

SF-0627: Granting In-State Tuition to Illegal Aliens

Commentary by Dell Erickson
Minneapolis, Minnesota

Before the Senate Higher Education Budget Committee
Thursday, April 21, 2005

Verbal Comments

- ⇒ This bill does not well represent the Minnesota legislature;
- ⇒ The bill breaks the promise that property taxes and other education funding is to be used for Minnesota's students—our children, my children;
- ⇒ Its primary purpose appears to be to further blur, if not eliminate, the distinction between Minnesota and American citizens and foreign nationals, especially of illegal aliens;
- ⇒ The bill is an assault on the sovereignty of Minnesota and the United States;
- ⇒ It is well orchestrated. Consider that similar legislation is seen in any number of other states—from Maryland to Nebraska and Kansas and to Iowa and Minnesota. A version is also in Congress.
- ⇒ No doubt the ethnic and racially based no-borders La Raza and associates such as LULAC, and MALDEF, or locally, the so-called “faith-based” ISIAH are instrumental in drafting and promoting this legislation;
- ⇒ Self-serving, the previous speakers that supported the legislation were those making a living from the mass immigration and illegal alien industries;
- ⇒ **The bill is:**
 - The bill is fundamentally unlawful and unconstitutional;
 - It promotes illegal conduct;
 - It denies Minnesota and other American citizens access to schools and colleges;
 - It compels Minnesota taxpayers to pay for illegal activities while reducing educational opportunities for our own children;
 - It insults and confuses our basic value system of what's right;
 - It requires, for example, our children in our schools and colleges to accept some criminal activities;
 - And innocent students to be treated as distinct class of individuals in their own communities;
 - Indeed, our K-12 schools have so deteriorated that if a child speaks out against illegal aliens or immigration in general, they are sent to the school counselor for “diversity training” or suspended from school;
 - Obviously, this bill reinforces the abuse of citizen students at every level;
 -
- ⇒ School costs: **Let's use two approaches.**
- ⇒ 1. Assume 5-10,000 illegally cross the border everyday and 1/3 of them are children, then
- ⇒ 2, 3, 4,000 are children, and
- ⇒ implies an entire K-12 school system must be built everyday for illegal aliens;
- ⇒ then subsidized by the Pappas Bill.
- ⇒ 2. Determine # of classes/schools:
- ⇒ Assume, conservatively, 11 million illegal aliens and one-sixth—1.7 million—are school age, that 2,000 = a K-12 school system; and 30/class, 2 classes per grade: therefore,
- ⇒ = $K - 30$; plus $2 \times 30 \times 6$ (grammar school); 360, plus $2 \times 30 \times 3 \times 2$ (jr. sr. high) : 360; Total: 750 students per K-12 system.
- ⇒ $1,700,000/750 = 2,265$ classrooms for illegal aliens.
- ⇒ Subsidized by this bill; primarily paid by Minnesota citizens in property and MN and U.S. income taxes;
- ⇒ **Question:** How many illegal alien students are possible?
- ⇒ **Answer:** Virtually all the world's children 18 and under.
- ⇒
- ⇒ Under President Bush, the border patrol is no longer asking for identification for those 18 and under;
- ⇒ It implies that all kids now 18 and under in Mexico can become illegal alien students in U.S. and Minnesota schools and colleges;
- ⇒ It really implies that all those born anywhere, can illegally come into the U.S.: from Haiti, Guatemala, the Philippines, Afghanistan, North Korea, Iran. This bill would subsidize all of them;
- ⇒ Under current practices, if stopped at the border, the child trespasser is merely told to turn around;

- ⇒ If found inland, they are simply bussed back across the border;
- ⇒ NO identification –name, photos, fingerprints is required;
- ⇒ The border patrol only finds between ¼ - 1/10 of trespassers; with 70% - 90% being missed everyday, it virtually guarantees everyone under the age of 18 who wants, or is forced to, will be successful border crossers;
- ⇒ Due to soldier short IRAQ, the situation will get worse because President Bush is now sending border patrol agents from assignments defending U.S. borders to IRAQ to secure their borders;
- ⇒ In addition is the “instant citizen” birth industry. There are more than 300,000 births annually to illegal aliens; since the babies are “instant citizens” they are not counted as illegal aliens but will attend our schools and colleges and be subsidized accordingly;
- ⇒ The practice leads to an almost endless “chain of migration” where all of their close relatives are able to immigrate overtime to the U.S., including children and siblings;
- ⇒ And in a vicious circle, the bill subsidizes their education;
- ⇒ None of this is counted as a cost of schooling illegal aliens;
- ⇒ However, it surely is;
- ⇒ Let’s hope that the sovereign state of Minnesota and these United States will not be lost due some ill-conceived social experiment;
- ⇒ Other than the foregoing, what is the bill’s **outcome?**;
- ⇒ This is not the proper forum, but in passing I’ll just mention the dumb-downing of our systems of education is a serious consequence; jeopardizing the financial wellbeing of the state and nations’ health care systems is another; \$20 billion annually removed from local economies sent to Mexico significantly troubles local economies;
- ⇒ The outcome of this legislation is already seen in California: over ½ of its \$35 billion budget deficit crisis is due to immigration, most of it from illegal aliens and related government programs, and much of it from costs of education; the once esteemed California system of education is now in tatters and failing;
- ⇒ Including college students, each Minnesota student is provided \$8 - \$12,000 in annual subsidies. The subsidies are a good thing;
- ⇒ Sadly, that includes illegal aliens;
- ⇒ And under this bill, increases substantially;
- ⇒ Direct cost of illegal aliens in Minnesota K-12 has been conservatively estimated at \$68 million every year. It would be relatively greater at the college level. The likelihood is that the actual amount is a multiple of that already high amount – probably twice or more that sum;
- ⇒ Make believing the consequences, Minnesota doesn’t ask, so we don’t know;
- ⇒ If it is assumed that 500 illegal aliens graduate at a direct subsidy of \$10,000 each, it means \$5 million was spent in subsidies for illegal alien graduates that year;
- ⇒ However, many costs are not included in these amounts;
- ⇒ Today, many citizen students are barely able to pay for their education and frequently graduate with a mountain of debt. Since the Pappas bill takes funds from citizen students, it means fewer educational opportunities for citizen students, higher tuition, and that citizen students will incur even more debt;
- ⇒ Consistent with increasing illegal immigration, the dollar amount is rapidly growing; indeed as I said earlier, **it’s potentially without limit –it is limited only by exceeding the threshold for collapse of our systems of education –the California example;**
- ⇒ Immigration of all kinds, including so-called refugee programs, today threaten entire school systems;
- ⇒ Rather than subsidizing them, all illegal aliens in Minnesota must be discovered and promptly deported;
- ⇒ Illegal border crossers are people who by their actions show nothing but disrespect for American laws and contempt for Americans. They are the least deserving of any immigrant;
- ⇒ Subsidizing and educating illegal aliens should not even be a consideration;
- ⇒ The SAVE (Systematic Alien Verification for Entitlements) program must be made mandatory for all Minnesota schools (and employers!);
- ⇒ The money saved used to better educate Minnesota kids.

Thank you.

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The Attorney General of Virginia recently advised Virginia public universities and colleges that federal law precluded grants of in-state tuition to illegal aliens.ⁱ The Attorney General cited the leading case from the California Court of Appeals, which held that a state's legitimate interests in denying in-state tuition to undocumented aliens are "manifest and important." The Court listed nine important state interests at stake:

1. Interest in not subsidizing violations of law.
2. Interest in preferring to educate the states' own lawful residents.
3. Interest in avoiding enhancement of the employment prospects of those to whom employment is forbidden by law.
4. Interest in conserving state fiscal resources for the benefit of its lawful residents.
5. Interest in avoiding accusations that it unlawfully harbors illegal aliens in its classrooms and dormitories.
6. Interest in not subsidizing the university education of those who may be deported.
7. Interest in avoiding discrimination against citizens of sister states and aliens lawfully present.
8. Interest in maintaining respect for government by not subsidizing those who break the law.
9. Interest in not subsidizing the education of students whose parents, because of the risk of deportation if detected, are less likely to pay taxes.ⁱⁱ

HR-0566 (SF-0627) fails any test of sound public policy. Minnesota is enduring its worst state budget crisis in a decade, and the nation has not yet recovered from the September 11th attacks carried out by people who were living illegally in the United States under the guise of being students, yet the Minnesota legislature seems prepared to offer lavish subsidies to an unrestricted number of illegal aliens.

The estimated direct cost of educating K-12 illegal aliens in Minnesota is more than \$68 million every year. In Iowa it's \$25 million and in Wisconsin, \$50 million. (*Breaking the Piggy Bank: How illegal immigration is sending schools into the red*, Alison Green, Federation for American Immigration Reform, 2003.) The cost of the 400-500 illegal aliens graduating from Minnesota schools each year is the equivalent of an entire modest sized school—buildings, teachers and administrators, busses, everything.

Each illegal alien who is admitted to a Minnesota school in resident tuition status will be receiving approximately an \$8,000 annual subsidy from Minnesota taxpayers. We have public servants who offer every conceivable benefit to people who violate our immigration laws, and then wonder how it is that we have between 10 and 20 million illegal aliens in our country. A place at one of our schools or leading universities is certainly a quite a benefit for lawbreakers.

The policy of admitting and subsidizing illegal aliens punishes citizens and legal residents who have done nothing wrong themselves. There are a finite number of classrooms or possible students on Minnesota college campuses and a limited and increasingly scarce amount of money available to subsidize higher education. In essence the legislature will be telling many young people whose parents played by the rules, "We're sorry, but we've given your class space to someone who is in the country illegally and, by the way, we'd like you to help pay for it!"

1. Illegal aliens, as a matter of law, may not establish legal domicile in Minnesota.
2. Contrary to its language, HR-0566 (SF-0627) appears to directly violate 8 U.S.C. 1623 (IIRAIRA Section 505).
3. The proposed bill constitutes an 'illegal alien tuition scheme' that would violate federal criminal statutes prohibiting the encouragement or inducement of illegal aliens to reside in the United States.
4. HR-0566 (SF-0627) would be an unconstitutional regulation of immigration that is preempted by the Supremacy Clause.
5. Passive resistance to federal immigration law by state agencies is unlawful, violates the Supremacy Clause, and is not protected by the Eleventh Amendment.
6. The 'illegal alien tuition scheme' would violate federal law regulating the admission, attendance and public support of aliens for study at institutions of higher education.
7. The 'illegal alien tuition scheme' would violate the Equal Protection Clause of the Fourteenth Amendment.

Federal law prohibits states or their political subdivisions (such as public schools, community colleges or private education institutions chartered by a state) from providing in-state tuition to illegal aliens without also granting the same preferential treatment to all U.S. citizens, regardless of their resident status under state law. In 1996 Congress enacted the Illegal Immigration and Immigrant Responsibility Act (IIRAIRA). IIRAIRA Section 505 provides as follows:

(a) In general

Notwithstanding any other provision of law, an alien who is not lawfully present in the United States shall not be eligible on the basis of residence within a State (or a political subdivision) for any postsecondary education benefit unless a citizen or national of the United States is eligible for such a benefit (in no less an amount, duration, and scope, without regard to whether the citizen or national is such a resident.

(b) Effective date

This section shall apply to benefits provided on or after July 1, 1998."

This statute is clear on its face, both in scope and intent; no federal regulations have been issued to limit the operation of this provision.

The legislative history of this provision is also clear. The House Conference Report stated, "this section provides that illegal aliens are not eligible for in-state tuition rates at public institutions of higher education." Should the state of Minnesota act to provide such a benefit to illegal aliens, a class of tens of thousands of citizens would have an immediate viable cause of action to seek injunctive relief barring implementation of the statute, or alternatively, a refund of the out-of-state tuition they have paid to study in Minnesota.

The proposed bill constitutes an illegal alien tuition scheme that would violate federal criminal statutes prohibiting the encouragement or inducement of illegal aliens to reside in the United States.

Immigration and Nationality Act (INA) §274(a)(1)(A)(iv) makes it a felony for any person to encourage or induce an alien to reside in the U.S. in reckless disregard of the fact that the alien's residence is in violation of law.ⁱⁱⁱ

The term "any person" in the statute is to be construed broadly, and would include a state agency or its officers.^{iv} There is no Eleventh Amendment immunity from the jurisdiction of federal courts for state agencies that violate federal immigration law (see discussion of passive resistance, *infra*).

The term "encourage" has been held to mean to knowingly instigate, help, or advise. "Induce" has been held to mean to knowingly bring on or about, to affect, cause, or influence an act or course of conduct.^v "Encouraging" includes actions that permit illegal aliens to be more confident that they could continue to reside with impunity in the United States, or actions that offer illegal aliens "a chance to stand equally with all other American citizens."^{vi} The legislative history of HR-0566 (SF-0627) clearly indicate an express intent to provide "equity" or "fairness" for a class of illegal aliens.

Specific actions found to constitute encouraging include counseling illegal aliens to continue working in the U.S. or assisting them to complete applications with false statements or obvious "errors."^{vii} Sanctuary is not a valid ground for violating the INA. The Ninth and Second Circuit Courts of Appeal have held that it is illegal for non-profit and religious organizations to knowingly assist an employer to violate employment sanctions, regardless of claims that their convictions require them to assist aliens.^{viii}

The First Amendment does not protect actions aiding illegal aliens to remain in the United States.^{ix} Likewise, there is no possible policy or humanitarian argument, absent conditions that would qualify the illegal alien for refugee or a related *nonrefoulement* status, that would negate the criminal *mens rea* of reckless disregard for the fact, expressed in the legislative history of the proposed legislation, that the aliens are present in the United States in violation of law.^x

Illegal aliens are not a suspect class entitled to Fourteenth Amendment-based strict scrutiny of any discriminatory classification based on that status, nor are they defined by an immutable characteristic, since **their status is the product of conscious unlawful action.**^{xi} The U.S. Supreme Court has ruled that education is neither a fundamental right, nor a right protected explicitly or implicitly by the Constitution.^{xii} There is no case law supporting the claim by some open borders advocates that Title VII of the Civil Rights Act of 1964 bars the prohibition of undocumented aliens from attending a college or university.^{xiii}

Identity is not a constitutionally protected privacy right, and **an illegal alien has no expectation of privacy from another person's knowledge of his or her immigration status.**^{xiv}

Aggrieved private citizens may bring a civil action against officials of educational institutions under federal racketeering law (RICO) for violations of INA §274.^{xv}

HR-0566 (SF-0627) forms an unconstitutional regulation of immigration that is preempted by the Supremacy Clause.

The legislation being proposed in the Minnesota legislature constitutes a state statutory scheme (the "illegal alien tuition scheme") that will have a direct and substantial effect on immigration and will conflict with federal law, and would therefore be preempted on constitutional grounds. The scheme is an impermissible regulation of immigration by state statute, since it is not tied to and directly conflicts with federal standards.

