVE DATE ACTION; ONE-YEAR PERFECTION PERIOD UNLESS REPERFECTED.] If action, other than the filing of a financing statement, is taken before this act takes effect and the action would have resulted in priority of a security interest over the rights of a person that becomes a lien creditor had the security interest become enforceable before this act takes effect, the action is effective to perfect a security interest that attaches under this act within one year after this act takes effect. An attached security interest becomes unperfected one year after this act takes effect unless the security interest becomes a perfected security interest under this act before the expiration of that period.

(b) [PREEFFECTIVE DATE FILING.] The filing of a financing statement before this act takes effect is effective to perfect a security interest to the extent the filing would satisfy the applicable requirements for perfection under this act.

(c) [PREEFFECTIVE DATE FILING IN JURISDICTION FORMERLY GOVERNING PERFECTION.] This act does not render ineffective an effective financing statement that, before this act takes effect, is filed and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Minnesota Statutes 1998, section 336.9-103. However, except as otherwise provided in subsections (d) and (e) and section 336.9-706, the financing statement ceases to be effective at the earlier of:

(1) the time the financing statement would have ceased to be effective under the law of the jurisdiction in which it is filed; or

(2) June 30, 2006.

(d) [CONTINUATION STATEMENT.] The filing of a continuation statement after this act takes effect does not continue the effectiveness of the financing statement filed before this act takes effect. However, upon the timely filing of a continuation statement after this act takes effect and in accordance with the law of the jurisdiction governing perfection as provided in Part 3, the effectiveness of a financing statement filed in the same office in that jurisdiction before this act takes effect continues for the period provided by the law of that jurisdiction.

(e) [APPLICATION OF SUBSECTION (C)(2) TO TRANSMITTING UTILITY FINANCING STATEMENT.] Subsection (c)(2) applies to a financing statement that, before this act takes effect, is filed against a transmitting utility and satisfies the applicable requirements for perfection under the law of the jurisdiction governing perfection as provided in Minnesota Statutes 1998, section 336.9-103, only to the extent that Part 3 provides that the law of a jurisdiction other than the jurisdiction in which the financing statement is filed governs perfection of a security interest in collateral covered by the financing statement.

(f) [APPLICATION OF PART 5.] A financing statement that includes a financing statement filed before this act takes effect and a continuation statement filed after this act takes effect is effective only to the extent that it satisfies the requirements of Part 5 for an initial financing statement.

Sec. 135. [336.9-706] [WHEN INITIAL FINANCING STATEMENT SUFFICES TO CONTINUE EFFECTIVENESS OF FINANCING STATEMENT.]

(a) [INITIAL FINANCING STATEMENT IN LIEU OF CONTINUATION STATEMENT.] The filing of an initial financing statement in the office specified in section 336.9-501 continues the effectiveness of a financing statement filed before this act takes effect if:

(1) the filing of an initial financing statement in that office would be effective to perfect a security interest under this act;

(2) the preeffective date financing statement was filed in an office in another state or another office in this state; and

(3) the initial financing statement satisfies subsection (c).

(b) [PERIOD OF CONTINUED EFFECTIVENESS.] The filing of an initial financing statement under subsection (a) continues the effectiveness of the preeffective date financing statement:

(1) if the initial financing statement is filed before this act takes effect, for the period provided in Minnesota Statutes 1998, section 336.9-403, with respect to a financing statement; and

(2) if the initial financing statement is filed after this act takes effect, for the period provided in section 336.9-515 with respect to an initial financing statement.

(c) [REQUIREMENTS FOR INITIAL FINANCING STATEMENT UNDER SUBSECTION (A).] To be effective for purposes of subsection (a), an initial financing statement must:

(1) satisfy the requirements of Part 5 for an initial financing statement;

(2) identify the preeffective date financing statement by indicating the office in which the financing statement was filed and providing the dates of filing and file numbers, if any, of the financing statement and of the most recent continuation statement filed with respect to the financing statement; and

(3) indicate that the preeffective date financing statement remains effective.

Sec. 136. [336.9-707] [AMENDMENT OF PRE-EFFECTIVE DATE FINANCING STATEMENT.]

(a) [PRE-EFFECTIVE DATE FINANCING STATEMENT.] In this section, "pre-effective date financing statement" means a financing statement filed before this act takes effect.

(b) [APPLICABLE LAW.] After this act takes effect, a person may add or delete collateral covered by, continue or terminate the effectiveness of, or otherwise amend the information provided in, a pre-effective date financing statement only in accordance with the law of the jurisdiction governing perfection as provided in Part 3. However, the effectiveness of a pre-effective date financing statement also may be terminated in accordance with the law of the jurisdiction in which the financing statement is filed.

(c) [METHOD OF AMENDING: GENERAL RULE.] Except as otherwise provided in subsection (d), if the law of this state governs perfection of a security interest, the information in a pre-effective date financing statement may be amended after this act takes effect only if:

(1) the pre-effective date financing statement and an amendment are filed in the office specified in section 336.9-501;

(2) an amendment is filed in the office specified in section 336.9-501 concurrently with, or after the filing in that office of, an initial financing statement that satisfies section 336.9-706(c); or

(3) an initial financing statement that provides the information as amended and satisfies section 336.9-706(c) is filed in the office specified in section 336.9-501.

(d) [METHOD OF AMENDING: CONTINUATION.] If the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement may be continued only under section 336.9-705(d) and (f) or 336.9-706.

(e) [METHOD OF AMENDING: ADDITIONAL TERMINATION RULE.] Whether or not the law of this state governs perfection of a security interest, the effectiveness of a pre-effective date financing statement filed in this state may be terminated after this act takes effect by filing a termination statement in the office in which the pre-effective date financing statement is filed, unless an initial financing statement that satisfies section 336.9-706(c) has been filed in the office specified by the law of the jurisdiction governing perfection as provided in Part 3 as the office in which to file a financing statement.

Sec. 137. [336.9-708] [PERSONS ENTITLED TO FILE INITIAL FINANCING STATEMENT OR CONTINUATION STATEMENT.]

A person may file an initial financing statement or a continuation statement under this part if:

(1) the secured party of record authorizes the filing; and

(2) the filing is necessary under this part:

(A) to continue the effectiveness of a financing statement filed before this act takes effect; or

(B) to perfect or continue the perfection of a security interest.

Sec. 138. [336.9-709] [PRIORITY.]

(a) [LAW GOVERNING PRIORITY.] This act determines the priority of conflicting claims to collateral. However, if the relative priorities of the claims were established before this act takes effect, former article 9 determines priority.

(b) [PRIORITY IF SECURITY INTERESTS BECOME ENFORCEABLE UNDER SECTION 336.9-203.] For purposes of section 336.9-322(a), the priority of a security interest that becomes enforceable under section 336.9-203 dates from the time this act takes effect if the security interest is perfected under this act by the filing of a financing statement before this act takes effect which would not have been effective to perfect the security interest under former article 9. This subsection does not apply to conflicting security interests each of which is perfected by the filing of such a financing statement.

Sec. 139. [SATELLITE OFFICES; RULEMAKING.]

The secretary of state shall adopt rules governing the establishment and operation of satellite offices under Minnesota Statutes, sections 336.9-527 to 336.9-530, by July 1, 2000. The rules are exempt from the rulemaking provisions of Minnesota Statutes, chapter 14, but must be adopted under Minnesota Statutes, section 14.386. Notwithstanding Minnesota Statutes, section 14.386, paragraph (b), the rules remain in effect until July 1, 2003.

The secretary of state may also adopt expedited rules governing the establishment and operation of the central filing system under Minnesota Statutes, sections 336.9-501 to 336.9-530 and 336.9-701 to 336.9-709, pursuant to section 14.389.

The authority to adopt rules under this section expires on July 1, 2003. The expiration of this authority does not affect the validity of the rules adopted under it.

This section is effective the day following final enactment.

Sec. 140. [REPEALER.]

Minnesota Statutes 1998, sections 336.9-101; 336.9-102; 336.9-103; 336.9-104; 336.9-105; 336.9-106; 336.9-107; 336.9-108; 336.9-109; 336.9-110; 336.9-112; 336.9-113; 336.9-114; 336.9-115; 336.9-116; 336.9-201; 336.9-202; 336.9-204; 336.9-205; 336.9-206; 336.9-207; 336.9-208; 336.9-301; 336.9-302; 336.9-303; 336.9-304; 336.9-305; 336.9-306; 336.9-307; 336.9-308; 336.9-309; 336.9-310; 336.9-311; 336.9-312; 336.9-313; 336.9-314; 335.9-315; 336.9-316; 336.9-317; 336.9-318; 336.9-403; 336.9-404; 336.9-405; 336.9-406; 336.9-407; 336.9-408; 336.9-410; 336.9-412; 336.9-413; 336.9-501; 336.9-502; 336.9-503; 336.9-504; 336.9-505; 336.9-506; 336.9-507; and 336.9-508; and Minnesota Statutes 1999 Supplement, sections 336.9-203; 336.9-401; 336.9-402; and 336.9-411, are repealed.

ARTICLE 2

CONFORMING AMENDMENTS TO OTHER ARTICLES

Section 1. Minnesota Statutes 1998, section 336.1-105, is amended to read:

336.1-105 [TERRITORIAL APPLICATION OF THE CHAPTER; PARTIES' POWER TO CHOOSE APPLICABLE LAW.]

(1) Except as provided hereafter in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties. Failing such agreement this chapter applies to transactions bearing an appropriate relation to this state.

(2) Where one of the following provisions of this chapter specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law (including the conflict of laws rules) so specified:

Rights of creditors against sold goods. Section 336.2-402.

Applicability of the article on leases. Sections 336.2A-105 and 336.2A-106.

Applicability of the article on bank deposits and collections. Section 336.4-102.

Governing law in the article on funds transfers. Section 336.4A-507.

Letters of Credit. Section 336.5-116.

Applicability of the article on investment securities. Section 336.8-110.

~~Perfection provisions of the article on secured transactions. Section 336.9-103.~~

Law governing perfection, the effect of perfection or nonperfection, and the priority of security interests and agricultural liens. Sections 336.9-301 to 336.9-307.

Sec. 2. Minnesota Statutes 1998, section 336.1-201, is amended to read:

336.1-201 [GENERAL DEFINITIONS.]

Subject to additional definitions contained in the subsequent articles of this chapter which are applicable to specific articles or parts thereof, and unless the context otherwise requires, in this chapter:

(1) "Action" in the sense of a judicial proceeding includes recoupment, counterclaim, setoff, suit in equity and any other proceedings in which rights are determined.

(2) "Aggrieved party" means a party entitled to resort to a remedy.

(3) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this chapter (sections 336.1-205 and 336.2-208). Whether an agreement has legal consequences is determined by the provisions of this chapter, if applicable; otherwise by the law of contracts (section 336.1-103). (Compare "Contract.")

(4) "Bank" means any person engaged in the business of banking.

(5) "Bearer" means the person in possession of an instrument, document of title, or certificated security payable to bearer or endorsed in blank.

(6) "Bill of lading" means a document evidencing the receipt of goods for shipment issued by a person engaged in the business of transporting or forwarding goods, and includes an airbill. "Airbill" means a document serving for air transportation as a bill of lading does for marine or rail transportation, and includes an air consignment note or air waybill.

(7) "Branch" includes a separately incorporated foreign branch of a bank.

(8) "Burden of establishing" a fact means the burden of persuading the triers of fact that the existence of the fact is more probable than its nonexistence.

(9) "Buyer in ordinary course of business" means a person ~~who that buys goods~~ in good faith ~~and, without knowledge that the sale to that person is in violation of~~ violates the ownership rights or security interest of a third party ~~another person~~ in the goods ~~buys, and in the ordinary course from a person, other than a pawnbroker,~~ in the business of selling goods of that kind ~~but does not include a pawnbroker. All persons who sell minerals or the like (including oil and gas) at wellhead or minehead shall be deemed to be persons~~ A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas, or other minerals

at the wellhead or minehead is a person in the business of selling goods of that kind. "Buying" A buyer in ordinary course of business may buy for cash or, by exchange of other property, or on secured or unsecured credit, and includes receiving may acquire goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under article 2 may be a buyer in ordinary course of business. A person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt is not a buyer in ordinary course of business.

(10) "Conspicuous": A term or clause is conspicuous when it is so written that a reasonable person against whom it is to operate ought to have noticed it. A printing heading in capitals (as: NONNEGOTIABLE BILL OF LADING) is conspicuous. Language in the body of a form is "conspicuous" if it is in larger or other contrasting type or color. But in a telegram any stated term is "conspicuous". Whether a term or clause is "conspicuous" or not is for decision by the court.

(11) "Contract" means the total legal obligation which results from the parties' agreement as affected by this chapter and any other applicable rules of law. (Compare "Agreement.")

(12) "Creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate.

(13) "Defendant" includes a person in the position of defendant in a cross-action or counterclaim.

(14) "Delivery" with respect to instruments, documents of title, chattel paper, or certificated securities means voluntary transfer of possession.

(15) "Document of title" includes bill of lading, dock warrant, dock receipt, warehouse receipt or order for the delivery of goods, and also any other document which in the regular course of business or financing is treated as adequately evidencing that the person in possession of it is entitled to receive, hold and dispose of the document and the goods it covers. To be a document of title a document must purport to be issued by or addressed to a bailee and purport to cover goods in the bailee's possession which are either identified or are fungible portions of an identified mass.

(16) "Fault" means wrongful act, omission or breach.

(17) "Fungible" with respect to goods or securities means goods or securities of which any unit is, by nature or usage of trade, the equivalent of any other like unit. Goods which are not fungible shall be deemed fungible for the purposes of this chapter to the extent that under a particular agreement or document unlike units are treated as equivalents.

(18) "Genuine" means free of forgery or counterfeiting.

(19) "Good faith" means honesty in fact in the conduct or transaction concerned.

(20) "Holder," with respect to a negotiable instrument, means the person in possession if the instrument is payable to bearer or, in the case of an instrument payable to an identified person, if the identified person is in possession. "Holder," with respect to a document of title, means the person in possession if the goods are deliverable to bearer or to the order of the person in possession.

(21) To "honor" is to pay or to accept and pay, or where a credit so engages to purchase or discount a draft complying with the terms of the credit.

(22) "Insolvency proceedings" includes any assignment for the benefit of creditors or other proceedings intended to liquidate or rehabilitate the estate of the person involved.

(23) A person is "insolvent" who either has ceased to pay debts in the ordinary course of business or cannot pay the debts as they become due or is insolvent within the meaning of the federal bankruptcy law.

(24) "Money" means a medium of exchange authorized or adopted by a domestic or foreign government and includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more nations.

(25) A person has "notice" of a fact when that person

(a) has actual knowledge of it; or

(b) has received a notice or notification of it; or

(c) from all the facts and circumstances known to that person at the time in question, has reason to know that it exists.

A person "knows" or has "knowledge" of a fact when that person has actual knowledge of it. "Discover" or "learn" or a word or phrase of similar import refers to knowledge rather than to reason to know. The time and circumstances under which a notice or notification may cease to be effective are not determined by this chapter.

(26) A person "notifies" or "gives" a notice or notification to another by taking such steps as may be reasonably required to inform the other in ordinary course whether or not such other actually comes to know of it. A person "receives" a notice or notification when

(a) it comes to that person's attention; or

(b) it is duly delivered at the place of business through which the contract was made or at any other place held out by that person as the place for receipt of such communications.

(27) Notice, knowledge or a notice or notification received by an organization is effective for a particular transaction from the time when it is brought to the attention of the individual conducting that transaction, and in any event from the time when it would have been brought to the individual's attention if the organization had exercised due diligence. An organization exercises due diligence if it maintains reasonable routines for communicating significant information to the person conducting the transaction and there is reasonable compliance with the routines. Due diligence does not require an individual acting for the organization to communicate information unless such communication is part of regular duties or unless the individual has reason to know of the transaction and that the transaction would be materially affected by the information.

(28) "Organization" includes a corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, or any other legal or commercial entity.

(29) "Party," as distinct from "third party," means a person who has engaged in a transaction or made an agreement within this chapter.

(30) "Person" includes an individual or an organization (see section 336.1-102).

(31) "Presumption" or "presumed" means that the trier of fact must find the existence of the fact presumed unless and until evidence is introduced which would support a finding of its nonexistence.

(32) "Purchase" includes taking by sale, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary transaction creating an interest in property.

(33) "Purchaser" means a person who takes by purchase.

(34) "Remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal.

(35) "Representative" includes an agent, an officer of a corporation or association, and a trustee, executor or administrator of an estate, or any other person empowered to act for another.

(36) "Rights" includes remedies.

(37) "Security interest" means an interest in personal property or fixtures which secures payment or performance of an obligation. ~~The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 336.2-401) is limited in effect to a reservation of a "security interest".~~ The term also includes any interest of a consignor and a buyer of accounts or chattel paper which, a payment intangible, or a promissory note in a transaction that is subject to article 9. The special property interest of a buyer of goods on identification of those goods to a contract for sale under section 336.2-401 is not a "security interest," but a buyer may also acquire a "security interest" by complying with article 9. ~~Unless a consignment is intended as security, reservation of title thereunder is not a "security interest," but a consignment in any event is subject to the provisions on consignment sales (section 336.2-326). Except as otherwise provided in section 336.2-505, the right of a seller or lessor of goods under article 2 or 2a to retain or acquire possession of the goods is not a "security interest," but a seller or lessor may also acquire a security interest by complying with article 9. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer (section 336.2-401) is limited in effect to a reservation of a security interest.~~

Whether a transaction creates a lease or security interest is determined by the facts of each case; however, a transaction creates a security interest if the consideration the lessee is to pay the lessor for the right to possession and use of the goods is an obligation for the term of the lease not subject to termination by the lessee, and

- (a) the original term of the lease is equal to or greater than the remaining economic life of the goods,
- (b) the lessee is bound to renew the lease for the remaining economic life of the goods or is bound to become the owner of the goods,
- (c) the lessee has an option to renew the lease for the remaining economic life of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement, or
- (d) the lessee has an option to become the owner of the goods for no additional consideration or nominal additional consideration upon compliance with the lease agreement.

A transaction does not create a security interest merely because it provides that

- (a) the present value of the consideration the lessee is obligated to pay the lessor for the right to possession and use of the goods is substantially equal to or is greater than the fair market value of the goods at the time the lease is entered into,
- (b) the lessee assumes risk of loss of the goods, or agrees to pay taxes, insurance, filing, recording, or registration fees, or service or maintenance costs with respect to the goods,
- (c) the lessee has an option to renew the lease or to become the owner of the goods,
- (d) the lessee has an option to renew the lease for a fixed rent that is equal to or greater than the reasonably predictable fair market rent for the use of the goods for the term of the renewal at the time the option is to be performed, or
- (e) the lessee has an option to become the owner of the goods for a fixed price that is equal to or greater than the reasonably predictable fair market value of the goods at the time the option is to be performed.

For purposes of this subsection (37):

(x) Additional consideration is not nominal if (i) when the option to renew the lease is granted to the lessee the rent is stated to be the fair market rent for the use of the goods for the term of the renewal determined at the time the option is to be performed, or (ii) when the option to become the owner of the goods is granted to the lessee the price is stated to be the fair market value of the goods determined at the time the option is to be performed. Additional consideration is nominal if it is less than the lessee's reasonably predictable cost of performing under the lease agreement if the option is not exercised;

(y) "Reasonably predictable" and "remaining economic life of the goods" are to be determined with reference to the facts and circumstances at the time the transaction is entered into; and

(z) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate is not manifestly unreasonable at the time the transaction is entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(38) "Send" in connection with any writing or notice means to deposit in the mail or deliver for transmission by any other usual means of communication with postage or cost of transmission provided for and properly addressed and in the case of an instrument to an address specified thereon or otherwise agreed, or if there be none to any address reasonable under the circumstances. The receipt of any writing or notice within the time at which it would have arrived if properly sent has the effect of a proper sending.

(39) "Signed" includes any symbol executed or adopted by a party with present intention to authenticate a writing.

(40) "Surety" includes guarantor.

(41) "Telegram" includes a message transmitted by radio, teletype, cable, any mechanical method of transmission, or the like.

(42) "Term" means that portion of an agreement which relates to a particular matter.

(43) "Unauthorized" signature means one made without actual, implied, or apparent authority and includes a forgery.

(44) "Value": Except as otherwise provided with respect to negotiable instruments and bank collections (sections 336.3-303, 336.4-210 and 336-4.211) a person gives "value" for rights by acquiring them

(a) in return for a binding commitment to extend credit or for the extension of immediately available credit whether or not drawn upon and whether or not a chargeback is provided for in the event of difficulties in collection; or

(b) as security for or in total or partial satisfaction of a preexisting claim; or

(c) by accepting delivery pursuant to a preexisting contract for purchase; or

(d) generally, in return for any consideration sufficient to support a simple contract.

(45) "Warehouse receipt" means a receipt issued by a person engaged in the business of storing goods for hire.

(46) "Written" or "writing" includes printing, typewriting or any other intentional reduction to tangible form.

Sec. 3. Minnesota Statutes 1998, section 336.2-103, is amended to read:

336.2-103 [DEFINITIONS AND INDEX OF DEFINITIONS.]

(1) In this article unless the context otherwise requires:

(a) "Buyer" means a person who buys or contracts to buy goods.

(b) "Good faith" in the case of a merchant means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(c) "Receipt" of goods means taking physical possession of them.

(d) "Seller" means a person who sells or contracts to sell goods.

(2) Other definitions applying to this article or to specified parts thereof, and the sections in which they appear are:

"Acceptance," section 336.2-606.

"Banker's credit," section 336.2-325.

"Between merchants," section 336.2-104.

"Cancellation," section 336.2-106(4).

"Commercial unit," section 336.2-105.

"Confirmed credit," section 336.2-325.

"Conforming to contract," section 336.2-106.

"Contract for sale," section 336.2-106.

"Cover," section 336.2-712.

"Entrusting," section 336.2-403.

"Financing agency," section 336.2-104.

"Future goods," section 336.2-105.

"Goods," section 336.2-105.

"Identification," section 336.2-501.

"Installment contract," section 336.2-612.

"Letter of credit," section 336.2-325.

"Lot," section 336.2-105.

"Merchant," section 336.2-104.

"Overseas," section 336.2-323.

"Person in position of seller," section 336.2-707.

"Present sale," section 336.2-106.

"Sale," section 336.2-106.

"Sale on approval," section 336.2-326.

"Sale or return," section 336.2-326.

"Termination," section 336.2-106.

(3) The following definitions in other articles apply to this article:

"Check," section 336.3-104.

"Consignee," section 336.7-102.

"Consignor," section 336.7-102.

"Consumer goods," section ~~336.9-109~~ 336.9-102.

"Dishonor," section 336.3-502.

"Draft," section 336.3-104.

(4) In addition article 1 contains general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 4. Minnesota Statutes 1998, section 336.2-210, is amended to read:

336.2-210 [DELEGATION OF PERFORMANCE; ASSIGNMENT OF RIGHTS.]

(1) A party may perform a duty through a delegate unless otherwise agreed or unless the other party has a substantial interest in having the original promisor perform or control the acts required by the contract. No delegation of performance relieves the party delegating of any duty to perform or any liability for breach.

(2) Unless otherwise agreed all rights of either seller or buyer can be assigned except where the assignment would materially change the duty of the other party, or increase materially the burden or risk imposed on the other party by the contract, or impair materially the other party's chance of obtaining return performance. A right to damages for breach of the whole contract or a right arising out of the assignor's due performance of the assignor's entire obligation can be assigned despite agreement otherwise.

(3) The creation, attachment, perfection, or enforcement of a security interest in the seller's interest under a contract is not a transfer that materially changes the duty of or increases materially the burden or risk imposed on the buyer or impairs materially the buyer's chance of obtaining return performance within the purview of subsection (2) unless, and then only to the extent that, enforcement actually results in a delegation of material performance of the seller. Even in that event, the creation, attachment, perfection, and enforcement of the security interest remain effective, but (i) the seller is liable to the buyer for damages caused by the delegation to the extent that the damages could not reasonably be prevented by the buyer, and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the contract for sale or an injunction against enforcement of the security interest or consummation of the enforcement.

(4) Unless the circumstances indicate the contrary a prohibition of assignment of "the contract" is to be construed as barring only the delegation to the assignee of the assignor's performance.

~~(4)~~ (5) An assignment of "the contract" or of "all my rights under the contract" or an assignment in similar general terms is an assignment of rights and unless the language or the circumstances (as in an assignment for security) indicate the contrary, it is a delegation of performance of the duties of the assignor and its acceptance by the assignee constitutes a promise by the assignee to perform those duties. This promise is enforceable by either the assignor or the other party to the original contract.

~~(5)~~ (6) The other party may treat any assignment which delegates performance as creating reasonable grounds for insecurity and may without prejudice to the rights of the other party against the assignor demand assurances from the assignee (section 336.2-609).

Sec. 5. Minnesota Statutes 1998, section 336.2-326, is amended to read:

336.2-326 [SALE ON APPROVAL AND SALE OR RETURN; ~~CONSIGNMENT SALES AND RIGHTS OF CREDITORS.~~]

(1) Unless otherwise agreed, if delivered goods may be returned by the buyer even though they conform to the contract, the transaction is

(a) a "sale on approval" if the goods are delivered primarily for use, and

(b) a "sale or return" if the goods are delivered primarily for resale.

(2) ~~Except as provided in subsection (3),~~ Goods held on approval are not subject to the claims of the buyer's creditors until acceptance; goods held on sale or return are subject to such claims while in the buyer's possession.

(3) ~~Where goods are delivered to a person for sale and such person maintains a place of business dealing in goods of the kind involved, under a name other than the name of the person making delivery, then with respect to claims of creditors of the person conducting the business the goods are deemed to be on sale or return. The provisions of this subsection are applicable even though an agreement purports to reserve title to the person making delivery until payment or resale or uses such words as "on consignment" or "on memorandum." However, this subsection is not applicable if the person making delivery~~

~~(a) complies with an applicable law providing for a consignor's interest or the like to be evidenced by a sign, or~~

~~(b) establishes that the person conducting the business is generally known by the person's creditors to be substantially engaged in selling the goods of others, or~~

~~(c) complies with the filing provisions of the article on secured transactions (article 9).~~

~~(4)~~ Any "or return" term of a contract for sale is to be treated as a separate contract for sale within the statute of frauds section of this article (section 336.2-201) and as contradicting the sale aspect of the contract within the provisions of this article on parol or extrinsic evidence (section 336.2-202).

Sec. 6. Minnesota Statutes 1998, section 336.2-502, is amended to read:

336.2-502 [BUYER'S RIGHT TO GOODS ON SELLER'S REPUDIATION, FAILURE TO DELIVER, OR INSOLVENCY.]

(1) Subject to ~~subsection~~ subsections (2) and (3) and even though the goods have not been shipped a buyer who has paid a part or all of the price of goods in which the buyer has a special property under the provisions of the immediately preceding section may on making and keeping good a tender of any unpaid portion of their price recover them from the seller if:

(a) in the case of goods bought for personal, family, or household purposes, the seller repudiates or fails to deliver as required by the contract; or

(b) in all cases, the seller becomes insolvent within ten days after receipt of the first installment on their price.

