

transportation, and storage. This fair and reasonable value must represent the limit of the state's bid; and

(7) utility services where no competition exists or where rates are fixed by law or ordinance.

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

Sec. 2. Minnesota Statutes 2004, section 471.59, subdivision 1, is amended to read:

Subdivision 1. **AGREEMENT.** Two or more governmental units, by agreement entered into through action of their governing bodies, may jointly or cooperatively exercise any power common to the contracting parties or any similar powers, including those which are the same except for the territorial limits within which they may be exercised. The agreement may provide for the exercise of such powers by one or more of the participating governmental units on behalf of the other participating units. The term "governmental unit" as used in this section includes every city, county, town, school district, other political subdivision of this or another state, another state, the University of Minnesota, nonprofit hospitals licensed under sections 144.50 to 144.56, rehabilitation facilities and extended employment providers that are certified by the commissioner of employment and economic development, day training and habilitation services licensed under sections 245B.01 to 245B.08, and any agency of the state of Minnesota or the United States, and includes any instrumentality of a governmental unit. For the purpose of this section, an instrumentality of a governmental unit means an instrumentality having independent policy making and appropriating authority.

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

Presented to the governor March 10, 2005

Signed by the governor March 14, 2005, 2:45 p.m.

CHAPTER 10—H.F.No. 378

An act relating to legislation; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating certain redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to statutes and other laws; amending Minnesota Statutes 2004, sections 4.077, subdivision 1; 10A.04, subdivision 6; 13.32, subdivision 3; 13.321, by adding a subdivision; 13.381, by adding a subdivision; 13.46, subdivision 2; 13.47, subdivision 1; 13.4963, subdivision 2; 15.0591, subdivision 2; 15.39, subdivision 2; 16B.31, subdivision 1; 17.43; 18C.60, subdivision 1; 28.15; 32.645; 47.59, subdivision 2; 62I.13, subdivision 3; 62L.17, subdivision 2a; 64B.37, subdivision 2; 82.33, subdivision 4; 84.8712, subdivisions 2, 3, 4, 6; 85.22, subdivision 2a; 89.01, subdivision 5a; 115B.20, subdivision 2; 116J.871, subdivision 3; 119B.25, subdivision 2; 124D.68, subdivision 2; 127A.10; 137.09; 144.6501, subdivision 1; 145B.04; 152.027, subdivision 4; 155A.03, subdivision 1; 155A.16; 161.1419, subdivision 8; 168.275; 168.33, subdivision 2a; 169.21, subdivision 2; 169.50,

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subdivision 1; 169.59, subdivision 4; 169A.55, subdivision 3; 171.181, subdivision 1; 177.23, subdivision 7; 181.30; 201.014, subdivision 2; 201.071, subdivision 1; 201.15, subdivision 1; 204B.10, subdivision 6; 216B.61; 219.57, subdivision 6; 234.23; 235.10; 235.13; 237.763; 238.37; 238.38; 238.42; 239.791, subdivision 15; 244.05, subdivisions 4, 5; 245.466, subdivision 1; 245.4875, subdivision 1; 245.75; 246.01; 246B.04, subdivision 2; 252.24, subdivision 5; 252A.03, subdivisions 1, 4; 252A.101, subdivisions 1, 5; 253B.23, subdivision 2; 256.93, subdivision 1; 256B.055, subdivision 12; 256B.0625, subdivision 6a; 256B.0627, subdivisions 1, 5; 256B.0917, subdivisions 4, 5; 256B.0951, subdivision 8; 256B.431, subdivision 14; 256G.01, subdivision 3; 256L.07, subdivision 1; 256L.15, subdivision 2; 256M.10, subdivision 5; 257B.08; 259.21, subdivision 4; 260B.007, subdivision 16; 260C.101, subdivision 2; 276.04, subdivision 2; 290.095, subdivision 1; 299D.07; 299F.051, subdivision 4; 299F.093, subdivision 1; 302A.011, subdivision 16; 303.03; 303.25, subdivision 1; 321.0210; 321.1114; 322B.03, subdivision 27; 325F.40; 325N.15; 329.17; 333.135; 336.4A-105; 343.40, subdivision 3; 345.14; 346.05; 353.01, subdivision 2; 353.34, subdivision 3a; 356.431, subdivision 1; 395.22; 458D.02, subdivision 2; 469.104; 473.845, subdivision 1; 481.05; 501B.18; 501B.19; 514.996, subdivision 3; 515B.4-102; 524.2-114; 525.9212; 525.95, subdivision 1; 527.38; 527.39; 529.12; 540.18, subdivision 1; 580.041, subdivision 2; 624.64; 624.67; 626.84, subdivision 1; 629.11; 631.04; Laws 2003, First Special Session chapter 11, article 2, section 21; Laws 2004, chapter 199, article 12, section 108; Laws 2004, chapter 261, article 6, section 5; repealing Minnesota Statutes 2004, sections 115B.49, subdivision 4a; 306.13; 315.43; 317A.909, subdivision 4; 357.12; 367.40, subdivisions 3, 4; 367.401, subdivision 4; 367.42; 398.35, subdivision 2; Laws 2001, First Special Session chapter 10, article 10, section 1; Laws 2003, chapter 8, section 2; Laws 2004, chapter 219, section 1; Laws 2004, chapter 288, article 3, section 5; Minnesota Rules, parts 6700.0100, subpart 14; 6700.1300; 9055.0125; 9055.0500; 9055.0510; 9055.0520; 9055.0530; 9055.0540; 9055.0550; 9055.0560; 9055.0570; 9055.0580; 9055.0590; 9055.0600; 9055.0610.

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

ARTICLE 1

GENERAL

Section 1. Minnesota Statutes 2004, section 4.077, subdivision 1, is amended to read:

Subdivision 1. **PLAN TO RENOVATE COURTS BUILDING.** (a) The Old Federal Courts Building in the city of St. Paul, described in the registry of historic sites in section ~~138.57~~, and called in this section the "courts building," is an outstanding example of federal architecture of its period and a significant symbol of constitutional government which spans much of this state's history. Its acquisition, preservation, and appropriate use is a concern of the state and an important aspect of state policy declared in the Historic Sites Act of 1965.

(b) The legislature is informed that feasible renovation and remodeling of the structure of this historic site would make it suitable to meet existing and foreseeable need of the state for school, classroom, and other educational use, or for use in the

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protection of public health, and such practical adaptation of the courts building should not be incompatible, but rather in keeping with, continued observance of the building as an historic monument.

(c) National policy expressed in enactments of the Congress (including, but not necessarily limited to, the Surplus Property Act of 1944 and Federal Property and Administrative Services Act of 1949) make this historic site, now held by and subject to the control of the administrator of the General Service Administration, available to this state, its political subdivisions or instrumentalities upon compliance with the conditions of the statutes and rules promulgated thereunder for educational use or use in the protection of the public health, or as an historic monument for the benefit of the public.

Sec. 2. Minnesota Statutes 2004, section 10A.04, subdivision 6, is amended to read:

Subd. 6. **PRINCIPAL REPORTS.** (a) A principal must report to the board as required in this subdivision by March 15 for the preceding calendar year. ~~Along with the report, the principal must pay a fee of \$50, except as otherwise provided in this subdivision. The fee must be no more than necessary to cover the cost of administering sections 10A.03 to 10A.06. The amount of the fee is subject to change each biennium in accordance with the budget request made by the board. The fee requirement expires June 30, 2004.~~

(b) The principal must report the total amount, rounded to the nearest \$20,000, spent by the principal during the preceding calendar year to influence legislative action, administrative action, and the official action of metropolitan governmental units.

(c) The principal must report under this subdivision a total amount that includes:

(1) all direct payments by the principal to lobbyists in this state;

(2) all expenditures for advertising, mailing, research, analysis, compilation and dissemination of information, and public relations campaigns related to legislative action, administrative action, or the official action of metropolitan governmental units in this state; and

(3) all salaries and administrative expenses attributable to activities of the principal relating to efforts to influence legislative action, administrative action, or the official action of metropolitan governmental units in this state.

Sec. 3. Minnesota Statutes 2004, section 13.32, subdivision 3, is amended to read:

Subd. 3. **PRIVATE DATA; WHEN DISCLOSURE IS PERMITTED.** Except as provided in subdivision 5, educational data is private data on individuals and shall not be disclosed except as follows:

(a) pursuant to section 13.05;

(b) pursuant to a valid court order;

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(c) pursuant to a statute specifically authorizing access to the private data;

(d) to disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36;

(e) pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35;

(f) to appropriate health authorities to the extent necessary to administer immunization programs and for bona fide epidemiologic investigations which the commissioner of health determines are necessary to prevent disease or disability to individuals in the public educational agency or institution in which the investigation is being conducted;

(g) when disclosure is required for institutions that participate in a program under title IV of the Higher Education Act, United States Code, title 20, ~~chapter~~ section 1092;

(h) to the appropriate school district officials to the extent necessary under subdivision 6, annually to indicate the extent and content of remedial instruction, including the results of assessment testing and academic performance at a postsecondary institution during the previous academic year by a student who graduated from a Minnesota school district within two years before receiving the remedial instruction;

(i) to appropriate authorities as provided in United States Code, title 20, section 1232g(b)(1)(E)(ii), if the data concern the juvenile justice system and the ability of the system to effectively serve, prior to adjudication, the student whose records are released; provided that the authorities to whom the data are released submit a written request for the data that certifies that the data will not be disclosed to any other person except as authorized by law without the written consent of the parent of the student and the request and a record of the release are maintained in the student's file;

(j) to volunteers who are determined to have a legitimate educational interest in the data and who are conducting activities and events sponsored by or endorsed by the educational agency or institution for students or former students;

(k) to provide student recruiting information, from educational data held by colleges and universities, as required by and subject to Code of Federal Regulations, title 32, section 216;

(l) to the juvenile justice system if information about the behavior of a student who poses a risk of harm is reasonably necessary to protect the health or safety of the student or other individuals;

(m) with respect to Social Security numbers of students in the adult basic education system, to Minnesota State Colleges and Universities and the Department of Employment and Economic Development for the purpose and in the manner described in section 124D.52, subdivision 7; or

(n) to the commissioner of education for purposes of an assessment or investigation of a report of alleged maltreatment of a student as mandated by section 626.556.

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Upon request by the commissioner of education, data that are relevant to a report of maltreatment and are from charter school and school district investigations of alleged maltreatment of a student must be disclosed to the commissioner, including, but not limited to, the following:

- (1) information regarding the student alleged to have been maltreated;
- (2) information regarding student and employee witnesses;
- (3) information regarding the alleged perpetrator; and

(4) what corrective or protective action was taken, if any, by the school facility in response to a report of maltreatment by an employee or agent of the school or school district.

Sec. 4. Minnesota Statutes 2004, section 13.321, is amended by adding a subdivision to read:

Subd. 2a. SCHOOL ACCOUNTABILITY. Certain school accountability data are governed by section 120B.36, subdivisions 1, paragraph (e), and 2.

Sec. 5. Minnesota Statutes 2004, section 13.381, is amended by adding a subdivision to read:

Subd. 7a. FACILITY REQUIREMENTS. Data provided to, filed with, or created or obtained by the commissioner of health under section 144.7065 are classified as provided in section 144.7065, subdivision 10.

Sec. 6. Minnesota Statutes 2004, section 13.46, subdivision 2, is amended to read:

Subd. 2. **GENERAL.** (a) Unless the data is summary data or a statute specifically provides a different classification, data on individuals collected, maintained, used, or disseminated by the welfare system is private data on individuals, and shall not be disclosed except:

- (1) according to section 13.05;
- (2) according to court order;
- (3) according to a statute specifically authorizing access to the private data;
- (4) to an agent of the welfare system, including a law enforcement person, attorney, or investigator acting for it in the investigation or prosecution of a criminal or civil proceeding relating to the administration of a program;
- (5) to personnel of the welfare system who require the data to verify an individual's identity; determine eligibility, amount of assistance, and the need to provide services to an individual or family across programs; evaluate the effectiveness of programs; and investigate suspected fraud;
- (6) to administer federal funds or programs;
- (7) between personnel of the welfare system working in the same program;

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(8) to the Department of Revenue to administer and evaluate tax refund or tax credit programs and to identify individuals who may benefit from these programs. The following information may be disclosed under this paragraph: an individual's and their dependent's names, dates of birth, Social Security numbers, income, addresses, and other data as required, upon request by the Department of Revenue. Disclosures by the commissioner of revenue to the commissioner of human services for the purposes described in this clause are governed by section 270B.14, subdivision 1. Tax refund or tax credit programs include, but are not limited to, the dependent care credit under section 290.067, the Minnesota working family credit under section 290.0671, the property tax refund and rental credit under section 290A.04, and the Minnesota education credit under section 290.0674;

(9) between the Department of Human Services, the Department of Education, and the Department of Employment and Economic Development for the purpose of monitoring the eligibility of the data subject for unemployment benefits, for any employment or training program administered, supervised, or certified by that agency, for the purpose of administering any rehabilitation program or child care assistance program, whether alone or in conjunction with the welfare system, or to monitor and evaluate the Minnesota family investment program by exchanging data on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(10) to appropriate parties in connection with an emergency if knowledge of the information is necessary to protect the health or safety of the individual or other individuals or persons;

(11) data maintained by residential programs as defined in section 245A.02 may be disclosed to the protection and advocacy system established in this state according to Part C of Public Law 98-527 to protect the legal and human rights of persons with mental retardation or other related conditions who live in residential facilities for these persons if the protection and advocacy system receives a complaint by or on behalf of that person and the person does not have a legal guardian or the state or a designee of the state is the legal guardian of the person;

(12) to the county medical examiner or the county coroner for identifying or locating relatives or friends of a deceased person;

(13) data on a child support obligor who makes payments to the public agency may be disclosed to the Higher Education Services Office to the extent necessary to determine eligibility under section 136A.121, subdivision 2, clause (5);

(14) participant Social Security numbers and names collected by the telephone assistance program may be disclosed to the Department of Revenue to conduct an electronic data match with the property tax refund database to determine eligibility under section 237.70, subdivision 4a;

(15) the current address of a Minnesota family investment program participant may be disclosed to law enforcement officers who provide the name of the participant and notify the agency that:

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(i) the participant:

(A) is a fugitive felon fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony under the laws of the jurisdiction from which the individual is fleeing; or

(B) is violating a condition of probation or parole imposed under state or federal law;

(ii) the location or apprehension of the felon is within the law enforcement officer's official duties; and

(iii) the request is made in writing and in the proper exercise of those duties;

(16) the current address of a recipient of general assistance or general assistance medical care may be disclosed to probation officers and corrections agents who are supervising the recipient and to law enforcement officers who are investigating the recipient in connection with a felony level offense;

(17) information obtained from food support applicant or recipient households may be disclosed to local, state, or federal law enforcement officials, upon their written request, for the purpose of investigating an alleged violation of the Food Stamp Act, according to Code of Federal Regulations, title 7, section 272.1(c);

(18) the address, Social Security number, and, if available, photograph of any member of a household receiving food support shall be made available, on request, to a local, state, or federal law enforcement officer if the officer furnishes the agency with the name of the member and notifies the agency that:

(i) the member:

(A) is fleeing to avoid prosecution, or custody or confinement after conviction, for a crime or attempt to commit a crime that is a felony in the jurisdiction the member is fleeing;

(B) is violating a condition of probation or parole imposed under state or federal law; or

(C) has information that is necessary for the officer to conduct an official duty related to conduct described in subitem (A) or (B);

(ii) locating or apprehending the member is within the officer's official duties; and

(iii) the request is made in writing and in the proper exercise of the officer's official duty;

(19) the current address of a recipient of Minnesota family investment program, general assistance, general assistance medical care, or food support may be disclosed to law enforcement officers who, in writing, provide the name of the recipient and notify the agency that the recipient is a person required to register under section 243.166, but is not residing at the address at which the recipient is registered under section 243.166;

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(20) certain information regarding child support obligors who are in arrears may be made public according to section 518.575;

(21) data on child support payments made by a child support obligor and data on the distribution of those payments excluding identifying information on obligees may be disclosed to all obligees to whom the obligor owes support, and data on the enforcement actions undertaken by the public authority, the status of those actions, and data on the income of the obligor or obligee may be disclosed to the other party;

(22) data in the work reporting system may be disclosed under section 256.998, subdivision 7;

(23) to the Department of Education for the purpose of matching Department of Education student data with public assistance data to determine students eligible for free and reduced price meals, meal supplements, and free milk according to United States Code, title 42, sections 1758, 1761, 1766, 1766a, 1772, and 1773; to allocate federal and state funds that are distributed based on income of the student's family; and to verify receipt of energy assistance for the telephone assistance plan;

(24) the current address and telephone number of program recipients and emergency contacts may be released to the commissioner of health or a local board of health as defined in section 145A.02, subdivision 2, when the commissioner or local board of health has reason to believe that a program recipient is a disease case, carrier, suspect case, or at risk of illness, and the data are necessary to locate the person;

(25) to other state agencies, statewide systems, and political subdivisions of this state, including the attorney general, and agencies of other states, interstate information networks, federal agencies, and other entities as required by federal regulation or law for the administration of the child support enforcement program;

(26) to personnel of public assistance programs as defined in section 256.741, for access to the child support system database for the purpose of administration, including monitoring and evaluation of those public assistance programs;

(27) to monitor and evaluate the Minnesota family investment program by exchanging data between the Departments of Human Services and Education, on recipients and former recipients of food support, cash assistance under chapter 256, 256D, 256J, or 256K, child care assistance under chapter 119B, or medical programs under chapter 256B, 256D, or 256L;

(28) to evaluate child support program performance and to identify and prevent fraud in the child support program by exchanging data between the Department of Human Services, Department of Revenue under section 270B.14, subdivision 1, paragraphs (a) and (b), without regard to the limitation of use in paragraph (c), Department of Health, Department of Employment and Economic Development, and other state agencies as is reasonably necessary to perform these functions; or

(29) counties operating child care assistance programs under chapter 119B may disseminate data on program participants, applicants, and providers to the commissioner of education.

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(b) Information on persons who have been treated for drug or alcohol abuse may only be disclosed according to the requirements of Code of Federal Regulations, title 42, sections 2.1 to 2.67.

(c) Data provided to law enforcement agencies under paragraph (a), clause (15), (16), (17), or (18), or paragraph (b), are investigative data and are confidential or protected nonpublic while the investigation is active. The data are private after the investigation becomes inactive under section 13.82, subdivision 5, paragraph (a) or (b).

(d) Mental health data shall be treated as provided in subdivisions 7, 8, and 9, but is not subject to the access provisions of subdivision 10, paragraph (b).

For the purposes of this subdivision, a request will be deemed to be made in writing if made through a computer interface system.

Sec. 7. Minnesota Statutes 2004, section 13.47, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** (a) "Employment and training data" means data on individuals collected, maintained, used, or disseminated because an individual applies for, is currently enrolled in, or has been enrolled in employment and training programs funded with federal, state, or local resources, including those provided under the Workforce Investment Act of 1998, United States Code, title 29, section 2801.

(b) "Employment and training service provider" means an entity certified, or seeking to be certified, by the commissioner of employment and economic development to deliver employment and training services under section ~~268.0122~~ 116J.401, subdivision ~~3~~ 2, or an organization that contracts with a certified entity or the Department of Employment and Economic Development to deliver employment and training services.

(c) "Provider of training services" means an organization or entity that provides training under the Workforce Investment Act of 1998, United States Code, title 29, section 2801.

Sec. 8. Minnesota Statutes 2004, section 13.4963, subdivision 2, is amended to read:

Subd. 2. **GENERALLY.** Classification and disclosure of tax data created, collected, or maintained by the Department of Revenue under section 273.1315, chapter 115B, 289A (except for taxes imposed under sections 298.01, 298.015, and 298.24), 290, 290A, 291, 295, 297A, or 297H, or any similar Indian tribal tax administered by the commissioner according to a tax agreement between the state and an Indian tribal government are governed by chapter 270B.

Sec. 9. Minnesota Statutes 2004, section 15.0591, subdivision 2, is amended to read:

Subd. 2. **BODIES AFFECTED.** A member meeting the qualifications in subdivision 1 must be appointed to the following boards, commissions, advisory councils, task forces, or committees:

- (1) Advisory Council on Battered Women and Domestic Abuse;

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- (2) Advisory Task Force on the Use of State Facilities;
- (3) Alcohol and Other Drug Abuse Advisory Council;
- (4) Board of Examiners for Nursing Home Administrators;
- (5) Board on Aging;
- (6) Chiropractic Examiners Board;
- (7) Council on Disability;
- (8) Council on Affairs of Chicano/Latino People;
- (9) Council on Black Minnesotans;
- (10) Dentistry Board;
- (11) Higher Education Services Office;
- (12) Housing Finance Agency;
- (13) Indian Advisory Council on Chemical Dependency;
- (14) Medical Practice Board;
- (15) ~~Medical Policy Directional Task Force on Mental Health;~~
- (16) Minnesota State Arts Board;
- (17) (16) Nursing Board;
- (18) (17) Optometry Board;
- (19) (18) Pharmacy Board;
- (20) (19) Board of Physical Therapy;
- (21) (20) Podiatry Board;
- (22) (21) Psychology Board.

Sec. 10. Minnesota Statutes 2004, section 15.39, subdivision 2, is amended to read:

Subd. 2. **REQUISITION AUTHORITY.** The commissioner is authorized to requisition from the ~~economic security~~ administration fund any amount necessary to pay premiums for the insurance specified in subdivision 1 and money in the amount necessary is appropriated for that purpose.

Sec. 11. Minnesota Statutes 2004, section 16B.31, subdivision 1, is amended to read:

Subdivision 1. **CONSTRUCTION PLANS AND SPECIFICATIONS.** (a) The commissioner shall (1) have plans and specifications prepared for the construction, alteration, or enlargement of all state buildings, structures, and other improvements except highways and bridges, and except for buildings and structures under the control of the Board of Regents of the University of Minnesota or of the Board of Trustees of

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the Minnesota State Colleges and Universities; (2) approve those plans and specifications; (3) advertise for bids and award all contracts in connection with the improvements; (4) supervise and inspect all work relating to the improvements; (5) approve all lawful changes in plans and specifications after the contract for an improvement is let; and (6) approve estimates for payment. This subdivision does not apply to the construction of the Zoological Gardens.

(b) MS 2002 (Expired)

(c) MS 2002 (Expired)

~~(d) The commissioner, the board, the Board of Regents of the University of Minnesota, and the Board of Trustees of the Minnesota State Colleges and Universities shall create a panel of representatives, including representatives of the construction industry and the architecture and engineering professions, to evaluate the use of design-build and the procedures for design-builder selection under section 16C.31, and shall report to the legislature on or before January 1, 2004, as to the success of design-build as a method of construction and the need and desirability for any changes in the selection procedure.~~

Sec. 12. Minnesota Statutes 2004, section 18C.60, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS** DEFINITION. ~~(a) The definitions in this subdivision apply to this section.~~

~~(b) "Metropolitan county" means any one of the following counties: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, or Washington.~~

~~(c) For the purpose of this section, "turf" means noncrop land planted in closely mowed, managed grasses including, but not limited to, residential and commercial residential property, private golf courses, and property owned by federal, state, or local units of government, including parks, recreation areas, and public golf courses. Turf does not mean pasture, hayland, hay, turf grown on turf farms, or any other form of agricultural production.~~

Sec. 13. Minnesota Statutes 2004, section 47.59, subdivision 2, is amended to read:

Subd. 2. **APPLICATION**. Extensions of credit or purchases of extensions of credit by financial institutions under sections 47.20, 47.21, 47.201, 47.204, 47.58, 47.60, 48.153, 48.185, 48.195, 59A.01 to 59A.15, 334.01, 334.011, 334.012, 334.022, 334.06, and 334.061 to 334.19 may, but need not, be made according to those sections in lieu of the authority set forth in this section to the extent those sections authorize the financial institution to make extensions of credit or purchase extensions of credit under those sections. If a financial institution elects to make an extension of credit or to purchase an extension of credit under those other sections, the extension of credit or the purchase of an extension of credit is subject to those sections and not this section, except this subdivision, and except as expressly provided in those sections. A financial institution may also charge an organization a rate of interest and any charges agreed to

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by the organization and may calculate and collect finance and other charges in any manner agreed to by that organization. Except for extensions of credit a financial institution elects to make under section 334.01, 334.011, 334.012, ~~334.021~~ 334.022, 334.06, or 334.061 to 334.19, chapter 334 does not apply to extensions of credit made according to this section or the sections listed in this subdivision. This subdivision does not authorize a financial institution to extend credit or purchase an extension of credit under any of the sections listed in this subdivision if the financial institution is not authorized to do so under those sections. A financial institution extending credit under any of the sections listed in this subdivision shall specify in the promissory note, contract, or other loan document the section under which the extension of credit is made.

