

of Bloomington. The city council shall fix the fee for the license. The provisions of Minnesota Statutes, chapter 340A governing alcoholic beverages that are not inconsistent with this section apply to the license.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective the day after the Bloomington city clerk complies with Minnesota Statutes, section 645.021, subdivision 3.

Approved April 6, 1988

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**CHAPTER 469—S.F.No. 1644**

*An act relating to statutes; revising the text of certain laws to remove redundant and obsolete language, to simplify grammar and syntax, and to improve the style of language without causing changes in the meaning of the laws; amending Minnesota Statutes 1986, chapters 3, as amended; 31A; 227; 228; 306, as amended; 451; 456; and 560.*

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

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**ARTICLE 1**

Section 1. Minnesota Statutes 1986, chapter 3, as amended by Laws 1987, chapters 7, section 1; 184, section 1; 259, section 1; 268, article 7, section 1; 373, sections 1 and 2; 375, section 1; 404, sections 60, 61, 62, 63, and 191; and Laws 1987, First Special Session chapter 2, section 1, is amended to read:

**3.011 SESSIONS.**

The legislature shall assemble meet at the seat of government on the first Tuesday after the first Monday in January of each odd numbered year; ~~provided, however, that~~. When the first Monday in January falls on January 1, ~~the legislature it shall assemble meet~~ on the first Wednesday after the first Monday in January of that year; and at such other times as it may be. It shall also meet when called by the governor to meet in extra special session.

**3.012 LEGISLATIVE DAY.**

A legislative day is ~~any a~~ day when either house of the legislature is called to order. A legislative day ~~shall commence begins~~ at seven o'clock a.m. and ~~continue continues~~ until seven o'clock a.m. of the following calendar day.

**3.02 EVIDENCE OF MEMBERSHIP.**

For all purposes of organization of either house of the legislature, a certificate

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of election ~~thereto~~ to it, duly executed by the auditor of the proper county, or by the secretary of state when the member is elected from more than one county, ~~shall be~~ is prima facie evidence of the right to membership of the person ~~therein~~ named in it.

### 3.05 ORGANIZATION.

At noon of the day appointed for ~~the~~ convening ~~of~~ the legislature, the members ~~thereof~~ shall meet in their respective chambers. The lieutenant governor shall call the senate to order; and the secretary of state, the house of representatives. In the absence of either ~~of these officers~~ officer, the oldest member present shall act in the officer's place. The person so acting shall appoint, from the members present, a clerk pro tem, who shall call the legislative districts in the order of their numbers; ~~and~~. As each is called, the persons claiming to be members ~~therefrom~~ from each shall present their certificates to be filed. All whose certificates are so presented shall then stand and be sworn.

### 3.06 OFFICERS AND EMPLOYEES.

Subdivision 1. **ELECTION.** Thereupon, ~~if~~ if a quorum ~~being~~ is present, the ~~respective~~ houses shall elect the following officers, any of whom may be removed by resolution of the appointing body;

The senate; shall elect a secretary, a first and a second assistant secretary, an enrolling clerk, an engrossing clerk, a sergeant-at-arms, an assistant sergeant-at-arms, and a chaplain; ~~and~~.

The house; shall elect a speaker, who shall be a member ~~thereof~~ of the house, a chief clerk, a first and a second assistant clerk, an index clerk, a chief sergeant-at-arms, a first and a second assistant sergeant-at-arms, a postmaster, an assistant postmaster, and a chaplain.

Subd. 2. **SUCCESSORS.** ~~In the event of the resignation or death of~~ If an officer of the house of representatives or senate resigns or dies, the duties of the officer shall be performed by a successor as provided in the rules of the ~~respective officer's~~ respective house until a successor is elected at a regular or special session ~~of the legislature.~~

### 3.07 ADDITIONAL EMPLOYEES.

Each house, after its organization, may appoint and at pleasure remove ~~such~~ the employees ~~as are~~ provided for by its permanent rules or recommended by its committee on legislative expense. All officers and employees shall be paid by the day and shall receive ~~such the~~ compensation ~~as is~~ provided by the permanent rules of the electing or appointing body or recommended by its committee on legislative expense; ~~and~~. Unless otherwise expressly provided by law, no ~~such~~ officer or employee shall receive any other compensation for services.

### 3.073 ORGANIZATION OF SPECIAL SESSION.

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

The officers elected, the rules adopted, and the committees established by the legislature and by each house during the preceding regular session shall serve and be in effect during ~~any a~~ special session, except as the legislature or a house provides otherwise.

### 3.08 ELECTION; DUTIES.

In addition to the duties prescribed by law, ~~such the~~ officers and employees shall perform ~~such the~~ services ~~as may be~~ required of them by rule or vote of the appointing body or by direction of ~~any a~~ committee ~~thereof of the~~ appointing body.

### 3.082 MEMBERS' EMPLOYMENT; CONTINUATION.

~~Any A~~ member of the legislature of the state of Minnesota who held a position, other than a temporary position, in the employ of ~~any a~~ private employer in Minnesota at the commencement of service in ~~any a~~ legislative session, who ~~makes application~~ applies for reemployment not later than 30 days after the last legislative day in each calendar year, shall be continued in or restored to ~~such the~~ position, or to a position of like seniority, status and pay. Retirement benefits under an employer-sponsored pension or retirement plan shall not be reduced ~~by reason because~~ of time spent in legislative service.

### 3.083 RETENTION OF SENIORITY, FRINGE BENEFITS AND TENURE.

Subdivision 1. ~~Any A~~ member of the legislature who is continued in or restored to a position in accordance with ~~the provisions of~~ section 3.082:

(1) shall be ~~so~~ continued or restored without loss of seniority,

~~shall be entitled to~~ (2) may participate in insurance or other benefits offered by the employer ~~pursuant to under~~ its established rules and practices, and

(3) shall not be discharged without good cause from ~~such the~~ position for a ~~period of~~ three years after the continuation or restoration except in the reverse order of seniority with the employer within the field of the legislator's training and experience ~~without good cause after such continuation or restoration~~.

Subd. 2. No employer or employee organization may ~~at any time~~ discharge or otherwise discriminate against an employee or member who is or was a member of the legislature in retribution for statements made or beliefs held by the employee or member in the capacity as a member of the legislature. For purposes of this subdivision "employee organization" means ~~any a~~ union or organization of employees which exists ~~for the purpose~~, in whole or in part, for collective bargaining or ~~of~~ dealing with employers concerning grievances or term or conditions of employment.

### 3.087 RIGHT OF ACTION IN DISTRICT COURT.

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~~In case any~~ If a private employer fails or refuses to comply with the ~~provisions of sections 3.082 and 3.083, the district court of the state of Minnesota for the district in which such where the private employer maintains a place of business, shall have the power~~ may, upon the filing of a ~~memorandum, petition or other appropriate pleading~~ complaint by the member of the legislature entitled to the benefits of ~~such provisions sections 3.082 and 3.083, to specifically require such the employer to comply with such their provisions ; and, as an incident thereto, to compensate such the member of the legislature for any loss of wages or benefits suffered by reason of such the employer's unlawful action.~~ The court shall order a speedy hearing in ~~any such the case and shall advance it on the calendar.~~

### 3.088 LEAVE OF ABSENCE.

Subdivision 1. **LEAVE OF ABSENCE WITHOUT PAY.** Subject to the ~~conditions prescribed by this section, any appointed officer or employee of any~~ a political subdivision, municipal corporation, or school district of the state or an institution of learning maintained by the state who serves as a state legislator during a session or is elected to any a full time city or county office in Minnesota shall be is entitled to a leave of absence from the public office or ~~to~~ employment without pay during any part or all of the service, with right of reinstatement as provided in this section.

Subd. 2. **REINSTATEMENT.** Except as ~~otherwise~~ provided in this section, upon the completion of the last legislative day in each calendar year, or, in the case of an elected city or county official, on the completion of the final day of the term to which the official was elected, the officer or employee shall be reinstated in the public position held at the time of entry into the legislature or ~~at the time of taking city or county office as a city or county officer, or shall be placed in a public position of like seniority, status, and pay if it is available at the same salary which would have been received if the leave had not been taken, upon the following conditions:~~

(1) that the position has not been abolished or that ~~the its~~ term thereof, if limited, has not expired;

(2) that the legislator makes a written application for reinstatement to the appointing authority within 30 days after the last legislative day in a calendar year or, in the case of an elected city or county official, within 30 days after the expiration of the elected term ~~to which the official was elected;~~ and;

(3) that the request for reinstatement is made not later than 10 years after the granting of the leave.

Upon reinstatement the officer or employee shall have the same rights with respect to accrued and future seniority status, efficiency rating, vacation, insurance benefits, sick leave, and other benefits as if actually employed during the time of the leave. No public employer ~~shall be is~~ required to compensate a reinstated employee or officer for ~~any~~ time spent by that employee or officer

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away from work for the employer and on the business of the state legislature ~~at any time~~ during the period between the first and last legislative day in each calendar year or on the business of ~~any other an~~ elected city or county office. No officer or employee reinstated shall be removed or discharged within one year ~~thereafter~~ after reinstatement except for cause; and after notice and hearing<sub>1</sub>, but this ~~shall~~ does not ~~operate to~~ extend a term of service limited by law.

Subd. 3. **OFFICERS AND EMPLOYEES TO PRESERVE PENSION AND RETIREMENT RIGHTS.** ~~Any A~~ public officer or employee ~~receiving who~~ receives leave of absence under this section or ~~who~~ is elected as a state constitutional officer and ~~having has~~ rights in ~~any a~~ state, municipal, or other public pension, retirement, or relief system shall retain all the rights accrued up to the time of taking leave. ~~The~~ Time spent by the employee as a member of the legislature or as an elected city or county official or ~~who is elected as a state constitutional officer~~ shall be calculated in the same manner as if the employee had spent that time in the service of the public employer for the purpose of determining vesting of the employee's rights in the employer's pension, retirement or relief system. Under no circumstances shall two governmental units pay the employee's share of pension contributions ~~for that period on which~~ when the employee is on leave of absence to serve in the legislature or as an elected city or county official.

Subd. 4. **VACANCIES TO BE FILLED TEMPORARILY.** When a public officer or employee is absent with leave under ~~the provisions of~~ this section and it is necessary ~~in the public interest~~ to provide for the performance of the duties of the absentee's position during the absence, the authority having power to fill a vacancy in the position may appoint a ~~substitute; to be known as an~~ acting incumbent, who shall qualify as required for the regular incumbent, receive the same compensation as fixed by law; or ~~otherwise the compensation as fixed by~~ proper authority, and have ~~all~~ the powers and perform ~~all~~ the duties of the position until the return of the regular incumbent. This section ~~shall does~~ not preclude ~~the making of any other lawful~~ provision for the discharge of the duties of the position ~~which may be otherwise authorized by law.~~

Subd. 5. **SUPPLEMENTARY.** The rights and privileges granted by this section ~~shall do~~ not apply ~~when if~~ the elected office is constitutionally or legally incompatible with the public office or employment or ~~when~~ the elected person chooses to take leave as provided by other law.

Subd. 6. **PENSIONS.** Notwithstanding ~~the provisions of~~ any other law or ordinance or ~~the provisions of any~~ state, municipal, or other public retirement or relief association rule or bylaw, a person ~~who has served as a member of the legislature and has qualified for a legislative retirement pension or allowance~~ shall not be disqualified from receiving ~~that a legislative~~ retirement pension or allowance ~~by reason of the fact that because~~ the person is entitled to receive a public pension or retirement benefit as a result of employment by another public employer; ~~and~~. The person shall receive both the legislative retirement pension or allowance and any state, municipal or other public pension or retirement benefit for which the person has qualified.

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### 3.09 COMPENSATION OF EMPLOYEES.

The compensation of officers and employees shall be at the rates per day fixed by the permanent rules of the electing or appointing body or recommended by its committee on legislative expense.

#### 3.095 LEGISLATIVE EMPLOYEES, LEAVES.

The legislative coordinating commission shall adopt plans ~~pertaining to~~ for sick leave and annual leave ~~which shall apply to all~~ for the permanent employees of the legislature and of legislative committees and commissions.

#### 3.096 TRANSFER OF LEAVE.

An employee in the classified service who accepts a position as a permanent employee of the legislature shall have ~~any~~ accrued vacation or sick leave transferred and placed to the employee's credit on the legislative records. A permanent employee of the legislature who accepts a position in the classified service shall have ~~any~~ accrued vacation or sick leave transferred and placed to the employee's credit on the records of the new appointing authority.

#### 3.099 MEMBERS; COMPENSATION AND EXPENSES, FLEXIBLE SESSIONS.

Subdivision 1. The compensation of each member of the legislature ~~shall be~~ is due on the first day of the regular legislative session of the term and payable in equal parts on the fifteenth day of January in the first month of each term and on the first day of each following month ~~thereafter~~, during the term for which the member was elected. The compensation of each member of the legislature elected at a special election is due on the day the member takes the oath of office and payable within ten days of taking the oath, for the remaining part of the month in which the oath was taken, and then in equal parts ~~thereafter~~ on the first day of each following month during the term for which the member was elected.

Each member shall receive mileage for necessary travel ~~in going to and returning from~~ the the place of meeting and returning to the member's place of residence in ~~such~~ the the amount and for ~~such~~ trips as ~~may be~~ authorized by the senate ~~as to~~ for for senate members, and by the house of representatives ~~as to~~ for for house members.

Each member shall also receive in addition ~~to the foregoing~~, ~~such~~ per diem living expenses during a regular or special session of the legislature in ~~such~~ the the amounts and for ~~such~~ the the purposes as ~~may be~~ determined by the senate ~~as to~~ for for senate members and by the house of representatives ~~as to~~ for for house members; ~~provided, that because of the salary increases provided in subdivision 2, the amount of the per diem living expenses payable pursuant to this section during the 71st legislative session shall be set at a level not to exceed \$27 for each member who has moved from the member's usual place of lodging during a~~

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~~substantial part of the session and not to exceed \$17 for each member who has not so changed the place of lodging.~~

On the fifteenth day of January 15 in the first month of each term and on the first day of each following month thereafter, the secretary of the senate and the chief clerk of the house of representatives, shall certify to the commissioner of finance, in duplicate, the amount of compensation then payable to each member of their respective houses, and ~~the aggregate thereof~~ its total.

Subd. 3. ~~Commencing with the start of the legislative session in 1979~~, The senate committee on rules and administration for the senate and the house committee on rules and legislative administration for the house may each designate for their respective body up to three leadership positions to receive up to 140 percent of the compensation of other members.

At the commencement of each biennial legislative session, each house of the legislature shall adopt a resolution designating the its majority and minority leader ~~of that respective body~~.

The majority leader ~~shall be that is the~~ person elected by ~~a the~~ caucus of members in each house which ~~constitutes the is its~~ largest political affiliation ~~within that body and~~. The minority leader ~~shall be that is the~~ person elected by ~~a the~~ caucus of members in each house which ~~constitutes the is its~~ second largest political affiliation ~~within that body~~.

### 3.101 LIVING EXPENSES.

A member of the legislature in addition to the compensation and mileage otherwise provided ~~for~~ by law shall be reimbursed for living and other expenses incurred in the performance of duties or engaging in official business during a regular ~~session~~, ~~a or~~ special session; and when the legislature is not in session in the manner and in such amount ~~as may be~~ prescribed by the senate committee on rules and administration ~~as to senate members for senators~~ and by the house committee on rules and legislative administration ~~as to for~~ house members.

### 3.103 SPECIAL SESSION LIVING EXPENSES.

Each member of the legislature, during a special session ~~thereof~~, shall be reimbursed for expenses incurred in the performance of duties in the same amounts, for the same purposes, and in the same manner as ~~were~~ authorized for ~~the members of the senate senators~~ and the members of the house of representatives at the last regular session ~~occurring immediately prior to such before the~~ special session. Reimbursement for travel, ~~however~~, shall not exceed ~~more than~~ one round trip per member ~~per for~~ each seven calendar days in which the legislature meets in ~~such the~~ special session. ~~This section applies to each special session of the legislature commencing after May 24, 1971.~~

### 3.14 CONTEMPTS.

Each house may punish, as a contempt, ~~any a~~ breach of its privileges, or of the privileges of its members, but only for ~~one or more~~ of the following offenses:

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

(1) arresting or causing to be arrested, ~~any a~~ member or officer ~~thereof~~, in violation of the member's privilege from arrest;

(2) disorderly conduct in its view and presence, or in the view and presence of any of its committees, tending to interrupt ~~their~~ its proceedings;

(3) giving or offering a bribe to ~~any a~~ member, or attempting by menace or ~~by any~~ corrupt or improper means, directly or indirectly, to control or influence a member in giving or withholding the member's vote.

No person shall be excused from attending and testifying before either house of the legislature, or a committee ~~thereof~~ of either house, for an alleged offense upon an investigation ~~in reference to such~~ of giving or offering of a bribe, or attempting by menace or ~~by any~~ corrupt or improper means, directly or indirectly, to control or influence a member in giving or withholding the member's vote upon the ground, ~~or for the reason~~ that the person's required testimony or evidence, documentary or otherwise, may tend to convict the person of a crime or subject the person to a penalty ~~or forfeiture~~; ~~but~~. No person shall be prosecuted, or subjected to ~~any a~~ penalty ~~or forfeiture~~ for, ~~or on account of, any a~~ transaction, matter, or thing concerning which the person may so testify, or produce evidence, documentary or otherwise; ~~and~~. No testimony, so given or produced, shall be received against the person ~~upon~~ in any criminal investigation or proceeding.

### 3.15 PUNISHMENT FOR CONTEMPT.

Punishment for contempt shall be by imprisonment; ~~but~~. The term ~~thereof~~ of imprisonment shall not extend beyond the session at which it is inflicted. When either house shall direct the imprisonment of ~~any a~~ person for a contempt the keeper of the ~~common~~ jail of the county in which the seat of government is situated shall receive; and ~~then~~ detain the person in close confinement; ~~the person~~ during the term fixed by the order of commitment, or until the detainee is discharged by vote of the committing body or ~~by~~ due process of law.

#### 3.151 DISTURBING LEGISLATURE OR INTIMIDATING MEMBER.

Every A person is guilty of a gross misdemeanor who shall:

(1) willfully ~~disturb~~ disturbs the legislature, or either house ~~thereof~~ of it, while in session; ~~or who shall commit any;~~

(2) commits disorderly conduct in the presence and view of either house ~~thereof~~, tending to interrupt its proceedings or impair the respect due to its authority; ~~or who;~~

(3) willfully, by intimidation or otherwise, ~~shall prevent any~~ prevents a member of the legislature from attending ~~any a~~ session of the member's house of the member, or of ~~any a~~ committee ~~thereof~~ of it, or from giving the member's vote upon ~~any a~~ question which may come before ~~such~~ the house, or from performing any other official act; ~~shall be guilty of a gross misdemeanor.~~

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### 3.153 LEGISLATIVE SUBPOENAS.

Subdivision 1. ~~Any~~ A standing or interim legislative committee by a two-thirds vote of its members, may request the issuance of subpoenas, including subpoenas duces tecum, requiring the appearance of persons, production of relevant records, and the giving of relevant testimony. Subpoenas shall be issued by the chief clerk of the house or the secretary of the senate upon receipt of ~~such~~ the request. A person subpoenaed to attend a meeting of the legislature or a hearing of a legislative committee shall receive the same fees and expenses provided by law for witnesses in district court.

Subd. 2. Service of a subpoena authorized by this section shall be made in the manner provided ~~by law~~ for the service of subpoenas in civil actions at least seven days ~~prior to~~ before the date fixed in the subpoena for appearance or production of records unless a shorter period ~~of time~~ is authorized by a majority vote of all the members of the ~~legislative~~ committee.

Subd. 3. Any person served with a subpoena may choose ~~and to~~ be accompanied by counsel ~~in the event if~~ a personal appearance is required and shall be served with a notice to that effect. ~~In addition, any~~ The person ~~served with a subpoena issued by a legislative committee~~ shall also be served with a copy of the resolution or statute establishing the committee, and a general statement of the subject matter of the committee's investigation or inquiry.

Subd. 4. ~~In order To~~ carry out the authority granted by ~~Laws 1971, Chapter 227~~ this section, ~~any~~ a committee authorized by subdivision 1 to request the issuance of subpoenas may, by a two-thirds vote of its members, request the issuance of ~~attachments~~ an attachment to compel the attendance of ~~witnesses~~ a witness who, having been duly subpoenaed to attend, ~~fail~~ fails to do so. The chief clerk of the house or the secretary of the senate upon receipt of the request shall apply to the district court ~~of~~ in Ramsey county for issuance of the attachment.

Subd. 5. Any person who without lawful excuse fails to respond to ~~subpoenas~~ a subpoena issued pursuant to ~~Laws 1971, Chapter 227~~ under this section or who, having been subpoenaed, willfully refuses to be sworn or affirm or to answer any material or proper question before a committee ~~of the legislature~~ is guilty of a misdemeanor ~~and upon conviction thereof may be punished accordingly.~~

### **3.16 MEMBERS, OFFICERS ~~OF, OR~~ AND ATTORNEYS EMPLOYED BY, EXCUSED FROM COURT DUTY.**

No member or officer of, or ~~any~~ attorney employed by, the legislature shall be compelled to attend as a witness in ~~any~~ a court of this state during ~~the~~ a session of the legislature, or while attending ~~meetings~~ a meeting of ~~any~~ a legislative committee or commission when the legislature is not in session unless the court in which the action is pending ~~orders it,~~ upon sufficient showing, ~~shall otherwise order and~~ with the consent of the presiding officer of the body of

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which ~~such~~ the witness is an employee or the consent of the body of which ~~such~~ the witness is a member. No cause or proceeding, civil or criminal, in court or before ~~any~~ a commission or ~~an~~ an officer or referee ~~thereof~~ of a court or commission or a motion or hearing ~~therein~~ on the cause or proceeding, in which a member or officer of, or ~~any~~ an attorney employed by, the legislature is a party, attorney, or witness shall be tried or heard during ~~the~~ a session of the legislature or while ~~any~~ the member, officer ~~of~~, or attorney ~~employed by the legislature~~ employed by the legislature is attending ~~meetings~~ a meeting of ~~any~~ a legislative committee or commission when the legislature is not in session ~~but~~. The matter shall be continued until the legislature or the committee or commission meeting ~~shall have~~ has adjourned.

The member ~~or~~, officer ~~of~~, or ~~any~~ attorney ~~employed by the legislature~~ employed by the legislature may, with the consent of the body of the legislature of which the person is a member ~~or~~, officer, or ~~employed by employee~~ employed by employee, waive this privilege ~~and in this case~~. The cause or proceeding, motion, or hearing may ~~then~~ then be tried or heard at ~~such~~ a time as ~~that~~ that will not conflict with legislative duties.

### 3.17 JOURNALS.

A journal of the daily proceedings in each house shall be printed and laid before each member at the beginning of the next day's session. After it has been publicly read and corrected, a copy ~~of the journal~~, kept by the secretary and chief clerk, respectively, and a transcript ~~thereof~~ as approved shall be certified by the secretary or clerk to the printer, who shall print the corrected ~~sheets for~~ the permanent journal. Executive messages, addresses, reports, communications, and ~~all~~ voluminous documents other than amendments to the constitution or to bills and resolutions and the protests of members submitted under the constitution ~~of the State of Minnesota~~, article 4, section 11, shall be omitted from the journals, unless otherwise ordered by vote.

### 3.18 OTHER RECORDS.

Each house may determine, by rule or resolution, ~~what~~ the number of copies of its journal ~~shall to~~ be printed, and the form and contents of ~~the~~ its other records ~~it may see fit to keep~~. ~~In like manner~~

It may ~~cause to be have~~ printed, in an appendix to its journal, the documents it ~~shall desire to so preserve; but, desires~~. If both houses ~~shall~~ order the same document to be so printed, it shall be inserted only in the appendix to the senate journal.

### 3.185 ALTERING DRAFT OF BILL.

~~Every~~ A person who ~~shall~~ fraudulently ~~alter~~ alters the draft of ~~any~~ a bill or resolution which has been presented to either house of the legislature to be passed or adopted, with intent to procure ~~it to be passed or adopted~~ its passage or adoption by either house; or ~~certified certification~~ certified certification by ~~its~~ the presiding officer, in language different from that intended by ~~such~~ the house, ~~shall be~~ is guilty of a gross misdemeanor.

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### 3.19 ENGROSSING AND ENROLLING.

All bills, joint resolutions, and legislative acts shall be engrossed or enrolled ~~in the manner as~~ provided by the rules of the senate and the house of representatives or ~~the their~~ joint rules thereof. In the engrossing or enrolling of bills, copying machines and other labor saving devices and equipment shall be used to the greatest possible extent.

#### 3.191 ALTERING ENGROSSED BILL.

~~Every~~ A person who ~~shall~~ fraudulently ~~alter~~ alters the engrossed copy or enrollment of ~~any a~~ bill which has been passed by the legislature, with intent to procure it ~~to be approved~~ its approval by the governor, ~~or certified certification~~ by the secretary of state, or ~~printed printing~~ or published publication by the printer of the statutes, in language different from that in which it was passed by the legislature, ~~shall be~~ is guilty of a felony.

#### 3.195 REPORTS TO THE LEGISLATURE.

Subdivision 1. **DISTRIBUTION OF REPORTS.** ~~Whenever~~ A report to the legislature is required of a department or agency of ~~government~~, it shall be made, unless otherwise specifically required by law, by ~~the~~ filing of one copy with the secretary of the senate, one copy with the chief clerk of the house of representatives, and ten copies with the legislative reference library. The same distribution procedure shall be followed for other reports and publications unless otherwise requested by a legislator or the legislative reference library.

Subd. 2. **IDENTIFICATION OF DOCUMENTS.** ~~Whenever~~ When a report or publication as defined in section 3.302, subdivision 3, is submitted by a department or agency to the legislative reference library, the department or agency shall supply to the ~~legislative reference~~ library the information necessary to identify the document as required ~~in~~ by section 3.302, subdivision 3a.

Subd. 3. **CHECKLIST OF STATE DOCUMENTS.** The legislative reference library shall monthly publish and distribute to legislators a checklist of state documents. ~~Additional~~ Enough copies of the checklist ~~sufficient~~ for distribution to all state agencies, public, university and college libraries shall be provided by the documents section, department of administration.

#### 3.198 COMPUTER TERMINALS; ACCESS TO MECC INFORMATION SYSTEM PROVIDED BY MECC.

The ~~Minnesota state~~ senate and the ~~Minnesota state~~ house of representatives ~~are hereby authorized to~~ may obtain computer terminals for the ~~purpose of~~ gaining access to the statewide management information system provided for school districts through the Minnesota Educational Computing Consortium. ~~Further,~~ The ~~Minnesota Educational Computing~~ consortium is directed to shall provide the staff of the senate and house of representatives with training for use of that system.

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### 3.20 FORM OF ACT; SUBMISSION.

Every act for the submission of an amendment to the constitution shall set forth the section as ~~the same~~ it will read in case if the amendment is adopted, with ~~such~~ only the other matter ~~only as may be~~ necessary to show in what section or article the alteration is proposed. It shall be submitted and voted upon at the next general election ~~next ensuing in the manner as~~ provided for by the general law relating to ~~such~~ general elections. If adopted, the governor shall announce the fact by proclamation.

### 3.21 NOTICE.

At least four months ~~preceeding~~ before the election, the attorney general shall furnish to the secretary of state a statement of the purpose and effect of all amendments proposed, showing clearly the form of the existing sections; and ~~of the same as how~~ they will read if amended; ~~except that when any.~~ If a section to which an amendment is proposed exceeds 150 words in length, the statement shall show ~~that the~~ part of the section in which a change is proposed, both ~~in~~ its existing form and as it will read when amended, together with the portions of the context ~~as that~~ the attorney general deems necessary to ~~an understanding of understand~~ the ~~proposed~~ amendment. In the month of October ~~prior to before~~ the election, the secretary of state shall publish the statement once in all qualified newspapers of the state. The secretary of state shall furnish the statement to the newspapers in reproducible form approved by the secretary of state, set in 7-1/2-point type on an 8-point body. The maximum rate for publication ~~shall be as is that~~ provided in section 331A.06 or 18 cents per standard line, whichever is less. If ~~any a~~ newspaper shall refuse the publication of ~~refuses to publish~~ the amendments, ~~this the~~ refusal and failure of the publication shall have no effect on the validity of the amendments. The secretary of state shall also forward to each county auditor enough copies of the statement, in poster form, ~~in quantities sufficient~~ to supply each election district of the county with two copies thereof. The auditor shall ~~cause have~~ two copies ~~to be~~ conspicuously posted at or near each polling place on election day. Willful or negligent failure by ~~any an~~ official named to perform ~~any a~~ duty imposed by this section ~~shall be deemed is~~ a misdemeanor.

### 3.22 PAYMENT.

The publisher of ~~any each~~ newspaper publishing the proposed amendments shall, before receiving fees for the publication and ~~prior to before~~ the first day of January following an election year, file with the secretary of state an affidavit showing the qualification and legality of the newspaper and stating that the amendments have been published as required by law.

### 3.23 APPROPRIATIONS.

A standing appropriation, within the meaning of sections 3.23 and 3.24, is one which sets apart a specified or unspecified and open amount of public money or funds of the state general fund for expenditure for ~~any a~~ purpose and

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makes ~~that~~ the amount, or ~~some~~ a part of it, available for use continuously and at a time more distant than the end of the second fiscal year after the session of the legislature at which the appropriation is made.

Every appropriation stated to be an "annual appropriation," "payable annually," "appropriated annually," or "annually appropriated," and every appropriation described by equivalent terms or language is ~~to be included among the a~~ standing ~~appropriations~~ appropriation as ~~hereinbefore~~ defined in this section.

### 3.24 STANDING APPROPRIATION REPEALED.

~~Each and~~ Every provision of the laws of Minnesota law constituting a standing appropriation of money from the general fund, or derived from ~~any~~ revenue of the state, or in any way justifying the continuous payment of ~~any~~ money from the treasury of the state, is ~~hereby~~ repealed, except ~~in cases where:~~

there is (1) a provision for a tax levy or fees or receipts for ~~any~~ a purpose and set apart in a special fund, and ~~also excepting~~

(2) the miscellaneous receipts of ~~all~~ state educational, charitable, and penal institutions, and the state agricultural society; ~~and all standing or continuous appropriations not based on a tax levy, fees, or receipts, as heretofore provided, are hereby abolished and terminated and each and every word, clause, and paragraph providing for such appropriations is hereby stricken from the laws of this state, respectively, in which they occur.~~

~~All~~ Acts containing provisions for standing appropriations shall remain unaffected by sections 3.23 and 3.24, except as to ~~such~~ the appropriations ~~and the amount thereof.~~

### 3.25 APPROPRIATIONS; NOT DISCLOSING SOURCE.

~~Whenever moneys are~~ If money is appropriated from the state treasury and the appropriation does not disclose the its source ~~thereof~~, the appropriation is from the general fund.

### 3.251 COMMISSION ON UNIFORM STATE LAWS.

A commission on uniform state laws consisting of four commissioners is created. Before the first day of June, each odd-numbered year, the governor, the attorney general, and the chief justice of the supreme court shall appoint three persons learned in the law to serve as commissioners for a term of two years, and until their successors are appointed. The fourth commissioner is the revisor of statutes or the revisor's designated assistant. If a vacancy occurs in the commission the appointing officers shall fill the vacancy for the remainder of the term.

### 3.252 COMMISSIONERS TO REPRESENT STATE.

The commissioners shall:

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(1) represent this state in the National Conference of Commissioners on Uniform State Laws;

(2) examine ~~into~~ legal subjects on which uniformity of legislation in the different states is desirable;

(3) ascertain the best means to effect uniformity;

(4) represent Minnesota in conventions of ~~like~~ similar commissioners of other states;

(5) cooperate in the consideration and drafting of uniform acts for submission to the legislatures of the several states; and

(6) prepare bills adapting ~~such~~ the uniform acts to our statutes for introduction in the legislature.

The commission shall keep a record of all its transactions.

### 3.253 NO COMPENSATION FOR COMMISSIONERS.

The commissioners ~~shall~~ serve without compensation for services as commissioners.

### 3.30 LEGISLATIVE ADVISORY COMMISSION.

Subdivision 1. **APPROPRIATION; TRANSFERS.** ~~There is hereby authorized one~~ A general contingent appropriation for each year of the biennium is authorized in such the amount as the legislature may deem deems sufficient. ~~There is further authorized such~~ Additional special contingent appropriations as the legislature ~~may deem deems~~ necessary are authorized. Transfers from ~~such~~ the appropriations to the appropriations of the various departments and agencies may be made by the commissioner of finance subject to the following provisions:

(a) Transfers may be authorized by the commissioner of finance not exceeding \$5,000 for the same purpose for any quarterly period;

(b) Transfers exceeding \$5,000 but not exceeding \$10,000 may be authorized by the commissioner of finance with the approval of the governor;

(c) Transfers exceeding \$10,000 may be authorized by the governor; ~~provided, that no such but no~~ transfer shall exceeding \$10,000 may be made until the governor has consulted the legislative advisory commission ~~hereinafter provided for and such commission~~ it has made its recommendation ~~thereon on the transfer~~. Such Its recommendation ~~shall be~~ is advisory only. Failure or refusal of the commission to make a recommendation promptly ~~shall be deemed is~~ a negative recommendation.