(2) The buyer's right to recover the goods under subsection (1)(a) vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

(3) If the identification creating the special property has been made by the buyer, the buyer acquires the right to recover the goods only if they conform to the contract for sale.

Sec. 7. Minnesota Statutes 1998, section 336.2-716, is amended to read:

336.2-716 [BUYER'S RIGHT TO SPECIFIC PERFORMANCE OR REPLEVIN.]

(1) Specific performance may be decreed where the goods are unique or in other proper circumstances.

(2) The decree for specific performance may include such terms and conditions as to payment of the price, damages, or other relief as the court may deem just.

(3) The buyer has a right of replevin for goods identified to the contract if after reasonable effort the buyer is unable to effect cover for such goods or the circumstances reasonably indicate that such effort will be unavailing or if the goods have been shipped under reservation and satisfaction of the security interest in them has been made or tendered. In the case of goods bought for personal, family, or household purposes, the buyer's right of replevin vests upon acquisition of a special property, even if the seller had not then repudiated or failed to deliver.

Sec. 8. Minnesota Statutes 1998, section 336.2A-103, is amended to read:

336.2A-103 [DEFINITIONS AND INDEX OF DEFINITIONS.]

(1) In this article unless the context otherwise requires:

(a) "Buyer in ordinary course of business" means a person who in good faith and without knowledge that the sale is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(b) "Cancellation" occurs when either party puts an end to the lease contract for default by the other party.

(c) "Commercial unit" means a unit of goods that by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole.

(d) "Conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract.

(e) "Consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family, or household purpose, if the total payments to be made under the lease contract, excluding payments for options to renew or buy, do not exceed \$25,000.

(f) "Fault" means wrongful act, omission, breach, or default.

(g) "Finance lease" means a lease in which

(1) the lessor does not select, manufacture, or supply the goods,

(2) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease, and

(3) either

(i) the lessee receives a copy of the contract evidencing the lessor's purchase of the goods or a disclaimer statement on or before signing the lease contract, or

(ii) the lessee's approval of the contract evidencing the lessor's purchase of the goods or a disclaimer statement is a condition to effectiveness of the lease contract.

"Disclaimer statement" means a written statement that is part of or separate from the lease contract that discloses all warranties and other rights provided to the lessee by the lessor and supplier in connection with the lease contract and informs the lessee in a conspicuous manner that there are no warranties or other rights provided to the lessee by the lessor and supplier other than those disclosed in the statement.

(h) "Goods" means all things that are movable at the time of identification to the lease contract, or are fixtures (section 336.2A-309), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles, or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals.

(i) "Installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent.

(j) "Lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease. Unless the context clearly indicates otherwise, the term includes a sublease.

(k) "Lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances including course of dealing or usage of trade or course of performance as provided in this article. Unless the context clearly indicates otherwise, the term includes a sublease agreement.

(l) "Lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law. Unless the context clearly indicates otherwise, the term includes a sublease contract.

(m) "Leasehold interest" means the interest of the lessor or the lessee under a lease contract.

(n) "Lessee" means a person who acquires the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessee.

(o) "Lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods leases in ordinary course from a person in the business of selling or leasing goods of that kind but does not include a pawnbroker. "Leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes receiving goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt.

(p) "Lessor" means a person who transfers the right to possession and use of goods under a lease. Unless the context clearly indicates otherwise, the term includes a sublessor.

(q) "Lessor's residual interest" means the lessor's interest in the goods after expiration, termination, or cancellation of the lease contract.

(r) "Lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest.

(s) "Lot" means a parcel or a single article that is the subject matter of a separate lease or delivery, whether or not it is sufficient to perform the lease contract.

(t) "Merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease.

(u) "Present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into.

(v) "Purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift, or any other voluntary transaction creating an interest in goods.

(w) "Sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease.

(x) "Supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease.

(y) "Supply contract" means a contract under which a lessor buys or leases goods to be leased.

(z) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"Accessions." Section 336.2A-310(1).

"Construction mortgage." Section 336.2A-309(1)(d).

"Encumbrance." Section 336.2A-309(1)(e).

"Fixtures." Section 336.2A-309(1)(a).

"Fixture filing." Section 336.2A-309(1)(b).

"Purchase money lease." Section 336.2A-309(1)(c).

(3) The following definitions in other articles apply to this article:

"Account." Section ~~336.9-106~~ 336.9-102(a)(2).

"Between merchants." Section 336.2-104(3).

"Buyer." Section 336.2-103(1)(a).

"Chattel paper." Section ~~336.9-105(1)(b)~~ 336.9-102(a)(11).

"Consumer goods." Section ~~336.9-109(1)~~ 336.9-102(a)(23).

"Document." Section ~~336.9-105(1)(f)~~ 336.9-102(a)(30).

"Entrusting." Section 336.2-403(3).

"General ~~intangibles~~ intangible." Section ~~336.9-106~~ 336.9-102(a)(42).

"Good faith." Section 336.2-103(1)(b).

"Instrument." Section ~~336.9-105(1)(i)~~ 336.9-102(a)(47).

"Merchant." Section 336.2-104(1).

"Mortgage." Section ~~336.9-105(1)(j)~~ 336.9-102(a)(55).

"Pursuant to commitment." Section ~~336.9-105(1)(k)~~ 336.9-102(a)(68).

"Receipt." Section 336.2-103(1)(c).

"Sale." Section 336.2-106(1).

"Sale on approval." Section 336.2-326.

"Sale or return." Section 336.2-326.

"Seller." Section 336.2-103(1)(d).

(4) In addition, sections 336.1-101 to 336.1-109 contain general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 9. Minnesota Statutes 1998, section 336.2A-303, is amended to read:

336.2A-303 [ALIENABILITY OF PARTY'S INTEREST UNDER LEASE CONTRACT OR OF LESSOR'S RESIDUAL INTEREST IN GOODS; DELEGATION OF PERFORMANCE; TRANSFER OF RIGHTS.]

(1) As used in this section, "creation of a security interest" includes the sale of a lease contract that is subject to article 9, secured transactions, by reason of section ~~336.9-102(1)(b)~~ 336.9-109(a)(3).

(2) Except as provided in ~~subsections~~ subsection (3) and ~~(4)~~ section 336.9-407, a provision in a lease agreement that (i) prohibits the voluntary or involuntary transfer, including a transfer by sale, sublease, creation or enforcement of a security interest, or attachment, levy, or other judicial process, of an interest of a party under the lease contract or of the lessor's residual interest in the goods, or (ii) makes the transfer an event of default, gives rise to the rights and remedies provided in subsection ~~(5)~~ (4), but a transfer that is prohibited or is an event of default under the lease agreement is otherwise effective.

(3) ~~A provision in a lease agreement that (i) prohibits the creation or enforcement of a security interest in an interest of a party under the lease contract or in the lessor's residual interest in the goods, or (ii) makes the transfer an event of default, is not enforceable unless, and then only to the extent that, there is an actual transfer by the lessee of the lessee's right of possession or use of the goods in violation of the provision or an actual delegation of a material performance of either party to the lease contract in violation of the provision. Neither the granting nor the enforcement of a security interest in (i) the lessor's interest under the lease contract or (ii) the lessor's residual interest~~

in the goods is a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the lessee within the purview of subsection (5) unless, and then only to the extent that, there is an actual delegation of a material performance of the lessor.

~~(4)~~ A provision in a lease agreement that (i) prohibits a transfer of a right to damages for default with respect to the whole lease contract or of a right to payment arising out of the transferor's due performance of the transferor's entire obligation, or (ii) makes the transfer an event of default, is not enforceable, and the transfer is not a transfer that materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract within the purview of subsection ~~(5)~~ (4).

~~(5)~~ (4) Subject to ~~subsections~~ subsection (3) and ~~(4)~~ section 336.9-407:

(a) if a transfer is made that is made an event of default under a lease agreement, the party to the lease contract not making the transfer, unless that party waives the default or otherwise agrees, has the rights and remedies described in section 336.2A-501(2);

(b) if paragraph (a) is not applicable and if a transfer is made that (i) is prohibited under a lease agreement or (ii) materially impairs the prospect of obtaining return performance by, materially changes the duty of, or materially increases the burden or risk imposed on, the other party to the lease contract, unless the party not making the transfer agrees at any time to the transfer in the lease contract or otherwise, then, except as limited by contract, (i) the transferor is liable to the party not making the transfer for damages caused by the transfer to the extent that the damages could not reasonably be prevented by the party not making the transfer and (ii) a court having jurisdiction may grant other appropriate relief, including cancellation of the lease contract or an injunction against the transfer.

~~(6)~~ (5) A transfer of "the lease" or of "all my rights under the lease," or a transfer in similar general terms, is a transfer of rights and, unless the language or the circumstances, as in a transfer for security, indicate the contrary, the transfer is a delegation of duties by the transferor to the transferee. Acceptance by the transferee constitutes a promise by the transferee to perform those duties. The promise is enforceable by either the transferor or the other party to the lease contract.

~~(7)~~ (6) Unless otherwise agreed by the lessor and the lessee, a delegation of performance does not relieve the transferor as against the other party of any duty to perform or of any liability for default.

~~(8)~~ (7) In a consumer lease, to prohibit the transfer of an interest of a party under the lease contract or to make a transfer an event of default, the language must be specific, by a writing, and conspicuous.

Sec. 10. Minnesota Statutes 1998, section 336.2A-307, is amended to read:

336.2A-307 [PRIORITY OF LIENS ARISING BY ATTACHMENT OR LEVY ON, SECURITY INTERESTS IN, AND OTHER CLAIMS TO GOODS.]

(1) Except as otherwise provided in section 336.2A-306, a creditor of a lessee takes subject to the lease contract.

(2) Except as otherwise provided in ~~subsections~~ subsection (3) and ~~(4)~~ and in sections 336.2A-306 and 336.2A-308, a creditor of a lessor takes subject to the lease contract unless:

~~(a)~~ the creditor holds a lien that attached to the goods before the lease contract became enforceable;

~~(b)~~ the creditor holds a security interest in the goods and the lessee did not give value and receive delivery of the goods without knowledge of the security interest; or

~~(c)~~ the creditor holds a security interest in the goods which was perfected (~~section 336.9-303~~) before the lease contract became enforceable.

(3) ~~Except as otherwise provided in sections 336.9-317, 336.9-321, and 336.9-323, a lessee in the ordinary course of business takes the a leasehold interest free of subject to a security interest in the goods created by the lessor even though the security interest is perfected (section 336.9-303) and the lessee knows of its existence held by a creditor of the lessor.~~

(4) ~~A lessee other than a lessee in the ordinary course of business takes the leasehold interest free of a security interest to the extent that it secures future advances made after the secured party acquires knowledge of the lease or more than 45 days after the lease contract becomes enforceable, whichever first occurs, unless the future advances are made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the 45-day period.~~

Sec. 11. Minnesota Statutes 1998, section 336.2A-309, is amended to read:

336.2A-309 [LESSOR'S AND LESSEE'S RIGHTS WHEN GOODS BECOME FIXTURES.]

(1) In this section:

(a) goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law;

(b) a "fixture filing" is the filing, in the office where a record of a mortgage on the real estate would be filed or recorded, of a financing statement covering goods that are or are to become fixtures and conforming to the requirements of section ~~336.9-402(5)~~ 336.9-502(a) and (b);

(c) a lease is a "purchase money lease" unless the lessee has possession or use of the goods or the right to possession or use of the goods before the lease agreement is enforceable;

(d) a mortgage is a "construction mortgage" to the extent it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates; and

(e) "encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests.

(2) Under this article a lease may be of goods that are fixtures or may continue in goods that become fixtures, but no lease exists under this article of ordinary building materials incorporated into an improvement on land.

(3) This article does not prevent creation of a lease of fixtures pursuant to real estate law.

(4) The perfected interest of a lessor of fixtures has priority over a conflicting interest of an encumbrancer or owner of the real estate if:

(a) the lease is a purchase money lease, the conflicting interest of the encumbrancer or owner arises before the goods become fixtures, the interest of the lessor is perfected by a fixture filing before the goods become fixtures or within ten days after that, and the lessee has an interest of record in the real estate or is in possession of the real estate; or

(b) the interest of the lessor is perfected by a fixture filing before the interest of the encumbrancer or owner is of record, the lessor's interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the lessee has an interest of record in the real estate or is in possession of the real estate.

(5) The interest of a lessor of fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate if:

(a) the fixtures are readily removable factory or office machines, readily removable equipment that is not primarily used or leased for use in the operation of the real estate, or readily removable replacements of domestic appliances that are goods subject to a consumer lease, and before the goods become fixtures the lease contract is enforceable; or

(b) the conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the lease contract is enforceable; or

(c) the encumbrancer or owner has consented in writing to the lease or has disclaimed an interest in the goods as fixtures; or

(d) the lessee has a right to remove the goods as against the encumbrancer or owner. If the lessee's right to remove terminates, the priority of the interest of the lessor continues for a reasonable time.

(6) Notwithstanding subsection (4)(a) but otherwise subject to subsections (4) and (5), the interest of a lessor of fixtures, including the lessor's residual interest, is subordinate to the conflicting interest of an encumbrancer of the real estate under a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent given to refinance a construction mortgage, the conflicting interest of an encumbrancer of the real estate under a mortgage has this priority to the same extent as the encumbrancer of the real estate under the construction mortgage.

(7) In cases not within the preceding subsections, priority between the interest of a lessor of fixtures, including the lessor's residual interest, and the conflicting interest of an encumbrancer or owner of the real estate who is not the lessee is determined by the priority rules governing conflicting interests in real estate.

(8) If the interest of a lessor of fixtures, including the lessor's residual interest, has priority over all conflicting interests of all owners and encumbrancers of the real estate, the lessor or the lessee may (i) on default, expiration, termination, or cancellation of the lease agreement but subject to the lease agreement and this article, or (ii) if necessary to enforce the lessor's or lessee's other rights and remedies under this article; remove the goods from the real estate, free and clear of all conflicting interests of all owners and encumbrancers of the real estate, but the lessor or lessee must reimburse any encumbrancer or owner of the real estate who is not the lessee and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the party seeking removal gives adequate security for the performance of this obligation.

(9) Even though the lease agreement does not create a security interest, the interest of a lessor of fixtures, including the lessor's residual interest, is perfected by filing a financing statement as a fixture filing for leased goods that are or are to become fixtures in accordance with the relevant provisions of the Article on Secured Transactions (article 9).

Sec. 12. Minnesota Statutes 1998, section 336.4-210, is amended to read:

336.4-210 [SECURITY INTEREST OF COLLECTING BANK IN ITEMS, ACCOMPANYING DOCUMENTS, AND PROCEEDS.]

(a) A collecting bank has a security interest in an item and any accompanying documents or the proceeds of either:

(1) in case of an item deposited in an account, to the extent to which credit given for the item has been withdrawn or applied;

(2) in case of an item for which it has given credit available for withdrawal as of right, to the extent of the credit given, whether or not the credit is drawn upon or there is a right of chargeback; or

(3) if it makes an advance on or against the item.

(b) If credit given for several items received at one time or pursuant to a single agreement is withdrawn or applied in part, the security interest remains upon all the items, any accompanying documents or the proceeds of either. For the purpose of this section, credits first given are first withdrawn.

(c) Receipt by a collecting bank of a final settlement for an item is a realization on its security interest in the item, accompanying documents, and proceeds. So long as the bank does not receive final settlement for the item or give up possession of the item or accompanying documents for purposes other than collection, the security interest continues to that extent and is subject to article 9, but:

(1) no security agreement is necessary to make the security interest enforceable (section 336.9-203~~(1)(a)~~(b)(3)(A));

(2) no filing is required to perfect the security interest; and

(3) the security interest has priority over conflicting perfected security interests in the item, accompanying documents, or proceeds.

Sec. 13. [336.5-118] [SECURITY INTEREST OF ISSUER OR NOMINATED PERSON.]

(a) An issuer or nominated person has a security interest in a document presented under a letter of credit to the extent that the issuer or nominated person honors or gives value for the presentation.

(b) So long as and to the extent that an issuer or nominated person has not been reimbursed or has not otherwise recovered the value given with respect to a security interest in a document under subsection (a), the security interest continues and is subject to article 9, but:

(1) a security agreement is not necessary to make the security interest enforceable under section 336.9-203(b)(3);

(2) if the document is presented in a medium other than a written or other tangible medium, the security interest is perfected; and

(3) if the document is presented in a written or other tangible medium and is not a certificated security, chattel paper, a document of title, an instrument, or a letter of credit, the security interest is perfected and has priority over a conflicting security interest in the document so long as the debtor does not have possession of the document.

Sec. 14. Minnesota Statutes 1998, section 336.7-503, is amended to read:

336.7-503 [DOCUMENT OF TITLE TO GOODS DEFEATED IN CERTAIN CASES.]

(1) A document of title confers no right in goods against a person who before issuance of the document had a legal interest or a perfected security interest in them and who neither

(a) delivered or entrusted them or any document of title covering them to the bailor or the bailor's nominee with actual or apparent authority to ship, store or sell or with power to obtain delivery under this article (section 336.7-403) or with power of disposition under this chapter (sections 336.2-403 and ~~336.9-307~~ 336.9-320) or other statute or rule of law; nor

(b) acquiesced in the procurement by the bailor or the bailor's nominee of any document of title.

(2) Title to goods based upon an unaccepted delivery order is subject to the rights of anyone to whom a negotiable warehouse receipt or bill of lading covering the goods has been duly negotiated. Such a title may be defeated under the next section to the same extent as the rights of the issuer or a transferee from the issuer.

(3) Title to goods based upon a bill of lading issued to a freight forwarder is subject to the rights of anyone to whom a bill issued by the freight forwarder is duly negotiated; but delivery by the carrier in accordance with part 4 of this article pursuant to its own bill of lading discharges the carrier's obligation to deliver.

Sec. 15. Minnesota Statutes 1998, section 336.8-103, is amended to read:

336.8-103 [RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.]

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company, or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered, or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is a general intangible and is not a security or a financial asset, except as follows:

(1) An interest in a partnership or limited liability company is a security and is not a general intangible if it is dealt in or traded on a securities exchange or in a securities market, its terms expressly provide that it is a security governed by this article, or it is an investment company security.

(2) An interest in a partnership or limited liability company is a financial asset and is not a general intangible if it is held in a securities account.

(d) A writing that is a security certificate is governed by this article and not by article 3, even though it also meets the requirements of that article. However, a negotiable instrument governed by article 3 is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security, but is a financial asset.

(f) A commodity contract, as defined in section ~~336.9-115~~ 336.9-102(a)(15), is not a security or a financial asset.

Sec. 16. Minnesota Statutes 1998, section 336.8-106, is amended to read:

336.8-106 [CONTROL.]

(a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser, and:

(1) the certificate is endorsed to the purchaser or in blank by an effective endorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

(c) A purchaser has "control" of an uncertificated security if:

(1) the uncertificated security is delivered to the purchaser; or

(2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.

(d) A purchaser has "control" of a security entitlement if:

(1) the purchaser becomes the entitlement holder; or

(2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; or

(3) another person has control of the security entitlement on behalf of the purchaser or, having previously acquired control of the security entitlement, acknowledges that it has control on behalf of the purchaser.

(e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.

(f) A purchaser who has satisfied the requirements of subsection ~~(c)(2)~~ (c) or ~~(d)(2)~~ (d) has control, even if the registered owner in the case of subsection ~~(c)(2)~~ (c) or the entitlement holder in the case of subsection ~~(d)(2)~~ (d) retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary, or otherwise to deal with the uncertificated security or security entitlement.

(g) An issuer or a securities intermediary may not enter into an agreement of the kind described in subsection (c)(2) or (d)(2) without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

Sec. 17. Minnesota Statutes 1998, section 336.8-110, is amended to read:

336.8-110 [APPLICABILITY; CHOICE OF LAW.]

(a) The local law of the issuer's jurisdiction, as specified in subsection (d), governs:

(1) the validity of a security;

(2) the rights and duties of the issuer with respect to registration of transfer;

(3) the effectiveness of registration of transfer by the issuer;

(4) whether the issuer owes any duties to an adverse claimant to a security; and

(5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in subsection (e), governs:

(1) acquisition of a security entitlement from the securities intermediary;

- (2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;
- (3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and
- (4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in subsection (a)(2) through (5).

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) If an agreement between the securities intermediary and its entitlement holder ~~specifies that it is governed by the law of~~ governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of this part, this article, or this act, that jurisdiction is the securities intermediary's jurisdiction.

(2) If paragraph (1) does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

(3) If neither paragraph (1) nor (2) applies and an agreement between the securities intermediary and its entitlement holder does not specify the governing law as provided in paragraph (1), but the securities account expressly specifies provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction.

~~(3) (4) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2) none of the preceding paragraphs apply,~~ the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the office identified in an account statement as the office serving the entitlement holder's account is located.

~~(4) (5) If an agreement between the securities intermediary and its entitlement holder does not specify a jurisdiction as provided in paragraph (1) or (2) and an account statement does not identify an office serving the entitlement holder's account as provided in paragraph (3) none of the preceding paragraphs apply,~~ the securities intermediary's jurisdiction is the jurisdiction in which ~~is located~~ the chief executive office of the securities intermediary is located.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets, or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement, or by the location of facilities for data processing or other recordkeeping concerning the account.

Sec. 18. Minnesota Statutes 1998, section 336.8-301, is amended to read:

336.8-301 [DELIVERY.]

(a) Delivery of a certificated security to a purchaser occurs when:

(1) the purchaser acquires possession of the security certificate;

(2) another person, other than a securities intermediary, either acquires possession of the security certificate on behalf of the purchaser or, having previously acquired possession of the certificate, acknowledges that it holds for the purchaser; or

(3) a securities intermediary acting on behalf of the purchaser acquires possession of the security certificate, only if the certificate is in registered form and ~~has been~~ is (i) registered in the name of the purchaser, (ii) payable to the order of the purchaser, or (iii) specially endorsed to the purchaser by an effective endorsement and has not been endorsed to the securities intermediary or in blank.

(b) Delivery of an uncertificated security to a purchaser occurs when:

(1) the issuer registers the purchaser as the registered owner, upon original issue or registration of transfer; or

(2) another person, other than a securities intermediary, either becomes the registered owner of the uncertificated security on behalf of the purchaser or, having previously become the registered owner, acknowledges that it holds for the purchaser.

Sec. 19. Minnesota Statutes 1998, section 336.8-302, is amended to read:

336.8-302 [RIGHTS OF PURCHASER.]

(a) Except as otherwise provided in subsections (b) and (c), ~~upon delivery a purchaser~~ a purchaser of a certificated or uncertificated security ~~to a purchaser, the purchaser~~ acquires all rights in the security that the transferor had or had power to transfer.

(b) A purchaser of a limited interest acquires rights only to the extent of the interest purchased.

(c) A purchaser of a certificated security who as a previous holder had notice of an adverse claim does not improve its position by taking from a protected purchaser.

Sec. 20. Minnesota Statutes 1998, section 336.8-510, is amended to read:

336.8-510 [RIGHTS OF PURCHASER OF SECURITY ENTITLEMENT FROM ENTITLEMENT HOLDER.]

(a) In a case not covered by the priority rules in article 9 or the rules stated in subsection (c), an action based on an adverse claim to a financial asset or security entitlement, whether framed in conversion, replevin, constructive trust, equitable lien, or other theory, may not be asserted against a person who purchases a security entitlement, or an interest therein, from an entitlement holder if the purchaser gives value, does not have notice of the adverse claim, and obtains control.

(b) If an adverse claim could not have been asserted against an entitlement holder under section 336.8-502, the adverse claim cannot be asserted against a person who purchases a security entitlement, or an interest therein, from the entitlement holder.

(c) In a case not covered by the priority rules in article 9, a purchaser for value of a security entitlement, or an interest therein, who obtains control has priority over a purchaser of a security entitlement, or an interest therein, who does not obtain control. Except as otherwise provided in subsection (d), purchasers who have control rank ~~equally, except that a~~ according to priority in time of:

(1) the purchaser's becoming the person for whom the securities account, in which the security entitlement is carried, is maintained, if the purchaser obtained control under section 336.8-106(d)(1);

(2) the securities intermediary's agreement to comply with the purchaser's entitlement orders with respect to security entitlements carried or to be carried in the securities account in which the security entitlement is carried, if the purchaser obtained control under section 336.8-106(d)(2); or

(3) if the purchaser obtained control through another person under section 336.8-106(d)(3), the time on which priority would be based under this subsection if the other person were the secured party.

(d) A securities intermediary as purchaser has priority over a conflicting purchaser who has control, unless otherwise agreed by the securities intermediary."

Delete the title and insert:

"A bill for an act relating to commerce; enacting revised article 9 of the Uniform Commercial Code as adopted by the National Conference of Commissioners on Uniform State Laws; amending Minnesota Statutes 1998, sections 336.1-105; 336.1-201; 336.2-103; 336.2-210; 336.2-326; 336.2-502; 336.2-716; 336.2A-103; 336.2A-303; 336.2A-307; 336.2A-309; 336.4-210; 336.7-503; 336.8-103; 336.8-106; 336.8-110; 336.8-301; 336.8-302; and 336.8-510; proposing coding for new law in Minnesota Statutes, chapter 336; repealing Minnesota Statutes 1998, sections 336.9-101; 336.9-102; 336.9-103; 336.9-104; 336.9-105; 336.9-106; 336.9-107; 336.9-108; 336.9-109; 336.9-110; 336.9-112; 336.9-113; 336.9-114; 336.9-115; 336.9-116; 336.9-201; 336.9-202; 336.9-204; 336.9-205; 336.9-206; 336.9-207; 336.9-208; 336.9-301; 336.9-302; 336.9-303; 336.9-304; 336.9-305; 336.9-306; 336.9-307; 336.9-308; 336.9-309; 336.9-310; 336.9-311; 336.9-312; 336.9-313; 336.9-314; 335.9-315; 336.9-316; 336.9-317; 336.9-318; 336.9-403; 336.9-404; 336.9-405; 336.9-406; 336.9-407; 336.9-408; 336.9-410; 336.9-412; 336.9-413; 336.9-501; 336.9-502; 336.9-503; 336.9-504; 336.9-505; 336.9-506; 336.9-507; and 336.9-508; Minnesota Statutes 1999 Supplement, sections 336.9-203; 336.9-401; 336.9-402; and 336.9-411."

With the recommendation that when so amended the bill pass.

The report was adopted.

Pawlenty from the Committee on Rules and Legislative Administration to which was referred:

S. F. No. 2547, A bill for an act relating to the capitol area; requiring the capitol area architectural and planning board to select a site in the capitol area for installation of the memorial to Minnesota firefighters that is now installed at Minneapolis-St. Paul International Airport.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

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

S. F. No. 3036, A bill for an act relating to natural resources; providing for seizure and administrative forfeiture of certain firearms and abandoned property; modifying authority to issue trespass citations; modifying provisions for forfeited vehicles; modifying definition of peace officer; providing civil penalties; appropriating money; amending Minnesota Statutes 1998, sections 97B.002, subdivision 1; and 609.5312, subdivision 4; Minnesota Statutes 1999 Supplement, sections 169.1217, subdivision 9; and 169.123, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 97A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [97A.223] [SEIZURE AND ADMINISTRATIVE FORFEITURE OF CERTAIN FIREARMS AND ABANDONED PROPERTY.]