Sec. 14. Minnesota Statutes 2004, section 62L.13, subdivision 3, is amended to read:

Subd. 3. **DISQUALIFYING FACTORS.** For good cause, coverage may be denied or terminated by the association. Good cause may exist if the applicant or insured: (1) has an outstanding debt due or owing to the association at the time of application or renewal arising from a prior policy; (2) refuses to permit completion of an audit requested by the commissioner or administrator; (3) submits misleading or erroneous information to the commissioner or administrator; (4) disregards safety standards, laws, rules or ordinance pertaining to the risk being insured; (5) fails to supply information requested by the commissioner or administrator; and (6) fails to comply with the terms of the policies or contracts for coverage issued by the association; and (7) has not satisfied the requirements of the market assistance program as set forth in section 62L.09.

Sec. 15. Minnesota Statutes 2004, section 62L.17, subdivision 2a, is amended to read:

Subd. 2a. **PARTICIPATION OF NEW SMALL EMPLOYER HEALTH CARRIERS.** A health carrier that enters the small employer market subsequent to February 1993, may elect to not participate in the reinsurance association by filing an application within 60 days of entry into the small employer market or May 26, 1995, whichever is later. The commissioner shall make a determination and notify the health carrier no later than 60 days after receipt of the application. In determining whether to approve the application, the commissioner shall consider the standards defined in subdivision 2, except that the commissioner may also consider whether the health carrier has a guaranteeing organization as defined in section ~~62D.043~~, subdivision 1, or as permitted under chapter 62N.

Sec. 16. Minnesota Statutes 2004, section 82.33, subdivision 4, is amended to read:

Subd. 4. **RENEWAL; EXAMINATION.** Except as provided in sections ~~82.22~~, subdivision 7, and section 82.29, subdivision 7, no examination shall be required for the renewal of any license, provided, however, any licensee having been licensed as a broker or salesperson in the state of Minnesota and who shall fail to renew the license

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for a period of two years shall be required by the commissioner to again take an examination.

Sec. 17. Minnesota Statutes 2004, section 84.8712, subdivision 2, is amended to read:

Subd. 2. **CIVIL CITATION; AUTHORITY TO ISSUE.** Conservation officers and other licensed peace officers may issue civil citations to a person who operates a snowmobile in violation of this section ~~or section 84.8713~~. The citation must impose a penalty of \$50 for the first offense, \$200 for the second offense, and \$500 for third and subsequent offenses.

Sec. 18. Minnesota Statutes 2004, section 84.8712, subdivision 3, is amended to read:

Subd. 3. **APPEALS.** Civil citations for offenses under this section ~~or section 84.8713~~ may be appealed under the procedures in section 116.072, subdivision 6, if the recipient of the citation requests a hearing by notifying the commissioner in writing within 15 days after receipt of the citation. For the purposes of the enforcement of this section, the terms "commissioner" and "agency" as used in section 116.072 mean the commissioner of natural resources. If a hearing is not requested within the 15-day period, the citation becomes a final order not subject to further review.

Sec. 19. Minnesota Statutes 2004, section 84.8712, subdivision 4, is amended to read:

Subd. 4. **ENFORCEMENT.** Civil citations for offenses under this section ~~or section 84.8713~~ may be enforced under section 116.072, subdivision 9. If a person fails to pay a penalty owed under this section, the person may not operate a snowmobile until the penalty is paid. Penalty amounts must be remitted within 30 days of issuance of the penalty citation.

Sec. 20. Minnesota Statutes 2004, section 84.8712, subdivision 6, is amended to read:

Subd. 6. **SELECTION OF REMEDY.** A person operating a snowmobile in violation of this section ~~or section 84.8713~~ is guilty of a petty misdemeanor punishable by a fine of no more than \$50 for the first offense, no more than \$300 for the second offense, and no more than \$600 for the third and subsequent offenses. A peace officer may not seek both civil and petty misdemeanor penalties for a violation of this section ~~or section 84.8713~~.

Sec. 21. Minnesota Statutes 2004, section 85.22, subdivision 2a, is amended to read:

Subd. 2a. **RECEIPTS, APPROPRIATION.** All receipts derived from the rental or sale of state park items, tours at Forestville Mystery Cave State Park, and operation of Douglas Lodge shall be deposited in the state treasury and be credited to the state parks working capital account. Receipts and expenses from Douglas Lodge shall be tracked separately within the account. Money in the account is annually appropriated for the purchase and payment of expenses attributable to items for resale or rental and

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operation of Douglas Lodge. Any excess receipts in this account are annually appropriated for state park management and interpretive programs.

Sec. 22. Minnesota Statutes 2004, section 89.01, subdivision 5a, is amended to read:

Subd. 5a. **SALE OF STATE FOREST LAND.** Any state lands included in areas set apart as state forests are eliminated from the state forest upon sale under the provisions of sections 92.06 to ~~92.09~~ 92.08 or 94.09 to 94.16.

Sec. 23. Minnesota Statutes 2004, section 115B.20, subdivision 2, is amended to read:

Subd. 2. **PURPOSES FOR WHICH MONEY MAY BE SPENT.** Money appropriated from the remediation fund under section 116.155, subdivision 2, paragraph (a), clause (1), may be spent only for the following purposes:

(1) preparation by the agency and the commissioner of agriculture for taking removal or remedial action under section 115B.17, or under chapter 18D, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 115B.17 or 115B.18, or chapter 18D;

(2) removal and remedial actions taken or authorized by the agency or the commissioner of the Pollution Control Agency under section 115B.17, or taken or authorized by the commissioner of agriculture under chapter 18D including related enforcement and compliance efforts under section 115B.17 or 115B.18, or chapter 18D, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the federal Superfund Act, under United States Code, title 42, section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

(3) reimbursement to any private person for expenditures made before July 1, 1983, to provide alternative water supplies deemed necessary by the agency or the commissioner of agriculture and the Department of Health to protect the public health from contamination resulting from the release of a hazardous substance;

(4) assessment and recovery of natural resource damages by the agency and the ~~commissioners~~ commissioner of natural resources ~~and for administration, and planning, and implementation~~ by the commissioner of natural resources of the rehabilitation, restoration, or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance; before implementing a project to rehabilitate, restore, or acquire natural resources under this clause, the commissioner of natural resources shall provide written notice of the proposed project to the chairs of the senate and house of representatives committees with jurisdiction over environment and natural resources finance;

(5) acquisition of a property interest under section 115B.17, subdivision 15;

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(6) reimbursement, in an amount to be determined by the agency in each case, to a political subdivision that is not a responsible person under section 115B.03, for reasonable and necessary expenditures resulting from an emergency caused by a release or threatened release of a hazardous substance, pollutant, or contaminant; and

(7) reimbursement to a political subdivision for expenditures in excess of the liability limit under section 115B.04, subdivision 4.

Sec. 24. Minnesota Statutes 2004, section 119B.25, subdivision 2, is amended to read:

Subd. 2. **GRANTS.** The commissioner shall distribute money provided by this section through a grant to a nonprofit corporation organized to plan, develop, and finance early childhood education and child care sites. The nonprofit corporation must have demonstrated the ability to analyze financing projects, have knowledge of other sources of public and private financing for child care and early childhood education sites, and have a relationship with the regional resource and referral programs under section 119B.211. The board of directors of the nonprofit corporation must include members who are knowledgeable about early childhood education, child care, development and improvement, and financing. The commissioners of the Departments of Human Services and Employment and Economic Development, and the commissioner of the Housing Finance Agency shall advise the board on the loan program. The grant must be used to make loans to improve child care or early childhood education sites, or loans to plan, design, and construct or expand licensed and legal unlicensed sites to increase the availability of child care or early childhood education. All loans made by the nonprofit corporation must comply with section 363A.16.

Sec. 25. Minnesota Statutes 2004, section 124D.68, subdivision 2, is amended to read:

Subd. 2. **ELIGIBLE PUPILS.** The following pupils are eligible to participate in the graduation incentives program:

(a) any pupil under the age of 21 who:

(1) performs substantially below the performance level for pupils of the same age in a locally determined achievement test;

(2) is at least one year behind in satisfactorily completing coursework or obtaining credits for graduation;

(3) is pregnant or is a parent;

(4) has been assessed as chemically dependent;

(5) has been excluded or expelled according to sections 121A.40 to 121A.56;

(6) has been referred by a school district for enrollment in an eligible program or a program pursuant to section 124D.69;

(7) is a victim of physical or sexual abuse;

(8) has experienced mental health problems;

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(9) has experienced homelessness sometime within six months before requesting a transfer to an eligible program;

(10) speaks English as a second language or has limited English proficiency; or

(11) has withdrawn from school or has been chronically truant; or

(b) any person who is at least 21 years of age and who:

(1) has received fewer than 14 years of public or nonpublic education, beginning at age 5;

(2) has not completed the requirements for a high school diploma; and

(3) at the time of application, (i) is eligible for unemployment benefits or has exhausted the benefits, (ii) is eligible for, or is receiving income maintenance and support services, as defined in section 116L.19, subdivision 5, or (iii) is eligible for services under the displaced homemaker program, ~~state wage-subsidy program~~, or any programs under the federal Jobs Training Partnership Act or its successor.

Sec. 26. Minnesota Statutes 2004, section 155A.03, subdivision 1, is amended to read:

Subdivision 1. **TERMS.** For purposes of sections 155A.03 to ~~155A.26~~ 155A.16, and unless the context clearly requires otherwise, the words defined in this section have the meanings given them.

Sec. 27. Minnesota Statutes 2004, section 161.1419, subdivision 8, is amended to read:

Subd. 8. **EXPIRATION.** The commission shall ~~expire~~ expires on June 30, ~~2003~~ 2007.

Sec. 28. Minnesota Statutes 2004, section 168.33, subdivision 2a, is amended to read:

Subd. 2a. **DEPUTY REGISTRARS, CONTINUATION IN OFFICE.** Persons serving as deputy registrars on the effective date of this act July 1, 1970, shall continue to hold such office until a successor is duly appointed and qualifies.

Sec. 29. Minnesota Statutes 2004, section 169.50, subdivision 1, is amended to read:

Subdivision 1. **REQUIREMENTS; EXCEPTION.** (a) Every motor vehicle and every vehicle that is being drawn at the end of a train of vehicles must be equipped with at least one taillamp, exhibiting a red light plainly visible from a distance of 500 feet to the rear.

(b) Every motor vehicle, other than a truck-tractor, and every vehicle that is being drawn at the end of a train of vehicles, registered in this state and manufactured or assembled after January 1, 1960, must be equipped with at least two taillamps mounted on the rear and on the same level and as widely spaced laterally as practicable. When lighted, the taillamps must comply with the provisions of this section.

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(c) An implement of husbandry being towed by a motor vehicle at a speed of not more than 30 miles per hour, displaying a slow-moving vehicle emblem, and complying with section 169.55, subdivision 2, paragraph (a), clause (4), is not subject to the requirements of this section.

Sec. 30. Minnesota Statutes 2004, section 169.59, subdivision 4, is amended to read:

Subd. 4. **FLASHING WARNING LIGHT.** Any vehicle may be equipped with lamps which may be used for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking, or passing, and when so equipped may display such warning in addition to any other warning signals required by this act section or section 169.50, subdivision 1 or 3; 169.56, subdivision 1, 2, 3, or 4; 169.57, subdivision 1; or 169.64, subdivision 3. The lamps used to display such warnings to the front shall be mounted at the same level and as widely spaced laterally as practicable, and shall display simultaneous flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warnings to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. Instead of a pair of lamps that flash simultaneously, either one or two strobe lights or rotating beacon lights with an amber or yellow lens may be used both to the front and rear of the vehicle. These warning lights shall be visible from a distance of not less than 500 feet under normal atmospheric conditions at night.

Sec. 31. Minnesota Statutes 2004, section 169A.55, subdivision 3, is amended to read:

Subd. 3. **REINSTATEMENT OR ISSUANCE OF PROVISIONAL LICENSE.** The commissioner shall not issue a provisional or regular driver's license to a person whose provisional driver's license was revoked for conviction as a juvenile of violating a violation of section 169A.20, 169A.33, or 169A.35; a violation of a provision of sections 169A.50 to 169A.53; or revoked for conviction of a crash-related moving violation; until the person, following the violation, reaches the age of 18 and satisfactorily:

(1) completes a formal course in driving instruction approved by the commissioner of public safety;

(2) completes an additional three months' experience operating a motor vehicle, as documented to the satisfaction of the commissioner;

(3) completes the written examination for a driver's license with a passing score; and

(4) complies with all other laws for reinstatement of a provisional or regular driver's license, as applicable.

Sec. 32. Minnesota Statutes 2004, section 171.181, subdivision 1, is amended to read:

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Subdivision 1. **FOREIGN STATE CONVICTION.** (a) On revoking or suspending the driver's license of a Minnesota resident as a result of a foreign state conviction, the commissioner shall notify that foreign state when the driver's license is reinstated or a new license issued.

(b) For the purposes of this section, "foreign state" means a state as defined in section 171.01, subdivision 46 47, excluding the state of Minnesota.

Sec. 33. Minnesota Statutes 2004, section 177.23, subdivision 7, is amended to read:

Subd. 7. **EMPLOYEE.** "Employee" means any individual employed by an employer but does not include:

(1) two or fewer specified individuals employed at any given time in agriculture on a farming unit or operation who are paid a salary;

(2) any individual employed in agriculture on a farming unit or operation who is paid a salary greater than the individual would be paid if the individual worked 48 hours at the state minimum wage plus 17 hours at 1-1/2 times the state minimum wage per week;

(3) an individual under 18 who is employed in agriculture on a farm to perform services other than corn detasseling or hand field work when one or both of that minor hand field worker's parents or physical custodians are also hand field workers;

(4) for purposes of section 177.24, an individual under 18 who is employed as a corn detasseler;

(5) any staff member employed on a seasonal basis by an organization for work in an organized resident or day camp operating under a permit issued under section 144.72;

(6) any individual employed in a bona fide executive, administrative, or professional capacity, or a salesperson who conducts no more than 20 percent of sales on the premises of the employer;

(7) any individual who renders service gratuitously for a nonprofit organization;

(8) any individual who serves as an elected official for a political subdivision or who serves on any governmental board, commission, committee or other similar body, or who renders service gratuitously for a political subdivision;

(9) any individual employed by a political subdivision to provide police or fire protection services or employed by an entity whose principal purpose is to provide police or fire protection services to a political subdivision;

(10) any individual employed by a political subdivision who is ineligible for membership in the Public Employees Retirement Association under section 353.01, subdivision 2b, clause (1), (2), (4), or (9);

(11) any driver employed by an employer engaged in the business of operating taxicabs;

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(12) any individual engaged in babysitting as a sole practitioner;

(13) for the purpose of section 177.25, any individual employed on a seasonal basis in a carnival, circus, fair, or ski facility;

(14) any individual under 18 working less than 20 hours per workweek for a municipality as part of a recreational program;

(15) any individual employed by the state as a natural resource manager 1, 2, or 3 (conservation officer);

(16) any individual in a position for which the United States Department of Transportation has power to establish qualifications and maximum hours of service under United States Code, title 49, section 304 31502;

(17) any individual employed as a seafarer. The term "seafarer" means a master of a vessel or any person subject to the authority, direction, and control of the master who is exempt from federal overtime standards under United States Code, title 29, section 213(b)(6), including but not limited to pilots, sailors, engineers, radio operators, firefighters, security guards, pursers, surgeons, cooks, and stewards;

(18) any individual employed by a county in a single-family residence owned by a county home school as authorized under section 260B.060 if the residence is an extension facility of that county home school, and if the individual as part of the employment duties resides at the residence for the purpose of supervising children as defined by section 260C.007, subdivision 4; or

(19) nuns, monks, priests, lay brothers, lay sisters, ministers, deacons, and other members of religious orders who serve pursuant to their religious obligations in schools, hospitals, and other nonprofit institutions operated by the church or religious order.

Sec. 34. Minnesota Statutes 2004, section 216B.61, is amended to read:

216B.61 ACTIONS TO RECOVER PENALTIES.

Actions to recover penalties under ~~Laws 1974,~~ this chapter 429 shall be brought in the name of the state of Minnesota in the district court of Ramsey County.

Sec. 35. Minnesota Statutes 2004, section 237.763, is amended to read:

237.763 EXEMPTION FROM EARNINGS REGULATION AND INVESTIGATION.

Except as provided in the plan and any subsequent plans, a company that has an alternative regulation plan approved under section 237.764, is not subject to the rate-of-return regulation or earnings investigations provisions of section 237.075 or 237.081 during the term of the plan. A company with an approved plan is not subject to the provisions of section 237.57; 237.59; 237.60, subdivisions 1, 2, 4, and 5; ~~237.63;~~ or 237.65, during the term of the plan. Except as specifically provided in this section or in the approved plan, the commission retains all of its authority under section 237.081 to investigate other matters and to issue appropriate orders, and the

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department retains its authority under sections 216A.07 and 237.15 to investigate matters other than the earnings of the company.

Sec. 36. Minnesota Statutes 2004, section 238.37, is amended to read:

238.37 SCOPE; POLE, DUCT, AND CONDUIT AGREEMENTS.

Sections 238.02, subdivisions 3a, 20a, and 31b, and ~~238.36~~ 238.37 to 238.42 only apply to pole, duct, and conduit agreements entered into or renewed between public utilities and cable communications systems on or after January 1, 1976, and have no application to those agreements executed before January 1, 1976, until those agreements are either renewed or substantially renegotiated. If a public utility company and a cable communications system enter into an agreement regarding only pole attachments, sections 238.02, subdivisions 3a, 20a, and 31b, and ~~238.36~~ 238.37 to 238.42 relating to conduit systems are applicable to that agreement and if a public utility company and a cable communications system enter into an agreement regarding only use of a conduit system, sections 238.02, subdivisions 3a, 20a, and 31b, and ~~238.36~~ 238.37 to 238.42 relating to pole attachments are not applicable to that agreement.

Sec. 37. Minnesota Statutes 2004, section 238.38, is amended to read:

238.38 PERMIT TO ATTACH TO POLE OR CONDUIT SYSTEM.

Every pole, duct, and conduit agreement must contain a provision that before attaching to the public utility company's poles or occupying any part of the public utility's conduit system, the cable communications system shall apply and receive a permit for that purpose on a form provided by the public utility company. If the cable communications system accepts the permit, it may attach its equipment to the poles covered by the permit or occupy the conduit system of the public utility to the extent authorized by the permit, subject to sections 238.02, subdivisions 3a, 20a, and 31b, and ~~238.36~~ 238.37 to 238.42 and the terms of the agreement between the contracting parties. In granting or denying a permit, the public utility has the right to determine whether a grant of a permit would adversely affect its public services, duties, and obligations or have an adverse effect on the economy, safety, and future needs of the public utility.

Sec. 38. Minnesota Statutes 2004, section 238.42, is amended to read:

238.42 ADDITIONAL CONTRACT TERMS.

Nothing contained in sections 238.02, subdivisions 3a, 20a, and 31b, and ~~238.36~~ 238.37 to 238.42 in any way prohibits a public utility company from including in its pole, duct, and conduit agreements with cable communications systems additional terms which do not conflict with sections 238.02, subdivisions 3a, 20a, and 31b, and ~~238.36~~ 238.37 to 238.42.

Sec. 39. Minnesota Statutes 2004, section 239.791, subdivision 15, is amended to read:

Subd. 15. **EXEMPTION FOR CERTAIN BLEND PUMPS.** A person responsible for the product, who offers for sale, sells, or dispenses nonoxygenated premium

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gasoline under one or more of the exemptions in subdivisions 10 to 14, may sell, offer for sale, or dispense oxygenated gasoline that contains less than the minimum amount of ethanol required under subdivision 1 if all of the following conditions are met:

- (1) the blended gasoline has an octane rating of 88 or greater;
- (2) the gasoline is a blend of oxygenated gasoline meeting the requirements of subdivision 1 with nonoxygenated premium gasoline;
- (3) the blended gasoline contains not more than ten percent nonoxygenated premium gasoline;
- (4) the blending of oxygenated gasoline with nonoxygenated gasoline occurs within the gasoline dispenser; and
- (5) the gasoline station at which the gasoline is sold, offered for sale, or delivered is equipped to store gasoline in not more than two storage tanks.

This subdivision applies only to those persons who ~~meet~~ met the conditions in clauses (1) through (5) on the effective date of this act August 1, 2004, and have registered with the director ~~within three months of the effective date of this act by November 1, 2004.~~

Sec. 40. Minnesota Statutes 2004, section 244.05, subdivision 4, is amended to read:

Subd. 4. **MINIMUM IMPRISONMENT, LIFE SENTENCE.** An inmate serving a mandatory life sentence under section 609.106 must not be given supervised release under this section. An inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); or 609.109, subdivision 2a 3, must not be given supervised release under this section without having served a minimum term of 30 years. An inmate serving a mandatory life sentence under section 609.385 must not be given supervised release under this section without having served a minimum term of imprisonment of 17 years.

Sec. 41. Minnesota Statutes 2004, section 244.05, subdivision 5, is amended to read:

Subd. 5. **SUPERVISED RELEASE, LIFE SENTENCE.** (a) The commissioner of corrections may, under rules promulgated by the commissioner, give supervised release to an inmate serving a mandatory life sentence under section 609.185, clause (1), (3), (5), or (6); 609.109, subdivision 2a 3; or 609.385 after the inmate has served the minimum term of imprisonment specified in subdivision 4.

(b) The commissioner shall require the preparation of a community investigation report and shall consider the findings of the report when making a supervised release decision under this subdivision. The report shall reflect the sentiment of the various elements of the community toward the inmate, both at the time of the offense and at the present time. The report shall include the views of the sentencing judge, the prosecutor, any law enforcement personnel who may have been involved in the case, and any successors to these individuals who may have information relevant to the

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supervised release decision. The report shall also include the views of the victim and the victim's family unless the victim or the victim's family chooses not to participate.

(c) The commissioner shall make reasonable efforts to notify the victim, in advance, of the time and place of the inmate's supervised release review hearing. The victim has a right to submit an oral or written statement at the review hearing. The statement may summarize the harm suffered by the victim as a result of the crime and give the victim's recommendation on whether the inmate should be given supervised release at this time. The commissioner must consider the victim's statement when making the supervised release decision.

(d) As used in this subdivision, "victim" means the individual who suffered harm as a result of the inmate's crime or, if the individual is deceased, the deceased's surviving spouse or next of kin.