The commissioner of finance shall return to the appropriate contingent account any funds transferred under this subdivision that the commissioner determines are not needed.

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Subd. 2. **MEMBERS; DUTIES.** The majority leader of the senate or a designee, the chair of the senate committee on finance, and the chair of the senate division of finance responsible for overseeing the items being considered by the commission, the speaker of the house of representatives or a designee, the chair of the house committee on appropriations, and the chair of the division of the house appropriations committee responsible for overseeing the items being considered by the commissioner constitute the legislative advisory commission. The division chair of the finance committee in the senate and the division chair of the appropriations committee in the house shall rotate according to the items being considered by the commission. If any of the ~~legislative~~ members elect not to serve on the commission, the house of which they are members, if in session, shall select some other member for ~~such the~~ vacancy. If the legislature is not in session, vacancies in the ~~legislative~~ house membership of the commission shall be filled by the last speaker of the house or, if the speaker ~~be is~~ not available, by the last chair of the house rules committee, ~~in case of a house vacancy~~, and by the last senate committee on committees or other appointing authority designated by the senate rules in case of a senate vacancy. The commissioner of finance shall ~~act as~~ be secretary of the commission and ~~shall~~ keep a permanent record and minutes of its proceedings, which ~~shall be~~ are public records. The commissioner of finance shall transmit, under ~~the provisions of~~ section 3.195, a report to the next legislature of all actions of ~~said the~~ commission. ~~The Members of the commission~~ shall receive traveling and subsistence expenses ~~in incurred~~ attending meetings of the commission. The commission shall meet from time to time upon the call of the governor or upon the call of the secretary at the request of three or more of its members.

Subd. 3. **LIMITATIONS.** ~~The provisions of~~ This section ~~shall~~ does not ~~be construed to~~ prevent the appropriation of separate contingent funds to the governor and the attorney general, or to limit the their use of ~~said funds~~ as otherwise authorized by other law.

Subd. 4. **PUBLIC RELIEF ADVISORY COMMITTEE; ABOLITION.** ~~The Minnesota public relief advisory committee is abolished, and its powers and duties are transferred to the legislative advisory commission.~~

### 3.3005 FEDERAL MONEY; EXPENDITURE REVIEW.

Subdivision 1. As used in this section, the term "state agency" means all agencies in the executive branch of state government, but does not include the Minnesota historical society, the University of Minnesota, state universities, or community colleges.

Subd. 2. A state agency shall not expend money received by it under ~~any~~ federal law for any purpose unless a request to spend federal money from that source for that purpose in that fiscal year has been submitted by the governor to the legislature as a part of the ~~governor's biennial a~~ budget request or as part of a ~~supplementary or deficiency budget request~~, or unless specifically authorized by law or as provided by this section.

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Subd. 3. ~~When~~ If a request to spend federal money ~~has been~~ is included in the governor's budget or spending the money is authorized by law ~~as described in subdivision 2;~~ but the amount of federal money received ~~will require~~ requires a state match greater than that included in the ~~governor's~~ budget request or authorized by law, the ~~federal money amount~~ that will require requires an additional state match ~~shall not~~ may be allotted for expenditure ~~until~~ after the requirements of subdivision 5 are met.

Subd. 4. If federal money becomes available to the state for expenditure while the legislature is not in session, and the availability of money from that source or for that purpose or in that fiscal year could not reasonably have been anticipated and included in the governor's budget request, and an urgency requires that all or ~~a portion~~ part of the money be allotted before the legislature reconvenes, ~~all or a portion of the money~~ it may be allotted to a state agency after the requirements of subdivision 5 are met.

Subd. 5. Federal money that becomes available under subdivisions 3 and 4 may ~~not~~ be allotted ~~until~~ after the commissioner of finance has ~~first~~ submitted the request to the members of the legislative advisory commission for their review and recommendation for further review. If a recommendation is not made within ten days, no further review by the legislative advisory commission is required, and the commissioner shall approve or disapprove the request. ~~If the~~ a recommendation by any member is for further review the governor shall submit the request to the legislative advisory commission for its review and recommendation. Failure or refusal of the commission to make a recommendation promptly is a negative recommendation.

### 3.302 LEGISLATIVE REFERENCE LIBRARY.

Subdivision 1. **ESTABLISHMENT.** A legislative reference library is established under the ~~jurisdiction and~~ control of the legislative coordinating commission.

Subd. 2. **COLLECTION; PURPOSE.** The ~~legislative reference~~ library shall collect, index, and make available in suitable form information relative to governmental and legislative subjects which will aid members of the legislature ~~in the performance of to perform~~ their duties in an efficient and economical manner. It shall maintain an adequate collection of public documents of Minnesota and other states ~~and~~. It may enter into loan agreements with other libraries.

Subd. 3. **STATE DOCUMENTS.** The ~~legislative reference~~ library is a depository of all documents published by the state and shall receive ~~such materials~~ them automatically without cost. As used in this chapter, "document" ~~shall include~~ includes any publication issued by the state, constitutional officers, departments, commissions, councils, bureaus, research centers, societies, task forces, including advisory task forces created under section 15.014 or 15.0593, or other agencies supported by state funds, or any publication prepared for the state by private individuals or organizations and issued in print, including all forms of duplicating other than by the use of carbon paper, considered to be of interest or value to the ~~legislative reference~~ library. Intraoffice or interoffice memos and

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forms and information concerning only the internal operation of an agency are not included.

Subd. 3a. **IDENTIFICATION OF DOCUMENTS.** For all documents deposited under subdivision 3, the ~~legislative reference~~ library shall require that the issuing agency supply proper bibliographic identification. The identification shall appear on the title page of each volume and ~~shall~~ include a complete title, a statement of authorship, the name of the publisher, and the date and place of publication. ~~Whenever~~ If possible the document shall be consecutively paged. ~~Whenever applicable~~ The issuing agency shall include a statement indicating citing the section number of statute or the chapter number and year of the session law with which the report complies, if there is one.

Subd. 4. **STUDIES AND REPORTS.** The ~~legislative reference~~ library may ~~utilize the materials assembled~~ use its collection to prepare studies and reports providing to provide pertinent information regarding about subjects ~~which are or may become~~ items of concern to members of the legislature ~~and where warranted.~~ It may publish ~~such~~ the studies and reports.

### 3.3025 DIRECTOR OF LEGISLATIVE REFERENCE LIBRARY.

Subdivision 1. The legislative coordinating commission shall appoint a qualified director of the legislative reference library ~~who is qualified to perform the duties imposed upon the office at an annual salary which.~~ It shall fix ~~unless otherwise the director's salary if it is not~~ provided for by law. The director of the legislative reference library shall serve at the pleasure of the commission and ~~shall be reimbursed for any necessary travel expenses.~~

Subd. 2. Subject to the approval of the ~~legislative coordinating~~ commission, the director of the ~~legislative reference~~ library shall employ and may fix the compensation of technical research, clerical, and stenographic assistants as necessary to ~~expeditiously~~ and efficiently discharge the duties imposed upon the office ~~and.~~ The director shall procure the necessary furniture and supplies.

Subd. 3. The ~~legislative reference~~ library shall be kept open during the time provided by law for other state offices. When the legislature is in session the ~~office library~~ shall be kept open at the hours most convenient to members of the legislature.

### 3.3026 INFORMATION SYSTEMS DIRECTORY.

Subdivision 1. **POLICY.** The state must make maximum use of its information files and data processing systems. A statewide directory of information systems will direct users to existing information systems maintained by state agencies, minimize duplication of information systems already developed, and encourage the sharing of information systems within the state. A directory will assist users in contacting to contact agencies about information files and about experience with hardware and software ~~configurations.~~ It will reduce overall costs, promote communication among agencies, and permit more efficient use of personnel resources for information systems development.

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Subd. 2. **DEFINITIONS.** The terms used in this section have the meanings given them in this subdivision.

(a) "Directory" means an indexed listing of descriptive data about information systems. The descriptions will include agency name, information system name, contact person, software used, hardware used, and other information ~~which in~~, at the discretion of the legislative reference library, that will assist users.

(b) "Information system" or ~~"information systems"~~ means an organized collection of data, either manually organized or automated, used by an agency ~~in performing to perform~~ its duties or ~~assisting to assist~~ in the making of administrative and budgetary decisions. An information system includes the data organized and any hardware or software used to process it.

Every state agency shall file a description of its existing information systems with the legislative reference library by January 31, 1984. These descriptions shall be in accordance with specifications and on forms provided by the library. Each agency shall file an updated description, noting additions, deletions, and changes by November 30 and by May 31 each year.

(c) "State agency" or ~~"state agencies"~~ means any office, department, agency, commission, council, bureau, research center, or society of state government, and other agencies supported by state funds.

Subd. 3. **LEGISLATIVE REFERENCE LIBRARY; DEVELOPMENT OF PLAN INFORMATION SYSTEMS; FILING.** The legislative reference library shall prepare a plan for the directory by January 1, 1984. The plan shall include a definition of the types of systems that will be included in the directory, an enumeration of the types of information required for each system reported, and a description of the method selected for production and dissemination of the directory. Each state agency shall file with the legislative reference library an updated description of its information systems, noting additions, deletions, and changes, by November 30 and May 31 each year. The descriptions must be in accordance with specifications and on forms provided by the library.

Subd. 4. **LEGISLATIVE REFERENCE LIBRARY DIRECTOR; DUTIES.** The legislative reference library director shall employ and fix the salary of the technical, clerical, and other assistants necessary to produce the directory. The director may enter into contracts for equipment and services necessary ~~in the production to produce~~ and ~~dissemination of~~ disseminate the directory.

Subd. 5. **PUBLICATION.** The legislative reference library shall prepare a directory ~~by June 30, 1985.~~ The directory shall be prepared in a format which the legislative reference library, in its discretion, believes is most efficient and beneficial to the user.

Subd. 6. **UPDATING.** The legislative reference library shall continually update the directory and shall reissue it at intervals it finds, in its discretion, are reasonable and cost efficient.

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Subd. 7. **AGENCY COOPERATION.** Every state agency shall appoint one person within the agency as a data processing liaison, responsible for working with the legislative reference library. ~~The appointment shall be made and the name of the person appointed shall be~~ forwarded to the legislative reference library ~~by July 1, 1983.~~

The department of administration shall provide access to its library listing of systems and programs produced under section 16.90 and shall produce this information in hard copy form or on magnetic tape media, as requested by the legislative reference library director.

### 3.303 LEGISLATIVE COORDINATING COMMISSION; CREATION AND ORGANIZATION.

Subdivision 1. ~~A legislative commission is hereby created to be known as~~ The legislative coordinating commission; ~~designated herein as the "commission,"~~ is created to coordinate the legislative activities of the senate and the house of representatives.

Subd. 2. ~~The membership of the commission shall consist~~ consists of the majority leader of the senate, the president of the senate, two senators appointed by the majority leader, the minority leader of the senate, and one senator appointed by the minority leader; and the majority leader of the house of representatives, the speaker of the house of representatives, two representatives appointed by the speaker, the minority leader of the house of representatives, and one representative appointed by the minority leader. Each member shall serve until a successor is named during a regular session following appointment. A vacancy shall be filled for the unexpired term in the same manner as the original appointment.

Subd. 3. The president of the senate and the speaker of the house shall alternate annually as chair of the commission.

Subd. 4. The members of the commission shall serve without compensation but ~~shall~~ be reimbursed in the same manner as members of standing committees of the senate and the house of representatives.

Subd. 5. The commission shall represent the legislature and assist state agencies ~~in making to make~~ to make arrangements ~~for the accommodation to accommodate~~ and appropriate recognition of appropriately recognize individuals or groups visiting Minnesota as direct or indirect representatives of foreign governments, other states, or ~~any of the subdivisions or agencies of foreign governments or other states;~~ and to provide other services determined by the commission. The commission may make grants, employ staff, and obtain office space, equipment, and supplies necessary to perform ~~the designated~~ its duties.

### 3.304 OFFICE OF LEGISLATIVE RESEARCH.

Subdivision 1. **REVISOR AND LEGISLATIVE REFERENCE LIBRARY;**

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

**JURISDICTION OF LEGISLATIVE COORDINATING COMMISSION.** The legislative coordinating commission may establish under its jurisdiction and control an office of legislative research, and may include within ~~such office~~ it the office of revisor of statutes and the legislative reference library. The commission may appoint, set salaries for, and delegate authority to, ~~such~~ the personnel as it deems necessary to perform the functions required.

Subd. 2. **EMPLOYEES IN UNCLASSIFIED SERVICE.** All employees under the ~~jurisdiction and~~ control of the legislative coordinating commission are employees of the legislature in the unclassified service of the state.

Subd. 2a. **JOINT LEGISLATIVE STUDIES.** The legislative coordinating commission shall oversee and coordinate all joint legislative studies mandated by the legislature and may require regular progress reports to the ~~legislative coordinating~~ commission and to appropriate standing committees of the house of representatives and the senate. Appropriations for all joint legislative studies except those specifically assigned to an existing legislative commission shall be made to the legislative coordinating commission. Responsibility and appropriations for a joint legislative study may be delegated by the legislative coordinating commission to an existing staff office of the house of representatives or senate, a legislative commission, a joint legislative committee or office or a state agency. The office, commission, joint committee, or agency responsible for the study may contract with another agent for assistance.

Subd. 3. **STATE AGENCIES TO COOPERATE WITH LEGISLATIVE COORDINATING COMMISSION.** The legislative coordinating commission may call upon any agency ~~of the state or political subdivision thereof of the state~~ for ~~such available~~ data ~~as may be available~~, and ~~such~~ the agencies shall cooperate with the commission to the fullest possible extent.

Subd. 5. **EXPENSES OF LEGISLATIVE COORDINATING COMMISSION.** One-half the expenses of the legislative coordinating commission not including the expenses of the office of the revisor of statutes and the legislative reference library, as determined by the commission, shall be allocated from the legislative expense fund of each house of the legislature to a legislative research account. The expenses of the commission other than the expenses of the office of the revisor of statutes and the legislative reference library, shall be paid from the legislative research account upon vouchers signed by the chair of the commission.

### **3.305 LEGISLATIVE COORDINATING COMMISSION; BUDGET REVIEW.**

The administrative budget request of any statutory commission the majority of whose members are members of the legislature shall be submitted to the legislative coordinating commission for review and comment ~~prior to~~ before its submission to the finance committee of the senate and the appropriations committee of the house of representatives. No such commission shall employ additional personnel without first having received the recommendation of the legislative

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coordinating commission. The commission shall establish the compensation of all employees of any statutory commission, except classified employees of the legislative audit commission, the majority of whose members are members of the legislature.

### 3.732 SETTLEMENT OF CLAIMS.

Subdivision 1. **DEFINITIONS.** As used in this section and section 3.736 the terms defined in this section have the meanings given them.

(1) "State" includes each of the departments, boards, agencies, commissions, courts, and officers in the executive, legislative, and judicial branches of the state of Minnesota and includes but is not limited to the ~~Minnesota~~ housing finance agency, the ~~Minnesota~~ higher education coordinating board, the ~~Minnesota~~ higher education facilities authority, the armory building commission, the ~~Minnesota~~ zoological board, the state agricultural society, the University of Minnesota, state universities, community colleges, state hospitals, and state penal institutions. It does not include a city, town, county, school district, or other local governmental body corporate and politic.

(2) "Employee of the state" means all present or former officers, members, directors, or employees of the state, members of the Minnesota national guard, or persons acting on behalf of the state in an official capacity, temporarily or permanently, with or without compensation; ~~but~~. It does not include either an independent contractor or members of the Minnesota national guard while engaged in training or duty under United States Code, title 10, or United States Code, title 32, section 316, 502, 503, 504, or 505, as amended through December 31, 1983.

(3) "Scope of office or employment" means that the employee was acting on behalf of the state in the performance of duties or tasks lawfully assigned by competent authority.

Subd. 2. The head of each department or agency of the state, or a designee, acting on behalf of the state, shall attempt to determine, adjust and settle, at any time, any claim for money damages of \$2,500 or less against the state for injury to or loss of property or personal injury or death caused by an act or omission of any employee of the state while acting within the scope of office or employment, under circumstances where the state, if a private person, would be liable to the claimant. ~~Any such~~ The settlement shall be ~~is~~ final and conclusive on all officers of the state, ~~except where~~ unless procured by fraud. The acceptance by the claimant of ~~any such a settlement shall be~~ is final and conclusive on the claimant and ~~shall constitute~~ constitutes a complete release of any claim against the state and ~~against~~ the employee of the state whose act or omission gave rise to the claim, by reason of the same subject matter.

Subd. 3. ~~No~~ A settlement made under the ~~provisions of~~ this section ~~shall be~~ is not valid unless it is supported by a claim in writing, and is approved in writing by the attorney general as to its form and legality. The claim shall be in ~~such the form as that~~ the attorney general ~~may prescribe~~ prescribes.

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Subd. 5. Nothing in this section is to be construed ~~as~~ to deny a claimant who is not paid ~~pursuant to the provisions hereof~~ under this section from bringing an action at law in the courts of this state.

Subd. 6. The head of each department or agency, or a designee, acting on behalf of the state, may enter into structured settlements, through the negotiation, creation, and ~~utilization~~ use of annuities or similar financial plans for claimants, to resolve claims arising from the alleged negligence of the state, its agencies, or employees. ~~The requirements set forth in Sections 16.07, 16.08, and 16.09 shall~~ 16B.06, 16B.07, 16B.08, and 16B.09 do not apply to the state's selection of and contracts with structured settlement consultants or purveyors of structured settlement plans.

### 3.736 TORT CLAIMS.

Subdivision 1. **GENERAL RULE.** The state will pay compensation for injury to or loss of property or personal injury or death caused by an act or omission of ~~any an~~ an employee of the state while acting within the scope of office or employment or a peace officer who is not acting on behalf of a private employer and who is acting in good faith ~~pursuant to~~ under section 629.40, subdivision 4, under circumstances where the state, if a private person, would be liable to the claimant, whether arising out of a governmental or proprietary function. Nothing in this section waives the defense of judicial or legislative immunity except to the extent provided in subdivision 8.

Subd. 2. **PROCEDURE.** Claims of various kinds shall be considered and paid only in accordance with the statutory procedures provided. ~~Where~~ If there is no other applicable statute, a claim shall be brought ~~pursuant to~~ under this section as a civil action in the courts of the state.

Subd. 3. **EXCLUSIONS.** Without intent to preclude the courts from finding additional cases where the state and its employees should not, in equity and good conscience, pay compensation for personal injuries or property losses, the legislature declares that the state and its employees are not liable for the following losses:

(a) ~~Any~~ a loss caused by an act or omission of a state employee exercising due care in the execution of a valid or invalid statute or rule;

(b) ~~Any~~ a loss caused by the performance or failure to perform a discretionary duty, whether or not the discretion is abused;

(c) ~~Any~~ a loss in connection with the assessment and collection of taxes;

(d) ~~Any~~ a loss caused by snow or ice conditions on ~~any~~ a highway or public sidewalk that does not abut a publicly-owned building or a publicly-owned parking lot, except when the condition is affirmatively caused by the negligent acts of a state employee;

(e) ~~Any~~ a loss caused by wild animals in their natural state, except as provided in section 3.7371;

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(f) ~~Any~~ a loss other than injury to or loss of property or personal injury or death;

(g) ~~Any~~ a loss caused by the condition of unimproved real property owned by the state, which means land that the state has not improved, and appurtenances, fixtures, and attachments to land that the state has neither affixed nor improved;

(h) ~~Any~~ a loss incurred by a user within the boundaries of the outdoor recreation system and arising from the construction, operation, or maintenance of the system, as defined in section 86A.04, or from the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, or from the construction, operation, or maintenance of a water access site created by the iron range resources and rehabilitation board, except that the state is liable for conduct that would entitle a trespasser to damages against a private person;

(i) ~~Any~~ a loss of benefits or compensation due under a program of public assistance or public welfare, except ~~where~~ if state compensation for loss is expressly required by federal law in order for the state to receive federal grants-in-aid;

(j) ~~Any~~ a loss based on the failure of ~~any~~ a person to meet the standards needed for a license, permit, or other authorization issued by the state or its agents;

(k) ~~Any~~ a loss based on the usual care and treatment, or lack of care and treatment, of ~~any~~ a person at a state hospital or state corrections facility where reasonable use of available appropriations has been made to provide care;

(l) ~~Any~~ loss, damage, or destruction of property of a patient or inmate of a state institution;

(m) ~~Any~~ a loss for which recovery is prohibited by section 169.121, subdivision 9; and

(n) ~~Any~~ a loss caused by an aeration, bubbler, water circulation, or similar system used to increase dissolved oxygen or maintain open water on the ice of public waters, that is operated under a permit issued by the commissioner of natural resources.

The state will not pay punitive damages.

Subd. 4. **LIMITS.** The total liability of the state and its employees acting within the scope of their employment on any tort claim shall not exceed:

(a) \$200,000 when the claim is one for death by wrongful act or omission and \$200,000 to any claimant in any other case;

(b) \$600,000 for any number of claims arising out of a single occurrence.

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If the amount awarded to or settled upon multiple claimants exceeds \$600,000, any party may apply to ~~any~~ the district court to apportion to each claimant a proper share of the \$600,000. The share apportioned to each claimant shall be in the proportion that the ratio of the award or settlement bears to the aggregate awards and settlements for all claims arising out of the occurrence.

The limitation imposed by this subdivision on individual claimants includes damages claimed for loss of services or loss of support arising out of the same tort.

**Subd. 4a. SECURITIES CLAIMS LIMITS.** The total liability of the state and its employees acting within the scope of their employment on any claim of whatever matter arising from the issuance and sale of securities by the state shall not exceed:

(a) \$100,000 to any one person or

(b) \$500,000 to all claimants in respect of the securities of the same series.

The ~~foregoing~~ limitations in clauses (a) and (b) shall not affect the obligation of the issuing state entity to pay the indebtedness under the securities in accordance with their terms and from the sources pledged to their payment.

**Subd. 5. NOTICE REQUIRED.** Except as provided in subdivision 6, every person, whether plaintiff, defendant or third party plaintiff or defendant, who claims compensation from the state or a state employee acting within the scope of employment for or on account of any loss or injury shall present to the attorney general of the state or, in the case of a claim against the University of Minnesota, to the person designated by the regents of the university as the university attorney, and any state employee from whom the claimant will seek compensation, within 180 days after the alleged loss or injury is discovered, a notice stating the ~~its~~ time, place and circumstances ~~thereof~~, the names of any state employees known to be involved, and the amount of compensation or other relief demanded. Actual notice of sufficient facts to reasonably put the state or its insurer on notice of a possible claim complies with the notice requirements of this section. Failure to state the amount of compensation or other relief demanded does not invalidate the notice, but the claimant shall furnish full information available regarding the nature and extent of the injuries and damages within 15 days after demand by the state. The time for giving the notice does not include the time during which the person injured is incapacitated by the injury from giving the notice.

**Subd. 6. CLAIMS FOR WRONGFUL DEATH; NOTICE.** When the claim is one for death by wrongful act or omission, the notice may be presented by the personal representative, surviving spouse, or next of kin, or the consular officer of the foreign country of which the deceased was a citizen, within one year after the alleged injury or loss resulting in the death. If the person for whose death the claim is made has presented a notice that would have been sufficient had the person lived, an action for wrongful death may be brought without ~~any~~ additional notice.

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



Subd. 7. **PAYMENT.** A state agency, including ~~any~~ an entity defined as part of the state in section 3.732, subdivision 1, clause (1), incurring a tort claim judgment or settlement obligation or whose employees acting within the scope of their employment incur the obligation shall seek approval to make payment by submitting a written request to the commissioner of finance. The request shall contain a description of the tort claim ~~precipitating that~~ causes the request, specify the amount of the obligation and be accompanied by copies of judgments, settlement agreements or other documentation relevant to the obligation for which the agency ~~is seeking~~ seeks payment. Upon receipt of the request and review of the claim, the commissioner of finance shall determine the proper appropriation from which to make payment. If there is ~~sufficient~~ enough money in an appropriation or combination of appropriations to the agency for its general operations and management to ~~allow pay~~ pay the claim ~~to be paid from that source~~ without unduly hindering the operation of the agency, the commissioner shall direct that payment be made from that source. Claims relating to activities paid for by appropriations of dedicated receipts shall be paid from those appropriations if practicable. On determining that an agency has sufficient money in these appropriations to pay only part of a claim, the commissioner shall pay the remainder of the claim from the money appropriated to the commissioner for ~~this~~ the purpose. On determining that the agency does not have ~~sufficient~~ enough money to pay any part of the claim, the commissioner shall pay all of the claim from money appropriated to the commissioner for ~~this~~ the purpose. On January 1 and July 1 of each year, the commissioner of finance shall transmit to the legislature and to the chair of the house appropriations and senate finance committees copies of all requests in the preceding six months together with a report on the payments made with respect to each request. Payment shall be made only upon receipt of a written release by the claimant in a form approved by the attorney general, or the person designated as the university attorney, as the case may be.

No attachment or execution shall issue against the state.

Subd. 8. **LIABILITY INSURANCE.** A state agency, including ~~any~~ an entity defined as a part of the state in section 3.732, subdivision 1, clause (1), may procure insurance against liability of the agency and its employees for damages resulting from the torts of the agency and its employees. ~~The Procurement of this~~ the insurance ~~constitutes~~ is a waiver of the defense of governmental immunity to the extent of the liability stated in the policy but has no effect on the liability of the agency and its employees beyond the coverage ~~so~~ provided by the policy.

Subd. 9. **INDEMNIFICATION.** The state of ~~Minnesota~~ shall defend, save harmless, and indemnify any employee of the state against expenses, attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the employee ~~of the state~~ in connection with any tort, civil, or equitable claim or demand, or expenses, attorneys' fees, judgments, fines, and amounts paid in settlement actually and reasonably incurred by the employee ~~of the state~~ in connection with any claim or demand arising from the issuance and

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sale of ~~any~~ securities by the state, whether groundless or otherwise, arising out of an alleged act or omission occurring ~~heretofore or hereafter~~ during the period of employment if the employee provides complete disclosure and cooperation in the defense of the claim or demand and if the employee was acting within the scope of employment. Except for elected employees, an employee ~~of the state~~ shall be ~~is~~ conclusively presumed to have been acting within the scope of employment if the employee's appointing authority issues a certificate to that effect. This determination may be overruled by the attorney general. The determination of whether an employee ~~of the state~~ was acting within the scope of employment ~~shall be~~ is a question of fact to be determined by the trier of fact based upon the circumstances of each case:

- (i) in the absence of a certification,
- (ii) if a certification is overruled by the attorney general,
- (iii) if an unfavorable certification is made, or
- (iv) with respect to an elected official.

The absence of the certification or an unfavorable certification ~~shall be~~ is not be evidence relevant to ~~such~~ a determination by the trier of fact. It is the express intent of this provision to defend, save harmless, and indemnify any employee of the state against the full amount of any final judgment rendered by a court of competent jurisdiction arising from a claim or demand described herein, regardless of whether the limitations on liability specified in subdivision 4 or 4a ~~hereof~~ are, for any reason, found to be inapplicable. This subdivision does not apply in case of malfeasance in office or willful or wanton actions or neglect of duty, nor does it apply to expenses, attorneys' fees, judgments, fines, and amounts paid in settlement of claims for proceedings brought by or before responsibility or ethics boards or committees.

**Subd. 9a. PEACE OFFICER INDEMNIFICATION.** The state ~~of Minnesota~~ shall defend, save harmless, and indemnify a peace officer who is not acting on behalf of a private employer and who is acting in good faith ~~pursuant to~~ under section 629.40, subdivision 4, the same as if the officer were an employee of the state.

**Subd. 10. JUDGMENT AS BAR.** The judgment in an action under this section is a complete bar to any action by the claimant, by reason of the same subject matter, against the state employee whose act or omission gave rise to the claim.

**Subd. 11. STATUTE OF LIMITATION.** The statute of limitations for all tort claims brought against the state ~~shall be~~ is ~~as set forth~~ provided in chapter 541 and other ~~applicable~~ laws.

### **3.737 LIVESTOCK OWNERS; COMPENSATION FOR DESTROYED OR CRIPPLED ANIMALS.**

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Subdivision 1. Notwithstanding section 3.736, subdivision 3, paragraph (e) or any other law ~~to the contrary~~, a livestock owner shall be compensated by the commissioner of agriculture for livestock that is destroyed or is crippled so that it must be destroyed ~~after July 1, 1977~~ by an animal classified as endangered under the federal endangered species act of 1973. The owner ~~shall be~~ is entitled to the fair market value of the destroyed livestock, not to exceed \$400 per animal destroyed, as determined by the commissioner ~~of agriculture~~, upon recommendation of the county extension agent for the owner's county and a conservation officer. The commissioner, upon recommendation of the agent and conservation officer, shall determine whether the livestock was destroyed by an animal described in this subdivision. The owner shall file a claim on forms provided by the commissioner ~~of agriculture~~ and available at the county extension agent's office.

Subd. 2. ~~Any~~ Payments made ~~pursuant to~~ under this section shall be reduced by amounts received by the owner as proceeds from ~~any an~~ insurance policy covering livestock losses, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 3. The commissioner ~~of agriculture~~ shall adopt and may amend rules to carry out ~~the provisions of~~ this section which shall include: ~~(a)~~ methods of valuation of livestock destroyed; ~~(b)~~ criteria for determination of the cause for livestock loss; ~~(c)~~ notice requirements by the owner of destroyed livestock; and ~~(d)~~ any other matters determined necessary by the commissioner to carry out ~~the provisions of~~ this section.

Subd. 4. **COMMISSIONER'S DETERMINATION; APPEALS.** If the commissioner finds that the livestock owner has shown that the loss of the livestock was caused more probably than not by an animal classified as an endangered species, the commissioner shall pay compensation as provided in this section and in the rules of the department.

If the commissioner denies ~~any~~ compensation claimed by a ~~livestock an~~ owner under this section, the commissioner shall issue a written decision based upon the available evidence ~~which~~. It shall include specification of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision shall be ~~transmitted~~ mailed to the livestock owner ~~by first class mail~~.

A decision ~~denying to deny~~ compensation claimed under this section is not subject to the contested case review procedures of chapter 14, but may be reviewed upon a trial de novo in ~~the county a~~ court in the county where the loss occurred. The decision of the ~~county~~ court may be appealed as in other civil cases. Review in the ~~county~~ court may be obtained by the filing of a petition for review with the administrator of the ~~county~~ court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator ~~of the county court~~ shall mail a copy of it to the commissioner and set a time for hearing ~~which shall be held~~ within 90 days of the filing ~~of the petition~~.

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**3.7371 COMPENSATION FOR CROP DAMAGE CAUSED BY ELK.**

Subdivision 1. **AUTHORIZATION.** Notwithstanding section 3.736, subdivision 3, paragraph (e), or any other law ~~to the contrary~~, a person who owns an agricultural crop shall be compensated by the commissioner of agriculture for an agricultural crop that is damaged or destroyed by elk as provided in this section.

Subd. 2. **CLAIM FORM.** The crop owner must prepare a claim on forms provided by the commissioner ~~of agriculture~~ and available at the county extension agent's office. The claim form must be filed with the commissioner ~~of agriculture~~. A claim form may not be filed for crop damage or destruction that occurs before June 3, 1987.

Subd. 3. **COMPENSATION.** The crop owner ~~shall be~~ is entitled to the target price or the market price, whichever is greater, of the damaged or destroyed crop plus adjustments for yield loss determined according to agricultural stabilization and conservation service programs for individual farms, adjusted annually, as determined by the commissioner ~~of agriculture~~, upon recommendation of the county extension agent for the owner's county or a federal crop adjuster. The commissioner ~~of agriculture~~, upon recommendation of the agent or adjuster, shall determine whether the crop damage or destruction is caused by elk and, if so, the amount of the crop that is damaged or destroyed. In any calendar year, a crop owner may not be compensated for a damaged or destroyed crop that is less than \$100 in value and may be compensated up to \$20,000 ~~in value~~, as determined under this section, ~~provided if~~ provided if normal harvest procedures for the area are followed.

Subd. 4. **INSURANCE DEDUCTION.** Payments authorized by this section must be reduced by amounts received by the owner as proceeds from an insurance policy covering crop losses, or from any other source for the same purpose including, but not limited to, a federal program.

Subd. 5. **DECISION ON CLAIMS; OPENING LAND TO HUNTING.** If the commissioner ~~of agriculture~~ finds that the crop owner has shown that the damage or destruction of the owner's crop was caused more probably than not by elk, the commissioner ~~of agriculture~~ shall pay compensation as provided in this section and the rules of the commissioner. Total compensation to all claimants shall not exceed the amount of funds appropriated for Laws 1987, chapter 373. A crop owner who receives compensation under this section may, by written permission, permit hunting on the land at the landowner's discretion.

Subd. 6. **DENIAL OF CLAIM; APPEAL.** (a) If the commissioner denies compensation claimed by a crop owner under this section, the commissioner shall issue a written decision based upon the available evidence including a statement of the facts upon which the decision is based and the conclusions on the material issues of the claim. A copy of the decision must be ~~transmitted~~ mailed to the crop owner ~~by first class mail~~.