Subdivision 1. [PROPERTY SUBJECT TO SEIZURE AND FORFEITURE.] (a) An enforcement officer must seize:

(1) firearms possessed in violation of state or federal law or court order; and

(2) property described in section 97A.221, subdivision 1, where no owner can be determined.

(b) Property seized under this section is subject to administrative forfeiture.

Subd. 2. [NOTICE OF SEIZURE AND INTENT TO FORFEIT.] When property is seized under subdivision 1, the enforcement officer shall serve any known owner and person possessing the property with a notice of the seizure and intent to forfeit the property. The notice must be in writing, describing the property seized, the date of seizure, and notice of the right to appeal the seizure and forfeiture as described in subdivision 3.

Subd. 3. [APPEAL; FINAL ORDER.] Seizure and administrative forfeiture of property under this section may be appealed under the procedures in section 116.072, subdivision 6, if the owner or other person from whom the property was seized requests a hearing by notifying the commissioner in writing within 45 days after seizure of the property. If a hearing is not requested within 45 days of seizure, the forfeiture becomes a final order and not subject to further review.

Subd. 4. [OTHER REMEDIES.] The authority to forfeit firearms and other property under this section is in addition to other remedies available under state and federal law.

Subd. 5. [DISPOSAL OF FORFEITED PROPERTY.] Forfeited property under this section may be disposed of as contraband according to section 97A.221, subdivision 4.

Sec. 2. Minnesota Statutes 1998, section 97B.002, subdivision 1, is amended to read:

Subdivision 1. [AUTHORITY TO ISSUE.] Conservation officers, sheriffs, and deputies may issue citations to a person who trespasses in violation of section 84.90 or 97B.001 or removes a sign posted to prevent trespass without permission of the owner of the property.

Sec. 3. Minnesota Statutes 1998, section 609.5312, subdivision 4, is amended to read:

Subd. 4. [VEHICLE FORFEITURE FOR FLEEING A PEACE OFFICER.] (a) A motor vehicle is subject to forfeiture under this subdivision if it was used to commit a violation of section 609.487 and endanger life or property. A motor vehicle is subject to forfeiture under this subdivision only if the offense is established by proof of a criminal conviction for the offense. Except as otherwise provided in this subdivision, a forfeiture under this subdivision is governed by sections 609.531, 609.5312, 609.5313, and 609.5315, subdivision 6.

(b) When a motor vehicle subject to forfeiture under this subdivision is seized in advance of a judicial forfeiture order, a hearing before a judge or referee must be held within 96 hours of the seizure. Notice of the hearing must be given to the registered owner within 48 hours of the seizure. The prosecuting authority shall certify to the court, at or in advance of the hearing, that it has filed or intends to file charges against the alleged violator for violating section 609.487. After conducting the hearing, the court shall order that the motor vehicle be returned to the owner if:

(1) the prosecutor has failed to make the certification required by this paragraph;

(2) the owner of the motor vehicle has demonstrated to the court's satisfaction that the owner has a defense to the forfeiture, including but not limited to the defenses contained in subdivision 2; or

(3) the court determines that seizure of the vehicle creates or would create an undue hardship for members of the owner's family.

(c) If the defendant is acquitted or the charges against the defendant are dismissed, neither the owner nor the defendant is responsible for paying any costs associated with the seizure or storage of the vehicle.

(d) A vehicle leased or rented under section 168.27, subdivision 4, for a period of 180 days or less is not subject to forfeiture under this subdivision.

(e) A motor vehicle that is an off-road recreational vehicle as defined in section 169.01, subdivision 86, or a motorboat as defined in section 169.01, subdivision 87, is not subject to the notice provisions of paragraph (b).

Sec. 4. [ASSESSING GROSS VIOLATIONS.]

The commissioner must review and assess gross violations of taking game and fish resources. A report on increased penalties for gross violations must be completed by the commissioner by February 1, 2001, and delivered to the house and senate committees on natural resources policy and finance.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to natural resources; providing for seizure and administrative forfeiture of certain firearms and abandoned property; modifying authority to issue trespass citations; modifying provisions for forfeited vehicles used for fleeing a peace officer; requiring assessment of gross violations; providing civil penalties; amending Minnesota Statutes 1998, sections 97B.002, subdivision 1; and 609.5312, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 97A."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 3234, A bill for an act relating to state government; authorizing legislative governmental operations committees to formally object to administrative rules; modifying the review of proposed rules; creating a rules task force; providing appointments; amending Minnesota Statutes 1998, sections 3.842, subdivision 4a; and 14.15, subdivision 4; Minnesota Statutes 1999 Supplement, section 14.26, subdivision 3.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1998, section 3.842, subdivision 4a, is amended to read:

Subd. 4a. [OBJECTIONS TO RULES.] (a) For purposes of this subdivision, "committee" means the house of representatives policy committee or senate policy committee with primary jurisdiction over state governmental operations. The commission or a committee may object to a rule as provided in this subdivision. If the commission

or a committee objects to all or some portion of a rule because the commission or committee considers it to be beyond the procedural or substantive authority delegated to the agency, including a proposed rule submitted under section 14.15, subdivision 4, or 14.26, subdivision 3, paragraph (c), the commission or committee may file that objection in the office of the secretary of state. The filed objection must contain a concise statement of the commission's or committee's reasons for its action. An objection to a proposed rule submitted by the commission or a committee under section 14.15, subdivision 4, or 14.26, subdivision 3, paragraph (c), may not be filed before the rule is adopted.

(b) The secretary of state shall affix to each objection a certification of the date and time of its filing and as soon after the objection is filed as practicable shall transmit a certified copy of it to the agency issuing the rule in question and to the revisor of statutes. The secretary of state shall also maintain a permanent register open to public inspection of all objections by the commission or committee.

(c) The commission or committee shall publish and index an objection filed under this section in the next issue of the State Register. The revisor of statutes shall indicate the existence of the objection adjacent to the rule in question when that rule is published in Minnesota Rules.

(d) Within 14 days after the filing of an objection by the commission or committee to a rule, the issuing agency shall respond in writing to the ~~commission~~ objecting entity. After receipt of the response, the commission or committee may withdraw or modify its objection.

(e) After the filing of an objection by the commission or committee that is not subsequently withdrawn, the burden is upon the agency in any proceeding for judicial review or for enforcement of the rule to establish that the whole or portion of the rule objected to is valid.

(f) The failure of the commission or a committee to object to a rule is not an implied legislative authorization of its validity.

(g) In accordance with sections 14.44 and 14.45, the commission or a committee may petition for a declaratory judgment to determine the validity of a rule objected to by the commission or committee. The action must be started within two years after an objection is filed in the office of the secretary of state.

(h) The commission or a committee may intervene in litigation arising from agency action. For purposes of this paragraph, agency action means the whole or part of a rule, or the failure to issue a rule.

Sec. 2. Minnesota Statutes 1998, section 14.15, subdivision 4, is amended to read:

Subd. 4. [NEED OR REASONABLENESS NOT ESTABLISHED.] If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established pursuant to section 14.14, subdivision 2, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative coordinating commission and to the house of representatives and senate policy committees with primary jurisdiction over state governmental operations for ~~the commission's~~ advice and comment. The agency may not adopt the rule until it has received and considered the advice of the commission and committees. However, the agency is not required to wait for ~~the commission's~~ advice for more than 60 days after the commission ~~has~~ and committees have received the agency's submission.

Sec. 3. Minnesota Statutes 1999 Supplement, section 14.26, subdivision 3, is amended to read:

Subd. 3. [REVIEW.] (a) Within 14 days, the administrative law judge shall approve or disapprove the rule as to its legality and its form to the extent that the form relates to legality, including the issues of whether the rule if modified is substantially different, as determined under section 14.05, subdivision 2, from the rule as originally proposed, whether the agency has the authority to adopt the rule, and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. If the rule is approved, the administrative law judge

shall promptly file three copies of it in the office of the secretary of state. The secretary of state shall forward one copy of each rule to the revisor of statutes and to the governor. If the rule is disapproved, the administrative law judge shall state in writing the reasons for the disapproval and make recommendations to overcome the defects.

(b) The written disapproval must be submitted to the chief administrative law judge for approval. If the chief administrative law judge approves of the findings of the administrative law judge, the chief administrative law judge shall send the statement of the reasons for disapproval of the rule to the agency, the legislative coordinating commission, the house of representatives and senate policy committees with primary jurisdiction over state governmental operations and the revisor of statutes and advise the agency and the revisor of statutes of actions that will correct the defects. The rule may not be filed in the office of the secretary of state, nor published, until the chief administrative law judge determines that the defects have been corrected or, if applicable, that the agency has satisfied the rule requirements for the adoption of a substantially different rule.

(c) If the chief administrative law judge determines that the need for or reasonableness of the rule has not been established, and if the agency does not elect to follow the suggested actions of the chief administrative law judge to correct that defect, then the agency shall submit the proposed rule to the legislative coordinating commission and to the house of representatives and senate policy committees with primary jurisdiction over state governmental operations for ~~the commission's~~ advice and comment. The agency may not adopt the rule until it has received and considered the advice of the commission and committees. However, the agency is not required to wait for ~~the commission's~~ advice for more than 60 days after the commission ~~has~~ and committees have received the agency's submission.

(d) The administrative law judge shall disregard any error or defect in the proceeding due to the agency's failure to satisfy any procedural requirements imposed by law or rule if the administrative law judge finds:

(1) that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process; or

(2) that the agency has taken corrective action to cure the error or defect so that the failure did not deprive any person or entity of an opportunity to participate meaningfully in the rulemaking process.

Sec. 4. [RULES TASK FORCE.]

A rules task force of eight members is created. The governor must appoint four members. The task force also includes one member each from the minority and majority caucus in the house of representatives and the senate. House members must be appointed by the speaker. Senate members must be appointed by the committee on rules and administration. The member of the majority caucus appointed by the speaker of the house of representatives must convene the first meeting. The members of the task force must elect a chair. The legislative coordinating commission and an agency designated by the governor must provide staff assistance and administrative support for the task force within existing appropriations. The task force must study and make recommendations to the governor and the legislature by January 15, 2001, on issues relating to review of agency rules. The recommendations must include, but are not limited to:

(1) a process to be used by agencies, the governor, and the legislature to identify and prioritize rules and related laws and programs that will be subject to legislative review;

(2) a process by which the legislature will review rules and related laws and programs identified under clause (1);

(3) the estimated agency and legislative time and resources required for review of rules and related laws and programs under the processes recommended under clauses (1) and (2);

(4) the effect of possible repeal of agency rules on the state budget; and

(5) the desirability of changes in the rulemaking requirements of the Administrative Procedure Act, given increased legislative scrutiny of rules.

In making its recommendations, the task force must consult with interested parties, and must consider relevant state and federal laws and commitments. The task force is subject to Minnesota Statutes, section 471.705. The task force expires June 30, 2001.

Sec. 5. [14.369] [REPEAL OF RULES; SCHEDULE.]

Subdivision 1. [REPEAL.] Rules published in Minnesota Rules are repealed according to the schedule in subdivision 2, unless a law enacted before the effective date of the repeal authorizes the rules to continue in effect. However, a rule imposing fees, or a rule that is required by federal law, is repealed only if a law is enacted before the effective date of the repeal specifying the degree to which and the manner by which the affected agency is to implement the program supported by the fee or required by federal law. If, during the annual legislative session in the year in which an agency's rules are scheduled for repeal, the full house of representatives and the full senate have not voted on a bill or amendment that would repeal the agency's rules or authorize the agency's rules to remain in effect, then the rules of that agency are not repealed until 60 days after the commencement of the regular legislative session in the following year. If a rule is repealed under subdivision 2, the agency may not adopt new rules on the same topic as the repealed rules unless specifically authorized to do so by subsequent law.

Subd. 2. [SCHEDULE.] (a) Rules of the administration department, agriculture department, children, families, and learning department, commerce department, and corrections department are repealed July 1, 2002.

(b) Rules of the accountancy board, administrative hearings office, animal health board, architecture, engineering, land surveying, landscape architecture, geoscience, and interior design board, and arts board are repealed July 1, 2003.

Subd. 3. [EFFECT ON OTHER LAW.] This section does not extend the effective period of rules that are repealed at an earlier time by other law.

Subd. 4. [SUCCESSOR AGENCIES.] If an agency is renamed, its rules expire at the time indicated in subdivision 2 for the predecessor agency. If the duty to adopt rules on a topic is transferred from one agency to another agency, the rules expire at the time indicated in subdivision 2 for the successor agency.

Sec. 6. [14.3691] [RULE REVIEW.]

Subdivision 1. [REPORTS.] An entity whose rules are scheduled for review under this section or repeal under section 14.369 must report to the appropriate committees of the legislature by January 15 of the year in which the entity's rules are scheduled for review or repeal. The speaker of the house of representatives and the senate committee on rules and administration shall designate the appropriate committees to receive these reports. The report must: (1) list any rules that the entity recommends for repeal; and (2) list and briefly describe the rationale for rules that the entity believes should remain in effect. Any costs of preparing this report must be absorbed within funds otherwise appropriated to the entity.

Subd. 2. [SCHEDULE.] (a) Rules of the economic security department, employee relations department, health department, housing finance agency, human rights department, human services department, and labor and industry department will be reviewed in 2004.

(b) Rules of the mediation services bureau, natural resources department, pollution control agency, public safety department, and public service department will be reviewed in 2005.

(c) Rules of the revenue department, state planning agency, trade and economic development department, transportation department, and veterans affairs department will be reviewed in 2006.

(d) Rules of the Perpich center for arts education, assessors board, barber examiners board, boxing board, campaign finance and public disclosure board, capitol area architectural and planning board, chiropractic examiners board, dentistry board, designer selection board, dietetics and nutrition practice board, electricity board, emergency medical services regulatory board, and environmental assistance office will be reviewed in 2007.

(e) Rules of the environmental quality board, gambling control board, harmful substance compensation board, health licensing boards, higher education services office, Indian affairs council, lottery board, marriage and family therapy board, medical practice board, metropolitan council, metropolitan waste control commission, Minnesota state retirement system, municipal board, nursing board, nursing home administrators examiners board, optometry board, pardons board, and peace officer standards and training board will be reviewed in 2008.

(f) Rules of the pharmacy board, podiatry board, psychology board, public employees retirement association, public utilities commission, racing commission, rural finance authority, secretary of state, sentencing guidelines commission, social work board, tax court, teaching board, telecommunication access for communication-impaired persons, transportation regulation board, veterans homes board of directors, veterinary medicine board, water and soil resources board, workers' compensation court of appeals, and zoological board will be reviewed in 2009.

Sec. 7. [EFFECTIVE DATE.]

Sections 1 to 4 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to state government; providing for sunset of administrative rules; authorizing legislative governmental operations committees to formally object to administrative rules; modifying the review of proposed rules; creating a rules task force; providing appointments; amending Minnesota Statutes 1998, sections 3.842, subdivision 4a; and 14.15, subdivision 4; Minnesota Statutes 1999 Supplement, section 14.26, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 14."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 3290, A bill for an act relating to environment; providing grants for certain agreements made under the Environment Response and Liability Act; extending landfill cleanup eligibility for the Western Lake Superior Sanitary District; amending Minnesota Statutes 1998, section 115B.17, subdivision 19.

Reported the same back with the following amendments:

Page 4, line 13, after the semicolon, insert "and"

Page 4, line 15, delete "; and" and insert a period

Page 4, delete lines 16 to 19

With the recommendation that when so amended the bill pass.

The report was adopted.

Pawlenty from the Committee on Rules and Legislative Administration to which was referred:

House Resolution No. 18, A house resolution congratulating Samantha Redden and Katie Dick for their heroic acts.

Reported the same back without recommendation.

The report was adopted.

Pawlenty from the Committee on Rules and Legislative Administration to which was referred:

House Resolution No. 20, A house resolution recognizing April 1 to 8, 2000, as Lyme Disease Awareness Week in Minnesota.

Reported the same back without recommendation.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 2216, 3082, 3516 and 3965 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 619, 2796, 2806, 3533, 884, 1288, 1495, 2547, 3036, 3234 and 3290 were read for the second time.

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

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

H. F. No. 2940, A bill for an act relating to the environment; modifying the drycleaner environmental response and reimbursement law; amending Minnesota Statutes 1998, section 115B.49, subdivision 4, as amended, and by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 4078, A bill for an act relating to capital improvements; authorizing spending to acquire and to better public land and buildings and other public improvements of a capital nature with certain conditions and directions; establishing the Red River State Recreation Area and the Mill Towns Trail; establishing a working group on effects of increased activity in the DM&E railroad corridor; providing for certain surcharge forgiveness for a time for Gillette Children's Hospital, with certain conditions; authorizing the sale of state bonds; appropriating money; amending Minnesota Statutes 1998, sections 85.015, by adding a subdivision; 136F.36, subdivisions 1, 3, and by adding a subdivision; 136F.60, by adding a subdivision; and 136F.64, subdivision 1; Minnesota Statutes 1999 Supplement, sections 119A.45; and 124D.88, subdivision 3; Laws 1998, chapter 404, sections 3, subdivision 24; 5, subdivision 11, as amended; 7, subdivision 23, as amended; and 23, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 240A.

The Senate has appointed as such committee:

Senators Berglin, Cohen, Langseth, Stumpf and Scheevel.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

H. F. No. 2656, A bill for an act relating to consumer protection; regulating auto glass repair and replacement; restricting certain rebates and incentives; appropriating money; amending Minnesota Statutes 1998, section 72A.201, subdivision 6; proposing coding for new law in Minnesota Statutes, chapter 325F.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Wolf moved that the House concur in the Senate amendments to H. F. No. 2656 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 2656, A bill for an act relating to consumer protection; regulating auto glass repair and replacement; restricting certain rebates and incentives; establishing an auto glass survey revolving account; appropriating money; amending Minnesota Statutes 1998, section 72A.201, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 72A; and 325F.

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

The question was taken on the repassage of the bill and the roll was called. There were 121 yeas and 1 nay as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|-----------|------------|----------|-------------|--------------|
| Abeler | Dorn | Huntley | Luther | Pelowski | Tingelstad |
| Abrams | Entenza | Jaros | Mahoney | Peterson | Tomassoni |
| Anderson, B. | Erhardt | Jennings | Mares | Pugh | Trimble |
| Anderson, I. | Erickson | Johnson | Marko | Rest | Tuma |
| Bakk | Finseth | Juhnke | McCollum | Reuter | Tunheim |
| Biernat | Folliard | Kahn | McElroy | Rhodes | Van Dellen |
| Boudreau | Fuller | Kalis | Milbert | Rifenberg | Vandever |
| Bradley | Gerlach | Kelliher | Molnau | Rostberg | Wagenius |
| Broecker | Gleason | Kielkucki | Mulder | Rukavina | Wenzel |
| Buesgens | Goodno | Knoblach | Mullery | Schumacher | Westerberg |
| Carlson | Greiling | Koskinen | Murphy | Seagren | Westfall |
| Carruthers | Gunther | Krinkie | Ness | Seifert, M. | Westrom |
| Cassell | Haake | Kubly | Nornes | Skoe | Wilkin |
| Chaudhary | Haas | Kuisle | Olson | Skoglund | Winter |
| Clark, J. | Hackbarth | Larsen, P. | Opatz | Smith | Wolf |
| Daggett | Harder | Larson, D. | Osskopp | Solberg | Spk. Sviggum |
| Davids | Hasskamp | Leighton | Otremba | Stang | |
| Dawkins | Hilty | Lenczewski | Ozment | Storm | |
| Dehler | Holberg | Leppik | Paulsen | Swapinski | |
| Dempsey | Holsten | Lieder | Pawlenty | Swenson | |
| Dorman | Howes | Lindner | Paymar | Sykora | |

Those who voted in the negative were:

Hausman

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

Mr. Speaker:

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

H. F. No. 3122, A bill for an act relating to human services; modifying provisions in health care programs; requiring group residential review; amending Minnesota Statutes 1999 Supplement, sections 256B.0945, subdivisions 1, 2, 4, 5, 6, 7, 8, and 9; 256D.03, subdivision 3; and 256L.03, subdivision 5; Laws 1999, chapter 245, article 8, section 84; repealing Laws 1998, chapter 407, article 5, section 44.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Abeler moved that the House concur in the Senate amendments to H. F. No. 3122 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3122, A bill for an act relating to human services; modifying provisions in health care programs; requiring a study of group residential housing; clarifying medical assistance coverage for employed persons with disabilities; amending Minnesota Statutes 1998, sections 62Q.19, subdivisions 2 and 6; and 256B.69, subdivision 23; Minnesota Statutes 1999 Supplement, sections 256B.057, subdivision 9; 256B.0945, subdivisions 1, 2, 4, 5, 6, 7, 8, and 9; 256B.69, subdivision 6b; 256D.03, subdivision 3; and 256L.03, subdivision 5; Laws 1999, chapter 245, article 8, section 84; repealing Laws 1998, chapter 407, article 5, section 44.

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

The question was taken on the repassage of the bill and the roll was called. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|-------------|--------------|
| Abeler | Dorman | Holberg | Leppik | Ozment | Storm |
| Abrams | Dorn | Holsten | Lieder | Paulsen | Swapinski |
| Anderson, B. | Entenza | Howes | Lindner | Pawlenty | Swenson |
| Anderson, I. | Erhardt | Huntley | Luther | Paymar | Sykora |
| Bakk | Erickson | Jaros | Mahoney | Pelowski | Tingelstad |
| Biernat | Finseth | Jennings | Mares | Peterson | Tomassoni |
| Bishop | Folliard | Johnson | Marko | Pugh | Trimble |
| Boudreau | Fuller | Juhnke | McCollum | Rest | Tuma |
| Bradley | Gerlach | Kahn | McElroy | Reuter | Tunheim |
| Broecker | Gleason | Kalis | McGuire | Rhodes | Van Dellen |
| Buesgens | Goodno | Kelliher | Milbert | Rifenberg | Vandever |
| Carlson | Greenfield | Kielkucki | Molnau | Rostberg | Wagenius |
| Carruthers | Greiling | Knoblach | Mulder | Rukavina | Wenzel |
| Cassell | Gunther | Koskinen | Mullery | Schumacher | Westerberg |
| Chaudhary | Haake | Krinkie | Murphy | Seagren | Westfall |
| Clark, J. | Haas | Kubly | Ness | Seifert, M. | Westrom |
| Daggett | Hackbarth | Kuisle | Nornes | Skoe | Wilkin |
| Davids | Harder | Larsen, P. | Olson | Skoglund | Winter |
| Dawkins | Hasskamp | Larson, D. | Opatz | Smith | Wolf |
| Dehler | Hausman | Leighton | Osskopp | Solberg | Spk. Sviggum |
| Dempsey | Hilty | Lenczewski | Otremba | Stang | |

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

Mr. Speaker:

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

H. F. No. 3510, A bill for an act relating to game and fish; extending authorization to take two deer in certain counties; amending Laws 1993, chapter 273, section 1, as amended.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Holsten moved that the House concur in the Senate amendments to H. F. No. 3510 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 3510, A bill for an act relating to game and fish; providing for certain lifetime game and fish licenses; making the experimental two-deer license in certain counties permanent; appropriating money; amending Minnesota Statutes 1998, sections 97A.071, subdivision 2; 97A.411, subdivision 1; 97A.421; 97A.475, subdivision 4; and 97B.301, subdivision 4; Minnesota Statutes 1999 Supplement, sections 97A.075, subdivision 1; and 97B.020; proposing coding for new law in Minnesota Statutes, chapter 97A.

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

The question was taken on the repassage of the bill and the roll was called. There were 113 yeas and 10 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|-------------|--------------|
| Abeler | Dorman | Howes | Luther | Pelowski | Swenson |
| Abrams | Dorn | Huntley | Mares | Peterson | Sykora |
| Anderson, B. | Entenza | Jaros | Marko | Pugh | Tingelstad |
| Bakk | Erhardt | Jennings | McCollum | Rest | Tomassoni |
| Biernat | Erickson | Johnson | McElroy | Reuter | Trimble |
| Boudreau | Finseth | Juhnke | McGuire | Rhodes | Tuma |
| Bradley | Fuller | Kahn | Milbert | Rifenberg | Tunheim |
| Broecker | Gerlach | Kelliher | Molnau | Rostberg | Van Dellen |
| Buesgens | Gleason | Kielkucki | Mulder | Rukavina | Vandever |
| Carlson | Goodno | Knoblach | Mullery | Schumacher | Wagenius |
| Carruthers | Greenfield | Krinkie | Murphy | Seagren | Wenzel |
| Cassell | Gunther | Kubly | Ness | Seifert, M. | Westerberg |
| Chaudhary | Haake | Kuisle | Nornes | Skoe | Westfall |
| Clark, J. | Haas | Larsen, P. | Olson | Skoglund | Westrom |
| Daggett | Hackbarth | Larson, D. | Opatz | Smith | Wilkin |
| Dauids | Harder | Leighton | Osskopp | Solberg | Winter |
| Dawkins | Hasskamp | Lenczewski | Ozment | Stang | Wolf |
| Dehler | Holberg | Leppik | Paulsen | Storm | Spk. Sviggum |
| Dempsey | Holsten | Lindner | Pawlenty | Swapinski | |

Those who voted in the negative were:

| | | | | |
|--------------|----------|-------|----------|---------|
| Anderson, I. | Greiling | Hilty | Koskinen | Otremba |
| Folliard | Hausman | Kalis | Mahoney | Paymar |

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

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 1733, A bill for an act relating to alcoholic beverages; imposing civil third-party liability for damages caused by intoxication of persons under age 21; prohibiting certain subrogation claims; proposing coding for new law in Minnesota Statutes, chapter 340A.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Betzold, Hottinger and Knutson.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Carruthers moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 1733. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendments to the following Senate File:

S. F. No. 2363, A bill for an act relating to health; regulating dental benefit plans; proposing coding for new law in Minnesota Statutes, chapter 62Q.

The Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee:

Senators Sams, Berglin and Belanger.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Larsen, P., moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two houses on S. F. No. 2363. The motion prevailed.

Mr. Speaker:

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

H. F. No. 2451, A bill for an act relating to telecommunications; modifying telephone company property depreciation provisions; amending Minnesota Statutes 1998, section 237.22; repealing Minnesota Statutes 1998, section 237.773, subdivision 5; Minnesota Rules, parts 7810.7000; 7810.7100; 7810.7200; 7810.7300; 7810.7400; 7810.7500; 7810.7600; 7810.7700; 7810.7800; 7810.7900; and 7810.8000.

PATRICK E. FLAHAVEN, Secretary of the Senate

Davids moved that the House refuse to concur in the Senate amendments to H. F. No. 2451, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

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

H. F. No. 3505, A bill for an act relating to commerce; regulating certain disclosures; authorizing insurance against vicarious liability for certain damages; specifying the license term and fees of a managing general agent; regulating securities broker-dealers and investment advisers; authorizing the commissioner to withdraw certain inactive registration applications; extending a real estate continuing education pilot project; regulating the contractor recovery fund; making collection agencies responsible for the acts of collectors; providing standards of conduct for notarial acts; regulating unclaimed property; amending Minnesota Statutes 1998, sections 45.027, subdivision 7a; 60H.03, by adding a subdivision; 60K.03, subdivision 4; 80A.04, subdivisions 2 and 3; 80A.07, subdivision 1; 80A.10, subdivision 2; 80C.05, subdivision 4; 80C.07; 82.22, subdivision 13; 82A.04, subdivision 4, and by adding a subdivision; 82B.14; 83.23, by adding a subdivision; 308A.711, subdivision 1; 326.975, subdivision 1; and 345.515; Minnesota Statutes 1999 Supplement, sections 60A.06, subdivision 1; and 80A.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 332; and 359.