Sec. 42. Minnesota Statutes 2004, section 245.466, subdivision 1, is amended to read:

Subdivision 1. **DEVELOPMENT OF SERVICES.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable adult mental health services. The county board may provide some or all of the mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 or with any state facility or program as defined in section 246.50, subdivision 3, to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. ~~County boards shall demonstrate their continuous progress toward full implementation of sections 245.461 to 245.486 during the period July 1, 1987, to January 1, 1990. County boards must develop fully each of the treatment services and management activities prescribed by sections 245.461 to 245.486 by January 1, 1990, according to the priorities established in section 245.464 and the adult mental health component of the community social services plan approved by the commissioner.~~

Sec. 43. Minnesota Statutes 2004, section 245.4875, subdivision 1, is amended to read:

Subdivision 1. **DEVELOPMENT OF CHILDREN'S SERVICES.** The county board in each county is responsible for using all available resources to develop and coordinate a system of locally available and affordable children's mental health services. The county board may provide some or all of the children's mental health services and activities specified in subdivision 2 directly through a county agency or under contracts with other individuals or agencies. A county or counties may enter into an agreement with a regional treatment center under section 246.57 to enable the county or counties to provide the treatment services in subdivision 2. Services provided through an agreement between a county and a regional treatment center must meet the same requirements as services from other service providers. ~~County boards shall~~

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demonstrate their continuous progress toward fully implementing sections 245.487 to 245.4887 during the period July 1, 1989, to January 1, 1992. County boards must develop fully each of the treatment services prescribed by sections 245.487 to 245.4887 by January 1, 1992, according to the priorities established in section 245.4873 and the children's mental health component of the community social services plan approved by the commissioner under section 245.4887.

Sec. 44. Minnesota Statutes 2004, section 245.75, is amended to read:

245.75 FEDERAL GRANTS FOR THE WELFARE AND RELIEF OF MINNESOTA INDIANS.

The commissioner of human services is authorized to enter into contracts with the Department of Health, Education, Welfare and the Department of Interior, Bureau of Indian Affairs, for the purpose of receiving federal grants for the welfare and relief of Minnesota Indians. Such contract and the plan of distribution of such funds shall be subject to approval of the Minnesota Public Relief Advisory Committee.

Sec. 45. Minnesota Statutes 2004, section 246B.04, subdivision 2, is amended to read:

Subd. 2. BAN ON OBSCENE MATERIAL OR PORNOGRAPHIC WORK.

The commissioner shall prohibit persons civilly committed as sexual psychopathic personalities or sexually dangerous persons under sections 246.43 and section 253B.185 from having or receiving material that is obscene as defined under section 617.241, subdivision 1, material that depicts sexual conduct as defined under section 617.241, subdivision 1, or pornographic work as defined under section 617.246, subdivision 1, while receiving services in any secure treatment facilities operated by the Minnesota sex offender program or any other facilities operated by the commissioner.

Sec. 46. Minnesota Statutes 2004, section 252.24, subdivision 5, is amended to read:

Subd. 5. DEVELOPMENTAL ACHIEVEMENT CENTERS: SALARY ADJUSTMENT PER DIEM. The commissioner shall approve a two percent increase in the payment rates for day training and habilitation services vendors effective July 1, 1991. All revenue generated shall be used by vendors to increase salaries, fringe benefits, and payroll taxes by at least three percent for personnel below top management. County boards shall amend contracts with vendors to require that all revenue generated by this provision is expended on salary increases to staff below top management. County boards shall verify in writing to the commissioner that each vendor has complied with this requirement. If a county board determines that a vendor has not complied with this requirement for a specific contract period, the county board shall reduce the vendor's payment rates for the next contract period to reflect the amount of money not spent appropriately. The commissioner shall modify reporting requirements for vendors and counties as necessary to monitor compliance with this provision.

Each county agency shall report to the commissioner by July 30, 1991, its actual social service day training and habilitation expenditures for calendar year 1990. The

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commissioner shall allocate the day habilitation service CSSA appropriation made available for this purpose to county agencies in proportion to these expenditures.

Sec. 47. Minnesota Statutes 2004, section 256B.055, subdivision 12, is amended to read:

Subd. 12. **DISABLED CHILDREN.** (a) A person is eligible for medical assistance if the person is under age 19 and qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance under the state plan if residing in a medical institution, and the child requires a level of care provided in a hospital, nursing facility, or intermediate care facility for persons with mental retardation or related conditions, for whom home care is appropriate, provided that the cost to medical assistance under this section is not more than the amount that medical assistance would pay for if the child resides in an institution. After the child is determined to be eligible under this section, the commissioner shall review the child's disability under United States Code, title 42, section 1382c(a) and level of care defined under this section no more often than annually and may elect, based on the recommendation of health care professionals under contract with the state medical review team, to extend the review of disability and level of care up to a maximum of four years. The commissioner's decision on the frequency of continuing review of disability and level of care is not subject to administrative appeal under section 256.045. Nothing in this subdivision shall be construed as affecting other redeterminations of medical assistance eligibility under this chapter and annual cost-effective reviews under this section.

(b) For purposes of this subdivision, "hospital" means an institution as defined in section 144.696, subdivision 3, 144.55, subdivision 3, or Minnesota Rules, part 4640.3600, and licensed pursuant to sections 144.50 to 144.58. For purposes of this subdivision, a child requires a level of care provided in a hospital if the child is determined by the commissioner to need an extensive array of health services, including mental health services, for an undetermined period of time, whose health condition requires frequent monitoring and treatment by a health care professional or by a person supervised by a health care professional, who would reside in a hospital or require frequent hospitalization if these services were not provided, and the daily care needs are more complex than a nursing facility level of care.

A child with serious emotional disturbance requires a level of care provided in a hospital if the commissioner determines that the individual requires 24-hour supervision because the person exhibits recurrent or frequent suicidal or homicidal ideation or behavior, recurrent or frequent psychosomatic disorders or somatopsychic disorders that may become life threatening, recurrent or frequent severe socially unacceptable behavior associated with psychiatric disorder, ongoing and chronic psychosis or severe, ongoing and chronic developmental problems requiring continuous skilled observation, or severe disabling symptoms for which office-centered outpatient treatment is not adequate, and which overall severely impact the individual's ability to function.

(c) For purposes of this subdivision, "nursing facility" means a facility which provides nursing care as defined in section 144A.01, subdivision 5, licensed pursuant

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to sections 144A.02 to 144A.10, which is appropriate if a person is in active restorative treatment; is in need of special treatments provided or supervised by a licensed nurse; or has unpredictable episodes of active disease processes requiring immediate judgment by a licensed nurse. For purposes of this subdivision, a child requires the level of care provided in a nursing facility if the child is determined by the commissioner to meet the requirements of the preadmission screening assessment document under section 256B.0911 and the home care independent rating document under section 256B.0627, subdivision 5, paragraph ~~(f)~~ (e), clause (2), item (iii), adjusted to address age-appropriate standards for children age 18 and under, pursuant to section 256B.0627, subdivision 5, paragraph (d), clause (2).

(d) For purposes of this subdivision, "intermediate care facility for persons with mental retardation or related conditions" or "ICF/MR" means a program licensed to provide services to persons with mental retardation under section 252.28, and chapter 245A, and a physical plant licensed as a supervised living facility under chapter 144, which together are certified by the Minnesota Department of Health as meeting the standards in Code of Federal Regulations, title 42, part 483, for an intermediate care facility which provides services for persons with mental retardation or persons with related conditions who require 24-hour supervision and active treatment for medical, behavioral, or habilitation needs. For purposes of this subdivision, a child requires a level of care provided in an ICF/MR if the commissioner finds that the child has mental retardation or a related condition in accordance with section 256B.092, is in need of a 24-hour plan of care and active treatment similar to persons with mental retardation, and there is a reasonable indication that the child will need ICF/MR services.

(e) For purposes of this subdivision, a person requires the level of care provided in a nursing facility if the person requires 24-hour monitoring or supervision and a plan of mental health treatment because of specific symptoms or functional impairments associated with a serious mental illness or disorder diagnosis, which meet severity criteria for mental health established by the commissioner and published in March 1997 as the Minnesota Mental Health Level of Care for Children and Adolescents with Severe Emotional Disorders.

(f) The determination of the level of care needed by the child shall be made by the commissioner based on information supplied to the commissioner by the parent or guardian, the child's physician or physicians, and other professionals as requested by the commissioner. The commissioner shall establish a screening team to conduct the level of care determinations according to this subdivision.

(g) If a child meets the conditions in paragraph (b), (c), (d), or (e), the commissioner must assess the case to determine whether:

(1) the child qualifies as a disabled individual under United States Code, title 42, section 1382c(a), and would be eligible for medical assistance if residing in a medical institution; and

(2) the cost of medical assistance services for the child, if eligible under this subdivision, would not be more than the cost to medical assistance if the child resides in a medical institution to be determined as follows:

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(i) for a child who requires a level of care provided in an ICF/MR, the cost of care for the child in an institution shall be determined using the average payment rate established for the regional treatment centers that are certified as ICFs/MR;

(ii) for a child who requires a level of care provided in an inpatient hospital setting according to paragraph (b), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3520, items F and G; and

(iii) for a child who requires a level of care provided in a nursing facility according to paragraph (c) or (e), cost-effectiveness shall be determined according to Minnesota Rules, part 9505.3040, except that the nursing facility average rate shall be adjusted to reflect rates which would be paid for children under age 16. The commissioner may authorize an amount up to the amount medical assistance would pay for a child referred to the commissioner by the preadmission screening team under section 256B.0911.

(h) Children eligible for medical assistance services under section 256B.055, subdivision 12, as of June 30, 1995, must be screened according to the criteria in this subdivision prior to January 1, 1996. Children found to be ineligible may not be removed from the program until January 1, 1996.

Sec. 48. Minnesota Statutes 2004, section 256B.0625, subdivision 6a, is amended to read:

Subd. 6a. **HOME HEALTH SERVICES.** Home health services are those services specified in Minnesota Rules, part ~~9505.0290~~ 9505.0295. Medical assistance covers home health services at a recipient's home residence. Medical assistance does not cover home health services for residents of a hospital, nursing facility, or intermediate care facility, unless the commissioner of human services has prior authorized skilled nurse visits for less than 90 days for a resident at an intermediate care facility for persons with mental retardation, to prevent an admission to a hospital or nursing facility or unless a resident who is otherwise eligible is on leave from the facility and the facility either pays for the home health services or forgoes the facility per diem for the leave days that home health services are used. Home health services must be provided by a Medicare certified home health agency. All nursing and home health aide services must be provided according to section 256B.0627.

Sec. 49. Minnesota Statutes 2004, section 256B.0627, subdivision 1, is amended to read:

Subdivision 1. **DEFINITION.** (a) "Activities of daily living" includes eating, toileting, grooming, dressing, bathing, transferring, mobility, and positioning.

(b) "Assessment" means a review and evaluation of a recipient's need for home care services conducted in person. Assessments for private duty nursing shall be conducted by a registered private duty nurse. Assessments for home health agency services shall be conducted by a home health agency nurse. Assessments for personal care assistant services shall be conducted by the county public health nurse or a certified public health nurse under contract with the county. A face-to-face assessment must include: documentation of health status, determination of need, evaluation of

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service effectiveness, identification of appropriate services, service plan development or modification, coordination of services, referrals and follow-up to appropriate payers and community resources, completion of required reports, recommendation of service authorization, and consumer education. Once the need for personal care assistant services is determined under this section, the county public health nurse or certified public health nurse under contract with the county is responsible for communicating this recommendation to the commissioner and the recipient. A face-to-face assessment for personal care assistant services is conducted on those recipients who have never had a county public health nurse assessment. A face-to-face assessment must occur at least annually or when there is a significant change in the recipient's condition or when there is a change in the need for personal care assistant services. A service update may substitute for the annual face-to-face assessment when there is not a significant change in recipient condition or a change in the need for personal care assistant service. A service update or review for temporary increase includes a review of initial baseline data, evaluation of service effectiveness, redetermination of service need, modification of service plan and appropriate referrals, update of initial forms, obtaining service authorization, and on going consumer education. Assessments for medical assistance home care services for mental retardation or related conditions and alternative care services for developmentally disabled home and community-based waived recipients may be conducted by the county public health nurse to ensure coordination and avoid duplication. Assessments must be completed on forms provided by the commissioner within 30 days of a request for home care services by a recipient or responsible party.

(c) "Care plan" means a written description of personal care assistant services developed by the qualified professional or the recipient's physician with the recipient or responsible party to be used by the personal care assistant with a copy provided to the recipient or responsible party.

(d) "Complex and regular private duty nursing care" means:

(1) complex care is private duty nursing provided to recipients who are ventilator dependent or for whom a physician has certified that were it not for private duty nursing the recipient would meet the criteria for inpatient hospital intensive care unit (ICU) level of care; and

(2) regular care is private duty nursing provided to all other recipients.

(e) "Health-related functions" means functions that can be delegated or assigned by a licensed health care professional under state law to be performed by a personal care attendant assistant.

(f) "Home care services" means a health service, determined by the commissioner as medically necessary, that is ordered by a physician and documented in a service plan that is reviewed by the physician at least once every 60 days for the provision of home health services, or private duty nursing, or at least once every 365 days for personal care. Home care services are provided to the recipient at the recipient's residence that is a place other than a hospital or long-term care facility or as specified in section 256B.0625.

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(g) "Instrumental activities of daily living" includes meal planning and preparation, managing finances, shopping for food, clothing, and other essential items, performing essential household chores, communication by telephone and other media, and getting around and participating in the community.

(h) "Medically necessary" has the meaning given in Minnesota Rules, parts 9505.0170 to 9505.0475.

(i) "Personal care assistant" means a person who:

(1) is at least 18 years old, except for persons 16 to 18 years of age who participated in a related school-based job training program or have completed a certified home health aide competency evaluation;

(2) is able to effectively communicate with the recipient and personal care provider organization;

(3) effective July 1, 1996, has completed one of the training requirements as specified in Minnesota Rules, part 9505.0335, subpart 3, items A to D;

(4) has the ability to, and provides covered personal care assistant services according to the recipient's care plan, responds appropriately to recipient needs, and reports changes in the recipient's condition to the supervising qualified professional or physician;

(5) is not a consumer of personal care assistant services; and

(6) is subject to criminal background checks and procedures specified in chapter 245C.

(j) "Personal care provider organization" means an organization enrolled to provide personal care assistant services under the medical assistance program that complies with the following: (1) owners who have a five percent interest or more, and managerial officials are subject to a background study as provided in chapter 245C. This applies to currently enrolled personal care provider organizations and those agencies seeking enrollment as a personal care provider organization. An organization will be barred from enrollment if an owner or managerial official of the organization has been convicted of a crime specified in chapter 245C, or a comparable crime in another jurisdiction, unless the owner or managerial official meets the reconsideration criteria specified in chapter 245C; (2) the organization must maintain a surety bond and liability insurance throughout the duration of enrollment and provides proof thereof. The insurer must notify the Department of Human Services of the cancellation or lapse of policy; and (3) the organization must maintain documentation of services as specified in Minnesota Rules, part 9505.2175, subpart 7, as well as evidence of compliance with personal care assistant training requirements.

(k) "Responsible party" means an individual who is capable of providing the support necessary to assist the recipient to live in the community, is at least 18 years old, actively participates in planning and directing of personal care assistant services, and is not the personal care assistant. The responsible party must be accessible to the recipient and the personal care assistant when personal care services are being

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provided and monitor the services at least weekly according to the plan of care. The responsible party must be identified at the time of assessment and listed on the recipient's service agreement and care plan. Responsible parties may delegate the responsibility to another adult who is not the personal care assistant. The responsible party must assure that the delegate performs the functions of the responsible party, is identified at the time of the assessment, and is listed on the service agreement and the care plan. Foster care license holders may be designated the responsible party for residents of the foster care home if case management is provided as required in section 256B.0625, subdivision 19a. For persons who, as of April 1, 1992, are sharing personal care assistant services in order to obtain the availability of 24-hour coverage, an employee of the personal care provider organization may be designated as the responsible party if case management is provided as required in section 256B.0625, subdivision 19a.

(l) "Service plan" means a written description of the services needed based on the assessment developed by the nurse who conducts the assessment together with the recipient or responsible party. The service plan shall include a description of the covered home care services, frequency and duration of services, and expected outcomes and goals. The recipient and the provider chosen by the recipient or responsible party must be given a copy of the completed service plan within 30 calendar days of the request for home care services by the recipient or responsible party.

(m) "Skilled nurse visits" are provided in a recipient's residence under a plan of care or service plan that specifies a level of care which the nurse is qualified to provide. These services are:

(1) nursing services according to the written plan of care or service plan and accepted standards of medical and nursing practice in accordance with chapter 148;

(2) services which due to the recipient's medical condition may only be safely and effectively provided by a registered nurse or a licensed practical nurse;

(3) assessments performed only by a registered nurse; and

(4) teaching and training the recipient, the recipient's family, or other caregivers requiring the skills of a registered nurse or licensed practical nurse.

(n) "Telehomecare" means the use of telecommunications technology by a home health care professional to deliver home health care services, within the professional's scope of practice, to a patient located at a site other than the site where the practitioner is located.

Sec. 50. Minnesota Statutes 2004, section 256B.0627, subdivision 5, is amended to read:

Subd. 5. **LIMITATION ON PAYMENTS.** Medical assistance payments for home care services shall be limited according to this subdivision.

(a) **LIMITS ON SERVICES WITHOUT PRIOR AUTHORIZATION.** A recipient may receive the following home care services during a calendar year:

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(1) up to two face-to-face assessments to determine a recipient's need for personal care assistant services;

(2) one service update done to determine a recipient's need for personal care assistant services; and

(3) up to nine skilled nurse visits.

(b) **PRIOR AUTHORIZATION; EXCEPTIONS.** All home care services above the limits in paragraph (a) must receive the commissioner's prior authorization, except when:

(1) the home care services were required to treat an emergency medical condition that if not immediately treated could cause a recipient serious physical or mental disability, continuation of severe pain, or death. The provider must request retroactive authorization no later than five working days after giving the initial service. The provider must be able to substantiate the emergency by documentation such as reports, notes, and admission or discharge histories;

(2) the home care services were provided on or after the date on which the recipient's eligibility began, but before the date on which the recipient was notified that the case was opened. Authorization will be considered if the request is submitted by the provider within 20 working days of the date the recipient was notified that the case was opened;

(3) a third-party payor for home care services has denied or adjusted a payment. Authorization requests must be submitted by the provider within 20 working days of the notice of denial or adjustment. A copy of the notice must be included with the request;

(4) the commissioner has determined that a county or state human services agency has made an error; or

(5) the professional nurse determines an immediate need for up to 40 skilled nursing or home health aide visits per calendar year and submits a request for authorization within 20 working days of the initial service date, and medical assistance is determined to be the appropriate payer.

(c) **RETROACTIVE AUTHORIZATION.** A request for retroactive authorization will be evaluated according to the same criteria applied to prior authorization requests.

(d) **ASSESSMENT AND SERVICE PLAN.** Assessments under section 256B.0627, subdivision 1, paragraph (a) (b), shall be conducted initially, and at least annually thereafter, in person with the recipient and result in a completed service plan using forms specified by the commissioner. Within 30 days of recipient or responsible party request for home care services, the assessment, the service plan, and other information necessary to determine medical necessity such as diagnostic or testing information, social or medical histories, and hospital or facility discharge summaries shall be submitted to the commissioner. Notwithstanding the provisions of section 256B.0627, subdivision 12, the commissioner shall maximize federal financial

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participation to pay for public health nurse assessments for personal care services. For personal care assistant services:

(1) The amount and type of service authorized based upon the assessment and service plan will follow the recipient if the recipient chooses to change providers.

(2) If the recipient's medical need changes, the recipient's provider may assess the need for a change in service authorization and request the change from the county public health nurse. Within 30 days of the request, the public health nurse will determine whether to request the change in services based upon the provider assessment, or conduct a home visit to assess the need and determine whether the change is appropriate.

(3) To continue to receive personal care assistant services after the first year, the recipient or the responsible party, in conjunction with the public health nurse, may complete a service update on forms developed by the commissioner according to criteria and procedures in subdivision 1.

(e) **PRIOR AUTHORIZATION.** The commissioner, or the commissioner's designee, shall review the assessment, service update, request for temporary services, service plan, and any additional information that is submitted. The commissioner shall, within 30 days after receiving a complete request, assessment, and service plan, authorize home care services as follows:

(1) **HOME HEALTH SERVICES.** All home health services provided by a home health aide must be prior authorized by the commissioner or the commissioner's designee. Prior authorization must be based on medical necessity and cost-effectiveness when compared with other care options. When home health services are used in combination with personal care and private duty nursing, the cost of all home care services shall be considered for cost-effectiveness. The commissioner shall limit home health aide visits to no more than one visit each per day. The commissioner, or the commissioner's designee, may authorize up to two skilled nurse visits per day.

(2) **PERSONAL CARE ASSISTANT SERVICES.** (i) All personal care assistant services and supervision by a qualified professional, if requested by the recipient, must be prior authorized by the commissioner or the commissioner's designee except for the assessments established in paragraph (a). The amount of personal care assistant services authorized must be based on the recipient's home care rating. A child may not be found to be dependent in an activity of daily living if because of the child's age an adult would either perform the activity for the child or assist the child with the activity and the amount of assistance needed is similar to the assistance appropriate for a typical child of the same age. Based on medical necessity, the commissioner may authorize:

(A) up to two times the average number of direct care hours provided in nursing facilities for the recipient's comparable case mix level; or

(B) up to three times the average number of direct care hours provided in nursing facilities for recipients who have complex medical needs or are dependent in at least

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seven activities of daily living and need physical assistance with eating or have a neurological diagnosis; or

(C) up to 60 percent of the average reimbursement rate, as of July 1, 1991, for care provided in a regional treatment center for recipients who have Level I behavior, plus any inflation adjustment as provided by the legislature for personal care service; or

(D) up to the amount the commissioner would pay, as of July 1, 1991, plus any inflation adjustment provided for home care services, for care provided in a regional treatment center for recipients referred to the commissioner by a regional treatment center preadmission evaluation team. For purposes of this clause, home care services means all services provided in the home or community that would be included in the payment to a regional treatment center; or

(E) up to the amount medical assistance would reimburse for facility care for recipients referred to the commissioner by a preadmission screening team established under section 256B.0911 or 256B.092; and

(F) a reasonable amount of time for the provision of supervision by a qualified professional of personal care assistant services, if a qualified professional is requested by the recipient or responsible party.

(ii) The number of direct care hours shall be determined according to the annual cost report submitted to the department by nursing facilities. The average number of direct care hours, as established by May 1, 1992, shall be calculated and incorporated into the home care limits on July 1, 1992. These limits shall be calculated to the nearest quarter hour.

(iii) The home care rating shall be determined by the commissioner or the commissioner's designee based on information submitted to the commissioner by the county public health nurse on forms specified by the commissioner. The home care rating shall be a combination of current assessment tools developed under sections 256B.0911 and 256B.501 with an addition for seizure activity that will assess the frequency and severity of seizure activity and with adjustments, additions, and clarifications that are necessary to reflect the needs and conditions of recipients who need home care including children and adults under 65 years of age. The commissioner shall establish these forms and protocols under this section and shall use an advisory group, including representatives of recipients, providers, and counties, for consultation in establishing and revising the forms and protocols.

(iv) A recipient shall qualify as having complex medical needs if the care required is difficult to perform and because of recipient's medical condition requires more time than community-based standards allow or requires more skill than would ordinarily be required and the recipient needs or has one or more of the following:

- (A) daily tube feedings;
- (B) daily parenteral therapy;
- (C) wound or decubiti care;

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(D) postural drainage, percussion, nebulizer treatments, suctioning, tracheotomy care, oxygen, mechanical ventilation;

(E) catheterization;

(F) ostomy care;

(G) quadriplegia; or

(H) other comparable medical conditions or treatments the commissioner determines would otherwise require institutional care.

(v) A recipient shall qualify as having Level I behavior if there is reasonable supporting evidence that the recipient exhibits, or that without supervision, observation, or redirection would exhibit, one or more of the following behaviors that cause, or have the potential to cause:

(A) injury to the recipient's own body;

(B) physical injury to other people; or

(C) destruction of property.

(vi) Time authorized for personal care relating to Level I behavior in subclause (v), items (A) to (C), shall be based on the predictability, frequency, and amount of intervention required.