(b) A decision denying compensation claimed under this section is not

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subject to the contested case review procedures of chapter 14, but a crop owner may have the claim reviewed in a trial de novo in ~~the county~~ a court in the county where the loss occurred. The decision of the ~~county~~ court may be appealed as in other civil cases. Review in ~~the county~~ court may be obtained by ~~the filing of~~ a petition for review with the administrator of the ~~county~~ court within 60 days following receipt of a decision under this section. Upon the filing of a petition, the administrator ~~of the county court~~ shall mail a copy ~~of it~~ to the commissioner and set a time for hearing within 90 days after the filing ~~of the petition~~.

Subd. 7. **RULES.** The commissioner ~~of agriculture~~ shall adopt rules and may adopt emergency rules and ~~may~~ amend rules to carry out ~~the provisions of~~ this section. The rules must include:

- (1) methods of valuation of crops damaged or destroyed;
- (2) criteria for determination of the cause of the crop damage or destruction;
- (3) notice requirements by the owner of the damaged or destroyed crop; and
- (4) any other matters determined necessary by the commissioner to carry out ~~the provisions of~~ this section.

### 3.738 INJURY OR DEATH OF PATIENT OR INMATE.

Subdivision 1. **LEGISLATIVE AUTHORITY.** Claims and demands arising out of injury to or death of a patient of a state institution under the control of the commissioner of human services or an inmate of a state correctional facility while performing assigned duties shall be presented to, heard and determined by the legislature.

Subd. 2. **EVALUATION OF CLAIMS.** Claims ~~arising~~ under this section shall be paid pursuant to legislative appropriation following evaluation of each claim by the appropriate committees of the senate and house of representatives. Compensation will not be paid for pain and suffering.

Subd. 3. **EXCLUSIVE REMEDY.** The procedure established by this section is exclusive of all other legal, equitable and statutory remedies.

### 3.739 INJURY OR DEATH OF CONDITIONALLY RELEASED INMATE.

Subdivision 1. **PERMISSIBLE CLAIMS.** Claims and demands arising out of the circumstances described in this subdivision shall be presented to, heard, and determined as provided in subdivision 2:

- (1) an injury to or death of an inmate of a state, regional, or local correctional facility or county jail who has been conditionally released and ordered to perform uncompensated work for a state agency, a political subdivision or public corporation of this state, a nonprofit educational, medical, or social service

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agency, or a private business or individual, as a condition of the release, while performing the work;

(2) an injury to or death of a person sentenced by a court, granted a suspended sentence by a court, or subject to a court disposition order, and who, ~~pursuant to~~ under court order, is performing work (a) in restitution, (b) in lieu of or to work off fines or court ordered costs, (c) in lieu of incarceration, or (d) as a term or condition of a sentence, suspended sentence, or disposition order, while performing the work;

(3) an injury to or death of a person, who has been diverted from the court system and who is performing work as described in paragraph (1) or (2) ~~pursuant to~~ under a written agreement signed by the person, and if a juvenile, by a parent or guardian; or

(4) an injury to or death of any person caused by an individual who was performing work as described in paragraph (1), (2), or (3).

Subd. 2. **EVALUATION AND PAYMENT OF CLAIMS.** Claims ~~not to exceed of~~ \$500 ~~arising out of or less subject to~~ this section shall be investigated by the state or local agency responsible for supervising the work to determine if the claim is valid and if the loss is covered by the claimant's insurance. The investigating agency shall submit all appropriate claims to the department of corrections. The department shall pay the portion of ~~any an~~ approved claim that is not covered by the claimant's insurance within a reasonable ~~period of~~ time. On or before the first day of each legislative session, the department shall submit to the appropriate committees of the senate and the house of representatives a list of the claims paid by it during the preceding calendar year, and shall be reimbursed ~~pursuant to by~~ legislative appropriation for the claims paid. For the purposes of this paragraph, in the case of a juvenile claimant the term "claimant's insurance" includes the insurance ~~policy~~ of the juvenile's parents if the juvenile is covered by the ~~policy~~ insurance.

~~Any A~~ claim in excess of \$500, and ~~any a~~ claim that was not paid by the department may be presented to, heard, and determined by the appropriate committees of the senate and the house of representatives and, if approved, shall be paid pursuant to legislative claims procedure.

No juvenile claimant receiving payment ~~pursuant to~~ under this section may be identified by name either in the list of claimants submitted by the department or in the legislative appropriation.

Subd. 2a. **LIMITATIONS.** Compensation paid under this section is limited to reimbursement for medical expenses and compensation for permanent total or partial disability or death. No compensation shall be paid ~~pursuant to~~ under this section for pain and suffering. Payments made ~~pursuant to~~ under this section shall be reduced by any proceeds received by the claimant from any insurance policy covering the loss. For the purposes of this section, "insurance policy" does not include the medical assistance program authorized under chap-

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ter 256B, or the general assistance medical care program authorized under chapter 256D.

Subd. 3. **EXCLUSIVE REMEDY.** The procedure established by this section is exclusive of all other legal, equitable and statutory remedies against the state, its political subdivisions, or ~~any~~ employees ~~thereof~~ of the state or its political subdivisions.

### 3.751 CONTRACT CLAIMS.

Subdivision 1. When a controversy arises out of ~~any~~ a contract for work, services, the delivery of goods, or debt obligations of the state incurred ~~pursuant to~~ under Article XI of the Minnesota Constitution entered into by ~~any~~ a state agency through established procedure, in respect to which controversy a ~~person~~ party to the contract would be entitled to redress against the state, in a court of ~~appropriate jurisdiction~~, if the state were suable, and ~~when~~ no claim against the state has been made in a bill pending in the legislature for the same redress against it, the state ~~hereby~~ waives immunity from suit in connection with ~~such~~ the controversy and confers jurisdiction on the district court to ~~hear and determine any such controversy~~ hear and determine it in the manner provided for ~~the trial of causes civil actions~~ the trial of causes civil actions in the district court. Only a party to the contract may bring action against the state.

Subd. 2. No action shall be maintained unless it is commenced within 90 days after the plaintiff has been furnished by the state with a final estimate under the contract, or, at the election of the plaintiff, within six months after the work provided for under the contract is completed.

Subd. 3. The action may be brought in the district court ~~of in~~ in the county ~~in which where~~ the cause of action or some part ~~thereof~~ of it arose, or in the district court ~~of in~~ in Ramsey county. The action shall be commenced by filing a complaint with the administrator of court, and serving a summons and copy of the complaint upon the attorney general at the state capitol. The state shall have 40 days from the date of ~~such the~~ the service ~~within which~~ to serve an answer upon the plaintiff. The action shall proceed in the district court as other actions at law.

Subd. 4. ~~APPEAL.~~ An appeal from ~~any~~ a final order or judgment in the action may be taken as in other civil cases.

Subd. 5. This section does not apply to controversies arising out of ~~any~~ a contract ~~for the construction to construct~~ to construct or repair ~~of~~ a state trunk highway.

### 3.754 BUDGET REQUESTS; PROPERTY IMPROVEMENT CLAIMS.

All state departments and agencies including the state university board and the state board for community colleges shall include in their budget requests the amounts necessary to reimburse counties and municipalities for claims involving assessments for improvements benefiting state owned property ~~located~~ in their communities.

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**3.755 DAMAGE BY ESCAPING INMATES.**

The department of corrections and the department of human services ~~are directed to~~ shall pay all claims involving property damage, not covered by insurance, resulting from actions of escaping inmates or runaway patients occurring while ~~perfecting making~~ making their escape; ~~provided that~~. The departments ~~have verified must verify~~ the reasonableness of the amounts claimed. Upon the approval of the commissioner of human services or the commissioner of corrections as to the institutions under their respective control, the superintendent or chief executive officer of ~~any such an~~ an institution may pay out of the current expense appropriation of the institution to ~~any an~~ an employee ~~thereof of the institution~~ the amount of any property damage sustained by the employee, not in excess of \$250, ~~by reason or as a result~~ because of action of ~~any a~~ a patient or inmate of the institution.

**3.761 DEFINITIONS.**

Subdivision 1. **TERMS DEFINED.** For purposes of this section and sections 3.762 to 3.765, the terms defined in this section have the meanings given them.

Subd. 2. **ADMINISTRATIVE LAW JUDGE.** "Administrative law judge" means the official assigned to conduct a contested case hearing under chapter 14.

Subd. 3. **CONTESTED CASE.** "Contested case" means a proceeding defined in section 14.02, subdivision 3, in which the position of the state is represented by counsel; ~~but excludes~~. It does not include a contested case ~~for the purpose of establishing to establish~~ or fixing fix a rate or ~~for granting grant~~ or renewing renew a license.

Subd. 4. **EXPENSES.** "Expenses" means the costs incurred by the party in the litigation, including:

- (1) filing fees;
- (2) subpoena fees and mileage;
- (3) transcript costs and court reporter fees;
- (4) expert witness fees;
- (5) photocopying and printing costs;
- (6) postage and delivery costs; and
- (7) service of process fees.

Subd. 5. **FEES.** "Fees" means the reasonable attorney fees or reasonable fees charged by a person not an attorney who is authorized by law or rule to represent the party and may include reasonable charges by the party, the party's employee, or agent. The amount of fees must be based upon prevailing market

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rates for the kind and quality of the services furnished, subject to the following limitations:

(a) In a court action, an expert witness may not be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States.

(b) In a contested case proceeding, an expert witness may not be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the state agency involved.

(c) Attorney or agent fees may not be awarded in excess of \$100 per hour unless the court or administrative law judge determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys or agents for the proceedings involved, justifies a higher fee.

Subd. 6. **PARTY.** (a) Except as modified by paragraph (b), "party" means a person named or admitted as a party, or seeking and entitled ~~as of right~~ to be admitted as a party, in a court action or contested case proceeding, or a person admitted by an administrative law judge for limited purposes, and who is:

(1) an unincorporated business, partnership, corporation, association, or organization, having not more than 50 employees at the time the civil action was filed or the contested case proceeding was initiated; and

(2) an unincorporated business, partnership, corporation, association, or organization whose annual revenues did not exceed \$4,000,000 at the time the civil action was filed or the contested case proceeding was initiated.

(b) "Party" also includes a partner, officer, shareholder, member, or owner of an entity described in paragraph (a), clauses (1) and (2).

(c) "Party" does not include ~~any~~ a person providing services pursuant to licensure or reimbursement on a cost basis by the department of health or the department of human services, when that person is named or admitted or seeking to be admitted as a party in ~~any~~ a matter which involves the licensing or reimbursement rates, procedures, or methodology applicable to those services.

Subd. 7. **STATE.** "State" means the state of Minnesota or an agency or official of the state ~~of Minnesota~~ acting in an official capacity.

Subd. 8. **SUBSTANTIALLY JUSTIFIED.** "Substantially justified" means that the state's position had a reasonable basis in law and fact, based on the totality of the circumstances ~~prior to~~ before and during the litigation or contested case proceeding.

### **3.762 FEES AND EXPENSES; CIVIL ACTION OR CONTESTED CASE PROCEEDING INVOLVING STATE.**

(a) If a prevailing party other than the state, in a civil action or contested

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case proceeding other than a tort action, brought by or against the state, shows that the position of the state was not substantially justified, the court or administrative law judge shall award fees and other expenses to the party unless special circumstances make an award unjust.

(b) The court or administrative law judge may reduce the amount to be awarded under this section, or deny an award, to the extent that the prevailing party during the ~~course of the~~ proceedings engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy. The decision of an administrative law judge under this section must be made a part of the record containing the final decision of the agency and must include written findings and conclusions.

(c) This section does not preclude a party from recovering costs, disbursements, fees, and expenses under other applicable law.

### 3.763 PAYMENT OF COSTS AND FEES.

Subdivision 1. **CIVIL ACTION.** A judgment against the state in a civil action for fees and expenses under section 3.762 must be paid from funds of the agency.

Subd. 2. **CONTESTED CASE PROCEEDING.** Fees and other expenses awarded in a contested case proceeding under section 3.762 must be paid by the agency over which the party prevails from funds of the agency.

### 3.764 PROCEDURE FOR AWARD OF FEES; CONTESTED CASE.

Subdivision 1. **APPLICATIONS.** The chief administrative law judge shall by rule establish uniform procedures for the submission and consideration of applications for an award of fees and expenses in a contested case proceeding. If a court reviews the underlying decision of the contested case under sections 14.63 to 14.68, an award for fees and expenses may be made only pursuant to ~~under~~ subdivision 3.

Subd. 2. **APPEAL.** A party dissatisfied with the fee determination made under subdivision 1 may petition for leave to appeal to the court having jurisdiction to review the merits of the underlying decision of the contested case. If the court denies the petition for leave to appeal, no appeal may be taken from the denial. If the court grants the petition, it may modify the determination only if it finds that the failure to make an award, or the calculation of the amount of the award, was an abuse of discretion.

Subd. 3. **JUDICIAL REVIEW.** (a) In awarding fees and expenses under subdivision 1 to a prevailing party in an action for judicial review of a contested case under sections 14.63 to 14.68, the court shall include in that award fees and expenses to the extent authorized in section 3.762.

(b) Fees and expenses awarded under this subdivision may be paid in accordance with section 3.763, subdivision 2.

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**3.765 REPORTS ON AWARDS.**

The state court administrator and the chief administrative law judge shall report annually to the legislature on the amount of fees and expenses awarded under section 3.762 during the preceding fiscal year in court actions and contested case proceedings. The reports shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information that may aid the legislature in evaluating the scope and impact of the awards. State agencies shall provide the chief administrative law judge with information needed to comply with ~~the requirements of~~ this section.

**3.84 MISDEMEANOR.**

A person who knowingly and willfully presents, or attempts to present, a false or fraudulent claim; or a state officer who knowingly and willfully participates, or assists, in the preparation or presentation of a false or fraudulent claim is guilty of a misdemeanor. A state officer convicted of such an offense also forfeits ~~the~~ office.

**3.85 LEGISLATIVE COMMISSION ON PENSIONS AND RETIREMENT.**

Subdivision 1. **CREATION.** ~~A permanent~~ The legislative commission on pensions and retirement is created to continually study and investigate public retirement systems ~~is hereby created.~~

Subd. 2. **POWERS.** ~~The name of the commission is the legislative commission on pensions and retirement.~~ The commission shall make a continuing study and investigation of retirement benefit plans applicable to nonfederal government employees in this state. The powers and duties of the commission include, but are not limited to the following:

(a) ~~the study of~~ studying retirement benefit plans applicable to nonfederal government employees in ~~the state of~~ Minnesota, including federal plans available to ~~such~~ the employees;

(b) ~~the making of~~ recommendations within the scope of ~~the~~ its study, including attention to financing of the various pension funds and financing of accrued liabilities;

(c) ~~the consideration of~~ considering all aspects of pension planning and operation and ~~the making of~~ recommendations designed to establish and maintain sound pension policy ~~as to~~ for all funds;

(d) ~~the filing of~~ a report at least biennially to each session of the legislature;

(e) ~~the analyzing of~~ each item of proposed pension and retirement legislation, including amendments ~~thereon~~ to each, with particular reference to analysis ~~as to~~ of their cost, actuarial soundness, and adherence to sound pension policy, and ~~the reporting of~~ its findings to the legislature;

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(f) ~~the creation~~ creating and ~~maintenance of~~ maintaining a library for reference concerning pension and retirement matters, including information ~~as to~~ about laws and systems in other states; and

(g) ~~to study, analyze, and have prepared~~ studying, analyzing, and preparing reports in regard to subjects certified to the commission for ~~such~~ study.

Subd. 3. **MEMBERSHIP.** The commission consists of five members of the senate ~~to be~~ appointed by the subcommittee on committees of the committee on rules and administration and five members of the house of representatives ~~to be~~ appointed by the speaker. Members ~~of the commission~~ shall be appointed at the commencement of each regular session of the legislature for a two year term beginning January 16 of the first year of the regular session. Vacancies ~~on the commission occurring that occur~~ while the legislature is in session shall be filled ~~in the same manner as like~~ regular appointments ~~to the commission~~. If the legislature is not in session, senate vacancies ~~in the membership of the commission~~ shall be filled by the last subcommittee on committees of the senate committee on rules and administration or other appointing authority designated by the senate rules ~~in case of a senate vacancy~~, and house vacancies ~~shall be filled~~ by the last speaker of the house, or if the speaker ~~be is~~ not available, by the last chair of the house rules committee ~~in case of a house vacancy~~.

Subd. 4. **OFFICE, MEETINGS, OFFICERS.** The commission shall maintain an office in the capitol group of buildings in space which the commissioner of administration shall provide. The commission shall hold meetings at ~~such the~~ times and places ~~as~~ it may designate. It shall select a chair, a vice-chair and ~~such~~ other officers from its membership as it ~~may deem~~ deems necessary.

Subd. 5. **STAFF.** The commission may employ ~~such~~ professional, clerical, and technical assistants as it deems necessary ~~in order~~ to perform the duties ~~herein~~ prescribed in this section.

Subd. 6. **ASSISTANCE OF OTHER AGENCIES.** The commission may request information from any state officer or agency or ~~any~~ public pension fund or plan as defined in section 356.61, including ~~any a~~ volunteer firefighters' relief association to which sections 69.771 to 69.776 applies, ~~in order~~ to assist ~~in carrying it to carry~~ out the terms of this section ~~and~~. The officer, agency, or public pension fund or plan, ~~is authorized and directed to~~ shall promptly furnish any data requested.

Subd. 7. **LEGISLATIVE BILLS FURNISHED.** The secretary of the senate and the chief clerk of the house shall provide the commission with a copy of each bill introduced in the legislature concerning retirement and pensions.

Subd. 8. **EXPENSES, REIMBURSEMENT.** The members of the commission and its assistants shall be reimbursed for all expenses actually and necessarily incurred in the performance of their duties ~~hereunder~~. Reimbursement for expenses incurred shall be made ~~pursuant to~~ under the rules governing state employees.

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Subd. 9. **EXPENSES AND REPORTS.** Expenses of the commission shall be approved by the chair or ~~such other~~ another member as the rules of the commission ~~may provide and~~. The expenses shall then be paid ~~in the same manner as like~~ other state expenses ~~are paid~~. A general summary or statement of expenses incurred by the commission and paid shall be made to the legislature by November 15 of each even numbered year.

Subd. 10. **EFFECTIVE DATE.** ~~This section is effective May 1, 1967.~~

Subd. ~~11~~ **STANDARDS FOR PENSION VALUATIONS AND COST ESTIMATES.** The commission shall ~~by June 30, 1985,~~ adopt standards prescribing specific detailed methods of ~~calculating, evaluating to calculate, evaluate,~~ and ~~displaying~~ display current and proposed law liabilities, costs, and actuarial equivalents of all public employee pension plans in Minnesota. These standards shall be consistent with chapter 356 and ~~shall be updated annually thereafter.~~

Subd. ~~12~~ 11. **VALUATIONS AND REPORTS TO LEGISLATURE.** (a) The commission shall contract with an established actuarial consulting firm to conduct annual actuarial valuations and financial adequacy studies for the retirement plans named in clause (b). The contract shall ~~also~~ include provisions for performing cost analyses of proposals for changes in benefit and funding policies.

(b) The contract for actuarial valuation and analysis shall include the following retirement plans:

- (1) the Statewide Teachers Retirement Association;
  - (2) the General Plan, Minnesota State Retirement System;
  - (3) the Correctional Plan, Minnesota State Retirement System;
  - (4) the State Patrol Plan, Minnesota State Retirement System;
  - (5) the Judges Plan, Minnesota State Retirement System;
  - (6) the Minneapolis Employees Retirement Fund;
  - (7) the General Plan, Public Employees Retirement Association;
  - (8) the Police and Fire Plan, Public Employees Retirement Association;
  - (9) the Duluth Teachers Retirement Association;
  - (10) the Minneapolis Teachers Retirement Association;
  - (11) the St. Paul Teachers Retirement Association;
  - (12) the Legislator's Retirement Plan, Minnesota State Retirement System;
- and

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(13) the Elective State Officers Retirement Plan, Minnesota State Retirement System.

(c) ~~The contract shall include the following:~~

(1) ~~Effective for Every year beginning in fiscal year 1986,~~ the contract shall specify completion of standard actuarial valuations for the fiscal year with contents as described in section 356.215, subdivisions 4 to 4k; and cash flow forecasts through the amortization target date.

(2) ~~Effective~~ For every plan year ~~beginning in fiscal year 1987,~~ the contract shall specify preparation of an exhibit on the experience of the fund for inclusion in the annual actuarial valuation and completion of a periodic experience study as provided for in the standards adopted by the commission. The experience study shall evaluate the appropriateness of continuing to use for future valuations the assumptions relating to: individual salary progression; rate of return on investments; payroll growth; mortality; withdrawal; disability; retirement; and any other experience-related factor that could impact the future financial condition of the retirement funds.

(d) The commission shall annually prepare a report to the legislature summarizing the results of the valuations and cash flow projections ~~and~~. It shall include with its report recommendations concerning the appropriateness of the support rates to achieve proper funding of the retirement funds by the required funding dates. It shall ~~also~~, within two months of the completion of the periodic experience studies, prepare a report to the legislature on the appropriateness of the valuation assumptions required for evaluation in the periodic experience study.

(e) The commission shall assess ~~the each~~ retirement ~~plans plan~~ specified in paragraph (b), other than clauses (12) and (13), for the cost of their its actuarial valuations and ~~of their~~ experience studies. The assessment shall be that part of the amount of contract compensation ~~with for~~ the actuarial consulting firm retained by the commission ~~specified for these those~~ functions that bears the same relationship that the total active, deferred, inactive, and benefit recipient membership of the retirement plan bears to the total action, deferred, inactive, and benefit recipient membership of all retirement plans specified in paragraph (b). The assessment shall be made upon the completion of the actuarial valuations and the experience studies. The amount of the assessment is appropriated from the retirement fund applicable to the retirement plan. Receipts from assessments shall be deposited in the state treasury and credited to the general fund.

### 3.855 LEGISLATIVE COMMISSION ON EMPLOYEE RELATIONS.

Subdivision 1. **ESTABLISHMENT.** ~~There is created~~ The legislative commission on employee relations is created. The commission ~~shall consist~~ consists of six members of the senate and six members of the house of representatives. The senate members shall ~~include~~ be the leader of the majority caucus of the

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senate, the leader of the minority caucus of the senate, the chair of the governmental operations committee, the chair of the finance committee, the chair of the committee on taxes and tax laws, and an additional member designated by the leader of the minority caucus. The house members shall ~~include~~ be the speaker, the leader of the minority caucus of the house, the chair of the governmental operations committee, the chair of the appropriations committee, the chair of the taxes committee, and an additional member designated by the leader of the minority caucus. ~~In the event that~~ If the membership of the house is evenly divided, the house members shall be selected ~~pursuant to~~ under the rules of the house. ~~Any~~ A member of the commission may resign by providing notice to the chair. ~~In the event of a~~ Upon resignation by a member of the:

(1) senate, a replacement shall be selected from among the members of the senate by the committee on rules;

(2) house, a replacement shall be selected from among the members of the house ~~pursuant to~~ under house rules.

The commission shall elect its ~~own~~ officers ~~who shall serve~~ for terms of two years. The ~~office of~~ chair of the commission shall alternate between a member of the senate and a member of the house.

Subd. 2. **STATE EMPLOYEE NEGOTIATIONS.** The commissioner of employee relations shall regularly advise the commission on the progress of collective bargaining activities with state employees ~~pursuant to~~ under the state public employment labor relations act. During ~~the course of the~~ negotiations, the commission may make recommendations to the commissioner as it deems appropriate but no recommendation shall impose any obligation or grant any right or privilege to the parties. The commissioner shall submit to the chair of the commission any negotiated agreements or arbitration awards. Approved negotiated agreements shall be submitted within five days of the date of approval by the commissioner or the date of approval by the affected state employees, whichever occurs later. Arbitration awards shall be submitted within five days of their receipt by the commissioner. If the commission disapproves ~~of any an~~ agreement or award, the commission shall specify in writing to the parties those portions with which it disagrees and ~~the its~~ reasons ~~therefor~~. If the commission approves ~~of an~~ agreement or award, it shall ~~cause~~ submit the matter ~~to be submitted~~ to the legislature to be accepted or rejected ~~pursuant to~~ under section 179A.22, subdivision 4. Failure of the commission to disapprove ~~of an~~ agreement or award within 30 days of its receipt ~~shall be deemed~~ constitutes approval. Approval or disapproval by the commission ~~shall is~~ not be binding on the ~~entire~~ legislature.

After adjournment of the legislature in an odd-numbered year, the commission may give interim approval to a negotiated agreement or arbitration award. It shall submit the negotiated agreement or arbitration award to the entire legislature for ratification as provided in section 179A.22, subdivision 4.

Subd. 3. **OTHER DUTIES.** ~~In addition to the duties specified in subdivision 2;~~ The commission shall ~~perform the following~~ also:

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(a) review and approve, reject, or modify a plan for compensation, terms and conditions of employment prepared and submitted by the commissioner of employee relations ~~pursuant to~~ under section 43A.18, subdivision 2, covering all state employees who are not represented by an exclusive bargaining representative and whose compensation is not provided for by chapter 43A or other law;

(b) review and approve, reject or modify a plan for total compensation and terms and conditions of employment for employees ~~of these in~~ in positions identified as being managerial ~~pursuant to~~ under section 43A.18, subdivision 3, whose salaries and benefits are not otherwise provided for in law or other plans established under chapter 43A;

(c) review and approve, reject or modify recommendations for salaries submitted by the governor ~~pursuant to~~ under section 43A.18, subdivision 5, covering agency head positions listed in section 15A.081;

(d) continually monitor the state's civil service system ~~as provided for in~~ chapter 43A, rules of the commissioner of employee relations and the collective bargaining process ~~as provided for in sections 179A.01 to 179A.25~~ chapter 179A, as applied to state employees;

(e) research and analyze the need for improvements in those statutory sections;

(f) adopt rules ~~not inconsistent~~ consistent with this section relating to the scheduling and conduct of commission business and other organizational and procedural matters; and

(g) perform ~~such~~ other related functions ~~as are~~ delegated to it by the legislature.

### 3.861 TAX STUDY COMMISSION.

Subdivision 1. **CREATION.** A legislative tax study commission is created.

Subd. 2. **DUTIES.** The commission shall:

(1) examine the burden of income maintenance and social services on the property tax levies of the counties, and of each county individually, and determine the impact of total or increased state funding of income maintenance and social services on those levies;

(2) examine and recommend to the legislature alternative methods of income adjusted property tax relief for homeowners and renters;

(3) examine and recommend to the legislature alternative property tax classification systems that reduce the number of property classifications, and determine the effects of the consolidation by type and use of property;

(4) examine the tax structures and revenue needs and revenue resources of state and local governments;

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(5) study and make recommendations about long-range tax policy;

(6) analyze proposed tax legislation, with particular reference to revenue and distribution impact, local government financing, and adherence to sound tax policies, and report its findings to the legislature;

(7) examine the property tax burdens on agricultural, commercial, industrial, and employment property by county, and by type, use, and market value; and

(8) file a report at least biennially with the legislature.

Subd. 3. **MEMBERSHIP.** The commission consists of seven members of the senate, including the chair of the committee on taxes and tax laws, to be appointed by the subcommittee on committees of the committee on rules and administration, and seven members of the house of representatives, including the chair of the committee on taxes, to be appointed by the speaker.

Appointees are members of the commission only while they are members of the bodies from which they were appointed. The first members serve for a term expiring on January 15 of the next biennial session of the legislature and until their successors are appointed. Later members must be appointed at the start of each biennial session of the legislature for a two-year term beginning on January 16 of that year. Vacancies must be filled in the same manner as the original appointment.

Subd. 4. **MEETINGS; OFFICERS.** The commission shall hold meetings at the times and places it designates. The commission's first chair shall be the chair of the house tax committee. Every two years, the chair of the house tax committee and the chair of the senate committee on taxes and tax laws shall alternate the office of commission chair. The commission shall select a vice-chair and other officers from its membership.

Subd. 5. **STAFF; OFFICE; EQUIPMENT.** (a) In performing its duties, the commission must utilize existing legislative staff.

(b) The commission may purchase equipment and supplies; and ~~may~~ enter into contracts for ~~the furnishing of~~ services, equipment, and supplies necessary to discharge its duties.

Subd. 6. **ASSISTANCE OF OTHER AGENCIES.** (a) The commission may request information from any state officer or agency to assist in carrying out this section. The officer or agency shall promptly provide the data ~~requested~~ to the extent permitted by law.

(b) The commissioner of revenue shall prepare, maintain, and make available to the commission data that compares (1) household incomes with rents and property tax burdens; and (2) household incomes with home market values and property tax burdens. The data must be furnished and made available in the form and manner that the commission determines will facilitate its use to discharge the duty imposed in subdivision 2, clause (2). The data must not disclose

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the name, address, social security number, or any other item of information that the commissioner believes may identify an individual. The data commissioner must be furnished to the commission by September 15, 1987, and subsequently maintained by the commissioner so that furnish to the commission and maintain for it the most complete and current data available is furnished to the commission.

**Subd. 7. EXPENSES AND REIMBURSEMENT OF MEMBERS AND STAFF.** The members of the commission may receive per diem when attending meetings and other commission business. Members and legislative employees must be reimbursed for expenses actually and necessarily incurred in the performance of their duties under the rules governing legislators and legislative employees.

**Subd. 8. COMMISSION EXPENSES AND REPORTS.** Expenses of the commission must be approved by the chair or other member as the rules of the commission ~~may~~ provide. The expenses must then be paid ~~in the same way as like~~ other state expenses ~~are paid~~. A general summary or statement of expenses incurred by the commission and paid must be made to the legislature by November 15 of each even-numbered year.

**Subd. 9. APPROPRIATION.** \$300,000 is appropriated for the biennium ending June 30, 1989, from the general fund to the tax study commission.

### 3.865 LEGISLATIVE COMMISSION ON PUBLIC EDUCATION.

**Subdivision 1. ESTABLISHMENT.** ~~There is established~~ A legislative commission on public education: ~~The commission shall~~ is established to study issues relating to elementary and secondary education, including at least the following:

(a) education policy development and planning and recommendations for change to make education more effective;

(b) current and alternative financing formulas for education and recommendations for changes in the use of public money to fund education;

(c) current school district organization and administration and recommendations for more efficient use of available resources;

(d) current technology and alternative education delivery systems for Minnesota; and

(e) teacher preparation, certification, salaries, employment policies, and retention.

**Subd. 2. MEMBERSHIP AND TERMS.** The commission ~~shall consist~~ consists of 12 members. Six members ~~shall be~~ from the senate, including members of the minority caucus, ~~and~~ shall be appointed by the subcommittee on committees of the committee on rules and administration. Six members

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~~shall be~~ from the house of representatives, including members of the minority caucus, ~~and~~ shall be appointed by the speaker. The chairs of the senate education committee, senate education aids subcommittee, house education committee, and house education finance division shall be members of the commission. The members shall be appointed for two-year terms beginning on January 1 of each odd-numbered year. Vacancies ~~on the commission~~ shall be filled in the same manner as the original appointments.

Subd. 3. **TERMS AND OFFICERS.** The commission shall elect a chair and a vice-chair from among its members. The chair shall alternate biennially between a member of the senate and a member of the house. The vice-chair shall be a house member when the chair is a senate member, and a senate member when the chair is a house member.

Subd. 4. **GOVERNOR'S REPRESENTATIVE.** The governor shall appoint a person to ~~serve as~~ be liaison between the governor and the commission.

Subd. 5. **ADVISORY COMMITTEE.** The commission may appoint advisory committees to assist it as needed. The advisory committees shall meet at the discretion of the commission.

Subd. 6. **ASSISTANCE OF OTHER AGENCIES.** The commission may request information from any state officer or agency to assist the commission in performing its duties. The officer or agency ~~is authorized and directed to~~ shall promptly furnish any data requested.

Subd. 7. **STAFF.** The commission may employ professional, technical, consulting, and clerical services. The commission may use legislative staff to provide legal counsel, research, secretarial, and clerical assistance.

Subd. 8. **EXPENSES AND REIMBURSEMENT.** The members of the commission and its assistants shall be reimbursed for ~~all~~ expenses actually incurred in the performance of their duties. Expenses of the commission shall be approved by the chair and ~~the expenses shall be paid in the same manner as~~ like other state expenses ~~are paid~~.

Subd. 9. **REPORT.** By January 15 of each year, the commission shall report to the education committees of the legislature on its findings and recommendations, including information related to the funding of education.

### 3.866 SCHOOL DISTRICT REVENUE STUDY.

The legislative commission on public education is encouraged to conduct a study of school district foundation and retirement revenue. The study may address at least the following topics:

- (1) alternative means of funding school district retirement costs, including means of funding retirement costs through the foundation revenue formulas;
- (2) the financial constraints and costs faced by districts with highly educated

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and experienced staff, the adequacy of the current training and experience allowance and revenue in tiers two through five in recognizing these constraints and costs, and the impact of the training and experience allowance on program differences among districts and on incentives for district personnel decisions;

(3) the financial constraints and costs faced by small and isolated districts, and the adequacy of the current sparsity allowance in recognizing these constraints and costs;

(4) an analysis of the financial constraints and costs faced by districts with low salaries, and the need for additional revenue to enable ~~such districts~~ them to raise salaries;

(5) an analysis of the financial constraints and costs faced by districts with declining enrollments, and the need for additional revenue in ~~such~~ the districts;

(6) an analysis of the financial constraints and costs faced by districts with large concentrations of low-income and disadvantaged pupils, the adequacy of the current AFDC pupil unit formula in providing revenue in ~~these~~ the districts, and possible alternative formulas for education overburden revenue;

(7) differences in the average costs of educating elementary and secondary pupils, and the adequacy of the current pupil unit weightings in addressing these differences;

(8) trends in the degree of equalization of school district revenues and tax rates;

(9) the relationship of the basic formula allowance and foundation revenue to school district operating expenditures;

(10) the adequacy of unappropriated balances in school district operating funds, including the implications of fund balances regarding the revenue needs of school districts;

(11) the advantages, disadvantages, and cost implications of program-based funding; and

(12) means to simplify and improve understanding of school district funding formulas and laws.