PATRICK E. FLAHAVEN, Secretary of the Senate

Davids moved that the House refuse to concur in the Senate amendments to H. F. No. 3505, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two houses. The motion prevailed.

Mr. Speaker:

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

S. F. Nos. 173, 2848, 2851, 887, 2987, 3002, 3116, 1870, 2845, 3016 and 2200.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 173, A bill for an act relating to natural resources; allowing the possession of wild animals taken under the Red Lake Band's conservation code on Red Lake Reservation lands north of the 49th parallel; amending Minnesota Statutes 1998, section 97A.505, by adding a subdivision.

The bill was read for the first time.

Tunheim moved that S. F. No. 173 and H. F. No. 304, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2848, A bill for an act relating to public employment; adding certain supervisory or confidential employees to the list of employees who may be represented by the same exclusive representative that represents employees who are not supervisory or confidential; amending Minnesota Statutes 1999 Supplement, section 179A.06, subdivision 2.

The bill was read for the first time.

Rostberg moved that S. F. No. 2848 and H. F. No. 2981, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2851, A bill for an act relating to labor; increasing penalties for violations of child labor laws; amending Minnesota Statutes 1998, section 181A.12, subdivision 1.

The bill was read for the first time.

Leighton moved that S. F. No. 2851 and H. F. No. 3414, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 887, A bill for an act relating to crime; providing additional penalty enhancements for certain crimes motivated by bias; requiring mandatory education and community service for certain juveniles petitioned or adjudicated delinquent for violating the bias-motivated crime; amending Minnesota Statutes 1998, sections 609.595, subdivisions 2 and 3; 609.749, subdivision 3; and 624.712, subdivision 5; Minnesota Statutes 1999 Supplement, section 260B.198, subdivision 7, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 609; repealing Minnesota Statutes 1998, sections 609.2231, subdivision 4; and 609.595, subdivision 1a.

The bill was read for the first time.

Rhodes moved that S. F. No. 887 and H. F. No. 1502, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2987, A bill for an act relating to cooperatives; amending provisions on the financing and distribution of income for cooperatives; amending Minnesota Statutes 1998, section 308A.705, subdivision 3; Minnesota Statutes 1999 Supplement, section 80A.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 308A; repealing Minnesota Statutes 1998, sections 308A.031; and 308A.161.

The bill was read for the first time.

Westrom moved that S. F. No. 2987 and H. F. No. 3903, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 3002, A bill for an act relating to natural resources; adding to and deleting from state parks; amending Minnesota Statutes 1998, section 85.012, subdivision 32a.

The bill was read for the first time.

Swenson moved that S. F. No. 3002 and H. F. No. 2991, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 3116, A bill for an act relating to creditors' remedies; regulating garnishments, executions, and levies; revising forms; regulating service; defining terms; providing notification; increasing the dollar amount of attorneys' execution levies; making various housekeeping and technical changes; amending Minnesota Statutes 1998, sections 550.051, subdivision 1; 550.136, subdivisions 2 and 9; 550.143, subdivisions 7 and 8; 551.01; 551.04, subdivisions 4, 6, and 9; 551.05, subdivision 5; 551.06, subdivision 9; 571.72, subdivision 2; 571.74; 571.79; 571.82, subdivision 1; 571.914, subdivision 2; and 571.921; Minnesota Statutes 1999 Supplement, sections 550.136, subdivisions 6 and 10; 550.143, subdivision 3; 551.05, subdivision 1a; 551.06, subdivision 10; 571.75, subdivision 2; 571.912; and 571.925; proposing coding for new law in Minnesota Statutes, chapters 550; 551; and 571; repealing Minnesota Statutes 1998, section 571.80.

The bill was read for the first time.

Holberg moved that S. F. No. 3116 and H. F. No. 3577, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1870, A bill for an act relating to motor vehicles; regulating motor vehicle fuel franchises and marketing agreements; amending Minnesota Statutes 1998, section 80C.01, subdivision 4, and by adding subdivisions; proposing coding for new law as Minnesota Statutes, chapter 80F.

The bill was read for the first time.

Haas moved that S. F. No. 1870 and H. F. No. 1748, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 2845, A bill for an act relating to crimes; increasing criminal penalties and driver license sanctions for underage persons who use any type of false identification to purchase or attempt to purchase alcoholic beverages or tobacco; authorizing peace officers to transport alleged truants from the child's home to school or to a truancy service center; authorizing retailers to seize false identification; amending Minnesota Statutes 1998, sections 171.171; 340A.702; and 609.685, subdivisions 1a, 2, and 3; Minnesota Statutes 1999 Supplement, sections 260B.235, subdivision 4; 260C.143, subdivision 4; and 340A.503, subdivision 6.

The bill was read for the first time.

Leppik moved that S. F. No. 2845 and H. F. No. 2655, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 3016, A bill for an act relating to family law; changing certain child support enforcement provisions; providing for notices; clarifying certain delegation of powers provisions; amending Minnesota Statutes 1998, sections 256.979, by adding a subdivision; 518.255; 518.64, subdivision 5; 518.68, subdivision 2; 524.5-505; 552.01, subdivision 3, and by adding a subdivision; 552.03; and 552.04, subdivisions 4, 6, 11, and 16; Minnesota Statutes 1999 Supplement, section 13B.06, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 518 and 552; repealing Minnesota Statutes 1998, section 552.05, subdivisions 1, 2, 3, 6, 7, 8, and 9; Minnesota Statutes 1999 Supplement, section 552.05, subdivisions 4, 5, and 10; Minnesota Rules, parts 9500.1800; 9500.1805; 9500.1810; 9500.1811; 9500.1812; 9500.1815; 9500.1817; 9500.1820; and 9500.1821.

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

S. F. No. 2200, A bill for an act relating to public safety; providing for creation of a propane education and research council.

The bill was read for the first time.

Ozment moved that S. F. No. 2200 and H. F. No. 2427, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

REPORT FROM THE COMMITTEE ON RULES AND
LEGISLATIVE ADMINISTRATION

Pawlenty from the Committee on Rules and Legislative Administration, pursuant to rule 1.21, designated the following bills to be placed on the Calendar for the Day, immediately following the remaining bills on the Calendar for the Day, for Thursday, March 30, 2000:

S. F. No. 2499; H. F. Nos. 3328 and 3331; S. F. Nos. 3203 and 3379; H. F. No. 2427; S. F. Nos. 2850 and 3354; H. F. No. 2991; and S. F. No. 2742.

CALENDAR FOR THE DAY

S. F. No. 2803 was reported to the House.

Tuma moved to amend S. F. No. 2803 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2969, the second engrossment:

"Section 1. Minnesota Statutes 1998, section 326.19, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATES AND LICENSES AS CERTIFIED PUBLIC ACCOUNTANTS.] (a) A certified public accountant certificate shall be granted to any person:

- (1) who has attained the age of 18 years;
 - (2) who ~~is of good character~~ has met ethical standards set by the board;
 - (3) who has successfully completed an examination in the subjects and at the times the board may prescribe in its rules; and
 - (4) who meets all other requirements for issuance of a certificate, including payment of required fees.
- (b) Until July 1, 2006, the examination shall be administered by the board only to a candidate who:
- (1) holds a master's degree with a major in accounting from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education;
 - (2) holds a baccalaureate degree, with a major in accounting, from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education or who has in the opinion of the board at least an equivalent education;
 - (3) holds a baccalaureate degree from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education and who has in the opinion of the board at least an equivalent education, or providing at least one year of experience of the type specified in subdivision 4 has been completed;

(4) provides evidence of having completed two or more years of study with passing grade average or above from a college, university, technical college, or a Minnesota licensed private school that is fully accredited by a recognized accrediting agency listed with the United States Department of Education or who has in the opinion of the board at least an equivalent education, providing that at least three years experience of the type specified in subdivision 4 has been completed; or

(5) holds a diploma as a graduate of an accredited high school or who has in the opinion of the board at least an equivalent education, providing that at least five years experience of the type specified in subdivision 4 has been completed.

(c) On or after July 1, 2006, the examination shall be administered by the board only to a candidate who has a baccalaureate or higher degree, with a major in accounting or a major in business with accounting emphasis, or an equivalent education, from a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or an equivalent accrediting association.

Sec. 2. Minnesota Statutes 1998, section 326.19, subdivision 2, is amended to read:

Subd. 2. [EXPERIENCE.] (a) A certified public accountant license shall be granted to any person who has been issued a certified public accountant certificate under subdivision 3. Until July 1, 2006, those persons holding certified public accountant certificates issued under subdivision 1 who meet all other requirements for licensure, including payment of required fees, shall be granted licenses as certified public accountants, providing that they have completed the following required experience of the type specified in subdivision 4 in addition to any experience required in subdivision 1, paragraph (b):

(1) for those whose educational qualifications meet the requirements of subdivision 1, paragraph (b), clause (1), the experience requirement is one year;

(2) for those whose educational qualifications meet the requirements of subdivision 1, paragraph (b), clause (2), the experience requirement is two years;

(3) for those whose educational and experience qualifications meet the requirements of subdivision 1, paragraph (b), clause (3), the additional required experience is two years;

(4) for those whose educational and experience qualifications meet the requirements of subdivision 1, paragraph (b), clause (4), the additional required experience is two years; and

(5) for those whose educational and experience qualifications meet the requirements of subdivision 1, paragraph (b), clause (5), the additional required experience is one year.

(b) On or after July 1, 2006, those persons holding certified public accountant certificates issued under subdivision 1 shall be granted licenses as certified public accountants provided they certify to the board that they have completed at least 150 semester or 225 quarter hours at a college or university that is fully accredited by a recognized accrediting agency listed with the United States Department of Education, or an equivalent accrediting association, and have completed at least one year of experience of the type specified in subdivision 4.

Sec. 3. Minnesota Statutes 1998, section 326.19, is amended by adding a subdivision to read:

Subd. 5. [CONSULTATION.] The board, in consultation with the University of Minnesota, the Minnesota state colleges and universities, private colleges, and private career schools regulated under chapter 141, shall establish criteria to assess equivalent education for purposes of subdivision 1, paragraph (c).

Sec. 4. [326.197] [REGISTERED ACCOUNTING PRACTITIONER.]

By July 1, 2004, the board shall implement a voluntary registration of accounting practitioners. The board shall prescribe the limitations of practice, educational preparation, examination, registration, fees, and continuing education requirements for the registration. The board shall consult with the University of Minnesota, the Minnesota

state colleges and universities, the Minnesota Association of Private Post-Secondary Schools, the Private College Council, the Minnesota Association of Public Accountants, the Minnesota Society of Certified Public Accountants, and other organizations as deemed appropriate in the implementation of this section."

The motion prevailed and the amendment was adopted.

The Speaker called Abrams to the Chair.

POINT OF ORDER

Krinkie raised a point of order pursuant to rule 4.13 relating to Bills Affecting State Government Powers and Structure. Speaker pro tempore Abrams ruled the point of order not well taken.

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

The Speaker resumed the Chair.

Krinkie moved that S. F. No. 2803, as amended, be re-referred to the Committee on Rules and Legislative Administration.

A roll call was requested and properly seconded.

The question was taken on the Krinkie motion and the roll was called. There were 25 yeas and 102 nays as follows:

Those who voted in the affirmative were:

| | | | | |
|--------------|-----------|---------|-------------|------------|
| Abrams | Buesgens | Krinkie | Peterson | Vandever |
| Anderson, B. | Gerlach | Lindner | Reuter | Westerberg |
| Boudreau | Haas | Mulder | Seifert, M. | Westfall |
| Bradley | Holberg | Olson | Solberg | Westrom |
| Broecker | Kielkucki | Paulsen | Van Dellen | Wilkin |

Those who voted in the negative were:

| | | | | | |
|--------------|----------|------------|----------|------------|---------|
| Abeler | Davids | Gleason | Howes | Larsen, P. | McElroy |
| Anderson, I. | Dawkins | Goodno | Huntley | Larson, D. | McGuire |
| Bakk | Dehler | Gray | Jaros | Leighton | Milbert |
| Biernat | Dempsey | Greenfield | Jennings | Lenczewski | Molnau |
| Bishop | Dorman | Greiling | Johnson | Leppik | Mullery |
| Carlson | Dorn | Gunther | Juhnke | Lieder | Murphy |
| Carruthers | Entenza | Haake | Kalis | Luther | Ness |
| Cassell | Erhardt | Hackbarth | Kelliher | Mahoney | Nornes |
| Chaudhary | Erickson | Harder | Knoblach | Mares | Opatz |
| Clark, J. | Finseth | Hausman | Koskinen | Mariani | Osskopp |
| Clark, K. | Folliard | Hilty | Kubly | Marko | Osthoff |
| Daggett | Fuller | Holsten | Kuisle | McCollum | Ozment |

| | | | | | |
|----------|------------|----------|------------|-----------|--------------|
| Pawlenty | Rhodes | Seagren | Storm | Tomassoni | Wejcman |
| Paymar | Rifenberg | Skoe | Swapinski | Trimble | Wenzel |
| Pelowski | Rostberg | Skoglund | Swenson | Tuma | Winter |
| Pugh | Rukavina | Smith | Sykora | Tunheim | Wolf |
| Rest | Schumacher | Stang | Tingelstad | Wagenius | Spk. Sviggum |

The motion did not prevail.

S. F. No. 2803, A bill for an act relating to accountants; modifying licensing requirements; requiring the board of accountancy to implement a voluntary registration of accounting practitioners; amending Minnesota Statutes 1998, section 326.19, subdivisions 1, 2, and by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 326.

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

The question was taken on the passage of the bill and the roll was called. There were 102 yeas and 26 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|------------|------------|--------------|
| Abeler | Dempsey | Harder | Lenczewski | Osskopp | Smith |
| Abrams | Dorman | Hausman | Leppik | Osthoff | Stang |
| Anderson, I. | Entenza | Hilty | Lieder | Ozment | Storm |
| Bakk | Erhardt | Holberg | Luther | Pawlenty | Swapinski |
| Biernat | Erickson | Holsten | Mahoney | Paymar | Swenson |
| Bishop | Finseth | Howes | Mares | Pelowski | Sykora |
| Bradley | Folliard | Huntley | Mariani | Peterson | Tingelstad |
| Broecker | Fuller | Jaros | Marko | Pugh | Trimble |
| Carlson | Gleason | Jennings | McCollum | Rest | Tuma |
| Carruthers | Goodno | Juhnke | McElroy | Rhodes | Van Dellen |
| Cassell | Gray | Kahn | McGuire | Rifenberg | Wagenius |
| Chaudhary | Greenfield | Kalis | Molnau | Rostberg | Wejcman |
| Clark, J. | Greiling | Knoblach | Mullery | Rukavina | Wenzel |
| Clark, K. | Gunther | Koskinen | Murphy | Schumacher | Winter |
| Daggett | Haake | Kubly | Ness | Seagren | Wolf |
| Davids | Haas | Larsen, P. | Nornes | Skoe | Workman |
| Dawkins | Hackbarth | Leighton | Opatz | Skoglund | Spk. Sviggum |

Those who voted in the negative were:

| | | | | | |
|--------------|------------|---------|-------------|------------|--------|
| Anderson, B. | Johnson | Lindner | Paulsen | Tunheim | Wilkin |
| Boudreau | Kielkucki | Milbert | Reuter | Vandever | |
| Buesgens | Krinkie | Mulder | Seifert, M. | Westerberg | |
| Dehler | Kuisle | Olson | Solberg | Westfall | |
| Gerlach | Larson, D. | Otremba | Tomassoni | Westrom | |

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

S. F. No. 2761 was reported to the House.

Holberg moved that S. F. No. 2761 be returned to the General Register. The motion prevailed.

ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 2451:

Davids, Wolf and Jennings.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 3505:

Davids, Haas and Entenza.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1733:

Carruthers, Smith and Haas.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 2363:

Larsen, P.; Davids and Tomassoni.

CALENDAR FOR THE DAY, Continued

S. F. No. 3169 was reported to the House.

Dawkins moved to amend S. F. No. 3169 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 3311, the first engrossment:

"ARTICLE 1**PARENTING PLANS AND PARENTING TIME**

Section 1. Minnesota Statutes 1998, section 518.003, is amended by adding a subdivision to read:

Subd. 5. [PARENTING TIME.] "Parenting time" means the time a parent spends with a child regardless of the custodial designation regarding the child.

Sec. 2. Minnesota Statutes 1998, section 518.131, is amended by adding a subdivision to read:

Subd. 11. [TEMPORARY SUPPORT AND MAINTENANCE.] Temporary support and maintenance may be ordered during the time a parenting plan is being developed under section 518.1705.

Sec. 3. [518.1705] [PARENTING PLANS.]

Subdivision 1. [DEFINITION.] "Domestic abuse" for the purposes of this section has the meaning given in section 518B.01, subdivision 2.

Subd. 2. [PLAN ELEMENTS.] (a) A parenting plan must include the following:

(1) a schedule of the time each parent spends with the child;

(2) a designation of decision-making responsibilities regarding the child; and

(3) a method of dispute resolution.

(b) A parenting plan may include such other issues and matters as the parents may agree to regarding the child.

(c) Parents who agree to a parenting plan may agree on alternative terminology for the concepts "physical custody," "legal custody," and "parenting time." If the parents do not agree to a parenting plan and the court creates one on its own motion, then the court shall not use such alternative terminology.

Subd. 3. [CREATING PARENTING PLAN; ALTERNATIVE.] Upon the request of both parents, a parenting plan must be created in lieu of an order for child custody and parenting time, unless the court makes detailed findings that the proposed plan is not in the best interests of the child. In addition, on the court's own motion, a parenting plan may be created in lieu of an order for child custody and parenting time. If the parents do not agree to a parenting plan and the court does not create one on its own motion, orders for custody and parenting time must be entered under sections 518.17 and 518.175 or section 257.541.

Subd. 4. [CUSTODY DESIGNATION.] Any final judgment and decree that includes a parenting plan using alternate terms to designate decision-making responsibilities or allocation of residential time, or both, between the parents must designate whether the parents have joint legal custody or joint physical custody, or both, and if not, which parent has sole legal custody or sole physical custody, or both. This designation is solely for interstate or international enforcement of the final judgment and decree where such a designation is required for that enforcement and shall have no effect under the laws of this state or any other state which does not require such a designation.

Subd. 5. [ROLE OF COURT.] The court may require each parent to submit a proposed parenting plan at any time before entry of the final judgment and decree. If parents seek the court's assistance in deciding the schedule for each parent's time with the child or designation of decision-making responsibilities regarding the child, the court may order an evaluation and should consider the appointment of a guardian ad litem. Parenting plans entered following a contested hearing or reviewed by the court pursuant to a stipulation must be based on the best interests factors in section 518.17 or 257.025, as applicable.

Subd. 6. [RESTRICTIONS ON PREPARATION OF PARENTING PLAN.] (a) Dispute resolution processes other than the judicial process can not be required in the preparation of a parenting plan if a parent is alleged to have committed domestic abuse toward a parent or child who is a party to, or subject of, the matter before the court. In such cases, the court must consider the appointment of a guardian ad litem and a parenting plan evaluator.

(b) If a court makes a finding that domestic abuse has occurred between the parents in the matter before the court and if the parents do not agree to a parenting plan, the court must not create one on its own motion.

(c) A parenting plan must not provide for shared decision-making responsibilities or use of dispute resolution processes other than the judicial process if the court finds that section 518.179 applies.

Subd. 7. [MOVING THE CHILD TO ANOTHER STATE.] Parents may include in a parenting plan an agreement to use the factors in section 518.17 or 257.025, as applicable, to govern a decision concerning removal of a child's residence from this state.

Subd. 8. [ALLOCATION OF CERTAIN EXPENSES.] Parents creating a parenting plan are subject to the requirements of the child support guidelines under section 518.551. Parents may include in the parenting plan an allocation of any or all expenses for the child. The allocation is an enforceable contract between the parents.

Subd. 9. [MODIFICATION OF PARENTING PLANS.] (a) Parents may modify the schedule of the time each parent spends with the child or the decision-making provisions of a parenting plan by agreement. To be enforceable, modifications must be confirmed by court order. Unless a parenting plan provides otherwise, a motion to modify decision-making provisions or the time each parent spends with the child may be made only within the time limits provided by section 518.18.

(b) If the parties have not agreed to apply the best interests standard in section 518.17 or 257.025, as applicable, the court must use the standards in section 518.18, paragraph (d), when deciding a motion for modification that would change the parent with whom the child spends the most time.

Sec. 4. Minnesota Statutes 1998, section 518.175, subdivision 5, is amended to read:

Subd. 5. [MODIFICATION OF ~~VISITATION~~ PARENTING PLAN OR ORDER FOR PARENTING TIME.] If modification would serve the best interests of the child, the court shall modify the decision-making provisions of a parenting plan or an order granting or denying visitation rights whenever modification would serve the best interests of the child parenting time, if the modification would not change the parent with whom the child spends the most time. Except as provided in section 631.52, the court may not restrict ~~visitation rights~~ parenting time unless it finds that:

(1) ~~the visitation parenting time~~ parenting time is likely to endanger the child's physical or emotional health or impair the child's emotional development; or

(2) the noncustodial parent has chronically and unreasonably failed to comply with court-ordered ~~visitation~~ parenting time.

If the custodial parent makes specific allegations that ~~visitation parenting time~~ parenting time places the custodial parent or child in danger of harm, the court shall hold a hearing at the earliest possible time to determine the need to modify the order granting ~~visitation rights~~ parenting time. Consistent with subdivision 1a, the court may require a third party, including the local social services agency, to supervise the ~~visitation parenting time~~ parenting time or may restrict a parent's ~~visitation rights~~ parenting time if necessary to protect the custodial parent or child from harm.

Sec. 5. Minnesota Statutes 1998, section 518.18, is amended to read:

518.18 [MODIFICATION OF ORDER.]

(a) Unless agreed to in writing by the parties, no motion to modify a custody order or parenting plan may be made earlier than one year after the date of the entry of a decree of dissolution or legal separation containing a provision dealing with custody, except in accordance with paragraph (c).

(b) If a motion for modification has been heard, whether or not it was granted, unless agreed to in writing by the parties no subsequent motion may be filed within two years after disposition of the prior motion on its merits, except in accordance with paragraph (c).

(c) The time limitations prescribed in paragraphs (a) and (b) shall not prohibit a motion to modify a custody order or parenting plan if the court finds that there is persistent and willful denial or interference with ~~visitation parenting time~~ parenting time, or has reason to believe that the child's present environment may endanger the child's physical or emotional health or impair the child's emotional development.

(d) If the court has jurisdiction to determine child custody matters, the court shall not modify a prior custody order or the parenting plan provisions which specify the parent with whom the child spends the most time unless it finds, upon the basis of facts, including unwarranted denial of, or interference with, a duly established ~~visitation parenting time~~ parenting time schedule, that have arisen since the prior order or parenting plan or that were unknown to the court at the time of the prior order or parenting plan, that a change has occurred in the circumstances of the child or the parties and

that the modification is necessary to serve the best interests of the child. In applying these standards the court shall retain the custody arrangement established by the prior order or the parenting plan provisions which specify the parent with whom the child spends the most time unless:

(i) the parties have agreed, in a writing approved by a court, to apply the best interests standard in section 518.17 or 257.025, as applicable;

(ii) both parties agree to the modification;

(iii) (iii) the child has been integrated into the family of the petitioner with the consent of the other party; or

(iii) (iv) the child's present environment endangers the child's physical or emotional health or impairs the child's emotional development and the harm likely to be caused by a change of environment is outweighed by the advantage of a change to the child.

In addition, a court may modify a custody order or parenting plan under section 631.52.

(e) In deciding whether to modify a prior joint custody order, the court shall apply the standards set forth in paragraph (d) unless: (1) the parties agree in writing to the application of a different standard, or (2) the party seeking the modification is asking the court for permission to move the residence of the child to another state.

(f) If a custodial parent has been granted sole physical custody of a minor and the child subsequently lives with the noncustodial parent, and temporary sole physical custody has been approved by the court or by a court-appointed referee, the court may suspend the noncustodial parent's child support obligation pending the final custody determination. The court's order denying the suspension of child support must include a written explanation of the reasons why continuation of the child support obligation would be in the best interests of the child.

Sec. 6. [518.183] [REPLACING CERTAIN ORDERS.]

Upon request of one or both parties the court must consider a motion to modify an order entered under section 518.17 or 518.175 before the effective date of this act by entering a parenting plan that complies with section 518.1705. The court must apply the standards in section 518.18 when considering a motion to enter a parenting plan that would change the parent with whom the child spends the most time. The court must apply the standards in section 518.17 when considering a motion to enter a parenting plan that would:

(1) change decision-making responsibilities of the parents; or

(2) change the time each parent spends with the child, but not change the parent with whom the child spends the most time.

Sec. 7. Minnesota Statutes 1998, section 518B.01, subdivision 6, is amended to read:

Subd. 6. [RELIEF BY THE COURT.] (a) Upon notice and hearing, the court may provide relief as follows:

(1) restrain the abusing party from committing acts of domestic abuse;

(2) exclude the abusing party from the dwelling which the parties share or from the residence of the petitioner;

(3) exclude the abusing party from a reasonable area surrounding the dwelling or residence, which area shall be described specifically in the order;

(4) award temporary custody or establish temporary ~~visitation~~ parenting time with regard to minor children of the parties on a basis which gives primary consideration to the safety of the victim and the children. Except for cases in which custody is contested, findings under section 257.025, 518.17, or 518.175 are not required. If the court finds

that the safety of the victim or the children will be jeopardized by unsupervised or unrestricted ~~visitation~~ parenting time, the court shall condition or restrict ~~visitation~~ parenting time as to time, place, duration, or supervision, or deny ~~visitation~~ parenting time entirely, as needed to guard the safety of the victim and the children. The court's decision on custody and ~~visitation~~ parenting time shall in no way delay the issuance of an order for protection granting other reliefs relief provided for in this section. The court must not enter a parenting plan under section 518.1705 as part of an action for an order for protection;

(5) on the same basis as is provided in chapter 518, establish temporary support for minor children or a spouse, and order the withholding of support from the income of the person obligated to pay the support according to chapter 518;

(6) provide upon request of the petitioner counseling or other social services for the parties, if married, or if there are minor children;

(7) order the abusing party to participate in treatment or counseling services;

(8) award temporary use and possession of property and restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(9) exclude the abusing party from the place of employment of the petitioner, or otherwise limit access to the petitioner by the abusing party at the petitioner's place of employment;

(10) order the abusing party to pay restitution to the petitioner;

(11) order the continuance of all currently available insurance coverage without change in coverage or beneficiary designation; and

(12) order, in its discretion, other relief as it deems necessary for the protection of a family or household member, including orders or directives to the sheriff, constable, or other law enforcement or corrections officer as provided by this section.