(vii) A recipient shall qualify as having Level II behavior if the recipient exhibits on a daily basis one or more of the following behaviors that interfere with the completion of personal care assistant services under subdivision 4, paragraph (a):

(A) unusual or repetitive habits;

(B) withdrawn behavior; or

(C) offensive behavior.

(viii) A recipient with a home care rating of Level II behavior in subclause (vii), items (A) to (C), shall be rated as comparable to a recipient with complex medical needs under subclause (iv). If a recipient has both complex medical needs and Level II behavior, the home care rating shall be the next complex category up to the maximum rating under subclause (i), item (B).

(3) **PRIVATE DUTY NURSING SERVICES.** All private duty nursing services shall be prior authorized by the commissioner or the commissioner's designee. Prior authorization for private duty nursing services shall be based on medical necessity and cost-effectiveness when compared with alternative care options. The commissioner may authorize medically necessary private duty nursing services in quarter-hour units when:

(i) the recipient requires more individual and continuous care than can be provided during a nurse visit; or

(ii) the cares are outside of the scope of services that can be provided by a home health aide or personal care assistant.

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The commissioner may authorize:

(A) up to two times the average amount of direct care hours provided in nursing facilities statewide for case mix classification "K" as established by the annual cost report submitted to the department by nursing facilities in May 1992;

(B) private duty nursing in combination with other home care services up to the total cost allowed under clause (2);

(C) up to 16 hours per day if the recipient requires more nursing than the maximum number of direct care hours as established in item (A) and the recipient meets the hospital admission criteria established under Minnesota Rules, parts 9505.0501 to 9505.0540.

The commissioner may authorize up to 16 hours per day of medically necessary private duty nursing services or up to 24 hours per day of medically necessary private duty nursing services until such time as the commissioner is able to make a determination of eligibility for recipients who are cooperatively applying for home care services under the community alternative care program developed under section 256B.49, or until it is determined by the appropriate regulatory agency that a health benefit plan is or is not required to pay for appropriate medically necessary health care services. Recipients or their representatives must cooperatively assist the commissioner in obtaining this determination. Recipients who are eligible for the community alternative care program may not receive more hours of nursing under this section than would otherwise be authorized under section 256B.49.

(4) **VENTILATOR-DEPENDENT RECIPIENTS.** If the recipient is ventilator-dependent, the monthly medical assistance authorization for home care services shall not exceed what the commissioner would pay for care at the highest cost hospital designated as a long-term hospital under the Medicare program. For purposes of this clause, home care services means all services provided in the home that would be included in the payment for care at the long-term hospital. "Ventilator-dependent" means an individual who receives mechanical ventilation for life support at least six hours per day and is expected to be or has been dependent for at least 30 consecutive days.

(f) **PRIOR AUTHORIZATION; TIME LIMITS.** The commissioner or the commissioner's designee shall determine the time period for which a prior authorization shall be effective. If the recipient continues to require home care services beyond the duration of the prior authorization, the home care provider must request a new prior authorization. Under no circumstances, other than the exceptions in paragraph (b), shall a prior authorization be valid prior to the date the commissioner receives the request or for more than 12 months. A recipient who appeals a reduction in previously authorized home care services may continue previously authorized services, other than temporary services under paragraph (h), pending an appeal under section 256.045. The commissioner must provide a detailed explanation of why the authorized services are reduced in amount from those requested by the home care provider.

(g) **APPROVAL OF HOME CARE SERVICES.** The commissioner or the commissioner's designee shall determine the medical necessity of home care services,

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the level of caregiver according to subdivision 2, and the institutional comparison according to this subdivision, the cost-effectiveness of services, and the amount, scope, and duration of home care services reimbursable by medical assistance, based on the assessment, primary payer coverage determination information as required, the service plan, the recipient's age, the cost of services, the recipient's medical condition, and diagnosis or disability. The commissioner may publish additional criteria for determining medical necessity according to section 256B.04.

(h) PRIOR AUTHORIZATION REQUESTS; TEMPORARY SERVICES.

The agency nurse, the independently enrolled private duty nurse, or county public health nurse may request a temporary authorization for home care services by telephone. The commissioner may approve a temporary level of home care services based on the assessment, and service or care plan information, and primary payer coverage determination information as required. Authorization for a temporary level of home care services including nurse supervision is limited to the time specified by the commissioner, but shall not exceed 45 days, unless extended because the county public health nurse has not completed the required assessment and service plan, or the commissioner's determination has not been made. The level of services authorized under this provision shall have no bearing on a future prior authorization.

(i) PRIOR AUTHORIZATION REQUIRED IN FOSTER CARE SETTING.

Home care services provided in an adult or child foster care setting must receive prior authorization by the department according to the limits established in paragraph (a).

The commissioner may not authorize:

(1) home care services that are the responsibility of the foster care provider under the terms of the foster care placement agreement and administrative rules;

(2) personal care assistant services when the foster care license holder is also the personal care provider or personal care assistant unless the recipient can direct the recipient's own care, or case management is provided as required in section 256B.0625, subdivision 19a;

(3) personal care assistant services when the responsible party is an employee of, or under contract with, or has any direct or indirect financial relationship with the personal care provider or personal care assistant, unless case management is provided as required in section 256B.0625, subdivision 19a; or

(4) personal care assistant and private duty nursing services when the number of foster care residents is greater than four unless the county responsible for the recipient's foster placement made the placement prior to April 1, 1992, requests that personal care assistant and private duty nursing services be provided, and case management is provided as required in section 256B.0625, subdivision 19a.

Sec. 51. Minnesota Statutes 2004, section 256B.0917, subdivision 4, is amended to read:

Subd. 4. **ACCESSIBLE INFORMATION, SCREENING, AND ASSESSMENT FUNCTION.** (a) The projects selected by and under contract with the

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commissioner shall establish an accessible information, screening, and assessment function for persons who need assistance and information regarding long-term care. This accessible information, screening, and assessment activity shall include information and referral, early intervention, follow-up contacts, telephone screening, home visits, assessments, preadmission screening, and relocation case management for the frail elderly and their caregivers in the area served by the county or counties. The purpose is to ensure that information and help is provided to elderly persons and their families in a timely fashion, when they are making decisions about long-term care. These functions may be split among various agencies, but must be coordinated by the local long-term care coordinating team.

(b) Accessible information, screening, and assessment functions shall be reimbursed as follows:

(1) The screenings of all persons entering nursing homes shall be reimbursed as defined in section 256B.0911, subdivision 6; and

(2) Additional state administrative funds shall be available for the access, screening, and assessment activities that are not reimbursed under clause (1). This amount shall not exceed the amount authorized in the guidelines and in instructions for the application and must be within the amount appropriated for this activity.

(c) Any information and referral functions funded by other sources, such as Title III of the Older Americans Act and Title XX of the Social Security Act and the ~~Community Social Services Act~~, shall be considered by the local long-term care coordinating team in establishing this function to avoid duplication and to ensure access to information for persons needing help and information regarding long-term care.

(d) The lead agency or the agencies under contract with the lead agency which are responsible for the accessible information, screening, and assessment function must complete the forms and reports required by the commissioner as specified in the contract.

Sec. 52. Minnesota Statutes 2004, section 256B.0917, subdivision 5, is amended to read:

Subd. 5. **SERVICE DEVELOPMENT AND SERVICE DELIVERY.** (a) In addition to the access, screening, and assessment activity, each local strategy may include provisions for the following:

(1) the addition of a full-time staff person who is responsible to develop the following services and recruit providers as established in the contract:

(i) additional adult family foster care homes;

(ii) family adult day care providers as defined in section 256B.0919, subdivision 2;

(iii) an assisted living program in an apartment;

(iv) a congregate housing service project in a subsidized housing project; and

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(v) the expansion of evening and weekend coverage of home care services as deemed necessary by the local strategic plan;

(2) small incentive grants to new adult family care providers for renovations needed to meet licensure requirements;

~~(3) a plan to apply for a congregate housing service project as identified in section 256.9731, authorized by the Minnesota Board on Aging, to the extent that funds are available;~~

(4) ~~(3)~~ a plan to divert new applicants to nursing homes and to relocate a targeted population from nursing homes, using the individual's own resources or the funding available for services;

~~(5)~~ (4) one or more caregiver support and respite care projects, as described in subdivision 6; and

~~(6)~~ (5) one or more living-at-home/block nurse projects, as described in subdivisions 7 to 10.

(b) The expansion of alternative care clients under paragraph (a) shall be accomplished with the funds provided under section 256B.0913, and includes the allocation of targeted funds. The funding for all participating counties must be coordinated by the local long-term care coordinating team and must be part of the local long-term care strategy. Alternative care funds may be transferred from one SAIL county to another within a designated SAIL project area during a fiscal year as authorized by the local long-term care coordinating team and approved by the commissioner. The base allocation used for a future year shall reflect the final transfer. Each county retains responsibility for reimbursement as defined in section 256B.0913, subdivision 12. All other requirements for the alternative care program must be met unless an exception is provided in this section. The commissioner may establish by contract a reimbursement mechanism for alternative care that does not require invoice processing through the Medical Assistance Management Information System (MMIS). The commissioner and local agencies must assure that the same client and reimbursement data is obtained as is available under MMIS.

(c) The administration of these components is the responsibility of the agencies selected by the local coordinating team and under contract with the local lead agency. However, administrative funds for paragraph (a), clauses (2) to ~~(5)~~ (4), and grant funds for paragraph (a), ~~clauses (6) and (7)~~ clause (5), shall be granted to the local lead agency. The funding available for each component is based on the plan submitted and the amount negotiated in the contract.

Sec. 53. Minnesota Statutes 2004, section 256B.0951, subdivision 8, is amended to read:

Subd. 8. **FEDERAL WAIVER.** The commissioner of human services shall seek a federal waiver to allow intermediate care facilities for persons with mental retardation (ICFs/MR) in region 10 of Minnesota to participate in the alternative licensing system. If it is necessary for purposes of participation in this alternative

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licensing system for a facility to be decertified as an ICF/MR facility according to the terms of the federal waiver, when the facility seeks recertification under the provisions of ICF/MR regulations at the end of the demonstration project, it will not be considered a new ICF/MR as defined under section 252.291 provided the licensed capacity of the facility did not increase during its participation in the alternative licensing system. The provisions of sections ~~252.82~~ 252.28, 252.292, and 256B.5011 to 256B.5015 will remain applicable for counties in region 10 of Minnesota and the ICFs/MR located within those counties notwithstanding a county's participation in the alternative licensing system.

Sec. 54. Minnesota Statutes 2004, section 256B.431, subdivision 14, is amended to read:

Subd. 14. **LIMITATIONS ON SALES OF NURSING FACILITIES.** (a) For rate periods beginning on October 1, 1992, and for rate years beginning after June 30, 1993, a nursing facility's property-related payment rate as established under subdivision 13 shall be adjusted by either paragraph (b) or (c) for the sale of the nursing facility, including sales occurring after June 30, 1992, as provided in this subdivision.

(b) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is greater than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the greater of its property-related payment rate under subdivision 13 prior to sale or its rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(c) If the nursing facility's property-related payment rate under subdivision 13 prior to sale is equal to or less than the nursing facility's rental rate under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale, the nursing facility's property-related payment rate after sale shall be the nursing facility's property-related payment rate under subdivision 13 plus the difference between its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section prior to sale and its rental rate calculated under Minnesota Rules, parts 9549.0010 to 9549.0080, and this section calculated after sale.

(d) For purposes of this subdivision, "sale" means the purchase of a nursing facility's capital assets with cash or debt. The term sale does not include a stock purchase of a nursing facility or any of the following transactions:

(1) a sale and leaseback to the same licensee that does not constitute a change in facility license;

(2) a transfer of an interest to a trust;

(3) gifts or other transfers for no consideration;

(4) a merger of two or more related organizations;

(5) a change in the legal form of doing business, other than a publicly held organization that becomes privately held or vice versa;

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(6) the addition of a new partner, owner, or shareholder who owns less than 20 percent of the nursing facility or the issuance of stock; and

(7) a sale, merger, reorganization, or any other transfer of interest between related organizations other than those permitted in this section.

(e) For purposes of this subdivision, "sale" includes the sale or transfer of a nursing facility to a close relative as defined in Minnesota Rules, part 9549.0020, subpart 38, item C, upon the death of an owner, due to serious illness or disability, as defined under the Social Security Act, under United States Code, title 42, section 423(d)(1)(A), or upon retirement of an owner from the business of owning or operating a nursing home at 62 years of age or older. For sales to a close relative allowed under this paragraph, otherwise nonallowable debt resulting from seller financing of all or a portion of the debt resulting from the sale shall be allowed and shall not be subject to Minnesota Rules, part 9549.0060, subpart 5, item E, provided that in addition to existing requirements for allowance of debt and interest, the debt is subject to repayment through annual principal payments and the interest rate on the related organization debt does not exceed three percentage points above the posted yield for standard conventional fixed rate mortgages of the Federal Home Loan Mortgage Corporation for delivery in 60 days in effect on the day of sale. If at any time, the seller forgives the related organization debt allowed under this paragraph for other than equal amount of payment on that debt, then the buyer shall pay to the state the total revenue received by the nursing facility after the sale attributable to the amount of allowable debt which has been forgiven. Any assignment, sale, or transfer of the debt instrument entered into by the close relatives, either directly or indirectly, which grants to the close relative buyer the right to receive all or a portion of the payments under the debt instrument shall, effective on the date of the transfer, result in the prospective reduction in the corresponding portion of the allowable debt and interest expense. Upon the death of the close relative seller, any remaining balance of the close relative debt must be refinanced and such refinancing shall be subject to the provisions of Minnesota Rules, part 9549.0060, subpart 7, item G. This paragraph shall not apply to sales occurring on or after June 30, 1997.

(f) For purposes of this subdivision, "effective date of sale" means the later of either the date on which legal title to the capital assets is transferred or the date on which closing for the sale occurred.

(g) The effective day for the property-related payment rate determined under this subdivision shall be the first day of the month following the month in which the effective date of sale occurs or October 1, 1992, whichever is later, provided that the notice requirements under section 256B.47, subdivision 2, have been met.

(h) Notwithstanding Minnesota Rules, part 9549.0060, subparts 5, item A, subitems (3) and (4), and 7, items E and F, the commissioner shall limit the total allowable debt and related interest for sales occurring after June 30, 1992, to the sum of clauses (1) to (3):

(1) the historical cost of capital assets, as of the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the nursing

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facility's initial historical cost of constructing capital assets;

(2) the average annual capital asset additions after deduction for capital asset deletions, not including depreciations; and

(3) one-half of the allowed inflation on the nursing facility's capital assets. The commissioner shall compute the allowed inflation as described in paragraph (i).

(i) For purposes of computing the amount of allowed inflation, the commissioner must apply the following principles:

(1) the lesser of the Consumer Price Index for all urban consumers or the Dodge Construction Systems Costs for Nursing Homes for any time periods during which both are available must be used. If the Dodge Construction Systems Costs for Nursing Homes becomes unavailable, the commissioner shall substitute the index in subdivision 3f, or such other index as the secretary of the Centers for Medicare and Medicaid Services may designate;

(2) the amount of allowed inflation to be applied to the capital assets in paragraph (g) (h), clauses (1) and (2), must be computed separately;

(3) the amount of allowed inflation must be determined on an annual basis, prorated on a monthly basis for partial years and if the initial month of use is not determinable for a capital asset, then one-half of that calendar year shall be used for purposes of prorating;

(4) the amount of allowed inflation to be applied to the capital assets in paragraph (g) (h), clauses (1) and (2), must not exceed 300 percent of the total capital assets in any one of those clauses; and

(5) the allowed inflation must be computed starting with the month following the nursing facility's most recent previous effective date of sale or, if there has been no previous sale, the month following the date of the nursing facility's initial occupancy, and ending with the month preceding the effective date of sale.

(j) If the historical cost of a capital asset is not readily available for the date of the nursing facility's most recent previous sale or if there has been no previous sale for the date of the nursing facility's initial occupancy, then the commissioner shall limit the total allowable debt and related interest after sale to the extent recognized by the Medicare intermediary after the sale. For a nursing facility that has no historical capital asset cost data available and does not have allowable debt and interest calculated by the Medicare intermediary, the commissioner shall use the historical cost of capital asset data from the point in time for which capital asset data is recorded in the nursing facility's audited financial statements.

(k) The limitations in this subdivision apply only to debt resulting from a sale of a nursing facility occurring after June 30, 1992, including debt assumed by the purchaser of the nursing facility.

Sec. 55. Minnesota Statutes 2004, section 256G.01, subdivision 3, is amended to read:

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Subd. 3. **PROGRAM COVERAGE.** This chapter applies to all social service programs administered by the commissioner in which residence is the determining factor in establishing financial responsibility. These include, but are not limited to: commitment proceedings, including voluntary admissions; emergency holds; poor relief funded wholly through local agencies; social services, including title XX, IV-E and other components of the Community Social Services Act, section 256E.12; social services programs funded wholly through the resources of county agencies; social services provided under the Minnesota Indian Family Preservation Act, sections 260.751 to 260.781; costs for delinquency confinement under section 393.07, subdivision 2; service responsibility for these programs; and group residential housing.

Sec. 56. Minnesota Statutes 2004, section 256L.07, subdivision 1, is amended to read:

Subdivision 1. **GENERAL REQUIREMENTS.** (a) Children enrolled in the original children's health plan as of September 30, 1992, children who enrolled in the MinnesotaCare program after September 30, 1992, pursuant to Laws 1992, chapter 549, article 4, section 17, and children who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines are eligible without meeting the requirements of subdivision 2 and the four-month requirement in subdivision 3, as long as they maintain continuous coverage in the MinnesotaCare program or medical assistance. Children who apply for MinnesotaCare on or after the implementation date of the employer-subsidized health coverage program as described in Laws 1998, chapter 407, article 5, section 45, who have family gross incomes that are equal to or less than 150 percent of the federal poverty guidelines, must meet the requirements of subdivision 2 to be eligible for MinnesotaCare.

(b) Families enrolled in MinnesotaCare under section 256L.04, subdivision 1, whose income increases above 275 percent of the federal poverty guidelines, are no longer eligible for the program and shall be disenrolled by the commissioner. Individuals enrolled in MinnesotaCare under section 256L.04, subdivision 7, whose income increases above 175 percent of the federal poverty guidelines are no longer eligible for the program and shall be disenrolled by the commissioner. For persons disenrolled under this subdivision, MinnesotaCare coverage terminates the last day of the calendar month following the month in which the commissioner determines that the income of a family or individual exceeds program income limits.

(c)(1) ~~Notwithstanding paragraph (b), families enrolled in MinnesotaCare under section 256L.04, subdivision 1, may remain enrolled in MinnesotaCare if ten percent of their annual income is less than the annual premium for a policy with a \$500 deductible available through the Minnesota Comprehensive Health Association. Families who are no longer eligible for MinnesotaCare under this subdivision shall be given an 18-month notice period from the date that ineligibility is determined before disenrollment. This clause expires February 1, 2004.~~

(2) ~~Effective February 1, 2004, Notwithstanding paragraph (b), children may remain enrolled in MinnesotaCare if ten percent of their annual family income is less than the annual premium for a policy with a \$500 deductible available through the~~

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Minnesota Comprehensive Health Association. Children who are no longer eligible for MinnesotaCare under this clause shall be given a 12-month notice period from the date that ineligibility is determined before disenrollment. The premium for children remaining eligible under this clause shall be the maximum premium determined under section 256L.15, subdivision 2, paragraph (b).

(d) ~~Effective July 1, 2003,~~ Notwithstanding paragraphs (b) and (c), parents are no longer not eligible for MinnesotaCare if gross household income exceeds \$50,000.

Sec. 57. Minnesota Statutes 2004, section 256L.15, subdivision 2, is amended to read:

Subd. 2. SLIDING FEE SCALE TO DETERMINE PERCENTAGE OF GROSS INDIVIDUAL OR FAMILY INCOME. (a) The commissioner shall establish a sliding fee scale to determine the percentage of gross individual or family income that households at different income levels must pay to obtain coverage through the MinnesotaCare program. The sliding fee scale must be based on the enrollee's gross individual or family income. The sliding fee scale must contain separate tables based on enrollment of one, two, or three or more persons. The sliding fee scale begins with a premium of 1.5 percent of gross individual or family income for individuals or families with incomes below the limits for the medical assistance program for families and children in effect on January 1, 1999, and proceeds through the following evenly spaced steps: 1.8, 2.3, 3.1, 3.8, 4.8, 5.9, 7.4, and 8.8 percent. These percentages are matched to evenly spaced income steps ranging from the medical assistance income limit for families and children in effect on January 1, 1999, to 275 percent of the federal poverty guidelines for the applicable family size, up to a family size of five. The sliding fee scale for a family of five must be used for families of more than five. Effective October 1, 2003, the commissioner shall increase each percentage by 0.5 percentage points for enrollees with income greater than 100 percent but not exceeding 200 percent of the federal poverty guidelines and shall increase each percentage by 1.0 percentage points for families and children with incomes greater than 200 percent of the federal poverty guidelines. The sliding fee scale and percentages are not subject to the provisions of chapter 14. If a family or individual reports increased income after enrollment, premiums shall not be adjusted until eligibility renewal.

(b)(1) ~~Enrolled families whose gross annual income increases above 275 percent of the federal poverty guideline shall pay the maximum premium. This clause expires effective February 1, 2004.~~

(2) ~~Effective February 1, 2004,~~ Children in families whose gross income is above 275 percent of the federal poverty guidelines shall pay the maximum premium.

(3) The maximum premium is defined as a base charge for one, two, or three or more enrollees so that if all MinnesotaCare cases paid the maximum premium, the total revenue would equal the total cost of MinnesotaCare medical coverage and administration. In this calculation, administrative costs shall be assumed to equal ten percent of the total. The costs of medical coverage for pregnant women and children under age two and the enrollees in these groups shall be excluded from the total. The maximum premium for two enrollees shall be twice the maximum premium for one, and the

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maximum premium for three or more enrollees shall be three times the maximum premium for one.

Sec. 58. Minnesota Statutes 2004, section 256M.10, subdivision 5, is amended to read:

Subd. 5. **FORMER CHILDREN'S SERVICES AND COMMUNITY SERVICE GRANTS.** "Former children's services and community service grants" means allocations for the following grants:

(1) community social service grants under section 252.24 and Minnesota Statutes 2002, sections 256E.06 and 256E.14;

(2) family preservation grants under section 256F.05, subdivision 3;

(3) concurrent permanency planning grants under section 260C.213, subdivision 5;

(4) social service block grants (Title XX) under Minnesota Statutes 2002, section 256E.07; and

(5) children's mental health grants under Minnesota Statutes 2002, section 245.4886 and ~~section 260.152~~.

Sec. 59. Minnesota Statutes 2004, section 260B.007, subdivision 16, is amended to read:

Subd. 16. **JUVENILE PETTY OFFENDER; JUVENILE PETTY OFFENSE.**

(a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense that would be a misdemeanor if committed by an adult.

(c) "Juvenile petty offense" does not include any of the following:

(1) a misdemeanor-level violation of section 518B.01, 588.20, 609.224, 609.2242, 609.324, ~~609.563~~ 609.5632, 609.576, 609.66, 609.746, 609.748, 609.79, or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260B.225;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that

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would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender."

Sec. 60. Minnesota Statutes 2004, section 276.04, subdivision 2, is amended to read:

Subd. 2. CONTENTS OF TAX STATEMENTS. (a) The treasurer shall provide for the printing of the tax statements. The commissioner of revenue shall prescribe the form of the property tax statement and its contents. The statement must contain a tabulated statement of the dollar amount due to each taxing authority and the amount of the state tax from the parcel of real property for which a particular tax statement is prepared. The dollar amounts attributable to the county, the state tax, the voter approved school tax, the other local school tax, the township or municipality, and the total of the metropolitan special taxing districts as defined in section 275.065, subdivision 3, paragraph (i), must be separately stated. The amounts due all other special taxing districts, if any, may be aggregated. If the county levy under this paragraph includes an amount for a lake improvement district as defined under sections 103B.501 to 103B.581, the amount attributable for that purpose must be separately stated from the remaining county levy amount. The amount of the tax on homesteads qualifying under the senior citizens' property tax deferral program under chapter 290B is the total amount of property tax before subtraction of the deferred property tax amount. The amount of the tax on contamination value imposed under sections 270.91 to 270.98, if any, must also be separately stated. The dollar amounts, including the dollar amount of any special assessments, may be rounded to the nearest even whole dollar. For purposes of this section whole odd-numbered dollars may be adjusted to the next higher even-numbered dollar. The amount of market value excluded under section 273.11, subdivision 16, if any, must also be listed on the tax statement.