Preemption Standards. A fundamental principle of the Constitution is that Congress has the power to preempt state law.^{xvi} Even without an express provision for preemption, state law must yield to a Congressional Act in at least two circumstances:

First, when Congress intends federal law to "occupy the field," state law in that area is preempted.^{xvii} The power to regulate immigration is unquestionably exclusively federal power, and any state statute that regulates immigration is unconstitutionally proscribed.^{xviii} States can neither add to nor take from conditions lawfully imposed upon the admission or residence of aliens in the United States.^{xix}

The illegal alien tuition scheme is a comprehensive program by state agents to encourage and assist illegal aliens to remain in the state of Minnesota in violation of federal law, and thus has a direct and substantial effect on immigration. The elements of the scheme are:

1. The school, college or university first admits and enrolls non-immigrant aliens as students in violation of federal law requiring that the university first verify the statutory eligibility of non-immigrant aliens and, if qualified issue Form I-20 to the U.S. Department of State before such aliens may be issued an F-1 student visa. Exceptions to this scheme for exchange visitors under 101(a)(15)(J) are not relevant for illegal aliens.
2. The university keeps records that identify such illegal aliens for internal administrative and academic purposes, but forbids its staff from reporting their presence at the university to the Department of Homeland Security to initiate their removal from the United States.
3. The university provides such illegal aliens with financial aid, reducing the amounts available to U.S. citizens and legal permanent residents.
4. The university provides such illegal aliens, as part of the admission process, access to health, recreation, job recruitment, employment, and other services.
5. The university now grants such students significant reductions in tuition fees.

Second, even if Congress had not occupied the field, state law is preempted to the extent of any conflict with a federal statute.^{xx} The Supreme Court will find preemption where it is impossible for a private party to comply with both state and federal law,^{xxi} or where "under the circumstances of [a] particular case, [the challenged state law] stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress."^{xxii}

What constitutes a sufficient obstacle is a matter of judgment, to be informed by examining the federal statute as a whole and identifying its purpose and intended effects:

For when the question is whether a Federal act overrides a state law, the entire scheme of the statute must of course be considered and that which needs must be implied is of no less force than that which is expressed. If the purpose of the Act cannot otherwise be accomplished—if its operation within its chosen field else must be frustrated and its provisions be refused their natural effect—the state law must yield to the regulation of Congress within the sphere of its delegated power.^{xxiii}

Acts of Congress preempt state law when (1) Congress expressly provided for preemption, (2) Congress intended to "occupy the field," or (3) the state law conflicts with the congressional statute at issue.^{xxiv}

Passive resistance to federal immigration law by state agencies is unlawful and unconstitutional.

Acceptance and enrollment of illegal aliens as students by Minnesota school systems, the unlawful encouragement and inducement of such student's continued residence in Minnesota by means of grants of financial aid, and the provision of in-state resident tuition to certain illegal aliens constitute a practice of unlawful state resistance to federal immigration law.

The HR-0566 (SF-0627) illegal alien tuition scheme is explicitly intended to and in fact resists and impedes the enforcement of immigration law by federal officials. The operation of HR-0566 (SF-0627) would therefore be preempted under the Supremacy Clause of the United States Constitution.^{xxv}

Cooperation among government authorities at all levels is essential to any effective response to the criminal and illegal alien problem. Nonetheless, in the 1980s and 1990s a number of cities and local governments enacted laws, often referred to as refuge, sanctuary or non-cooperation laws, with the explicit intention of restricting or blocking immigration law enforcement in their jurisdictions.^{xxvi} After widespread citizen complaints, Congress enacted the 1996 welfare reform (PRWORA)^{xxvii} and illegal immigration reform (IIRAIRA)^{xxviii} statutes, which make restrictions on sharing immigration or citizenship status information by any government entity or official unlawful. Under these federal laws, no federal, state, or local government agency can be prohibited from maintaining or exchanging information regarding the citizenship or immigration status of any individual with the INS.

Nevertheless, in the summer of 2004 our Capitol City of St. Paul became one of those illegal alien sanctuary cities.

Immediately after Congress enacted IIRAIRA, New York City sued the federal government, claiming the two statutes violated the Tenth Amendment and exceeded the plenary power over immigration granted to Congress.^{xxix} New York City argued that it could elect not to participate in a federal regulatory program, and that the federal government could not disrupt the operations of local governments through legislation. The federal district court rejected New York's claims in 1997.^{xxx}

On appeal, the Second Circuit Court of Appeal affirmed that the statutes were constitutional.^{xxxi} The Second Circuit held that the City had no right to "passive resistance," because such claims violate the Supremacy Clause of the U.S. Constitution:

The City's sovereignty argument asks us to turn the Tenth Amendment's shield against the federal government's using state and local governments to enact and administer federal programs into a sword allowing states and localities to engage in passive resistance that frustrates federal programs. If Congress may not forbid states from outlawing even voluntary cooperation with federal programs by state and local officials, states will at times have the power to frustrate effectuation of some programs. Absent any cooperation at all from local officials, some federal programs may fail or fall short of their goals unless federal officials resort to legal processes in every routine or trivial matter, often a practical impossibility. *For example, resistance to Brown v. Board of Education, 347 U.S. 483, 74 S.Ct. 686, 98 L.Ed. 873 (1954), was often in the nature of a refusal by local government to cooperate until under a court order to do so* [emphasis added].

The Second Circuit also noted that the city's policy was not a general rule that protected confidential information for citizens and aliens alike, but instead was intended only to obstruct federal officials, "while allowing City employees to share freely the information in question with the rest of the world."^{xxxii}

The Court then articulated the mandatory nature of state-federal cooperation in the area of immigration law enforcement:

A system of dual sovereignties cannot work without informed, extensive, and cooperative interaction of a voluntary nature between sovereign systems... Without the Constitution, each sovereign could, to a degree, hold the other hostage by selectively withholding voluntary cooperation as to a particular program(s). The potential for deadlock thus inheres in dual sovereignties, but the Constitution has resolved that problem in the Supremacy Clause, which bars states from taking actions that frustrate federal laws and regulatory schemes."^{xxxiii}

The proposed Minnesota illegal alien tuition scheme violates federal law regulating the admission, attendance and public support of aliens for study at institutions of higher education.

A comprehensive federal statutory and regulatory scheme prohibits the University of Minnesota from concealing from the federal government the admission, attendance, or grant of public benefits to an illegal alien student.

Non-immigrant aliens who seek to enter the United States to pursue full-time academic studies at a public university are admitted only in the F-1 non-immigrant visa category.^{xxxiv} Aliens who have been admitted to the U.S. as nonimmigrant visitors may not apply for a change of status to student.^{xxxv}

Degree-granting institutions of higher education must apply for approval from the DHS/INS before they may admit non-immigrant alien students on F-1 visas. The university or college must agree to report the name of every foreign student who stops attending the school.^{xxxvi} Every school that recruits foreign students must have a Designated School Official (DSO) who is required to personally perform the required regulatory function.^{xxxvii}

Had these regulations been enforced, the 911 tragedy likely would not have happened.

A DSO must certify, under penalty of perjury, a completed and executed Form I-20 (Certificate of Eligibility for Nonimmigrant Student Status) for every non-immigrant alien student the school has admitted, to enable them to apply for F-1 visas. The DSO must certify that he or she has personally examined the alien's application and supporting documents in the United States and that all information on the I-20 is true and correct. The educational institution must keep the required documentation until the student is no longer attending the school. The certification includes the information on the college's written application.^{xxxviii} Willful false statements or "any conduct ... which does not comply with regulations" by a DSO are grounds for withdrawal of approval to enroll non-immigrant alien students.

The University of Minnesota System and community colleges must keep extensive information and documentary records on each non-immigrant alien student, including documentation of the alien's immigration status.^{xxxix}

The Immigration Reform and Control Act of 1986 (IRCA) requires states and other entities to verify, through INS computer records, the immigration status of aliens applying for federal financial assistance.^{xl} Congress enacted this verification process, known as SAVE (Systematic Alien Verification for Entitlements), based on INS testimony that "significant numbers" of ineligible aliens are receiving assistance and that a verification procedure would result in "considerable" cost savings for the federal government.^{xli} Unfortunately for the security of its citizens—and state and nation's taxpayers!—the University of Minnesota has chosen not to participate in the SAVE program.

All applicants for federal, state, and university-administered educational assistance at Minnesota institutions of higher education must complete OMB Form 1845-0001, the Free Application for Federal Student Aid (FAFSA).^{xlii} Every applicant must state on the FAFSA, under penalty of federal false statements and perjury sanctions, whether they are a U.S. citizen. If the applicant states that he or she is an "eligible non-citizen", that applicant must provide a valid Alien Registration Number ("A number"). Eligible non-citizens must declare that they are in a "satisfactory immigration status," and provide additional documentation showing their status. The participating state educational institution must then verify the alien's immigration status with the INS.^{xliii} Any state administrative or statutory relief from these requirements, including permission to apply for any financial aid using variant forms or procedures, or counseling by University representatives on methods of circumventing the standard requirements, would violate the Equal Protection clause of the Fourteenth Amendment.

No Resident Status for Illegal Aliens by Omission. American Immigration Lawyers Association spokesman Professor Stephen Yale-Loehr has asserted that, "no federal law" or "state law prohibits undocumented aliens from attending public colleges or universities."^{xliiv} However, the courts have rejected the claim that failure by Congress to designate a non-immigrant classification for illegal aliens in the INA allows states to treat them as residents.

Open border lawyers have also argued that the immigration laws do not require a school to refuse to admit an alien who does not have lawful nonimmigrant status, and that federal regulations require only that a DSO collect and provide information on students to whom the DSO has issued an I-20. The central claims are that the law is silent on the issue, and that the DSO does not otherwise have a "duty" to report illegal aliens. Professor Yale-Loehr asserts that although INS 8 C.F.R. 214.3(g)(1) requires approved schools to

keep records containing specific information and documents relating to each F-1 and M-1 student to whom it has issued a Form I-20, “no such reporting requirement exists for undocumented students,” and the grounds for withdrawal by the INS of approval to issue I-20s (and thus admit foreign students) in 8 C.F.R. 214.4(a) do not include “having undocumented students on campus.”^{xlv}

The California state courts (in reasoning subsequently accepted by the federal Ninth Circuit) rejected as “Daedalian but unpersuasive” reasoning a nearly identical “clever formal proof that [state law] does not classify undocumented aliens as nonresidents.”^{xlvi} Federal law forbids aliens to enter the United States without applying for admission.^{xlvii} Aliens who nonetheless do enter illegally, or who overstay their visas, are subject to detention and deportation.^{xlviii} Similar sanctions apply to admission procured by fraud.^{xlix} Thus, “it is unremarkable that Congress, in organizing various classifications of lawfully admitted non-immigrant aliens, reserved no classification for aliens who have entered or remained in this country unlawfully.”¹

The Minnesota illegal alien tuition scheme would violate the Equal Protection Clause of the Fourteenth Amendment by denying U.S. citizens and legal permanent resident aliens the privilege of exemption from non-resident tuition that has been granted to certain illegal aliens.

The proposed Minnesota illegal alien tuition scheme violates the Equal Protection clause, by granting illegal aliens the privilege of classification as residents of Minnesota for admission and tuition eligibility purposes, while U.S. citizens and legal permanent residents of other states are denied such privilege. The scheme discriminates on the basis of alienage and national origin in favor of a class of illegal aliens, who are prohibited by state and federal law from establishing either legal residence or domicile in the state of Minnesota by providing such class of illegal aliens the benefits of admission to our school systems, college and universities, and classification as residents.

Classifications created by a state legislature that are based on alienage are inherently suspect, and are subject to strict judicial scrutiny.^{li} This is so whether the governmental benefit at issue is a right or—as in this case— a privilege.^{lii}

In *Toll v. Moreno*, the U.S. Supreme Court held that a University of Maryland policy of denying in-state tuition to legal non-immigrant ‘G-4’ visa holders,^{liii} whose visa status did not prohibit them from acquiring domicile, was “a state regulation not congressionally sanctioned that *discriminates* [emphasis added] against aliens lawfully admitted to the country ... [by] impos[ing] additional burdens not contemplated by Congress.”^{liiv}

The discriminatory effect operates in two related ways. First, **because the number of openings for admission to our school systems, college and universities is limited, admission of the class of illegal aliens displaces a similar-sized class of equally qualified Minnesota and U.S. citizens and legal permanent residents.** Indeed, because of admission programs based on income, diversity, and other factors intended for less advantaged citizens, illegal aliens are likely to be admitted ahead of Minnesota or U.S. citizens.

Second, granting state resident tuition eligibility to the same class of illegal aliens, while denying such tuition to U.S. citizens and legal permanent residents who are similarly barred from establishing residence under state law, violates the equal protection rights of both citizens and legal permanent residents. Under the strict scrutiny standard, the court may not defer to a decision by the State legislature but must independently determine whether the illegal alien tuition scheme is narrowly tailored to promote a constitutionally compelling end.^{liv} Minnesota cannot show a compelling interest in providing large financial and social benefits to a suspect class who are statutorily barred from receiving such benefits under federal law.

A state government agency custom or policy that extends affirmative benefits to a suspect class, in this case the offer of one of a limited number of openings at a public institution of higher education and a significant preferential reduction in tuition fees, violates equal protection, where such preferences are otherwise prohibited by federal law.^{lvi} U.S. citizen residents of the jurisdiction have been deprived of a constitutional right under color of state law.^{lvii} This violation is by its nature ongoing.

Aggrieved citizens may sue in state or federal court to block such unlawful policies, and may sue officials and employees in their official or private capacities for violations of their rights.^{lviii} State officials do not possess Eleventh Amendment immunity or qualified immunity when sued in their official capacity for prospective injunctive or declaratory relief to end the statutory and constitutional violations discussed in this statement.^{lix} Qualified immunity does not shield government officials, or private parties acting in concert with public officials, from complaints for injunctive relief.^{lx}

Notes

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My commentary has been freely adapted for Minnesota use from an ongoing Nebraska lawsuit and Kansas testimony regarding the identical matter brought by the Federation for American Immigration Reform (FAIR).

ⁱ Virginia OAG, Immigration Law Compliance Update, Sept. 5, 2002 (20 pg.).

ⁱⁱ *Regents of the University of California v. Superior Ct. of Los Angeles County*, 225 Cal. App. 3d 972, at 982 (1990).

ⁱⁱⁱ 8 U.S.C. 1324(a)(1)(A)(iv).

^{iv} *U.S. v. Zheng*, No. 01-1151 (11th Cir. Sep. 17, 2002); *U.S. v. Oloyede* 982 F.2d 133 (4th Cir 1993); *Villegas-Valenzuela v. INS*, 103 F.3d 805 (9th Cir. 1996).

^v *U.S. v. He*, 245 F.3d 954 (7th Cir. 2001).

^{vi} *U.S. v. Oloyede*, 982 F.2d 133, at 136 (4th Cir. 1992).

^{vii} *Id.*, at 137.

^{viii} *AFSC v. Thornburgh*, 961 F.2d 1405 (9th Cir. 1992), *Intercommunity Center for Peace and Justice v. INS*, 910 F.2d 42 (2nd Cir. 1990).

^{ix} *U.S. v. Merkt*, 794 F.2d 950 (5th Cir. 1986), *cert. denied* 480 US 946.

^x See notes 21 and 22, *supra*.

^{xi} *Plyler v. Doe*, 457 U.S. 502, at 32-33 (1982).

^{xii} *San Antonio Independent School District v. Rodriguez*, 411 U.S. 1, at 37 (1973): “Education, of course, is not among the rights afforded explicit protection under our Federal Constitution. Nor do we find any basis for saying it is implicitly so protected... We have carefully considered each of the arguments supportive of the District Court’s finding that education is a fundamental right or liberty, and have found those arguments unpersuasive.”