(b) Any relief granted by the order for protection shall be for a fixed period not to exceed one year, except when the court determines a longer fixed period is appropriate. When a referee presides at the hearing on the petition, the order granting relief becomes effective upon the referee's signature.

(c) An order granting the relief authorized in paragraph (a), clause (1), may not be vacated or modified in a proceeding for dissolution of marriage or legal separation, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

(d) An order granting the relief authorized in paragraph (a), clause (2), is not voided by the admittance of the abusing party into the dwelling from which the abusing party is excluded.

(e) If a proceeding for dissolution of marriage or legal separation is pending between the parties, the court shall provide a copy of the order for protection to the court with jurisdiction over the dissolution or separation proceeding for inclusion in its file.

(f) An order for restitution issued under this subdivision is enforceable as civil judgment.

Sec. 8. [EFFECTIVE DATE.]

Section 5 is effective retroactive to September 1, 1999, and applies to modifications sought on or after that date and to written agreements approved by a court before, on, or after that date.

ARTICLE 2

CONFORMING TERMINOLOGY

Section 1. Minnesota Statutes 1998, section 15.87, is amended to read:

15.87 [VICTIMS OF VIOLENCE.]

In furtherance of the state policy of zero tolerance for violence in section 1.50, the state shall have a goal of providing:

(1) every victim of violence in Minnesota, regardless of the county of residence, access to necessary services, including, but not limited to:

- (i) crisis intervention services, including a 24-hour emergency telephone line;
- (ii) safe housing;
- (iii) counseling and peer support services; and
- (iv) assistance in pursuing legal remedies and appropriate medical care; and

(2) every child who is a witness to abuse or who is a victim of violence, access to necessary services, including, but not limited to:

- (i) crisis child care;
- (ii) safe supervised ~~child-visitation~~ parenting time, when needed;
- (iii) age appropriate counseling and support; and
- (iv) assistance with legal remedies, medical care, and needed social services.

Sec. 2. Minnesota Statutes 1998, section 119A.37, is amended to read:

119A.37 [~~GRANTS FOR FAMILY VISITATION~~ PARENTING TIME CENTERS.]

Subdivision 1. [PURPOSE.] The commissioner shall issue a request for proposals from existing local nonprofit, nongovernmental, or governmental organizations, to use existing local facilities as ~~family-visitation~~ parenting time centers which may also be used for ~~visitation~~ parenting time exchanges. The commissioner shall award grants in amounts up to \$50,000 for the purpose of creating or maintaining ~~family-visitation~~ parenting time centers in an effort to reduce children's vulnerability to violence and trauma related to ~~family-visitation~~ parenting time, where there has been a history of domestic violence or abuse within the family. The commissioner shall award the grants to provide the greatest possible number of ~~family-visitation~~ parenting time centers and to locate them to provide for the broadest possible geographic distribution of the centers throughout the state.

Each ~~children's family-visitation~~ parenting time center must use existing local facilities to provide a healthy interactive environment for parents who are separated or divorced and for parents with children in foster homes to visit with their children. The centers must be available for use by district courts who may order ~~visitation~~ parenting

time to occur at a ~~family visitation parenting time~~ center. The centers may also be used as drop-off sites, so that parents who are under court order to have no contact with each other can exchange children for ~~visitation parenting time~~ at a neutral site. Each center must provide sufficient security to ensure a safe ~~visitation parenting time~~ environment for children and their parents. A grantee must demonstrate the ability to provide a 25 percent local match, which may include in-kind contributions.

Subd. 2. [COUNTY INVOLVEMENT.] Each county or group of counties is encouraged to provide supervised ~~visitation parenting time~~ services in an effort to fill the gap in the court system that orders supervised ~~visitation parenting time~~ but does not provide a center to accomplish the supervised ~~visitation parenting time~~ as ordered. Each county or group of counties is encouraged to either financially contribute to an existing ~~family visitation parenting time~~ center in the area, or establish a new center if there is not one in the area, possibly through county social services. In creating a new center, the county may collaborate with other counties, other ~~family visitation parenting time~~ centers, family services collaboratives, court services, and any other entity or organization. The goal is to provide ~~family visitation parenting time~~ centers statewide. The county shall apply for funding that may be available through the federal government, specifically for family preservation or family reunification purposes, or any other source of funding that will aid in developing and maintaining this vital service.

Subd. 3. [FUNDING.] The commissioner may award grants to create or maintain ~~family visitation parenting time~~ centers.

In awarding grants to maintain a ~~family visitation parenting time~~ center, the commissioner may award a grant to a center that can demonstrate a 35 percent local match, provided the center is diligently exploring and pursuing all available funding options in an effort to become self-sustaining, and those efforts are reported to the commissioner.

In awarding grants to create a ~~family visitation parenting time~~ center, the commissioner shall give priority to:

- (1) areas of the state where no other ~~family visitation parenting time~~ center or similar facility exists;
- (2) applicants who demonstrate that private funding for the center is available and will continue; and
- (3) facilities that are adapted for use to care for children, such as day care centers, religious institutions, community centers, schools, technical colleges, parenting resource centers, and child care referral services.

In awarding grants to create or maintain a ~~family visitation parenting time~~ center, the commissioner shall require the proposed center to meet standards developed by the commissioner to ensure the safety of the custodial parent and children.

Subd. 4. [ADDITIONAL SERVICES.] Each ~~family visitation parenting time~~ center may provide parenting and child development classes, and offer support groups to participating custodial parents and hold regular classes designed to assist children who have experienced domestic violence and abuse. Each ~~family visitation parenting time~~ center must have available an individual knowledgeable about or experienced in the provision of services to battered women on its staff, its board of directors, or otherwise available to it for consultation.

Subd. 5. [ADMINISTRATION.] In administering the grants authorized by this section, the commissioner shall ensure that the term "~~family visitation parenting time~~ center" is used in all future applications, publicity releases, requests for proposals, and other materials of like nature. Materials published prior to the enactment of this legislation which use different terms may be distributed by the commissioner until supplies are gone.

Sec. 3. Minnesota Statutes 1999 Supplement, section 119A.45, is amended to read:

119A.45 [EARLY CHILDHOOD LEARNING AND CHILD PROTECTION FACILITIES.]

The commissioner may make grants to state agencies and political subdivisions to construct or rehabilitate facilities for early childhood programs, with priority to centers in counties or municipalities with the highest percentage of children living in poverty. The commissioner may also make grants to state agencies and political

subdivisions to construct or rehabilitate facilities for crisis nurseries or ~~child-visitation~~ parenting time centers. The facilities must be owned by the state or a political subdivision, but may be leased under section 16A.695 to organizations that operate the programs. The commissioner must prescribe the terms and conditions of the leases. A grant for an individual facility must not exceed \$200,000 for each program that is housed in the facility, up to a maximum of \$500,000 for a facility that houses three programs or more. Programs include Head Start, early childhood and family education programs, and other early childhood intervention programs. The commissioner must give priority to grants that involve collaboration among sponsors of programs under this section and may give priority to projects that collaborate with child care providers, including all-day and school-age child care programs, special needs care, sick child care, and nontraditional hour care. The commissioner may give priority to grants for programs that will increase their child care workers' wages as a result of the grant. At least 25 percent of the amounts appropriated for these grants up to \$50,000 must utilize youthbuild under sections 268.361 to 268.366 or other youth employment and training programs for the labor portion of the construction. Eligible programs must consult with appropriate labor organizations to deliver education and training. State appropriations must be matched on a 50 percent basis with nonstate funds. The matching requirement must apply programwide and not to individual grants.

Sec. 4. Minnesota Statutes 1998, section 124D.23, subdivision 8, is amended to read:

Subd. 8. [PLAN APPROVAL BY THE CHILDREN'S CABINET.] (a) The children's cabinet must approve local plans for collaboratives. In approving local plans, the children's cabinet must give highest priority to a plan that provides:

- (1) early intervention and family outreach services;
- (2) ~~family-visitation~~ parenting time services;
- (3) a continuum of services for children from birth to age 18;
- (4) family preservation services;
- (5) culturally sensitive approaches for delivering services and utilizing culturally specific organizations;
- (6) clearly defined outcomes and valid methods of assessment;
- (7) effective service coordination;
- (8) participation by the maximum number of jurisdictions and local, county, and state funding sources;
- (9) integrated community service providers and local resources;
- (10) integrated transportation services;
- (11) integrated housing services; and
- (12) coordinated services that include a children's mental health collaborative authorized by law.

(b) The children's cabinet must ensure that the collaboratives established under this section do not conflict with any state or federal policy or program and do not negatively impact the state budget.

Sec. 5. Minnesota Statutes 1998, section 256L.01, subdivision 3a, is amended to read:

Subd. 3a. [FAMILY WITH CHILDREN.] (a) "Family with children" means:

- (1) parents, their children, and dependent siblings residing in the same household; or

(2) grandparents, foster parents, relative caretakers as defined in the medical assistance program, or legal guardians; their wards who are children; and dependent siblings residing in the same household.

(b) The term includes children and dependent siblings who are temporarily absent from the household in settings such as schools, camps, or ~~visitation~~ parenting time with noncustodial parents.

(c) For purposes of this subdivision, a dependent sibling means an unmarried child who is a full-time student under the age of 25 years who is financially dependent upon a parent, grandparent, foster parent, relative caretaker, or legal guardian. Proof of school enrollment is required.

Sec. 6. Minnesota Statutes 1998, section 257.541, is amended to read:

257.541 [CUSTODY AND ~~VISITATION OF~~ PARENTING TIME WITH CHILDREN BORN OUTSIDE OF MARRIAGE.]

Subdivision 1. [MOTHER'S RIGHT TO CUSTODY.] The biological mother of a child born to a mother who was not married to the child's father ~~neither~~ when the child was born ~~nor~~ and was not married to the child's father when the child was conceived has sole custody of the child until paternity has been established under sections 257.51 to 257.74, or until custody is determined in a separate proceeding under section 518.156.

Subd. 2. [FATHER'S RIGHT TO ~~VISITATION PARENTING TIME~~ AND CUSTODY.] (a) If paternity has been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the father's rights of ~~visitation~~ parenting time or custody are determined under sections 518.17 and 518.175.

(b) If paternity has not been acknowledged under section 257.34 and paternity has been established under sections 257.51 to 257.74, the biological father may petition for rights of ~~visitation~~ parenting time or custody in the paternity proceeding or in a separate proceeding under section 518.156.

Subd. 3. [FATHER'S RIGHT TO ~~VISITATION PARENTING TIME~~ AND CUSTODY; RECOGNITION OF PATERNITY.] If paternity has been recognized under section 257.75, the father may petition for rights of ~~visitation~~ parenting time or custody in an independent action under section 518.156. The proceeding must be treated as an initial determination of custody under section 518.17. The provisions of chapter 518 apply with respect to the granting of custody and ~~visitation~~ parenting time. These proceedings may not be combined with any proceeding under chapter 518B.

The proceedings shall be commenced by filing a certified copy of the recognition of parentage. An adjudication of parentage is not necessary.

Sec. 7. Minnesota Statutes 1999 Supplement, 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~~ parenting time 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~~ parenting time 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, including the mother's lost wages due to medical necessity, 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. 8. Minnesota Statutes 1998, 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~~ parenting time 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. 9. Minnesota Statutes 1998, section 257A.01, subdivision 2, is amended to read:

Subd. 2. [CONSENTS AND NOTICE REQUIRED.] (a) The agreement must be executed by all parents with legal custody of the child and must have the consent of every parent who has court-ordered ~~visitation~~ parenting time rights to the child. As soon as practicable after executing an agreement, a copy of the agreement must be given to every child age 14 or older to whom the agreement applies.

(b) Consent of a parent required under paragraph (a) may be given in writing or may be established by mailing a notice regarding the designated caregiver agreement to the parent's last known address. The notice must include the name of the proposed designated caregiver and inform the parent whose consent is required that the parent's consent to the agreement will be implied if the parent does not object within 30 days. If the parent does not object to the agreement orally or in writing within 30 days, the consent of the parent is implied.

Sec. 10. Minnesota Statutes 1998, section 257A.03, subdivision 2, is amended to read:

Subd. 2. [NOTICE TO NONCUSTODIAL PARENT; RIGHTS.] (a) As soon as practicable after assuming care of a child, the designated caregiver shall notify any noncustodial parent that the designated caregiver has assumed care of the child.

(b) Court-ordered ~~visitation~~ parenting time rights of a noncustodial parent continue while the child is in the care of the designated caregiver, unless otherwise modified by the court. A designated caregiver agreement does not affect the right of a parent without physical custody to bring a custody motion under chapter 518. If a parent with legal custody is not the designated caregiver, the parent may bring a motion for temporary physical custody, which may continue until the parent with physical custody is able to resume care of the child. The court shall award that parent temporary physical custody unless it finds it would not be in the best interests of the child.

Sec. 11. Minnesota Statutes 1998, section 480.30, subdivision 1, is amended to read:

Subdivision 1. [CHILD ABUSE; DOMESTIC ABUSE; HARASSMENT.] The supreme court's judicial education program must include ongoing training for district court judges on child and adolescent sexual abuse, domestic abuse, harassment, stalking, and related civil and criminal court issues. The program must include the following:

(1) information about the specific needs of victims;

- (2) education on the causes of sexual abuse and family violence;
- (3) education on culturally responsive approaches to serving victims;
- (4) education on the impacts of domestic abuse and domestic abuse allegations on children and the importance of considering these impacts when making ~~visitation~~ parenting time and child custody decisions under chapter 518; and
- (5) information on alleged and substantiated reports of domestic abuse, including, but not limited to, department of human services survey data.

The program also must emphasize the need for the coordination of court and legal victim advocacy services and include education on sexual abuse and domestic abuse programs and policies within law enforcement agencies and prosecuting authorities as well as the court system.

Sec. 12. Minnesota Statutes 1998, section 494.015, subdivision 1, is amended to read:

Subdivision 1. [GUIDELINES.] The state court administrator shall adopt guidelines for use by community dispute resolution programs and training programs for mediators and arbitrators for the community dispute resolution programs. The guidelines must include provisions to ensure that participation in dispute resolution is voluntary, procedures for case processing, and program certification criteria that must be met to receive court referrals. The guidelines must include:

- (1) standards for training mediators and arbitrators to recognize matters involving violence against a person; and
- (2) training in family law matters that must be completed by mediators before acceptance of postdissolution property distribution matters and postdissolution ~~visitation~~ parenting time matters.

Sec. 13. Minnesota Statutes 1999 Supplement, section 494.03, is amended to read:

494.03 [EXCLUSIONS.]

The guidelines shall exclude:

- (1) any dispute involving violence against persons, in which incidents arising out of situations that would support charges under sections 609.221 to 609.2231, 609.342 to 609.345, 609.365, or any other felony charges;
- (2) any matter involving competency or civil commitment;
- (3) any matter involving a person who has been adjudicated incompetent or relating to guardianship or conservatorship unless the incompetent person is accompanied by a competent advocate or the respondent in a guardianship or conservatorship matter is represented by an attorney, guardian ad litem, or other representative appointed by the court;
- (4) any matter involving neglect or dependency, or involving termination of parental rights arising under sections 260C.301 to 260C.328; and
- (5) any matter arising under section 626.557 or sections 144.651 to 144.652, or any dispute subject to chapters 518 and 518B, whether or not an action is pending, except for postdissolution property distribution matters and postdissolution ~~visitation~~ parenting time matters. This shall not restrict the present authority of the court or departments of the court from accepting for resolution a dispute arising under chapters 518 and 518B, or from referring disputes arising under chapters 518 and 518A to for-profit mediation.

Sec. 14. Minnesota Statutes 1998, section 517.08, subdivision 1c, is amended to read:

Subd. 1c. [DISPOSITION OF LICENSE FEE.] Of the marriage license fee collected pursuant to subdivision 1b, the court administrator shall pay \$55 to the state treasurer to be deposited as follows:

- (1) \$50 in the general fund;
- (2) \$3 in the special revenue fund to be appropriated to the commissioner of children, families, and learning for supervised ~~visitation~~ parenting time facilities under section 119A.37; and
- (3) \$2 in the special revenue fund to be appropriated to the commissioner of health for developing and implementing the MN ENABL program under section 145.9255.

Sec. 15. Minnesota Statutes 1998, section 518.003, subdivision 3, is amended to read:

Subd. 3. [CUSTODY.] Unless otherwise agreed by the parties:

(a) "Legal custody" means the right to determine the child's upbringing, including education, health care, and religious training.

(b) "Joint legal custody" means that both parents have equal rights and responsibilities, including the right to participate in major decisions determining the child's upbringing, including education, health care, and religious training.

(c) "Physical custody and residence" means the routine daily care and control and the residence of the child.

(d) "Joint physical custody" means that the routine daily care and control and the residence of the child is structured between the parties.

(e) Wherever used in this chapter, the term "custodial parent" or "custodian" means the person who has the physical custody of the child at any particular time.

(f) "Custody determination" means a court decision and court orders and instructions providing for the custody of a child, including ~~visitation rights~~ parenting time, but does not include a decision relating to child support or any other monetary obligation of any person.

(g) "Custody proceeding" includes proceedings in which a custody determination is one of several issues, such as an action for dissolution, divorce, or separation, and includes proceedings involving children who are in need of protection or services, domestic abuse, and paternity.

Sec. 16. Minnesota Statutes 1998, section 518.131, subdivision 1, is amended to read:

Subdivision 1. In a proceeding brought for custody, dissolution, or legal separation, or for disposition of property, maintenance, or child support following the dissolution of a marriage, either party may, by motion, request from the court and the court may grant a temporary order pending the final disposition of the proceeding to or for:

- (a) Temporary custody and ~~visitation rights~~ of parenting time regarding the minor children of the parties;
- (b) Temporary maintenance of either spouse;
- (c) Temporary child support for the children of the parties;
- (d) Temporary costs and reasonable attorney fees;

(e) Award the temporary use and possession, exclusive or otherwise, of the family home, furniture, household goods, automobiles, and other property of the parties;

(f) Restrain one or both parties from transferring, encumbering, concealing, or disposing of property except in the usual course of business or for the necessities of life, and to account to the court for all such transfers, encumbrances, dispositions, and expenditures made after the order is served or communicated to the party restrained in open court;

(g) Restrain one or both parties from harassing, vilifying, mistreating, molesting, disturbing the peace, or restraining the liberty of the other party or the children of the parties;

(h) Restrain one or both parties from removing any minor child of the parties from the jurisdiction of the court;

(i) Exclude a party from the family home of the parties or from the home of the other party; and

(j) Require one or both of the parties to perform or to not perform such additional acts as will facilitate the just and speedy disposition of the proceeding, or will protect the parties or their children from physical or emotional harm.

Sec. 17. Minnesota Statutes 1998, section 518.131, subdivision 2, is amended to read:

Subd. 2. No temporary order shall:

(a) Deny ~~visitation rights~~ parenting time to a noncustodial parent unless the court finds that ~~visitation~~ parenting time by the noncustodial parent is likely to cause physical or emotional harm to the child;

(b) Exclude a party from the family home of the parties unless the court finds that physical or emotional harm to one of the parties or to the children of the parties is likely to result, or that the exclusion is reasonable in the circumstances; or

(c) Vacate or modify an order granted under section 518B.01, subdivision 6, paragraph (a), clause (1), restraining an abusing party from committing acts of domestic abuse, except that the court may hear a motion for modification of an order for protection concurrently with a proceeding for dissolution of marriage upon notice of motion and motion. The notice required by court rule shall not be waived. If the proceedings are consolidated and the motion to modify is granted, a separate order for modification of an order for protection shall be issued.

Sec. 18. Minnesota Statutes 1998, section 518.131, subdivision 3, is amended to read:

Subd. 3. A party may request and the court may make an ex parte restraining order which may include any matter that may be included in a temporary order except:

(a) A restraining order may not exclude either party from the family home of the parties except upon a finding by the court of immediate danger of physical harm to the other party or the children of either party; and

(b) A restraining order may not deny ~~visitation~~ parenting time to either party or grant custody of the minor children to either party except upon a finding by the court of immediate danger of physical harm to the minor children of the parties.

Sec. 19. Minnesota Statutes 1998, section 518.131, subdivision 7, is amended to read:

Subd. 7. The court shall be guided by the factors set forth in sections 518.551 (concerning child support), 518.552 (concerning maintenance), 518.17 to 518.175 (concerning custody and ~~visitation~~ parenting time), and 518.14 (concerning costs and attorney fees) in making temporary orders and restraining orders.

Sec. 20. Minnesota Statutes 1999 Supplement, section 518.155, is amended to read:

518.155 [CUSTODY DETERMINATIONS.]

Notwithstanding any law to the contrary, a court in which a proceeding for dissolution, legal separation, or child custody has been commenced shall not issue, revise, modify or amend any order, pursuant to sections 518.131, 518.165, 518.168, 518.17, 518.175 or 518.18, which affects the custody of a minor child or the ~~visitation rights~~ parenting time of a noncustodial parent unless the court has jurisdiction over the matter pursuant to the provisions of chapter 518D.

Sec. 21. Minnesota Statutes 1998, section 518.156, is amended to read:

518.156 [COMMENCEMENT OF CUSTODY PROCEEDING.]

Subdivision 1. [PROCEDURE.] In a court of this state which has jurisdiction to decide child custody matters, a child custody proceeding is commenced:

(a) by a parent

(1) by filing a petition for dissolution or legal separation; or

(2) where a decree of dissolution or legal separation has been entered or where none is sought, or when paternity has been recognized under section 257.75, by filing a petition or motion seeking custody or ~~visitation of~~ parenting time with the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered; or

(b) by a person other than a parent, where a decree of dissolution or legal separation has been entered or where none is sought by filing a petition or motion seeking custody or visitation of the child in the county where the child is permanently resident or where the child is found or where an earlier order for custody of the child has been entered. A person seeking visitation pursuant to this paragraph must qualify under one of the provisions of section 257.022.

Subd. 2. [REQUIRED NOTICE.] Written notice of a child custody or parenting time or visitation proceeding shall be given to the child's parent, guardian, and custodian, who may appear and be heard and may file a responsive pleading. The court may, upon a showing of good cause, permit the intervention of other interested parties.

Sec. 22. Minnesota Statutes 1998, section 518.157, subdivision 1, is amended to read:

Subdivision 1. [IMPLEMENTATION; ADMINISTRATION.] By January 1, 1998, the chief judge of each judicial district or a designee shall implement one or more parent education programs within the judicial district for the purpose of educating parents about the impact that divorce, the restructuring of families, and judicial proceedings have upon children and families; methods for preventing ~~visitation~~ parenting time conflicts; and dispute resolution options. The chief judge of each judicial district or a designee may require that children attend a separate education program designed to deal with the impact of divorce upon children as part of the parent education program. Each parent education program must enable persons to have timely and reasonable access to education sessions.

Sec. 23. Minnesota Statutes 1998, section 518.157, subdivision 3, is amended to read:

Subd. 3. [ATTENDANCE.] In a proceeding under this chapter or sections 257.51 to 257.75 where custody or ~~visitation~~ parenting time is contested, the parents of a minor child shall attend an orientation and education program that meets the minimum standards promulgated by the Minnesota supreme court. In all other proceedings involving custody, support, or ~~visitation~~ parenting time the court may order the parents of a minor child to attend a parent education program. The program shall provide the court with names of persons who fail to attend the parent education program as ordered by the court. Persons who are separated or contemplating involvement in a

dissolution, paternity, custody, or ~~visitation~~ parenting time proceeding may attend a parent education program without a court order. Participation in a parent education program must occur as early as possible. Parent education programs must offer an opportunity to participate at all phases of a pending or postdecree proceeding. Upon request of a party and a showing of good cause, the court may excuse the party from attending the program. If past or present domestic abuse, as defined in chapter 518B, is alleged, the court shall not require the parties to attend the same parent education sessions and shall enter an order setting forth the manner in which the parties may safely participate in the program.

Sec. 24. Minnesota Statutes 1998, section 518.165, subdivision 1, is amended to read:

Subdivision 1. [PERMISSIVE APPOINTMENT OF GUARDIAN AD LITEM.] In all proceedings for child custody or for dissolution or legal separation where custody or ~~visitation of parenting time with~~ a minor child is in issue, the court may appoint a guardian ad litem from a panel established by the court to represent the interests of the child. The guardian ad litem shall advise the court with respect to custody, support, and ~~visitation parenting time~~.

Sec. 25. Minnesota Statutes 1999 Supplement, section 518.165, subdivision 2, is amended to read:

Subd. 2. [REQUIRED APPOINTMENT OF GUARDIAN AD LITEM.] In all proceedings for child custody or for marriage dissolution or legal separation in which custody or ~~visitation of parenting time with~~ a minor child is an issue, if the court has reason to believe that the minor child is a victim of domestic child abuse or neglect, as those terms are defined in sections 260C.007 and 626.556, respectively, the court shall appoint a guardian ad litem. The guardian ad litem shall represent the interests of the child and advise the court with respect to custody, support, and ~~visitation parenting time~~. If the child is represented by a guardian ad litem in any other pending proceeding, the court may appoint that guardian to represent the child in the custody or ~~visitation parenting time~~ proceeding. No guardian ad litem need be appointed if the alleged domestic child abuse or neglect is before the court on a juvenile dependency and neglect petition. Nothing in this subdivision requires the court to appoint a guardian ad litem in any proceeding for child custody, marriage dissolution, or legal separation in which an allegation of domestic child abuse or neglect has not been made.

Sec. 26. Minnesota Statutes 1998, section 518.175, subdivision 1, is amended to read:

Subdivision 1. [GENERAL.] (a) In all proceedings for dissolution or legal separation, subsequent to the commencement of the proceeding and continuing thereafter during the minority of the child, the court shall, upon the request of either parent, grant such ~~rights of visitation parenting time~~ on behalf of the child and noncustodial parent as will enable the child and the noncustodial parent to maintain a child to parent relationship that will be in the best interests of the child. If the court finds, after a hearing, that ~~visitation parenting time~~ is likely to endanger the child's physical or emotional health or impair the child's emotional development, the court shall restrict ~~visitation by parenting time with~~ the noncustodial parent as to time, place, duration, or supervision and may deny ~~visitation parenting time~~ entirely, as the circumstances warrant. The court shall consider the age of the child and the child's relationship with the noncustodial parent prior to the commencement of the proceeding. A parent's failure to pay support because of the parent's inability to do so shall not be sufficient cause for denial of ~~visitation parenting time~~.

(b) The court may provide that a law enforcement officer or other appropriate person will accompany a party seeking to enforce or comply with ~~visitation parenting time~~.

(c) Upon request of either party, to the extent practicable a ~~visitation~~ an order for parenting time must include a specific schedule for ~~visitation parenting time~~, including the frequency and duration of visitation and visitation during holidays and vacations, unless ~~visitation parenting time~~ is restricted, denied, or reserved.

(d) The court administrator shall provide a form for a pro se motion regarding ~~visitation parenting time~~ disputes, which includes provisions for indicating the relief requested, an affidavit in which the party may state the facts of the dispute, and a brief description of the ~~visitation parenting time~~ expeditor process under section 518.1751. The form may not include a request for a change of custody. The court shall provide instructions on serving and filing the motion.