The department of finance and the department of education shall provide assistance to the commission upon request.

### 3.885 LEGISLATIVE COMMITTEE ON PLANNING AND FISCAL POLICY.

Subdivision 1. **MEMBERSHIP.** The legislative committee on planning and fiscal policy consists of 18 members of the senate and the house of representatives appointed by the legislative coordinating commission. Vacancies on the

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committee are filled in the same manner as original appointments. The committee shall elect a chair and a vice-chair from among its members. The chair alternates between a member of the senate and a member of the house in January of each odd-numbered year.

Subd. 2. **COMPENSATION.** Members of the committee are compensated ~~in the manner~~ as provided by section 3.101.

Subd. 3. **STAFF.** The committee may hire staff necessary to carry out its duties and may also use other legislative staff. The legislative coordinating commission shall provide office space and administrative support to the committee. The commissioners of finance and revenue shall supply the committee with information upon request of the chair. The state planning agency shall report to the committee, and the committee may make recommendations to the state planning agency.

Subd. 4. **DUTIES.** The committee shall study and evaluate the actual and projected expenditures by state government, the actual and projected sources of revenue that support these expenditures, and the various options available to meet the state's future fiscal needs. In performing this duty the committee shall consider, among other things:

(1) the relative dependence on state tax revenues, federal funds, and user fees to support state-funded programs, and whether the existing mix of revenue sources is appropriate, given the purposes of the programs;

(2) the relative percentages of state expenditures that are devoted to major programs such as education, assistance to local government, aid to individuals, state agencies and institutions, and debt service; and

(3) the role of the legislature in overseeing state government expenditures, including legislative appropriation of money from the general fund, legislative appropriation of money from funds other than the general fund, state agency receipt of money into revolving and other dedicated funds and expenditure of money from these funds, and state agency expenditure of federal funds.

As necessary, the committee shall recommend to the legislature changes in the mix of revenue sources for programs, in the percentage of state expenditures devoted to major programs, and in the role of the legislature in overseeing state government expenditures. The committee may ~~also~~ make recommendations for changes in the design or continuing operation of programs. The committee's recommendations must consider the long-term needs of the state. The recommendations must not duplicate work done by standing committees of the senate and house of representatives.

The committee shall report to the legislature on its activities and recommendations by January 15 of each odd-numbered year.

### 3.921 **STANDING COMMITTEES AS INTERIM STUDY COMMITTEES.**

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Subdivision 1. Each standing committee or subcommittee ~~existing in~~ of the senate and house of representatives is continued during the intervals between sessions of the legislature to make studies and investigations within ~~the its~~ general jurisdiction ~~of each such committee~~, as directed by the committee on rules and administration of the senate and the committee on rules and legislative administration of the house of representatives, or ~~as otherwise prescribed by resolution duly adopted or by law.~~

Subd. 2. Vacancies in ~~any such a~~ committee or subcommittee during ~~such~~ the intervals shall be filled by the last elected speaker of the house of representatives ~~as to for~~ house committees and by the last elected senate committee on committees ~~as to for~~ senate committees.

Subd. 3. ~~Any A~~ standing committee of the senate that requires ~~an appropriation of funds~~ money to defray expenses of its operations during the interim shall prepare and submit a budget; ~~which budget shall be submitted to the senate committee on rules and administration for its approval. No funds shall be expended~~ The money must not be spent by ~~such the~~ standing committee without prior approval of the senate committee on rules and administration. ~~Any A~~ standing committee of the house of representatives that requires ~~an appropriation of funds~~ money to defray expenses of its operations during the interim shall prepare and submit a budget; ~~which budget shall be submitted to the rules and legislative administration committee of the house of representatives for its approval. No funds shall be expended~~ The money must not be spent by ~~such the~~ standing committee without prior approval of the rules and legislative administration committee of the house of representatives.

Subd. 4. The expenses of ~~any such a~~ committee shall be paid upon the certification to the commissioner of finance of ~~the their~~ amount ~~thereof~~. Payment of ~~such the~~ expenses is ~~hereby~~ directed from any direct appropriation ~~therefor for them~~ to the legislature or either branch ~~thereof of it~~.

### 3.922 INDIAN AFFAIRS COUNCIL.

Subdivision 1. **CREATION, MEMBERSHIP.** ~~There is created a~~ The state Indian affairs council is created to consist of the following ex officio members:

the governor or a member of the governor's official staff designated by the governor,

the commissioner of education,

the commissioner of human services,

the commissioner of natural resources,

the commissioner of human rights,

the commissioner of energy and economic development,

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the commissioner of corrections,  
the executive director of the Minnesota housing finance agency,  
the commissioner of iron range resources and rehabilitation, ~~and~~  
the commissioner of health,

each of whom may designate a staff member to serve instead, and

three members of the ~~state~~ house of representatives appointed by the speaker of the house of representatives, and three members of the ~~state~~ senate appointed by the ~~committee~~ its subcommittee on committees of the senate.

Voting members of the council ~~shall be:~~ are the ~~duly~~ elected tribal chair of:

the Fond du Lac Reservation business committee;  
the Grand Portage Reservation business committee;  
the Mille Lacs Reservation business committee;  
the White Earth Reservation business committee;  
the Bois Forte (Nett Lake) Reservation business committee;  
the Leech Lake Reservation business committee;  
the Red Lake tribal council;  
the Upper Sioux board of trustees;  
the Lower Sioux tribal council;  
the Shakopee-Mdewankanton general council;  
the Prairie Island tribal council; and  
two members to be selected ~~pursuant to~~ under subdivision 2.

The chairs of the ~~above~~ Indian committees, trusts, or councils may designate in writing a member who ~~shall have~~ has been elected at large to an office in the committee, trust, or council, to serve instead. ~~Council~~ Members appointed to represent the ~~state~~ house of representatives, the ~~state~~ senate or tribal governments shall no longer serve on the council ~~at such time as~~ when they are no longer members of the bodies which they represent, and ~~upon such circumstances,~~ their offices shall be vacant. A member who is a designee of a tribal chair shall cease to be a member at the end of the term of the designating tribal chair. Ex officio members or their designees on the council shall not be ~~voting members of the council~~ vote.

Subd. 2. **ADDITIONAL MEMBERS.** Two members of the council shall

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be elected at large by Indian residents of Minnesota who ~~(1)~~ are legal members and eligible voters of a federally recognized tribe in accordance with the criteria of ~~said the~~ tribe and ~~(2)~~ are not members of any federally recognized tribe with a reservation in Minnesota. The election ~~of at large members~~ shall be in a manner prescribed by the secretary of state ~~with the first such election for at large members to take place at a reasonable time; but no later than April 14, 1977.~~ The manner of election, certification, and contest shall, insofar as far as as reasonably possible, be consistent with procedures employed in general elections in the state ~~so as~~ to insure a fair election and ready access to the election process by eligible voters. The voting procedure shall include voting by absentee ballot. A person ~~shall be~~ is eligible to serve as an at large member of the council if at the time of the election the person is a qualified voter within the requirements of the Minnesota Constitution, article VII and a member of a federally recognized tribe that does not have a reservation in Minnesota. ~~The at large election described herein shall be certified and regulated by the secretary of state. The term for at large members elected in 1977 shall expire on April 20, 1981. At large Elections shall be held no later than by April 14, 1981, and no later than by every fourth April 14 thereafter; and.~~ The term of office for at large members ~~shall be~~ is four years commencing on the April 20 following ~~each at large the~~ election and ending at 12:01 a.m., April 20 four years thereafter later.

Subd. 3. **COMPENSATION; EXPENSES.** Compensation of nonlegislator members ~~shall be~~ is as provided in section 15.059. Expenses of the council shall be approved by two of any three members of the council designated by the council and ~~shall then be paid in the same manner as other state expenses are paid.~~ The executive secretary shall inform the commissioner of finance ~~shall be informed in writing by the executive secretary of the names of the persons authorized to approve expenses.~~

Subd. 4. **MEETINGS.** Meetings may be called by the chair or at the written request of five members of the council. A majority of the voting members of the council ~~constitutes~~ is a quorum.

Subd. 5. **OFFICERS; PERSONNEL; AUTHORITY.** The council shall annually elect a chair and ~~such~~ other officers as it may deem necessary. The chair ~~shall have the authority to may~~ appoint subcommittees necessary to fulfill the duties of the council. It shall also employ; and prescribe the duties of ~~such~~ employees and agents as it deems necessary. The compensation of the executive director of the board ~~shall be~~ is as provided by section 43A.18. All employees are in the unclassified service. The chair ~~shall be~~ is an ex officio member of the state board of human rights. ~~The Appropriations and other funds of this the~~ council are subject to ~~the provisions of~~ chapter 16B. The council ~~shall have power to may~~ contract in its own name. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and spend in its own name, grants and gifts of money consistent with the powers and duties specified in this section. The council shall maintain its primary office in Bemidji ~~and.~~ It shall also maintain personnel and office space in St. Paul.

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Subd. 6. **DUTIES.** The primary duties of the council ~~shall be~~ are to:

(1) clarify for the legislature and state agencies the nature of tribal governments; and the relationship of tribal governments to the Indian people of Minnesota;

(2) assist the secretary of state in establishing an election of at large members of the council;

(3) make recommendations to members of the legislature on desired and needed legislation ~~for the~~ to benefit ~~of~~ the statewide Indian community and communicate to the members of the legislature when legislation has or will have an adverse effect on the statewide Indian community;

(4) provide, through the elected apparatus of the council, an effective conduit to the legislature for programs, proposals, and projects ~~to the legislature~~ submitted by tribal governments, organizations, committees, groups, or individuals;

(5) provide a continuing dialogue with members of the ~~appropriate~~ tribal governments ~~in order~~ to improve their knowledge of the legislative process, state agencies, and governmental due process;

(6) assist in establishing Indian advisory councils in cooperation with state agencies ~~delivering that~~ deliver services to the Indian community;

(7) assist state agencies in defining what groups, organizations, committees, councils, or individuals are eligible for delivery of their respective services;

(8) assist in providing resources, tribal and other, in the delivery of services to the statewide Indian community;

(9) act as a liaison between local, state, and national units of government in the delivery of services to the Indian population of Minnesota;

(10) assist state agencies in ~~the implementation~~ implementing and updating of studies of services delivered to the Indian community;

(11) provide, for the benefit of all levels of state government, a continuing liaison between ~~these~~ governmental bodies and ~~duly~~ elected tribal governments and officials;

(12) interreact with private organizations involved with Indian concerns ~~in the development to develop and implementation of~~ implement programs ~~designed~~ to assist Indian people, ~~insofar~~ as they affect state agencies and departments;

(13) act as an intermediary, when requested and if necessary, between Indian interests and state agencies and departments when questions, problems, or conflicts exist or arise;

(14) provide information for and direction to a program ~~designed~~ to assist

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Indian citizens to assume all the rights, privileges, and duties of citizenship, and to coordinate and cooperate with local, state, and national private agencies providing services to the Indian people;

(15) develop educational programs, community organization programs, leadership development programs, motivational programs, and business development programs for the benefit of Indian persons who have been, are, or will be subject to prejudice and discrimination; and

(16) cooperate and consult with appropriate commissioners and agencies to develop plans and programs to most effectively serve the needs of Indians.

**Subd. 7. STATE OFFICIALS AND DEPARTMENTS; COOPERATION.**

In carrying out these objectives and to ascertain Indian needs the council shall have the right to confer with state officials and other governmental units, and to have access to ~~such~~ records as are necessary to obtain needed information. The council also shall have the right to call upon various state departments for ~~such~~ technical advice and service as are needed to fulfill the its purposes of the council.

**Subd. 8. ADVISORY COUNCIL.** An advisory council on urban Indians is created to advise the board on the unique problems and concerns of Minnesota Indians who are ~~residing~~ reside in urban areas of the state. The council shall be appointed by the board and ~~shall~~ consist of five Indians residing in the vicinity of Minneapolis, St. Paul and Duluth. At least one member of the council shall be a resident of each of the ~~aforementioned cities~~ city. The council ~~shall expire~~ expires, and terms, compensation and removal of members ~~shall be~~ are as provided in section 15.059.

**Subd. 9. ANNUAL REPORT.** The council shall make an annual report to the governor and the legislature on its activities, its findings, and its recommendations ~~prior to~~ before November 15 in each year.

**3.9222 LEGISLATIVE COMMISSION ON THE ECONOMIC STATUS OF WOMEN.**

**Subdivision 1.** A legislative commission is created to study and report on the economic status of women in Minnesota.

**Subd. 2.** The commission ~~shall consist~~ consists of five members of the house of representatives appointed by the speaker and five members of the senate appointed by the committee on committees. Members ~~shall~~ serve until the expiration of their legislative terms.

**Subd. 3.** The commission shall study all matters relating to the economic status of women in Minnesota, including:

- (1) economic security of homemakers and women in the labor force,
- (2) opportunities for education and vocational training,

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(3) employment opportunities,

(4) the contributions of women to the economy, ~~their~~

(5) women's access to benefits and services provided to citizens of this state, and

(6) laws and business practices constituting barriers to the full participation by women in the economy. ~~In addition,~~

The commission shall study also the adequacy of programs and services relating to families in Minnesota, including single-parent families and members beyond the nuclear or immediate family.

Subd. 4. The commission shall report its findings and recommendations to the governor and the legislature ~~not later than~~ by December 15 of each even-numbered year and shall supplement its findings and recommendations ~~not later than~~ by December 15 of each odd-numbered year. The report shall recommend legislation and administrative action ~~designed~~ to enable women to achieve full participation in the economy. The report shall also recommend methods to encourage the development of coordinated, interdepartmental goals and objectives and the coordination of programs, services and facilities among all state departments and public and private providers of services related to children, youth and families.

Subd. 5. The commission may hold meetings and hearings at the times and places it designates to accomplish the purposes ~~set forth~~ in this section. It shall select a chair and other officers from its membership as it deems necessary.

Subd. 6. The legislative coordinating commission shall supply the commission with necessary staff, office space and administrative services.

Subd. 7. When any person, corporation, the United States government, or any other entity offers ~~funds~~ money to the commission by way of gift, grant or loan, ~~for the purpose of assisting to assist~~ the commission to carry out its powers and duties, the commission may accept the offer by majority vote ~~and~~. Upon acceptance the chair shall receive the ~~funds~~ money subject to the terms of the offer, but no money shall be accepted or received as a loan nor ~~shall any~~ indebtedness be incurred except in the manner and under the limitations otherwise provided by law.

### 3.9223 COUNCIL ON AFFAIRS OF SPANISH-SPEAKING PEOPLE.

Subdivision 1. **MEMBERSHIP.** ~~There is created~~ A state council on affairs of Spanish-speaking people is created to consist of seven members appointed by the governor. The demographic composition of the council members shall accurately reflect the demographic composition of Minnesota's Spanish-speaking community, including migrant workers, as determined by the state demographer. Membership, terms, compensation, removal of members and filling of vacancies ~~shall be~~ are as provided in section 15.0575. The council shall annual-

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ly elect from its membership a chair and other officers it deems necessary. The council ~~shall expire~~ expires on the date provided by section 15.059, subdivision 5.

Subd. 2. **SPANISH-SPEAKING PEOPLE.** For purposes of subdivisions 3 to 7, the term "Spanish-speaking person" means a person who uses Spanish as a primary method of communication, or who is a spouse of a person who does.

Subd. 3. **DUTIES.** The council shall:

(a) advise the governor and the legislature on the nature of the issues and disabilities confronting Spanish-speaking people in this state including the unique problems encountered by Spanish-speaking migrant agricultural workers;

(b) advise the governor and the legislature on statutes or rules necessary to insure Spanish-speaking people access to benefits and services provided to people in this state;

(c) recommend to the governor and the legislature legislation ~~designed~~ to improve the economic and social condition of Spanish-speaking people in this state;

(d) serve as a conduit to state government for organizations of Spanish-speaking people in the state;

(e) serve as a referral agency to assist Spanish-speaking people ~~in securing~~ to secure access to state agencies and programs;

(f) serve as a liaison with the federal government, local government units and private organizations on matters relating to the Spanish-speaking people of this state;

(g) perform or contract for the performance of studies designed to suggest solutions to problems of Spanish-speaking people in the areas of education, employment, human rights, health, housing, social welfare and other related programs;

(h) implement programs designed to solve problems of Spanish-speaking people when ~~so~~ authorized by other statute, rule or order;

(i) publicize the accomplishments of Spanish-speaking people and ~~the~~ their contributions ~~made by them~~ to this state.

Subd. 4. **REVIEW AND RECOMMENDATION AUTHORITY.** All applications for the receipt of federal money and ~~all~~ proposed rules of ~~any~~ a state agency which will have their primary effect on Spanish-speaking people shall be submitted to the council for review and recommendation at least 15 days ~~prior~~ to before submission to a federal agency or initial publication in the State Register.

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Subd. 5. **POWERS.** The council ~~shall have power to~~ may contract in its own name. Contracts shall be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in this section.

The council shall appoint, subject to the approval of the governor, an executive director who ~~shall be~~ is experienced in administrative activities and familiar with the problems and needs of Spanish-speaking people. The council may delegate to the executive director ~~any~~ powers and duties under this section which do not require council approval. The executive director and council staff ~~shall~~ serve in the unclassified service. The executive director may be removed at any time by a majority vote of the entire council. The executive director shall recommend to the council the appropriate staffing ~~patterns~~ necessary to carry out its duties. The commissioner of administration shall provide the council with necessary administrative services, and the council shall reimburse the commissioner for ~~the~~ their cost of ~~these~~ services.

Subd. 6. **STATE AGENCY ASSISTANCE.** Other state agencies shall supply the council upon request with advisory staff services on matters relating to the jurisdiction of the council ~~and~~. The council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. **REPORT.** The council shall prepare and distribute a report to the governor and legislature by November 15 of each even-numbered year. The report shall summarize the activities of the council since its ~~prior~~ last report, list receipts and expenditures, identify the major problems and issues confronting Spanish-speaking people, and list the specific objectives which the council seeks to attain during the next biennium.

### 3.9225 COUNCIL ON BLACK MINNESOTANS.

Subdivision 1. **CREATION.** ~~There is created~~ A state council on Black Minnesotans is created to consist of seven members appointed by the governor. The members of the council shall be broadly representative of the Black community of the state and ~~shall~~ include at least three males and at least three females. Membership terms, compensation, removal of members, and filling of vacancies for nonlegislative members ~~shall be~~ are as provided in section 15.059. ~~In addition,~~ Two members of the house of representatives appointed by the speaker and two members of the senate appointed by the subcommittee on committees of the committee on rules and administration shall serve as ex officio, nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary.

Subd. 2. **DEFINITIONS.** For the purpose of this section, the term "Black" describes persons who consider themselves as having origin in any of the black racial groups of Africa.

Subd. 3. **DUTIES.** The council shall:

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(a) advise the governor and the legislature on the nature of the issues confronting Black people in this state;

(b) advise the governor and the legislature on statutes or rules necessary to ~~insure~~ ensure that Black people have access to benefits and services provided to people in this state;

(c) recommend to the governor and the legislature any revisions in the state's affirmative action program and ~~any~~ other steps that are necessary to eliminate underutilization of Blacks in the state's work force;

(d) recommend to the governor and the legislature legislation ~~designed~~ to improve the economic and social condition of Black people in this state;

(e) serve as a conduit to state government for organizations of Black people in the state;

(f) serve as a referral agency to assist Black people ~~in securing~~ to secure access to state agencies and programs;

(g) serve as a liaison with the federal government, local government units and private organizations on matters relating to the Black people of this state;

(h) perform or contract for the performance of studies designed to suggest solutions to problems of Black people in the areas of education, employment, human rights, health, housing, social welfare and other related areas;

(i) implement programs designed to solve problems of Black people when ~~so~~ authorized by other statute, rule or order; and

(j) publicize the accomplishments of Black people and ~~the~~ their contributions ~~made by them~~ to this state.

Subd. 4. **REVIEW OF GRANT APPLICATIONS.** All applications by a state department or agency for the receipt of federal funds which will have their primary effect on Black Minnesotans shall be submitted to the council for review and recommendation at least 30 days ~~prior to~~ before submission to a federal agency.

Subd. 5. **POWERS.** The council ~~shall have power to~~ may contract in its own name, ~~provided that~~ but no money shall be accepted or received as a loan nor ~~shall any~~ indebtedness be incurred except as otherwise provided by law. Contracts shall be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the power and duties specified in subdivisions 1 to 7.

The council shall appoint an executive director who ~~shall be~~ is experienced in administrative activities and familiar with the problems and needs of Black people. The council may delegate to the executive director ~~any~~ powers and

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duties under subdivisions 1 to 7 which do not require council approval. The executive director ~~shall serve~~ serves in the unclassified service and may be removed at any time by the council. The executive director shall recommend to the council, and the council may appoint, the appropriate staff necessary to carry out its duties. ~~All Staff members shall also~~ serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services, and the council shall reimburse the commissioner for ~~the~~ their cost ~~of these services~~.

Subd. 6. **STATE AGENCY ASSISTANCE.** Other state agencies shall supply the council upon request with advisory staff services on matters relating to the jurisdiction of the council ~~and~~. The council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. **REPORT.** The council shall prepare and distribute a report to the governor and legislature by November 15 of each even-numbered year. The report shall summarize the activities of the council since its ~~prior~~ last report, list receipts and expenditures, identify the major problems and issues confronting Black people, and list the specific objectives which the council seeks to attain during the next biennium.

### 3.9226 COUNCIL ON ASIAN-PACIFIC MINNESOTANS.

Subdivision 1. **CREATION.** The state council on Asian-Pacific Minnesotans consists of 13 members. Nine members are appointed by the governor and shall be broadly representative of the Asian-Pacific community of the state. Terms, compensation, removal, and filling of vacancies for ~~these~~ appointed members are as provided in section 15.059. ~~In addition,~~ Two members of the house of representatives appointed under the rules of the house of representatives and two members of the senate appointed under the rules of the senate shall serve as nonvoting members of the council. The council shall annually elect from its membership a chair and other officers it deems necessary.

Subd. 2. **DEFINITION.** For the purpose of this section, the term Asian-Pacific means a person from any of the countries in Asia or the Pacific Islands.

Subd. 3. **DUTIES.** The council shall:

(1) advise the governor and the legislature on issues confronting Asian-Pacific people in this state, including the unique problems of non-English-speaking immigrants and refugees;

(2) advise the governor and the legislature of administrative and legislative changes necessary to ensure that Asian-Pacific people have access to benefits and services provided to people in this state;

(3) recommend to the governor and the legislature any revisions in the state's affirmative action program and other steps that are necessary to eliminate underutilization of Asian-Pacific people in the state's work force;

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(4) recommend to the governor and the legislature legislation ~~designed~~ to improve the economic and social condition of Asian-Pacific people in this state;

(5) serve as a conduit to state government for organizations of Asian-Pacific people in the state;

(6) serve as a referral agency to assist Asian-Pacific people ~~in securing~~ to secure access to state agencies and programs;

(7) serve as a liaison with the federal government, local government units, and private organizations on matters relating to the Asian-Pacific people of this state;

(8) perform or contract for the performance of studies designed to suggest solutions to the problems of Asian-Pacific people in the areas of education, employment, human rights, health, housing, social welfare, and other related areas;

(9) implement programs designed to solve the problems of Asian-Pacific people when authorized by other law;

(10) publicize the accomplishments of Asian-Pacific people and their contributions to this state;

(11) work with other state and federal agencies and organizations to develop small business opportunities and promote economic development for Asian-Pacific Minnesotans;

(12) supervise development of an Asian-Pacific trade primer, outlining Asian and Pacific customs, cultural traditions, and business practices, including language usage, for use by Minnesota's export community; and

(13) cooperate with other state and federal agencies and organizations to develop improved state trade relations with Asian and Pacific countries.

**Subd. 4. REVIEW OF GRANT APPLICATIONS AND BUDGET REQUESTS.** State departments and agencies shall consult with the council concerning any application for federal money that will have its primary effect on Asian-Pacific Minnesotans before development of the application. The council shall advise the governor and the commissioner of finance concerning any state agency request that will have its primary effect on Asian-Pacific Minnesotans.

**Subd. 5. POWERS.** (a) The council may contract in its own name but may not accept or receive a loan or incur indebtedness except as otherwise provided by law. Contracts must be approved by a majority of the members of the council and executed by the chair and the executive director. The council may apply for, receive, and expend in its own name grants and gifts of money consistent with the powers and duties specified in this section.

(b) The council shall appoint an executive director who is experienced in

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administrative activities and familiar with the problems and needs of Asian-Pacific people. The council may delegate to the executive director ~~any~~ powers and duties under this section that do not require council approval. The executive director serves in the unclassified service and may be removed at any time by the council. The executive director shall recommend to the council, and the council may appoint, the appropriate staff necessary to carry out the duties of the council. All staff members serve in the unclassified service. The commissioner of administration shall provide the council with necessary administrative services, for which the council shall reimburse the commissioner.

Subd. 6. **STATE AGENCY ASSISTANCE.** ~~On the~~ At its request of the ~~council~~, state agencies shall supply the council with advisory staff services on matters relating to ~~the its jurisdiction of the council~~. The council shall cooperate and coordinate its activities with other state agencies to the highest possible degree.

Subd. 7. **REPORT.** The council shall prepare and distribute a report to the governor and legislature by November 15 of each even-numbered year. The report shall summarize the activities of the council since its last report, list receipts and expenditures, identify the major problems and issues confronting Asian-Pacific people, and list the specific objectives that the council seeks to attain during the next biennium.

### 3.93 DEFINITIONS.

As used in sections 3.93 to 3.96 "attack" means ~~any~~ an action or series of actions taken by an enemy of the United States resulting in substantial damage or injury to persons or property in this state ~~whether~~ through sabotage, bombs, missiles, shellfire, or atomic, radiological, chemical, bacteriological, or biological means.

### 3.94 PLACE OF SESSION.

Whenever, in the event of an attack, or a finding by the executive council that an attack may be imminent, the governor deems the place of the legislative session then prescribed to be unsafe, the governor may change it to any other place within or without the state which the governor deems safe and convenient.

### 3.95 SPECIAL SESSION IN EVENT OF ATTACK.

In the event of an attack, if the legislature is not ~~then~~ in session, the governor shall convene a special session ~~thereof~~, as soon as practicable, ~~and in no case later than~~ but within 30 days ~~following~~ after the inception of the attack. If the governor fails to issue ~~such a~~ the call, the legislature, on the first Tuesday after the first Monday ~~after the expiration of more than~~ 30 days following the date of after the inception of the attack, shall convene without call at the place where the governor then maintains official office.

### 3.96 QUORUM AND VOTE REQUIREMENTS.

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In the event of an attack the quorum requirement for the legislature ~~shall be~~ is a majority of the members of each house who convene for the session. ~~Where~~ If the affirmative vote of a specified proportion of members of the legislature would otherwise be required ~~for approval of~~ to approve a bill, resolution, or for any other action, the same proportion of ~~these~~ the members of each house convening at the session ~~shall be~~ is sufficient.

### 3.97 AUDIT POLICY; CREATION OF COMMISSION; TRANSFER OF FUNCTIONS OF PUBLIC EXAMINER; ACCESS TO DATA.

Subdivision 1. Continuous legislative review of the effect of grant-in-aid programs, the spending of public funds and their financing at all levels of government is required in the public interest to enable the enactment of appropriate legislation.

Subd. 2. ~~A legislative commission to be known as~~ The legislative audit commission; ~~designated herein as "the commission"~~ is hereby created. The commission ~~shall consist~~ consists of:

(1) the majority leader of the senate and the president of the senate; or their ~~respective~~ designees;

(2) the chair of the senate committee on taxes or a designee; who ~~shall be~~ is a member of the ~~senate tax~~ committee;

(3) the chair of the senate committee on governmental operations or a designee; who ~~shall be~~ is a member of the ~~governmental operations~~ committee;

(4) the chair of the senate committee on finance or a designee; who ~~shall be~~ is a member of the ~~senate finance~~ committee; ~~and~~

(5) three members of the senate appointed by the senate minority leader;

(6) the speaker of the house and the chair of the house committee on rules; or their ~~respective~~ designees;

(7) the chair of the house committee on taxes or a designee; who ~~shall be~~ is a member of the ~~house tax~~ committee;

(8) the chair of the house committee on governmental operations or a designee; who ~~shall be~~ is a member of the ~~house governmental operations~~ committee;

(9) the chair of the house appropriations committee or a designee; who ~~shall be~~ is a member of the ~~house appropriations~~ committee; and

(10) three members of the house appointed by the house minority leader.

The appointed members of the commission shall serve for a term commencing upon appointment and expiring at the opening of the next regular session of the legislature in the odd-numbered year and until a successor is appointed. A

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vacancy in the membership of the commission shall be filled for the unexpired term in ~~such a manner as to~~ that will preserve the representation established by this subdivision.

The commission shall elect its chair and ~~such~~ other officers as it may determine necessary. It shall meet at the call of the chair or ~~at the call of its~~ executive secretary. The members ~~of the commission~~ shall serve without compensation but ~~shall~~ be reimbursed for their reasonable expenses as members of the legislature. The commission may exercise the powers prescribed by section 3.153.

Subd. 3. The department of public examiner is transferred from the executive to the legislative branch.

Subd. 4. The legislative auditor is the executive secretary of the commission. The legislative auditor shall be appointed by the commission for a six-year term and serve in the unclassified service. The legislative auditor shall not at any time while in office hold any other public office. The legislative auditor shall not be removed from office before the expiration of the term of service except for cause after public hearing.

Subd. 5. The legislative auditor shall establish a financial audits division and a program evaluation division to fulfill the duties prescribed in this section. Each division shall be supervised by a deputy auditor, appointed by the legislative auditor, with the approval of the commission, for a term coterminous with the legislative auditor's term. The deputy auditors may be removed before the expiration of their terms only for cause. The legislative auditor and deputy auditors may each appoint a confidential secretary to serve at pleasure. The commission shall fix the salaries of the deputy auditors and confidential secretaries. The deputy auditors may perform and exercise the powers, duties and responsibilities imposed by law on the legislative auditor when authorized ~~so to do~~ by the legislative auditor. The deputy auditors and the confidential secretaries ~~shall~~ serve in the unclassified civil service, but all other employees of the legislative auditor ~~shall be~~ are in the classified civil service.

Subd. 6. All the powers, duties and responsibilities of the department of public examiner relating to the state of Minnesota, its departments and agencies as described in Minnesota Statutes 1971, section 215.03, and any other law concerning powers, duties and responsibilities of the public examiner not otherwise dealt with by Laws 1973, chapter 492 are ~~hereby~~ transferred to the legislative auditor. Nothing in this subdivision shall ~~be deemed to~~ supersede the powers conferred upon the commissioner of finance under section 16A.055.

Subd. 7. In addition to the legislative auditing duties concerning state financial matters, the legislative auditor shall also exercise and perform ~~such~~ duties ~~as may be~~ prescribed by rule of the legislature or either body ~~thereof of it~~ or by the commission. The legislative auditor shall review department policies and evaluate projects or programs requested by the commission. Any standing legislative committee having legislative jurisdiction may request the commission to review projects or programs.

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Subd. 8. The legislature may, by rule, provide ~~by rule such to the legislative auditor the~~ testimonial powers ~~as that~~ are conferred by law on legislative standing commissions or committees ~~on the legislative auditor~~.

Subd. 9. The legislative auditor is subject to the government data practices act, chapter 13. If data provided by the legislative auditor to the commission is disseminated by the commission or its members or agents ~~of the commission~~ in violation of section 13.05, subdivision 4, the commission is subject to liability under section 13.08, subdivisions 1 and 3.

Subd. 10. Members of the ~~legislative audit~~ commission have access to data that is collected or used by the legislative auditor and classified as not public or as private or confidential only as authorized by resolution of the ~~legislative audit~~ commission. The ~~legislative audit~~ commission shall not authorize its members to have access to private or confidential data on individuals collected or used in connection with the collection of any tax.

Subd. 11. "Audit" as used in this subdivision means a financial audit, a program evaluation, or an investigation. Data relating to an audit are not public or with respect to data on individuals are confidential until the final report of the audit has been published or the audit is no longer being actively pursued. Data that support the conclusions of the report and that the legislative auditor reasonably believes will result in litigation are not public and with respect to data on individuals are confidential until the litigation has been completed or ~~until the litigation~~ is no longer being actively pursued. Data on individuals that could reasonably be used to determine the identity of an individual supplying data for an audit are private if ~~(a)~~ the data supplied by the individual were needed for an audit and ~~(b)~~ the individual would not have provided the data to the legislative auditor without an assurance that the individual's identity would remain private. The definitions of terms provided in section 13.02 apply for purposes of this subdivision.