^{xiii} Prof. S. Yale-Loehr, 5 Benders Imm. Bull. 413, at 415 (May 15, 2001).

^{xiv} *U.S. v. Rodriguez-Arreola*, 270 F.3d 611 (8th Cir. 2001).

^{xv} 18 U.S.C. 1961-1968. See also *Mendoza v. Zirkle Fruit Co.*, 301 F.3d 1163 (9th Cir. 2002).

^{xvi} Art. VI, cl. 2; *Gibbons v. Ogden*, 9 Wheat. 1, at 211 (1824); *Savage v. Jones*, 225 U.S. 501, at 533 (1912); *California v. ARC America Corp.*, 490 U.S. 93, at 101 (1989).

^{xvii} *Id.*, at 100; cf. *United States v. Locke*, 529 U.S. ---, ---, 120 S.Ct. 1135, 1151 (2000)(citing *Charleston & Western Carolina R. Co. v. Varnville Furniture Co.*, 237 U.S. 597, at 604 (1915)).

^{xviii} *De Canas v. Bica*, 424 U.S. 351, at 354-55 (1976).

^{xix} *Takahashi v. Fish & Game Comm'n*, 334 U.S. 410, at 419 (1948).

^{xx} *Hines v. Davidowitz*, 312 U.S. 52, at 66-67 (1941); *ARC America Corp.*, supra, at 100-101; *Locke*, supra, at ----, 120 S.Ct. at 1148.

^{xxi} See, e.g., *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, at 142-143 (1963).

^{xxii} *Hines*, supra, at 67.

^{xxiii} *Savage*, supra, 533, 32 S.Ct. 715, quoted in *Hines*, supra, at 67, n. 20, 61 S.Ct. 399; both cited in *Crosby v. National Foreign Trade Council*, 530 U.S. 372, 120 S.Ct. 2288, 2000 WL 775550 (2000).

^{xxiv} *Crosby*, at 372; see also *English v. General Elec. Co.*, 496 U.S. 72, 79 n. 5 (1990) (recognizing that these categories are not rigidly distinct); both cited in *In Re World War II Era Japanese Forced Labor Litigation*, 164 F.Supp.2d 1160, (N.D.Cal.,2001).

^{xxv} Art. VI Cl.2; *McCulloch v. Maryland*, 17 U.S. 316 (1819).

^{xxvi} Staff Testimony, Senate Permanent Subcommittee on Investigations, before the U.S. Senate Commission on Governmental Affairs (Nov. 1993).

^{xxvii} Personal Responsibility and Work Opportunity Reconciliation Act of 1996, P.L. 104-193, 110 Stat. 2105, §434: "Notwithstanding any other provision of Federal, State, or local law, no state or local government entity may be prohibited, or in any way restricted, from sending to or receiving from the Immigration and Naturalization Service information regarding the immigration status, lawful or unlawful, of an alien in the United States."

^{xxviii} Illegal Immigration Reform and Immigrant Responsibility Act of 1996, P.L. 104-208, 110 Stat. 3009, §642:

"(a) IN GENERAL -

Notwithstanding any other provision of Federal, State, or local law, a Federal State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) ADDITIONAL AUTHORITY OF GOVERNMENT ENTITIES. -

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit or in any way restrict, a Federal, State, or local entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

- (1) sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.
- (2) maintaining such information.
- (3) exchanging such information with any other Federal, State or local government entity."

^{xxix} New York City claimed it had over 400,000 illegal aliens at that time, many of them living in mixed households with legal aliens and U.S. citizens, and that granting them confidential treatment would insure that illegal aliens were not afraid to report crimes or seek treatment for contagious diseases.

^{xxx} *City of New York v. U.S.*, 971 F.Supp 789, (S.D. NY 1997).

^{xxxi} *Id.*, 179 F.3d 29, (2nd Cir. 1999).

^{xxxii} *Id.*, at 36, citing *Barnett Bank v. Nelson*, 517 U.S. 25, at 31 (1996); *Hines v. Davidowitz*, 312 U.S. 52, at 67 (1941).

^{xxxiii} *Id.*, at 35. New York's petition for certiorari was denied by the U.S. Supreme Court in January 2000. 120 S. Ct. 932 (2000).

^{xxxiv} 8 U.S.C.1101(a)(15)(F), INA§ 101(a)(15)(F). M and J visas (for vocational training and exchange visitors) are not available for full time undergraduate or graduate study at a university or college.

^{xxxv} 8 C.F.R. 248(c)(3).

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- ^{xxxvi} INA § 101(a)(15)(F)(i).
- ^{xxxvii} 8 CFR § 214.3(a)(1).
- ^{xxxviii} 8 CFR § 214.3(k).
- ^{xxxix} (1) Data required per 8 C.F.R. 214.3(g) includes: INS admission number, Country of citizenship, Address and telephone number in the United States, Full or part-time status, Course load, Date of commencement of studies, Degree program and field of study, Expected date of completion, Non-immigrant classification, Termination date and reason, if known, Documents that show the scholastic ability and financial status on which the student's admission to the school was based, and Information specified by the INS as necessary to identify the student (such as date and place of birth), and to determine the student's (legal or illegal) immigration status.
- (2) As a consequence of concerns raised by abuse of student visas by alien terrorists, Congress has mandated the collection of additional data per IIRAIRA §641(c): Identity and current address of alien, Visa classification, date of visa issuance or classification granted, Academic status of alien (full-time, part-time), Academic disciplinary actions taken against the alien due to criminal conviction.
- (3) Additional data now required per the USA PATRIOT Act §416: Port of entry, Date of entry.
- ^{xl} IRCA § 121, amending the Higher Education Act of 1965 § 484.
- ^{xli} IRCA § 121(d)(1)(A). See H.R. Rep. No. 99-682 Part I, 99th Cong., 2d Sess. 67.
- ^{xlii} UM Financial Aid Office website (visited March 10, 2003):
http://www.inform.umd.edu/CampusInfo/Departments/FIN/OSFA/app_fafsa_current.html.
- ^{xliii} IRCA § 121(a)(3), amending §484 of the Higher Education Act of 1965 (20 U.S.C. § 1091).
- ^{xliv} See e.g. Immigration Brief No. 94-11, 'F-1 Nonimmigrant Students: Law, Regulation, And Practice (1994); 5 Benders Imm. Bull. 413, 'They Can't Go Home Again: Undocumented Aliens and U.S. Higher Education' (May 15, 2000).
- ^{xlv} *Id.*, at 415.
- ^{xlvi} *Regents of California, supra*, at 978-79.
- ^{xlvii} 8 U.S.C. §§ 1101(a)(4), 1181(a), 1201.
- ^{xlviii} 8 U.S.C. §§1227(a)(1) & (a)(3)(A), 1229a, 1231, 1357.
- ^{xlix} 8 U.S.C. §§1227(a)(3)(B)-(D).
- ^l *Regents of California, supra*, at 979.
- ^{li} *Graham v. Richardson*, 403 U.S. 365, at 372 (1971).
- ^{lii} *Id.*, at 374.
- ^{liii} Dependents of representatives of international organizations.
- ^{liv} 458 U.S. 1, at 13-17 (1982).
- ^{lv} *Shapiro v. Thompson*, 394 U.S. 618, at 634 (1969).
- ^{lvi} *Hopwood v. Texas*, 78 F.3d 932 (5th Cir. 1996); *Pyke v. Cuomo*, 258 F.3d 107, at 108-9 (2nd Cir. 2001).
- ^{lvii} 42 U.S.C. 1983.
- ^{lviii} *Yellow Freight Systems v. Donnelly*, 494 U.S. 820 (1990).
- ^{lix} *Burnham v. Ianni*, 119 F.3d 668, at 673 (8th Cir. 1997); *Ramirez v. Oklahoma Dept. of Mental Health*, 41 F.3d 584, 588-89 (10th Cir. 1994) [11th Amdt. immunity]; *Kikamura v. Hurley*, 242 F.3d 950, at 956 (10th Cir. 2001) [qualified immunity].
- ^{lx} *Wyatt v. Cole*, 504 U.S. 158 (1992).

1 Senator moves to amend SC4093-3 as follows:

2 Pages 15 to 18, delete section 19, and insert:

3 "Sec. 19. [136A.861] [INTERVENTION FOR COLLEGE ATTENDANCE
4 PROGRAM GRANTS.]

5 Subdivision 1. [GRANTS.] The director of the Higher
6 Education Services Office shall award grants to foster
7 postsecondary attendance by providing outreach services to
8 historically underserved groups of elementary and secondary
9 students. Grants must be awarded to programs that provide
10 precollege services, including, but not limited to:

11 (1) academic counseling;

12 (2) mentoring;

13 (3) fostering and improving parental involvement in
14 planning for and facilitating a college education;

15 (4) services for students with English as a second
16 language;

17 (5) academic enrichment activities;

18 (6) tutoring;

19 (7) career awareness and exploration;

20 (8) orientation to college life;

21 (9) assistance with high school course selection and
22 information about college admission requirements;

23 (10) financial aid counseling; and

24 (11) summer programs.

25 Services may be provided by postsecondary institutions, school
26 districts, businesses, foundations, professional organizations,
27 community-based organizations, or others deemed appropriate by
28 the director.

29 Subd. 2. [ELIGIBLE STUDENTS.] Eligible students include
30 elementary and secondary students who meet one or more of the
31 following criteria:

32 (1) are counted under section 1124(c) of the Elementary and
33 Secondary Education Act of 1965 (Title I);

34 (2) are eligible for free or reduced-price lunch under the
35 National School Lunch Act;

36 (3) receive assistance under the Temporary Assistance for

1 Needy Families Law (Title I of the Personal Responsibility and
2 Work Opportunity Reconciliation Act of 1996); or

3 (4) are a member of a group traditionally underrepresented
4 in higher education.

5 Subd. 3. [APPLICATION PROCESS.] The director of the Higher
6 Education Services Office shall develop a grant application
7 process. The director shall attempt to distribute grants in a
8 manner that ensures that eligible students throughout the state
9 have access to precollege services.

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

12 (1) a description of the characteristics of the students to
13 be served;

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

16 (3) a description of how the services provided will foster
17 college attendance;

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

20 (5) other information as identified by the director.

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

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

26 Subd. 5. [REVIEW COMMITTEE.] The director must establish
27 and convene a grant selection committee to review applications
28 and award grants. The members of the committee must include
29 representatives of postsecondary institutions, elementary and
30 secondary education, and other organizations providing services.

31 Subd. 6. [PROGRAM EVALUATION.] Each grant recipient must
32 annually submit a report to the Higher Education Services Office
33 delineating its program and student outcome goals, and
34 activities implemented to achieve the stated outcomes. The
35 goals must be clearly stated and measurable. Grant recipients
36 are required to collect, analyze, and report on participation

1 and outcome data that enable the office to verify that the
2 program goals were met. The office shall maintain:

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

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

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

1 Senator moves to amend S.F. No. (SC4093-3) as
2 follows:

3 Page 2, delete line 16, and insert:

4 "General (\$ 26,940,000)\$ 106,706,000 \$ 79,766,000"

5 Page 2, delete line 20, and insert:

6 "Services Office 2,518,000 1,007,000 3,525,000"

7 Page 2, delete line 24, and insert:

8 "Universities (35,020,000) 29,780,000 (5,240,000)"

9 Page 2, delete line 27, and insert:

10 "of Minnesota 5,467,000 75,764,000 81,231,000"

11 Page 2, delete line 37, and insert:

12 "Appropriation \$ 2,518,000 \$ 1,007,000"

13 Page 3, delete line 3, and insert:

14 "Subd. 3. Child care Grants 125,000 125,000"

15 Page 3, delete line 5, and insert:

16 "Attendance Program 500,000 500,000"

17 Page 3, line 8, delete "\$100,000" and insert "\$50,000"

18 Page 3, line 31, delete "2,200,000" and insert "1,200,000"

19 Page 3, line 34, delete "\$2,000,000" and insert "\$1,000,000"

20 Page 4, delete line 47, and insert:

21 "Appropriation (35,020,000) 29,780,000"

22 Page 4, line 57, delete "\$549,854,000" and insert

23 "\$547,942,000"

24 Page 4, line 58, delete "556,168,000" and insert

25 "\$553,354,000"

26 Page 5, line 2, delete "\$59,740,000" and insert

27 "\$59,532,000"

28 Page 5, line 3, delete "\$60,426,000" and insert

29 "\$60,120,000"

30 Page 5, delete line 20, and insert:

31 "Appropriation 5,467,000 75,764,000"

32 Page 5, delete line 26, and insert:

33 "5,467,000 75,764,000"

34 Page 5, line 33, delete "\$301,408,000" and insert

35 "\$303,200,000"

36 Page 5, line 34, delete "\$315,000,000" and insert

1 "\$318,548,000"

2 Page 5, line 37, delete "\$290,750,000" and insert

3 "\$292,478,000"

4 Page 5, line 38, delete "\$303,861,000" and insert

5 "\$307,283,000"

6 Page 5, after line 58, insert:

7 "This appropriation includes \$4,000,000
8 for outreach services to historically
9 underserved students.

10 This appropriation includes \$68,000 in
11 the first year and \$67,000 in the
12 second year for the information
13 exchange program in the Minnesota
14 Institute for Sustainable Agriculture.
15 \$135,000 is added to the university's
16 base."

1 Senator moves to amend S.F. No. (SC4093-3) as
2 follows:

3 Page 13, line 24, after "office" insert "aggregate and
4 distributional data on"

5 Page 13, line 25, after "other" insert "aggregate and other
6 distributional"

7 Page 13, line 26, delete "chapter" and insert "chapters"
8 and after "136A" insert "and 141"

9 Page 14, line 18, after "office" insert "aggregate and
10 distributional data on"

11 Page 14, line 19, after "other" insert "aggregate and
12 distributional data on"

13 Page 14, line 20, delete "chapter" and insert "chapters"
14 and after "136A" insert "and 141"

1 Senator moves to amend SC4093-3 as follows:

2 Page 3, line 32, before "\$200,000" insert "(a)" and delete
3 everything after "the" and insert "Rochester Higher Education
4 Development Committee to carry out its planning activities"

5 Page 3, line 33, delete everything before the period

6 Page 3, line 34, after the period, insert:

7 "(b)"

8 Page 3, line 46, delete "subdivision" and insert "paragraph"

9 Page 33, line 5, after "1" insert ", subdivision 1,"

10 Page 33, line 7, before the period, insert ", paragraph (b)"

1 Senator moves to amend S.F. No. (SC4093-3) as
2 follows:

3 Page 13, after line 20, insert:

4 "[EFFECTIVE DATE.] This section is effective the day
5 following final enactment and is retroactive to July 1, 2003.
6 An applicant who missed the 14-day deadline previously in effect
7 between July 1, 2003, and June 30, 2005, but who met the 30-day
8 deadline, has until September 1, 2005, to reapply. Retroactive
9 awards under this section must be made on a first come, first
10 served funds available basis."

1 Senator moves to amend S.F. No. (SC4903-3) as
2 follows:

3 Page 30, after line 21, insert:

4 "Sec. 44. [RECIPROCITY NEGOTIATIONS.]

5 The Higher Education Services Office must, as soon as
6 possible, enter into negotiations with the appropriate officials
7 of the state of Wisconsin concerning higher education
8 reciprocity. The office must attempt to negotiate an agreement
9 that would result in Minnesota resident students attending
10 Minnesota public higher education institutions paying no more
11 than Wisconsin resident students attending those institutions.
12 The office must report the results of the negotiations to the
13 legislature by November 1, 2005."