Sec. 27. Minnesota Statutes 1998, section 518.175, subdivision 1a, is amended to read:

Subd. 1a. [DOMESTIC ABUSE; SUPERVISED ~~VISITATION~~ PARENTING TIME.] (a) If a custodial parent requests supervised ~~visitation~~ parenting time under subdivision 1 or 5 and an order for protection under chapter 518B or a similar law of another state is in effect against the noncustodial parent to protect the custodial parent or the child, the judge or judicial officer must consider the order for protection in making a decision regarding ~~visitation~~ parenting time.

(b) The state court administrator, in consultation with representatives of custodial and noncustodial parents and other interested persons, shall develop standards to be met by persons who are responsible for supervising ~~visitation~~ parenting time. Either parent may challenge the appropriateness of an individual chosen by the court to supervise ~~visitation~~ parenting time.

Sec. 28. Minnesota Statutes 1998, section 518.175, subdivision 2, is amended to read:

Subd. 2. [RIGHTS OF CHILDREN AND NONCUSTODIAL PARENT.] Upon the request of either parent, the court may inform any child of the parties, if eight years of age or older, or otherwise of an age of suitable comprehension, of the rights of the child and the noncustodial parent under the order or decree or any substantial amendment thereof. The custodial parent shall present the child for ~~visitation by~~ parenting time with the noncustodial parent, at such times as the court directs.

Sec. 29. Minnesota Statutes 1998, section 518.175, subdivision 3, is amended to read:

Subd. 3. [MOVE TO ANOTHER STATE.] The custodial parent shall not move the residence of the child to another state except upon order of the court or with the consent of the noncustodial parent, when the noncustodial parent has been given ~~visitation rights~~ parenting time by the decree. If the noncustodial parent objects to the move, there must be a hearing on the matter. If the move would not be in the best interests of the child or the purpose of the move is to interfere with ~~visitation rights~~ parenting time given to the noncustodial parent by the decree, the court shall not permit the child's residence to be moved to another state.

Sec. 30. Minnesota Statutes 1998, section 518.175, subdivision 6, is amended to read:

Subd. 6. [REMEDIES.] (a) The court may provide for one or more of the following remedies for denial of or interference with court-ordered ~~visitation~~ parenting time as provided under this subdivision. All ~~visitation~~ parenting time orders must include notice of the provisions of this subdivision.

(b) If the court finds that a person has been deprived of court-ordered ~~visitation~~ parenting time, the court shall order the custodial parent to permit additional ~~visits~~ parenting time to compensate for the ~~visitation~~ parenting time of which the person was deprived or the court shall make specific findings as to why a request for compensatory ~~visitation~~ parenting time is denied. If compensatory ~~visitation~~ parenting time is awarded, additional ~~visits~~ parenting time must be:

(1) at least of the same type and duration as the deprived ~~visit~~ parenting time and, at the discretion of the court, may be in excess of or of a different type than the deprived ~~visit~~ parenting time;

(2) taken within one year after the deprived ~~visit~~ parenting time; and

(3) at a time acceptable to the person deprived of ~~visitation~~ parenting time.

(c) If the court finds that a party has wrongfully failed to comply with a ~~visitation~~ parenting time order or a binding agreement or decision under section 518.1751, the court may:

(1) impose a civil penalty of up to \$500 on the party;

- (2) require the party to post a bond with the court for a specified period of time to secure the party's compliance;
- (3) award reasonable attorney's fees and costs;
- (4) require the party who violated the ~~visitation~~ parenting time order or binding agreement or decision of the ~~visitation~~ parenting time expeditor to reimburse the other party for costs incurred as a result of the violation of the order or agreement or decision; or
- (5) award any other remedy that the court finds to be in the best interests of the children involved.

A civil penalty imposed under this paragraph must be deposited in the county general fund and must be used to fund the costs of a ~~visitation~~ parenting time expeditor program in a county with this program. In other counties, the civil penalty must be deposited in the state general fund.

(d) If the court finds that a party has been denied ~~visitation~~ parenting time and has incurred expenses in connection with the denied ~~visitation~~ parenting time, the court may require the party who denied ~~visitation~~ parenting time to post a bond in favor of the other party in the amount of prepaid expenses associated with an upcoming planned ~~visitation~~ parenting time.

(e) Proof of an unwarranted denial of or interference with duly established ~~visitation~~ parenting time may constitute contempt of court and may be sufficient cause for reversal of custody.

Sec. 31. Minnesota Statutes 1998, section 518.175, subdivision 8, is amended to read:

Subd. 8. [CARE OF CHILD BY NONCUSTODIAL PARENT.] The court may allow additional ~~visitation~~ parenting time to the noncustodial parent to provide child care while the custodial parent is working if this arrangement is reasonable and in the best interests of the child, as defined in section 518.17, subdivision 1. In addition, the court shall consider:

- (1) the ability of the parents to cooperate;
- (2) methods for resolving disputes regarding the care of the child, and the parents' willingness to use those methods; and
- (3) whether domestic abuse, as defined in section 518B.01, has occurred between the parties.

Sec. 32. Minnesota Statutes 1998, section 518.1751, is amended to read:

518.1751 [~~VISITATION~~ PARENTING TIME DISPUTE RESOLUTION.]

Subdivision 1. [~~VISITATION~~ PARENTING TIME EXPEDITOR.] Upon request of either party, the parties' stipulation, or upon the court's own motion, the court may appoint a ~~visitation~~ parenting time expeditor to resolve ~~visitation~~ parenting time disputes that occur under a ~~visitation~~ parenting time order while a matter is pending under this chapter, chapter 257 or 518A, or after a decree is entered.

Subd. 1a. [EXCEPTIONS.] A party may not be required to refer a ~~visitation~~ parenting time dispute to a ~~visitation~~ parenting time expeditor under this section if:

- (1) one of the parties claims to be the victim of domestic abuse by the other party;
- (2) the court determines there is probable cause that one of the parties or a child of the parties has been physically abused or threatened with physical abuse by the other party; or

(3) the party is unable to pay the costs of the expeditor, as provided under subdivision 2a.

If the court is satisfied that the parties have been advised by counsel and have agreed to use the visitation parenting time expeditor process and the process does not involve face-to-face meeting of the parties, the court may direct that the visitation parenting time expeditor process be used.

Subd. 1b. [PURPOSE; DEFINITIONS.] (a) The purpose of a visitation parenting time expeditor is to resolve visitation parenting time disputes by enforcing, interpreting, clarifying, and addressing circumstances not specifically addressed by an existing visitation parenting time order and, if appropriate, to make a determination as to whether the existing visitation parenting time order has been violated. A visitation parenting time expeditor may be appointed to resolve a one-time visitation parenting time dispute or to provide ongoing visitation parenting time dispute resolution services.

(b) For purposes of this section, "visitation parenting time dispute" means a disagreement among parties about visitation parenting time with a child, including a dispute about an anticipated denial of a future scheduled visit parenting time. "Visitation Parenting time dispute" includes a claim by a custodial parent that a noncustodial parent is not visiting spending time with a child as well as a claim by a noncustodial parent that a custodial parent is denying or interfering with visitation parenting time.

(c) A "visitation parenting time expeditor" is a neutral person authorized to use a mediation-arbitration process to resolve visitation parenting time disputes. A visitation parenting time expeditor shall attempt to resolve a visitation parenting time dispute by facilitating negotiations between the parties to promote settlement and, if it becomes apparent that the dispute cannot be resolved by an agreement of the parties, the visitation parenting time expeditor shall make a decision resolving the dispute.

Subd. 2. [APPOINTMENT.] (a) The parties may stipulate to the appointment of a visitation parenting time expeditor or a team of two expeditors without appearing in court by submitting to the court a written agreement identifying the names of the individuals to be appointed by the court; the nature of the dispute; the responsibilities of the visitation parenting time expeditor, including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis; the term of the appointment; and the apportionment of fees and costs. The court shall review the agreement of the parties.

(b) If the parties cannot agree on a visitation parenting time expeditor, the court shall provide to the parties a copy of the court administrator's roster of visitation parenting time expeditors and require the parties to exchange the names of three potential visitation parenting time expeditors by a specific date. If after exchanging names the parties are unable to agree upon a visitation parenting time expeditor, the court shall select the visitation parenting time expeditor and, in its discretion, may appoint one expeditor or a team of two visitation expeditors. In the selection process the court must give consideration to the financial circumstances of the parties and the fees of those being considered as visitation parenting time expeditors. Preference must be given to persons who agree to volunteer their services or who will charge a variable fee for services based on the ability of the parties to pay for them.

(c) An order appointing a visitation parenting time expeditor must identify the name of the individual to be appointed, the nature of the dispute, the responsibilities of the visitation expeditor including whether the expeditor is appointed to resolve a specific issue or on an ongoing basis, the term of the appointment, the apportionment of fees, and notice that if the parties are unable to reach an agreement with the assistance of the visitation expeditor, the visitation expeditor is authorized to make a decision resolving the dispute which is binding upon the parties unless modified or vacated by the court.

Subd. 2a. [FEES.] Prior to appointing the visitation parenting time expeditor, the court shall give the parties notice that the fees of the visitation expeditor will be apportioned among the parties. In its order appointing the visitation expeditor, the court shall apportion the fees of the visitation expeditor among the parties, with each party bearing the portion of fees that the court determines is just and equitable under the circumstances. If a party files a pro se motion regarding a visitation parenting time dispute and there is not a court order that provides for apportionment of the fees of an expeditor, the court administrator may require the party requesting the appointment

of an expeditor to pay the fees of the expeditor in advance. Neither party may be required to submit a dispute to a visitation expeditor if the party cannot afford to pay for the fees of an expeditor and an affordable expeditor is not available, unless the other party agrees to pay the fees. After fees are incurred, a party may by motion request that the fees be reapportioned on equitable grounds. The court may consider the resources of the parties, the nature of the dispute, and whether a party acted in bad faith. The court may consider information from the expeditor in determining bad faith.

Subd. 2b. [ROSTER OF ~~VISITATION~~ PARENTING TIME EXPEDITORS.] Each court administrator shall maintain and make available to the public and judicial officers a roster of individuals available to serve as ~~visitation parenting time~~ parenting time expeditors, including each individual's name, address, telephone number, and fee charged, if any. A court administrator shall not place on the roster the name of an individual who has not completed the training required in subdivision 2c. If the use of a ~~visitation parenting time~~ parenting time expeditor is initiated by stipulation of the parties, the parties may agree upon a person to serve as a ~~visitation an~~ parenting time expeditor even if that person has not completed the training described in subdivision 2c. The court may appoint a person to serve as a ~~visitation an~~ parenting time expeditor even if the person is not on the court administrator's roster, but may not appoint a person who has not completed the training described in subdivision 2c, unless so stipulated by the parties. To maintain one's listing on a court administrator's roster of ~~visitation parenting time~~ parenting time expeditors, an individual shall annually submit to the court administrator proof of completion of continuing education requirements.

Subd. 2c. [TRAINING AND CONTINUING EDUCATION REQUIREMENTS.] To qualify for listing on a court administrator's roster of ~~visitation parenting time~~ parenting time expeditors, an individual shall complete a minimum of 40 hours of family mediation training that has been certified by the Minnesota supreme court, which must include certified training in domestic abuse issues as required under Rule 114 of the Minnesota General Rules of Practice for the District Courts. To maintain one's listing on a court administrator's roster of ~~visitation parenting time~~ parenting time expeditors, an individual shall annually attend three hours of continuing education about alternative dispute resolution subjects.

Subd. 3. [AGREEMENT OR DECISION.] (a) Within five days of notice of the appointment, or within five days of notice of a subsequent ~~visitation parenting time~~ parenting time dispute between the same parties, the ~~visitation parenting time~~ parenting time expeditor shall meet with the parties together or separately and shall make a diligent effort to facilitate an agreement to resolve the ~~visitation~~ parenting time dispute. If a ~~visitation parenting time~~ parenting time dispute requires immediate resolution, the ~~visitation parenting time~~ parenting time expeditor may confer with the parties through a telephone conference or similar means. An expeditor may make a decision without conferring with a party if the expeditor made a good faith effort to confer with the party, but the party chose not to participate in resolution of the dispute.

(b) If the parties do not reach an agreement, the expeditor shall make a decision resolving the dispute as soon as possible but not later than five days after receiving all information necessary to make a decision and after the final meeting or conference with the parties. The ~~visitation~~ parenting time expeditor is authorized to award compensatory ~~visitation parenting time~~ parenting time under section 518.175, subdivision 6, and may recommend to the court that the noncomplying party pay attorney's fees, court costs, and other costs under section 518.175, subdivision 6, paragraph (d), if the ~~visitation parenting time~~ parenting time order has been violated. The ~~visitation~~ parenting time expeditor shall not lose authority to make a decision if circumstances beyond the ~~visitation~~ parenting time expeditor's control make it impracticable to meet the five-day timelines.

(c) Unless the parties mutually agree, the ~~visitation parenting time~~ parenting time expeditor shall not make a decision that is inconsistent with an existing ~~visitation parenting time~~ parenting time order, but may make decisions interpreting or clarifying a ~~visitation parenting time~~ parenting time order, including the development of a specific schedule when the existing court order grants "reasonable ~~visitation parenting time~~ parenting time."

(d) The expeditor shall put an agreement or decision in writing and provide a copy to the parties. The ~~visitation~~ parenting time expeditor may include or omit reasons for the agreement or decision. An agreement of the parties or a decision of the ~~visitation~~ parenting time expeditor is binding on the parties unless vacated or modified by the court. If a party does not comply with an agreement of the parties or a decision of the expeditor, any party may bring a motion with the court and shall attach a copy of the parties' written agreement or decision of the expeditor. The court may enforce, modify, or vacate the agreement of the parties or the decision of the expeditor.

Subd. 4. [OTHER AGREEMENTS.] This section does not preclude the parties from voluntarily agreeing to submit their visitation parenting time dispute to a neutral third party or from otherwise resolving visitation parenting time disputes on a voluntary basis.

Subd. 4a. [CONFIDENTIALITY.] (a) Statements made and documents produced as part of the visitation parenting time expeditor process which are not otherwise discoverable are not subject to discovery or other disclosure and are not admissible into evidence for any purpose at trial or in any other proceeding, including impeachment.

(b) Sworn testimony may be used in subsequent proceedings for any purpose for which it is admissible under the rules of evidence. Visitation Parenting time expeditors, and lawyers for the parties to the extent of their participation in the visitation parenting time expeditor process, must not be subpoenaed or called as witnesses in court proceedings.

(c) Notes, records, and recollections of visitation parenting time expeditors are confidential and must not be disclosed to the parties, the public, or anyone other than the visitation parenting time expeditor unless:

- (1) all parties and the visitation expeditor agree in writing to the disclosure; or
- (2) disclosure is required by law or other applicable professional codes.

Notes and records of visitation parenting time expeditors must not be disclosed to the court unless after a hearing the court determines that the notes or records should be reviewed in camera. Those notes or records must not be released by the court unless it determines that they disclose information showing illegal violation of the criminal law of the state.

Subd. 5. [IMMUNITY.] A visitation parenting time expeditor is immune from civil liability for actions taken or not taken when acting under this section.

Subd. 5a. [REMOVAL.] If a visitation parenting time expeditor has been appointed on a long-term basis, a party or the visitation expeditor may file a motion seeking to have the expeditor removed for good cause shown.

Subd. 6. [MANDATORY VISITATION PARENTING TIME DISPUTE RESOLUTION.] Subject to subdivision 1a, a judicial district may establish a mandatory visitation parenting time dispute resolution program as provided in this subdivision. In a district where a program has been established, parties may be required to submit visitation parenting time disputes to a visitation parenting time expeditor as a prerequisite to a motion on the dispute being heard by the court, or either party may submit the dispute to a visitation an expeditor. A party may file a motion with the court for purposes of obtaining a court date, if necessary, but a hearing may not be held until resolution of the dispute with the visitation parenting time expeditor. The appointment of a visitation an expeditor must be in accordance with subdivision 2. Visitation Expeditor fees must be paid in accordance with subdivision 2a.

Sec. 33. Minnesota Statutes 1998, section 518.176, subdivision 2, is amended to read:

Subd. 2. If both parents or all contestants agree to the order, or if the court finds that in the absence of the order the child's physical or emotional health is likely to be endangered or the child's emotional development impaired, the court may order the local social services agency or the department of court services to exercise continuing supervision over the case under guidelines established by the court to assure that the custodial or visitation parenting time terms of the decree are carried out.

Sec. 34. Minnesota Statutes 1998, section 518.177, is amended to read:

518.177 [NOTIFICATION REGARDING DEPRIVATION OF PARENTAL RIGHTS LAW.]

Every court order and judgment and decree concerning custody of or parenting time or visitation with a minor child shall contain the notice set out in section 518.68, subdivision 2.

Sec. 35. Minnesota Statutes 1999 Supplement, section 518.178, is amended to read:

518.178 [~~VISITATION~~ PARENTING TIME AND SUPPORT REVIEW HEARING.]

Upon motion of either party, the court shall conduct a hearing to review compliance with the ~~visitation~~ parenting time and child support provisions set forth in a decree of dissolution or legal separation or an order that establishes child custody, ~~visitation~~ parenting time, and support rights and obligations of parents. The state court administrator shall prepare, and each court administrator shall make available, simplified pro se forms for reviewing ~~visitation~~ parenting time and child support disputes. The court may impose any ~~visitation~~ parenting time enforcement remedy available under sections 518.175 and 518.1751, and any support enforcement remedy available under section 518.551.

Sec. 36. Minnesota Statutes 1998, section 518.179, subdivision 1, is amended to read:

Subdivision 1. [SEEKING CUSTODY OR ~~VISITATION~~ PARENTING TIME.] Notwithstanding any contrary provision in section 518.17 or 518.175, if a person seeking child custody or ~~visitation~~ parenting time has been convicted of a crime described in subdivision 2, the person seeking custody or ~~visitation~~ parenting time has the burden to prove that custody or ~~visitation~~ parenting time by that person is in the best interests of the child if:

- (1) the conviction occurred within the preceding five years;
- (2) the person is currently incarcerated, on probation, or under supervised release for the offense; or
- (3) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

If this section applies, the court may not grant custody or ~~visitation~~ parenting time to the person unless it finds that the custody or ~~visitation~~ parenting time is in the best interests of the child. If the victim of the crime was a family or household member, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case where this section applies.

Sec. 37. Minnesota Statutes 1999 Supplement, 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 public assistance or applies for it subsequent to the commencement of the proceeding. The notice must contain the full names of the parties to the proceeding, their social security account numbers, and their birth dates. 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 |
| *Standard Deductions apply- use of tax tables recommended | (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. |

"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~~ parenting time 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 public assistance under the AFDC program formerly codified under sections 256.72 to 256.82 or 256B.01 to 256B.40 and chapter 256J or 256K.

(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 256.741;

(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 256.741, 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 256.741, 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.

(l) In establishing or modifying child support, if a child receives a child's insurance benefit under United States Code, title 42, section 402, because the obligor is entitled to old age or disability insurance benefits, the amount of support ordered shall be offset by the amount of the child's benefit. The court shall make findings regarding the obligor's income from all sources, the child support amount calculated under this section, the amount of the child's benefit, and the obligor's child support obligation. Any benefit received by the child in a given month in excess of the child support obligation shall not be treated as an arrearage payment or a future payment.

Sec. 38. Minnesota Statutes 1998, section 518.612, is amended to read:

518.612 [INDEPENDENCE OF PROVISIONS OF DECREE OR TEMPORARY ORDER.]

Failure by a party to make support payments is not a defense to: interference with ~~visitation rights~~ parenting time; or without the permission of the court or the noncustodial parent removing a child from this state. Nor is interference with ~~visitation rights~~ parenting time or taking a child from this state without permission of the court or the noncustodial parent a defense to nonpayment of support. If a party fails to make support payments, or interferes with ~~visitation rights~~ parenting time, or without permission of the court or the noncustodial parent removes a child from this state, the other party may petition the court for an appropriate order.

Sec. 39. Minnesota Statutes 1998, section 518.619, subdivision 1, is amended to read:

Subdivision 1. [MEDIATION PROCEEDING.] Except as provided in subdivision 2, if it appears on the face of the petition or other application for an order or modification of an order for the custody of a child that custody or ~~visitation~~ parenting time is contested, or that any issue pertinent to a custody or ~~visitation~~ parenting time determination, including ~~visitation~~ parenting time rights, is unresolved, the matter may be set for mediation of the contested issue prior to, concurrent with, or subsequent to the setting of the matter for hearing. The purpose of the mediation proceeding is to reduce acrimony which may exist between the parties and to develop an agreement that is supportive of the child's best interests. The mediator shall use best efforts to effect a settlement of the custody or ~~visitation~~ parenting time dispute, but shall have no coercive authority.

Sec. 40. Minnesota Statutes 1998, section 518.68, subdivision 1, is amended to read:

Subdivision 1. [REQUIREMENT.] Every court order or judgment and decree that provides for child support, spousal maintenance, custody, or ~~visitation~~ parenting time must contain certain notices as set out in subdivision 2. The information in the notices must be concisely stated in plain language. The notices must be in clearly legible print, but may not exceed two pages. An order or judgment and decree without the notice remains subject to all statutes. The court may waive all or part of the notice required under subdivision 2 relating to parental rights under section 518.17, subdivision 3, if it finds it is necessary to protect the welfare of a party or child.

Sec. 41. Minnesota Statutes 1998, 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

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), 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~~ PARENTING TIME

(a) Payment of support or spousal maintenance is to be as ordered, and the giving of gifts or making purchases of food, clothing, and the like will not fulfill the obligation.

(b) Payment of support must be made as it becomes due, and failure to secure or denial of ~~rights of visitation~~ parenting time is NOT an excuse for nonpayment, but the aggrieved party must seek relief through a proper motion filed with the court.

(c) Nonpayment of support is not grounds to deny ~~visitation~~ parenting time. The party entitled to receive support may apply for support and collection services, file a contempt motion, or obtain a judgment as provided in Minnesota Statutes, section 548.091.

(d) The payment of support or spousal maintenance takes priority over payment of debts and other obligations.

(e) A party who accepts additional obligations of support does so with the full knowledge of the party's prior obligation under this proceeding.

(f) Child support or maintenance is based on annual income, and it is the responsibility of a person with seasonal employment to budget income so that payments are made throughout the year as ordered.

(g) If 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).

(h) Reasonable ~~visitation~~ parenting time guidelines are contained in Appendix B, which is available from the court administrator.

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, section 518.6111 have been met. A copy of those sections is available from any district court clerk.

6. CHANGE OF ADDRESS OR RESIDENCE

Unless otherwise ordered, each party shall notify the other party, the court, and the public authority responsible for collection, if applicable, of the following information within ten days of any change: the residential and mailing address, telephone number, driver's license number, social security number, and name, address, and telephone number of the employer.

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, 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~~ PARENTING TIME EXPEDITOR PROCESS

On request of either party or on its own motion, the court may appoint a visitation parenting time expeditor to resolve visitation parenting time 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~~ PARENTING TIME REMEDIES AND PENALTIES

Remedies and penalties for the wrongful denial of visitation rights parenting time are available under Minnesota Statutes, section 518.175, subdivision 6. These include compensatory visitation parenting time; civil penalties; bond requirements; contempt; and reversal of custody. A copy of that subdivision and forms for requesting relief are available from any district court clerk.

Sec. 42. Minnesota Statutes 1998, section 518B.01, subdivision 4, is amended to read:

Subd. 4. [ORDER FOR PROTECTION.] There shall exist an action known as a petition for an order for protection in cases of domestic abuse.

(a) A petition for relief under this section may be made by any family or household member personally or by a family or household member, a guardian as defined in section 524.1-201, clause (20), or, if the court finds that it is in the best interests of the minor, by a reputable adult age 25 or older on behalf of minor family or household members. A minor age 16 or older may make a petition on the minor's own behalf against a spouse or former spouse, or a person with whom the minor has a child in common, if the court determines that the minor has sufficient maturity and judgment and that it is in the best interests of the minor.

(b) A petition for relief shall allege the existence of domestic abuse, and shall be accompanied by an affidavit made under oath stating the specific facts and circumstances from which relief is sought.

(c) A petition for relief must state whether the petitioner has ever had an order for protection in effect against the respondent.

(d) A petition for relief must state whether there is an existing order for protection in effect under this chapter governing both the parties and whether there is a pending lawsuit, complaint, petition or other action between the parties under chapter 257, 518, 518A, 518B, or 518C. The court administrator shall verify the terms of any existing order governing the parties. The court may not delay granting relief because of the existence of a pending action between the parties or the necessity of verifying the terms of an existing order. A subsequent order in a separate action under this chapter may modify only the provision of an existing order that grants relief authorized under subdivision 6, paragraph (a), clause (1). A petition for relief may be granted, regardless of whether there is a pending action between the parties.

(e) The court shall provide simplified forms and clerical assistance to help with the writing and filing of a petition under this section.

(f) The court shall advise a petitioner under paragraph (e) of the right to file a motion and affidavit and to sue in forma pauperis pursuant to section 563.01 and shall assist with the writing and filing of the motion and affidavit.

(g) The court shall advise a petitioner under paragraph (e) of the right to serve the respondent by published notice under subdivision 5, paragraph (b), if the respondent is avoiding personal service by concealment or otherwise, and shall assist with the writing and filing of the affidavit.

(h) The court shall advise the petitioner of the right to seek restitution under the petition for relief.

(i) The court shall advise the petitioner of the right to request a hearing under subdivision 7, paragraph (c). If the petitioner does not request a hearing, the court shall advise the petitioner that the respondent may request a hearing and that notice of the hearing date and time will be provided to the petitioner by mail at least five days before the hearing.

(j) The court shall advise the petitioner of the right to request supervised ~~visitation~~ parenting time, as provided in section 518.175, subdivision 1a.

Sec. 43. Minnesota Statutes 1998, section 518B.01, subdivision 8, is amended to read:

Subd. 8. [SERVICE; ALTERNATE SERVICE; PUBLICATION; NOTICE.] (a) The petition and any order issued under this section shall be served on the respondent personally.

(b) When service is made out of this state and in the United States, it may be proved by the affidavit of the person making the service. When service is made outside the United States, it may be proved by the affidavit of the person making the service, taken before and certified by any United States minister, charge d'affaires, commissioner, consul, or commercial agent, or other consular or diplomatic officer of the United States appointed to reside in the other country, including all deputies or other representatives of the officer authorized to perform their duties; or before an office authorized to administer an oath with the certificate of an officer of a court of record of the country in which the affidavit is taken as to the identity and authority of the officer taking the affidavit.

(c) If personal service cannot be made, the court may order service of the petition and any order issued under this section by alternate means, or by publication, which publication must be made as in other actions. The application for alternate service must include the last known location of the respondent; the petitioner's most recent contacts with the respondent; the last known location of the respondent's employment; the names and locations of the respondent's parents, siblings, children, and other close relatives; the names and locations of other persons who are likely to know the respondent's whereabouts; and a description of efforts to locate those persons.

The court shall consider the length of time the respondent's location has been unknown, the likelihood that the respondent's location will become known, the nature of the relief sought, and the nature of efforts made to locate the respondent. The court shall order service by first class mail, forwarding address requested, to any addresses where there is a reasonable possibility that mail or information will be forwarded or communicated to the respondent.