(b) The property tax statements for manufactured homes and sectional structures taxed as personal property shall contain the same information that is required on the tax statements for real property.

(c) Real and personal property tax statements must contain the following information in the order given in this paragraph. The information must contain the current year tax information in the right column with the corresponding information for the previous year in a column on the left:

- (1) the property's estimated market value under section 273.11, subdivision 1;
- (2) the property's taxable market value after reductions under section 273.11, subdivisions 1a and 16;
- (3) the property's gross tax, calculated by adding the property's total property tax to the sum of the aids enumerated in clause (4);
- (4) a total of the following aids:
 - (i) education aids payable under chapters 122A, 123A, 123B, 124D, 125A, 126C, and 127A;

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- (ii) local government aids for cities, towns, and counties under chapter 477A; and
- (iii) disparity reduction aid under section 273.1398;

(5) for homestead residential and agricultural properties, the credits under section 273.1384;

(6) any credits received under sections 273.119; 273.123; 273.135; 273.1391; 273.1398, subdivision 4; 469.171; and 473H.10, except that the amount of credit received under section 273.135 must be separately stated and identified as "taconite tax relief"; and

(7) the net tax payable in the manner required in paragraph (a).

(d) If the county uses envelopes for mailing property tax statements and if the county agrees, a taxing district may include a notice with the property tax statement notifying taxpayers when the taxing district will begin its budget deliberations for the current year, and encouraging taxpayers to attend the hearings. If the county allows notices to be included in the envelope containing the property tax statement, and if more than one taxing district relative to a given property decides to include a notice with the tax statement, the county treasurer or auditor must coordinate the process and may combine the information on a single announcement.

The commissioner of revenue shall certify to the county auditor the actual or estimated aids enumerated in paragraph (c), clause (4), that local governments will receive in the following year. The commissioner must certify this amount by January 1 of each year.

Sec. 61. Minnesota Statutes 2004, section 290.095, subdivision 1, is amended to read:

Subdivision 1. **ALLOWANCE OF DEDUCTION.** (a) There shall be allowed as a deduction for the taxable year the amount of any net operating loss deduction as provided in section 172 of the Internal Revenue Code, subject to the limitations and modifications provided in this section.

(b) A net operating loss deduction shall be available under this section only to corporate taxpayers except that subdivisions 7, 9, and 11 hereof apply only to individuals, estates, and trusts.

(c) In the case of a regulated investment company or fund thereof, as defined in section 851(a) or 851(g) of the Internal Revenue Code, the deduction provided by this section shall not be allowed.

Sec. 62. Minnesota Statutes 2004, section 299D.07, is amended to read:

299D.07 HELICOPTER, FIXED WING AIRCRAFT.

The commissioner of public safety is hereby authorized to retain, acquire, maintain and operate helicopters and fixed wing aircraft for the purposes of the Highway State Patrol and the Bureau of Criminal Apprehension and for any other law enforcement purpose that the commissioner determines is appropriate. The commissioner also is authorized to employ State Patrol officer pilots as required.

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Sec. 63. Minnesota Statutes 2004, section 299F.051, subdivision 4, is amended to read:

Subd. 4. **COOPERATIVE INVESTIGATION; REIMBURSEMENT.** The state fire marshal and the superintendent of the Bureau of Criminal Apprehension shall encourage the cooperation of local firefighters and peace officers in the investigation of violations of sections 609.561 to 609.576 or other crimes associated with reported fires in all appropriate ways, including providing reimbursement to political subdivisions at a rate not to exceed 50 percent of the salaries of peace officers and firefighters for time spent in attending fire investigation training courses offered by the arson training unit. Volunteer firefighters from a political subdivision shall be reimbursed at the rate of \$35 per day plus expenses incurred in attending fire investigation training courses offered by the arson training unit. Reimbursement shall be made only in the event that both a peace officer and a firefighter from the same political subdivision attend the same training course. The reimbursement shall be subject to the limitation of funds appropriated and available for expenditure. ~~The state fire marshal and the superintendent also shall encourage local firefighters and peace officers to seek assistance from the arson strike force established in section 299F.058.~~

Sec. 64. Minnesota Statutes 2004, section 299F.093, subdivision 1, is amended to read:

Subdivision 1. **DUTIES; RULES.** (a) The commissioner shall:

(1) adopt rules no later than July 1, 1987, with the advice of the Hazardous Substance Notification Advisory Committee, establishing the form and content of the hazardous substance notification report form, as required by section 299F.094, and describing one or more hazard categories with specified ranges of quantities in each hazard category, representing increments of substantially increased risk;

(2) print and provide to individual fire departments the requested number of hazardous substance notification reports, which must be made available to a fire department no more than 90 days following its request, for the fire department to mail or otherwise make available to employers in the jurisdiction;

(3) report to the legislature, as needed, on the effectiveness of sections 299F.091 to 299F.099 and recommend amendments to sections 299F.091 to 299F.099 that are considered necessary;

(4) adopt rules to implement sections 299F.091 to 299F.099, compatible with the Minnesota Uniform Fire Code so as to not limit the authority of local fire officials under that code; and

(5) adopt rules that are based on the most recent standard 704, adopted by the National Fire Protection Association, and that allow a fire department to require employers within its jurisdiction to post signs conforming to standard 704, and indicating the presence of hazardous substances. If the signs are required, a fire

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department shall supply the signs or provide information to assist an employer to obtain them.

~~(b) The commissioner shall adopt criteria and guidelines, with the concurrence of the Hazardous Substance Notification Advisory Committee, for the disbursement of funds pursuant to Laws 1986, First Special Session chapter 1, article 10, section 20, subdivision 1.~~

Sec. 65. Minnesota Statutes 2004, section 321.0210, is amended to read:

321.0210 ANNUAL REPORT FOR SECRETARY OF STATE.

(a) Subject to subsection (b):

(1) in each calendar year following the calendar year in which a limited partnership becomes subject to this chapter, the limited partnership must deliver to the secretary of state for filing an annual registration containing the information required by subsection ~~(d)~~ (c); and

(2) in each calendar year following the calendar year in which there is first on file with the secretary of state a certificate of authority under section 321.0904 pertaining to a foreign limited partnership, the foreign limited partnership must deliver to the secretary of state for filing an annual registration containing the information required by subsection ~~(d)~~ (c).

(b) A limited partnership's obligation under subsection (a) ends if the limited partnership delivers to the secretary of state for filing a statement of termination under section 321.0203 and the statement becomes effective under section 321.0206. A foreign limited partnership's obligation under subsection (a) ends if the secretary of state issues and files a certificate of revocation under section 321.0906 or if the foreign limited partnership delivers to the secretary of state for filing a notice of cancellation under section 321.0907(a) and that notice takes effect under section 321.0206. If a foreign limited partnership's obligations under subsection (a) end and later the secretary of state files, pursuant to section 321.0904, a new certificate of authority pertaining to that foreign limited partnership, subsection (a)(2), again applies to the foreign limited partnership and, for the purposes of subsection (a)(2), the calendar year of the new filing is treated as the calendar year in which a certificate of authority is first on file with the secretary of state.

(c) The annual registration must contain:

(1) the name of the limited partnership or foreign limited partnership;

(2) the address of its designated office and the name and street and mailing address of its agent for service of process in Minnesota;

(3) in the case of a limited partnership, the street and mailing address of its principal office; and

(4) in the case of a foreign limited partnership, the name of the state or other jurisdiction under whose law the foreign limited partnership is formed and any alternate name adopted under section 321.0905(a).

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(d) The secretary of state shall:

(1) administratively dissolve under section 321.0809 a limited partnership that has failed to file a registration pursuant to subsection (a); and

(2) revoke under section 321.0906 the certificate of authority of a foreign limited partnership that has failed to file a registration pursuant to subsection (a).

Sec. 66. Minnesota Statutes 2004, section 321.1114, is amended to read:

321.1114 CONFLICT RELATING TO MERGER OR CONVERSION.

If a partnership governed by chapter 323A participates in a merger or conversion under chapter 321, then in the event of any conflict between the provisions of chapter 323A and chapter 321 relating to the merger or conversion, the provisions of chapter 321 control chapter 321.

Sec. 67. Minnesota Statutes 2004, section 325N.15, is amended to read:

325N.15 WAIVER.

Any waiver of the provisions of sections 325N.10 to ~~315N.18~~ 325N.18 is void and unenforceable as contrary to public policy except a consumer may waive the five-day right to cancel provided in section 325N.13 if the property is subject to a foreclosure sale within the five business days, and the foreclosed homeowner agrees to waive his or her right to cancel in a handwritten statement signed by all parties holding title to the foreclosed property.

Sec. 68. Minnesota Statutes 2004, section 336.4A-105, is amended to read:

336.4A-105 OTHER DEFINITIONS.

(a) In this article:

(1) "Authorized account" means a deposit account of a customer in a bank designated by the customer as a source of payment of payment orders issued by the customer to the bank. If a customer does not so designate an account, any account of the customer is an authorized account if payment of a payment order from that account is not inconsistent with a restriction on the use of that account.

(2) "Bank" means a person engaged in the business of banking and includes a savings bank, savings association, credit union, and trust company. A branch or separate office of a bank is a separate bank for purposes of this article.

(3) "Customer" means a person, including a bank, having an account with a bank or from whom a bank has agreed to receive payment orders.

(4) "Funds-transfer business day" of a receiving bank means the part of a day during which the receiving bank is open for the receipt, processing, and transmittal of payment orders and cancellations and amendments of payment orders.

(5) "Funds-transfer system" means a wire transfer network, automated clearing-house, or other communication system of a clearinghouse or other association of banks

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through which a payment order by a bank may be transmitted to the bank to which the order is addressed.

(6) (Reserved.)

(7) "Prove" with respect to a fact means to meet the burden of establishing the fact (section 336.1-201(b)(8)).

(b) Other definitions applying to the article and the sections in which they appear:

"Acceptance." Section 336.4A-209.

"Beneficiary." Section 336.4A-103.

"Beneficiary's bank." Section 336.4A-103.

"Executed." Section 336.4A-301.

"Execution date." Section 336.4A-301.

"Funds transfer." Section 336.4A-104.

"Funds-transfer system rule." Section 336.4A-501.

"Intermediary bank." Section 336.4A-104.

"Originator." Section 336.4A-104.

"Originator's bank." Section 336.4A-104.

"Payment by beneficiary's bank to beneficiary." Section 336.4A-405.

"Payment by originator to beneficiary." Section 336.4A-406.

"Payment by sender to receiving bank." Section 336.4A-403.

"Payment date." Section 336.4A-401.

"Payment order." Section 336.4A-103.

"Receiving bank." Section 336.4A-103.

"Security procedure." Section 336.4A-201.

"Sender." Section 336.4A-103.

(c) The following definitions in article 4 apply to this article:

"Clearinghouse." Section 336.4-104.

"Item." Section 336.4-104.

"Suspends payments." Section 336.4-104.

(d) In addition, sections 336.1-101 to ~~336.1-209~~ 336.1-206 contain general definitions and principles of construction and interpretation applicable throughout this article.

Sec. 69. Minnesota Statutes 2004, section 343.40, subdivision 3, is amended to read:

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Subd. 3. **SHADE.** Shade from the direct rays of the sun, during the months of ~~June~~ May to ~~September~~ October shall be provided.

Sec. 70. Minnesota Statutes 2004, section 458D.02, subdivision 2, is amended to read:

Subd. 2. **WESTERN LAKE SUPERIOR SANITARY DISTRICT; DISTRICT.** "Western Lake Superior Sanitary District" and "district" mean the area over which the sanitary board has jurisdiction which shall include the area now comprised on July 8, 1971, of the city of Cloquet, the cities of Carlton, Scanlon, Thomson and Wrenshall, and the townships of Knife Falls, Silver Brook, Thomson, and Twin Lakes in the county of Carlton; the city of Duluth, the city of Proctor, and the townships of Canosia, Duluth, Grand Lake, Herman, Lakewood, Midway, Rice Lake and Solway in the county of St. Louis; other territory included in the district pursuant to section 458D.22; and any waters of the state adjacent thereto.

Sec. 71. Minnesota Statutes 2004, section 469.104, is amended to read:

469.104 SECTIONS THAT APPLY IF FEDERAL LIMIT APPLIES.

Sections 474A.01 to 474A.21 apply to obligations issued under sections 469.090 to 469.108 that are limited by a federal limitation act as defined in section 474A.02, subdivision 9, or existing federal tax law as defined in section 474A.02, subdivision 8.

Sec. 72. Minnesota Statutes 2004, section 473.845, subdivision 1, is amended to read:

Subdivision 1. **ESTABLISHMENT.** The metropolitan landfill contingency action trust account is an expendable trust account in the remediation fund. The account consists of revenue deposited in the fund account under section 473.843, subdivision 2, clause (2); amounts recovered under subdivision 7; and interest earned on investment of money in the fund account.

Sec. 73. Minnesota Statutes 2004, section 514.966, subdivision 3, is amended to read:

Subd. 3. **LIVESTOCK PRODUCTION INPUT LIEN.** (a) A supplier furnishing livestock production inputs in the ordinary course of business has a livestock production input lien for the unpaid retail cost of the livestock production input. A perfected livestock production input lien that attaches to livestock may not exceed the amount, if any, that the sales price of the livestock exceeds the greater of the fair market value of the livestock at the time the lien attaches or the acquisition price of the livestock. A livestock production input lien becomes effective when the agricultural production inputs are furnished by the supplier to the purchaser.

(b) A supplier shall notify a lender of a livestock production input lien by providing a lien-notification statement to the lender in an envelope marked "IMPORTANT-LEGAL NOTICE." Delivery of the notice must be made by certified mail or another verifiable method.

(c) The lien-notification statement must be in a form approved by the secretary of state and disclose the following:

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- (1) the name and business address of the lender that is to receive notification;
- (2) the name and address of the supplier claiming the lien;
- (3) a description and the date or anticipated date or dates of the transaction and the retail cost or anticipated costs of the livestock production input;
- (4) the name, residential and address, and signature of the person to whom the livestock production input was furnished;
- (5) the name and ~~residential~~ address of the owner of the livestock, the location where the livestock will be raised, and a description of the livestock; and
- (6) a statement that products and proceeds of the livestock are covered by the livestock input lien.

(d) Within ten calendar days after receiving a lien-notification statement, the lender must respond to the supplier with either:

- (1) a letter of commitment for part or all of the amount in the lien-notification statement; or
- (2) a written refusal to issue a letter of commitment.

A copy of the response must be mailed to the person for whom the financing was requested.

(e) If a lender responds with a letter of commitment for part or all of the amount in the lien-notification statement, the supplier may not obtain a lien for the amount stated in the letter of commitment. If a lender responds with a refusal to provide a letter of commitment, the rights of the lender and the supplier are not affected.

(f) If a lender does not respond under paragraph (d) to the supplier within ten calendar days after receiving the lien-notification statement, a perfected livestock production input lien corresponding to the lien-notification statement has priority over any security interest of the lender in the same livestock or their proceeds for the lesser of:

- (1) the amount stated in the lien-notification statement; or
- (2) the unpaid retail cost of the livestock production input identified in the lien-notification statement, subject to any limitation in paragraph (a).

Sec. 74. Minnesota Statutes 2004, section 515B.4-102, is amended to read:

515B.4-102 DISCLOSURE STATEMENT; GENERAL PROVISIONS.

(a) A disclosure statement shall fully and accurately disclose:

- (1) the name and, if available, the number of the common interest community;
- (2) the name and principal address of the declarant;
- (3) the number of units in the common interest community and a statement that the common interest community is either a condominium, cooperative, or planned community;

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(4) a general description of the common interest community, including, at a minimum, (i) the number of buildings, (ii) the number of dwellings per building, (iii) the type of construction, (iv) whether the common interest community involves new construction or rehabilitation, (v) whether any building was wholly or partially occupied, for any purpose, before it was added to the common interest community and the nature of the occupancy, and (vi) a general description of any roads, trails, or utilities that are located on the common elements and that the association or a master association will be required to maintain;

(5) declarant's schedule of commencement and completion of construction of any buildings and other improvements that the declarant is obligated to build pursuant to section 515B.4-117;

(6) any expenses or services, not reflected in the budget, that the declarant pays or provides, which may become a common expense; the projected common expense attributable to each of those expenses or services; and an explanation of declarant's limited assessment liability under section 515B.3-115, subsection (b);

(7) any initial or special fee due from the purchaser to the declarant or the association at closing, together with a description of the purpose and method of calculating the fee;

(8) identification of any liens, defects, or encumbrances which will continue to affect the title to a unit or to any real property owned by the association after the contemplated conveyance;

(9) a description of any financing offered or arranged by the declarant;

(10) a statement as to whether application has been made for any project approvals for the common interest community from the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC), Department of Housing and Urban Development (HUD) or Department of Veterans Affairs (VA), and which, if any, such final approvals have been received;

(11) the terms of any warranties provided by the declarant, including copies of chapter 327A, and sections 515B.4-112 through 515B.4-115, and a statement of any limitations on the enforcement of warranties or on damages;

(12) a statement that: (i) within five days after the receipt of a disclosure statement, a purchaser may cancel any contract for the purchase of a unit from a declarant; provided, that the right to cancel terminates upon the purchaser's voluntary acceptance of a conveyance of the unit from the declarant; (ii) if a purchaser receives a disclosure statement more than ten five days before signing a purchase agreement, the purchaser cannot cancel the purchase agreement; and (iii) if a declarant obligated to deliver a disclosure statement fails to deliver a disclosure statement which substantially complies with this chapter to a purchaser to whom a unit is conveyed, the declarant shall be liable to the purchaser as provided in section 515B.4-106(d);

(13) a statement disclosing to the extent of the declarant's or an affiliate of a declarant's actual knowledge, after reasonable inquiry, any unsatisfied judgments or

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lawsuits to which the association is a party, and the status of those lawsuits which are material to the common interest community or the unit being purchased;

(14) a statement (i) describing the conditions under which earnest money will be held in and disbursed from the escrow account, as set forth in section 515B.4-109, (ii) that the earnest money will be returned to the purchaser if the purchaser cancels the contract pursuant to section 515B.4-106, and (iii) setting forth the name and address of the escrow agent;

(15) a detailed description of the insurance coverage provided by the association for the benefit of unit owners, including a statement as to which, if any, of the items referred to in section 515B.3-113, subsection (b), are insured by the association;

(16) any current or expected fees or charges, other than assessments for common expenses, to be paid by unit owners for the use of the common elements or any other improvements or facilities;

(17) the financial arrangements, including any contingencies, which have been made to provide for completion of all improvements that the declarant is obligated to build pursuant to section 515B.4-118, or a statement that no such arrangements have been made;

(18) in a cooperative: (i) whether the unit owners will be entitled for federal and state tax purposes, to deduct payments made by the association for real estate taxes and interest paid to the holder of a security interest encumbering the cooperative; and (ii) a statement as to the effect on the unit owners if the association fails to pay real estate taxes or payments due the holder of a security interest encumbering the cooperative;

(19) a statement: (i) that real estate taxes for the unit or any real property owned by the association are not delinquent or, if there are delinquent real estate taxes, describing the property for which the taxes are delinquent, stating the amount of the delinquent taxes, interest and penalties, and stating the years for which taxes are delinquent, and (ii) setting forth the amount of real estate taxes, including the amount of any special assessment certified for payment with the real estate taxes, due and payable with respect to the unit in the year in which the disclosure statement is given, if real estate taxes have been separately assessed against the unit;

(20) if the association or the purchaser of the unit will be a member of a master association, a statement to that effect, and all of the following information with respect to the master association: (i) a copy of the declaration, if any (other than any CIC plat), the articles of incorporation, bylaws, and rules and regulations for the master association, together with any amendments thereto; (ii) the name, address and general description of the master association, including a general description of any other association, unit owners, or other persons which are or may become members; (iii) a description of any nonresidential use permitted on any property subject to the master association; (iv) a statement as to the estimated maximum number of associations, unit owners or other persons which may become members of the master association, and the degree and period of control of the master association by a declarant or other person; (v) a description of any facilities intended for the benefit of the members of the

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master association and not located on property owned or controlled by a member; (vi) the financial arrangements, including any contingencies, which have been made to provide for completion of the facilities referred to in subsection (v), or a statement that no arrangements have been made; (vii) any current balance sheet of the master association and a projected or current annual budget, as applicable, which budget shall include with respect to the master association those items in paragraph (23), clauses (i) through (iv); (viii) a description of any expenses or services not reflected in the budget, paid for or provided by a declarant or a person executing the master declaration, which may become an expense of the master association in the future; (ix) a description of any powers delegated to and accepted by the master association pursuant to section 515B.2-121(f)(2); (x) identification of any liens, defects or encumbrances that will continue to affect title to property owned or operated by the master association for the benefit of its members; (xi) the terms of any warranties provided by any person for construction of facilities in which the members of the master association have or may have an interest, and any known defects in the facilities which would violate the standards described in section 515B.4-112(b); (xii) a statement disclosing, to the extent of the declarant's knowledge, after inquiry of the master association, any unsatisfied judgments or lawsuits to which the master association is a party, and the status of those lawsuits which are material to the master association; (xiii) a description of any insurance coverage provided for the benefit of its members by the master association; and (xiv) any current or expected fees or charges, other than assessments by the master association, to be paid by members of the master association for the use of any facilities intended for the benefit of the members;

(21) a statement as to whether the unit will be substantially completed at the time of conveyance to a purchaser, and if not substantially completed, who is responsible to complete and pay for the construction of the unit;

(22) a copy of the declaration and any amendments thereto, (exclusive of the CIC plat), any other recorded covenants, conditions restrictions, and reservations affecting the common interest community; the articles of incorporation, bylaws and any rules or regulations of the association; any agreement excluding or modifying any implied warranties; any agreement reducing the statute of limitations for the enforcement of warranties; any contracts or leases to be signed by purchaser at closing; and a brief narrative description of any contracts or leases that are or may be subject to cancellation by the association under section 515B.3-105; and

(23) any current balance sheet for the association; a projected annual budget for the association for the year in which the first unit is conveyed to a purchaser, and thereafter the current annual budget of the association; and a statement identifying the party responsible for the preparation of the budget. The budget shall include, without limitation: (i) a statement of the amount included in the budget as a reserve for maintenance, repair and replacement; (ii) a statement of any other reserves; (iii) the projected common expense for each category of expenditures for the association; and (iv) the projected monthly common expense assessment for each type of unit.

(b) A declarant shall promptly amend the disclosure statement to reflect any material change in the information required by this chapter.

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(c) The master association, within ten days after a request by a declarant, or any holder of declarant rights, or the authorized representative of any of them, shall furnish the information required to be provided by subsection (a)(20). A declarant or other person who provides information pursuant to subsection (a)(20) is not liable to the purchaser for any erroneous information if the declarant or other person: (i) is not an affiliate of or related in any way to a person authorized to appoint the master association board pursuant to section 515B.2-121(c)(3), and (ii) has no actual knowledge that the information is incorrect.

Sec. 75. Minnesota Statutes 2004, section 524.2-114, is amended to read:

524.2-114 MEANING OF CHILD AND RELATED TERMS.