### 3.971 POWERS AND DUTIES OF LEGISLATIVE AUDITOR.

Subdivision 1. To perform financial audits the legislative auditor shall postaudit and make a complete examination and verification of all accounts, records, inventories, vouchers, receipts, funds, securities, and other assets of all state departments, boards, commissions, and other state agencies at least once a year, if funds and personnel permit, and oftener if deemed necessary or as directed by the legislature or the legislative audit commission. Audits may include detailed checking of every transaction or test checking as the legislative auditor deems best. The books of the state treasurer and commissioner of finance may be examined monthly. The legislative auditor shall see that all provisions of law respecting the appropriate and economic use of public funds are complied with by all departments and agencies of the state government.

A copy of all postaudits, reports and results of examinations made by the legislative auditor shall be deposited with the legislative reference library.

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Subd. 2. To perform program evaluation, the legislative auditor shall determine the degree to which the activities and programs entered into or funded by the state are accomplishing their goals and objectives, including an evaluation of goals and objectives, measurement of program results and effectiveness, alternative means of achieving the same results, and efficiency in the allocation of resources. At the direction of the commission the legislative auditor may perform program evaluations of any state department, board, commission, or agency and any metropolitan agency, board, or commission created under chapter 473.

### 3.972 AGENCIES; AUDITS; DEFINITIONS.

Subdivision 1. **PUBLIC ACCOUNTANT.** For the purposes of this section, "public accountant" means a certified public accountant, certified public accounting firm, or a licensed public accountant licensed by the board of accountancy ~~pursuant to~~ under sections 326.17 to 326.23.

Subd. 2. **AUDITS OF STATE AND SEMISTATE AGENCIES.** The legislative auditor shall make a constant audit of all financial affairs of all departments and agencies of the state, and of the financial records and transactions of public boards, associations, and societies supported, wholly or in part, by state funds. Once in each year, if funds and personnel permit, without previous notice, the legislative auditor shall visit each of ~~such state departments~~ department and ~~agencies~~ agency, ~~associations~~ association or ~~societies~~ society and, so far as practicable,

- (1) inspect ~~such agencies~~;
- (2) thoroughly examine ~~the its~~ books and accounts ~~thereof~~, verifying the funds, securities and other assets;
- (3) check the items of receipts and disbursements with ~~the its~~ voucher records ~~thereof~~;
- (4) ascertain the character of the official bonds for ~~the its~~ officers ~~thereof~~ and the financial ability of the bonding institution;
- (5) inspect ~~the its~~ sources of revenue ~~thereof~~, and the use and disposition of state appropriations and property;
- (6) investigate the methods of purchase and sale, and the character of contracts on public account;
- (7) ascertain proper custody and depository for ~~the its~~ funds and securities ~~thereof~~;
- (8) verify the inventory of public property and other assets held in trust; and
- (9) ascertain that all financial transactions and operations involving the

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public funds and property of the state comply with the spirit and purpose of the law, are sound by modern standards of financial management and are for the best protection of the public interest.

Subd. 3. **AUDIT CONTRACTS.** Notwithstanding any other law ~~to the contrary~~, a state department, board, commission, or other state agency shall not negotiate a contract with a public accountant for an audit, except a contract negotiated by the state auditor for an audit of a local government, unless the contract has been reviewed by the legislative auditor. The legislative auditor shall not participate in the selection of the public accountant, but shall review and submit written comments on the proposed contract within seven days of its receipt. Upon completion of the audit, the legislative auditor shall be given a copy of the final report.

### 3.973 STATE TREASURER; AUDIT.

At least once each year, and at ~~such~~ other times as that the legislative auditor ~~may deem~~ deems appropriate, without previous notice to the state treasurer, the legislative auditor shall examine and audit the accounts, books, and vouchers of the state treasurer, ascertain the amounts of the several funds which should be in the treasury, count the sums actually on hand, and make a record of the facts found. The legislative auditor shall report to the legislature, on or before the third day of each regular session, the results of ~~such~~ the examinations and the legislative auditor's doings in the premises.

The legislative auditor shall ~~also~~ witness and attest the transfer of books, accounts, vouchers, and funds from the outgoing treasurer to a successor in office, and verify the official record of all redeemed bonds, certificates of indebtedness, and interest coupons issued by the state; ~~and~~. From time to time, the legislative auditor shall cause to be destroyed all ~~such~~ obligations which ~~shall~~ have been redeemed for at least one year. A notation shall be made by the treasurer in the treasurer's records of all ~~such~~ obligations destroyed and the legislative auditor shall certify to ~~the~~ its correctness ~~thereof~~. A copy of each ~~such legislative auditor's~~ certificate shall be filed with the commissioner of finance and treasurer.

### 3.974 TO FILE WRITTEN REPORTS.

For each audit done, the legislative auditor shall file a written report with the department, agency, society, or association concerned, and the legislative audit commission for its consideration and action.

~~Such~~ Each audit ~~reports~~ report shall set forth:

(1) whether all funds have been expended for the purposes authorized in ~~the appropriations therefor~~ their appropriation;

(2) whether all receipts have been accounted for and paid into the state treasury as required by law;

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(3) all illegal and unbusinesslike practices, if any;

(4) an assessment of the financial control practices used in the agency, a measurement of performance, and recommendations for improved effectiveness; and

(5) ~~Such~~ other data, information, and recommendations as the legislative auditor may deem advisable and necessary.

### 3.9741 COST OF EXAMINATION, BILLING, PAYMENT.

Upon the audit of the financial accounts and affairs of ~~any~~ a commission ~~pursuant to~~ under section 473.413, 473.595, 473.604, or 473.703, the affected metropolitan commission is liable to the state for the total cost and expenses of the audit, including the salaries paid to the examiners while actually engaged in making the examination. The legislative auditor may bill the metropolitan commission either monthly or at the completion of the audit. All collections received for the audits must be deposited in the general fund.

### 3.975 DUTIES WHEN VIOLATIONS ARE DISCOVERED.

If ~~any such~~ a legislative auditor's ~~examinations~~ shall disclose examination discloses malfeasance, misfeasance, or nonfeasance in office on the part of ~~any~~ an officer or employee, a copy of ~~such the~~ report shall be signed and verified, and it shall be the duty of the legislative auditor to file ~~such the~~ report with the legislative audit commission and the attorney general. It shall be the duty of the attorney general to institute and prosecute ~~such~~ civil proceedings against ~~such the~~ delinquent officer or employee, or upon the officer's or employee's official bond, or both, as ~~may be~~ appropriate to secure to the state the recovery of ~~any~~ funds or other assets misappropriated; ~~and~~. The attorney general shall cause ~~such~~ criminal proceedings to be instituted by the proper authorities as the evidence may warrant.

### 3.978 LEGISLATIVE AUDITOR; SUBPOENA POWERS; PENALTIES.

In all matters relating to official duties, the legislative auditor ~~shall have~~ has the powers possessed by courts of law to issue and have subpoenas served. All public officials and their ~~respective~~ deputies and employees, and all corporations, firms, and individuals having business involving the receipt, disbursement, or custody of public funds shall at all times afford reasonable facilities for examinations by the legislative auditor, make returns and reports required by the legislative auditor, attend and answer under oath the legislative auditor's lawful inquiries, produce and exhibit all books, accounts, documents, and property that the legislative auditor may desire to inspect, and in all things aid the legislative auditor in the performance of duties. If a person refuses or neglects to obey any lawful direction of the legislative auditor, a deputy or assistant, or withholds any information, book, record, paper or other document called for by the legislative auditor for the purpose of examination, after having been lawfully required by order or subpoena, upon application by the auditor, a judge of the

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district court in the county where the order or subpoena was made returnable shall compel obedience or punish disobedience as for contempt, as in the case of a similar order or subpoena issued by the court. A person who swears falsely concerning any matter stated under oath is guilty of a gross misdemeanor.

### 3.98 FISCAL NOTES.

Subdivision 1. The head or chief administrative officer of each department or agency of the state government shall prepare a fiscal note at the request of the chair of the standing committee to which a bill has been referred, or the chair of the house appropriations committee, or the chair of the senate committee on finance.

Subd. 2. The fiscal note, where possible, shall: (1) cite the effect in dollar amounts; (2) cite the statutory provisions affected; (3) estimate the increase or decrease in revenues or expenditures; (4) include the costs which may be absorbed without additional funds; and (5) specify ~~the~~ any long-range implication ~~if any~~. The fiscal note may comment on technical or mechanical defects in the bill but shall express no opinions concerning the merits of the proposal.

Subd. 3. A copy of the fiscal note shall be delivered to the chair of the appropriations ~~committee of appropriations~~ of the house of representatives, the chair of the finance ~~committee of finance~~ of the senate, the chair of the standing committee to which the bill has been referred, to the chief author of the bill and to the commissioner of finance.

Subd. 4. The commissioner of finance shall prescribe a uniform procedure to govern the departments and agencies of the state in complying with the requirements of this section.

### 3.981 DEFINITIONS.

Subdivision 1. **SCOPE.** The terms used in sections 3.981 to 3.983 and 14.131 have the meanings given them in this section.

Subd. 2. **COSTS MANDATED BY THE STATE.** "Costs mandated by the state" means increased costs that a local agency or a school district is required to incur as a result of:

(a) a law enacted after June 30, 1985, which mandates a new program or an increased level of service of an existing program;

(b) an executive order issued after June 30, 1985, which mandates a new program;

(c) an executive order issued after June 30, 1985, which implements or interprets a state statute and, by this its implementation or interpretation, increases program levels above the levels required before July 1, 1985;

(d) a statute enacted after June 30, 1985, or executive order issued after

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June 30, 1985, which implements or interprets a federal statute or regulation and, by ~~this~~ its implementation or interpretation, increases program or service levels above the levels required by ~~this~~ the federal statute or regulation;

(e) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which implements or interprets a statute or amendment adopted or enacted pursuant to the approval of a statewide ballot measure by the voters and, by ~~this~~ its implementation or interpretation, increases program or service levels above the levels required by the ballot measure;

(f) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which removes an option previously available to local agencies and thus increases program or service levels or prohibits a specific activity and so forces local agencies to use a more costly alternative to provide a mandated program or service;

(g) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which requires that an existing program or service be provided in a shorter time period and thus increases the cost of the program or service;

(h) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which adds new requirements to an existing optional program or service and thus increases the cost of the program or service as the local agencies have no reasonable alternatives other than to continue the optional program;

(i) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which creates new revenue losses ~~stemming from~~ by new property or sales and use tax exemptions;

(j) a statute enacted after June 30, 1985, or executive order issued after June 30, 1985, which requires costs previously incurred at local option that have subsequently been mandated by the state; or

(k) a statute enacted or an executive order issued after March 26, 1986 which requires payment of a new fee or increases the amount of an existing fee.

Subd. 3. **EXECUTIVE ORDER.** "Executive order" means an order, plan, requirement, or rule issued by the governor, an official serving at the pleasure of the governor, or an agency, department, board, or commission of state government. "Executive order" does not include an order, plan, requirement, or rule issued by a regional water quality control board.

Subd. 4. **LOCAL AGENCY.** "Local agency" means a home rule charter or statutory city, county, town, or special district.

Subd. 5. **MANDATE.** A "mandate" means a requirement which applies to a local agency or school district and which, if not complied with, results in civil liability, criminal penalty, substantial economic sanction such as loss of funding, or severe administrative sanctions such as closure or nonlicensure of a facility or program. "To mandate" means to impose such a requirement.

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Subd. 6. **REQUIRING AN INCREASED LEVEL OF SERVICE.** "Requiring an increased level of service" includes requiring that an existing service be provided in a shorter time.

Subd. 7. **RULE.** "Rule" means a rule, order, or standard of general application adopted by a state agency to implement, interpret, or make specific the law it enforces or administers or to govern its procedure. "Rule" includes an amendment to a rule. "Rule" does not include rules that relate only to the internal management of a state agency.

Subd. 8. **SAVINGS.** "Savings" includes budget reductions and the freeing of staff or resources to be reassigned to a local agency's or school district's other areas of concern.

Subd. 9. **SCHOOL DISTRICT.** "School district" includes school districts, community college districts, and county superintendents of schools.

### 3.982 FISCAL NOTES FOR STATE-MANDATED ACTIONS.

When the state proposes to mandate that a local agency or school district take an action, and when reasonable compliance with that action would force the local agency or school district to incur costs mandated by the state, a fiscal note shall be prepared as provided in section 3.98, subdivision 2 and ~~shall be~~ made available to the public upon request. If the action is among the exceptions listed in section 3.983, a fiscal note need not be prepared.

When a bill proposing a mandate is introduced and referred to a standing committee, the chair of the standing committee to which the bill is referred shall request the appropriate state agency or department to prepare a fiscal note before the bill is heard in the committee. Before a proposed mandate is issued in an executive order, the governor or appropriate agency head assigned by the governor shall prepare the fiscal note and make it available to the public.

### 3.983 EXCEPTIONS TO FISCAL NOTES.

Subdivision 1. **COSTS RESULTING FROM INFLATION.** A fiscal note need not be prepared for increases in the cost of providing an existing service if the increases result directly from inflation. "Resulting directly from inflation" means attributable to maintaining an existing level of service rather than increasing the level of service. A cost-of-living increase in welfare benefits is an example of a cost resulting directly from inflation.

Subd. 2. **COSTS NOT RESULT OF NEW PROGRAM OR INCREASED SERVICE.** A fiscal note need not be prepared for increased local costs that do not result from a new program or an increased level of service.

Subd. 3. **MISCELLANEOUS EXCEPTIONS.** A fiscal note need not be prepared for the cost of a mandated action if the law containing the mandate:

- (a) accommodates a specific local request;

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- (b) results in no new local government duties;
- (c) leads to revenue losses from exemptions to taxes other than sales, use, or property taxes;
- (d) provides only clarifying or conforming, nonsubstantive changes on local government;
- (e) imposes additional net local costs which are minor (less than \$200 for any single local government if the mandate does not apply statewide or less than one-tenth of a mill times the entire value of taxable property in the state if the mandate is statewide) and do not cause a financial burden on local government;
- (f) is a legislative mandate or executive order enacted before July 1, 1985, or a rule initially implementing legislation enacted before July 1, 1985;
- (g) implements something other than a state statute or executive order, such as a federal, court, or voter-approved mandate;
- (h) appears in rules that are permissive or discretionary in nature;
- (i) defines a new crime or redefines an existing crime or infraction;
- (j) provides, or falls within the purview of existing, revenue sources or other financing mechanisms; or
- (k) results in savings that equal or exceed costs.

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## ARTICLE 2

Section 1. Minnesota Statutes 1986, chapter 31A, is amended to read:

### 31A.01 ~~DECLARATION OF POLICY.~~

Meat and meat food products are an important source of the nation's total supply of food. It is essential in the public interest that the health and welfare of consumers be protected by assuring that meat and meat food products distributed to them are wholesome, ~~not adulterated~~ unadulterated, and properly marked, labeled, and packaged. Unwholesome, adulterated, or misbranded meat or meat food products ~~are injurious to~~ injure the public welfare, destroy markets for wholesome, ~~not adulterated~~ unadulterated, and properly labeled and packaged meat and meat food products, and result in ~~sundry~~ losses to livestock producers and processors of meat and meat food products, ~~as well as~~ and injury to consumers. ~~The~~ Unwholesome, adulterated, mislabeled, or deceptively packaged articles can be sold at lower prices and compete unfairly with ~~the~~ wholesome, ~~not adulterated~~ unadulterated, and properly labeled and packaged articles, to the detriment of consumers and the general public ~~generally~~. ~~It is hereby found that~~

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Regulation by the commissioner and cooperation by between this state and the United States ~~as contemplated by sections 31A.01 to 31A.31 under this chapter~~ are appropriate to protect the health and welfare of consumers and ~~otherwise effectuate~~ accomplish the purposes of ~~sections 31A.01 to 31A.31~~ this chapter.

#### 31A.02 DEFINITIONS.

Subdivision 1. **SCOPE.** As used in sections 31A.01 to 31A.31, ~~except as otherwise specified, the following terms shall have the meanings given~~ The definitions in this section apply to this chapter.

Subd. 2. **COMMISSIONER.** "Commissioner" means the commissioner of the ~~Minnesota department of~~ agriculture or the commissioner's delegate.

Subd. 3. **PERSON.** "Person" means an individual, partnership, corporation, association, or other unincorporated business organization.

Subd. 4. **ANIMALS.** "~~Animal~~" "Animals" means cattle, swine, sheep, goats, horses, equines, ~~or and~~ other large domesticated animals, ~~and shall not include including~~ poultry.

Subd. 5. **CUSTOM PROCESSING.** "Custom processing" means the slaughtering, eviscerating, dressing, or processing ~~of an animal or the processing of~~ meat products for the owner of the animal or of the meat products ~~when, if~~ all meat products derived from the custom slaughter operation are returned to the owner of the animal or of the meat products. No person ~~shall may~~ sell, offer for sale, or possess with intent to sell ~~any~~ meat derived from custom processing.

Subd. 6. **MEAT BROKER.** "Meat broker" means ~~any a~~ person ~~engaged in~~ the business of buying or selling carcasses, parts of carcasses, meat, or meat food products of animals on commission, or otherwise negotiating purchases or sales of those articles other than for the person's own account or as an employee of another person, firm, or corporation.

Subd. 7. **RENDERER.** "Renderer" means ~~any a~~ person; ~~firm, or corporation~~ ~~engaged in~~ the business of rendering carcasses, or parts or products of the carcasses of animals, except rendering conducted under inspection under sections 31A.01 to 31A.16.

Subd. 8. **ANIMAL FOOD MANUFACTURER.** "Animal food manufacturer" means ~~any a~~ person; ~~firm, or corporation~~ ~~engaged in~~ the business of manufacturing or processing animal food derived wholly or in part from animal carcasses; or carcass parts or products ~~of the carcasses; of animals~~.

Subd. 9. **INTRASTATE COMMERCE.** "Intrastate commerce" means commerce within this state.

Subd. 10. **MEAT FOOD PRODUCT.** "Meat food product" means ~~any a~~ product ~~capable of use~~ usable as human food ~~which is and~~ made wholly or in

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part from ~~any~~ meat or ~~other~~ a portion of the carcass of ~~any~~ cattle, sheep, swine, or goats; ~~excepting~~ "Meat food product" does not include products which contain meat or other portions of the carcasses of cattle, sheep, swine, or goats only in a relatively small proportion or that historically have not been considered by consumers as products of the meat food industry, and which are exempted from definition as a meat food product by the commissioner under the conditions the commissioner prescribes to assure that the meat or other portions of carcasses contained in the products are not adulterated and that the products are not represented as meat food products.

This term "Meat food product," as applied to ~~food~~ products of equines ~~shall have~~, has a meaning comparable to that ~~provided in this subdivision~~ for cattle, sheep, swine, and goats.

Subd. 11. **USABLE AS HUMAN FOOD.** "~~Capable of use~~ Usable as human food" ~~shall apply to any means that~~ a carcass, or part or product of a carcass, of ~~any an~~ animal; ~~unless it~~ (1) is not denatured or otherwise identified as required by rules ~~prescribed by~~ of the commissioner to deter its use as human food, or ~~it~~ (2) is not naturally inedible by humans.

Subd. 12. **PREPARED.** "Prepared" means slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed.

Subd. 13. **ADULTERATED.** "Adulterated" ~~shall apply to any means a~~ carcass, part ~~thereof of a~~ carcass, meat, or meat food product under one or more of the following circumstances:

(a) if it bears or contains ~~any~~ a poisonous or ~~deleterious~~ harmful substance which may render it injurious to health; but ~~in case if~~ the substance is not an added substance, the article ~~shall is not be considered~~ adulterated ~~under this clause~~ if the quantity of the substance in or on the article does not ordinarily ~~render~~ make it injurious to health;

(b) ~~(1)~~ if it bears or contains, by ~~reason of~~ administration of ~~any a~~ substance to the live animal or otherwise, ~~any an~~ added poisonous or ~~added deleterious~~ harmful substance ~~to other than one which is~~ (1) a pesticide chemical in or on a raw agricultural commodity; ~~(2)~~ (2) a food additive; or ~~(3)~~ (3) a color additive, which may, in the judgment of the commissioner, make the article unfit for human food;

~~(2)~~ (c) if it is, in whole or in part, a raw agricultural commodity ~~and the commodity that~~ bears or contains a pesticide chemical which is unsafe within the meaning of section 408 of the Federal Food, Drug, and Cosmetic Act;

~~(3)~~ (d) if it bears or contains ~~any a~~ food additive which is unsafe within the meaning of section 409 of the Federal Food, Drug, and Cosmetic Act;

~~(4)~~ (e) if it bears or contains ~~any a~~ color additive which is unsafe within the meaning of section 706 of the Federal Food, Drug, and Cosmetic Act; provided,

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that an article which is not adulterated under clause (2); (3); or (4); shall nevertheless be deemed adulterated if use of the pesticide chemical; food additive; or color additive in or on the article is prohibited by rules of the commissioner in establishments at which inspection is maintained under sections 31A.01 to 31A.16:

(e) ~~(f)~~ if it consists in whole or in part of any contains a filthy, putrid, or decomposed substance or is for any other reason ~~unsound; unhealthful; unwholesome; or otherwise unfit for human food;~~

(d) ~~(g)~~ if it has been prepared, packed, or held under ~~insanitary~~ unsanitary conditions whereby so that it may have become ~~be~~ contaminated with filth; or whereby it may have been rendered injurious harmful to health;

(e) ~~(h)~~ if it is; in whole or in part; wholly or partly the product of an animal which has died otherwise than by slaughter;

(f) ~~(i)~~ if its container is wholly or partly composed; in whole or in part; of any a poisonous or deleterious harmful substance which may ~~render~~ make the contents ~~injurious~~ harmful to health;

(g) ~~(j)~~ if it has been intentionally subjected to radiation, unless the use of the radiation was in conformity conformed with a regulation or exemption in effect pursuant to under section 409 of the Federal Food, Drug, and Cosmetic Act;

(h) ~~(k)~~ if any a valuable constituent has been in whole or in part wholly or partly omitted or ~~abstracted therefrom~~ removed from it; or if any a substance has been wholly or partly substituted; ~~wholly or in part therefor for it~~; or if damage or inferiority has been concealed in any manner; or if any a substance has been added thereto to it or mixed or packed ~~therewith~~ with it so as to increase its bulk or weight, or reduce its quality or strength, or make it appear better or of greater value than it is; or

(i) ~~(l)~~ if it is margarine containing animal fat and any of the raw material used therein in it wholly or partly consisted in whole or in part of any a filthy, putrid, or decomposed substance.

Subd. 14. **MISBRANDED.** "Misbranded" shall apply to any means a carcass, part thereof of a carcass, meat, or meat food product under one or more of the following circumstances:

(a) if its labeling is false or misleading in any particular;

(b) if it is offered for sale under the name of another food;

(c) if it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" ~~and~~ followed immediately thereafter, by the name of the food imitated;

(d) if its container is ~~so~~ made, formed, or filled so as to be misleading;

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(e) if ~~in a~~ its package or other container ~~unless it bears~~ does not have a label showing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count; ~~provided, that under clause (2) of this paragraph, subject to reasonable variations may be permitted; and exemptions as to for small packages may be established; by in rules prescribed by of the commissioner;~~

(f) if ~~any~~ a word, statement, or other information required by or under authority of ~~sections 31A.04 to 31A.31~~ this chapter to appear on the label or other labeling is not prominently and conspicuously placed ~~thereon with conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and on the label or labeling~~ in terms that ~~render~~ make it likely to be read and understood by the ordinary individual under customary conditions of purchase and use;

(g) if it ~~purports to be or~~ is represented as a food for which a definition and standard of identity or composition has been prescribed by rules of the commissioner under section 31A.07, unless (1) it conforms to the definition and standard, and (2) its label bears the name of the food specified in the definition and standard and, ~~insofar as may be if required by the rules, the common names of optional ingredients (, other than spices, flavoring, and coloring), present in such the food;~~

(h) if it ~~purports to be or~~ is represented as a food for which a standard ~~or standards~~ of fill of container ~~have has~~ been prescribed by rules of the commissioner under section 31A.07, and it falls below the applicable standard of fill of container ~~applicable thereto~~, unless its label bears, in the manner and form the rules specify, a statement that it falls below the standard;

(i) if it is not subject to ~~the provisions of~~ paragraph (g), unless its label bears (1) the ~~common or~~ usual name of the food, if there ~~be any~~ is one, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each ingredient; except that spices, flavorings, and colorings may, when authorized by the commissioner, be designated as spices, flavorings, and colorings without naming each. To the extent that compliance with ~~the requirements of clause (2) of this paragraph~~ is impracticable, or results in deception or unfair competition, the commissioner shall establish ~~exemptions shall be established by rules promulgated by the commissioner.~~ rule;

(j) if it purports to be or is represented for special dietary uses, unless its label bears the information concerning its vitamin, mineral, and other dietary properties that the commissioner, after consultation with the Secretary of Agriculture of the United States, ~~determines by rule to be; and by rules prescribes as;~~ necessary in order fully to inform purchasers of its value for special dietary uses;

(k) if it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears labeling stating that fact: ~~To the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by rules promulgated by the commissioner;~~

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(l) if it fails to bear, directly ~~thereon~~ or on its container, as the commissioner by rules ~~rule~~ prescribes, the inspection legend and; ~~unrestricted by any of the foregoing,~~ the other information the commissioner may require ~~in rules by rule~~ to assure that it will not have false or misleading labeling and that the public will be ~~informed of the manner of handling required~~ told how to maintain keep the article ~~in a wholesome condition.~~

Subd. 15. **LABEL.** "Label" means a display of written, printed, or graphic matter ~~upon the on an article's~~ immediate container ~~(, not including package liners) of any article.~~

Subd. 16. **LABELING.** "Labeling" means all labels and other written, printed, or graphic matter (1) ~~upon any on an~~ article or ~~any of its containers or wrappers, or~~ (2) accompanying an article.

Subd. 17. **FEDERAL MEAT INSPECTION ACT.** "Federal Meat Inspection Act" means the Federal Meat Inspection Act so entitled ~~approved March 4, 1907; (Statutes at Large, volume 34, page 584).~~

Subd. 18. **FEDERAL FOOD, DRUG, AND COSMETIC ACT.** "Federal Food, Drug, and Cosmetic Act" means the Federal Food, Drug, and Cosmetic Act so entitled, ~~approved June 25, 1938 (Statutes at Large, volume 52, page 1040); and acts amendatory thereof or supplementary thereto, as amended.~~

Subd. 19. **PESTICIDE CHEMICAL; FOOD ADDITIVE; COLOR ADDITIVE; RAW AGRICULTURAL COMMODITY.** "Pesticide chemical," "food additive," "color additive," and "raw agricultural commodity" ~~shall have the same meanings for purposes of sections 31A.01 to 31A.31 as under given them~~ in the Federal Food, Drug, and Cosmetic Act.

Subd. 20. **OFFICIAL MARK.** "Official mark" means the official inspection legend or ~~any other symbol prescribed by rule of the commissioner to identify the status of any an~~ article or animal ~~under sections 31A.01 to 31A.31~~ this chapter.

Subd. 21. **OFFICIAL INSPECTION LEGEND.** "Official inspection legend" means ~~any a~~ symbol prescribed by rule of the commissioner showing that an article was inspected and passed ~~in accordance with sections 31A.01 to 31A.31~~ under this chapter.

Subd. 22. **OFFICIAL CERTIFICATE.** "Official certificate" means ~~any a~~ certificate prescribed by rule of the commissioner for issuance by an inspector or other person performing official functions ~~under sections 31A.01 to 31A.31~~ this chapter.

Subd. 23. **OFFICIAL DEVICE.** "Official device" means ~~any a~~ device prescribed or authorized by the commissioner for use in applying ~~any an~~ official mark.

**31A.03 INSPECTION OF LIVE ANIMALS; DISPOSITION OF DEFECTIVE ANIMALS.**

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~~For the purpose of preventing~~ To prevent the use in intrastate commerce; as hereinafter provided; of adulterated meat and meat food products ~~which are adulterated~~, the commissioner shall ~~cause to be made; by inspectors appointed for that purpose; an examination appoint inspectors and have them examine and inspection of inspect~~ all animals before they shall be allowed to the animals enter into ~~any a~~ slaughtering, packing, meat canning, rendering, or similar establishment in this state in which slaughtering of animals and preparation of meat and meat food products ~~of animals~~ are conducted solely for intrastate commerce; ~~and.~~ Animals found on inspection to show symptoms of disease ~~shall must~~ be set apart and slaughtered separately from ~~all~~ other animals; ~~and when so slaughtered.~~ The carcasses of those animals ~~shall must~~ be subject to a careful examination carefully examined and inspection; as provided by the inspected under rules to be prescribed by of the commissioner.

#### 31A.04 INSPECTION OF CARCASSES AND PARTS; MARKING; DISPOSITION OF CONDEMNED CARCASSES.

For the purposes hereinbefore set forth the commissioner shall ~~cause to be made by~~ Inspectors appointed by the commissioner for that purpose; as hereinafter provided; shall make a postmortem examination and inspection of the carcasses and parts thereof of all animals ~~capable of use~~ usable as human food; ~~to be prepared at any a~~ slaughtering, meat canning, salting, packing, rendering, or similar establishment in this state in which carcasses or parts are prepared solely for intrastate commerce; ~~and the.~~ Carcasses and parts thereof of animals found to be ~~not adulterated shall unadulterated must~~ be marked, stamped, tagged, or labeled, as "Inspected and Passed."; ~~and~~ The inspectors shall label, mark, stamp, or tag as "Inspected and Condemned" ~~all~~ carcasses and parts thereof of animals found to be adulterated; ~~and all.~~ Carcasses and animal parts thereof inspected and condemned ~~shall must~~ be destroyed for food purposes by the establishment in the presence of an inspector; ~~and.~~ The commissioner may remove inspectors from ~~any an~~ establishment which fails to destroy ~~any a~~ condemned carcass or animal part thereof; ~~and inspectors.~~

After the first inspection, inspectors shall, ~~when if they deem consider~~ it necessary, reinspect the carcasses or animal parts thereof to determine whether ~~since the first inspection the same they~~ have become adulterated ~~and since the first inspection.~~ If ~~any a~~ carcass or ~~any animal~~ part thereof ~~shall; upon examination and inspection subsequent to the first examination and inspection; be is then~~ found to be adulterated, it ~~shall must~~ be destroyed for food purposes by the establishment in the presence of an inspector; ~~and.~~ The commissioner may remove inspectors from ~~any an~~ establishment which fails to destroy a condemned carcass or animal part thereof.

#### 31A.05 APPLICATION OF INSPECTION PROVISIONS.

The foregoing provisions shall Sections 31A.03 and 31A.04 apply to ~~all~~ carcasses or parts of ~~carcasses~~ of animals ~~or the~~ and meat or meat products thereof; ~~capable of use~~ derived from them that are usable as human

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food, ~~which may be when these items are~~ brought into ~~any a~~ slaughtering, meat canning, salting, packing, rendering, or similar establishment, where inspection under sections 31A.01 to 31A.16 is ~~maintained, and done~~. Examination and inspection ~~shall must~~ be made before the carcasses or ~~animal~~ parts thereof ~~shall be allowed to may~~ enter into ~~any a~~ department ~~wherein where~~ they are to be treated and prepared for meat food products; ~~and the foregoing provisions shall,~~

Sections 31A.03 and 31A.04 also apply to all products which, after having been issued from a slaughtering, meat canning, salting, packing, rendering, or similar establishment, ~~shall must~~ be returned to it or to ~~any a~~ similar establishment where inspection is ~~maintained done~~.

The commissioner may limit the entry of carcasses, parts of carcasses, meat and meat food products, and other materials into ~~any an~~ establishment ~~at which where~~ inspection under sections 31A.01 to 31A.16 is ~~maintained done~~ to conditions the commissioner prescribes to assure that allowing the entry of articles into inspected establishments ~~will be is~~ consistent with the purposes of ~~sections 31A.01 to 31A.31 this~~ chapter.

#### **31A.06 INSPECTION IN SLAUGHTERING ESTABLISHMENTS; MARKING; DISPOSITION OF CONDEMNED MEAT INSPECTORS' DUTIES.**

For the purposes hereinbefore set forth The commissioner shall ~~cause to be made by appoint inspectors appointed for that purpose an examination to examine and inspection of all inspect~~ meat food products prepared in ~~any a~~ slaughtering, meat canning, salting, packing, rendering, or similar establishment, where the articles are prepared solely for intrastate commerce ~~and~~. For the purposes of ~~any~~ examination and inspection purposes, the inspectors ~~shall have must be given~~ access at all times; ~~by day or night~~, whether the establishment ~~be is~~ operated or not, to every part of the establishment; ~~and~~. The inspectors shall mark, stamp, tag, or label as "Minnesota Inspected and Passed" all products found to be ~~not adulterated; unadulterated~~, and the inspectors shall label, mark, stamp, or tag as "Minnesota Inspected and Condemned" all products found ~~to be adulterated; and all~~. Condemned meat food products ~~shall must~~ be destroyed for food purposes; ~~as hereinbefore provided; and under section 31A.04~~. The commissioner may remove inspectors from ~~any an~~ establishment which fails to destroy condemned meat food products.