The court may also order publication, within or without the state, but only if it might reasonably succeed in notifying the respondent of the proceeding. Service shall be deemed complete 14 days after mailing or 14 days after court-ordered publication.

(d) A petition and any order issued under this section must include a notice to the respondent that if an order for protection is issued to protect the petitioner or a child of the parties, upon request of the petitioner in any ~~visitation~~ parenting time proceeding, the court shall consider the order for protection in making a decision regarding ~~visitation~~ parenting time.

Sec. 44. Minnesota Statutes 1998, section 519.11, subdivision 1a, is amended to read:

Subd. 1a. [POSTNUPTIAL CONTRACT.] (a) Spouses who are legally married under the laws of this state may enter into a postnuptial contract or settlement which is valid and enforceable if it:

(1) complies with the requirements for antenuptial contracts or settlements in this section and in the law of this state, including, but not limited to, the requirement that it be procedurally and substantively fair and equitable both at the time of its execution and at the time of its enforcement; and

(2) complies with the requirements for postnuptial contracts or settlements in this section.

(b) A postnuptial contract or settlement that conforms with this section may determine all matters that may be determined by an antenuptial contract or settlement under the law of this state, except that a postnuptial contract or settlement may not determine the rights of any child of the spouses to child support from either spouse or rights of child custody or ~~visitation~~ parenting time.

(c) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each spouse is represented by separate legal counsel.

(d) A postnuptial contract or settlement is valid and enforceable only if at the time of its execution each of the spouses entering into the contract or settlement has marital property titled in that spouse's name, nonmarital property, or a combination of marital property titled in that spouse's name and nonmarital property with a total net value exceeding \$1,200,000.

(e) A postnuptial contract or settlement is not valid or enforceable if either party commences an action for a legal separation or dissolution within two years of the date of its execution.

(f) Nothing in this section shall impair the validity or enforceability of a contract, agreement, or waiver which is entered into after marriage and which is described in chapter 524, article 2, part 2, further, a conveyance permitted by section 500.19 is not a postnuptial contract or settlement under this section.

Sec. 45. Minnesota Statutes 1999 Supplement, section 609.26, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED ACTS.] Whoever intentionally does any of the following acts may be charged with a felony and, upon conviction, may be sentenced as provided in subdivision 6:

(1) conceals a minor child from the child's parent where the action manifests an intent substantially to deprive that parent of parental rights or conceals a minor child from another person having the right to ~~visitation~~ parenting time or custody where the action manifests an intent to substantially deprive that person of rights to ~~visitation~~ parenting time or custody;

(2) takes, obtains, retains, or fails to return a minor child in violation of a court order which has transferred legal custody under chapter 260, 260B, or 260C to the commissioner of human services, a child-placing agency, or the local social services agency;

(3) takes, obtains, retains, or fails to return a minor child from or to the parent in violation of a court order, where the action manifests an intent substantially to deprive that parent of rights to ~~visitation~~ parenting time or custody;

(4) takes, obtains, retains, or fails to return a minor child from or to a parent after commencement of an action relating to child ~~visitation~~ parenting time or custody but prior to the issuance of an order determining custody or ~~visitation~~ parenting time rights, where the action manifests an intent substantially to deprive that parent of parental rights;

(5) retains a child in this state with the knowledge that the child was removed from another state in violation of any of the above provisions;

(6) refuses to return a minor child to a parent or lawful custodian and is at least 18 years old and more than 24 months older than the child;

(7) causes or contributes to a child being a habitual truant as defined in section 260C.007, subdivision 19, and is at least 18 years old and more than 24 months older than the child;

(8) causes or contributes to a child being a runaway as defined in section 260C.007, subdivision 20, and is at least 18 years old and more than 24 months older than the child; or

(9) is at least 18 years old and resides with a minor under the age of 16 without the consent of the minor's parent or lawful custodian.

Sec. 46. Minnesota Statutes 1998, section 609.26, subdivision 2, is amended to read:

Subd. 2. [DEFENSES.] It is an affirmative defense if a person charged under subdivision 1 proves that:

(1) the person reasonably believed the action taken was necessary to protect the child from physical or sexual assault or substantial emotional harm;

(2) the person reasonably believed the action taken was necessary to protect the person taking the action from physical or sexual assault;

(3) the action taken is consented to by the parent, stepparent, or legal custodian seeking prosecution, but consent to custody or specific ~~visitation~~ parenting time is not consent to the action of failing to return or concealing a minor child; or

(4) the action taken is otherwise authorized by a court order issued prior to the violation of subdivision 1.

The defenses provided in this subdivision are in addition to and do not limit other defenses available under this chapter or chapter 611.

Sec. 47. Minnesota Statutes 1998, section 629.341, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF RIGHTS.] The peace officer shall tell the victim whether a shelter or other services are available in the community and give the victim immediate notice of the legal rights and remedies available. The notice must include furnishing the victim a copy of the following statement:

"IF YOU ARE THE VICTIM OF DOMESTIC VIOLENCE, you can ask the city or county attorney to file a criminal complaint. You also have the right to go to court and file a petition requesting an order for protection from domestic abuse. The order could include the following:

(1) an order restraining the abuser from further acts of abuse;

(2) an order directing the abuser to leave your household;

(3) an order preventing the abuser from entering your residence, school, business, or place of employment;

(4) an order awarding you or the other parent custody of or ~~visitation~~ parenting time with your minor child or children; or

(5) an order directing the abuser to pay support to you and the minor children if the abuser has a legal obligation to do so."

The notice must include the resource listing, including telephone number, for the area battered women's shelter, to be designated by the department of corrections.

Sec. 48. Minnesota Statutes 1998, section 631.52, subdivision 1, is amended to read:

Subdivision 1. [SUSPENSION OF ~~VISITATION~~ PARENTING TIME RIGHTS; TRANSFER OF CUSTODY.]
(a) If a person who has court-ordered custody of a child or ~~visitation~~ parenting time rights is convicted of a crime listed in subdivision 2 and if no action is pending regarding custody or ~~visitation~~ parenting time, the sentencing court shall refer the matter to the appropriate family court for action under this section. The family court shall:

(1) grant temporary custody to the noncustodial parent, unless it finds that another custody arrangement is in the best interests of the child; or

(2) suspend ~~visitation~~ parenting time rights, unless it finds that ~~visitation~~ parenting time with the convicted person is in the best interests of the child.

The family court shall expedite proceedings under this section. The defendant has the burden of proving that continued custody or ~~visitation~~ parenting time with the defendant is in the best interests of the child. If the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2, the standard of proof is clear and convincing evidence. A guardian ad litem must be appointed in any case to which this section applies.

(b) If a person who has child custody or ~~visitation~~ parenting time rights was convicted of a crime listed in subdivision 2 before July 1, 1990, then any interested party may petition the sentencing court for relief under paragraph (a) if:

(1) the defendant is currently incarcerated, on probation, or under supervised release for the offense; or

(2) the victim of the crime was a family or household member as defined in section 518B.01, subdivision 2.

Sec. 49. [EFFECTIVE DATE.]

Sections 1 to 43 are effective August 1, 2000."

Delete the title and insert:

"A bill for an act relating to family law; providing for parenting plans; clarifying the procedure for obtaining custody and parenting time when a recognition of parentage has been executed; changing certain terminology; amending Minnesota Statutes 1998, sections 15.87; 119A.37; 124D.23, subdivision 8; 256L.01, subdivision 3a; 257.541; 257.75, subdivision 3; 257A.01, subdivision 2; 257A.03, subdivision 2; 480.30, subdivision 1; 494.015, subdivision 1; 517.08, subdivision 1c; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1, 2, 3, 7, and by adding a subdivision; 518.156; 518.157, subdivisions 1 and 3; 518.165, subdivision 1; 518.175, subdivisions 1, 1a, 2, 3, 5, 6, and 8; 518.1751; 518.176, subdivision 2; 518.177; 518.179, subdivision 1; 518.18; 518.612; 518.619, subdivision 1; 518.68, subdivisions 1 and 2; 518B.01, subdivisions 4, 6, and 8; 519.11, subdivision 1a; 609.26, subdivision 2; 629.341, subdivision 3; and 631.52, subdivision 1; Minnesota Statutes 1999 Supplement, sections 119A.45; 257.66, subdivision 3; 494.03; 518.155; 518.165, subdivision 2; 518.178; 518.551, subdivision 5; and 609.26, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 518."

The motion prevailed and the amendment was adopted.

S. F. No. 3169, A bill for an act relating to family law; providing for parenting plans; changing certain terminology; appropriating money; amending Minnesota Statutes 1998, sections 15.87; 119A.37; 124D.23, subdivision 8; 256L.01, subdivision 3a; 257.541; 257.75, subdivision 3; 257A.01, subdivision 2; 257A.03, subdivision 2; 480.30, subdivision 1; 494.015, subdivision 1; 517.08, subdivision 1c; 518.003, subdivision 3, and by adding a subdivision; 518.131, subdivisions 1, 2, 3, 7, and by adding a subdivision; 518.156; 518.157, subdivisions 1 and 3; 518.165, subdivision 1; 518.17, subdivision 1; 518.175, subdivisions 1, 1a, 2, 3, 5, 6, and 8; 518.1751; 518.176, subdivision 2; 518.177; 518.179, subdivision 1; 518.18; 518.612; 518.619, subdivision 1; 518.68, subdivisions 1 and 2; 518B.01, subdivisions 4, 6, and 8; 519.11, subdivision 1a; 609.26, subdivision 2; 629.341, subdivision 3; and 631.52, subdivision 1; Minnesota Statutes 1999 Supplement, sections 119A.45; 257.66, subdivision 3; 494.03; 518.155; 518.165, subdivision 2; 518.178; 518.551, subdivision 5; and 609.26, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 518.

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

The question was taken on the passage of the bill and the roll was called. There were 116 yeas and 12 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|-------------|--------------|
| Abeler | Dorn | Howes | Lindner | Pelowski | Trimble |
| Abrams | Erhardt | Huntley | Luther | Peterson | Tuma |
| Anderson, B. | Erickson | Jaros | Mahoney | Pugh | Tunheim |
| Bakk | Finseth | Jennings | Mares | Rest | Van Dellen |
| Biernat | Folliard | Juhnke | Marko | Reuter | Vanderveer |
| Bishop | Fuller | Kahn | McElroy | Rhodes | Wagenius |
| Boudreau | Gerlach | Kalis | Milbert | Rifenberg | Wejcman |
| Bradley | Gleason | Kelliher | Molnau | Rukavina | Wenzel |
| Broecker | Goodno | Kielkucki | Mulder | Schumacher | Westerberg |
| Buesgens | Greenfield | Knoblach | Mullery | Seagren | Westfall |
| Carlson | Greiling | Koskinen | Murphy | Seifert, M. | Westrom |
| Carruthers | Gunther | Krinkie | Ness | Skoglund | Wilkin |
| Cassell | Haake | Kubly | Nornes | Smith | Winter |
| Clark, J. | Haas | Kuisle | Olson | Solberg | Wolf |
| Daggett | Hackbarth | Larsen, P. | Osskopp | Stang | Workman |
| Dauids | Harder | Larson, D. | Osthoff | Storm | Spk. Sviggum |
| Dawkins | Hausman | Leighton | Otremba | Swapinski | |
| Dehler | Hilty | Lenczewski | Ozment | Swenson | |
| Dempsey | Holberg | Leppik | Paulsen | Sykora | |
| Dorman | Holsten | Lieder | Pawlenty | Tingelstad | |

Those who voted in the negative were:

| | | | | | |
|-----------|---------|----------|---------|----------|-----------|
| Chaudhary | Gray | Mariani | McGuire | Paymar | Skoe |
| Clark, K. | Johnson | McCollum | Opatz | Rostberg | Tomassoni |

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

S. F. No. 3259 was reported to the House.

Bradley moved to amend S. F. No. 3259 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2570, the first engrossment:

"Section 1. [ENERGY RULES FOR RESIDENTIAL BUILDINGS.]

The provisions of Minnesota Rules, chapter 7670, that apply to category 1 buildings govern residential buildings not covered by Minnesota Rules, chapter 7676. The provisions of Minnesota Rules, chapter 7670 that allow category 2 buildings are void and of no effect. All buildings subject to Minnesota Rules, chapter 7670, attaining a building permit on or after April 15, 2000, must meet the requirements for category 1 buildings as set out in Minnesota Rules, chapter 7670.

Sec. 2. [REPEALER.]

(a) Laws 1999, chapter 135, section 9, is repealed.

(b) Minnesota Rules, parts 7672.0100; 7672.0200; 7672.0300; 7672.0400; 7672.0500; 7672.0600; 7672.0700; 7672.0800; 7672.0900; 7672.1000; 7672.1100; 7672.1200; 7672.1300; 7674.0100; 7674.0200; 7674.0300; 7674.0400; 7674.0500; 7674.0600; 7674.0700; 7674.0800; 7674.0900; 7674.1000; 7674.1100; and 7674.1200, are repealed.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective April 15, 2000."

Delete the title and insert:

"A bill for an act relating to the state building code; providing for certain energy code rules to remain in effect; repealing Laws 1999, chapter 135, section 9; Minnesota Rules, chapters 7672; and 7674."

The motion prevailed and the amendment was adopted.

Bradley moved to amend S. F. No. 3259, as amended, as follows:

Page 1, line 9, after "govern" insert "new, detached single one- and two-family R-3 occupancy"

Page 1, line 12, after "All" insert "new, detached single one- and two-family R-3 occupancy"

Page 1, line 15, after the period, insert "All new detached single one- and two-family R-3 occupancy buildings having fuel burning equipment using nonsolid fuels for space heating, service water heating, or hearth products must install direct vent, power vent, or sealed combustion equipment. All new detached single one- and two-family R-3 occupancy buildings shall have a mechanical ventilation system which replaces, by direct or indirect means, air from habitable rooms with outdoor air."

Page 1, delete lines 16 to 23 and insert:

"Sec. 2. [ALTERNATIVE COMPLIANCE METHOD.]

As an alternative to compliance with section 1, compliance with Minnesota Rules, chapters 7672 and 7674, is optional for a contractor or owner.

Sec. 3. [COST-BENEFIT ANALYSIS.]

The department of administration, building codes and standards division (BCSD), shall issue a cost-benefit analysis report to the legislature by December 1, 2001, regarding Minnesota Rules, chapters 7670, 7672, and 7674."

Page 1, delete line 25 and insert:

"Sections 1, 2, and 3 are effective the day following final enactment."

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

Olson, Ness, Osskopp, Jennings and Anderson, I., moved to amend the Bradley amendment to S. F. No. 3259, as amended, as follows:

Page 2, line 1, after the period insert "The cost-benefit analysis must include a feasibility study of establishing new criteria for category 2 detached single one- and two-family R-3 occupancy buildings under Minnesota Rules, chapter 7670, that are energy efficient, enforceable and provide sufficient non-mechanical ventilation or permeability for a home to maintain good air quality, building durability, and adequate release of moisture."

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Bradley amendment, as amended, to S. F. No. 3259, as amended. The motion prevailed and the amendment, as amended, was adopted.

Goodno moved to amend S. F. No. 3259, as amended, as follows:

Page 1, line 8, before "The" insert "(a)"

Page 1, after line 15, insert:

"(b) Notwithstanding paragraph (a), the governing body of a city, county, or town may provide by ordinance that category 2 homes may be built within the area where the governing body enforces the state building code, in which case the provisions of Minnesota Rules, chapter 7670, allowing both category 1 and category 2 homes are effective in the code enforcement area of the governing body of the city, county, or town."

The motion prevailed and the amendment was adopted.

S. F. No. 3259, A bill for an act relating to the state building code; providing for certain energy code rules to remain in effect.

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

The question was taken on the passage of the bill and the roll was called. There were 112 yeas and 16 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|-----------|-----------|------------|------------|----------|
| Abeler | Clark, J. | Gerlach | Jennings | Lenczewski | Ness |
| Abrams | Daggett | Goodno | Johnson | Leppik | Nornes |
| Anderson, B. | Davids | Gray | Juhnke | Lieder | Olson |
| Anderson, I. | Dawkins | Gunther | Kalis | Lindner | Opatz |
| Bakk | Dehler | Haake | Kielkucki | Luther | Osskopp |
| Bishop | Dempsey | Haas | Knoblach | Mahoney | Osthoff |
| Boudreau | Dorman | Hackbarth | Koskinen | Mares | Otremba |
| Bradley | Dorn | Harder | Krinkie | Mariani | Ozment |
| Broecker | Entenza | Holberg | Kubly | McElroy | Paulsen |
| Buesgens | Erhardt | Holsten | Kuisle | Milbert | Pawlenty |
| Carlson | Erickson | Howes | Larsen, P. | Molnau | Pelowski |
| Cassell | Finseth | Huntley | Larson, D. | Mulder | Peterson |
| Chaudhary | Fuller | Jaros | Leighton | Murphy | Pugh |

| | | | | | |
|-----------|-------------|------------|------------|------------|--------------|
| Rest | Seagren | Stang | Tomassoni | Wejcman | Winter |
| Reuter | Seifert, M. | Storm | Trimble | Wenzel | Wolf |
| Rhodes | Skoe | Swapinski | Tuma | Westerberg | Workman |
| Rifenberg | Smith | Swenson | Tunheim | Westfall | Spk. Sviggum |
| Rostberg | Solberg | Sykora | Van Dellen | Westrom | |
| Rukavina | Stanek | Tingelstad | Vandev eer | Wilkin | |

Those who voted in the negative were:

| | | | | | |
|------------|------------|---------|----------|----------|----------|
| Carruthers | Gleason | Hausman | Kelliher | Mullery | Wagenius |
| Clark, K. | Greenfield | Hilty | McCollum | Paymar | |
| Folliard | Greiling | Kahn | McGuire | Skoglund | |

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

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 3800:

Seagren; Sykora; Mares; Seifert, M., and Pelowski.

CALENDAR FOR THE DAY, Continued

S. F. No. 3307 was reported to the House.

Holberg moved that S. F. No. 3307 be continued on the Calendar for the Day.

Pursuant to rule 1.21, S. F. No. 3307 was returned to the General Register.

S. F. No. 2951 was reported to the House.

Larsen, P., moved that S. F. No. 2951 be continued on the Calendar for the Day. The motion prevailed.

The Speaker called Abrams to the Chair.

S. F. No. 2683 was reported to the House.

Hackbarth moved to amend S. F. No. 2683 as follows:

Page 2, line 15, delete "or certified physical therapist"

The motion prevailed and the amendment was adopted.

S. F. No. 2683, A bill for an act relating to game and fish; exempting archery bows used for bow fishing from casing requirement; authorizing disability permits for taking rough fish and hunting small game with a crossbow; amending Minnesota Statutes 1998, sections 97B.051; 97B.055, subdivision 2; and 97B.106.

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

The question was taken on the passage of the bill and the roll was called. There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|-------------|--------------|
| Abeler | Dorman | Holsten | Lindner | Paulsen | Swapinski |
| Abrams | Dorn | Howes | Luther | Pawlenty | Swenson |
| Anderson, B. | Entenza | Huntley | Mahoney | Paymar | Sykora |
| Anderson, I. | Erhardt | Jaros | Mares | Pelowski | Tingelstad |
| Bakk | Erickson | Jennings | Mariani | Peterson | Tomassoni |
| Biernat | Finseth | Johnson | Marko | Pugh | Trimble |
| Bishop | Folliard | Juhnke | McCollum | Rest | Tuma |
| Boudreau | Fuller | Kahn | McElroy | Reuter | Tunheim |
| Bradley | Gerlach | Kalis | McGuire | Rhodes | Van Dellen |
| Broecker | Gleason | Kelliher | Milbert | Rifenberg | Vandever |
| Buesgens | Goodno | Kielkucki | Molnau | Rostberg | Wagenius |
| Carlson | Gray | Knoblach | Mulder | Rukavina | Wejzman |
| Carruthers | Greenfield | Koskinen | Mullery | Schumacher | Wenzel |
| Cassell | Greiling | Krinkie | Murphy | Seagren | Westerberg |
| Chaudhary | Gunther | Kubly | Ness | Seifert, M. | Westfall |
| Clark, J. | Haake | Kuisle | Nornes | Skoe | Westrom |
| Clark, K. | Haas | Larsen, P. | Olson | Skoglund | Wilkin |
| Daggett | Hackbarth | Larson, D. | Opatz | Smith | Winter |
| Davids | Harder | Leighton | Osskopp | Solberg | Workman |
| Dawkins | Hausman | Lenczewski | Osthoff | Stanek | Spk. Sviggum |
| Dehler | Hilty | Leppik | Otremba | Stang | |
| Dempsey | Holberg | Lieder | Ozment | Storm | |

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

S. F. No. 3272 was reported to the House.

Bradley moved to amend S. F. No. 3272 as follows:

Delete everything after the enacting clause and insert the following language of H. F. No. 2846, the first engrossment:

"Section 1. Minnesota Statutes 1999 Supplement, section 16B.616, subdivision 3, is amended to read:

Subd. 3. [SAFETY REQUIREMENTS.] In places of public accommodation using bleacher seating, all bleachers or bleacher open spaces over ~~30~~ 55 inches above grade or the floor below, and all bleacher guardrails if any part of the guardrail is over 55 inches above grade or the floor below must conform to the following safety requirements:

(1) the open space between bleacher footboards, seats, and guardrails must not exceed four inches, unless approved safety nets are installed, except that bleachers already in existence as of August 1, 2001, with open spaces not exceeding nine inches, are exempt from the requirement of this clause;

(2) bleachers must have vertical perimeter guardrails with no more than four-inch rail spacing between vertical rails or other approved guardrails that address climbability and are designed to prevent accidents; and

(3) the state building official shall determine whether the safety nets and guardrail climbability meet the requirements of the alternate design section of the State Building Code. All new bleachers manufactured, installed, sold, or distributed after ~~January~~ August 1, 2001, must comply with the State Building Code in effect and ~~clauses (1), (2), and (3) this subdivision.~~

Sec. 2. Minnesota Statutes 1999 Supplement, section 16B.616, subdivision 4, is amended to read:

Subd. 4. [ENFORCEMENT.] (a) A statutory or home rule charter city that is not covered by the code because of action taken under section 16B.72 or 16B.73 is responsible for enforcement in the city of the code's requirements for bleacher safety. In all other areas where the code does not apply because of action taken under section 16B.72 or 16B.73, the county is responsible for enforcement of those requirements.

(b) Municipalities that have not adopted the code may enforce the code requirements for bleacher safety by either entering into a joint powers agreement for enforcement with another municipality that has adopted the code or contracting for enforcement with a qualified and certified building official or state licensed design professional to enforce the code.

(c) Municipalities, school districts, organizations, individuals, and other persons operating or owning places of public accommodation with bleachers that are subject to the safety requirements in subdivision 3 shall provide a signed certification of compliance to the commissioner by January 1, ~~2001~~ 2002. The certification shall be prepared by a qualified and certified building official or state licensed design professional and shall certify that the bleachers have been inspected and are in compliance with the requirements of this section and are structurally sound. For bleachers owned by a school district, the person the district designates to be responsible for buildings and grounds may make the certification.

Sec. 3. Laws 1999, chapter 250, article 1, section 116, is amended to read:

Sec. 116. [EFFECTIVE DATE.]

(a) Section 41 is effective January 1, 2001. Section 43 is effective July 1, 2000, with respect to preparation of the model policies and procedures by the commissioner of administration, and January 1, 2001, with respect to the other provisions of section 43.

(b) Sections 62 to 64 and 93 are effective ~~January~~ August 1, 2001.

(c) Sections 94 to 100 are effective the day following final enactment.

(d) Sections 47, 49, 55, and 115, paragraphs (d) and (g), are effective July 1, 2001.

(e) Section 61 is effective the day following final enactment and applies only to contracts executed on or after that date.

(f) The commissioner of employee relations may not implement the long-term care insurance plan under section 78 until April 1, 2000."

Delete the title and insert:

"A bill for an act relating to the building code; modifying requirements of bleacher safety; amending Minnesota Statutes 1999 Supplement, section 16B.616, subdivisions 3 and 4; Laws 1999, chapter 250, article 1, section 116."

The motion prevailed and the amendment was adopted.

Bradley moved to amend S. F. No. 3272, as amended, as follows:

Page 1, line 18, delete "August" and insert "January"

Page 2, line 30, strike "and are structurally sound"

Page 3, line 5, delete "August" and insert "October"

The motion prevailed and the amendment was adopted.

Smith moved to amend S. F. No. 3272, as amended, as follows:

Pages 1 and 2, delete section 1

Page 2, lines 23 and 24, delete the new language

Page 2, line 25, strike "January" and insert "July"

Page 2, line 26, reinstate the stricken language and delete the new language

Page 2, line 30, delete the new language

Page 2, delete lines 31 and 32

Pages 2 and 3, delete section 3

A roll call was requested and properly seconded.

The question was taken on the Smith amendment and the roll was called. There were 77 yeas and 54 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|------------|------------|
| Abrams | Entenza | Howes | Luther | Osskopp | Solberg |
| Anderson, I. | Erhardt | Huntley | Mahoney | Osthoff | Stanek |
| Bakk | Folliard | Jennings | Mares | Otremba | Swapinski |
| Biernat | Fuller | Johnson | Mariani | Pawlenty | Tomassoni |
| Bishop | Gleason | Kelliher | Marko | Paymar | Trimble |
| Broecker | Gray | Koskinen | McCollum | Pugh | Tuma |
| Carlson | Greenfield | Larsen, P. | McElroy | Rest | Van Dellen |
| Carruthers | Greiling | Larson, D. | McGuire | Rhodes | Vandever |
| Cassell | Gunther | Leighton | Milbert | Rukavina | Wagenius |
| Chaudhary | Haas | Lenczewski | Mullery | Schumacher | Wejzman |
| Clark, K. | Hackbarth | Leppik | Murphy | Skoe | Wenzel |
| Daggett | Hausman | Lieder | Ness | Skoglund | Westerberg |
| Dawkins | Hilty | Lindner | Opatz | Smith | |

Those who voted in the negative were:

| | | | | | |
|--------------|-----------|---------|----------|---------|---------|
| Abeler | Bradley | Davids | Dorman | Finseth | Haake |
| Anderson, B. | Buesgens | Dehler | Dorn | Gerlach | Harder |
| Boudreau | Clark, J. | Dempsey | Erickson | Goodno | Holberg |

| | | | | | |
|-----------|----------|----------|-------------|------------|--------------|
| Holsten | Knoblach | Nornes | Reuter | Storm | Westrom |
| Jaros | Krinkie | Olson | Rifenberg | Swenson | Wilkin |
| Juhnke | Kubly | Ozment | Rostberg | Sykora | Winter |
| Kahn | Kuisle | Paulsen | Seagren | Tingelstad | Wolf |
| Kalis | Molnau | Pelowski | Seifert, M. | Tunheim | Workman |
| Kielkucki | Mulder | Peterson | Stang | Westfall | Spk. Sviggum |

The motion prevailed and the amendment was adopted.

S. F. No. 3272, A bill for an act relating to the building code; modifying requirements of bleacher safety; amending Minnesota Statutes 1999 Supplement, section 16B.616, subdivisions 3 and 4.