14 Renumber the sections in sequence and correct the internal
15 references

16 Amend the title accordingly

1 ARTICLE 5

2 HIGHER EDUCATION

3 Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

4 The sums in the columns marked "APPROPRIATIONS" are
 5 appropriated from the general fund, or other named fund, to the
 6 agencies and for the purposes specified in this article. The
 7 listing of an amount under the figure "2006" or "2007" in this
 8 article indicates that the amount is appropriated to be
 9 available for the fiscal year ending June 30, 2006, or June 30,
 10 2007, respectively. "The first year" is fiscal year 2006. "The
 11 second year" is fiscal year 2007. "The biennium" is fiscal
 12 years 2006 and 2007.

13 SUMMARY BY FUND

14	2006	2007	TOTAL
15 General	\$1,405,948,000	\$1,307,004,000	\$2,712,952,000
16 Health Care			
17 Access	2,157,000	2,157,000	4,314,000

18 SUMMARY BY AGENCY - ALL FUNDS

19	2006	2007	TOTAL
20 Higher Education Services Office			
21	171,852,000	171,852,000	343,704,000
22 Board of Trustees of the Minnesota			
23 State Colleges and Universities			
24	642,494,000	583,694,000	1,226,188,000
25 Board of Regents of the University			

1 of Minnesota
 2 590,211,000 550,067,000 1,140,278,000

3 Mayo Medical Foundation

4 1,391,000 1,391,000 2,782,000

5 APPROPRIATIONS
 6 Available for the Year
 7 Ending June 30
 8 2006 2007

9 Sec. 2. HIGHER EDUCATION
 10 SERVICES OFFICE

11 Subdivision 1. Total
 12 Appropriation \$ 171,852,000 \$ 171,852,000

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

16 Subd. 2. State Grants

17 140,575,000 140,575,000

18 For the biennium, the private
 19 institution tuition maximum shall be
 20 \$8,983 in the first year and \$8,983 in
 21 the second year for four-year
 22 institutions and \$6,913 in the first
 23 year and \$6,913 in the second year for
 24 two-year institutions.

25 This appropriation contains money to
 26 provide educational benefits to
 27 dependent children under age 23 and the
 28 spouses of public safety officers
 29 killed in the line of duty pursuant to
 30 Minnesota Statutes, section 299A.45.

31 This appropriation contains money to
 32 set the living and miscellaneous
 33 expense allowance at \$5,205 in each
 34 year.

35 Subd. 3. Interstate Tuition Reciprocity

36 1,000,000 1,000,000

37 If the appropriation in this
 38 subdivision for either year is
 39 insufficient, the appropriation for the
 40 other year is available to meet
 41 reciprocity contract obligations.

42 Subd. 4. State Work Study

43 12,444,000 12,444,000

44 Subd. 5. Child Care Grants

45 4,743,000 4,743,000

46 Subd. 6. Minitex

47 4,381,000 4,381,000

48 Subd. 7. MnLINK

1 400,000 400,000

2 Subd. 8. Learning Network
3 of Minnesota

4 4,329,000 4,329,000

5 Subd. 9. Income Contingent Loans

6 The Higher Education Services Office
7 shall administer an income-contingent
8 loan repayment program to assist
9 graduates of Minnesota schools in
10 medicine, dentistry, pharmacy,
11 chiropractic medicine, public health,
12 and veterinary medicine, and Minnesota
13 residents graduating from optometry and
14 osteopathy programs. Applicant data
15 collected by the office for this
16 program may be disclosed to a consumer
17 credit reporting agency under the same
18 conditions as those that apply to the
19 supplemental loan program under
20 Minnesota Statutes, section 136A.162.
21 No new applicants may be accepted after
22 June 30, 1995.

23 Subd. 10. Minnesota College
24 Savings Plan

25 1,120,000 1,120,000

26 Subd. 11. Agency
27 Administration

28 2,860,000 2,860,000

29 This appropriation includes \$125,000
30 each year for the student and parent
31 information program under Minnesota
32 Statutes, section 136A.87; \$184,000
33 each year for the Get Ready program;
34 and \$255,000 each year for the college
35 intervention program to foster
36 postsecondary attendance by providing
37 outreach services to historically
38 underserved groups of Minnesota
39 elementary and secondary students. The
40 office may contract with other agencies
41 or nonprofit organizations for specific
42 services specifically funded by this
43 paragraph.

44 This appropriation contains \$100,000
45 each year for grants to increase
46 campus-community collaboration and
47 service learning statewide. For every
48 \$1 in state funding, grant recipients
49 must contribute \$2 in campus or
50 community-based support.

51 Subd. 12. Balances Forward

52 A balance in the first year under this
53 section does not cancel, but is
54 available for the second year.

55 Subd. 13. Transfers

56 The Higher Education Services Office
57 may transfer unencumbered balances from

1 the appropriations in this section to
2 the state grant appropriation and the
3 interstate tuition reciprocity
4 appropriation.

5 Subd. 14. Reporting

6 The Higher Education Services Office
7 shall collect data monthly from
8 institutions disbursing state financial
9 aid. The data collected shall include,
10 but is not limited to, expenditures by
11 type to date and unexpended balances.

12 The Higher Education Services Office
13 shall evaluate and report monthly on
14 state financial aid expenditures and
15 unexpended balances to the chairs of
16 the higher education finance committees
17 of the senate and house of
18 representatives and the commissioner of
19 finance. By July 15, December 1,
20 February 15, and April 15, the services
21 office shall provide updated state
22 grant spending projections taking into
23 account the most current and projected
24 enrollment and tuition and fee
25 information, economic conditions, and
26 other relevant factors. Before
27 submitting state grant spending
28 projections, the office shall meet and
29 consult with representatives of public
30 and private postsecondary education,
31 the Department of Finance, governor's
32 office, legislative staff, and
33 financial aid administrators. The
34 Board of Regents of the University of
35 Minnesota, the Board of Trustees of the
36 Minnesota State Colleges and
37 Universities, and private institutions
38 that participate in the state grant
39 program shall submit tuition and fee
40 information to the Higher Education
41 Services Office no later than July 1 of
42 each year.

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

45 Subdivision 1. Total		
46 Appropriation	642,494,000	583,694,000

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

50 Subd. 2. Estimated Expenditures
51 and Appropriations

52 The legislature estimates that
53 instructional expenditures will be
54 \$579,530,000 in the first year and
55 \$526,492,000 in the second year. The
56 legislature estimates that
57 noninstructional expenditures will be
58 \$62,964,000 in the first year and
59 \$57,202,000 in the second year.

60 Subd. 3. Accountability

61 The board shall continue to submit the

1 data and information enumerated in Laws
 2 2001, First Special Session chapter 1,
 3 article 1, section 3, subdivision 3, in
 4 the accountability report. For the
 5 purpose of those reports, a first
 6 generation student is a student neither
 7 of whose parents received any
 8 postsecondary education.

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

11 Subdivision 1. Total

12 Appropriation 590,211,000 550,067,000

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

16 Subd. 2. Operations and
 17 Maintenance

18 526,844,000 486,700,000

19 Estimated Expenditures
 20 and Appropriations

21 The legislature estimates that
 22 instructional expenditures will be
 23 \$300,417,000 in the first year and
 24 \$279,984,000 in the second year. The
 25 legislature estimates that
 26 noninstructional expenditures will be
 27 \$289,794,000 in the first year and
 28 \$270,083,000 in the second year.

29 Subd. 3. Health Care Access Fund

30 2,157,000 2,157,000

31 This appropriation is from the health
 32 care access fund for primary care
 33 education initiatives.

34 Subd. 4. Special
 35 Appropriation

63,367,000 63,367,000

36 (a) Agriculture and Extension Service

37 50,625,000 50,625,000

38 This appropriation is for the
 39 Agricultural Experiment Station,
 40 Minnesota Extension Service.

41 Any salary increases granted by the
 42 university to personnel paid from the
 43 Minnesota Extension appropriation must
 44 not result in a reduction of the county
 45 responsibility for the salary payments.

46 During the biennium, the university
 47 shall maintain an advisory council
 48 system for each experiment station.
 49 The advisory councils must be broadly
 50 representative of the range in size and
 51 income distribution of farms and
 52 agribusinesses and must not
 53 disproportionately represent those from
 54 the upper half of the size and income

1 distributions.

2 The university must continue to provide
3 support for the rapid agricultural
4 response fund, and sustainable and
5 organic agriculture initiatives
6 including, but not limited to, the
7 alternative swine systems program.

8 (b) Health Sciences

9 4,929,000 4,929,000

10 This appropriation is for the rural
11 physicians associates program, the
12 Veterinary Diagnostic Laboratory,
13 health sciences research, dental care,
14 and the Biomedical Engineering Center.

15 (c) Institute of Technology

16 1,387,000 1,387,000

17 This appropriation is for the
18 Geological Survey and the Talented
19 Youth Mathematics Program.

20 (d) System Specials

21 6,426,000 6,426,000

22 This appropriation is for general
23 research, student loans matching money,
24 industrial relations education, Natural
25 Resources Research Institute, Center
26 for Urban and Regional Affairs, Bell
27 Museum of Natural History, and the
28 Humphrey exhibit.

29 Subd. 5. Academic Health Center

30 The appropriation to the academic
31 health center under Minnesota Statutes,
32 section 297F.10, is anticipated to be
33 \$20,940,000 in the first year and
34 \$20,524,000 in the second year.

35 Subd. 6. Accountability

36 The board shall continue to submit the
37 data and information enumerated in Laws
38 2001, First Special Session chapter 1,
39 article 1, section 4, subdivision 5, in
40 the board's university plan,
41 performance, and accountability
42 report. For the purpose of those
43 reports, a first generation student is
44 a student neither of whose parents
45 received any postsecondary education.

46 Sec. 5. MAYO MEDICAL FOUNDATION

47 Subdivision 1. Total

48 Appropriation 1,391,000 1,391,000

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

52 Subd. 2. Medical School

1 514,000 514,000

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

8 The legislature intends that during the
9 biennium the Mayo foundation use the
10 capitation money to increase the number
11 of doctors practicing in rural areas in
12 need of doctors.

13 Subd. 3. Family Practice and
14 Graduate Residency Program

15 531,000 531,000

16 The state of Minnesota must pay a
17 capitation of 27 residents each year.

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

20 346,000 346,000

21 This appropriation is to the Mayo
22 foundation to support 12 resident
23 physicians each year in the St. Cloud
24 Hospital-Mayo Family Practice Residency
25 program. The program shall prepare
26 doctors to practice primary care
27 medicine in the rural areas of the
28 state. It is intended that this
29 program will improve health care in
30 rural communities, provide affordable
31 access to appropriate medical care, and
32 manage the treatment of patients in a
33 more cost-effective manner.

ITEM	Base			Agency Request			Governor's Recommendation			Senate (SF 1879)			HED Target			Difference Target & SF 1879		
	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7
HIGHER EDUCATION SERVICES OFFICE																		
<u>Agency Administration</u>																		
Student Financial Aid Services	617	617	1,234	617	617	1,234	617	617	1,234	617	617	1,234	617	617	1,234	0	0	0
Research & Program Services	358	358	716	358	358	716	358	358	716	358	358	716	358	358	716	0	0	0
Director & Council	173	173	346	173	173	346	173	173	346	173	173	346	173	173	346	0	0	0
Communication & Legislative Services	223	223	446	223	223	446	223	223	446	223	223	446	223	223	446	0	0	0
Financial Services	436	436	872	436	436	872	436	436	872	436	436	872	436	436	872	0	0	0
Human Resources & Agency Services	78	78	156	78	78	156	78	78	156	78	78	156	78	78	156	0	0	0
Information & Technology Services	311	311	622	311	311	622	311	311	622	311	311	622	311	311	622	0	0	0
Subtotal Agency Administration	2,196	2,196	4,392	2,196	2,196	4,392	2,196	2,196	4,392	2,196	2,196	4,392	2,196	2,196	4,392	0	0	0
<u>Other Small Programs</u>																		
Post Secondary Service Learning	100	100	200	100	100	200	100	100	200	100	100	200	115	115	230	15	15	30
Student and Parent Information	125	125	250	125	125	250	125	125	250	125	125	250	125	125	250	0	0	0
Get Ready Outreach Program	184	184	368	184	184	368	184	184	368	184	184	368	184	184	368	0	0	0
Intervention for College Access Program (ICAP)	255	255	510	255	255	510	255	255	510	255	255	510	755	755	1,510	500	500	1,000
Subtotal Other Small Programs	664	664	1,328	664	664	1,328	664	664	1,328	664	664	1,328	1,179	1,179	2,358	515	515	1,030
<u>Financial Aid</u>																		
State Grants Base	140,500	140,500	281,000	140,500	140,500	281,000	140,500	140,500	281,000	140,500	140,500	281,000	140,500	140,500	281,000	0	0	0
Safety Officer Survivor Program	75	75	150	75	75	150	75	75	150	75	75	150	75	75	150	0	0	0
Subtotal Financial Aid	140,575	140,575	281,150	140,575	140,575	281,150	140,575	140,575	281,150	140,575	140,575	281,150	140,575	140,575	281,150	0	0	0
<u>Financial Aid Change Items</u>																		
Implement Federal Pell Grant Changes													(6,230)	(6,340)	(12,570)	(6,230)	(6,340)	(12,570)
Reinvest Pell Savings-30-day Deadline													600	660	1,260	600	660	1,260
Reinvest Pell Savings-\$75 Increase LME													2,490	2,600	5,090	2,490	2,600	5,090
Reinvest Pell Savings-Actual Tuition													5,580	5,990	11,570	5,580	5,990	11,570
Apply Federal LEAP & SLEAP Funding													(1,269)	(1,269)	(2,538)	(1,269)	(1,269)	(2,538)
Correct State Grant Base Funding													(5,490)	3,270	(2,220)	(5,490)	3,270	(2,220)
Interaction Effect-State Grant Changes													4,319	(4,911)	(592)	4,319	(4,911)	(592)
Subtotal Financial Aid Change Items													0	0	0	0	0	0
<u>Change Items</u>																		
Accountability Measurement System							100	300	400				0	0	0	0	0	0
State Grant Software Rewrite							310	0	310				310	0	310	310	0	310
University in Rochester-Implementation							200	0	200				200	0	200	200	0	200
University in Rochester-Development							3,000	0	3,000				1,000	0	1,000	1,000	0	1,000
United Family Practice Residency Program													360	360	720	360	360	720
MHEC Dues													8	7	15	8	7	15
Subtotal Change Items							3,610	300	3,910				1,878	367	2,245	1,878	367	2,245
<u>Other Programs</u>																		
Child Care	4,743	4,743	9,486	4,743	4,743	9,486	4,743	4,743	9,486	4,743	4,743	9,486	4,868	4,868	9,736	125	125	250
Work Study	12,444	12,444	24,888	12,444	12,444	24,888	12,444	12,444	24,888	12,444	12,444	24,888	12,444	12,444	24,888	0	0	0
Interstate Tuition Reciprocity	3,600	3,600	7,200	3,600	3,600	7,200	1,000	1,000	2,000	1,000	1,000	2,000	1,000	1,000	2,000	0	0	0
Minnesota College Savings Program	1,120	1,120	2,240	1,120	1,120	2,240	1,120	1,120	2,240	1,120	1,120	2,240	1,120	1,120	2,240	0	0	0
Learning Network of Minnesota	4,829	4,829	9,658	4,829	4,829	9,658	4,329	4,329	8,658	4,329	4,329	8,658	4,329	4,329	8,658	0	0	0
MINITEX	4,381	4,381	8,762	4,381	4,381	8,762	4,381	4,381	8,762	4,381	4,381	8,762	4,381	4,381	8,762	0	0	0
MnLINK Gateway	400	400	800	400	400	800	400	400	800	400	400	800	400	400	800	0	0	0
Subtotal Other Programs	31,517	31,517	63,034	31,517	31,517	63,034	28,417	28,417	56,834	28,417	28,417	56,834	28,542	28,542	57,084	125	125	250
General Fund Appropriation Total HESO FY 2006-2007	174,952	174,952	349,904	174,952	174,952	349,904	175,462	172,152	347,614	171,852	171,852	343,704	174,370	172,859	347,229	2,518	1,007	3,525
Special Revenue Private Career School Fee Increase							11	15	26				11	15	26	11	15	26