#### **31A.07 MARKING OR LABELING OF INSPECTED ARTICLES.**

Subdivision 1. **LABELING; PACKING.** When ~~any~~ meat or ~~a~~ meat food product prepared for intrastate commerce which has been inspected ~~as hereinbefore provided~~ and marked "Minnesota Inspected and Passed" ~~shall be is~~ placed or packed in ~~any a~~ can, pot, tin, canvas, or other receptacle or covering in ~~any an~~ establishment where inspection is done under the provisions of sections 31A.01 to 31A.31 ~~is maintained~~, the person, firm, or corporation preparing the product shall ~~cause have~~ a label ~~to be~~ attached to the can, pot, tin, canvas, or other receptacle or covering, under supervision of an inspector; ~~which shall~~. The label must state that the contents have been "Minnesota Inspected and

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Passed" under the provisions of sections 31A.01 to 31A.31; and, ~~No~~ An inspection ~~and or~~ examination of meat or meat food products deposited or enclosed in cans, tins, pots, canvas, or other ~~receptacle~~ receptacles or ~~covering~~ coverings in ~~any an~~ establishment where inspection is done under the provisions of sections 31A.01 to 31A.31 ~~is maintained shall be deemed to be this chapter is not~~ complete until the meat or meat food products have been sealed or enclosed in the can, tin, pot, canvas, or other receptacle or covering under the supervision of an inspector.

Subd. 2. **LABELS; MARKS.** All carcasses, parts of carcasses, meat, and meat food products inspected at ~~any an~~ establishment under the authority of sections 31A.01 to 31A.31 this chapter and found not to be adulterated, ~~shall must at the time when~~ they leave the establishment bear, ~~in distinctly legible form,~~ directly ~~thereon~~ or on their containers, a label legible labels or official mark marks as required by the commissioner ~~may require~~.

Subd. 3. **LABELING STYLES, SIZES; STANDARDS OF IDENTITY, COMPOSITION, AND FILL.** ~~If~~ the commissioner, ~~on determining~~ determines that ~~action it~~ it is necessary for the protection of the public, the commissioner may prescribe:

(1) the styles and sizes of type to be used ~~with respect to~~ in material required to be incorporated in labeling to avoid false or misleading labeling of ~~any~~ articles or animals subject to sections 31A.01 to 31A.20; and

(2) definitions and standards of identity ~~or~~, composition, or fill of container for articles subject to sections 31A.01 to 31A.16 ~~and standards of fill of container for articles subject to sections 31A.01 to 31A.16 not inconsistent~~ consistent with ~~any~~ standards established under the Federal Food, Drug, and Cosmetic Act; or ~~under~~ the Federal Meat Inspection Act; ~~and there shall be consultation between.~~ The commissioner and the Secretary of Agriculture of the United States ~~prior to the~~ shall consult before issuance of standards to avoid ~~inconsistency between inconsistent state standards and the federal standards.~~

Subd. 4. **MISLEADING LABELING OR CONTAINERS.** No article subject to sections 31A.01 to 31A.16 ~~shall may~~ be sold or offered for sale by any a person in intrastate commerce; under ~~any a~~ name or other marking or labeling which is false or misleading; or in ~~any a~~ container of a misleading form or size; ~~but.~~ Established trade names and other marking and labeling and containers which are not false or misleading and which are approved by the commissioner, are permitted.

Subd. 5. **COMMISSIONER'S ORDERS.** If the commissioner has reason to believe that ~~any a~~ marking or labeling or the size or form of ~~any a~~ container in use or proposed for use with any an article subject to sections 31A.01 to 31A.16 is false or misleading ~~in any particular,~~ the commissioner may direct that its use be withheld unless the marking, labeling, or container is modified in a manner the commissioner prescribes so that it will not be false or misleading. If the person using or proposing to use the marking, labeling, or container does

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not accept the determination of the commissioner, the person may request a hearing; ~~but~~. The use of the marking, labeling, or container ~~shall~~ must, if the commissioner so directs, be withheld pending hearing and final determination by the commissioner. ~~Any A~~ determination by the commissioner ~~shall be~~ is conclusive unless; within 30 days after receipt of notice of the final determination; the person adversely affected appeals to the district court within 30 days after receiving the notice of final determination.

### 31A.08 RULES.

The commissioner shall ~~cause to be made, by~~ have experts in sanitation; or ~~by~~ other competent inspectors; ~~the inspections of~~ inspect all slaughtering, meat canning, salting, packing, rendering, or similar establishments in which animals are slaughtered and ~~the their~~ meat and meat food products ~~thereof~~ are prepared solely for intrastate commerce. The inspections must be conducted as may be necessary for the commissioner to become informed concerning know the sanitary conditions of the establishments, and to prescribe the rules of sanitation under which the establishments ~~shall must~~ be maintained; ~~and where the~~. If an establishment has sanitary conditions ~~of any establishment~~ are such that ~~the~~ allow meat or meat food products ~~are rendered to become~~ adulterated, the commissioner shall refuse to allow the meat or meat food products to be labeled, marked, stamped, or tagged as "Minnesota Inspected and Passed."

### 31A.09 NIGHTTIME INSPECTIONS.

The commissioner shall ~~cause an examination and inspection of all animals and the food products thereof; slaughtered and prepared in the establishments hereinbefore described for the purposes of intrastate commerce to~~ Inspections under section 31A.08 must be made during the nighttime at night as well as during the daytime ~~when the if~~ slaughtering of animals or the preparation of food products is conducted ~~during the nighttime at~~ at night.

### 31A.10 PROHIBITIONS.

No ~~persons~~ person may, with respect to ~~any an~~ animal ~~or any carcasses, parts, carcass, part of carcasses a carcass,~~ meat, or meat food ~~products of any animals~~ product:

(a) (1) ~~slaughter any animals~~ an animal or prepare ~~any articles which are an article that is~~ capable of use usable as human food, at any establishment preparing articles solely for intrastate commerce, except in compliance with the ~~requirements of sections 31A.01 to 31A.31~~ this chapter;

(b) (2) sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce ~~(1) any (i) articles which are capable of use usable as human food; and are adulterated or misbranded at the time of sale, transportation, offer for sale or transportation, or receipt for transportation; or (2) any (ii) articles required to be inspected under sections 31A.01 to 31A.16 unless they that have not been so inspected and passed;~~

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(e) (3) ~~do, with respect something to any articles which are capable of use an~~ article that is usable as human food; ~~any act while they are the article is~~ being transported in intrastate commerce or held for sale after transportation, which is intended to cause or has the effect of causing ~~articles~~ the article to be adulterated or misbranded; or

(d) (4) sell, offer for sale, or possess with intent to sell; ~~any~~ meat derived from custom processing.

### 31A.11 FORGING OF OFFICIAL MARKS OR CERTIFICATES.

Subdivision 1. **UNAUTHORIZED MARKS OR CERTIFICATES.** No brand manufacturer, printer, or other person ~~shall~~ may cast, print, lithograph, or otherwise make ~~any a~~ any a device containing ~~any an~~ any an official mark ~~or simulation thereof of~~ an official mark, ~~or any~~ any label bearing ~~any a~~ any a mark or simulation, or ~~any~~ any form of official certificate or simulation ~~thereof~~, except as authorized by the commissioner.

Subd. 2. **PROHIBITIONS.** No person ~~shall~~ may:

(a) (1) forge ~~any an~~ any an official device, mark, or certificate;

(b) (2) without authorization from the commissioner use ~~any a~~ any a ~~real or simulated~~ official device, mark, or certificate, ~~or simulation thereof~~; or alter, detach, deface, or destroy ~~any an~~ any an official device, mark, or certificate;

(c) (3) contrary to the rules prescribed by the commissioner, ~~fail to use, or to~~ detach, deface, ~~or~~ destroy ~~any, or fail to use an~~ any, or fail to use an official device, mark, or certificate;

(d) (4) knowingly possess, without promptly notifying the commissioner or the commissioner's representative, ~~any an~~ any an official device ~~or any, a~~ counterfeit, simulated, forged, or improperly altered official certificate, ~~or any a~~ any a device ~~or label, or any carcass, part, or product of any an animal, or part or product thereof, bearing any a~~ or label, or any carcass, part, or product of any an animal, or part or product thereof, bearing any a counterfeit, simulated, forged, or improperly altered official mark;

(e) (5) knowingly make ~~any a~~ any a false statement in ~~any a~~ any a shipper's certificate or other ~~nonofficial or official~~ certificate provided for in the rules ~~prescribed by of~~ the commissioner; or;

(f) (6) knowingly represent ~~falsely~~ that ~~any an~~ any an article has been inspected and passed, or exempted, under ~~sections 31A.01 to 31A.31, when in fact, it has, respectively, not been inspected and passed, or exempted this chapter.~~

### 31A.12 HORSE MEAT.

No person ~~shall~~ may sell, transport, offer for sale or transportation, or receive for transportation; in intrastate commerce, ~~any whole or parts of~~ any whole or parts of carcasses of horses, mules, or other equines ~~or parts of carcasses, or the meat or meat food products thereof derived from them,~~ unless they are plainly and conspicu-

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ously marked or, labeled, or otherwise identified as required by rules prescribed by the commissioner to show the kinds of animals from which they were derived. When required by the commissioner with respect to establishments at which ~~where~~ inspection is ~~maintained~~ done under sections 31A.01 to 31A.16 the ~~animals,~~ equines and their carcasses, parts thereof, meat, and meat food products ~~shall~~ must be prepared in establishments separate from those in which cattle, sheep, swine, or goats are slaughtered or their carcasses, parts thereof, ~~meats~~ meat, or meat food products are prepared.

### 31A.13 ~~APPOINTMENT OF~~ INSPECTORS.

The commissioner shall appoint ~~from time to time~~ inspectors to ~~make examination and inspection of all~~ inspect animals, whole or parts of carcasses, meat, and meat food products the inspection of which is provided for by law, and of all ~~carcasses and parts thereof;~~ and of all ~~meats and meat food products thereof;~~ and of the sanitary conditions of all establishments in which ~~the meat and meat food products hereinbefore described are prepared; and.~~ Inspectors shall refuse to stamp, mark, tag, or label ~~any a whole or part of a carcass or any part thereof; or a meat food product therefrom derived from it,~~ prepared in ~~any an~~ establishment ~~hereinbefore mentioned covered by sections 31A.01 to 31A.12,~~ until it has actually been inspected and found to be not adulterated; ~~and.~~ Inspectors shall perform the other duties ~~as provided required~~ by sections ~~31A.01 to 31A.31~~ and by the this chapter or by rules to be prescribed adopted by the commissioner and the commissioner shall, from time to time, ~~make the rules that are necessary for the efficient execution of the provisions of sections 31A.01 to 31A.31, and all this chapter.~~ Inspections and examinations made under sections ~~31A.01 to 31A.31~~ shall this chapter must conform to the rules prescribed adopted by the commissioner consistent with the provisions of sections ~~31A.01 to 31A.31~~ this chapter.

### 31A.14 BRIBERY.

~~Any~~ A person who gives or receives anything of value in order to influence the performance of sections 31A.01 to 31A.31 violates section 609.42 or 609.43.

### 31A.15 EXEMPTIONS.

Subdivision 1. **INSPECTION.** The provisions of sections 31A.01 to 31A.16 requiring inspection of the slaughter of animals and the preparation of the carcasses, parts of carcasses, meat, and meat food products at establishments conducting slaughter and preparation do not apply:

(1) to the processing by ~~any~~ a person of the person's own animals and the owner's preparation and transportation in intrastate commerce of the carcasses, parts of carcasses, meat, and meat food products of those animals exclusively for use by the owner and members of the owner's household, nonpaying guests, and employees; or

(2) to the custom processing by ~~any~~ a person of cattle, sheep, swine, or goats

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delivered by the owner for processing, and the preparation or transportation in intrastate commerce of the carcasses, parts of carcasses, meat, and meat food products of animals, exclusively for use in the household of the owner by the owner and members of the owner's household, nonpaying guests, and employees; ~~provided, that all.~~ Meat derived from custom processing of cattle, sheep, swine, or goats ~~shall~~ must be identified and handled as required by the commissioner, during all phases of processing, chilling, cooling, freezing, preparation, storage, and transportation; ~~and provided further, that.~~ The custom processor ~~does~~ may not engage in the business of buying or selling ~~any~~ carcasses, parts of carcasses, meat, or meat food products of ~~any~~ animals ~~capable of use~~ usable as human food unless the carcasses, parts of carcasses, meat, or meat food products have been inspected and passed and are identified as ~~having been~~ inspected and passed by the Minnesota department of agriculture or the United States Department of Agriculture.

Subd. 2. **SANITARY CONDITIONS.** The processing of animals and preparation of articles referred to in subdivision 1, clause (2) ~~shall,~~ must be conducted in accordance with the sanitary conditions that the commissioner may by rule prescribe. ~~Violation of a rule is prohibited.~~

Subd. 3. **ADULTERATION AND MISBRANDING.** The adulteration and misbranding provisions of sections 31A.01 to 31A.16, other than the requirement of the inspection legend, apply to articles which are not required to be inspected under this section.

### 31A.16 STORING AND HANDLING CONDITIONS.

The commissioner may ~~by adopt~~ rules prescribe ~~prescribing~~ conditions under which carcasses, parts of carcasses, meat, and meat food products of animals ~~capable of use~~ usable as human food; ~~shall~~ must be stored or otherwise handled by ~~any~~ a person ~~engaged~~ in the business of buying, selling, freezing, storing, or transporting them, in or for intrastate commerce, ~~whenever~~ if the commissioner ~~deems~~ considers action necessary to assure that the articles will not be adulterated or misbranded when delivered to the consumer. ~~Violation of the commissioner's rule is prohibited.~~

### 31A.17 ARTICLES NOT INTENDED AS HUMAN FOOD.

Inspection ~~shall~~ must not be provided under sections 31A.01 to 31A.16 at ~~any~~ an establishment for the slaughter of animals or the preparation of ~~any~~ carcasses or parts or products of animals, which are not intended for use as human food; ~~but,~~ Before they are offered for sale or transportation in intrastate commerce, those articles ~~shall,~~ prior to their offer for sale or transportation in intrastate commerce, ~~unless naturally inedible by humans;~~ must be denatured or otherwise identified as prescribed by rules of the commissioner to deter their use for human food, ~~unless they are naturally inedible by humans.~~ No person ~~shall~~ may buy, sell, transport, ~~or~~ offer for sale or transportation, or receive for transportation, in intrastate commerce, ~~any~~ carcasses, parts ~~thereof~~ of carcasses, meat, or meat food products of ~~any~~ animals, which are not intended for use as

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human food unless they are denatured or otherwise identified as required by the rules of the commissioner or are naturally inedible by humans.

### 31A.18 RECORDS.

Subdivision 1. ~~APPLICABILITY WHO MUST KEEP.~~ The following classes of persons shall keep records that ~~will~~ fully and correctly disclose all transactions involved in their businesses; ~~and all persons subject to the requirements shall, at all reasonable times, upon notice by a duly authorized representative of the commissioner afford the representative and any duly authorized representative of the Secretary of Agriculture of the United States accompanied by a representative of the commissioner access to their places of business and opportunity to examine the facilities, inventory, and records thereof, to copy all business records, and to take reasonable samples of their inventory upon payment of the fair market value therefor.~~

(a) Any (1) persons ~~who engage, for intrastate commerce, in the business, for intrastate commerce, of slaughtering animals or preparing, freezing, packaging, or labeling animal carcasses, or parts, or products of carcasses, of animals, for use as human food or animal food;~~

(b) Any (2) persons ~~who engage in the intrastate business of buying or selling, (as meat brokers, wholesalers, or otherwise), or transporting, in intrastate commerce, or storing in or for intrastate commerce, any animal carcasses, or parts or products of animal carcasses, of animals; and~~

(c) Any (3) persons ~~who engage in the intrastate business ; in or for intrastate commerce, as renderers of rendering, or engage in the intrastate business of buying, selling, or transporting, in intrastate commerce, any dead, dying, disabled, or diseased animals or parts of the carcasses of animals that died otherwise other than by slaughter.~~

Subd. 1a. EXAMINATION OF RECORDS, FACILITIES. Upon notice by an authorized representative of the commissioner, persons subject to this section shall, at all reasonable times, give the representative and an authorized representative of the Secretary of Agriculture of the United States accompanied by a representative of the commissioner access to their places of business and opportunity to examine the facilities, inventory, and records of the business, to copy business records, and to take reasonable samples of their inventory upon payment of the fair market value of the samples.

Subd. 2. RETENTION. ~~Any record~~ Records required to be maintained by this section ~~shall must~~ be maintained for the period of time the commissioner ~~prescribes~~ by rule ~~prescribes~~.

### 31A.19 REGISTRATION OF BUSINESSES.

No person shall may engage in intrastate business; ~~in or for intrastate commerce, as;~~

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(1) a meat broker, renderer, or animal food manufacturer; ~~or engage in business in intrastate commerce as;~~

(2) a wholesaler of any animal carcasses, ~~or carcass~~ parts, or products of carcasses, ~~of animals whether intended for human food or other purposes; or engage in business as;~~

(3) a public warehouse operator storing carcasses; or parts of carcasses of animals in or for intrastate commerce; ~~or engage in the business of buying, selling, or transporting in intrastate commerce; any; or~~

(4) a buyer, seller, or transporter of dead, dying, disabled, or diseased animals of the specified kinds, or parts of the carcasses of animals that died ~~otherwise other~~ than by slaughter; unless, when required by rule of the commissioner, the person has ~~registered with~~ provided the commissioner with the person's name; and the address of each place of business at which, and all trade names under which, the person conducts business.

### 31A.20 DEAD, DYING, DISABLED OR DISEASED ANIMALS; RULES.

No person engaged in the business of buying, selling, or transporting in intrastate commerce; dead, dying, disabled, or diseased animals; or any parts of the carcasses of any animals that died otherwise than by slaughter, shall buy, sell, transport, offer for sale or transportation, or receive for transportation, in intrastate commerce, any dead, dying, disabled, or diseased animals or parts of the carcasses of any animals that died otherwise than by slaughter, unless the transaction or transportation, is made in accordance with the rules This section covers dead, dying, or disabled animals and the whole or partial carcasses of animals that died other than by slaughter.

The commissioner may ~~prescribe~~ adopt rules to assure that the animals, or the unwholesome parts or products thereof, will be prevented from being items covered by this section are not used for as human food purposes. A person in the intrastate business of buying, selling, or transporting items covered by this section must comply with those rules.

### 31A.21 COOPERATION WITH FEDERAL GOVERNMENT.

Subdivision 1. **DESIGNATION.** The Minnesota department of agriculture is hereby designated as the state agency which shall be responsible for cooperating with the United States Secretary of Agriculture of the United States under the provisions of section 301 of the Federal Meat Inspection Act to develop and administer the state meat inspection program of this state under section 31A.01 to 31A.31 to assure this chapter so that its requirements will be at least equal to those imposed under Titles I and IV of the Federal Meat Inspection Act and to develop and administer the state program of this state under sections 31A.17 to 31A.20 in a manner that will effectuate to carry out the purposes of sections 31A.01 to 31A.31 this chapter and the federal act.

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Subd. 2. **FEDERAL ASSISTANCE.** In its cooperative efforts, the Minnesota department of agriculture is ~~authorized to~~ may accept from the United States Secretary of Agriculture (1) advisory assistance in planning and otherwise developing the state program, (2) technical and laboratory assistance and training, including necessary curricular and instructional materials and equipment, and (3) financial and other aid for the administration of the program. The Minnesota department of agriculture is ~~further authorized to~~ may spend a sum for administration of ~~sections 31A.01 to 31A.31~~ this chapter equal to ~~pay~~ 50 per centum percent of the estimated total cost of the cooperative program.

Subd. 3. **ADVICE; CONSULTATION.** The Minnesota department of agriculture is ~~further authorized to~~ may recommend to the United States Secretary of Agriculture officials or employees of this state as ~~the Minnesota department of agriculture~~ shall designate, for appointment to the advisory committees provided for in section 301 of the Federal Meat Inspection Act; ~~and~~. The Minnesota department of agriculture shall serve as the representative of the governor for consultation with the secretary under paragraph (c) of section 301 of the Federal Meat Inspection Act unless the governor ~~shall select~~ selects another representative.

Subd. 4. **MUNICIPALITIES; GOVERNMENT SUBDIVISIONS.** ~~When~~ If the state program includes performance of functions by a municipality or other subdivision of state government, the municipality or ~~other subdivision of state government~~ shall be deemed to be a is part of the Minnesota department of agriculture for the purposes of this section.

(a) ~~Any~~ Subd. 5. **APPLICATION TO OPERATE INSPECTION SERVICE.** A municipality or other subdivision of state government, through the health officer or other appropriate authority, may ~~make written application apply in writing~~ for designation to operate a state-approved inspection service under supervision of the commissioner. Each application shall Applications must be filed on a ~~form~~ forms obtained from the commissioner and ~~shall~~ include the information the commissioner requires.

(b) ~~Upon~~ Subd. 6. **INSPECTION AND DESIGNATION.** On receipt of an application under subdivision 5, the commissioner shall ~~make an inspection and investigation to determine whether the applicant's inspection service of a municipality or other subdivision of state government is in conformance conforms~~ with sections 31A.01 to 31A.31 this chapter and the designation to operate under the commissioner's supervision as an approved inspection service on the basis of facts disclosed by the investigation. A municipality or other subdivision of state government shall may be designated only after determination by the commissioner determines that each establishment under supervision of the municipality or other subdivision is in conformance conforms with sections 31A.01 to 31A.31 this chapter and the rules of the commissioner and that the municipality or other subdivision of state government is effectively enforcing laws and rules equivalent to sections 31A.01 to 31A.31 and the rules promulgated thereunder of the commissioner. The department shall make regular ~~periodic~~ inspections and surveys to determine if the inspection service ~~by a municipality or other~~

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~~subdivision of state government is being maintained in compliance~~ continues to comply and. The commissioner may revoke the designation of inspection service by an agency if the commissioner finds that there is ~~any~~ a failure to conform to the ~~applicable provisions of sections 31A.01 to 31A.31~~ this chapter or the rules.

**Subd. 7. REIMBURSEMENT BY STATE.** ~~(e) When~~ If a municipality or other subdivision of state government performs inspection service ~~as provided for herein under this section~~, the agency may be reimbursed for the service at a rate contracted with Minnesota department of agriculture.

### 31A.22 REFUSAL OR WITHDRAWAL OF INSPECTION.

The commissioner may, for a ~~period, or indefinitely,~~ length of time the commissioner ~~deems~~ considers necessary to ~~effectuate~~ carry out the purposes of ~~sections 31A.01 to 31A.31~~ this chapter, refuse to provide, or withdraw, inspection service under sections 31A.01 to 31A.16 ~~with respect to any from an~~ establishment. The commissioner may refuse or withdraw inspection service if the commissioner determines, after giving the applicant for or recipient of the service an opportunity for a hearing is accorded to the applicant for, or recipient of, the service, that the applicant or recipient is unfit to engage in any business requiring inspection under sections 31A.01 to 31A.16 because the applicant or recipient, or anyone responsibly connected with the applicant or recipient, has been convicted, in a federal or state court, of (1) any a felony, or (2) more than one violation of any a law, other than a felony, based upon the on acquiring, handling, or distributing of unwholesome, mislabeled, or deceptively packaged food or upon on fraud in connection with transactions in food. This section shall does not affect in any way other provisions of sections 31A.01 to 31A.31 this chapter for withdrawal of inspection services under sections 31A.01 to 31A.16 from establishments failing to maintain sanitary conditions or to destroy condemned carcasses, parts, meat, or meat food products.

For the purpose of this section a person ~~shall be deemed to be~~ is responsibly connected with ~~the a~~ business if the person is a partner, officer, director, holder, or owner of ten ~~per centum~~ percent or more of its voting stock or an employee in a managerial or executive capacity.

The A determination and order of the commissioner ~~with respect thereto~~ under this section ~~shall be~~ is final and ~~conclusive~~ unless the affected applicant for, or recipient of, inspection service ~~files application~~ applies for judicial review within 30 days after the effective date of the order in the district court. Judicial review of ~~any an~~ order ~~shall must~~ be upon based on the same record ~~upon which~~ as the determination and order ~~are based~~.

### 31A.23 DETENTION OF ANIMALS OR PRODUCTS.

~~Whenever any~~ This section applies to a carcass, part of a carcass, meat, or meat food product of ~~animals or any an~~ an animal, a product exempted from the definition of a meat food product, or ~~any a~~ dead, dying, disabled, or diseased

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animal is found by any. If an authorized representative of the commissioner upon any finds such an article or animal on premises where it is held for purposes of, or during, or after distribution in intrastate commerce, and there is reason to believe that any article it is adulterated or misbranded and is capable of use usable as human food, or that it has not been inspected, in violation of the provisions of sections 31A.01 to 31A.16 or of the Federal Meat Inspection Act, or the Federal Food, Drug, and Cosmetic Act, or that the article or animal has been or is intended to be, distributed in violation of any a provision of those laws, it may be detained by the representative for a period not up to exceed 20 days; pending action under section 31A.24 or notification of any federal authorities having jurisdiction over the article or animal; and shall. It must not be moved by any a person, firm, or corporation from the place at which it is located when so detained, until released by the representative. The representative may require all official marks may be required by the representative to be removed from the article or animal before it is released unless it appears to the satisfaction of the commissioner is satisfied that the article or animal is eligible to retain the official marks.

### 31A.24 SEIZURE AND CONDEMNATION.

Subdivision 1. WHAT CAN BE SEIZED. Any This section applies to a carcass, part of a carcass, meat or meat food product of animals or any to a dead, dying, disabled, or diseased animal that is being transported in intrastate commerce, or is held for sale in this state after transportation in intrastate commerce, and that is or has. These articles or animals may be proceeded against, seized, and condemned, if (1) they are or have been prepared, sold, transported, or otherwise distributed or offered or received for distribution in violation of sections 31A.01 to 31A.31; or is capable of use; (2) they are usable as human food and is are adulterated or misbranded; or, or (3) they are in any other way is in violation of sections 31A.01 to 31A.31; shall be liable to be proceeded against and seized and condemned. The department may act against the article or animal at any time, on a complaint in the district court of the judicial district where the article or animal is found.

Subd. 2. SALE OF CONDEMNED ITEMS. If the article or animal is condemned it shall must, after entry of the decree, be disposed of by destruction or sale as the court directs and the proceeds. If it is sold, the proceeds must be paid to the state, less the court costs and fees, and storage and other proper expenses; shall be paid to the state, but the article or animals shall animal must not be sold contrary to the provisions of sections 31A.01 to 31A.31 this chapter, or the Federal Meat Inspection Act, or the Federal Food, Drug, and Cosmetic Act; provided, that upon the execution and delivery of a good and sufficient. If a bond is delivered conditioned that the article or animal shall must not be sold or otherwise disposed of contrary to the provisions of sections 31A.01 to 31A.31, or the laws of the United States this chapter or federal law, the court may direct that the article or animal be delivered to the its owner thereof subject to the supervision by authorized representatives of the commissioner that is necessary to insure assure compliance with the applicable laws.

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**Subd. 3. TYPES OF PROCEEDINGS; AWARDS OF COSTS.** When a decree of condemnation is entered against the article or animal and it is released under bond, or destroyed, court costs and fees, and storage and other proper expenses ~~shall~~ must be awarded against the person, if any, intervening as claimant of the article or animal. The proceedings for condemnation ~~shall~~ must be in rem. Either party may demand trial by jury of any issue of fact joined in any case, and all proceedings ~~shall~~ must be at the suit of and in the name of the state.

~~The provisions of This section shall in no way derogate from~~ does not change the authority for condemnation or seizure conferred by other provisions of sections ~~31A.01 to 31A.31~~ this chapter, or other laws.

### 31A.25 ACCESS BY INSPECTORS.

~~For obtaining information regarding~~ To get information about suspected violations of law, the commissioner and the commissioner's assistants, inspectors, appointees, agents and employees, ~~shall have~~ must be given access to ~~all places the following:~~

(1) ~~places where any article of food, or other article something else, the manufacture, sale, use, or transportation of which is now or hereafter restricted, regulated, or prohibited by any a law of this state, is or may be manufactured, prepared, stored, sold, used, transported, offered for sale or transportation, or had in possession with intent to use, sell, or transport, or where cows or other animals are pastured or stabled; to;~~

(2) ~~cars or other carriages used for transportation of to transport the articles or animals; and to~~

(3) ~~places where food is or may be cooked, prepared, sold or kept for sale to or for the public or distributed as a part of the compensation of servants an employee or agent, including public and private hospitals, lumber and railroad camps, inns, boarding and eating houses, drinking places, dining cars, boats, and other places where any of these articles may be manufactured, sold, used, offered for sale or transportation, or had in possession possessed with intent to use, sell or transport; and.~~

They may inspect ~~any a~~ a package, receptacle, or container found ~~therein in those places apparently containing any article of food or, a food ingredient thereof, or any other article something else~~ the manufacture, use, sale, or transportation of which is ~~now or hereafter~~ restricted, regulated, or forbidden by ~~any state~~ any law of this state, and may take samples ~~therefrom from it~~ for analysis. ~~Any A~~ A person obstructing entry or inspection, or failing upon request to assist ~~therein; shall be in the inspection, is~~ guilty of a misdemeanor.

### 31A.26 VIOLATIONS AND PENALTIES.

**Subdivision 1. MISDEMEANORS.** ~~Any A~~ A person who violates ~~any a~~ a pro-

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vision of ~~sections 31A.01 to 31A.31~~ this chapter or ~~any a~~ rule adopted ~~thereunder~~ under it for which no other criminal penalty is provided is guilty of a misdemeanor.

Subd. 2. **MINOR VIOLATIONS.** ~~Nothing in sections 31A.01 to 31A.31 shall be construed as requiring~~ This chapter does not require the commissioner to report for prosecution or for the institution of injunction proceedings; minor violations of sections 31A.01 to 31A.31 ~~when if~~ the commissioner believes that the public interest will be adequately served by a suitable written ~~notice of~~ warning.

### 31A.27 POWERS OF COMMISSIONER.

Subdivision 1. **TO GATHER INFORMATION.** The commissioner may, for the purposes of ~~sections 31A.01 to 31A.31~~ this chapter:

(a) (1) gather and compile information concerning and; investigate ~~from time to time~~ the organization, business, conduct, practices, and management of ~~any a~~ person engaged in intrastate commerce; and the person's relation thereof to other persons; and

(b) (2) require, by general or special orders, a person, persons, or a class of persons engaged in intrastate commerce; ~~or any class of them; or any of them~~ to file with the commissioner, in the form the commissioner prescribes, annual and special reports or answers in writing to specific questions, furnishing to giving the commissioner the information the commissioner requires about the organization, business, conduct, practices, management, and relation to other persons, of the person filing the reports or answers. The reports and answers ~~shall must~~ be made under oath, or otherwise, as the commissioner prescribes, and ~~shall be~~ filed with the commissioner within a reasonable time ~~as~~ the commissioner prescribes, unless additional time is granted ~~in any case~~ by the commissioner.

Subd. 2. **TO EXAMINE DOCUMENTS FOR EVIDENCE.** (a) For the purposes of ~~sections 31A.01 to 31A.31~~ this chapter, the commissioner ~~shall must~~ at all reasonable times ~~have access be allowed to; for the purpose of examination; examine and the right to copy~~ any documentary evidence of ~~any a~~ person being investigated or proceeded against; ~~and~~ The commissioner may require by subpoena the attendance and testimony of witnesses and require the production of ~~all~~ documentary evidence of ~~any a~~ person relating to any matter under investigation. The commissioner may sign subpoenas ~~and may~~, administer oaths and affirmations, examine witnesses, and receive evidence.

(a) (b) Attendance of witnesses; and the production of documentary evidence may be required at ~~any a~~ designated hearing place of hearing. In case of disobedience to a subpoena the commissioner may invoke the aid of the district court to require the attendance and testimony of witnesses and the production of documentary evidence.

(b) (c) The district court, in case of ~~contumacy or~~ refusal to obey a subpoena

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issued to ~~any~~ a person, may issue an order requiring the person to appear before the commissioner or to produce documentary evidence if ordered, or to give evidence touching the matter in question; ~~and any.~~ Failure to obey the order of the court may be punished by the court as a contempt.

(e) ~~(d)~~ Upon the application of the attorney general of this state at the request of the commissioner, the district court ~~shall have jurisdiction to issue orders commanding any~~ may order a person to comply with the provisions of sections 31A.01 to 31A.31 ~~or any an order of the commissioner made in pursuance of it under those sections.~~

~~(d)~~ (e) The commissioner may order testimony to be taken by deposition in ~~any a~~ proceeding or investigation pending under ~~sections 31A.01 to 31A.31~~ this chapter at any state of the proceeding or investigation. Depositions may be taken before ~~any a~~ person designated by the commissioner and having power to administer oaths. The testimony ~~shall must~~ be reduced to writing by the person taking the deposition; or under the person's direction and ~~shall must~~ then be ~~subscribed~~ signed by the ~~deponent~~ witness. ~~Any A~~ person may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the commissioner ~~as hereinbefore provided.~~

(e) (f) Witnesses summoned before the commissioner may be paid the same fees and mileage that are paid witnesses in the district courts; ~~and.~~ Witnesses whose depositions are taken and the persons taking ~~the same them~~ may severally be entitled to the ~~same~~ fees as that are paid for ~~like those~~ services in the district court.