If, for purposes of intestate succession, a relationship of parent and child must be established to determine succession by, through, or from a person:

(1) An adopted person is the child of an adopting parent and not of the birth parents except that adoption of a child by the spouse of a birth parent has no effect on the relationship between the child and that birth parent. If a parent dies and a child is subsequently adopted by a stepparent who is the spouse of a surviving parent, any rights of inheritance of the child or the child's descendant from or through the deceased parent of the child which exist at the time of the death of that parent shall not be affected by the adoption.

(2) In cases not covered by clause (1), a person is the child of the person's parents regardless of the marital status of the parents and the parent and child relationship may be established under the Parentage Act, sections 257.51 and to 257.74.

Sec. 76. Minnesota Statutes 2004, section 580.041, subdivision 2, is amended to read:

Subd. 2. **CONTENT OF NOTICE.** The notice required by this section must appear substantially as follows:

"Help For Homeowners in Foreclosure

Minnesota law requires that we send you this notice about the foreclosure process. Please read it carefully.

Mortgage foreclosure is a complex process. Some people may approach you about "saving" your home. You should be careful about any such promises.

The state encourages you to become informed about your options in foreclosure before entering into any agreements with anyone in connection with the foreclosure of your home. There are government agencies and nonprofit organizations that you may contact for helpful information about the foreclosure process. For the name and telephone number of an organization near you please call the Minnesota Home Housing Finance Agency (MHFA) at (insert telephone number). The state does not guarantee the advice of these agencies.

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Do not delay dealing with the foreclosure because your options may become more limited as time passes.”

Sec. 77. Minnesota Statutes 2004, section 626.84, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

- (a) “Board” means the Board of Peace Officer Standards and Training.
- (b) “Director” means the executive director of the board.
- (c) “Peace officer” means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, Department of Corrections’ Fugitive Apprehension Unit officers, and Department of Commerce Insurance Fraud Unit officers; and

(2) a peace officer who is employed by a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), and who is licensed by the board.

(d) “Constable” has the meaning assigned to it in section 367.40.

(e) “Deputy constable” has the meaning assigned to it in section 367.40.

(f) “Part-time peace officer” means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer’s intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g); and 626.845, subdivision 1, clause (g).

(g) “Reserve officer” means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer’s duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

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(h) "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

(2) subject to the limitations in section 626.93, a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

(i) "Professional peace officer education" means a postsecondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

Sec. 78. Laws 2003, First Special Session chapter 11, article 2, section 21, is amended to read:

Sec. 21. INDEPENDENT STUDY ON INTERMITTENT RESOURCES.

The commission shall order the electric utility subject to Minnesota Statutes, section 216B.1691, subdivision 7 6, to contract with a firm selected by the commissioner of commerce for an independent engineering study of the impacts of increasing wind capacity on its system above the 825 megawatts of nameplate wind energy capacity to which the utility is already committed, to evaluate options available to manage the intermittent nature of this renewable resource. The study shall be completed by June 1, 2004, and incorporated into the utility's next resource plan filing. The costs of the study, options pursued by the utility to manage the intermittent nature of wind energy, and the costs of complying with Minnesota Statutes, section 216B.1691, subdivision 7, shall be recoverable under Minnesota Statutes, section 216B.1645.

Sec. 79. Laws 2004, chapter 199, article 12, section 108, is amended to read:

Sec. 108. EFFECTIVE DATE.

This act, except articles 14 and 15, is effective January 1, 2005.

Articles 14 and 15 are effective July 1, 2004.

EFFECTIVE DATE. This section is effective retroactively from May 16, 2004.

Sec. 80. Laws 2004, chapter 261, article 6, section 5, is amended to read:

Sec. 5. EXPIRATION.

This article Section 1 expires August 1, 2010.

Sec. 81. AMENDMENT HAS NO EFFECT.

The portion of Laws 2003, First Special Session chapter 14, article 7, section 17, striking paragraph (e) of Minnesota Statutes 2002, section 62J.692, subdivision 4, is of no effect.

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Sec. 82. REPEALER.

Subdivision 1. EXPIRED FEE. Minnesota Statutes 2004, section 115B.49, subdivision 4a, is repealed.

Subd. 2. DUPLICATIVE METROPOLITAN COUNCIL BOUNDARIES. Laws 2003, chapter 8, section 2, is repealed.

Subd. 3. TUITION REIMBURSEMENT. Laws 2004, chapter 219, section 1, is repealed.

Subd. 4. PHARMACY BENEFITS. Laws 2004, chapter 288, article 3, section 5, is repealed.

Subd. 5. OBSOLETE VETERANS AFFAIRS RULES. Minnesota Rules, parts 9055.0125; 9055.0500; 9055.0510; 9055.0520; 9055.0530; 9055.0540; 9055.0550; 9055.0560; 9055.0570; 9055.0580; 9055.0590; 9055.0600; and 9055.0610, are repealed.

Subd. 6. OBSOLETE POST BOARD RULES. Minnesota Rules, parts 6700.0100, subpart 14; and 6700.1300, are repealed.

ARTICLE 2**OBSOLETE CONSTABLE AND MARSHAL PROVISIONS**

Section 1. Minnesota Statutes 2004, section 345.14, is amended to read:

345.14 FEES OF COURT ADMINISTRATORS.

For services performed under the provisions of this chapter, court administrators of district court shall be allowed \$1 for each day, and ~~constables~~ peace officers the same fees as are allowed by law for sales upon execution, and ten cents per folio for making an inventory of the property.

Sec. 2. Minnesota Statutes 2004, section 346.05, is amended to read:

346.05 SALE OF ESTRAY.

If no claimant for such estray shall cause its return to the claimant as before provided, and if such estray shall not have been appraised at more than \$10, the finder shall thereupon become the owner thereof; but, if such appraised value exceeds \$10, the estray shall be sold at public auction by any ~~constable~~ peace officer of the county on the request of the finder. Notice thereof shall be given and the sale conducted and the same fees allowed as in case of sales upon justice's execution. The finder may bid at such sale, and at the time thereof shall deliver to such officer a statement, in writing, of the finder's charges. After deducting such charges, if reasonable, and the costs of sale, the officer shall deposit the remainder of the money, together with the written statement and a statement of the costs of sale, with the county treasurer, taking the treasurer's receipt therefor. If the finder of any such estray shall fail to cause the sale

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to be made, the finder shall pay to the town the value of the estray, to be recovered in an action by the town.

Sec. 3. Minnesota Statutes 2004, section 626.84, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of sections 626.84 to 626.863, the following terms have the meanings given them:

(a) "Board" means the Board of Peace Officer Standards and Training.

(b) "Director" means the executive director of the board.

(c) "Peace officer" means:

(1) an employee or an elected or appointed official of a political subdivision or law enforcement agency who is licensed by the board, charged with the prevention and detection of crime and the enforcement of the general criminal laws of the state and who has the full power of arrest, and shall also include the Minnesota State Patrol, agents of the Division of Alcohol and Gambling Enforcement, state conservation officers, Metropolitan Transit police officers, Department of Corrections' Fugitive Apprehension Unit officers, and Department of Commerce Insurance Fraud Unit officers; and

(2) a peace officer who is employed by a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e), and who is licensed by the board.

(d) "Constable" has the meaning assigned to it in section 367.40.

(e) "Deputy constable" has the meaning assigned to it in section 367.40.

(f) "Part-time peace officer" means an individual licensed by the board whose services are utilized by law enforcement agencies no more than an average of 20 hours per week, not including time spent on call when no call to active duty is received, calculated on an annual basis, who has either full powers of arrest or authorization to carry a firearm while on active duty. The term shall apply even though the individual receives no compensation for time spent on active duty, and shall apply irrespective of the title conferred upon the individual by any law enforcement agency. The limitation on the average number of hours in which the services of a part-time peace officer may be utilized shall not apply to a part-time peace officer who has formally notified the board pursuant to rules adopted by the board of the part-time peace officer's intention to pursue the specialized training for part-time peace officers who desire to become peace officers pursuant to sections 626.843, subdivision 1, clause (g), and 626.845, subdivision 1, clause (g).

(g) (e) "Reserve officer" means an individual whose services are utilized by a law enforcement agency to provide supplementary assistance at special events, traffic or crowd control, and administrative or clerical assistance. A reserve officer's duties do not include enforcement of the general criminal laws of the state, and the officer does not have full powers of arrest or authorization to carry a firearm on duty.

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(h) (f) "Law enforcement agency" means:

(1) a unit of state or local government that is authorized by law to grant full powers of arrest and to charge a person with the duties of preventing and detecting crime and enforcing the general criminal laws of the state; and

(2) subject to the limitations in section 626.93, a law enforcement agency of a federally recognized tribe, as defined in United States Code, title 25, section 450b(e).

(i) (g) "Professional peace officer education" means a postsecondary degree program, or a nondegree program for persons who already have a college degree, that is offered by a college or university in Minnesota, designed for persons seeking licensure as a peace officer, and approved by the board.

Sec. 4. REVISOR'S INSTRUCTION.

Subdivision 1. LAW ENFORCEMENT AGENCY DEFINITION. The revisor of statutes shall change the reference "626.84, subdivision 1, paragraph (h)" to "626.84, subdivision 1, paragraph (f)" in Minnesota Statutes, sections 45.0135, subdivision 2a; 364.09, paragraph (a); 473.407, subdivision 1; 241.025, subdivision 1; 626.8453, subdivision 1, paragraph (b); 626.90, subdivision 2, paragraph (a); 626.91, subdivision 1, paragraph (a); 626.92, subdivision 2; and 626.93, subdivision 2, clause (1), and change the reference from "626.84, subdivision 1, paragraph (f)" or "clause (f)" to "626.84, subdivision 1, paragraph (d)" in Minnesota Statutes, sections 473.407, subdivision 4; 241.025, subdivision 4; and 629.34, subdivision 1.

Subd. 2. CONSTABLES AND MARSHALS. In the following sections, the revisor of statutes shall delete references to the terms "constable," "deputy constable," "marshal," "city marshals," and "statutory city marshal" and make changes necessary to correct the punctuation, grammar, or structure of the remaining text and preserve its meaning: 38.01; 97A.205; 103B.645; 103B.683; 115.32, subdivision 3; 136F.53, subdivision 5; 169.965, subdivisions 4 and 5; 169.966, subdivisions 4 and 5; 169A.03, subdivision 18; 176.011, subdivision 9; 192.68, subdivision 1; 192.85; 260C.148, subdivision 3; 299C.03; 299C.06; 299D.03, subdivision 1; 325E.21, subdivision 1; 326.3384, subdivision 1; 327.76, subdivision 3; 329.14; 330.06; 332.37; 345.04; 345.05; 346.14; 346.17; 346.18; 347.14, subdivisions 1 and 2; 349.33; 359.11; 382.27; 395.23; 398.13; 412.861, subdivision 1; 458D.18, subdivision 4; 473.608, subdivision 17; 504B.331; 504B.361, subdivision 1; 504B.375, subdivision 1; 514.22; 514.58; 518B.01, subdivisions 6 and 9; 541.06; 561.07; 617.27; 624.24; 624.62; 626.848; 626.862; 626.863; 626.88; and 631.04.

Sec. 5. REPEALER.

Minnesota Statutes 2004, sections 306.13; 315.43; 317A.909, subdivision 4; 357.12; 367.40, subdivisions 3 and 4; 367.401, subdivision 4; 367.42; and 398.35, subdivision 2, are repealed.

New language is indicated by underline, deletions by ~~strikeout~~.

ARTICLE 3

UPDATING AND CONFORMING FINES

Section 1. Minnesota Statutes 2004, section 17.43, is amended to read:

17.43 VIOLATIONS; PENALTIES.

Any person violating section 17.42, ~~shall be~~ is guilty of a gross misdemeanor and ~~shall be fined not less than \$250 or be imprisoned for not less than 60 days, or both.~~

Sec. 2. Minnesota Statutes 2004, section 28.15, is amended to read:

28.15 PENALTIES.

Any person, firm, or corporation violating any provision of this chapter relating to cold storage warehousing ~~shall be~~ is guilty of a gross misdemeanor and, ~~upon conviction, punished for the a first offense by a fine of not to exceed \$700 or by imprisonment in the jail of the proper county for a period of not more than three months, or by both such fine and imprisonment, and for the second or subsequent offense by a fine of not to exceed \$3,000 or by imprisonment in the jail of the proper county for a period of not to exceed one year or by both such fine and imprisonment,~~ is guilty of a gross misdemeanor.

Sec. 3. Minnesota Statutes 2004, section 32.645, is amended to read:

32.645 PENALTIES.

Subdivision 1. **GROSS MISDEMEANOR; LICENSE REVOCATION.** Any person licensed under the provisions of sections 28A.04, 28A.14, 32.56, and 32.59, who knowingly violates, or who directs or knowingly permits any officer, agent, or employee to violate section 32.62, subdivision 2, clause (1) or (3), ~~shall be~~ is guilty of a gross misdemeanor and ~~upon conviction thereof, be punished by a fine of not more than \$3,000, or 30 days imprisonment in the county jail, or both.~~ For each subsequent offense, in addition to any fine or imprisonment imposed under this subdivision, upon conviction thereof, the commissioner of agriculture shall revoke or withhold issuing to such offender any license required under the provisions of sections 28A.04, 28A.14, 32.56, and 32.59, and in such case of revocation of license the commissioner shall not issue any license for the operation of such frozen food manufacturing plant for a period of one year from the date of such revocation.

Subd. 2. **LESSER PENALTIES.** Any person violating section 32.62, subdivision 2, clause (2) or (4), for each first offense ~~shall, upon conviction thereof, be punished by a fine of not less than \$25 nor more than \$200~~ is guilty of a petty misdemeanor and for each subsequent offense, ~~upon conviction thereof, by a fine of not less than \$100 nor more than \$250, or 30 days imprisonment in the county jail, or both~~ is guilty of a misdemeanor.

Sec. 4. Minnesota Statutes 2004, section 64B.37, subdivision 2, is amended to read:

New language is indicated by underline, deletions by ~~strikeout~~.

Subd. 2. **FALSE OR FRAUDULENT STATEMENTS OR REPRESENTATIONS.** Any person, officer, member, or examining physician, who shall knowingly or willfully ~~make~~ makes any false or fraudulent statement or representation in, or with reference to, any application for membership for the purpose of obtaining money from or benefit in any society transacting business under this chapter ~~shall be~~ is guilty of a misdemeanor:

(1) any person who shall willfully ~~make~~ makes a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such society, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall willfully ~~make~~ makes any false statement and any verified report or declaration under oath, required or authorized under this chapter, ~~shall be~~ is guilty of perjury and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury;

(2) any person who shall ~~solicit~~ solicits membership for, or in any manner assist in procuring membership in, any society not licensed to do business in this state, or who shall ~~solicit~~ solicits membership for or in any manner assist in procuring membership in, any such society not authorized to do business in this state, ~~shall be~~ is guilty of a misdemeanor; ~~and, upon conviction thereof, punished by fine of not more than \$200;~~

(3) any society, or any officer, agent, or employee thereof, neglecting, refusing to comply with, or violating, any of the provisions of this chapter, the penalty for which neglect, refusal, or violation is not specified in this section, shall be fined not ~~exceeding \$200 upon conviction thereof~~ more than \$1,000.

Sec. 5. Minnesota Statutes 2004, section 116J.871, subdivision 3, is amended to read:

Subd. 3. **PREVAILING WAGE; PENALTY.** It is a misdemeanor for a person who has certified that prevailing wages will be paid to laborers and mechanics under subdivision 2 to subsequently fail to pay the prevailing wage. ~~This misdemeanor is punishable by a fine of not more than \$1,000, or imprisonment for not more than 90 days, or both. Each day a violation of this subdivision continues is a separate offense.~~

Sec. 6. Minnesota Statutes 2004, section 127A.10, is amended to read:

127A.10 STATE OFFICIALS AND SCHOOL BOARD MEMBERS TO BE DISINTERESTED; PENALTY.

If the commissioner of education, an assistant or any employee connected with the commissioner's office, or any member of any school board shall accept or receive any money, gift or any property, or favor from any person, firm, or corporation offering for sale any textbooks, or any agent thereof, or from any person in any way interested in the sale of textbooks, the person accepting or receiving it shall, ~~upon conviction, be punished by a fine not exceeding \$1,000, or by imprisonment in the county jail for not more than six months, or both by such fine and imprisonment~~ is guilty of a gross misdemeanor.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 7. Minnesota Statutes 2004, section 137.09, is amended to read:

137.09 BOARD OF REGENTS NOT TO EXCEED APPROPRIATIONS; PENALTY.

It shall be unlawful for the Board of Regents to permit any expenditures for any purpose in excess of the amount appropriated or contemplated by law and any member or agent of the board violating this provision shall be is guilty of a gross misdemeanor; ~~and, upon conviction, fined not less than \$100 nor more than \$3,000, or be imprisoned in the county jail for not less than six months, or by both fine and imprisonment.~~

Sec. 8. Minnesota Statutes 2004, section 152.027, subdivision 4, is amended to read:

Subd. 4. **POSSESSION OR SALE OF SMALL AMOUNTS OF MARIJUANA.** (a) A person who unlawfully sells a small amount of marijuana for no remuneration, or who unlawfully possesses a small amount of marijuana is guilty of a petty misdemeanor ~~punishable by a fine of up to \$200 and participation in a drug education program unless the court enters a written finding that a drug education program is inappropriate. The program must be approved by an area mental health board with a curriculum approved by the state alcohol and drug abuse authority.~~

(b) A person convicted of an unlawful sale under paragraph (a) who is subsequently convicted of an unlawful sale under paragraph (a) within two years is guilty of a misdemeanor and shall be required to participate in a chemical dependency evaluation and treatment if so indicated by the evaluation.

(c) A person who is convicted of a petty misdemeanor under paragraph (a) who willfully and intentionally fails to comply with the sentence imposed, is guilty of a misdemeanor. Compliance with the terms of the sentence imposed before conviction under this paragraph is an absolute defense.

Sec. 9. Minnesota Statutes 2004, section 155A.16, is amended to read:

155A.16 VIOLATIONS; PENALTIES.

Any person who violates any of the provisions of sections 155A.01 to 155A.16 is guilty of a misdemeanor ~~and upon conviction may be sentenced to imprisonment for not more than 90 days or fined not more than \$700, or both, per violation.~~

Sec. 10. Minnesota Statutes 2004, section 168.275, is amended to read:

168.275 SALE OF MOTOR VEHICLE ON SUNDAY FORBIDDEN.

Any person who shall carry on or engage in the business of buying, selling, exchanging, dealing in or trading in new or used motor vehicles; or who shall open any place of business or lot wherein the person attempts to or does engage in the business of buying, selling, exchanging, dealing or trading in new or used motor vehicles; or who does buy, sell, exchange, deal or trade in new or used motor vehicles as a business on the first day of the week, commonly known and designated as Sunday, is guilty of a misdemeanor for the first offense, and a gross misdemeanor for each succeeding offense. ~~Such a person upon conviction for the first offense shall pay a fine not to~~

New language is indicated by underline, deletions by ~~strikeout~~.

exceed \$1,000 or be imprisoned for a period of not more than ten days; and for the second offense shall pay a fine not to exceed \$3,000 or be imprisoned for a period of not more than 30 days or both; and for the third or each subsequent offense shall pay a fine of not more than \$3,000 or be imprisoned for a period of not more than six months or both. This section does not apply to the sale of (1) trailers designed and used primarily to transport watercraft, as defined in section 86B.005, subdivision 18, (2) trailers designed and used primarily to transport all-terrain vehicles, as defined in section 84.92, subdivision 8, (3) trailers designed and used primarily to transport snowmobiles as defined in section 84.81, subdivision 3, or (4) utility trailers as defined in section 168.27, subdivision 20.

Sec. 11. Minnesota Statutes 2004, section 169.21, subdivision 2, is amended to read:

Subd. 2. **RIGHTS IN ABSENCE OF SIGNAL.** (a) Where traffic-control signals are not in place or in operation, the driver of a vehicle shall stop to yield the right-of-way to a pedestrian crossing the roadway within a marked crosswalk or at an intersection with no marked crosswalk. The driver must remain stopped until the pedestrian has passed the lane in which the vehicle is stopped. No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impossible for the driver to yield. This provision shall not apply under the conditions as otherwise provided in this subdivision.

(b) When any vehicle is stopped at a marked crosswalk or at an intersection with no marked crosswalk to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass the stopped vehicle.

(c) It is unlawful for any person to drive a motor vehicle through a column of school children crossing a street or highway or past a member of a school safety patrol or adult crossing guard, while the member of the school safety patrol or adult crossing guard is directing the movement of children across a street or highway and while the school safety patrol member or adult crossing guard is holding an official signal in the stop position. A peace officer may arrest the driver of a motor vehicle if the peace officer has probable cause to believe that the driver has operated the vehicle in violation of this paragraph within the past four hours.

(d) A person who violates this subdivision is guilty of a misdemeanor and may be sentenced to imprisonment for not more than 90 days or to payment of a fine of not more than \$1,000, or both. A person who violates this subdivision a second or subsequent time within one year of a previous conviction under this subdivision is guilty of a gross misdemeanor and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

Sec. 12. Minnesota Statutes 2004, section 181.30, is amended to read:

181.30 DUTY OF DEPARTMENT OF TRANSPORTATION.

Any officer of any railroad company in the state violating any of the provisions of section 181.29 shall be is guilty of a misdemeanor; and, ~~upon conviction, punished~~

New language is indicated by underline, deletions by ~~strikeout~~.

by a fine of not less than \$100, and not more than \$1,000, for each offense, or by imprisonment in the county jail not more than 60 days, or both fine and imprisonment, at the discretion of the court. It shall be the duty of the state Department of Transportation, upon complaint properly filed with it alleging a violation of section 181.29, to make a full investigation in relation thereto, and for such purpose it shall have the power to administer oaths, interrogate witnesses, take testimony and require the production of books and papers, and if such report shall show a violation of the provisions of section 181.29, the Department of Transportation shall, through the attorney general, begin the prosecution of all parties against whom evidence of such violation is found; but section 181.29 shall not be construed to prevent any other person from beginning prosecution for the violation of the provisions thereof.

Sec. 13. Minnesota Statutes 2004, section 219.57, subdivision 6, is amended to read:

Subd. 6. **MISDEMEANOR.** A railroad company violating this section is guilty of a misdemeanor ~~punishable by a fine of not less than \$50 nor more than \$200 and may be assessed costs of prosecution for each offense.~~

A railroad employee violating this section is guilty of a misdemeanor ~~punishable by a fine of not less than \$50 nor more than \$100 and may be assessed costs of prosecution or by imprisonment in the county jail not exceeding 90 days.~~

Sec. 14. Minnesota Statutes 2004, section 234.23, is amended to read:

234.23 VIOLATION; PENALTY.

A person unlawfully removing, breaking, or interfering or tampering with a seal, lock, or other fastening placed upon a granary, crib, bin, or other receptacle for grain under this chapter, except when the removal is imperative to prevent the damage, loss, or destruction of stored grain, is guilty of a crime ~~punishable by a fine of not less than \$100 or more than \$1,000 or by imprisonment in the county jail for not more than six months, or both gross misdemeanor.~~

Sec. 15. Minnesota Statutes 2004, section 235.10, is amended to read:

235.10 UNLAWFUL DISCRIMINATION IN SALE OR PURCHASE OF GRAIN.

A person, firm, copartnership, or corporation engaged in the business of buying grain, either for itself or others, may not, with the intention of creating a monopoly or destroying the business of a competitor, discriminate between different localities, of this state by purchasing grain of a particular grade and condition at a higher price or rate in one locality than in another after making due allowance for the difference, if any, in actual cost of transportation from the locality of purchase, to the locality of manufacture, use, or distribution. Violation of this section is ~~unfair discrimination, punishable by a fine up to \$1,000 or by imprisonment in the county jail up to six months~~ a gross misdemeanor.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 16. Minnesota Statutes 2004, section 235.13, is amended to read:

235.13 VIOLATIONS; PENALTIES.

Violation of chapters 216 to 235, if no specific penalty is prescribed, is a gross misdemeanor; punishable by a fine of not less than \$50 nor more than \$700.