ITEM	Base			Agency Request			Governor's Recommendation			Senate (SF 1879)			HED Target			Difference Target & SF 1879		
	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7
MAYO FOUNDATION																		
Medical School	514	514	1,028	514	514	1,028	514	514	1,028	514	514	1,028	514	514	1,028	0	0	0
Residency Programs	877	877	1,754	877	877	1,754	877	877	1,754	877	877	1,754	877	877	1,754	0	0	0
General Fund Appropriation Total MAYO FY 2006-2007	1,391	1,391	2,782	1,391	1,391	2,782	1,391	1,391	2,782	1,391	1,391	2,782	1,391	1,391	2,782	0	0	0
MN STATE COLLEGES & UNIVERSITIES																		
Unadjusted Base	547,694	547,694	1,095,388	547,694	547,694	1,095,388	547,694	547,694	1,095,388	547,694	547,694	1,095,388	547,694	547,694	1,095,388	0	0	0
Enrollment Adjustment-Recurring	36,000	36,000	72,000	36,000	36,000	72,000	36,000	36,000	72,000	36,000	36,000	72,000	36,000	36,000	72,000	0	0	0
Enrollment Adjustment-Nonrecurring	58,800	0	58,800	58,800	0	58,800	58,800	0	58,800	58,800	0	58,800	58,800	0	58,800	0	0	0
Adjusted Base Appropriation	642,494	583,694	1,226,188	642,494	583,694	1,226,188	642,494	583,694	1,226,188	642,494	583,694	1,226,188	642,494	583,694	1,226,188	0	0	0
Change Items																		
Enrollment Adjustment-Recurring							(36,000)	(36,000)	(72,000)						0	0	0	0
Enrollment Adjustment-Nonrecurring							(58,800)	0	(58,800)				(58,800)	(58,800)	0	(58,800)	0	(58,800)
Invest Nonrecurring Enrollment Adjustment				(58,800)	0	(58,800)	0	0	0				0	0	0	0	0	0
Invest Nonrecurring-Minnesota Online				13,900	0	13,900	0	0	0				0	0	0	0	0	0
Invest Nonrecurring-Leveraged Equipment				14,100	0	14,100	0	0	0				0	0	0	0	0	0
Invest Nonrecurring-Technology				20,000	0	20,000	0	0	0				0	0	0	0	0	0
Invest Nonrecurring-Facilities Repair & Replacement				10,800	0	10,800	0	0	0				0	0	0	0	0	0
Nursing				4,800	5,200	10,000	4,800	5,200	10,000				4,800	5,200	10,000	4,800	5,200	10,000
Teacher Education				1,500	1,500	3,000	0	0	0				1,500	1,500	3,000	1,500	1,500	3,000
Farm & Small Business Management				1,500	1,500	3,000	1,500	1,500	3,000				1,500	1,500	3,000	1,500	1,500	3,000
Minnesota Online				3,500	4,600	8,100	9,000	5,000	14,000				3,500	4,500	8,000	3,500	4,500	8,000
Competitive Salaries				4,600	9,300	13,900	2,500	2,500	5,000				4,600	9,200	13,800	4,600	9,200	13,800
Innovations Fund				2,500	3,000	5,500	2,500	3,000	5,500				0	0	0	0	0	0
Repair & Replacement-Facilities				5,000	6,000	11,000	0	0	0				1,880	1,880	3,760	1,880	1,880	3,760
Serving Underserved Populations				6,000	6,000	12,000	0	0	0				6,000	6,000	12,000	6,000	6,000	12,000
Allocation Framework				0	0	0	25,000	25,000	50,000				0	0	0	0	0	0
Centers of Excellence				0	0	0	10,000	10,000	20,000				0	0	0	0	0	0
Subtotal Change Items				29,400	37,100	66,500	(39,500)	16,200	(23,300)				(35,020)	29,780	(5,240)	(35,020)	29,780	(5,240)
Estimated Cost of Instruction	869,290	789,734	1,659,024	909,068	839,930	1,748,998	815,847	811,653	1,627,499	869,290	789,734	1,659,024	821,908	830,026	1,651,934	(47,382)	40,292	(7,090)
Instructional Appropriation (90.2% of Appropriation)	579,530	526,492	1,106,022	606,048	559,956	1,166,005	543,901	541,104	1,085,005	579,530	526,492	1,106,022	547,942	553,354	1,101,295	(31,588)	26,862	(4,726)
Noninstructional Appropriation (9.8% of Appropriation)	62,964	57,202	120,166	65,846	60,838	126,683	59,093	58,790	117,883	62,964	57,202	120,166	59,532	60,120	119,653	(3,432)	2,918	(514)
General Fund Appropriation Total MNSCU FY 2006-2007	642,494	583,694	1,226,188	671,894	620,794	1,292,688	602,994	599,894	1,202,888	642,494	583,694	1,226,188	607,474	613,474	1,220,948	(35,020)	29,780	(5,240)

ITEM	Base			Agency Request			Governor's Recommendation			Senate (SF 1879)			HED Target			Difference Target & SF 1879		
	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7	FY 2006	FY 2007	FY 2006-7
UNIVERSITY OF MINNESOTA																		
Unadjusted Base	550,067	550,067	1,100,134	550,067	550,067	1,100,134	550,067	550,067	1,100,134	550,067	550,067	1,100,134	550,067	550,067	1,100,134	0	0	0
Enrollment Adjustment-Recurring	15,388	15,388	30,776	15,388	15,388	30,776	15,388	15,388	30,776	15,388	15,388	30,776	15,388	15,388	30,776	0	0	0
Enrollment Adjustment-Nonrecurring	42,974	0	42,974	42,974	0	42,974	42,974	0	42,974	42,974	0	42,974	42,974	0	42,974	0	0	0
Adjusted Base	608,429	565,455	1,173,884	608,429	565,455	1,173,884	608,429	565,455	1,173,884	608,429	565,455	1,173,884	608,429	565,455	1,173,884	0	0	0
Operations and Maintenance Appropriation	545,062	502,088	1,047,150	587,062	586,088	1,173,150	530,200	548,700	1,078,900	526,844	486,700	1,013,544	532,311	562,464	1,094,775	5,467	75,764	81,231
Specials Appropriation	63,367	63,367	126,734	63,367	63,367	126,734	63,367	63,367	126,734	63,367	63,367	126,734	63,367	63,367	126,734	0	0	0
Total Base Appropriation (O/M+Specials)	608,429	565,455	1,173,884	650,429	649,455	1,299,884	593,567	612,067	1,205,634	590,211	550,067	1,140,278	595,678	625,831	1,221,509	5,467	75,764	81,231
Change Items																		
Enrollment Adjustment							(58,362)	(15,388)	(73,750)	(18,218)	(15,388)	(33,606)	(42,974)		(42,974)	(24,756)	15,388	(9,368)
Biosciences for a Healthy Society				12,000	24,000	36,000	12,000	24,000	36,000				8,745	17,490	26,235	8,745	17,490	26,235
Competitive Compensation				5,000	10,000	15,000	5,000	10,000	15,000				3,619	7,238	10,857	3,619	7,238	10,857
Research Support				11,500	23,000	34,500	20,000	15,000	35,000				8,142	16,284	24,426	8,142	16,284	24,426
Preparing Students for 21st Century Economy				6,500	13,000	19,500	6,500	13,000	19,500				4,523	9,046	13,569	4,523	9,046	13,569
21st Century Technology				7,000	14,000	21,000	0	0	0				5,126	10,251	15,377	5,126	10,251	15,377
Sustainable Agriculture													68	67	135	68	67	135
Subtotal Change Items				42,000	84,000	126,000	(14,862)	46,612	31,750	(18,218)	(15,388)	(33,606)	(12,751)	60,376	47,625	5,467	75,764	81,231
Estimated Cost of Instruction	464,533	431,723	896,256	496,600	495,856	992,456	453,186	467,311	920,497	450,624	419,974	870,598	454,798	477,820	932,617	4,174	57,846	62,020
Instructional Appropriation (50.9% of Appropriation)*	309,690	287,817	597,507	331,068	330,573	661,641	302,126	311,542	613,668	300,417	279,984	580,402	303,200	318,548	621,748	2,783	38,564	41,347
Non-Instruction Appropriation (49.1% of Appropriation)*	298,739	277,638	576,377	319,361	318,882	638,243	291,441	300,525	591,966	289,794	270,083	559,876	292,478	307,283	599,761	2,684	37,200	39,884
Total U of M General Fund Appropriation	608,429	565,455	1,173,884	650,429	649,455	1,299,884	593,567	612,067	1,205,634	590,211	550,067	1,140,278	595,678	625,831	1,221,509	5,467	75,764	81,231
Information Only																		
Specials																		
Agriculture Base	50,625	50,625	101,250	50,625	50,625	101,250	50,625	50,625	101,250	50,625	50,625	101,250	50,625	50,625	101,250	0	0	0
Health Sciences	4,929	4,929	9,858	4,929	4,929	9,858	4,929	4,929	9,858	4,929	4,929	9,858	4,929	4,929	9,858	0	0	0
Institute of Technology	1,387	1,387	2,774	1,387	1,387	2,774	1,387	1,387	2,774	1,387	1,387	2,774	1,387	1,387	2,774	0	0	0
System Special	6,426	6,426	12,852	6,426	6,426	12,852	6,426	6,426	12,852	6,426	6,426	12,852	6,426	6,426	12,852	0	0	0
Total specials	63,367	63,367	126,734	63,367	63,367	126,734	63,367	63,367	126,734	63,367	63,367	126,734	63,367	63,367	126,734	0	0	0
Other Appropriations																		
Health Care Access Fund (Medical Education)	2,157	2,157	4,314				2,157	2,157	4,314	2,157	2,157	4,314	2,157	2,157	4,314	0	0	0
Cigarette Tax (Academic Health Center)							20,940	20,524	41,464	20,940	20,524	41,464	20,940	20,524	41,464	0	0	0
General Fund and Other Appropriation Total U of M FY 2006-2007	610,586	567,612	1,178,198	650,429	649,455	1,299,884	616,664	634,748	1,251,412	613,308	572,748	1,186,056	618,775	648,512	1,267,287	5,467	75,764	81,231
Other General Fund Appropriations																		
Department of Health-Nursing Education Loan Repayment Program													95	155	250	95	155	250
General Fund Appropriations Total, Higher Education Division	1,427,266	1,325,492	2,752,758	1,498,666	1,446,592	2,945,258	1,373,414	1,385,504	2,758,918	1,405,948	1,307,004	2,712,952	1,379,008	1,413,710	2,792,718	(26,940)	106,706	79,766
All Funds Impact, All Higher Education Systems (Includes HCAF, Cig Tax & HEFA Fees)	1,429,423	1,327,649	2,757,072	1,498,666	1,446,592	2,945,258	1,396,522	1,408,200	2,804,722	1,429,045	1,329,685	2,758,730	1,402,116	1,436,406	2,838,522	(26,929)	106,721	79,792

		Base FY 2006-07	Agency FY 2006-07	Gov Rec FY 2006-07	SF 1879 2006-07	Senate Target FY 2006-07	Difference Senate vs Gov	Difference Target vs 1879	Difference Senate vs Base
1	HESO								
2	Base	349,904	349,904	349,904	349,904	349,904			
3	Change Items			3,910		3,525			
4	Reductions			(6,200)	(6,200)	(6,200)			
5	HESO Total	349,904	349,904	347,614	343,704	347,229	(385)	3,525	(2,675)
6									
7	Mayo								
8	Base (Total)	2,782	2,782	2,782	2,782	2,782	0	0	0
9									
10	MnSCU								
11	Base (Before Enroll Adj)	1,095,388	1,095,388	1,095,388	1,095,388	1,095,388			
12	Enroll Adj-Recurring	72,000	72,000	0	72,000	72,000			
13	Enroll Adj-Nonrecurring	58,800	58,800	0	58,800	0			
14	Change Items		66,500	107,500	-	53,560			
15	MnSCU Total	1,226,188	1,292,688	1,202,888	1,226,188	1,220,948	18,060	(5,240)	(5,240)
16									
17	University of MN								
18	Base (Before Enroll Adj)	1,100,134	1,100,134	1,100,134	1,100,134	1,100,134			
19	Enroll Adj-Recurring	30,776	30,776	0	-	30,776			
20	Enroll Adj-Nonrecurring	42,974	42,974	0	40,144	0			
21	Change Items		126,000	105,500	-	90,599			
22	Univ of MN Total	1,173,884	1,299,884	1,205,634	1,140,278	1,221,509	15,875	81,231	47,625
23									
24	MDH-Nursing Educ. Loan Repayment					250	250	250	250
25									
26									
27	All Higher Ed	2,752,758	2,945,258	2,758,918	2,712,952	2,792,718	33,800	79,766	39,960

1

A bill for an act

2 relating to higher education; providing funding for
3 the University of Minnesota, the Minnesota State
4 Colleges and Universities, the Higher Education
5 Services Office, and the Mayo Medical Foundation;
6 providing for the mission of state universities;
7 regulating the marketing of credit cards to students;
8 regulating the responsibilities of and changing the
9 name of the Higher Education Services Office;
10 regulating the state grant program and other financial
11 aid programs; providing benefits for students entering
12 active military service; providing assistance for
13 low-income students to increase college awareness;
14 regulating the selection of regents of the University
15 of Minnesota; regulating the Minnesota college savings
16 program; providing assistance to nursing students;
17 creating a task force on postsecondary funding;
18 creating a Rochester higher education development
19 committee; regulating private career schools;
20 appropriating money; amending Minnesota Statutes 2004,
21 sections 135A.052, subdivision 1; 136A.01, subdivision
22 2; 136A.031, subdivisions 2, 3; 136A.121, subdivisions
23 2, 6, 9, 13, by adding subdivisions; 136A.125,
24 subdivision 2; 136A.1701, by adding subdivisions;
25 136F.02, subdivision 1; 136F.04, subdivision 4;
26 136G.03, subdivisions 3, 21a, 22, 32; 136G.05,
27 subdivision 8; 136G.09, subdivisions 11, 12; 136G.11,
28 subdivisions 1, 3, 13, by adding a subdivision;
29 136G.13, subdivisions 1, 5; 136G.14; 137.0245,
30 subdivision 3; 141.21, by adding a subdivision;
31 141.25, subdivisions 3, 5, 8, 9, 12; 141.251; 141.26,
32 subdivision 5; 141.271, subdivisions 4, 7, 10, by
33 adding subdivisions; 141.28, subdivision 1, by adding
34 a subdivision; 141.29, subdivision 3; 141.30; 141.35;
35 299A.45, subdivisions 1, 4; proposing coding for new
36 law in Minnesota Statutes, chapters 135A; 136A; 137;
37 141; 144; 583; repealing Minnesota Statutes 2004,
38 sections 136A.011; 136A.031, subdivision 1; Laws 1986,
39 chapter 398, article 1, section 18.