~~(f)~~ ~~No~~ (g) A person ~~shall be~~ is not excused from attending and testifying or from producing books, papers, schedules of charges, contracts, agreements, or other documentary evidence before the commissioner or in obedience to the subpoena of the commissioner whether the subpoena is signed or issued by the commissioner or the commissioner's delegate, or in any cause or proceeding, criminal or otherwise, based upon or growing out of ~~any an~~ alleged violation of ~~sections 31A.01 to 31A.31, or of any amendments thereto, on the ground or for the reason that this chapter because~~ the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate the person or subject the person to a penalty or forfeiture; ~~but.~~ No person ~~shall may~~ be prosecuted or subjected to ~~any a~~ penalty or forfeiture ~~for or on account of any transaction, a matter, or thing~~ concerning which the person is compelled, after having claimed a privilege against self-incrimination, to testify or produce evidence, documentary or otherwise, except that ~~any person so testifying shall a witness is~~ is not be exempt from prosecution and punishment for perjury committed in ~~so~~ testifying.

### Subd. 3. PENALTIES RELATED TO TESTIMONY AND RECORDS.

(a) A person who neglects or refuses to attend and testify ~~or,~~ to answer ~~any a~~ a lawful inquiry, or to produce documentary evidence, if it is in the person's

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power to do so, in obedience to the subpoena or lawful requirement of the commissioner is guilty of a misdemeanor.

(a) ~~Any~~ (b) A person who ~~shall willfully make~~, (1) makes or ~~cause causes~~ to be made, ~~any a~~ false entry or statement of fact in ~~any a~~ report required to be made under sections 31A.01 to 31A.31 or who ~~shall willfully make~~, this chapter; (2) makes or ~~cause causes~~ to be made, ~~any a~~ false entry in ~~any an~~ account, record, or memorandum kept by a person subject to sections 31A.01 to 31A.31 or who ~~shall willfully neglect this chapter~~; (3) neglects or ~~fail fails~~ to make, or to cause to be made, full, ~~true~~, and correct entries in the accounts, records, or memoranda, of all facts and transactions ~~appertaining relating~~ to the person's business of the person or that ~~shall willfully remove out of~~; (4) leaves the jurisdiction of this state, or ~~willfully mutilate~~; (5) mutilates, ~~alter alters~~, or by any other means ~~falsify any falsifies~~ documentary evidence of a person subject to sections 31A.01 to 31A.31 this chapter; or that ~~shall willfully refuse~~ (6) refuses to submit to the commissioner, for the purpose of inspection and taking copies copying, any documentary evidence of a person subject to sections 31A.01 to 31A.31 this chapter in the person's possession or control, is guilty of a misdemeanor.

(b) ~~If any~~ (c) A person required by sections 31A.01 to 31A.31 this chapter to file ~~any an~~ annual or special report who fails to do so within the time fixed by the commissioner for filing the report, and ~~the person's failure continues the failure~~ for 30 days after notice of failure to file, ~~the person shall be is~~ guilty of a misdemeanor.

(e) ~~Any~~ (d) An officer or employee of this state who ~~shall make makes~~ public ~~any~~ information obtained by the commissioner without the commissioner's authority, unless directed by a court, is guilty of a misdemeanor.

### 31A.28 APPLICATION OF CHAPTER WITH REGARD TO FEDERAL ACT.

The requirements of Sections 31A.01 to 31A.31 ~~shall apply~~ This chapter applies to persons, establishments, animals, and articles regulated under the Federal Meat Inspection Act only to the extent provided ~~for~~ in section 408 of the Federal Meat Inspection Act.

### 31A.29 COST OF ADMINISTRATION; OVERTIME WORK.

The cost of ~~administration of administering~~ sections 31A.01 to 31A.31 this chapter, including the cost of inspection rendered under the requirements of sections 31A.01 to 31A.31, ~~shall must~~ be paid from appropriations made for this purpose, except to the extent of federal contributions as provided in section 31A.21. The commissioner may pay employees of the ~~Minnesota~~ department of agriculture employed in establishments subject to the provisions of sections 31A.01 to 31A.31, this chapter for overtime work performed at the establishments; ~~and to~~. The commissioner may accept from the establishments where the overtime work is performed reimbursement for sums paid by the commis-

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sioner for overtime work. Reimbursements ~~shall~~ must be deposited in the treasury and credited to the accounts from which the overtime costs were paid.

### 31A.30 SEVERABILITY.

If ~~any a~~ provision of ~~sections 31A.01 to 31A.31~~ this chapter or the its application ~~thereof to any a~~ person or circumstances is held invalid, the validity of the remainder of ~~sections 31A.01 to 31A.31~~ the chapter and ~~of the its~~ application ~~of the provision~~ to other persons and circumstances ~~shall not be affected~~ thereby remains valid.

### 31A.31 CITATION.

Sections 31A.01 to 31A.31 ~~shall~~ This chapter may be designated cited as the Minnesota meat inspection act.

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## ARTICLE 3

Section 1. Minnesota Statutes 1986, chapter 227, is amended to read:

### CRIMES INVOLVING WAREHOUSE RECEIPTS

#### 227.50 ISSUING A RECEIPT; ISSUE, GOODS NOT RECEIVED; PENALTY FOR GOODS ONE DOES NOT HAVE.

Subdivision 1. ELEMENTS OF CRIME. A warehouse operator, or ~~any an~~ officer, agent, or ~~servant~~ employee of a warehouse operator, who issues or ~~aids in~~ issuing helps to issue a receipt for goods knowing that ~~the goods for which such receipt is issued have not been actually received by the warehouse operator ; or are not under the actual control of the warehouse operator at the time of issuing such receipt, shall be does not have or control the goods is~~ guilty of a crime; ~~and, upon conviction, punished.~~

Subd. 2. FIVE YEARS; \$10,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense ~~by to~~ imprisonment ~~not exceeding for not more than five years or by to payment of a fine of not exceeding more than \$10,000, or by both.~~

#### 227.51 ISSUING A RECEIPT; ISSUE, CONTAINING WITH A FALSE STATEMENT; PENALTY IN IT.

Subdivision 1. ELEMENTS OF CRIME. A warehouse operator, or ~~any an~~ officer, agent, or ~~servant~~ employee of a warehouse operator, who fraudulently issues or ~~aids in~~ helps to fraudulently ~~issuing issue~~ a receipt for goods knowing that ~~it the~~ receipt contains ~~any a~~ false statement, ~~shall be is~~ guilty of a crime; ~~and, upon conviction, punished.~~

Subd. 2. ONE YEAR; \$3,000. Whoever commits the crime described in

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subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than one year or by to payment of a fine of not exceeding more than \$3,000, or by both.

**227.52 ISSUING A SECOND RECEIPT; DUPLICATE; NOT SO MARKED; ISSUE WITHOUT "DUPLICATE" ON IT.**

Subdivision 1. ELEMENTS OF CRIME. A warehouse operator, or ~~any an~~ officer, agent, or servant ~~employee~~ of a warehouse operator, who issues or aids in issuing helps to issue a duplicate or additional negotiable receipt for goods knowing that a former another negotiable receipt for some or all of the same goods or any part of them is outstanding and uncanceled, without putting the word "duplicate" plainly placing upon on the face thereof the word "duplicate" except in the case of a lost, stolen or destroyed receipt after proceedings as provided for by law, shall be of the receipt is guilty of a crime; and, upon conviction, punished.

Subd. 2. EXCEPTION. If the original receipt is lost, stolen, or destroyed, and if proceedings have been conducted as provided by law, it is not a crime under subdivision 1 to issue a duplicate receipt without putting the word "duplicate" plainly on it.

Subd. 3. FIVE YEARS; \$10,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than five years or by to payment of a fine of not exceeding more than \$10,000, or by both.

**227.53 RECEIPTS ISSUED FOR WAREHOUSE OPERATOR'S ISSUING RECEIPT NOT SHOWING OPERATOR OWNS GOODS WHICH DO NOT STATE THAT FACT.**

Subdivision 1. ELEMENTS OF CRIME. Where there are deposited with or held by a warehouse operator goods owned by that operator either solely or jointly or in common with others; and if the warehouse operator, or any of the operator's officers, agents, or servants knowing this ownership, issues or aids in issuing a negotiable receipt for such goods which does not state such ownership; that person shall be guilty of a crime; and, upon conviction, punished for If:

(1) a warehouse operator owns goods solely, jointly, or in common with others;

(2) the goods are deposited with or held by the warehouse operator;

(3) the warehouse operator or an officer, agent, or employee of the warehouse operator issues or helps to issue a negotiable receipt for the goods;

(4) the receipt does not show the warehouse operator's ownership interest; and

(5) the issuer or helper knows of the warehouse operator's ownership interest;

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then the issuer or helper is guilty of a crime.

Subd. 2. ONE YEAR; \$3,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than one year or by to payment of a fine of not exceeding more than \$3,000, or by both.

**227.54 DELIVERY OF GOODS WITHOUT ~~OBTAINING~~ GETTING NEGOTIABLE RECEIPT.**

Subdivision 1. ELEMENTS OF CRIME; EXCEPTION. A warehouse operator, or any officer, agent, or servant of a warehouse operator, who delivers goods out of the possession of such warehouse operator, knowing that a negotiable receipt the negotiation of which would transfer the right to the possession of such goods is outstanding and uncanceled, without obtaining the possession of such receipt at or before the time of such delivery, shall, except in cases where such delivery of goods is permitted by law, be guilty of a crime; and, upon conviction, punished If:

(1) a warehouse operator, or an officer, agent, or employee of a warehouse operator, delivers goods out of the possession of the warehouse operator;

(2) the deliverer knows that a negotiable receipt is outstanding and uncanceled and that if the receipt were negotiated it would transfer the right to possess the goods; and

(3) the deliverer does not get possession of the receipt at or before the delivery;

then the deliverer is guilty of a crime, unless the delivery is permitted by law.

Subd. 2. ONE YEAR; \$3,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than one year or by to payment of a fine of not exceeding more than \$3,000, or by both.

**227.55 ~~NEGOTIATION OF~~ NEGOTIATING RECEIPT FOR MORTGAGED WITHOUT CLEAR TITLE TO GOODS.**

Subdivision 1. ELEMENTS OF CRIME. Any person who deposits goods without having title to the goods, or upon which there is a lien or mortgage, and who takes for such goods a negotiable receipt, later negotiating it If:

(1) a person deposits goods without having title to the goods or with a lien or mortgage on them;

(2) the person takes a negotiable receipt for the goods; and

(3) the person later negotiates the receipt for value with intent to deceive and without disclosing the ~~want~~ lack of title or the existence of the lien or mortgage ~~shall be~~;

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~~then the person is guilty of a crime; and, upon conviction, punished.~~

Subd. 2. ONE YEAR; \$3,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than one year or by to payment of a fine of not exceeding more than \$3,000, or by both.

#### ARTICLE 4

Section 1. Minnesota Statutes 1986, chapter 228, is amended to read:

#### CARRIERS; CRIMES INVOLVING BILLS OF LADING

##### 228.45 ISSUE OF ISSUING BILL FOR GOODS NOT RECEIVED; PENALTY, CONTROLLED.

Subdivision 1. ELEMENTS OF CRIME. Any An officer, agent, or servant employee of a carrier, who with intent to defraud issues or aids in issuing helps to issue a bill knowing that all or any part of the goods for which such the bill is issued have are not been received by such carrier, or by any agent of such carrier, or by a connecting carrier, or are not under the carrier's control at the time of issuing such the bill, shall be is guilty of a crime; and, upon conviction, punished. Goods are received if they are received by the carrier, by an agent of the carrier, or by a connecting carrier.

Subd. 2. FIVE YEARS; \$10,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than five years or by to payment of a fine of not exceeding more than \$10,000, or by both.

##### 228.46 ISSUE OF ISSUING A BILL CONTAINING WITH A FALSE STATEMENT; PENALTY IN IT.

Subdivision 1. ELEMENTS OF CRIME. Any An officer, agent, or servant employee of a carrier, who with intent to defraud issues or aids in issuing helps to issue a bill for goods knowing that it the bill contains any a false statement, shall be is guilty of a crime; and, upon conviction, punished.

Subd. 2. ONE YEAR; \$3,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than one year or by to payment of a fine of not exceeding more than \$3,000, or by both.

##### 228.47 ISSUES OF ISSUING A DUPLICATE BILLS NOT SO MARKED BILL WITH FRAUD IN MIND.

Subdivision 1. ELEMENTS OF CRIME. Except in the case of bills in a set over issue of documents for fungible goods and substitutes for lost, stolen, or

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~~destroyed documents; any~~ An officer, agent, or servant employee of a carrier, who with intent to defraud issues or ~~aids in issuing~~ helps to issue a ~~duplicate or additional negotiable bill for goods, knowing that a former another negotiable bill for the same some or all of the goods; or any part of them; is outstanding and uncanceled shall be, is guilty of a crime; ~~and, upon conviction, punished.~~~~

Subd. 2. EXCEPTIONS. Issuing bills in a set over issue of documents for fungible goods and issuing substitutes for lost, stolen, or destroyed documents are not violations of subdivision 1.

Subd. 3. FIVE YEARS; \$10,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than five years or by to payment of a fine of not exceeding more than \$10,000, or by both.

**228.48 NEGOTIATION OF NEGOTIATING BILL FOR MORTGAGED WITHOUT CLEAR TITLE TO GOODS.**

Subdivision 1. ELEMENTS OF CRIME. Any person who ships goods without having title to the goods; or upon which there is a lien or mortgage; and who takes for such goods a negotiable bill and afterwards if:

(1) a person ships goods without having title to the goods or with a lien or mortgage on them;

(2) the person takes a negotiable bill for the goods; and

(3) the person later negotiates the bill for value with intent to deceive and without disclosing the want lack of title or the existence of the lien or mortgage; shall be;

then the person is guilty of a crime; and, upon conviction, punished.

Subd. 2. ONE YEAR; \$3,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than one year or by to payment of a fine of not exceeding more than \$3,000, or by both.

**228.49 NEGOTIATION OF NEGOTIATING BILL WHEN FOR GOODS ARE CARRIER DOES NOT IN CARRIER'S POSSESSION HAVE.**

Subdivision 1. ELEMENTS OF CRIME. Any person who with intent to deceive negotiates or transfers for value a bill knowing that any or all of the goods which by the terms of such bill appear to have been received for transportation by the carrier which issued the bill, are not in the possession or control of such carrier, or of a connecting carrier, without disclosing this fact, shall be guilty of a crime; and, upon conviction, punished if:

(1) a carrier issues a bill for goods;

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(2) the goods by the terms of the bill appear to have been received for transportation by the carrier; and

(3) a person intending to deceive negotiates or transfers the bill for value knowing that the carrier or a connecting carrier does not have or control some or all of the goods;

then the person is guilty of a crime.

Subd. 2. FIVE YEARS; \$10,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than five years or by to payment of a fine of not exceeding more than \$10,000, or by both.

**228.50 INDUCING GETTING CARRIER WITHOUT GOODS TO ISSUE OF A BILL WHEN GOODS HAVE NOT BEEN RECEIVED.**

Subdivision 1. ELEMENTS OF CRIME. Any person who with intent to defraud secures the issue by a carrier of a bill knowing that at the time of such issue, any or all of the goods described in such bill as received for transportation have not been received by such carrier, or an agent of such carrier or a connecting carrier, or are not under the carrier's control; by inducing an officer, agent, or servant of such carrier falsely to believe that such goods have been received by such carrier, or are under its control; shall be guilty of a crime; and, upon conviction, punished If:

(1) a person gets an officer, agent, or employee of a carrier falsely to believe that the carrier has or controls goods;

(2) the person, with intent to defraud, gets the carrier to issue a bill for the goods; and

(3) the person knows that, when the bill is issued, some or all of the goods described in the bill have not been received by the carrier, an agent of the carrier, or a connecting carrier, and are not under the carrier's control;

then the person is guilty of a crime.

Subd. 2. FIVE YEARS; \$10,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than five years or by to payment of a fine of not exceeding more than \$10,000, or both.

**228.51 ISSUE OF ISSUING A NONNEGOTIABLE BILL NOT SO MARKED.**

Subdivision 1. ELEMENTS OF CRIME. Any A person who with intent to defraud issues or aids in issuing helps to issue a nonnegotiable bill without putting the word, words "not negotiable," placed plainly upon on the face thereof of the bill, shall be is guilty of a crime; and, upon conviction, punished.

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

Subd. 2. FIVE YEARS; \$10,000. Whoever commits the crime described in subdivision 1 may be sentenced for each offense by to imprisonment for not exceeding more than five years or by to payment of a fine of not exceeding more than \$10,000, or by both.

## ARTICLE 5

Section 1. Minnesota Statutes 1986, chapter 306, as amended by Laws 1987, chapter 18, section 1, is amended to read:

### 306.01 CEMETERY ASSOCIATIONS AND PRIVATE CEMETERIES, HOW GOVERNED.

All Public cemetery associations existing at the time of the taking effect of Revised Laws 1985 on March 1, 1986, shall continue under the forms of organization adopted by them; ~~respectively;~~ and shall retain all the rights and powers then possessed. All Cemetery associations thereafter formed and all private cemeteries thereafter established after that date shall be organized and governed solely by the provisions of this chapter applicable thereto.

### 306.02 CEMETERY CORPORATIONS OR ASSOCIATIONS.

Subdivision 1. PURPOSE AND METHOD OF FORMATION. A corporation or association may: (1) be formed for the purpose of procuring and holding or selling to procure and hold or sell lands or lots exclusively for the purpose of a public cemetery; ~~It may;~~ (2) acquire and manage all real and personal property necessary or proper for the establishment, embellishment to establish, embellish, care for, and management of manage a cemetery, and may construct and operate thereon on that property a crematory and other proper means of disposing of the dead; ~~It may;~~ and (3) sell and convey cemetery lots or sell and convey real or personal property lawfully acquired by it but not needed for cemetery purposes. ~~It~~ The corporation or association may be formed by three or more persons, who shall execute and verify the certificate or articles of incorporation as required in the matter of the formation of other corporations. ~~Such~~ The certificate of incorporation shall be filed for record in the office of the county recorder of the county wherein such where the cemetery is situated located and thereupon such upon filing, the association shall become is a corporation.

Subd. 2. TRANSFER BY CITY OR TOWN. Any Cemetery lands land and property or a public burial ground now or hereafter owned or controlled by any a town or city of this state may be transferred by such the town or city by deed or otherwise to any an existing cemetery association or corporation or one formed or organized under the terms of this chapter or heretofore existing and such. The transfer may be with or without condition, as shall be determined by the town or city; as the case may be; such. The town or city may, as a part of such the transaction, enter into a contract or agreement with such the cemetery

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association providing to provide for the management and manner of maintain-  
ing, keeping, and caring for such maintenance of the cemetery, for the sale of  
 lots or lands therein land in the cemetery, and for such those other matters in  
 relation to concerning the care and control thereof of the cemetery as shall be  
 deemed the town or city considers advisable by such town or city.

**Subd. 3. TRANSFER BY RELIGIOUS CORPORATION.** Any Cemetery  
lands land or property now or hereafter owned by any a religious corporation  
 existing under the state laws of this state may be transferred to any a cemetery  
 association now in existence or hereafter formed under the state laws of this  
state without any express consideration; and, In such this case, the articles of  
 incorporation of such the cemetery association may provide, or may be amended  
to provide, for the appointment of its directors or trustees by the board of  
 directors of such the religious corporation or by some specified officer thereof, or  
may be amended to so provide of the corporation. Any such A cemetery  
 association so affiliated with a religious corporation by such a provision in its  
 articles may also provide for the acquisition of other cemetery properties within  
 the state wherein bodies of for the burial of persons of the same religious faith,  
 exclusively, are to be buried.

### 306.023 UNUSED PUBLIC CEMETERY; TRANSFER TO OPERATING PUBLIC CEMETERY.

**Subdivision 1. TRANSFER AUTHORIZED.** Any A public cemetery asso-  
 ciation which that owns a cemetery in which no interments have been made for  
 40 years may transfer such the cemetery and real estate owned by it, together  
 with any funds or property which that it possesses, to such other another public  
 cemetery association or corporation as may at the time be serving the same  
 community in the burial of the dead.

**Subd. 2. METHOD OF TRANSFER.** To accomplish such the transfer, the  
 board of trustees of such the transferring cemetery association shall adopt a  
 resolution to that effect by an unanimous vote of the board of trustees; and  
thereupon. The chair or president of the board of trustees and the secretary  
shall be authorized to may then execute the proper instruments and a deed in  
 the name of the association to evidence the transfer; provided. However, that  
such the transfer must first have been authorized by a majority vote of all  
 members of the association, present and voting, at any regular meeting or at any  
 special meeting called for that purpose, after written notice of which meeting  
shall have been given to the members specifying the time, place and purpose of  
such the meeting.

In the event said If the association shall be is an unincorporated association,  
 a deed executed in the name of such the association by the chair or president  
 and the secretary or treasurer of the board of trustees shall be deemed is a valid  
 conveyance of the lands of the association.

**Subd. 3. ACCEPTANCE OF TRANSFER.** Any A public cemetery associa-  
 tion or corporation actually serving such the community in the burial of the

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dead may accept a transfer of ~~such~~ a cemetery and ~~the~~ its lands, property, and funds ~~thereof~~. Before ~~any~~ a transfer ~~shall be~~ is made, the public cemetery association to which ~~such~~ the transfer is being made shall adopt a resolution agreeing to accept ~~such~~ the cemetery and its lands, real and personal property and funds and agreeing to operate, maintain, control, and manage ~~such~~ the cemetery and ~~to~~ administer ~~the~~ its property and funds ~~thereof~~; if ~~any~~, in the name of, and in accordance with the rules ~~and~~ regulations and laws governing ~~such~~ the accepting public cemetery association ~~so~~ accepting.

Subd. 4. **EFFECT OF TRANSFER.** After ~~any~~ such transfer, ~~all~~ lot owners of the former association ~~shall~~ continue their ownership ~~and shall be~~. They are entitled to the same rights and privileges with respect to their lots ~~as are~~ accorded to lot owners by the public cemetery association to which ~~such~~ the transfer was made and ~~shall be~~ thereafter be subject to all the rules, ~~regulations~~ and laws governing ~~such~~ the public cemetery association.

### 306.025 TRANSFER OF CEMETERIES TO STATUTORY CITIES.

Subdivision 1. **ACCEPTANCE.** ~~Any~~ A public cemetery association ~~which owns~~ owning a cemetery located ~~within~~ wholly or partly within a statutory city may transfer ~~such~~ the cemetery to the statutory city in which it is ~~located or partly~~ located, together with all the funds and property of ~~such~~ the association, whether ~~such~~ the funds ~~be~~ are of a trust character or otherwise. ~~Any~~ The statutory city in which ~~such~~ a the cemetery is ~~located~~ wholly or partly located may accept a transfer of ~~any~~ such the cemetery and of ~~the~~ its property and funds ~~thereof~~, and may continue to operate, maintain, manage, and conduct ~~such~~ the cemetery, and to sell lots ~~therein~~ and provide for the burial of the dead ~~therein in the cemetery~~. All Funds received from ~~such~~ the cemetery association upon ~~such~~ transfer shall be administered by the statutory city for the same purposes and upon the same trusts for which they were originally established.

Subd. 2. **TRANSFER, HOW MADE.** To accomplish ~~such~~ a transfer, the board of trustees of ~~such~~ the cemetery association shall first adopt a resolution to that effect by a unanimous vote of the members of the board of trustees, ~~and thereupon after which~~ the chair or president of the board of trustees and the secretary ~~shall be~~ are authorized to execute the proper instruments to evidence the transfer ~~thereby and herein authorized, provided,~~. However, ~~that~~ such the transfer must first have been authorized by a majority vote of all the members of the association at ~~any~~ a regular meeting or ~~at any~~ special meeting called for that express purpose.

Subd. 3. **STATUTORY CITY COUNCIL TO ACCEPT BY RESOLUTION.** Before ~~such~~ the transfer ~~shall be~~ is made, the statutory city council of the statutory city in which ~~such~~ the cemetery is ~~located~~ wholly or partly located shall first adopt a resolution agreeing to accept ~~such~~ the transfer of the property and funds of ~~such~~ cemetery the association, and agree to continue to operate, maintain, manage, conduct, and control ~~such~~ the cemetery, to sell lots ~~therefrom in it~~, and to administer ~~the~~ its funds ~~thereof~~ for the same purposes and upon the same trusts for which they were originally established.

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

Subd. 4. **TRUST FUND FOR PERPETUAL CARE.** If a trust fund for the perpetual care of cemetery lots is transferred to ~~any such statutory a city pursuant to under~~ this section, then ~~such the~~ fund ~~shall must~~ be preserved and kept and used and administered for the same purposes and upon the same trusts as if ~~such the~~ transfer had not been made. All Lots for which payment in full for perpetual care has been made to ~~such the~~ cemetery association, ~~shall be are~~ entitled to receive perpetual care, and ~~such the~~ statutory city shall provide ~~such perpetual care it~~.

Subd. 5. **RIGHTS OF LOT OWNERS.** After ~~any such~~ transfer, all lot owners ~~shall be are~~ entitled to the same rights and privileges ~~with respect to concerning~~ their lots as if ~~such the~~ transfer had not been made.

Subd. 6. **MAINTENANCE.** After ~~any such the~~ transfer ~~shall have has~~ been made, ~~as herein provided~~, and ~~shall have been~~ accepted by ~~any such the~~ statutory city, the council of ~~any such statutory city council~~ shall operate, maintain, conduct, control, and manage ~~such the transferred~~ cemetery ~~so transferred~~. For that purpose it may appoint a committee of the council.

Subd. 7. **RULES.** The ~~statutory~~ city council may adopt rules and regulations ~~for the to~~ conduct, ~~management manage~~, ~~maintenance maintain~~, and ~~operation of any such operate the~~ cemetery, but ~~such the~~ rules may not infringe upon the rights of persons who were lot owners ~~who were such~~ at the time the transfer was made.

### 306.027 MERGER OF CEMETERIES.

The ownership of a cemetery owned by a cemetery association or corporation, a municipality or town, a religious corporation, or any other body, or of a privately owned cemetery, may be merged with that of any other cemetery upon the terms set by its governing body, board of trustees, or owner. The surviving association, corporation, municipality, town, religious corporation, or other body or private person owning the cemeteries ~~shall be is~~ subject to the laws appropriate for the particular type of cemetery ownership. No interests of third parties shall be impaired by the merger and after the merger lot owners of the former cemeteries shall continue their ownership and be entitled to the same rights and privileges ~~with respect to concerning~~ their lots that were accorded to them under the previous ownership.

### 306.03 ACTUARY; RECORDS; REPORTS.

Every such corporation ~~shall~~, in addition to its ordinary corporate officers, ~~shall~~ annually appoint an actuary, or provide by its bylaws that its secretary shall perform the duties of ~~such office an~~ actuary. The actuary shall keep a register of burials, entering (1) the date of burial or cremation, ~~and~~ (2) the name, age, sex, nativity, and cause of death of every person interred or cremated in ~~such the~~ cemetery ~~;~~. These facts must be registered so far as ~~such facts they~~ can be ascertained from the friends, attending physician, or undertaker in charge, and in case of a pauper, stranger, or criminal, from the public official directing

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the burial. ~~Such~~ The record shall be open to public inspection, and the actuary shall ~~furnish to give~~ the state commissioner of health and to local health officers, ~~when so requested upon their request~~, an accurate summary of ~~such the~~ record during any specified year.

#### 306.04 FAILURE TO KEEP REGISTER; FORFEITURE.

Every actuary, or secretary performing the duties of an actuary, failing to keep ~~such~~ a register of burials and to record ~~therein in it~~ all interments and cremations, ~~for every such offense~~ shall forfeit not less than \$2 nor more than \$10 ~~for every failure to keep a register or record the required information~~ for the benefit of the school fund of the district in which ~~such the~~ cemetery or crematory is ~~situated located~~.

#### 306.05 LAND ACQUIRED FOR CEMETERY PURPOSES.

Every such corporation may ~~take and hold own~~, by purchase or gift, ~~within in the county of its location where it is located~~ and in an adjoining county, ~~not exceeding a maximum of 300 acres of land to be actually used and occupied exclusively for the burial or cremation of the dead and for other purposes necessary or proper thereto to those purposes~~. ~~Such Land; or such portion thereof as may from time to time be required for that purpose; shall must~~ be surveyed and divided into lots of ~~such a size as the trustees shall determine determined by the trustees~~, with ~~such the~~ avenues, alleys, and walks as they ~~deem consider~~ proper; ~~and~~. A map of ~~such the~~ survey ~~shall must~~ be filed for record with the county recorder of the county of ~~its location where the cemetery is located~~. When the corporation desires to enlarge its cemetery and cannot agree with the owners of the land desired ~~therefor for the cemetery~~, the ~~same land~~ may be acquired under the power of eminent domain; ~~provided, that~~. ~~However~~, public necessity, propriety, and convenience ~~require such requiring the~~ proposed enlargement, ~~which~~; together with the boundaries ~~thereof of the cemetery~~, shall be first established and determined as issues of fact.

#### 306.06 CONVEYANCE OF CERTAIN LANDS TO CEMETERY ASSOCIATIONS.

When ~~any land situated located~~ within ~~any a~~ town or statutory city ~~in this state; which land heretofore and prior to 1870 has before 1870 been devoted to and used by the public without restriction as a cemetery, the governing body of the town or statutory city wherein such lands are situated is hereby authorized to where the land is located may convey such lands the land to any a cemetery association organized for the purpose of acquiring these lands to acquire the land for cemetery purposes upon such terms as the governing body may deem advisable. The governing body may decide the terms of the conveyance.~~

#### 306.07 FRATERNAL CORPORATIONS TO TRANSFER LANDS FOR CEMETERY PURPOSES.

~~Any A~~ fraternal corporation organized ~~and existing~~ under the laws of this.

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state ~~which law that~~ acquired ~~lands land~~ upon which it established a cemetery prior to ~~before~~ 1885 and ~~which thereafter that~~ operated ~~such a~~ cemetery is hereby authorized and empowered to transfer and ~~after that date may~~ convey to ~~any a~~ corporation incorporated under the laws of this state for the purpose of operating ~~state law to operate~~ a public cemetery, the ~~portion any part of such the~~ cemetery ~~which such fraternal that the~~ corporation has not transferred and conveyed to individuals to be used for the burial of the dead; ~~also all interest of such fraternal.~~ The corporation ~~may also convey all its interest in portions any part of such the~~ cemetery ~~which have heretofore that has previously~~ been conveyed by ~~such the~~ public cemetery association, without ownership or control thereof ~~of it~~, to individuals to be used for the burial of the dead.

### 306.08 LANDS TO BE SUBJECT TO RULES AND REGULATIONS OF CEMETERY ASSOCIATIONS.

As a part of any such transfer or ~~a~~ conveyance there ~~by a fraternal corporation~~ may be included ~~transfer all~~ right, title, and control in ~~and to all lands so~~ the acquired and land ~~that is~~ devoted to cemetery purposes; ~~and thereupon.~~ Upon transfer, the public cemetery association to which ~~such transfer and the~~ conveyance is made ~~shall acquire~~ ~~acquires~~ and ~~may~~ exercise all of the rights, privileges, and control ~~which that~~ the fraternal corporation ~~theretofore previous-~~ly had, and the cemetery and all premises constituting the same ~~shall be it are~~ subject to the rules ~~and regulations~~ of the cemetery association.

### 306.09 SALE OF LOTS.

After the filing of the ~~a~~ map ~~mentioned in under~~ section 306.05 the trustees may sell and convey the lots as designated on ~~such the~~ map upon ~~such~~ terms and subject to ~~such~~ conditions and restrictions as they ~~shall prescribe~~ ~~determine~~. Every conveyance of ~~any such a~~ lot ~~shall must~~ be expressly for burial purposes and no other and ~~shall must~~ be in the corporate name of the association and signed by its president or vice-president and by its treasurer or secretary.

### 306.10 USE OF FUNDS; HOW USED; GRANTS IN TRUST.

The Proceeds of ~~from~~ the sales of lots and of personal property not invested as hereinafter provided shall be applied solely to the ~~payment of pay~~ debts incurred in the ~~purchase of~~ ~~purchasing~~ cemetery grounds and property, to ~~fencing fence, improving improve, and beautifying~~ ~~such~~ ~~beautify~~ the grounds and the avenues leading ~~thereto to the~~ grounds, and to ~~defraying~~ ~~defray~~ the necessary expenses of the ~~their~~ management and care of the same. All Real or personal estate ~~property given or granted to such an~~ association for the maintenance of ~~any to maintain a monument or the keeping to keep or improvement of any improve~~ grounds within the cemetery ~~shall remain forever must always be applied~~ to the uses for which it ~~the property~~ was given ~~or granted~~.

### 306.11 VACANCIES; ANNUAL MEETING; REPORT OF TRUSTEES.

The certificate of incorporation may provide that vacancies among the asso-

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ciates ~~shall~~ must be filled by the remaining associates and that at all elections after the first the trustees shall be chosen from ~~such~~ the associates or it may provide that they shall be chosen by and from the lot owners. When there are two or more owners of a lot they shall select one to represent them and to vote at ~~such~~ an election. The trustees may fill any vacancy occurring in their own number for the unexpired term. Public notice of every annual election ~~shall~~ must be given in the manner prescribed in the bylaws. If for any reason the annual election ~~be is~~ not held on the day fixed in the certificate of incorporation, the trustees may ~~appoint~~ set another time, not more than 60 days ~~thereafter~~ after the date provided in the certificate, and must give public notice thereof; but of that date. However, the term of office shall be the same as if the person ~~were~~ elected at the regularly scheduled annual election.