Sec. 17. Minnesota Statutes 2004, section 325F.40, is amended to read:

325F.40 VIOLATIONS; PENALTIES.

Any person, company, or corporation violating any of the provisions of sections 325F.35 to 325F.39 shall be deemed is guilty of a misdemeanor; and, upon conviction thereof, for the first offense, punished by a fine of not less than \$25 nor more than \$50 and for each subsequent offense by a fine of not less than \$50 nor more than \$200.

Sec. 18. Minnesota Statutes 2004, section 329.17, is amended to read:

329.17 VIOLATIONS; PENALTIES.

Subdivision 1. **GROSS MISDEMEANOR.** Every person, either as principal or agent, who shall in any manner engage in, do, or transact any business as a transient merchant, without having first obtained a license, or who shall conduct any sale, or who shall sell or expose for sale any goods, wares, and merchandise contrary to the provisions of sections 329.10 to 329.16, or who shall advertise, represent, or hold forth any sale of goods, wares, and merchandise, to be conducted contrary to the provisions of sections 329.10 to 329.16, shall be is guilty of a gross misdemeanor.

Subd. 2. **MISDEMEANOR.** Every person who shall engage in or follow the business of a hawker or peddler without having first obtained a license shall be is guilty of a misdemeanor; and upon conviction thereof punished by a fine of not less than \$15 nor more than \$100 or in default of the payment of such fine by imprisonment in the county jail of the county of conviction for a period of not exceeding 60 days for each offense.

Sec. 19. Minnesota Statutes 2004, section 333.135, is amended to read:

333.135 IMPROPER USE OF INSIGNIA.

Every person who shall willfully wear the insignia or rosette of the military order of the Loyal Legion of the United States, or the badge or button of the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans of the World War, or of any other veterans' organization, or any similitude thereof; or who shall willfully wear any badge, emblem, or insignia pertaining to the order of Masons, Odd Fellows, Knights of Pythias, or any other secret order or society, or any similitude thereof; or who shall use any such badge, button, or insignia to obtain aid or assistance, or who shall use the name of any such order or society for gain, unless entitled to so use the same under the constitution, bylaws, rules, and regulations of such order, shall be is guilty of a misdemeanor and shall be punished by imprisonment in the county jail for not more than 60 days or by a fine of not more than \$50 or by both.

Sec. 20. Minnesota Statutes 2004, section 395.22, is amended to read:

395.22 PENALTY FOR VIOLATION.

New language is indicated by underline, deletions by ~~strikeout~~.

Any person who shall, contrary to the provisions of sections 395.14 to 395.24, sell, transfer, take, or carry away, or in any manner dispose of, the seed or feed, or any part thereof, furnished by the county under sections 395.14 to 395.24 or shall use or dispose of such seed or feed, or any part thereof, for any other purpose than that of planting or sowing with same as stated in the application and contract, or shall sell, transfer, take, or carry away, or in any manner dispose of, the crop or any part thereof, produced from the sowing or planting of such seed, before the same is paid for, shall be is guilty of a misdemeanor; and upon conviction thereof shall pay a fine of not less than \$50 nor more than \$100 or may be imprisoned in the county jail for a term of not less than 30 nor more than 90 days, and shall pay all the costs of prosecution, and whoever under any of the provisions of sections 395.14 to 395.24 shall be found guilty of false swearing shall be deemed to have committed perjury and shall upon conviction suffer the pains and penalties of that crime. Upon the filing of the contract in the office of the county recorder, and the sowing of the seed obtained therefor, the title and right of possession to the growing crop and to the grain produced from the seed shall be in the county which shall have furnished the seed until the debt incurred for such seed or feed, shall have been paid, and any seizure thereof or interference therewith except by the applicant and those in the applicant's employ, for the purpose of harvesting, threshing, and marketing the same to pay such debt, shall be deemed a conversion thereof and treble damages may be recovered against the person so converting the same by the county furnishing such seed and feed.

Sec. 21. Minnesota Statutes 2004, section 481.05, is amended to read:

481.05 VIOLATIONS; PENALTIES.

Subdivision 1. **MISDEMEANOR.** Any attorney at law who shall ~~violate~~ violates section 481.03 shall be is guilty of a misdemeanor and punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not more than 90 days.

Subd. 2. **MISDEMEANOR.** Any person who shall ~~violate~~ violates section 481.04 shall be is guilty of a misdemeanor and punished by a fine of not less than \$50 nor more than \$100 or by imprisonment in the county jail for not to exceed 90 days.

Sec. 22. Minnesota Statutes 2004, section 624.64, is amended to read:

624.64 ACROBATIC EXHIBITIONS.

Every proprietor, occupant, or lessee of any place where acrobatic exhibitions are held, who shall permit any person to perform on any trapeze, rope, pole, or other acrobatic contrivance, without network, or other sufficient means of protection from falling or other accident, shall be is guilty of a gross misdemeanor; and, for the first offense, punished by a fine of \$250 and for each subsequent offense by a fine of \$250 and imprisonment in the county jail for not less than three months nor more than one year.

Sec. 23. Minnesota Statutes 2004, section 624.67, is amended to read:

**624.67 FALSE CERTIFICATE OF REGISTRATION OF ANIMALS;
FALSE REPRESENTATION AS TO BREED.**

New language is indicated by underline, deletions by ~~strikeout~~.

Every person who by any false pretense shall obtain from any club, association, society, or company for the improvement of the breed of cattle, horses, sheep, swine, fowls, or other domestic animals, or birds, a certificate of registration of any animal in the herd, or other register of any such association, society, or company, or a transfer of any such registration, and every person who shall knowingly represent any animal used for breeding purposes to be of a greater degree of any particular strain of blood than such animal actually possesses, shall be is guilty of a gross misdemeanor, and ~~punished by imprisonment in the county jail for not more than six months, or by a fine of not more than \$250.~~

Sec. 24. Minnesota Statutes 2004, section 629.11, is amended to read:

629.11 VIOLATION A GROSS MISDEMEANOR.

Any officer who shall deliver to the agent for extradition of the demanding state a person in custody under the governor's warrant in willful disobedience to section 629.10 shall be is guilty of a gross misdemeanor; and ~~upon conviction shall be fined not more than \$3,000 or be imprisoned for not more than six months.~~

Sec. 25. Minnesota Statutes 2004, section 631.04, is amended to read:

631.04 EXCLUDING MINORS FROM ATTENDANCE AT CRIMINAL TRIALS; DUTY OF OFFICER; PENALTY.

A minor under the age of 17 who is not a party to, witness in, or directly interested in a criminal prosecution or trial before a district court, may not be present at the trial. A police officer, constable, sheriff, or other officer in charge of a court and attending upon the trial of a criminal case in the court, shall exclude a minor under age of 17 from the room in which the trial is being held. This section does not apply when the minor is permitted to attend by order of the court before which the trial is being held. A police officer, constable, sheriff, or deputy sheriff who knowingly neglects or refuses to carry out the provisions of this section is guilty of a misdemeanor and shall be ~~punished by a fine of not less than \$10 nor more than \$25.~~

ARTICLE 4

GUARDIANSHIP AND CONSERVATORSHIP

Section 1. Minnesota Statutes 2004, section 144.6501, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** For purposes of this section, the following terms have the meanings given them.

(a) "Facility" means a nursing home licensed under chapter 144A or a boarding care facility licensed under sections 144.50 to 144.58.

New language is indicated by underline, deletions by ~~strikeout~~.

(b) "Contract of admission," "admission contract," or "admission agreement," includes, but is not limited to, all documents that a resident or resident's representative must sign at the time of, or as a condition of, admission to the facility. Oral representations and statements between the facility and the resident or resident's representative are not part of the contract of admission unless expressly contained in writing in those documents. The contract of admission must specify the obligations of the resident or the responsible party.

(c) "Legal representative" means an attorney-in-fact under a valid power of attorney executed by the prospective resident, or a conservator or guardian of the person or of the estate appointed for the prospective resident, or a representative payee appointed for the prospective resident, or other agent of limited powers.

(d) "Responsible party" means a person who has access to the resident's income and assets and who agrees to apply the resident's income and assets to pay for the resident's care or who agrees to make and complete an application for medical assistance on behalf of the resident.

Sec. 2. Minnesota Statutes 2004, section 145B.04, is amended to read:

145B.04 SUGGESTED FORM.

A living will executed after August 1, 1989, under this chapter must be substantially in the form in this section. Forms printed for public distribution must be substantially in the form in this section.

"Health Care Living Will

Notice:

This is an important legal document. Before signing this document, you should know these important facts:

(a) This document gives your health care providers or your designated proxy the power and guidance to make health care decisions according to your wishes when you are in a terminal condition and cannot do so. This document may include what kind of treatment you want or do not want and under what circumstances you want these decisions to be made. You may state where you want or do not want to receive any treatment.

(b) If you name a proxy in this document and that person agrees to serve as your proxy, that person has a duty to act consistently with your wishes. If the proxy does not know your wishes, the proxy has the duty to act in your best interests. If you do not name a proxy, your health care providers have a duty to act consistently with your instructions or tell you that they are unwilling to do so.

(c) This document will remain valid and in effect until and unless you amend or revoke it. Review this document periodically to make sure it continues to reflect your preferences. You may amend or revoke the living will at any time by notifying your health care providers.

New language is indicated by underline, deletions by ~~strikeout~~.

(d) Your named proxy has the same right as you have to examine your medical records and to consent to their disclosure for purposes related to your health care or insurance unless you limit this right in this document.

(e) If there is anything in this document that you do not understand, you should ask for professional help to have it explained to you.

TO MY FAMILY, DOCTORS, AND ALL THOSE CONCERNED WITH MY CARE:

I,, born on (birthdate), being an adult of sound mind, willfully and voluntarily make this statement as a directive to be followed if I am in a terminal condition and become unable to participate in decisions regarding my health care. I understand that my health care providers are legally bound to act consistently with my wishes, within the limits of reasonable medical practice and other applicable law. I also understand that I have the right to make medical and health care decisions for myself as long as I am able to do so and to revoke this living will at any time.

(1) The following are my feelings and wishes regarding my health care (you may state the circumstances under which this living will applies):

.....
.....

(2) I particularly want to have all appropriate health care that will help in the following ways (you may give instructions for care you do want):

.....
.....

(3) I particularly do not want the following (you may list specific treatment you do not want in certain circumstances):

.....

(4) I particularly want to have the following kinds of life-sustaining treatment if I am diagnosed to have a terminal condition (you may list the specific types of life-sustaining treatment that you do want if you have a terminal condition):

.....
.....

(5) I particularly do not want the following kinds of life-sustaining treatment if I am diagnosed to have a terminal condition (you may list the specific types of life-sustaining treatment that you do not want if you have a terminal condition):

.....
.....

(6) I recognize that if I reject artificially administered sustenance, then I may die of dehydration or malnutrition rather than from my illness or injury. The following are my feelings and wishes regarding artificially administered sustenance should I have a terminal condition (you may indicate whether you wish to receive food and fluids given to you in some other way than by mouth if you have a terminal condition):

.....
.....

New language is indicated by underline, deletions by ~~strikeout~~.

(7) Thoughts I feel are relevant to my instructions. (You may, but need not, give your religious beliefs, philosophy, or other personal values that you feel are important. You may also state preferences concerning the location of your care.)

.....
.....

(8) Proxy Designation. (If you wish, you may name someone to see that your wishes are carried out, but you do not have to do this. You may also name a proxy without including specific instructions regarding your care. If you name a proxy, you should discuss your wishes with that person.)

If I become unable to communicate my instructions, I designate the following person(s) to act on my behalf consistently with my instructions, if any, as stated in this document. Unless I write instructions that limit my proxy's authority, my proxy has full power and authority to make health care decisions for me. If a guardian or conservator of the person is to be appointed for me, I nominate my proxy named in this document to act as my guardian or conservator of my person.

Name:

Address:

Phone Number:

Relationship: (If any)

If the person I have named above refuses or is unable or unavailable to act on my behalf, or if I revoke that person's authority to act as my proxy, I authorize the following person to do so:

Name:

Address:

Phone Number:

Relationship: (If any)

I understand that I have the right to revoke the appointment of the persons named above to act on my behalf at any time by communicating that decision to the proxy or my health care provider.

(9) Organ Donation After Death. (If you wish, you may indicate whether you want to be an organ donor upon your death.) Initial the statement which expresses your wish:

..... In the event of my death, I would like to donate my organs. I understand that to become an organ donor, I must be declared brain dead. My organ function may be maintained artificially on a breathing machine, (i.e., artificial ventilation), so that my organs can be removed.

Limitations or special wishes: (If any)

New language is indicated by underline, deletions by ~~strikeout~~.

I understand that, upon my death, my next of kin may be asked permission for donation. Therefore, it is in my best interests to inform my next of kin about my decision ahead of time and ask them to honor my request.

I (have) (have not) agreed in another document or on another form to donate some or all of my organs when I die.

..... I do not wish to become an organ donor upon my death.

DATE:

SIGNED:

STATE OF

.....

COUNTY OF

Subscribed, sworn to, and acknowledged before me by on this day of,

.....

NOTARY PUBLIC

OR

(Sign and date here in the presence of two adult witnesses, neither of whom is entitled to any part of your estate under a will or by operation of law, and neither of whom is your proxy.)

I certify that the declarant voluntarily signed this living will in my presence and that the declarant is personally known to me. I am not named as a proxy by the living will, and to the best of my knowledge, I am not entitled to any part of the estate of the declarant under a will or by operation of law.

Witness Address

Witness Address

Reminder: Keep the signed original with your personal papers.

Give signed copies to your doctors, family, and proxy."

Sec. 3. Minnesota Statutes 2004, section 201.014, subdivision 2, is amended to read:

Subd. 2. **NOT ELIGIBLE.** The following individuals are not eligible to vote. Any individual:

- (a) Convicted of treason or any felony whose civil rights have not been restored;
- (b) Under a guardianship of the person in which the court order provides that the ward does not retain the right to vote; or
- (c) Found by a court of law to be legally incompetent.

New language is indicated by underline, deletions by ~~strikeout~~.

Sec. 4. Minnesota Statutes 2004, section 201.071, subdivision 1, is amended to read:

Subdivision 1. **FORM.** A voter registration application must be of suitable size and weight for mailing and contain spaces for the following required information: voter's first name, middle name, and last name; voter's previous name, if any; voter's current address; voter's previous address, if any; voter's date of birth; voter's municipality and county of residence; voter's telephone number, if provided by the voter; date of registration; current and valid Minnesota driver's license number or Minnesota state identification number, or if the voter has no current and valid Minnesota driver's license or Minnesota state identification, the last four digits of the voter's Social Security number; and voter's signature. The registration application may include the voter's e-mail address, if provided by the voter, and the voter's interest in serving as an election judge, if indicated by the voter. The application must also contain the following certification of voter eligibility:

"I certify that I:

- (1) will be at least 18 years old on election day;
 - (2) am a citizen of the United States;
 - (3) will have resided in Minnesota for 20 days immediately preceding election day;
 - (4) maintain residence at the address given on the registration form;
 - (5) am not under court-ordered guardianship of the person where I have not retained the right to vote;
 - (6) have not been found by a court to be legally incompetent to vote;
 - (7) have not been convicted of a felony without having my civil rights restored;
- and
- (8) have read and understand the following statement: that giving false information is a felony punishable by not more than five years imprisonment or a fine of not more than \$10,000, or both."

The certification must include boxes for the voter to respond to the following questions:

"(1) Are you a citizen of the United States?" and

"(2) Will you be 18 years old on or before election day?"

And the instruction:

"If you checked 'no' to either of these questions, do not complete this form."

The form of the voter registration application and the certification of voter eligibility must be as provided in this subdivision and approved by the secretary of state. Voter registration forms authorized by the National Voter Registration Act may also be accepted as valid.

New language is indicated by underline, deletions by ~~strikeout~~.

An individual may use a voter registration application to apply to register to vote in Minnesota or to change information on an existing registration.

Sec. 5. Minnesota Statutes 2004, section 201.15, subdivision 1, is amended to read:

Subdivision 1. **GUARDIANSHIPS AND INCOMPETENTS.** Pursuant to the Help America Vote Act of 2002, Public Law 107-252, the state court administrator shall report monthly by electronic means to the secretary of state the name, address, and date of birth of each individual 18 years of age or over, who during the month preceding the date of the report:

(a) was placed under a guardianship of the person in which the court order provides that the ward does not retain the right to vote; or

(b) was adjudged legally incompetent.

The court administrator shall also report the same information for each individual transferred to the jurisdiction of the court who meets a condition specified in clause (a) or (b). The secretary of state shall determine if any of the persons in the report is registered to vote and shall prepare a list of those registrants for the county auditor. The county auditor shall change the status on the record in the statewide registration system of any individual named in the report to indicate that the individual is not eligible to reregister or vote.

Sec. 6. Minnesota Statutes 2004, section 204B.10, subdivision 6, is amended to read:

Subd. 6. **INELIGIBLE VOTER.** Upon receipt of a certified copy of a final judgment or order of a court of competent jurisdiction that a person who has filed an affidavit of candidacy or who has been nominated by petition:

(1) has been convicted of treason or a felony and the person's civil rights have not been restored;

(2) is under guardianship of the person; or

(3) has been found by a court of law to be legally incompetent;

the filing officer shall notify the person by certified mail at the address shown on the affidavit or petition, and shall not certify the person's name to be placed on the ballot. The actions of a filing officer under this subdivision are subject to judicial review under section 204B.44.

Sec. 7. Minnesota Statutes 2004, section 246.01, is amended to read:

246.01 POWERS AND DUTIES.

The commissioner of human services is hereby specifically constituted the guardian of both the estate and person of all persons with mental retardation, the guardianship of whom has heretofore been vested in the State Board of Control or in the director of social welfare whether by operation of law or by an order of court without any further act or proceeding, and all the powers and duties vested in or

New language is indicated by underline, deletions by ~~strikeout~~.

imposed upon the State Board of Control or the director of social welfare, with reference to mental testing of persons with mental retardation, and with reference to the institutions of the state of Minnesota except correctional facilities administered and managed by the commissioner of corrections, are hereby transferred to, vested in, and imposed upon the commissioner of human services, and in relation thereto is hereby charged with and shall have the exclusive power of administration and management of all of the following state institutions: state hospitals for persons with mental retardation, mental illness, or chemical dependency. The commissioner shall have power and authority to determine all matters relating to the unified and continuous development of all of the foregoing institutions and of such other institutions, the supervision of which may, from time to time, be vested in the commissioner. It is intended that there be vested in the commissioner all of the powers, functions, and authority heretofore vested in the State Board of Control relative to such state institutions. The commissioner shall have the power and authority to accept, in behalf of the state, contributions and gifts of money and personal property for the use and benefit of the residents of the public institutions under the commissioner's control, and all money and securities so received shall be deposited in the state treasury subject to the order of the commissioner of human services. If the gift or contribution is designated by the donor for a certain institution or purpose, the commissioner of human services shall expend or use the same as nearly as may be in accordance with the conditions of the gift or contribution, compatible with the best interests of the inmates and the state. The commissioner of human services is hereby constituted the "state agency" as defined by the Social Security Act of the United States and the laws of this state for all purposes relating to mental health and mental hygiene.

For the purpose of carrying out these duties, the commissioner of human services shall accept from wards with mental retardation for whom the commissioner is specifically appointed guardian a signed application for consent to the marriage of said ward. Upon receipt of such application the commissioner shall promptly conduct such investigation as the commissioner deems proper and determine if the contemplated marriage is for the best interest of the ward and the public. A signed copy of the commissioner's determination shall be mailed to the ward and to the court administrator of the district court of the county where the application for such marriage license was made.

There is hereby appropriated to such persons or institutions as are entitled to such sums as are provided for in this section, from the fund or account in the state treasury to which the money was credited, an amount sufficient to make such payment.

Sec. 8. Minnesota Statutes 2004, section 252A.03, subdivision 1, is amended to read:

Subdivision 1. **NOMINATION OF GUARDIAN OR CONSERVATOR.** The commissioner may be nominated in a sworn written request by any one of the following to act as guardian or ~~conservator~~ for any mentally retarded person:

- (a) An interested person;
- (b) The guardian or ~~conservator~~ of the person of the mentally retarded person to act as successor;

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(c) The mentally retarded person.

Sec. 9. Minnesota Statutes 2004, section 252A.03, subdivision 4, is amended to read:

Subd. 4. **ALTERNATIVES.** Public guardianship or conservatorship may be imposed only when no acceptable, less restrictive form of guardianship or conservatorship is available. The commissioner shall seek parents, near relatives, and other interested persons to assume private guardianship for persons with developmental disabilities who are currently under public guardianship. If a person seeks to become a private guardian or conservator, costs to the person may be reimbursed under section ~~525.703, subdivision 3, paragraph (b)~~ 524.5-502. The commissioner must provide technical assistance to parents, near relatives, and interested persons seeking to become private guardians or conservators.

Sec. 10. Minnesota Statutes 2004, section 252A.101, subdivision 1, is amended to read:

Subdivision 1. **GENERAL.** Except as otherwise provided in this section, ~~section 525.551, subdivisions 1 to 4,~~ sections 524.5-101 to 524.5-502 apply to public guardianship hearings.

Sec. 11. Minnesota Statutes 2004, section 252A.101, subdivision 5, is amended to read:

Subd. 5. **FINDINGS.** (a) In all cases the court shall make specific written findings of fact, conclusions of law, and direct entry of an appropriate judgment or order. The court shall order the appointment of the commissioner as guardian or conservator if it finds that:

(1) the proposed ward or conservatee is a mentally retarded person as defined in section 252A.02, subdivision 2;

(2) the proposed ward or conservatee is incapable of exercising specific legal rights, which must be enumerated in its findings;

(3) the proposed ward or conservatee is in need of the supervision and protection of a guardian or conservator; and

(4) no appropriate alternatives to public guardianship or public conservatorship exist that are less restrictive of the person's civil rights and liberties, such as appointing a guardian or conservator under sections ~~525.539~~ 524.5-101 to 525.705 524.5-502.

(b) The court shall grant the specific powers that are necessary for the commissioner to act as public guardian or conservator on behalf of the ward or conservatee.

Sec. 12. Minnesota Statutes 2004, section 253B.23, subdivision 2, is amended to read:

Subd. 2. **LEGAL RESULTS OF COMMITMENT STATUS.** (a) Except as otherwise provided in this chapter and in sections 246.15 and 246.16, no person by

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reason of commitment or treatment pursuant to this chapter shall be deprived of any legal right, including but not limited to the right to dispose of property, sue and be sued, execute instruments, make purchases, enter into contractual relationships, vote, and hold a driver's license. Commitment or treatment of any patient pursuant to this chapter is not a judicial determination of legal incompetency except to the extent provided in section 253B.03, subdivision 6.

(b) Proceedings for determination of legal incompetency and the appointment of a guardian for a person subject to commitment under this chapter may be commenced before, during, or after commitment proceedings have been instituted and may be conducted jointly with the commitment proceedings. The court shall notify the head of the treatment facility to which the patient is committed of a finding that the patient is incompetent.

(c) Where the person to be committed is a minor or owns property of value and it appears to the court that the person is not competent to manage a personal estate, the court shall appoint a general or special guardian ~~or conservator of the person's estate for the person or a conservator of the person's estate~~ as provided by law.

Sec. 13. Minnesota Statutes 2004, section 256.93, subdivision 1, is amended to read:

Subdivision 1. **LIMITATIONS.** In any case where the guardianship ~~of the person~~ of any mentally retarded, handicapped, dependent, neglected or delinquent child, or a child born to a mother who was not married to the child's father when the child was conceived nor when the child was born, has been committed to the commissioner of human services, and in any case where the guardianship ~~or conservatorship of the person~~ of any person with mental retardation has been committed to the commissioner of human services, the court having jurisdiction of the estate may on such notice as the court may direct, authorize the commissioner to take possession of the personal property in the estate, liquidate it, and hold the proceeds in trust for the ward, to be invested, expended and accounted for as provided by sections 256.88 to 256.92.