40 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

41 ARTICLE 1

42 HIGHER EDUCATION APPROPRIATIONS

1 Section 1. [HIGHER EDUCATION APPROPRIATIONS.]

2 The sums in the columns marked "APPROPRIATIONS" are added
 3 to, or, if shown in parentheses, are subtracted from the
 4 appropriations to the specified agencies in 2005 S.F. No. 1879,
 5 article 5, if enacted. The appropriations are from the general
 6 fund, unless another fund is named, and are available for the
 7 fiscal year indicated for each purpose. The figures "2006" and
 8 "2007," where used in this article, mean that the additions to
 9 or subtractions from the appropriations listed under them are
 10 for the fiscal year ending June 30, 2006, or June 30, 2007,
 11 respectively. The "first year" is fiscal year 2006. The
 12 "second year" is fiscal year 2007. The "biennium" is fiscal
 13 years 2006 and 2007.

14 SUMMARY BY FUND

	2006	2007	TOTAL
15			
16	General (\$ ^{26,940,000} 25,215,000)	\$ ^{106,706,000} 104,981,000	\$ 79,766,000

17 SUMMARY BY AGENCY - ALL FUNDS

	2006	2007	TOTAL
18			
19	Higher Education ^{2,518,000}	1,007,000	^{3,525,000}
20	Services Office 5,643,000	3,132,000	8,775,000
21	Board of Trustees		
22	of the Minnesota		
23	State Colleges and ^{35,020,000}	^{29,780,000}	^(5,240,000)
24	Universities (32,900,000)	32,900,000	-0-
25	Board of Regents		
26	of the University ^{5,417,000}	^{75,764,000}	^{81,231,000}
27	of Minnesota 1,947,000	68,794,000	70,741,000
28	Commissioner		
29	of Health 95,000	155,000	250,000

30 APPROPRIATIONS
 31 Available for the Year
 32 Ending June 30
 33 2006 2007

34 Sec. 2. HIGHER EDUCATION
35 SERVICES OFFICE

36	Subdivision 1. Total		
37	Appropriation	\$ ^{2,518,000} 5,643,000	\$ ^{1,007,000} 3,132,000

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

41 Subd. 2. State Grants

42 Notwithstanding 2005 S.F. No. 1879,
 43 article 5, section 2, subdivision 2, if
 44 enacted, the living and miscellaneous

1 expended. This is a onetime
2 appropriation and is not added to the
3 agency's base.

4 Of this appropriation, \$8,000 in the
5 first year and \$7,000 in the second
6 year is for increased dues for the
7 Midwestern Higher Education Compact.
8 This appropriation is ongoing and
9 \$15,000 is added to the agency's base.

10 Subd. 8. Balance Forward

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

14 Subd. 9. Transfers

15 Notwithstanding 2005 S.F. No. 1879,
16 article 5, section 2, subdivision 13,
17 if enacted, the higher education
18 services office may transfer
19 unencumbered balances from the
20 appropriations in this section and in
21 2005 S.F. No. 1879, article 5, section
22 2, if enacted, to the state grant
23 appropriation, the child care grants
24 appropriation, and the interstate
25 tuition reciprocity appropriation.

26 Subd. 10. Reporting

27 Notwithstanding 2005 S.F. No. 1879,
28 article 5, section 2, subdivision 14,
29 if enacted, the higher education
30 services office shall evaluate and
31 report quarterly on state financial aid
32 expenditures and unexpended balances to
33 the chairs of the higher education
34 finance committees of the senate and
35 house of representatives and the
36 commissioner of finance. By November 1
37 and February 15, the services office
38 shall provide updated state grant
39 spending projections taking into
40 account the most current and projected
41 enrollment and tuition and fee
42 information, economic conditions, and
43 other relevant factors.

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

46 Subdivision 1. Total
47 Appropriation

	<i>35,020,000</i>	<i>29,780,000</i>
	(32,900,000)	32,900,000

48 The amounts that may be spent from this
49 appropriation for each purpose are
50 specified in the following subdivision.

51 Subd. 2. Estimated Expenditures
52 and Appropriations

53 Notwithstanding 2005 S.F. No. 1879,
54 article 5, section 3, subdivision 2, if
55 enacted, the legislature estimates that
56 instructional expenditures will be
57 \$549,854,000 in the first year and
58 \$556,162,000 in the second year. The
59 legislature estimates that

553,354,000

1 noninstructional expenditures will be
2 \$59,740,000 in the first year and
3 \$60,426,000 in the second year.

60,120,000

4 This appropriation includes funding for
5 the recurring enrollment adjustment and
6 money to strengthen and expand the
7 Minnesota online program, increase the
8 capacity for training nurses and
9 teachers, provide for the management
10 education needs of farm and small
11 business owners, provide services and
12 outreach to underserved populations,
13 provide needed repair and replacement
14 of facilities, and encourage and reward
15 excellent performance by faculty or
16 staff.

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

19 Subdivision 1. Total
20 Appropriation

5467 000
~~1,947,000~~

75764 000
~~68,794,000~~

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

24 Subd. 2. Operations and
25 Maintenance

5467 100 *75764 000*
~~1,947,000~~ ~~68,794,000~~

27 Estimated Expenditures
28 and Appropriations

29 Notwithstanding 2005 S.F. No. 1879,
30 article 5, section 4, subdivision 2, if
31 enacted, the legislature estimates that
32 instructional expenditures will be
33 \$301,408,000 in the first year and *303,200,000*
34 \$315,000,000 in the second year. The *318,545,000*
35 legislature estimates that
36 noninstructional expenditures will be
37 \$290,750,000 the first year and *292,478,000*
38 \$303,861,000 in the second year. *307,283,000*

39 This appropriation includes funding for
40 the recurring enrollment adjustment and
41 the following initiatives: Biosciences
42 for a Healthy Society to advance the
43 university's expertise and to increase
44 the university's competitiveness in
45 leveraging new funding from federal and
46 private sources; Preparing Students for
47 the 21st Century to enhance the ability
48 of the university to attract and retain
49 exceptional students; competitive
50 compensation to enable the university
51 to attract and retain quality faculty
52 members; research support to provide
53 resources for the university to
54 maintain a competitive advantage in
55 emerging and ongoing research
56 initiatives; and 21st Century
57 technology to support enhancement to
58 major university systems. *4 000 000*

59 Sec. 5. COMMISSIONER OF HEALTH

95,000

155,000

60 To the commissioner of health to

1 implement new Minnesota Statutes,
2 section 144.1498. The funding base for
3 this program is \$219,000 in fiscal year
4 2008 and \$280,000 in fiscal year 2009.

5 ARTICLE 2

6 RELATED PROVISIONS

7 Section 1. Minnesota Statutes 2004, section 135A.052,
8 subdivision 1, is amended to read:

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

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

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

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

27 (4) the state universities shall offer undergraduate and
28 graduate instruction through the ~~master's~~ applied doctoral
29 degree, including specialist certificates, in the liberal arts
30 and sciences and professional education; and

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

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

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

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

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

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

13 (e) utilize constructive and cooperative labor-management
14 practices to the extent otherwise required by chapters 43A and
15 179A; and

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

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

20 Sec. 2. [135A.145] [SALE OF STUDENT INFORMATION; MARKETING
21 CREDIT CARDS TO STUDENTS.]

22 Subdivision 1. [PROHIBITED PRACTICES.] No public or
23 private postsecondary educational institution in this state,
24 including its agents, employees, student or alumni
25 organizations, or affiliates, may:

26 (1) sell, give, or otherwise transfer to any card issuer
27 the name, address, telephone number, or other contact
28 information of a student at the postsecondary educational
29 institution without the student's consent; or

30 (2) enter into any agreement to market credit cards to
31 students at a postsecondary educational institution.

32 For purposes of this section, the terms "credit," "credit
33 card," and "card issuer" have the meanings given them in the
34 Truth in Lending Act, United States Code, title 15, section 1602.

35 Subd. 2. [VIOLATIONS.] The attorney general may seek the
36 penalties and remedies available under section 8.31 against any

1 person who violates this section.

2 Sec. 3. [135A.165] [DEAF STUDENTS; TUITION WAIVER.]

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

7 (b) A deaf person is entitled to the waiver of tuition and
8 fees remaining after deducting any federal or state grants or
9 other public or private grants made to the person for the
10 purpose of paying the tuition and fees at a Minnesota state
11 college or university or the University of Minnesota. A deaf
12 person must receive either a federal Pell grant or a state grant
13 under section 136A.121 for a term to receive a waiver for that
14 term.

15 Sec. 4. [135A.53] [RESIDENT TUITION.]

16 (a) A student shall qualify for a resident tuition rate or
17 its equivalent at state universities and colleges, including the
18 University of Minnesota, if the student meets all of the
19 following requirements:

20 (1) high school attendance within the state for three or
21 more years;

22 (2) graduation from a state high school or attainment
23 within the state of the equivalent of high school graduation;
24 and

25 (3) registration as an entering student at, or current
26 enrollment in, a public institution of higher education.

27 (b) This section is in addition to any other statute, rule,
28 or higher education institution regulation or policy providing
29 eligibility for a resident tuition rate or its equivalent to a
30 student.

31 [EFFECTIVE DATE.] This section is effective the day
32 following final enactment and applies to tuition for school
33 terms commencing on or after that date.

34 Sec. 5. Minnesota Statutes 2004, section 136A.01,
35 subdivision 2, is amended to read:

36 Subd. 2. [RESPONSIBILITIES.] The Higher Education Services

1 Office is responsible for:

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

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

9 (3) administering ~~the Telecommunications Council under Laws~~
10 ~~1993, First Special Session chapter 27, article 57, section 2,~~ the
11 Learning Network of Minnesota, ~~and the Statewide Library Task~~
12 ~~Force;~~

13 (4) negotiating and administering reciprocity agreements;

14 (5) publishing and distributing financial aid information
15 and materials, and other information and materials under section
16 136A.87, to students and parents;

17 (6) collecting and maintaining student enrollment and
18 financial aid data;

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

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

24 Sec. 6. Minnesota Statutes 2004, section 136A.031,
25 subdivision 2, is amended to read:

26 Subd. 2. [HIGHER EDUCATION ADVISORY COUNCIL.] A Higher
27 Education Advisory Council (HEAC) is established. The HEAC is
28 composed of the president of the University of Minnesota or
29 designee; the chancellor of the Minnesota State Colleges and
30 Universities or designee; the commissioner of education; the
31 president of the Private College Council; a representative from
32 the ~~Minnesota Association of Private Postsecondary Schools~~
33 Career College Association; and a member appointed by the
34 governor. The HEAC shall ~~(1)~~ bring to the attention of the
35 Higher Education Services ~~Council~~ Office any matters that the
36 HEAC deems necessary, ~~and (2) review and comment upon matters~~

~~1 before-the-council---The-council-shall-refer-all-proposals-to
2 the-HEAC-before-submitting-recommendations-to-the-governor-and
3 the-legislature---The-council-shall-provide-time-for-a-report
4 from-the-HEAC-at-each-meeting-of-the-council.~~

5 Sec. 7. Minnesota Statutes 2004, section 136A.031,
6 subdivision 3, is amended to read:

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

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

32 The SAC shall:

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

36 (2) make recommendations to the Higher Education Services

1 ~~eo~~ne~~it~~ Office as it finds appropriate;

2 (3) appoint student members to the Higher Education
3 Services ~~eo~~ne~~it~~ Office advisory groups as provided in
4 subdivision 4; and

5 (4) provide any reasonable assistance to the ~~eo~~ne~~it~~ office.

6 Sec. 8. Minnesota Statutes 2004, section 136A.121,
7 subdivision 2, is amended to read:

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

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

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

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

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

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

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

1 Sec. 9. Minnesota Statutes 2004, section 136A.121,
2 subdivision 6, is amended to read:

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

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

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

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

23 Sec. 10. Minnesota Statutes 2004, section 136A.121, is
24 amended by adding a subdivision to read:

25 Subd. 7a. [SURPLUS APPROPRIATION.] If the amount
26 appropriated is determined by the office to be more than
27 sufficient to fund projected grant demand in the second year of
28 the biennium, the office may increase the living and
29 miscellaneous expense allowance in the second year of the
30 biennium to the extent of the excess. The adjustment may be
31 made one or more times. In making the determination that there
32 is more than sufficient funds, the office shall balance the need
33 for sufficient resources to meet the projected demand for grants
34 with the goal of fully allocating the appropriation for state
35 grants.

36 Sec. 11. Minnesota Statutes 2004, section 136A.121,

1 subdivision 9, is amended to read:

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

16 Sec. 12. Minnesota Statutes 2004, section 136A.121,
17 subdivision 13, is amended to read:

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

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

23 Subd. 19. [DATA.] An eligible institution must provide to
24 the office student enrollment, financial aid, financial, and
25 other data as determined by the director, to enable the office
26 to carry out its responsibilities under chapter 136A.

27 Sec. 14. Minnesota Statutes 2004, section 136A.125,
28 subdivision 2, is amended to read:

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

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

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

36 (3) is income eligible as determined by the office's

1 policies and rules, but is not a recipient of assistance from
2 the Minnesota family investment program;

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

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

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

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

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

15 Sec. 15. Minnesota Statutes 2004, section 136A.1701, is
16 amended by adding a subdivision to read:

17 Subd. 11. [DATA.] An eligible institution must provide to
18 the office student enrollment, financial aid, financial, and
19 other data as determined by the director, to enable the office
20 to carry out its responsibilities under chapter 136A.

21 Sec. 16. Minnesota Statutes 2004, section 136A.1701, is
22 amended by adding a subdivision to read:

23 Subd. 12. [ELIGIBLE STUDENT.] "Eligible student" means a
24 student who is a Minnesota resident who is enrolled or accepted
25 for enrollment at an eligible school in Minnesota or in another
26 state or province. Non-Minnesota residents are eligible
27 students if they are enrolled or accepted for enrollment in a
28 minimum of one course of at least 30 days in length during the
29 academic year that requires physical attendance at an eligible
30 school located in Minnesota. Non-Minnesota resident students
31 enrolled exclusively during the academic year in correspondence
32 courses or courses offered over the Internet are not eligible
33 students. Non-Minnesota resident students not physically
34 attending classes in Minnesota due to enrollment in a study
35 abroad program for 12 months or less are eligible students.
36 Non-Minnesota residents enrolled in study abroad programs

1 exceeding 12 months are not eligible students. For purposes of
2 this section, an "eligible student" must also meet the
3 eligibility requirements of section 136A.15, subdivision 8.