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

The question was taken on the passage of the bill and the roll was called. There were 119 yeas and 11 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|-------------|--------------|
| Abeler | Dorn | Jaros | Mares | Pelowski | Sykora |
| Abrams | Entenza | Jennings | Mariani | Peterson | Tingelstad |
| Anderson, I. | Erhardt | Johnson | Marko | Pugh | Tomassoni |
| Bakk | Finseth | Juhnke | McCollum | Rest | Trimble |
| Biernat | Folliard | Kahn | McElroy | Rhodes | Tuma |
| Bishop | Fuller | Kalis | McGuire | Rifenberg | Tunheim |
| Bradley | Gleason | Kelliher | Milbert | Rostberg | Van Dellen |
| Broecker | Goodno | Kielkucki | Molnau | Rukavina | Vandevier |
| Carlson | Greenfield | Knoblach | Mullery | Schumacher | Wagenius |
| Carruthers | Greiling | Koskinen | Murphy | Seagren | Wejcman |
| Cassell | Gunther | Kubly | Ness | Seifert, M. | Wenzel |
| Chaudhary | Haake | Kuisle | Nornes | Skoe | Westerberg |
| Clark, J. | Haas | Larsen, P. | Opatz | Skoglund | Westfall |
| Clark, K. | Hackbarth | Larson, D. | Osskopp | Smith | Westrom |
| Daggett | Harder | Leighton | Osthoff | Solberg | Wilkin |
| Davids | Hausman | Lenczewski | Otremba | Stanek | Winter |
| Dawkins | Hilty | Leppik | Ozment | Stang | Wolf |
| Dehler | Holsten | Lieder | Paulsen | Storm | Workman |
| Dempsey | Howes | Luther | Pawlenty | Swapinski | Spk. Sviggum |
| Dorman | Huntley | Mahoney | Paymar | Swenson | |

Those who voted in the negative were:

| | | | | | |
|--------------|----------|---------|---------|--------|--------|
| Anderson, B. | Buesgens | Gerlach | Krinkie | Mulder | Reuter |
| Boudreau | Erickson | Holberg | Lindner | Olson | |

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

S. F. No. 3554, A bill for an act relating to reemployment compensation; modifying nonprofit organization provisions; instructing the revisor to change certain terms; amending Minnesota Statutes 1999 Supplement, sections 268.03, subdivision 1; and 268.053, subdivision 1, and by adding a subdivision.

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

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

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|-------------|--------------|
| Abeler | Dorman | Holsten | Lindner | Paulsen | Swapinski |
| Abrams | Dorn | Howes | Luther | Pawlenty | Swenson |
| Anderson, B. | Entenza | Huntley | Mahoney | Paymar | Sykora |
| Anderson, I. | Erhardt | Jaros | Mares | Pelowski | Tingelstad |
| Bakk | Erickson | Jennings | Mariani | Peterson | Tomassoni |
| Biernat | Finseth | Johnson | Marko | Pugh | Trimble |
| Bishop | Folliard | Juhnke | McCollum | Rest | Tuma |
| Boudreau | Fuller | Kahn | McElroy | Reuter | Tunheim |
| Bradley | Gerlach | Kalis | McGuire | Rhodes | Van Dellen |
| Broecker | Gleason | Kelliher | Milbert | Rifenberg | Vandever |
| Buesgens | Goodno | Kielkucki | Molnau | Rostberg | Wagenius |
| Carlson | Gray | Knoblach | Mulder | Rukavina | Wejman |
| Carruthers | Greenfield | Koskinen | Mullery | Schumacher | Wenzel |
| Cassell | Greiling | Krinkie | Murphy | Seagren | Westerberg |
| Chaudhary | Gunther | Kubly | Ness | Seifert, M. | Westfall |
| Clark, J. | Haake | Kuisle | Nornes | Skoe | Westrom |
| Clark, K. | Haas | Larsen, P. | Olson | Skoglund | Wilkin |
| Daggett | Hackbarth | Larson, D. | Opatz | Smith | Winter |
| Davids | Harder | Leighton | Osskopp | Solberg | Wolf |
| Dawkins | Hausman | Lenczewski | Osthoff | Stanek | Workman |
| Dehler | Hilty | Leppik | Otremba | Stang | Spk. Sviggum |
| Dempsey | Holberg | Lieder | Ozment | Storm | |

The bill was passed and its title agreed to.

Van Dellen was excused for the remainder of today's session.

H. F. No. 3692 was reported to the House.

Otremba moved to amend H. F. No. 3692, the third engrossment, as follows:

Page 13, after line 4, insert:

"Sec. 9. [DELAY IN IMPLEMENTATION OF PROPOSED ANIMAL FEEDLOT RULES.]

(a) Notwithstanding other law to the contrary, proposed rules of the pollution control agency published in the State Register on December 20, 1999, concerning animal feedlots, commonly referred to as Minnesota Rules, parts 7001.0020, 7002.0210 to 7002.0280, and chapter 7020, if adopted by the agency, must not be implemented or enforced until 60 days after completion and release of the final report of the animal agriculture generic environmental impact statement required under Laws 1998, chapter 366, section 86, subdivision 2. In no event may the rules be implemented or enforced before July 1, 2002.

(b) Until the proposed feedlot rules have been implemented or enforced as provided in paragraph (a), animal feedlots must continue to be regulated solely under rules adopted and in effect on January 1, 2000."

Page 13, line 5, delete "9" and insert "10"

Page 13, line 6, delete "8" and insert "9"

A roll call was requested and properly seconded.

The Speaker resumed the Chair.

The question was taken on the Otremba amendment and the roll was called. There were 41 yeas and 88 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|----------|---------|----------|-----------|
| Anderson, I. | Dorn | Kahn | Mariani | Paymar | Tomassoni |
| Bakk | Entenza | Kalis | Marko | Pelowski | Trimble |
| Biernat | Folliard | Kelliher | Milbert | Peterson | Tunheim |
| Carruthers | Gleason | Koskinen | Mullery | Pugh | Wejcman |
| Chaudhary | Greenfield | Kubly | Murphy | Rukavina | Wenzel |
| Clark, K. | Jaros | Leighton | Osthoff | Skoglund | Winter |
| Dawkins | Johnson | Luther | Otremba | Solberg | |

Those who voted in the negative were:

| | | | | | |
|--------------|-----------|------------|----------|-------------|--------------|
| Abeler | Dorman | Hilty | Lieder | Pawlenty | Swenson |
| Abrams | Erhardt | Holberg | Lindner | Rest | Sykora |
| Anderson, B. | Erickson | Holsten | Mares | Reuter | Tingelstad |
| Bishop | Finseth | Howes | McCollum | Rhodes | Tuma |
| Boudreau | Fuller | Huntley | McElroy | Rifenberg | Vandever |
| Bradley | Gerlach | Jennings | McGuire | Rostberg | Wagenius |
| Broecker | Goodno | Juhnke | Molnau | Schumacher | Westerberg |
| Buesgens | Gray | Kielkucki | Mulder | Seagren | Westfall |
| Carlson | Greiling | Knoblach | Ness | Seifert, M. | Westrom |
| Cassell | Gunther | Krinkie | Nornes | Skoe | Wilkin |
| Clark, J. | Haake | Kuisle | Olson | Smith | Wolf |
| Daggett | Haas | Larsen, P. | Opatz | Stanek | Workman |
| Davids | Hackbarth | Larson, D. | Osskopp | Stang | Spk. Sviggum |
| Dehler | Harder | Lenczewski | Ozment | Storm | |
| Dempsey | Hausman | Leppik | Paulsen | Swapinski | |

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

The Speaker called Boudreau to the Chair.

Ness moved to amend H. F. No. 3692, the third engrossment, as follows:

Page 8, after line 20, insert:

"Sec. 5. Minnesota Statutes 1998, section 116.07, is amended by adding a subdivision to read:

Subd. 7d. [FEEDLOT PERMITS; CHECKLIST OF OBLIGATIONS; TIMELY REVIEW AND ISSUANCE OF PERMIT.] (a) Notwithstanding subdivision 7 or other provisions of law, rule, or local ordinance, within 60 days after receipt of an application for a permit for a new or expanded feedlot the agency or the board of a delegated county shall provide to the applicant a detailed, plain language checklist of all obligations and requirements that must be met before the permit is issued.

(b) No obligations or requirements other than those on the checklist provided under paragraph (a) may be imposed on the applicant after the checklist has been provided to the applicant.

(c) Within 60 days after an applicant for a permit notifies the agency or the county board that the obligations and requirements of the checklist provided under paragraph (a) have been complied with, the agency or county board shall issue the permit for the new or expanded feedlot or issue an order denying the permit. An order denying a permit must identify each material failure to meet obligations and requirements of the checklist.

(d) An applicant that has been denied a permit under paragraph (c) may file a petition in a court of competent jurisdiction for expedited appeal of the order and appropriate temporary and permanent relief.

(e) The petition filed with the court administrator under paragraph (d) must state the grounds upon which the petitioner seeks rescission of the order, including the facts upon which each claim is based."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

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

Winter, Tunheim, Kubly, Peterson and Otremba moved to amend H. F. No. 3692, the third engrossment, as follows:

Page 2, line 20, delete everything after "type"

Page 2, delete lines 21 to 36

Page 3, delete lines 1 to 13

Page 3, line 14, delete everything before the period and insert "by the animal unit factors provided under Code of Federal Regulations, title 40, section 122.23, appendix B, paragraph (a), divided by 1,000"

A roll call was requested and properly seconded.

The question was taken on the Winter et al amendment and the roll was called. There were 63 yeas and 66 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|------------|-----------|
| Anderson, I. | Gleason | Kalis | Mahoney | Pelowski | Tomassoni |
| Bakk | Gray | Kelliher | Mariani | Peterson | Trimble |
| Biernat | Greenfield | Koskinen | Marko | Pugh | Tuma |
| Carlson | Greiling | Kubly | McCollum | Rest | Tunheim |
| Carruthers | Hausman | Larsen, P. | McGuire | Rukavina | Wagenius |
| Chaudhary | Hilty | Larson, D. | Milbert | Schumacher | Wejcman |
| Clark, K. | Huntley | Leighton | Mullery | Skoe | Wenzel |
| Dawkins | Jennings | Lenczewski | Murphy | Skoglund | Winter |
| Dorn | Johnson | Leppik | Osthoff | Solberg | |
| Entenza | Juhnke | Lieder | Otremba | Storm | |
| Folliard | Kahn | Luther | Paymar | Swapinski | |

Those who voted in the negative were:

| | | | | | |
|--------------|----------|-----------|---------|-------------|--------------|
| Abeler | Davids | Haake | Lindner | Paulsen | Swenson |
| Abrams | Dehler | Haas | Mares | Pawlenty | Sykora |
| Anderson, B. | Dempsey | Hackbarth | McElroy | Reuter | Tingelstad |
| Bishop | Dorman | Harder | Molnau | Rhodes | Vandever |
| Boudreau | Erhardt | Holberg | Mulder | Rifenberg | Westerberg |
| Bradley | Erickson | Holsten | Ness | Rostberg | Westfall |
| Broecker | Finseth | Howes | Nornes | Seagren | Westrom |
| Buesgens | Fuller | Kielkucki | Olson | Seifert, M. | Wilkin |
| Cassell | Gerlach | Knoblach | Opatz | Smith | Wolf |
| Clark, J. | Goodno | Krinkie | Osskopp | Stanek | Workman |
| Daggett | Gunther | Kuisle | Ozment | Stang | Spk. Sviggum |

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

Kubly moved to amend H. F. No. 3692, the third engrossment, as follows:

Page 2, delete lines 33 to 35 and insert:

"(i) over 55 pounds, 0.4 animal unit; and

(ii) 55 pounds or under, 0.05 animal unit;"

A roll call was requested and properly seconded.

The question was taken on the Kubly amendment and the roll was called. There were 60 yeas and 67 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|------------|-----------|
| Anderson, I. | Folliard | Kahn | Mahoney | Paymar | Solberg |
| Bakk | Gleason | Kalis | Mariani | Pelowski | Storm |
| Biernat | Gray | Kelliher | Marko | Peterson | Tomassoni |
| Carlson | Greenfield | Koskinen | McCollum | Pugh | Trimble |
| Carruthers | Greiling | Kubly | McGuire | Rest | Tuma |
| Chaudhary | Hausman | Larson, D. | Milbert | Rhodes | Tunheim |
| Clark, K. | Hilty | Leighton | Mullery | Rukavina | Wagenius |
| Dawkins | Jaros | Lenczewski | Murphy | Schumacher | Wejcman |
| Dorn | Johnson | Lieder | Osthoff | Skoe | Wenzel |
| Entenza | Juhnke | Luther | Otremba | Skoglund | Winter |

Those who voted in the negative were:

| | | | | | |
|--------------|-----------|----------|-----------|------------|---------|
| Abeler | Buesgens | Dorman | Gunther | Howes | Lindner |
| Abrams | Cassell | Erhardt | Haake | Kielkucki | Mares |
| Anderson, B. | Clark, J. | Erickson | Haas | Knoblach | McElroy |
| Bishop | Daggett | Finseth | Hackbarth | Krinkie | Molnau |
| Boudreau | Davids | Harder | Holberg | Kuisle | Mulder |
| Bradley | Dehler | Gerlach | Holsten | Larsen, P. | Ness |
| Broecker | Dempsey | Goodno | | Leppik | Nornes |

| | | | | |
|---------|-----------|-------------|------------|--------------|
| Olson | Pawlenty | Seifert, M. | Sykora | Westrom |
| Opatz | Reuter | Smith | Tingelstad | Wilkin |
| Osskopp | Rifenberg | Stanek | Vandever | Wolf |
| Ozment | Rostberg | Stang | Westerberg | Workman |
| Paulsen | Seagren | Swenson | Westfall | Spk. Sviggum |

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

Kelliher, Hausman, Kahn and Wagenius moved to amend H. F. No. 3692, the third engrossment, as follows:

Page 13, after line 4, insert:

"Sec. 8. [CONFLICT WITH FEDERAL LAW OR REGULATION.]

In the event of conflict between the minimum environmental protection provisions of this act or rules adopted by the pollution control agency in response to this act and the minimum environmental protection provisions of the federal Clean Water Act or other federal law or regulation, the federal law or regulations govern. To the extent that the provisions of this act or rules adopted under this act exceed minimum environmental protection provisions of federal law or regulation, the provisions of this act govern."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

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

Folliard and McCollum moved to amend H. F. No. 3692, the third engrossment, as follows:

Page 3, after line 14, insert:

"Sec. 3. Minnesota Statutes 1998, section 116.07, is amended by adding a subdivision to read:

Subd. 41. [AIR TOXICS REDUCTION PLAN REPORT.] (a) By January 1, 2001, the commissioner of the pollution control agency shall develop and begin implementation of a plan to ensure that the ambient air concentration of each toxic air contaminant in the state does not exceed the health risk benchmark in one or more areas of the state. The commissioner shall include in the plan, at a minimum, all toxic air contaminants that the Environmental Protection Agency's Cumulative Exposure Project estimates or the agency's monitoring shows exceed the health risk benchmarks. The plan must include a specific framework to reduce the ambient air concentration of each toxic air contaminant that exceeds an applicable health risk benchmark as of November 1999 to an ambient air concentration at or below the health risk benchmark by January 1, 2009.

(b) Beginning January 1, 2002, and annually thereafter, the commissioner shall inform the public on the agency's progress in reducing levels of toxic air contaminants that exceed health risk benchmarks as of November 1999. The commissioner shall, at a minimum, make the information available to the public on the agency's World Wide Web site."

Renumber the sections in sequence and correct internal references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Folliard and McCollum amendment and the roll was called. There were 60 yeas and 68 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|------------|----------|----------|------------|
| Abeler | Dorn | Jaros | Lieder | Osthoff | Swapinski |
| Anderson, I. | Entenza | Jennings | Luther | Otremba | Tingelstad |
| Bakk | Folliard | Johnson | Mahoney | Paymar | Tomassoni |
| Biernat | Gleason | Kahn | Mariani | Peterson | Trimble |
| Carlson | Gray | Kelliher | Marko | Pugh | Tunheim |
| Carruthers | Greenfield | Koskinen | McCollum | Rhodes | Vanderveer |
| Chaudhary | Greiling | Kubly | McGuire | Rukavina | Wagenius |
| Clark, K. | Hausman | Larson, D. | Milbert | Skoglund | Wejcman |
| Dawkins | Hilty | Lenczewski | Mullery | Solberg | Westerberg |
| Dorman | Huntley | Leppik | Murphy | Storm | Winter |

Those who voted in the negative were:

| | | | | | |
|--------------|-----------|------------|----------|-------------|--------------|
| Abrams | Dempsey | Holberg | McElroy | Reuter | Tuma |
| Anderson, B. | Erhardt | Holsten | Molnau | Rifenberg | Wenzel |
| Bishop | Erickson | Howes | Mulder | Rostberg | Westfall |
| Boudreau | Finseth | Juhnke | Ness | Schumacher | Westrom |
| Bradley | Fuller | Kalis | Nornes | Seagren | Wilkin |
| Broecker | Gerlach | Kielkucki | Olson | Seifert, M. | Wolf |
| Buesgens | Goodno | Knoblach | Opatz | Skoe | Workman |
| Cassell | Gunther | Krinkie | Osskopp | Smith | Spk. Sviggum |
| Clark, J. | Haake | Kuisle | Ozment | Stanek | |
| Daggett | Haas | Larsen, P. | Paulsen | Stang | |
| Davids | Hackbarth | Lindner | Pawlenty | Swenson | |
| Dehler | Harder | Mares | Pelowski | Sykora | |

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

Kahn; Clark, K.; Otremba; Swapinski; Winter; Dawkins; McGuire; Kelliher; McCollum; Hilty; Paymar; Folliard; Hausman; Wagenius and Greiling offered an amendment to H. F. No. 3692, the third engrossment.

POINT OF ORDER

Seifert, M., raised a point of order pursuant to rule 3.21 that the Kahn et al amendment was not in order. Speaker pro tempore Boudreau ruled the point of order well taken and the Kahn et al amendment out of order.

The Speaker resumed the Chair.

H. F. No. 3692, A bill for an act relating to agriculture; amending feedlot permit provisions; providing specific requirements for feedlot permit rules; adding requirements for administrative penalty orders; requiring a report; amending Minnesota Statutes 1998, sections 116.06, by adding a subdivision; 116.07, subdivision 7c; and 116.0713; Minnesota Statutes 1999 Supplement, sections 116.07, subdivision 7; and 116.072, subdivision 13; proposing coding for new law in Minnesota Statutes, chapter 18B.

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

The question was taken on the passage of the bill and the roll was called. There were 80 yeas and 49 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|-----------|------------|-----------|-------------|--------------|
| Abeler | Dehler | Holberg | Molnau | Rostberg | Vandever |
| Abrams | Dempsey | Howes | Mulder | Rukavina | Wenzel |
| Anderson, B. | Dorman | Jennings | Murphy | Schumacher | Westerberg |
| Anderson, I. | Erickson | Johnson | Ness | Seifert, M. | Westfall |
| Bakk | Finseth | Juhnke | Nornes | Skoe | Westrom |
| Bishop | Fuller | Kielkucki | Olson | Smith | Wilkin |
| Boudreau | Gerlach | Knoblach | Opatz | Solberg | Winter |
| Bradley | Goodno | Kubly | Osskopp | Stanek | Wolf |
| Broecker | Gunther | Kuisle | Paulsen | Stang | Workman |
| Buesgens | Haake | Larsen, P. | Pawlenty | Storm | Spk. Sviggum |
| Cassell | Haas | Leighton | Pelowski | Swenson | |
| Clark, J. | Hackbarth | Lieder | Peterson | Tingelstad | |
| Daggett | Harder | Lindner | Reuter | Tomassoni | |
| Davids | Hilty | McElroy | Rifenberg | Tunheim | |

Those who voted in the negative were:

| | | | | | |
|------------|------------|------------|----------|-----------|----------|
| Biernat | Folliard | Kahn | Mahoney | Otremba | Trimble |
| Carlson | Gleason | Kalis | Mares | Ozment | Tuma |
| Carruthers | Gray | Kelliher | Mariani | Paymar | Wagenius |
| Chaudhary | Greenfield | Koskinen | Marko | Pugh | Wejman |
| Clark, K. | Greiling | Krinkie | McCollum | Rhodes | |
| Dawkins | Hausman | Larson, D. | McGuire | Seagren | |
| Dorn | Holsten | Lenczewski | Milbert | Skoglund | |
| Entenza | Huntley | Leppik | Mullery | Swapinski | |
| Erhardt | Jaros | Luther | Osthoff | Sykora | |

The bill was passed and its title agreed to.

S. F. No. 624, A bill for an act relating to public safety; establishing the board of firefighter training and education; proposing coding for new law as Minnesota Statutes, chapter 299N.

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

The question was taken on the passage of the bill and the roll was called. There were 124 yeas and 6 nays as follows:

Those who voted in the affirmative were:

| | | | | | |
|--------------|------------|---------|----------|------------|----------|
| Abeler | Bradley | Daggett | Erhardt | Greenfield | Hilty |
| Abrams | Broecker | Davids | Erickson | Greiling | Holberg |
| Anderson, B. | Carlson | Dawkins | Finseth | Gunther | Holsten |
| Anderson, I. | Carruthers | Dehler | Folliard | Haake | Howes |
| Bakk | Cassell | Dempsey | Fuller | Haas | Huntley |
| Biernat | Chaudhary | Dorman | Gleason | Hackbarth | Jaros |
| Bishop | Clark, J. | Dorn | Goodno | Harder | Jennings |
| Boudreau | Clark, K. | Entenza | Gray | Hausman | Johnson |

| | | | | | |
|------------|----------|----------|-------------|------------|--------------|
| Juhnke | Lieder | Murphy | Peterson | Solberg | Wagenius |
| Kalis | Lindner | Ness | Pugh | Stanek | Wejcman |
| Kelliher | Luther | Nornes | Rest | Stang | Wenzel |
| Kielkucki | Mahoney | Olson | Rhodes | Storm | Westerberg |
| Knoblach | Mares | Opatz | Rifenberg | Swapinski | Westfall |
| Koskinen | Mariani | Osskopp | Rostberg | Swenson | Westrom |
| Kubly | Marko | Osthoff | Rukavina | Sykora | Wilkin |
| Kuisle | McCollum | Otremba | Schumacher | Tingelstad | Winter |
| Larsen, P. | McElroy | Ozment | Seagren | Tomassoni | Wolf |
| Larson, D. | McGuire | Paulsen | Seifert, M. | Trimble | Workman |
| Leighton | Milbert | Pawlenty | Skoe | Tuma | Spk. Sviggum |
| Lenczewski | Molnau | Paymar | Skoglund | Tunheim | |
| Leppik | Mullery | Pelowski | Smith | Vandever | |

Those who voted in the negative were:

| | | | | | |
|----------|---------|------|---------|--------|--------|
| Buesgens | Gerlach | Kahn | Krinkie | Mulder | Reuter |
|----------|---------|------|---------|--------|--------|

The bill was passed and its title agreed to.

Pawlenty moved that the remaining bills on the Calendar for the Day be continued. The motion prevailed.

MOTIONS AND RESOLUTIONS

Abeler moved that his name be stricken as an author on H. F. No. 34. The motion prevailed.

Luther moved that the names of Olson and Anderson, B., be added as authors on H. F. No. 2643. The motion prevailed.

Westrom moved that the name of Sviggum be added as an author on H. F. No. 3718. The motion prevailed.

Smith moved that H. F. No. 3742 be recalled from the Committee on State Government Finance and be re-referred to the Committee on Taxes. The motion prevailed.

Tuma moved that S. F. No. 3150 be recalled from the Committee on Higher Education Finance and together with H. F. No. 3082, now on the General Register, be referred to the Chief Clerk for comparison. The motion prevailed.

Bishop moved that H. F. No. 1937 be returned to its author. The motion prevailed.

Milbert, Kahn, Osthoff, Abrams and McGuire introduced:

House Resolution No. 21, A house resolution honoring the University of Minnesota Women's Hockey team for winning the 2000 national championship.

The resolution was referred to the Committee on Rules and Legislative Administration.

House Resolution No. 20 was reported to the House.

HOUSE RESOLUTION NO. 20

A house resolution recognizing April 1 to 8, 2000, as Lyme Disease Awareness Week in Minnesota.

Whereas, Lyme disease is a potentially debilitating bacterial infection, transmitted to humans by the bite of a deer tick; and

Whereas, Lyme disease is an acute inflammatory disease prevalent in the Upper Midwest, and mice and deer are the most commonly infected animals that serve as hosts to the deer tick; and

Whereas, Lyme disease is the most commonly reported vector-borne illness in the United States; since 1982, 99,000 cases have been reported to the Centers for Disease Control and Prevention by 47 state health departments; and

Whereas, Minnesota has reported 2,382 cases of Lyme disease through mid-1999, making it 11th overall for incidences of Lyme disease with 5.66 cases per 100,000 in population; and

Whereas, the disease is difficult to diagnose because the symptoms mimic other diseases; a few months after the bite, muscle paralysis, joint inflammation, neurological symptoms, and sometimes heart symptoms may occur; and

Whereas, antibiotics have been developed that can cure Lyme disease if it is diagnosed in the early stages; left undiagnosed or untreated, however, Lyme disease can cause disability or death; and

Whereas, a vaccine for Lyme disease has been introduced but its effect is still being debated; meanwhile, the federal government, physicians, and scientists continue to work together to advance research on Lyme disease and to promote public awareness of this complex and potentially fatal infection; and

Whereas, patient support groups have been formed to help victims of Lyme disease, but more research and awareness of this dangerous disease is needed; *Now, Therefore,*

Be It Resolved by the House of Representatives of the State of Minnesota that it recognizes April 1 to 8, 2000, as Lyme Disease Awareness Week in Minnesota.

Erickson moved that House Resolution No. 20 be now adopted. The motion prevailed and House Resolution No. 20 was adopted.

House Resolution No. 18 was reported to the House.

HOUSE RESOLUTION NO. 18

A house resolution congratulating Samantha Redden and Katie Dick for their heroic acts.

Whereas, Samantha Redden and Katie Dick are middle school students in Ham Lake, Minnesota; and

Whereas, on Wednesday, March 15, 2000, Samantha and Katie were riding the bus to school with other students when the bus driver suffered a stroke; and

Whereas, with the bus out of control and still going forward, Samantha took quick and courageous action to brake the bus and turn off the ignition; and

Whereas, Katie ran to a nearby home to call for help; and

Whereas, because of Samantha's and Katie's actions, the riders of the school bus were saved from harm; *Now, Therefore,*

Be It Resolved by the House of Representatives of the State of Minnesota that it commends Samantha Redden and Katie Dick for their heroic action and extends to them its thanks and best wishes for the future.

Be It Further Resolved that the Chief Clerk of the House of Representatives is directed to prepare enrolled copies of this resolution, to be authenticated by his signature and that of the Speaker, and transmit them to Samantha Redden and Katie Dick.

Hackbarth moved that House Resolution No. 18 be now adopted. The motion prevailed and House Resolution No. 18 was adopted.

ADJOURNMENT

Pawlenty moved that when the House adjourns today it adjourn until 9:00 a.m., Monday, April 3, 2000. The motion prevailed.

Pawlenty moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 9:00 a.m., Monday, April 3, 2000.

EDWARD A. BURDICK, Chief Clerk, House of Representatives