Sec. 14. Minnesota Statutes 2004, section 257B.08, is amended to read:

257B.08 CONFLICTING DOCUMENTS.

If a parent has appointed a testamentary guardian ~~of the person or estate~~ of children by will under chapter 529 and there is a conflict between the designation in the will and a duly executed standby custodian designation, the document latest in date of execution prevails.

Sec. 15. Minnesota Statutes 2004, section 259.21, subdivision 4, is amended to read:

Subd. 4. **GUARDIAN.** "Guardian" means a guardian ~~of the person~~ of the ward appointed by a court of competent jurisdiction.

Sec. 16. Minnesota Statutes 2004, section 260C.101, subdivision 2, is amended to read:

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Subd. 2. **JURISDICTION OVER OTHER MATTERS RELATING TO CHILDREN.** Except as provided in clause (d), the juvenile court has original and exclusive jurisdiction in proceedings concerning:

(a) The termination of parental rights to a child in accordance with the provisions of sections 260C.301 to 260C.328.

(b) The appointment and removal of a juvenile court guardian of the person for a child, where parental rights have been terminated under the provisions of sections 260C.301 to 260C.328.

(c) Judicial consent to the marriage of a child when required by law.

(d) The juvenile court in those counties in which the judge of the probate-juvenile court has been admitted to the practice of law in this state shall proceed under the laws relating to adoptions in all adoption matters. In those counties in which the judge of the probate-juvenile court has not been admitted to the practice of law in this state the district court shall proceed under the laws relating to adoptions in all adoption matters.

(e) The review of the foster care status of a child who has been placed in a residential facility, as defined in section 260C.212, subdivision 1, pursuant to a voluntary release by the child's parent or parents.

Sec. 17. Minnesota Statutes 2004, section 302A.011, subdivision 16, is amended to read:

Subd. 16. **LEGAL REPRESENTATIVE.** "Legal representative" means a person empowered to act for another person, including, but not limited to, an agent, officer, partner, or associate of, an organization; a trustee of a trust; a personal representative; an executor of a will; an administrator of an estate; a trustee in bankruptcy; and a receiver, guardian, custodian, or conservator of the a person or estate of a person's estate.

Sec. 18. Minnesota Statutes 2004, section 303.03, is amended to read:

303.03 FOREIGN CORPORATIONS MUST HAVE CERTIFICATE OF AUTHORITY.

No foreign corporation shall transact business in this state unless it holds a certificate of authority so to do; and no foreign corporation whose certificate of authority has been revoked or canceled pursuant to the provisions of this chapter shall be entitled to obtain a certificate of authority except in accordance with the provisions of section 303.19. This section does not establish standards for those activities that may subject a foreign corporation to taxation under section 290.015 and to the reporting requirements of section 290.371. Without excluding other activities which may not constitute transacting business in this state, and subject to the provisions of sections 5.25 and 543.19, a foreign corporation shall not be considered to be transacting business in this state for the purposes of this chapter solely by reason of carrying on in this state any one or more of the following activities:

(a) maintaining or defending any action or suit or any administrative or arbitration proceeding, or effecting the settlement thereof or the settlement of claims or disputes;

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(b) holding meetings of its directors or shareholders or carrying on other activities concerning its internal affairs;

(c) maintaining bank accounts;

(d) maintaining offices or agencies for the transfer, exchange, and registration of its securities, or appointing and maintaining trustees or depositaries with relation to its securities;

(e) holding title to and managing real or personal property, or any interest therein, situated in this state, as executor of the will or administrator of the estate of any decedent, as trustee of any trust, or as guardian ~~or conservator of the person or estate, or both,~~ of any person or conservator of any person's estate;

(f) making, participating in, or investing in loans or creating, as borrower or lender, or otherwise acquiring indebtedness or mortgages or other security interests in real or personal property;

(g) securing or collecting its debts or enforcing any rights in property securing them; or

(h) conducting an isolated transaction completed within a period of 30 days and not in the course of a number of repeated transactions of like nature.

Sec. 19. Minnesota Statutes 2004, section 303.25, subdivision 1, is amended to read:

Subdivision 1. **APPOINTMENTS.** Any foreign trust association may accept appointment and act as executor of the will or administrator of the estate of any decedent who was a resident of this state at the time of death, as trustee of any trust created by a resident of this state by will or otherwise, and as guardian ~~or conservator of the person or estate, or both,~~ of any resident of this state or conservator of the resident's estate, if banking or trust associations or corporations organized under the laws of this state or national banking associations maintaining their principal offices in this state are permitted to act as executors, administrators, trustees, guardians, or conservators in the state in which the foreign trust association maintains its principal office. Any foreign trust association may accept appointment and act as executor of the will or administrator of the estate of a decedent, who was a resident of the state in which the foreign trust association maintains its principal office at the time of death, in ancillary probate proceedings in this state, as trustee of any trust created by the decedent by will or otherwise of property situated in this state, and as guardian or conservator in ancillary proceedings in this state with respect to the property of a resident of the other state if banking or trust associations or corporations organized under the laws of this state and national banking associations maintaining their principal offices in this state are permitted to act as executors, administrators, trustees, guardians, or conservators in the state in which the foreign trust association maintains its principal office.

Sec. 20. Minnesota Statutes 2004, section 322B.03, subdivision 27, is amended to read:

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Subd. 27. **LEGAL REPRESENTATIVE.** "Legal representative" means a person empowered to act for another person, including, but not limited to, an agent, manager, partner, or associate, of an organization; a trustee of a trust; a personal representative; an executor of a will; an administrator of an estate; a trustee in bankruptcy; and a receiver, guardian, custodian, or conservator of the a person or estate of a person a person's estate.

Sec. 21. Minnesota Statutes 2004, section 501B.18, is amended to read:

501B.18 ORDER FOR HEARING.

Upon the filing of a petition under section 501B.16, the court shall, by order, fix a time and place for a hearing, unless notice and hearing have been waived in writing by the beneficiaries of the trust then in being. Unless waived, notice of the hearing must be given as follows: (1) by publishing, at least 20 days before the date of the hearing, a copy of the order for hearing one time in a legal newspaper for the county in which the petition is filed; and (2) by mailing, at least 15 days before the date of the hearing, a copy of the order for hearing to those beneficiaries of the trust who are known to or reasonably ascertainable by the petitioner. In the case of a beneficiary who is a minor or an incapacitated person as defined in section ~~525.54~~ 524.5-102 and for whom a conservator, guardian, or guardian ad litem known to the petitioner has been appointed, notice must be mailed to that fiduciary. Notice may be given in any other manner the court orders.

Sec. 22. Minnesota Statutes 2004, section 501B.19, is amended to read:

501B.19 REPRESENTATION OF PERSONS WHO ARE UNBORN, UN-ASCERTAINED, UNKNOWN, OR MINORS OR INCAPACITATED PERSONS.

If an interested person is a minor or an incapacitated person as defined in section ~~525.54~~ 524.5-102 and has no guardian or conservator within the state, or if an interested person is unborn, unascertained, or a person whose identity or address is unknown to the petitioner, the court shall represent that person, unless the court, upon the application of the trustee or any other interested person, appoints a guardian ad litem to represent the person.

Sec. 23. Minnesota Statutes 2004, section 525.9212, is amended to read:

525.9212 MAKING, REVOKING, AND OBJECTING TO ANATOMICAL GIFTS, BY OTHERS.

(a) Any member of the following classes of persons, in the order of priority listed, may make an anatomical gift of all or a part of the decedent's body for an authorized purpose, unless the decedent has made a refusal to make that anatomical gift that is unrevoked at the time of death:

- (1) the spouse of the decedent;
- (2) an adult son or daughter of the decedent;
- (3) either parent of the decedent;

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(4) an adult brother or sister of the decedent;

(5) a grandparent of the decedent; and

(6) a guardian or conservator of the person of the decedent at the time of death or a health care agent or proxy appointed by the decedent under a health care directive as defined in section 145C.01, a living will under chapter 145B, or other similar document executed in another state and enforceable under the laws of this state.

(b) An anatomical gift may not be made by a person listed in paragraph (a) if:

(1) a person in a prior class is available at the time of death to make an anatomical gift;

(2) the person proposing to make an anatomical gift knows of a refusal or contrary indications by the decedent; or

(3) the person proposing to make an anatomical gift knows of an objection to making an anatomical gift by a member of the person's class or a prior class.

(c) An anatomical gift by a person authorized under paragraph (a) must be made by (i) a document of gift signed by the person, or (ii) the person's telegraphic, recorded telephonic, or other recorded message, or other form of communication from the person that is contemporaneously reduced to writing and signed by the recipient.

(d) An anatomical gift by a person authorized under paragraph (a) may be revoked by any member of the same or a prior class if, before procedures have begun for the removal of a part from the body of the decedent, the physician, surgeon, technician, or enucleator removing the part knows of the revocation.

(e) A failure to make a decision as to an anatomical gift under paragraph (a) is not an objection to the making of an anatomical gift.

Sec. 24. Minnesota Statutes 2004, section 525.95, subdivision 1, is amended to read:

Subdivision 1. **DEFINITIONS.** The definitions in this subdivision apply to this section.

(a) "War service" includes the following, during a period when the United States is engaged in war or other major military engagement with a foreign nation:

(1) active membership in the military forces of the United States or any of its allies;

(2) acceptance for membership in the military forces of the United States or any of its allies and awaiting induction into that service;

(3) participation in work abroad in connection with a governmental agency of the United States or any of its allies, with the Red Cross, or with a similar service;

(4) internment by an enemy or absence from the United States and inability to return; and

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(5) service arising out of or in connection with the war or other major military engagement, which in the opinion of the court prevents the fiduciary from giving the proper attention to duties.

(b) "Fiduciary" refers to a trustee of a testamentary trust or of an express trust, a guardian of a person or conservator of the person or estate of a person person's estate, an executor of a will, an administrator of the estate of the decedent, a custodian under the Minnesota Uniform Transfers to Minors Act, or an advisor or consultant in a testamentary or express trust.

Sec. 25. Minnesota Statutes 2004, section 527.38, is amended to read:

527.38 RENUNCIATION, RESIGNATION, DEATH, OR REMOVAL OF CUSTODIAN; DESIGNATION OF SUCCESSOR CUSTODIAN.

(a) A person nominated under section 527.23 or designated under section 527.29 as custodian may decline to serve by delivering a valid disclaimer to the person who made the nomination or to the transferor or the transferor's legal representative. If the event giving rise to a transfer has not occurred and no substitute custodian able, willing, and eligible to serve was nominated under section 527.23, the person who made the nomination may nominate a substitute custodian under section 527.23; otherwise the transferor or the transferor's legal representative shall designate a substitute custodian at the time of the transfer, in either case from among the persons eligible to serve as custodian for that kind of property under section 527.29, paragraph (a). The custodian so designated has the rights of a successor custodian.

(b) A custodian at any time may designate a trust company or an adult other than a transferor under section 527.24 as successor custodian by executing and dating an instrument of designation before a subscribing witness other than the successor. If the instrument of designation does not contain or is not accompanied by the resignation of the custodian, the designation of the successor does not take effect until the custodian resigns, dies, becomes incapacitated, or is removed.

(c) A custodian may resign at any time by delivering written notice to the minor if the minor has attained the age of 14 years and to the successor custodian and by delivering the custodial property to the successor custodian.

(d) If a custodian is ineligible, dies, or becomes incapacitated without having effectively designated a successor and the minor has attained the age of 14 years, the minor may designate as successor custodian, in the manner prescribed in paragraph (b), an adult member of the minor's family, a conservator of the minor, or a trust company. If the minor has not attained the age of 14 years or fails to act within 60 days after the ineligibility, death, or incapacity, the conservator of the minor becomes successor custodian. If the minor has no conservator or the conservator declines to act, the transferor, the legal representative of the transferor or of the custodian, an adult member of the minor's family, or any other interested person may petition the court to designate a successor custodian.

(e) A custodian who declines to serve under paragraph (a) or resigns under paragraph (c), or the legal representative of a deceased or incapacitated custodian, as

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soon as practicable, shall put the custodial property and records in the possession and control of the successor custodian. The successor custodian by action may enforce the obligation to deliver custodial property and records and becomes responsible for each item as received.

(f) A transferor, the legal representative of a transferor, an adult member of the minor's family, a guardian of the person of the minor, the conservator of the ~~minor~~ minor's estate, or the minor if the minor has attained the age of 14 years may petition the court to remove the custodian for cause and to designate a successor custodian other than a transferor under section 527.24 or to require the custodian to give appropriate bond.

Sec. 26. Minnesota Statutes 2004, section 527.39, is amended to read:

527.39 ACCOUNTING BY AND DETERMINATION OF LIABILITY OF CUSTODIAN.

(a) A minor who has attained the age of 14 years, the minor's guardian of the ~~person~~ or legal representative, an adult member of the minor's family, a transferor, or a transferor's legal representative may petition the court (i) for an accounting by the custodian or the custodian's legal representative; or (ii) for a determination of responsibility, as between the custodial property and the custodian personally, for claims against the custodial property unless the responsibility has been adjudicated in an action under section 527.37 to which the minor or the minor's legal representative was a party.

(b) A successor custodian may petition the court for an accounting by the predecessor custodian.

(c) The court, in a proceeding under this chapter or in any other proceeding, may require or permit the custodian or the custodian's legal representative to account.

(d) If a custodian is removed under section 527.38, paragraph (f), the court shall require an accounting and order delivery of the custodial property and records to the successor custodian and the execution of all instruments required for transfer of the custodial property.

Sec. 27. Minnesota Statutes 2004, section 529.12, is amended to read:

529.12 DECLINATION, RESIGNATION, INCAPACITY, DEATH, OR REMOVAL OF CUSTODIAL TRUSTEE; DESIGNATION OF SUCCESSOR CUSTODIAL TRUSTEE.

(a) Before accepting the custodial trust property, a person designated as custodial trustee may decline to serve by notifying the person who made the designation, the transferor, or the transferor's legal representative. If an event giving rise to a transfer has not occurred, the substitute custodial trustee designated under section 529.03 becomes the custodial trustee, or, if a substitute custodial trustee has not been designated, the person who made the designation may designate a substitute custodial trustee pursuant to section 529.03. In other cases, the transferor or the transferor's legal representative may designate a substitute custodial trustee.

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(b) A custodial trustee who has accepted the custodial trust property may resign by (i) delivering written notice to a successor custodial trustee, if any, the beneficiary and, if the beneficiary is incapacitated, to the beneficiary's conservator, if any, and (ii) transferring or registering, or recording an appropriate instrument relating to, the custodial trust property, in the name of, and delivering the records to, the successor custodial trustee identified under subsection (c).

(c) If a custodial trustee or successor custodial trustee is ineligible, resigns, dies, or becomes incapacitated, the successor designated under section 529.02, subsection (g), or 529.03 becomes custodial trustee. If there is no effective provision for a successor, the beneficiary, if not incapacitated, or the holder of the beneficiary's power of attorney, may designate a successor custodial trustee.

(d) If a successor custodial trustee is not designated pursuant to subsection (c), the transferor, the legal representative of the transferor or of the custodial trustee, an adult member of the beneficiary's family, the conservator of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court to designate a successor custodial trustee in accordance with the procedures set forth in sections 501B.16 to 501B.25.

(e) A custodial trustee who declines to serve or resigns, or the legal representative of a deceased or incapacitated custodial trustee, as soon as practicable, shall put the custodial trust property and records in the possession and control of the successor custodial trustee. The successor custodial trustee may enforce the obligation to deliver custodial trust property and records and becomes responsible for each item as received.

(f) A beneficiary, the beneficiary's conservator, an adult member of the beneficiary's family, a guardian of the person of the beneficiary, a person interested in the custodial trust property, or a person interested in the welfare of the beneficiary, may petition the court to remove the custodial trustee for cause and designate a successor custodial trustee, to require the custodial trustee to furnish a bond or other security for the faithful performance of fiduciary duties, or for other appropriate relief.

Sec. 28. Minnesota Statutes 2004, section 540.18, subdivision 1, is amended to read:

Subdivision 1. **LIABILITY RULE.** The parent or guardian of the person of a minor who is under the age of 18 and who is living with the parent or guardian and who willfully or maliciously causes injury to any person or damage to any property is jointly and severally liable with such minor for such injury or damage to an amount not exceeding \$1,000, if such minor would have been liable for such injury or damage if the minor had been an adult. Nothing in this subdivision shall be construed to relieve such minor from personal liability for such injury or damage. The liability provided in this subdivision is in addition to and not in lieu of any other liability which may exist at law. Recovery under this section shall be limited to special damages.

Sec. 29. **REVISOR'S INSTRUCTION.**

The Revisor of Statutes shall change the references to Minnesota Statutes in the following Minnesota Rules parts from the repealed section number in column A to the

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current section number in column B.

<u>Minnesota Rules part</u>	<u>Column A Obsolete Reference</u>	<u>Column B Current Reference</u>
<u>3400.0020,</u> <u>subp. 31b</u>	<u>525.615; 525.6165</u>	<u>524.5-201;</u> <u>524.5-202;</u> <u>524.5-204</u>
<u>9520.0902, subp. 26</u>	<u>525.619</u>	<u>524.5-207;</u> <u>524.5-209</u>
<u>9525.0004, subp. 17</u> <u>9525.3020, subp. 3</u>	<u>524.5-505</u> <u>525.54,</u> <u>subd. 3</u>	<u>524.5-211</u> <u>524.5-302;</u> <u>524.5-303;</u> <u>524.5-403</u>
<u>9525.3025, subp. 7</u>	<u>525.55</u>	<u>524.5-113;</u> <u>524.5-303;</u> <u>524.5-304;</u> <u>524.5-308;</u> <u>524.5-404</u>
<u>9525.3030</u>	<u>525.56</u>	<u>524.5-313;</u> <u>524.5-417;</u> <u>524.5-418</u>
<u>9525.3040, subp. 1</u>	<u>525.56,</u> <u>subds. 1 to 3</u>	<u>524.5-313,</u> <u>paragraphs (a) to (c)</u>
<u>9525.3060, subp. 1</u>	<u>525.56, subd. 3</u>	<u>524.5-313,</u> <u>paragraph (c)</u>
<u>9525.3060, subp. 1</u>	<u>525.56, subd. 3,</u> <u>clause (4),</u> <u>paragraph (b)</u>	<u>524.5-313,</u> <u>paragraph (c),</u> <u>clause (4), item (ii)</u>
<u>9525.3060, subp. 2</u>	<u>525.56, subd. 3,</u> <u>clause (4),</u> <u>paragraph (c)</u>	<u>524.5-313,</u> <u>paragraph (c),</u> <u>clause (4), item (iii)</u>
<u>9525.3060, subp. 4</u>	<u>525.56, subd. 3,</u> <u>clause (4),</u> <u>paragraph (a)</u>	<u>524.5-313,</u> <u>paragraph (c),</u> <u>clause (4), item (i)</u>
<u>9525.3075, subp. 3</u>	<u>525.57</u>	<u>524.5-107;</u> <u>524.5-433</u>
<u>9525.3090, subp. 3</u>	<u>525.60</u>	<u>524.5-112;</u> <u>524.5-317;</u> <u>524.5-428;</u> <u>524.5-431</u>
<u>9525.0925, subp. 22</u>	<u>525.619</u>	<u>524.5-207;</u> <u>524.5-209</u>
<u>9555.5105, subp. 20</u>	<u>525.539 to</u> <u>525.6198</u>	<u>524.5-101 to</u> <u>524.5-502</u>
<u>9555.7600</u>	<u>525.539 to</u>	<u>524.5-101 to</u>

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	<u>Column A</u>	<u>Column B</u>
<u>Minnesota Rules part</u>	<u>Obsolete Reference</u>	<u>Current Reference</u>
<u>3400.0020,</u> <u>subp. 31b</u>	<u>525.615; 525.6165</u>	<u>524.5-201;</u> <u>524.5-202;</u> <u>524.5-204</u>
<u>9520.0902, subp. 26</u>	<u>525.619</u>	<u>524.5-207;</u> <u>524.5-209</u>
	<u>525.6198</u>	<u>524.5-502</u>

ARTICLE 5

RETIREMENT PROVISIONS

Section 1. Minnesota Statutes 2004, section 353.01, subdivision 2, is amended to read:

Subd. 2. **PUBLIC EMPLOYEE.** "Public employee" means a governmental employee performing personal services for a governmental subdivision defined in subdivision 6, whose salary is paid, in whole or in part, from revenue derived from taxation, fees, assessments, or from other sources. The term includes the classes of persons described or listed in subdivision 2a. The term also includes persons who elect association membership under subdivision 2d, paragraph (a), and persons for whom the applicable governmental subdivision had elected association membership under subdivision 2d, paragraph (b). The term also includes full-time employees of the Dakota County Agricultural Society. The term excludes the classes of persons listed in subdivision 2b for purposes of membership in the association.

Sec. 2. Minnesota Statutes 2004, section 353.34, subdivision 3a, is amended to read:

Subd. 3a. **DEFERRED ANNUITY; CERTAIN HOSPITAL EMPLOYEES.** Any member employed by a public hospital, as defined in section ~~355.74~~ 355.01, subdivision ~~3~~ 3k, who has at least three years of allowable service credit on the date the public hospital is taken over by a private corporation or organization, may elect to receive a deferred annuity pursuant to subdivision 3 notwithstanding the length of service requirement contained therein.

Sec. 3. Minnesota Statutes 2004, section 356.431, subdivision 1, is amended to read:

Subdivision 1. **LUMP-SUM POSTRETIREMENT PAYMENT CONVERSION.** For benefits paid after December 31, 2001, to eligible persons under sections 356.42 and 356.43, the amount of the most recent lump-sum benefit payable to an eligible recipient under sections ~~356.86~~ 356.42 and ~~356.865~~ 356.43 must be divided by

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12. The result must be added to the monthly annuity or benefit otherwise payable to an eligible recipient, must become a permanent part of the benefit recipient's pension, and must be included in any pension benefit subject to future increases.

Sec. 4. INSTRUCTION TO REVISOR.

The revisor of statutes shall replace the references to Minnesota Statutes, section 356.55 with Minnesota Statutes, section 356.551 in the following sections of Minnesota Statutes: 352.275, subdivision 1; 352B.01, subdivision 3a; 353.01, subdivision 16a; 353.666; and 354.533.

Sec. 5. REPEALER.

Laws 2001, First Special Session chapter 10, article 10, section 1, is repealed.

Presented to the governor March 10, 2005

Signed by the governor March 14, 2005, 3:50 p.m.

CHAPTER 11—S.F.No. 518

An act relating to Hennepin County; eliminating duplicate campaign finance filings; making other technical changes to the county campaign finance provisions; amending Minnesota Statutes 2004, sections 383B.042, subdivisions 13, 14, 16; 383B.046; 383B.047; 383B.048; 383B.049; 383B.05; 383B.053, subdivision 1.

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

Section 1. Minnesota Statutes 2004, section 383B.042, subdivision 13, is amended to read:

Subd. 13. "Political committee" means any political party, association or person other than an individual that seeks as its major purpose to influence the outcome of any election for a city ballot issue or for any city office in the city of Bloomington; for a city or school district ballot issue and for any city or school district office in the city of Minneapolis, and in Special School District No. 1, Minneapolis; or for any countywide ballot issue or county office in Hennepin County; and not to influence the outcome of any other election.

Sec. 2. Minnesota Statutes 2004, section 383B.042, subdivision 14, is amended to read:

Subd. 14. "Political fund" means any accumulation of dues or voluntary contributions by an association other than a political committee, which accumulation is collected or expended for the purpose of influencing the outcome of any election for a city ballot issue or for any city office in the city of Bloomington; for a city or school district ballot issue and for any city or school district office in the city of Minneapolis, and in Special School District No. 1, Minneapolis; or for any countywide ballot issue

New language is indicated by underline, deletions by ~~strikeout~~.