4 Sec. 17. [136A.1703] [INCOME-CONTINGENT LOANS.]

5 The office shall administer an income-contingent loan
6 repayment program to assist graduates of Minnesota schools in
7 medicine, dentistry, pharmacy, chiropractic medicine, public
8 health, and veterinary medicine, and Minnesota residents
9 graduating from optometry and osteopathy programs. Applicant
10 data collected by the office for this program may be disclosed
11 to a consumer credit reporting agency under the same conditions
12 as those that apply to the supplemental loan program under
13 section 136A.162. No new applicants may be accepted after June
14 30, 1995.

15 Sec. 18. [136A.1785] [LOAN CAPITAL FUND.]

16 The office may deposit and hold assets derived from the
17 operation of its student loan programs authorized by this
18 chapter in a fund known as the loan capital fund. Assets in the
19 loan capital fund are available to the office solely for
20 carrying out the purposes and terms of sections 136A.15 to
21 136A.1702, including, but not limited to, making student loans
22 authorized by this chapter, paying administrative expenses
23 associated with the operation of its student loan programs,
24 repurchasing defaulted student loans, and paying expenses in
25 connection with the issuance of revenue bonds authorized under
26 this chapter. Assets in the loan capital fund may be invested
27 as provided in sections 11A.24 and 136A.16, subdivision 8. All
28 interest and earnings from the investment of the loan capital
29 fund inure to the benefit of the fund and are deposited into the
30 fund.

31 Sec. 19. [136A.861] [INTERVENTION FOR COLLEGE ATTENDANCE
32 PROGRAM GRANTS.]

33 Subdivision 1. [GRANTS.] The director of the Higher
34 Education Services Office shall award grants to collaborative
35 partnerships that increase the college awareness and
36 participation of low-income and underrepresented students.

1 Grants must be awarded to partnerships of one or more
2 postsecondary institutions and one or more of any of the
3 following: school districts, professional organizations,
4 businesses, foundations, and community-based organizations.

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

8 (1) are counted under section 1124(c) of the Elementary and
9 Secondary Education Act of 1965 (Title I);

10 (2) are eligible for free or reduced-price lunch under the
11 National School Lunch Act;

12 (3) receive assistance under the Temporary Assistance for
13 Needy Families Law (Title I of the Personal Responsibility and
14 Work Opportunity Reconciliation Act of 1996); or

15 (4) are a member of a group traditionally underrepresented
16 in higher education.

17 Subd. 3. [APPLICATION PROCESS.] The director of the Higher
18 Education Services Office shall develop the process by which a
19 partnership must apply for a grant. The director shall attempt
20 to distribute grants in a manner that ensures that eligible
21 students throughout the state have access to precollege services.

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

24 (1) the responsibilities of each partner in the
25 collaborative effort;

26 (2) a description of the characteristics of the students to
27 be served;

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

30 (4) a description of the enhancements to existing college
31 awareness and preparation activities to be achieved by the
32 partnership;

33 (5) a description of how the program activities will be
34 evaluated to determine whether program goals were met; and

35 (6) other information as identified by the director.

36 Grant recipients must specify both program and student outcome

1 goals, and performance measures for each goal.

2 Grants must be awarded to collaborative efforts that
3 provide precollege services, including, but not limited to:
4 academic counseling, mentoring, fostering and improving parental
5 involvement in planning for and facilitating a college
6 education, services for students with English as a second
7 language, academic enrichment activities, tutoring, career
8 awareness and exploration, orientation to college life,
9 assistance with high school course selection and information
10 about college admission requirements, financial aid counseling,
11 and summer programs.

12 Applicants must provide a ten percent cash match. This
13 match must supplement and not supplant other program funds.

14 Subd. 4. [REVIEW COMMITTEE.] The director must establish
15 and convene a grant selection committee to review applications
16 and award grants. The members of the committee must include
17 representatives of postsecondary institutions, elementary and
18 secondary education, and other partnership organizations.

19 Subd. 5. [PROGRAM EVALUATION.] Each grant recipient must
20 annually submit a report to the Higher Education Services Office
21 delineating its program and student outcome goals, and
22 activities implemented to achieve the stated outcomes. The
23 goals must be clearly stated and measurable. Grant recipients
24 are required to collect, analyze, and report on participation
25 and outcome data that enable the office to verify that the
26 program goals were met. The office shall maintain information
27 about successful precollege program activities for dissemination
28 to individuals throughout the state interested in adopting or
29 replicating successful program practices. The office shall also
30 maintain data on the success of the funded projects in
31 increasing the high school graduation and college participation
32 rates of students served by the grant recipients.

33 Subd. 6. [REPORT.] By January 15 of each odd-numbered
34 year, the office shall submit a report to the committees in the
35 legislature with jurisdiction over higher education finance
36 regarding the grant recipients and their activities. The report

1 shall include information about the students served, the members
2 of the partnership, program activities, program goals and
3 outcomes, and program revenue sources and funding levels.

4 Sec. 20. Minnesota Statutes 2004, section 136F.02,
5 subdivision 1, is amended to read:

6 Subdivision 1. [MEMBERSHIP.] The board consists of ~~15~~ 18
7 members appointed by the governor with the advice and consent of
8 the senate. At least one member of the board shall have
9 experience in and represent business and at least one member
10 shall have experience in and represent organized labor. At
11 least one member of the board must be a resident of each
12 congressional district, except that congressional districts
13 containing all or part of 17 or more counties shall be split in
14 approximately half geographically along county lines and one
15 member must be a resident of each half. Three members must be
16 students who are enrolled at least half time in a degree,
17 diploma, or certificate program or have graduated from an
18 institution governed by the board within one year of the date of
19 appointment. The student members shall include: one member
20 from a community college, one member from a state university,
21 and one member from a technical college. The remaining members
22 must be appointed to represent the state at large.

23 [EFFECTIVE DATE.] This section is effective the day
24 following final enactment. Of the three members added to the
25 board by this section, one shall be appointed for an original
26 two-year term, one for a four-year term, and one for a six-year
27 term. The governor shall determine which term applies to an
28 appointment. After the original terms, all succeeding terms
29 shall be six years. If there is not a member representing
30 business and labor respectively, as provided by this section,
31 the governor shall make those appointments at the first
32 opportunity to do so.

33 Sec. 21. Minnesota Statutes 2004, section 136F.04,
34 subdivision 4, is amended to read:

35 Subd. 4. [RECOMMENDATIONS.] Each student association shall
36 recommend at least two and not more than four candidates for its

1 student member. By ~~January-2~~ April 15 of the year in which its
2 members' term expires, each student association shall submit its
3 recommendations to the governor. The governor is not bound by
4 these recommendations.

5 Sec. 22. Minnesota Statutes 2004, section 136G.03,
6 subdivision 3, is amended to read:

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

13 Sec. 23. Minnesota Statutes 2004, section 136G.03,
14 subdivision 21a, is amended to read:

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

20 Sec. 24. Minnesota Statutes 2004, section 136G.03,
21 subdivision 22, is amended to read:

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

27 Sec. 25. Minnesota Statutes 2004, section 136G.03,
28 subdivision 32, is amended to read:

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

32 Sec. 26. Minnesota Statutes 2004, section 136G.05,
33 subdivision 8, is amended to read:

34 Subd. 8. [ADMINISTRATION.] The director shall administer
35 the program, including accepting and processing applications,
36 maintaining account records, making payments, making matching

1 grants under section 136G.11, and undertaking any other
2 necessary tasks to administer the program. The office may
3 contract with one or more third parties to carry out some or all
4 of these administrative duties, including ~~promotion~~ providing
5 incentives and marketing of the program. The office and the
6 board may jointly contract with third-party providers, if the
7 office and board determine that it is desirable to contract with
8 the same entity or entities for administration and investment
9 management.

10 Sec. 27. Minnesota Statutes 2004, section 136G.09,
11 subdivision 11, is amended to read:

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

18 Sec. 28. Minnesota Statutes 2004, section 136G.09,
19 subdivision 12, is amended to read:

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

32 Sec. 29. Minnesota Statutes 2004, section 136G.11,
33 subdivision 1, is amended to read:

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

1 conditions are met:

2 (1) the contributor applies, in writing in a form
3 prescribed by the director, for a matching grant;

4 (2) a minimum contribution of \$200 was made during the
5 preceding calendar year; and

6 (3) the beneficiary's family meets Minnesota college
7 savings plan residency requirements; and

8 (4) the family income of the beneficiary did not exceed
9 \$80,000.

10 Sec. 30. Minnesota Statutes 2004, section 136G.11,
11 subdivision 3, is amended to read:

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

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

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

33 Sec. 31. Minnesota Statutes 2004, section 136G.11, is
34 amended by adding a subdivision to read:

35 Subd. 3a. [FAMILY INCOME.] (a) For purposes of this
36 section, "family income" means:

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

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

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

16 Sec. 32. Minnesota Statutes 2004, section 136G.11,
17 subdivision 13, is amended to read:

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

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

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

25 (3) the beneficiary dies or becomes disabled;

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

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

30 (b) Matching grants must be proportionally forfeited if:

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

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

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

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

9 Sec. 33. Minnesota Statutes 2004, section 136G.13,
10 subdivision 1, is amended to read:

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

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

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

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

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

24 Sec. 34. Minnesota Statutes 2004, section 136G.13,
25 subdivision 5, is amended to read:

26 Subd. 5. [DISTRIBUTIONS DUE TO DEATH OR DISABILITY OF, OR
27 SCHOLARSHIP TO, OR ATTENDANCE AT A UNITED STATES MILITARY
28 ACADEMY BY, A BENEFICIARY.] An account owner may request a
29 distribution due to the death or disability of, or scholarship
30 to, or attendance at a United States military academy by, a
31 beneficiary from an account by submitting a completed request to
32 the plan. Prior to distribution, the account owner shall
33 certify the reason for the distribution and provide written
34 confirmation from a third party that the beneficiary has died,
35 become disabled, or received a scholarship for attendance at an
36 eligible educational institution, or is attending a United

1 States military academy. The plan must not consider a request
2 to make a distribution until a third-party written confirmation
3 is received by the plan. For purposes of this subdivision, a
4 third-party written confirmation consists of the following:

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

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

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

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

27 Sec. 35. Minnesota Statutes 2004, section 136G.14, is
28 amended to read:

29 136G.14 [MINOR TRUST ACCOUNTS.]

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

32 (b) The account owner may not be changed to any person
33 other than a successor custodian or the beneficiary unless a
34 court order directing the change of ownership is provided to the
35 plan administrator. The custodian must sign all forms and
36 requests submitted to the plan administrator in the custodian's

1 representative capacity. The custodian must notify the plan
2 administrator in writing when the beneficiary becomes legally
3 entitled to be the account owner. An account owner under this
4 section may not select a contingent account owner.

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

15 Sec. 36. Minnesota Statutes 2004, section 137.0245,
16 subdivision 3, is amended to read:

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

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

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

30 (3) report to the joint committee established under section
31 137.0246 on the membership needs of the board in terms of
32 individual skills and characteristics. Individual skills relate
33 to training and experience in fields such as finance, higher
34 education, labor, and management. Individual characteristics
35 relate to qualities such as gender, race, and geographic
36 location of residence.

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

5 Sec. 37. [137.0246] [REGENT SELECTION; LEGISLATURE.]

6 (a) By February 15 of each odd-numbered year, or at a date
7 agreed to by concurrent resolution, a joint legislative
8 committee shall meet to recommend nominees for regent of the
9 University of Minnesota to be presented to a joint convention of
10 the legislature. The joint legislative committee consists of 20
11 legislator members. Ten members shall be appointed by the
12 speaker of the house. Ten members shall be appointed by the
13 Subcommittee on Committees of the Committee on Rules and
14 Administration from the senate. An equal number of members from
15 the majority and minority party shall be appointed from each
16 house. The members appointed from the minority party must be
17 appointed from among those recommended by the minority leader.
18 The chairs of the education policy committees and of the higher
19 education budget divisions and the ranking minority member of
20 those committees and divisions must be appointed. A majority of
21 the members from each house is a quorum of the joint committee.

22 (b) The joint committee shall determine the number of
23 persons, and the person or persons to be recommended for each
24 open seat.

25 (c) The joint convention must meet on or before March 7 of
26 that same odd-numbered year.

27 Sec. 38. [144.1498] [NURSING LOW-INCOME LOAN REPAYMENT.]

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

34 Subd. 2. [CREATION OF ACCOUNT; LOAN REPAYMENT PROGRAM.] A
35 low-income nursing education account is created in the general
36 fund. The commissioner of health shall use money from the

1 account to establish a loan repayment program for licensed
2 practical or registered nurses who agree to practice in a
3 Minnesota nursing home or work in a position in Minnesota as a
4 nurse educator. Appropriations made to the account do not
5 cancel and are available until expended.

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

8 (1) be a resident of Minnesota;

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

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

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

25 Subd. 4. [LOAN REPAYMENT.] The commissioner of health may
26 accept applicants each year for participation in the loan
27 repayment program, within the limits of available funding.
28 Applicants are responsible for securing their own loans. The
29 commissioner shall select participants in a priority based upon
30 lowest family income, followed in order of ascending family
31 income. Family income may be determined in the same manner as
32 for state grants under section 136A.121 or in another manner the
33 commissioner determines fairly represents family income. The
34 commissioner shall give preference to applicants closest to
35 completing their training. For each year that a participant
36 meets the service obligation required under subdivision 3, up to

1 a maximum of four years, the commissioner shall make annual
2 disbursements directly to the participant equivalent to 15
3 percent of the average educational debt for indebted nursing
4 school graduates in the year closest to the applicant's
5 selection for which information is available or the balance of
6 the qualifying educational loans, whichever is less. The
7 maximum annual loan repayment for a participant is \$2,500.
8 Before receiving loan repayment disbursements and as requested,
9 the participant must complete and return to the commissioner an
10 affidavit of practice form provided by the commissioner
11 verifying that the participant is practicing as required under
12 subdivision 3. The participant must provide the commissioner
13 with verification that the full amount of loan repayment
14 disbursement received by the participant has been applied toward
15 the designated loans. After each disbursement, verification
16 must be received by the commissioner and approved before the
17 next loan repayment disbursement is made. Participants remain
18 eligible for loan repayment as long as they practice as required
19 under subdivision 3.

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

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

1 Sec. 39. Minnesota Statutes 2004, section 299A.45,
2 subdivision 1, is amended to read:

3 Subdivision 1. [ELIGIBILITY.] Following certification
4 under section 299A.44 and compliance with this section and rules
5 of the commissioner of public safety and the higher education
6 services office, dependent children less than 23 years of age
7 and the surviving spouse of a public safety officer killed in
8 the line of duty on or after January 1, 1973, are eligible to
9 receive educational benefits under this section. To qualify for
10 an award, they must be enrolled in undergraduate degree or
11 certificate programs after June 30, 1990, at an eligible
12 Minnesota institution as provided in section 136A.101,
13 subdivision 4. A student who withdraws from enrollment for
14 active military service is entitled to an additional semester or
15 the equivalent of grant eligibility. Persons who have received
16 a baccalaureate degree or have been enrolled full time or the
17 equivalent of ten semesters or the equivalent, whichever occurs
18 first, are no longer eligible.

19 Sec. 40. Minnesota Statutes 2004, section 299A.45,
20 subdivision 4, is amended to read:

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

28 Sec. 41. [583.215] [EXPIRATION.]

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

31 Sec. 42. [APPLICATION OF ELIGIBILITY.]

32 The additional semester or the equivalent of grant
33 eligibility under sections 11, 14, 39, and 40 applies to any
34 student who withdrew from enrollment in a postsecondary
35 institution after December 31, 2002, for enrollment for active
36 military service as defined in Minnesota Statutes, section

1 190.05, subdivision 5b or 5c.

2 Sec. 43. [ADVISORY TASK FORCE ON PUBLIC POSTSECONDARY
3 FUNDING.]

4 The Higher Education Services Office shall convene an
5 advisory task force to study the current postsecondary funding
6 policy under Minnesota Statutes, sections 135A.01 to 135A.034.
7 The task force must include a legislative fiscal analysis staff
8 member from the senate assigned to the senate higher education
9 finance division, a legislative fiscal analysis staff member
10 assigned to the house Higher Education Finance Committee, the
11 chief financial officers of the University of Minnesota and the
12 Minnesota State Colleges and Universities, and the commissioner
13 of finance, or their designees. The task force may include
14 other members as selected by the Higher Education Services
15 Office. The task force must study and make specific
16 recommendations on alternatives to the methods currently used by
17 the postsecondary systems to implement the provisions of
18 Minnesota Statutes, section 135A.031, subdivision 4. The task
19 force must submit its recommendations to the legislature and the
20 governor by January 15, 2006. The task force expires on June
21 30, 2007.

22 Sec. 44. [REVISOR INSTRUCTION.]

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

27 Sec. 45. [REPEALER.]

28 (a) Minnesota Statutes 2004, sections 136A.011 and
29 136A.031, subdivision 1, are repealed.

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

32 (c) Minnesota Rules, parts 4815.0100; 4815.0110; 4815.0120;
33 4815.0130; 4815.0140; 4815.0150; 4815.0160; 4830.8100;
34 4830.8110; 4830.8120; 4830.8130; 4830.8140; and 4830.8150, are
35 repealed.

36 ARTICLE 3

1 ROCHESTER HIGHER EDUCATION

2 Section 1. [ROCHESTER HIGHER EDUCATION DEVELOPMENT
3 COMMITTEE.]

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

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

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

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

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

20 (4) the commissioner of finance, or the commissioner's
21 designee;

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

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

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

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

1 Subd. 4. [DUTIES.] (a) The committee shall develop a
2 recommendation for establishment and implementation of expanded
3 higher education programs or institutions in Rochester. The
4 committee's report must include recommendations on:
5 (1) the mission and focus of the programs or institutions;
6 (2) the nature of undergraduate and graduate programs to be
7 offered;
8 (3) site and facility needs;
9 (4) funding sources and opportunities;
10 (5) operational needs;
11 (6) alliances or other types of cooperative arrangements
12 with public and private institutions;
13 (7) governance structures; and
14 (8) mechanisms to ensure that the expanded programs are
15 aligned with the unique needs and opportunities of the Rochester
16 area and that programs take advantage of opportunities presented
17 by regional business and industry.
18 (b) If the committee recommends any programmatic changes
19 that result in institutional realignments, the committee must
20 consult with the representatives of affected employees and
21 address the continuation of collective bargaining and
22 contractual rights and benefits, including accumulated sick
23 leave, vacation time, seniority, time to tenure, separation or
24 retirement benefits, and pension plan coverage.
25 (c) The committee must consider specifically whether
26 expansion of the University of Minnesota in Rochester is the
27 most appropriate method of meeting the region's needs.
28 (d) The committee may also research and provide
29 recommendations on sites for the facilities and programs. The
30 committee shall recommend any changes to Minnesota law required
31 to implement recommendations of the committee.
32 Subd. 5. [REPORT.] The committee must issue a report with
33 recommendations to the governor and the legislature by January
34 15, 2006.
35 Subd. 6. [SUNSET.] The committee expires on December 31,
36 2007.

1 (7) a current balance sheet, income statement, and adequate
2 supporting documentation, prepared and certified by an
3 independent public accountant or CPA;

4 (8) copies of all media advertising and promotional
5 literature and brochures or electronic display currently used or
6 reasonably expected to be used by the school;

7 (9) copies of all Minnesota enrollment agreement forms and
8 contract forms and all enrollment agreement forms and contract
9 forms used in Minnesota; and

10 (10) gross income earned in the preceding year from student
11 tuition, fees, and other required institutional charges, unless
12 the school files with the office a surety bond equal to at least
13 ~~\$50,000~~ \$250,000 as described in subdivision 5.

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

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

23 (b) The amount of the surety bond shall be ten percent of
24 the preceding year's gross income from student tuition, fees,
25 and other required institutional charges, but in no event less
26 than \$10,000 nor greater than ~~\$50,000~~ \$250,000, except that a
27 school may deposit a greater amount at its own discretion. A
28 school in each annual application for licensure must compute the
29 amount of the surety bond and verify that the amount of the
30 surety bond complies with this subdivision, unless the school
31 maintains a surety bond equal to at least ~~\$50,000~~ \$250,000. A
32 school that operates at two or more locations may combine gross
33 income from student tuition, fees, and other required
34 institutional charges for all locations for the purpose of
35 determining the annual surety bond requirement. The gross
36 tuition and fees used to determine the amount of the surety bond

1 required for a school having a license for the sole purpose of
2 recruiting students in Minnesota shall be only that paid to the
3 school by the students recruited from Minnesota.

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

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

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

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

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

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

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

35 Subd. 9. [CATALOG, BROCHURE, OR ELECTRONIC DISPLAY.]
36 Before a license is issued to a school, the school shall furnish

1 to the office a catalog, brochure, or electronic display
2 including:

3 (1) identifying data, such as volume number and date of
4 publication;

5 (2) name and address of the school and its governing body
6 and officials;

7 (3) a calendar of the school showing legal holidays,
8 beginning and ending dates of each course quarter, term, or
9 semester, and other important dates;

10 (4) the school policy and regulations on enrollment
11 including dates and specific entrance requirements for each
12 program;

13 (5) the school policy and regulations about leave,
14 absences, class cuts, make-up work, tardiness, and interruptions
15 for unsatisfactory attendance;

16 (6) the school policy and regulations about standards of
17 progress for the student including the grading system of the
18 school, the minimum grades considered satisfactory, conditions
19 for interruption for unsatisfactory grades or progress, a
20 description of any probationary period allowed by the school,
21 and conditions of reentrance for those dismissed for
22 unsatisfactory progress;

23 (7) the school policy and regulations about student conduct
24 and conditions for dismissal for unsatisfactory conduct;

25 (8) a detailed schedule of fees, charges for tuition,
26 books, supplies, tools, student activities, laboratory fees,
27 service charges, rentals, deposits, and all other charges;

28 (9) the school policy and regulations, including an
29 explanation of section 141.271, about refunding tuition, fees,
30 and other charges if the student does not enter the program,
31 withdraws from the program, or the program is discontinued;

32 (10) a description of the available facilities and
33 equipment;

34 (11) a course outline syllabus for each course offered
35 showing course objectives, subjects or units in the course, type
36 of work or skill to be learned, and approximate time, hours, or

1 credits to be spent on each subject or unit;

2 (12) the school policy and regulations about granting
3 credit for previous education and preparation;

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

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

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

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

12 Subd. 12. [PERMANENT RECORDS.] A school licensed under
13 this chapter and located in Minnesota shall maintain a permanent
14 record for each student for 50 years from the last date of the
15 student's attendance. A school licensed under this chapter and
16 offering distance instruction to a student located in Minnesota
17 shall maintain a permanent record for each Minnesota student for
18 50 years from the last date of the student's attendance.

19 Records include school transcripts, documents, and files
20 containing student data about academic credits earned, courses
21 completed, grades awarded, degrees awarded, and periods of
22 attendance. To preserve permanent records, a school shall
23 submit a plan that meets the following requirements:

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

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

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

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

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

1 141.251 [LICENSE RENEWAL.]

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

9 Subd. 2. [CONDITIONS.] The office shall adopt rules
10 establishing the conditions for renewal of a license. The
11 conditions shall permit two levels of renewal based on the
12 record of the school. A school that has demonstrated the
13 quality of its program and operation through longevity and
14 performance in the state may renew its license based on a
15 relaxed standard of scrutiny. A school that has been in
16 operation in Minnesota for a limited period of time or that has
17 not performed adequately on performance indicators shall renew
18 its license based on a strict standard of scrutiny. The office
19 shall specify minimum longevity standards and performance
20 indicators that must be met before a school may be permitted to
21 operate under the relaxed standard of scrutiny. The performance
22 indicators used in this determination shall include, but not be
23 limited to: degree granting status, regional or national
24 accreditation, loan default rates, placement rate of graduates,
25 student withdrawal rates, audit results, student complaints, and
26 school status with the United States Department of Education.
27 Schools that meet the requirements established in rule shall be
28 required to submit a full relicensure report once every four
29 years, and in the interim years will be exempt from the
30 requirements of section 141.25, subdivision 3, clauses (4), (5),
31 and (8), and Minnesota Rules, parts 4880.1700, subpart 6; and
32 4880.2100, subpart 4.

33 Sec. 8. [141.255] [FEES.]

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

36 (1) \$1,500 for a school that will offer no more than one

1 program during its first year of operation;

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

4 (3) \$2,500 for a school that will offer two or more degree
5 level programs during its first year of operation.

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

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

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

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

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

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

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

30 (1) \$300 for the team base fee or for a paper review
31 conducted by a consultant if the office determines that a
32 fact-finding visit is not required;

33 (2) \$300 for each day or part thereof on site per team
34 member; and

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

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

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

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

8 (3) an addition or alteration of courses that represent a
9 25 percent change or more in the objectives, content, or methods
10 of delivery.

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

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

15 (1) \$250 per location, for two to five locations; and

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

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

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

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

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

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

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

36 Subd. 4. [RESIDENT SCHOOLS.] When a student has been

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

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

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

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

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

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

36 Sec. 14. Minnesota Statutes 2004, section 141.271, is

1 amended by adding a subdivision to read:

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

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

11 Subdivision 1. [NOT TO ADVERTISE STATE APPROVAL.] Schools,
12 agents of schools, and solicitors may not advertise or represent
13 in writing or orally that such school is approved or accredited
14 by the state of Minnesota, except that any school, agent, or
15 solicitor may advertise that the school and solicitor have been
16 duly licensed by the state- using the following language:
17 "(Name of school) is licensed as a private career school with
18 the Minnesota Higher Education Services Office. Licensure is
19 not an endorsement of the institution. Credits earned at the
20 institution may not transfer to all other institutions. The
21 educational programs may not meet the needs of every student or
22 employer."

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

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

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

35 (c) Student loans or other financial aid assistance
36 received from a bank, finance or credit card company, or other

1 private lender must be collected or disbursed as provided in
2 paragraphs (d) and (e).

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

5 (1) in two equal disbursements, if the course or term
6 length is less than six months. The loan or payment amounts may
7 be disbursed no earlier than the first day the student attends
8 class with the remainder to be disbursed halfway through the
9 class or term;

10 (2) in three equal disbursements, if the course or term
11 length is more than six months, but less than 12 months. The
12 loan or payment amounts may be disbursed no earlier than the
13 first day the student attends class, one-third of the way
14 through the class or term, and two-thirds of the way through the
15 class or term; or

16 (3) in four equal disbursements, if the course or term
17 length is greater than 12 months. The loan or payment amounts
18 may be disbursed no earlier than the first day a student attends
19 class, one-quarter of the way through the class or term, halfway
20 through the class or term, and three-fourths of the way through
21 the class or term.

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

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

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

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

35 (a) To negotiate and enter into interstate reciprocity
36 agreements with similar agencies in other states, if in the

1 judgment of the office such agreements are or will be helpful in
2 effectuating the purposes of Laws 1973, Chapter 714;

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

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

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

24 141.30 [INSPECTION.]

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

34 (b) Data obtained from an inspection of the financial
35 records of a school or submitted to the office as part of a
36 license application or renewal are nonpublic data as defined in

1 section 13.02, subdivision 9. Data obtained from inspections
2 may be disclosed to other members of the office, to law
3 enforcement officials, or in connection with a legal or
4 administrative proceeding commenced to enforce a requirement of
5 law.

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

8 141.35 [EXEMPTIONS.]

9 Sections 141.21 to 141.35 shall not apply to the following:

10 (1) public postsecondary institutions;

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

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

19 (4) private schools complying with the requirements of
20 section 120A.22, subdivision 4;

21 (5) courses taught to students in a valid apprenticeship
22 program taught by or required by a trade union;

23 (6) schools exclusively engaged in training physically or
24 mentally handicapped persons for the state of Minnesota;

25 (7) schools licensed by boards authorized under Minnesota
26 law to issue licenses;

27 (8) schools and educational programs, or training programs,
28 contracted for by persons, firms, corporations, government
29 agencies, or associations, for the training of their own
30 employees, for which no fee is charged the employee;

31 (9) schools engaged exclusively in the teaching of purely
32 avocational, recreational, or remedial subjects as determined by
33 the office;

34 (10) driver training schools and instructors as defined in
35 section 171.33, subdivisions 1 and 2;

36 (11) classes, courses, or programs conducted by a bona fide

1 trade, professional, or fraternal organization, solely for that
2 organization's membership;

3 (12) programs in the fine arts provided by organizations
4 exempt from taxation under section 290.05 and registered with
5 the attorney general under chapter 309. For the purposes of
6 this clause, "fine arts" means activities resulting in artistic
7 creation or artistic performance of works of the imagination
8 which are engaged in for the primary purpose of creative
9 expression rather than commercial sale or employment. In making
10 this determination the office may seek the advice and
11 recommendation of the Minnesota Board of the Arts;

12 (13) classes, courses, or programs intended to fulfill the
13 continuing education requirements for licensure or certification
14 in a profession, that have been approved by a legislatively or
15 judicially established board or agency responsible for
16 regulating the practice of the profession, and that are offered
17 ~~primarily~~ exclusively to an individual practicing the
18 profession;

19 (14) classes, courses, or programs intended to prepare
20 students to sit for undergraduate, graduate, postgraduate, or
21 occupational licensing and occupational entrance examinations;

22 (15) classes, courses, or programs providing 16 or fewer
23 clock hours of instruction that are not part of the curriculum
24 for an occupation or entry level employment;

25 (16) classes, courses, or programs providing instruction in
26 personal development, modeling, or acting;

27 (17) training or instructional programs, in which one
28 instructor teaches an individual student, that are not part of
29 the curriculum for an occupation or are not intended to prepare
30 a person for entry level employment; and

31 (18) schools with no physical presence in Minnesota, as
32 determined by the office, engaged exclusively in offering
33 distance instruction that are located in and regulated by other
34 states or jurisdictions.

35 Sec. 20. [POSTSECONDARY PRIVATE SCHOOL REGULATION.]

36 The director of the Higher Education Services Office must

1 convene a group to study regulation of private postsecondary
2 schools subject to regulation under Minnesota Statutes, chapters
3 136A and 141. The purpose of the study is to determine the
4 appropriate level of regulation for the various types of private
5 postsecondary schools. The study group must, at a minimum,
6 include representatives from the Minnesota Private College
7 Council, the Minnesota Career College Association, and staff of
8 the higher education finance divisions and committees of the
9 house of representatives and the senate. The director must make
10 recommendations accompanied with legislation to implement those
11 recommendations to the chairs of the legislative committees and
12 divisions with primary jurisdiction over higher education
13 finance by January 15, 2006.