At each annual meeting the trustees shall make a written report of their ~~doings~~ official acts and of the affairs of the association, with an account of all receipts and expenditures during the preceding year.

### 306.111 VACANCIES AMONG ASSOCIATES, PROCEDURE FOR FILLING.

Subdivision 1. **AUTHORIZATION.** ~~Any~~ An incorporated public cemetery association ~~not having a~~ without capital stock, ~~heretofore or hereafter~~ organized under any state law in this state, which has acquired a burial site and sold lots ~~therein in it~~ and for which a majority of the associates of the corporation are deceased or have for three years or more ~~failed to act~~ not acted as ~~such~~ associates, may by a meeting of the lot owners ~~in said~~ of the cemetery fill the vacancies among the associates.

Subd. 2. **NOTICE OF MEETING.** ~~Any~~ Three or more lot owners ~~in such~~ of the cemetery may mail notice to all the lot owners known to them or whose addresses appear in the cemetery records that a meeting of the lot owners will be held not less than 14 days after the mailing at a time and place to be fixed by them and designated in the notice, in the county ~~wherein~~ where the cemetery is ~~situated~~ located, for the purpose of filling the vacancies among the associates.

Subd. 3. **MEETING.** The meeting must be held at the time and place ~~mentioned provided~~ in the notice ~~the meeting so called shall be held.~~ Any An owner of one or more lots in the cemetery may ~~be present attend~~ present attend in person or by proxy and ~~shall be~~ is entitled to one vote at that and all subsequent meetings of the lot owners. The meeting may be called to order by any lot owner and shall be organized by choosing in the usual manner a chair and a secretary. The meeting ~~shall thereupon~~ must then proceed to fill the vacancies among the associates. ~~The voting at such meeting shall be by viva voce; A voice vote must be used unless otherwise ordered by those present at the meeting. A majority of the lot owners voting at the meeting shall elect.~~

Subd. 4. **CERTIFICATE; CONTENTS.** The chair and the secretary of the meeting shall, within five days after the meeting is held, prepare a certificate, ~~which shall set forth the existence of~~ that recites the facts ~~mentioned in~~ required

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by subdivision 1. It ~~shall further~~ must also state that the meeting was held, giving the names of the chair and the secretary and the names of the lot owners present and voting; ~~but~~. However, if more than ten are ~~so~~ present and voting, the names of ten thereof ~~shall be of the voters~~ are sufficient, but in ~~such that~~ case the number of lot owners present and voting ~~shall must~~ must be stated. The certificate ~~shall must~~ must also give the names of the persons elected as associates ~~and shall~~. The certificate must be recorded at length in the office of the county recorder in ~~and for the county in which such where the~~ the cemetery is located; ~~and~~. The certificate or the record thereof ~~shall be of it is~~ is prima facie evidence of all the facts stated therein ~~and in it that are~~ are required to be ~~so~~ stated.

Subd. 5. **POWERS OF ASSOCIATES.** The associates elected at the meeting of the lot owners shall exercise ~~all of~~ the powers of associates ~~as~~ provided by law and the articles of incorporation of the association, and ~~shall~~ fill any vacancy ~~then existing~~ in the board of directors or trustees of the association.

### 306.12 ACTION FOR DAMAGES.

Every such cemetery association may recover, in its own name, all damages resulting from injury to or destruction of any stone, monument, building, fence, railing, or other work for protection or ornament, or any tree, shrub, or plant within the limits of ~~such the~~ the cemetery.

### 306.13 EMPLOYEES TO HAVE POLICE POWERS.

The trustees or officers of ~~any a~~ cemetery association may appoint ~~such~~ superintendents, security guards, gardeners, and agents as they may ~~deem~~ advise; ~~and, determine~~. Upon taking and subscribing an oath similar to that required from constables, every ~~such an~~ appointee shall have ~~has~~ all the rights and powers of a police officer within and adjacent to the cemetery grounds.

### 306.14 ~~TAX EXEMPT; NO ROAD OR STREET LAID THROUGH A CEMETERY WITHOUT CONSENT OF TRUSTEES TAXES; ROADS; SPECIAL ASSESSMENTS.~~

Subdivision 1. **TAX EXEMPTION.** The lands and property of any such cemetery association ~~shall be are~~ exempt from all public taxes and assessments, and shall not be sold on execution against ~~such the~~ the association or any lot owner. The owners of cemetery lots, their heirs or legal representatives, may hold the ~~same so lots exempt from taxation~~ same so long as they remain appropriated to the use of a the lots are used for a cemetery; ~~and~~. No road or street shall be laid through ~~such the~~ the cemetery, or any part of the lands of ~~such the~~ the association; without the consent of the trustees.

Subd. 2. **SPECIAL ASSESSMENTS.** ~~Nothing contained in~~ Subdivision 1 ~~shall be construed to does not~~ exempt cemetery property owned or leased by ~~any a~~ corporation, association, partnership, proprietorship or ~~any~~ other organization from any special assessment unless ~~such the~~ the corporation, association, partnership, proprietorship or other organization;

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(a) (1) was formed for a purpose not involving pecuniary gain to its shareholders or members; and

(b) (2) pays no dividends or other pecuniary remuneration directly or indirectly to its shareholders or members as such.

### 306.15 LOTS, CONVEYANCE.

~~Whenever any~~ (a) When a lot in ~~any a~~ cemetery, or ~~any an~~ entombment or inurnment space in ~~any a~~ mausoleum, has been sold or conveyed for burial purposes, ~~such the~~ lot, entombment, or inurnment space ~~shall forever thereafter be is then~~ inalienable, except as ~~hereinafter~~ provided in this section.

(+ (b) The original purchaser of ~~such the~~ lot, entombment, or inurnment space, may sell, or convey ~~and release~~ any part of it to the cemetery ~~the portion of the same that is~~ not actually occupied by interments or by entombed or inurned human remains.

(2) (c) ~~The owner by inheritance of such~~ A person who has inherited the lot, entombment, or inurnment space, may sell, or convey ~~and release~~ any part of it to the cemetery ~~the portion of the same that is~~ not actually occupied by interments or by entombed or inurned human remains.

(3) (d) When, by the consent of the owner, ~~such the~~ lot, entombment, or inurnment space will be solely used by some other person as a family burial place, ~~such the~~ owner may convey ~~the same it~~ to the person so using it.

(4) (e) There ~~shall must~~ be filed with the cemetery a copy of an agreement of sale signed and acknowledged by ~~such the~~ owner (and spouse, if any) and the proposed purchaser, transferring ~~and releasing~~ title to the cemetery and requesting that the cemetery issue a new conveyance of ~~such the~~ lot or space directly to ~~such the~~ purchaser in consideration of the payment by the purchaser to such the owner of a specified price, which ~~price shall must~~ not be more than the price ~~which that~~ would be charged by the cemetery in a its sale ~~by it of any a~~ similar lot or space.

(a) ~~With the~~ Upon filing of ~~such the~~ agreement, ~~there shall be paid to the cemetery~~ a reasonable transfer and service charge of not to exceed more than \$15.

(b) ~~Upon compliance with the foregoing,~~ must be paid to the cemetery and the cemetery shall ~~forthwith then~~ promptly issue a conveyance of ~~such the~~ lot or space to the designated purchaser.

(f) The cemetery may use any of its funds ~~for to~~ repurchase of ~~any~~ lots, ~~entombment entombments~~, or inurnment spaces, as provided herein, and may hold or again sell and convey ~~the same them~~.

### 306.16 TITLE TO BURIAL LOTS REGAINED BY ASSOCIATION; WHEN; PROCEDURE.

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Subdivision 1. **AUTHORITY.** ~~When any~~ If a cemetery association organized under the laws of this state ~~law~~ or ~~any~~ a public cemetery; ~~whether the same be operated by a municipality or not;~~ shall have heretofore ~~other entity has before March 1, 1906,~~ conveyed to ~~any~~ a person the right of sepulture or burial ~~upon in~~ in any platted lot or designated piece of ground within the area of such cemetery, and the deed or conveyance ~~thereto from such~~ the cemetery provides that the lot ~~shall be is~~ held subject to all the rules, bylaws, and regulations of ~~such the~~ cemetery and ~~such the~~ deed or ~~such the~~ rules, bylaws, or regulations further provide for the payment of an annual charge for the care, upkeep, and maintenance of ~~such the~~ lot, and the owner ~~thereof of the lot~~ named in ~~such the~~ deed or conveyance ~~neglects or refuses to~~ does not pay ~~such the~~ annual charge; for ~~the~~ a period of ten successive years, the cemetery association or ~~any~~ municipally-owned cemetery may reinvest itself with the title to the ~~portion part~~ of ~~such the~~ cemetery lot not actually used for burial purposes, in the manner hereinafter set forth.

Subd. 2. **PROCEDURE.** The association or ~~any~~ municipally owned cemetery may ~~cause to be served~~ serve upon the owner of the lot, in the manner prescribed by law for the service of a summons in a civil action, a notice specifying the amount unpaid for lot care ~~upon such of the~~ lot, and specifying a time within which the ~~same~~ amount must be paid to the secretary of ~~such the~~ association or the proper officer of the municipally owned cemetery, which time shall not be less than 30 days from the date of the service of the notice; ~~and further specifying that, upon the failure of.~~ The notice must also provide that if the owner of the lot ~~fails~~ to pay the amount ~~specified in the notice~~ within the specified time of ~~aforesaid~~, the association or municipally owned cemetery will take the necessary steps to reinvest itself with the title to the ~~portion part~~ of ~~such the~~ cemetery lot not actually used for burial purposes. ~~Upon the failure of~~ If the owner of the lot ~~fails~~ to pay the amount within the time specified in the notice, the board of trustees of ~~any such the~~ cemetery may, by resolution ~~duly~~ adopted at any regular meeting of the board of trustees, set forth the failure to pay the charges for lot care, the service of the notice ~~prescribed herein~~, and declare ~~such the~~ portion of the lot unused for burial purposes, describing ~~the same~~ it by metes and bounds in ~~such the~~ resolution, to be the property of the association or ~~such the~~ municipally owned cemetery.

Subd. 3. **SERVICE BY PUBLICATION.** ~~When it shall be determined by~~ If the return of the sheriff of the county in which the cemetery is located ~~shows~~ that the owner of the lot is not a resident of the county and cannot be found ~~therein in it~~, then the association or any public cemetery ~~described therein~~ may ~~cause such~~ have the notice to be published in a legal newspaper within the county for the period of three weeks; ~~which.~~ The notice shall specify a time for payment, at least 30 days after the completed service of ~~such the~~ notice by publication ~~thereof, and.~~ After the expiration of the time ~~therein~~ specified in the notice, the board of trustees may adopt the resolution ~~hereinbefore set forth;~~ provided in subdivision 2 and reinvest the association or municipality with the title to the ~~portion part~~ of the cemetery lot unused for burial purposes.

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**306.17 ~~TO BE PART OF RECORDS OF ASSOCIATION.~~**

All ~~such~~ notices, with the proof of service or publication ~~thereof~~, and all ~~such~~ resolutions adopted by the board of trustees of the association or public cemetery under section 306.16, subdivision 2, shall be made a part of the records of the association or public cemetery; ~~as the case may be; and~~. When the deed or conveyance from the association or public cemetery to the lot owner ~~shall be and appear of~~ appears in the record in the registry of deeds of the county, a copy of ~~such~~ the resolution, certified to ~~both~~ the secretary of the cemetery association or public cemetery, and a copy of the printed notice with the sheriff's return ~~thereon~~, shall be placed ~~of record~~ in the records of the registry of deeds.

**306.18 ~~LOTS, HOW DESCRIBED~~ DESCRIPTION OF LOTS IN NOTICE AND PROCEEDINGS.**

The notice and ~~all~~ proceedings ~~had pursuant to~~ under sections 306.16 to 306.20, ~~in relation to any such~~ concerning cemetery lots, shall distinctly describe by metes and bounds the ~~portion part of such a~~ cemetery lot unused for burial purposes; ~~and such~~. The association or public cemetery is hereby required to ~~shall~~ leave sufficient ingress passage to; and egress from; any grave upon the lot, either by ~~dedicated~~ streets or alleys in the cemetery; or by leaving ~~sufficient of the unused portion a part of the cemetery lot~~ sufficient for ~~such that~~ purpose.

**306.19 LIMITATION.**

Sections 306.16 to 306.20 ~~shall do not~~ apply to ~~any a~~ lot in ~~any a~~ cemetery ~~where for which~~ a perpetual care contract has been entered into between the cemetery association and the lot owner of the lot.

**306.20 ~~EFFECT; TIME LIMIT~~ REINVESTMENT; REDEMPTION.**

Compliance with the ~~terms of~~ sections 306.16 to 306.20 ~~shall as fully rein-~~vest reinvests the association ~~and or~~ municipality with, and ~~divest~~ divests the record owner and dependents of, the title to ~~such portion of such the part of the~~ cemetery lot unused for burial purposes; as though the ~~same lot~~ had never been conveyed to any person; ~~and such~~. The association or municipality shall have; hold; and enjoy such then owns the reclaimed portions part of such lots the lot for its own uses and purposes, subject to the laws of this state; law and to the charter, bylaws, rules, and regulations of ~~such the~~ association or municipality; ~~provided that~~. The association or municipality ~~shall may not be permitted to~~ alienate any such transfer the title of the lot for the period of one year from and after the adoption of the resolution provided for in section 306.16 by the board of trustees of the association or public cemetery; and; provided that. If at any time during the one-year period ~~any a~~ person entitled by state law to such the cemetery lot by the laws of this state shall pay; or cease to be paid; to such pays to the association or public cemetery all the unpaid lot care, ~~together with the~~ expenses of the service of the notice ~~hereinbefore~~ provided for in section 306.16, and any additional ~~sums~~ amount due for lot care ~~subsequent to after~~ the date of

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the notice; as ~~prescribed by~~ under the bylaws, rules, and regulations of the cemetery association or public cemetery, and ~~shall take out and pay for a contract and pays for the perpetual care contract upon~~ of the lot, the cemetery association or public cemetery shall reconvey the lot to the person lawfully entitled to the same it.

### 306.21 UPKEEP OF LOTS; ABANDONMENT.

Subdivision 1. **LOTS CONVEYED AND ABANDONED.** (a) In the instances provided in paragraph (b), an incorporated cemetery association may, by a resolution of its governing board, require that grantees of lots or parcels, or parties claiming through grantees of lots or parcels, within the cemetery either:

(1) file with the corporation a written notice of claim of their interest in their lot or parcel, supported by satisfactory evidence of the interest, within 60 days after service of a copy of the resolution; or

(2) keep the lots clear of weeds and in a condition in harmony with other adjoining lots or parcels.

A copy of the resolution must be served upon all parties in the same manner as a complaint in a civil action.

(b) Paragraph (a) may be applied in all cases where a duly an incorporated association has owned a site for a cemetery for more than 40 years and has during that period sold lots and parcels for burial purposes, and has conveyed cemetery lots or parcels them by deed of conveyance with or without restrictions contained therein and the grantee therein, or parties claiming through such the grantee, (a) (1) for more than 75 years in counties having a population over 50,000 according to the 1960 federal decennial census, and 50 years in all other counties, have not used portions parts of such the lots or parcels for the purposes of burial and during said that time have not made provision for provided care of said for the lots beyond that provided uniformly to all lots within the cemetery, and during said that time have not given to said the corporation a written notice of claim or interest in such the lots or parcels, or (b) (2) have not used portions parts of such the lots or parcels for the purposes of burial and have not kept such the lots or plots free of weeds or brush but have allowed the same lots to remain entirely unimproved for more than 20 years, and such the lots or parcels are situate in such portion of the cemetery that they adjoin or are located in the cemetery adjacent to improved parts of such the cemetery and by reason of their unimproved condition detract from the appearance of such the cemetery and interfere with its harmonious improvement and furnish a place for the propagation of growth of weeds and brush; such corporation may, by resolution of its governing board, demand of such owners or holders (a) that they file with the corporation a written notice of claim or interest in and to said lots or parcels supported by satisfactory evidence thereof within 60 days after the service of a copy of such resolution of demand; or (b) that they keep the premises clear of weeds and in a condition in harmony with other plots adjoining; and serve a copy of such resolution upon such party or parties in the same manner as a complaint in a civil action.

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Subd. 2. **LOTS CONVEYED BEFORE 1925.** ~~Where such~~ If an incorporated cemetery association has sold lots and parcels for burial purposes prior to before 1925, with or without restriction which, that have not been used for burial purposes; and the owners have not maintained the lots nor or paid the fees required by the association of lot owners for care and upkeep for a period of at least 15 years, the association may by resolution of its governing body demand that the owners or holders of any such the lots described therein pay to the association the fees owed for care and upkeep in the period during which such the fees were not paid; stating. The resolution must state the amount thereof as to of fees due for each lot, without interest, and declare that if that amount is not paid to the association by the persons claiming to be owners within 90 days that the described lots and all interest therein shall be deemed in them will be considered abandoned to the association. Such The resolution shall must name all of the persons shown by the records of the association to have a claim of ownership to the lots described and shall must be served in the manner required for service of a resolution in by subdivision 1 of this section.

### 306.22 ACTION TO QUIET TITLE.

If, for 30 days after the first day of May 1 following such service or publication, the party or parties fail to conform with the demands of such the resolution authorized by section 306.21, the rights of such the party or parties may be deemed considered abandoned, and ~~thereupon the corporation, upon permission from its governing board, may, with the approval of its governing board, bring an action in the district court of the county against all parties so in default, uniting as many parties so in default as it may desire in one action, to have the their rights of these parties in such the lots or parcels terminated and the property restored to the corporation free of any right, title, or interest of all such defaulting the parties, their heirs or assigns. Such The action in all other respects shall must be brought and determined in the same manner as ordinary actions to determine title to real estate; provided, that. However, that portion of any tract or part of a tract in which a body lies buried shall must not be included in any of these proceedings and there shall be left. Sufficient ground must be left adjoining such the grave or burial place as will to provide a proper mode of approach. The excepted portions, if any, to must be particularly and fully described.~~

### 306.23 ABANDONMENT; PRIMA FACIE EVIDENCE OF ABANDONMENT.

In all such cases brought under section 306.22, the following facts are prima facie evidence that the grantee or holder has abandoned the lot:

(1) the fact that such the grantee or holder has not used portions of the lots or parcels for burial purposes

(a) for more than 75 years in counties having a population over 50,000 according to the 1960 federal decennial census, and 50 years in all other counties, has not used portions of such lots or parcels for the purposes of burial and

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during ~~said~~ that time has not made any provision for the care of ~~said~~ the lots beyond that provided uniformly to all lots within the cemetery, and during ~~said~~ that time has not given to ~~said~~ the corporation a written notice of claim or interest in ~~such~~ the lots or parcels; or

(b) (2) the fact that the party has ~~not~~, for a term of 20 years or more, not used ~~such~~ the plot or definite parts ~~thereof~~ of it and has failed to keep the ~~same~~ lot or parts of it clear of weeds or brush;

shall be prima facie evidence that such party has abandoned the same.

#### 306.24 ~~COPY FILING OF JUDGMENT; FILING.~~

A certified copy of the judgment in ~~such~~ an action quieting to quiet title under section 306.22 may be filed in the office of the county recorder in ~~and for~~ the county in which the parcel is ~~situate~~ located.

#### 306.241 DEPOSIT OF NET PROCEEDS FROM LOT RESALES.

All of The proceeds from the subsequent resale of ~~any~~ lots or parcels the title to which has ~~been~~ revested in the corporation ~~pursuant to~~ under sections 306.21 to 306.24, or 306.242, less the costs and expenses incurred in ~~such~~ proceedings approved by the district court, ~~shall~~ become a part of the permanent care and improvement fund of the corporation.

#### 306.242 TITLE TO ~~BURIAL~~ LOTS REGAINED BY ASSOCIATION AFTER 60 YEARS.

Subdivision 1. **SCOPE.** As an alternative to the procedure in sections 306.21 to 306.241, a cemetery association incorporated in Minnesota may use the procedures in this section to ~~reinvest~~ revest itself with the title to ~~a portion~~ part of a cemetery ~~which that~~ which that was conveyed by deed to a person but ~~which that~~ has not been used for the purposes of burial for more than 60 years.

Subd. 2. **REQUIRED STATEMENT OF OWNER'S INTEREST.** The governing board of a cemetery association may pass a resolution demanding that the owner of ~~a portion~~ part of a cemetery ~~which that~~ which that has been unused for more than 60 years express an interest in the cemetery plot. The board ~~must then~~ shall personally serve a copy of its resolution on the owner in the same manner as personal service of process in a civil action. The resolution must notify the owner that the owner ~~must~~ shall, within 60 days of service of the resolution on the owner, express an interest in retaining the cemetery plot and submit satisfactory evidence of an intention to use the plot for a future burial.

Subd. 3. **PUBLISHED NOTICE; SUBSTITUTE SERVICE BY PUBLICATION.** If the owner cannot be personally served with the resolution of the board, as required in subdivision 2, because the owner cannot be found in this state or for another valid reason, the board ~~must~~ shall publish its resolution for three successive weeks in a legal newspaper published in the county and ~~must~~ mail a copy of the resolution within 14 days after the third publication to the owner's last known address.

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Subd. 4. **REINVESTMENT.** If for 60 days after the personal service or publication of the board's resolution the owner or person with a legal interest in the cemetery plot fails to state a valid interest in the use of the cemetery plot for burial purposes, the owner's rights are terminated and that ~~portion~~ part of the cemetery ~~once~~ again belongs to the cemetery association.

306.243 MAINTAINING ABANDONED CEMETERIES, ~~MAINTENANCE OF.~~

Subdivision 1. **APPROPRIATION FOR IMPROVEMENT.** ~~Whenever~~ A county board may appropriate the general revenue funds it determines necessary for the improvement and maintenance of the cemetery if there is in any the county, whether or not within the corporate limits of any a town or statutory city or not, there exists either of the following:

(1) ~~any~~ a cemetery that has been abandoned or neglected and the association having had charge of ~~said~~ the cemetery has disbanded or fails to act; ~~or there exists; or~~

(2) ~~a~~ an ~~abandoned or neglected~~ private cemetery containing the remains of pioneers or residents of this state, deceased before the year 1875 or civil war veterans or veterans of the armed services of the United States of any previous war; and such private cemeteries have been abandoned or neglected for any reason; ~~the county board of any county may appropriate such funds from the general revenue funds as is deemed necessary for the improvement and maintenance of said cemetery.~~

Subd. 2. **DUTIES OF COUNTY BOARD.** ~~Whenever in any county, If there is an isolated grave or graves located outside of the boundaries of a cemetery; or outside of an abandoned or neglected private cemetery, as described in subdivision 1, the county board of the county where the grave is located may order the disinterment of the body and the reinterment thereof of the body in some cemetery controlled by a duly an organized cemetery association and. The county board may appropriate funds for the purpose of paying perpetual care to said that association for the care of said the grave or graves.~~

Subd. 3. **DELEGATION OF DUTIES.** The management and supervision of the maintenance and care of the abandoned cemeteries, and abandoned or neglected private cemeteries, or the removal of bodies as ~~herein~~ provided ~~shall in this section must~~ be delegated by the county board to the county highway department or to some existing cemetery association, veterans organization or Boy Scouts of America Area Council, or other charitable institution ~~which shall be. That organization is~~ responsible to the county board for its acts.

Subd. 4. **DISBURSEMENT OF FUNDS.** ~~Whenever If funds for the care and maintenance of an abandoned or neglected private cemetery described in subdivision 1 are raised by any an organization or institution other than an existing cemetery association, to be used for the care and maintenance of an abandoned or neglected private cemetery described in subdivision 1, such the~~

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funds may be paid to the county treasurer to be held or disbursed ~~upon authority of by~~ the county board for the purposes ~~intended~~ for which the funds are raised.

### 306.245 NEGLECTED CEMETERIES; DUTIES OF TOWN BOARD.

The town board of supervisors ~~shall have authority to~~ may maintain in a proper ~~and decent~~ manner, and keep free of weeds, ~~any a~~ cemetery ~~which that~~ has been neglected for a ~~period of at least~~ ten years ~~or more~~.

### 306.246 CEMETERY MAINTENANCE FUNDS.

A county, city, or town may disburse funds for the general maintenance of abandoned or neglected cemeteries.

### 306.25 CANCELLATION AND TERMINATION OF CONTRACTS FOR PURCHASE OF LOTS BY CERTAIN ASSOCIATIONS; REFUNDS.

When ~~any a~~ cemetery association organized under the laws of this state, ~~shall enter into a contract law agrees~~ to convey to ~~any a~~ person ~~or persons~~ the right of ~~seppulture or~~ burial upon any platted lot or designated piece of ground, or ~~any in an~~ entombment or inurnment space in ~~any a~~ mausoleum within the area of such cemetery, by which contract the association ~~has reserved reserves~~ the right to terminate the ~~same contract~~ in case of default by the purchaser, and to forfeit the payments made; as liquidated damages, it may do so by serving upon the purchaser, a personal representative, or assigns, ~~a the~~ notice as provided in section 559.21; ~~specifying. The notice must specify~~ the conditions ~~in which default has been made defaulted upon,~~ and ~~stating state~~ that ~~such the~~ contract will terminate 30 days after the service of ~~such the~~ notice, unless ~~prior thereto, before the expiration of that time~~ the purchaser ~~shall comply~~ complies with ~~such the~~ conditions and ~~pay pays~~ the costs of service. ~~When If~~ the contract ~~so specifies allows it,~~ the notice may be served upon the purchaser, by certified mail, ~~with~~ return receipt requested, by depositing the ~~same notice~~ in the post office, with the postage prepaid ~~thereon,~~ and addressed to the purchaser at the address given in the contract; or as later changed by written notice to the association. ~~In case If~~ the notice of default is served by mail, the 30-day period ~~hereinbefore specified shall commence provided in this section begins~~ to run as ~~of on~~ the date of depositing the ~~same the~~ notice ~~is deposited~~ in the post office.

If ~~any interment or a~~ burial has been made on ~~such the~~ platted lot or designated piece of ground, or in ~~any an~~ entombment or inurnment space in ~~said a~~ mausoleum ~~so sold said contracts to convey under the previously mentioned contract,~~ the contract may be terminated only as to the ~~portion part~~ of the premises or entombment or inurnment space not actually occupied by ~~said interment or the~~ burial or by an entombment or inurnment.

Laws 1943, chapter 216, ~~shall does~~ not apply to ~~any~~ contracts existing prior to the ~~its~~ passage thereof.

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**306.26 EXISTING CONTRACTS.**

~~All contracts heretofore~~ A contract entered into by ~~a cemetery associations~~ association before April 14, 1927, for the sale of lots or tracts for burial purposes; ~~and which contain provisions that contains a provision~~ for the termination thereof of the contract may be terminated as ~~herein~~ provided in section 306.25.

**306.27 LIMITATION.**

Nothing in sections 306.25 and 306.26 shall be construed as repealing, expressly or by implication, any of the provisions of sections 306.16 to 306.20 or sections 306.21 to 306.24.

**306.28 PROPERTY SALES BY PUBLIC CEMETERY ASSOCIATIONS MAY SELL PROPERTY IN CERTAIN CASES.**

~~Any A~~ A public cemetery association which owns ~~lands~~ land that ~~now are or hereafter is or~~ may be no longer used for the burial of the dead ~~is hereby authorized and empowered to do any or all of the following may exercise any or all of the following powers:~~

(1) To institute and prosecute to final judgment an action to determine adverse claims to ~~such lands~~ the land in accordance with the ~~provisions of law~~ laws relating to actions to determine adverse claims;

(2) To sell and convey ~~such lands~~ the land; or

(3) To transfer and assign any funds or other property it may possess to ~~such other another~~ another public cemetery association ~~as may at the time be serving the same community in the burial of the dead.~~

None of these powers shall be exercised as long as any dead remain buried in ~~such~~ the cemetery.

**306.29 DISPOSAL OF LOTS BY OWNERS.**

~~Any An~~ An owner of a cemetery lot may dispose of the ~~same lot~~ lot by will to a relative who may be a survivor, or to ~~such the~~ the cemetery association or private cemetery, as the case may be, in trust, for the use and benefit of any person or persons designated in the will; ~~but, However,~~ However, no ~~such lot shall may~~ lot be affected by ~~any a~~ a testamentary devise unless the ~~same be lot is~~ lot is specifically mentioned in the will, and ~~by such devise limited by it~~ it to one particular person. ~~Any An~~ An owner of a cemetery lot may, while living, convey the lot to the cemetery association or the private cemetery in trust for the use and benefit of ~~any a~~ a person named in the trust conveyance. The conveyance may contain ~~such~~ such conditions, provisions, and covenants as the parties ~~may therein~~ may agree upon. No interment shall be made in any ~~such~~ lot, except by written consent of the cemetery association; or private cemetery, as the case may be, of ~~the body of any a~~ a person who was not, at the time of death, the owner ~~thereof, of the lot~~ of the lot or a relative of the owner by blood or marriage. Every conveyance or alienation or

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attempt at conveyance or alienation of any right, title, or interest in or to ~~such~~ the lot, contrary to the ~~foregoing~~ conditions and reservations; ~~shall be of this section~~ is void. Every ~~such~~ cemetery association, or private cemetery, as the case may be, shall keep a record of all deeds, conveyances, judgments, decrees, or other documents affecting the title to lots in ~~such the~~ cemetery; ~~copies of which, certified by some person, officer, or official thereunto duly authorized,~~ Certified copies of any of these documents shall be received in evidence by the courts. ~~Such The~~ cemetery association, or private cemetery, may, instead of deeding the fee title to this lot, grant only the exclusive right of interment ~~or sepulture~~ in the lot.

### 306.31 CEMETERY ASSOCIATIONS MAY ESTABLISH PERMANENT FUND.

~~Any A~~ cemetery association formed under the ~~provisions of law and having that has at least three members of~~ a board of trustees or directors; ~~not less than three in number, which shall have established and shall be maintaining that has established and maintains~~ a cemetery of ~~not less than at least~~ one-half acre in area, may, by a two-thirds vote of ~~such its~~ trustees or directors ~~of the association, which vote may be taken at any a regular meeting of the board, provide for the establishment of establish~~ a permanent fund; ~~the income whereof shall be devoted to for the care, maintenance, and improvement of such the cemetery, which shall. The fund must be known as the permanent care and improvement fund of such the cemetery association.~~

### 306.32 TRUSTEES OF FUND.

The trustees shall ~~thereupon~~ choose by ballot and appoint by deed of the association a board of ~~not less than at least three, nor and not more than five,~~ trustees of ~~such the~~ fund. They shall be resident freeholders of this state during all the time they exercise the powers of ~~such the~~ trust. ~~Upon failure of If~~ any of those appointed ~~fails~~ to qualify within 30 days after appointment, the one or more who ~~shall~~ have qualified shall appoint by deed other persons to be trustees in their places. ~~On failure of If any person so of those appointed fails to qualify within 30 days, another shall be appointed in like the same manner; but,~~ Every appointment to fill a vacancy ~~shall must~~ be by unanimous vote of those acting ~~; provided, that. However,~~ instead of appointing ~~such a~~ board, the trustees of the association may designate any trust company of the state to act as ~~such the~~ trustee during their pleasure ~~a time determined by the board~~. All instruments of appointment of ~~such~~ trustees ~~shall must~~ be recorded with the secretary.

### 306.33 TRUSTEES; POWERS; TERM; ACCOUNTING.

Upon the appointment and qualification of the trustees of ~~such the~~ fund, or upon the designation of a trust company to act as ~~such~~ trustee, the title to the funds included in the trust, and all the rights, powers, authorities, franchises, and trusts thereto appertaining shall at once vest pertaining to those funds vest in the board, or in the part thereof of the board qualifying within 30 days, or in the corporation ~~so designated trust company~~. The term of office of the trustees of ~~such the~~ fund shall be is for life. When a trust company has been appointed,

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a board of trustees of the fund; or another ~~like~~ similar trust corporation; may be appointed in its place; ~~and~~. On notice of ~~such~~ appointment of the board or another corporation, the first corporation ~~so acting as trustee~~ shall ~~render to give~~ its successor an account of its trusteeship and deliver to it all money, papers, and property in its possession or control belonging or ~~appertaining~~ pertaining to ~~such the~~ fund.

#### 306.34 BONDS.

Before entering upon duties, each person chosen as a trustee of ~~such the~~ fund shall give a bond to the association ~~in a sum not less than \$500 and at least equal to one-third the amount of the fund at that time, or \$500, whichever is more,~~ conditioned for upon the faithful discharge of the trust. ~~Upon~~ On July ~~first, in 1~~ of each even-numbered year, every trustee shall give a new bond, in ~~that~~ amount and with those conditions ~~as aforesaid~~. Every ~~such~~ bond shall must be approved by a judge of the judicial district in which ~~such the~~ cemetery or some part thereof of it is situate located, and filed with the treasurer of the association. ~~Failure by any A trustee who fails to renew a bond within 30 days after the time herein specified shall be a sufficient ground for removal provided in this section may be removed on application of any person an interest-ed person.~~

#### 306.35 ~~SURVIVING TRUSTEES; VACANCIES~~ VACANCY IN BOARD OF TRUSTEES.

In case of the death, resignation, disability, or removal of one or more of the trustees of ~~such the~~ fund, the trust ~~shall~~ at once ~~vest~~ vests in the remaining trustees, who shall ~~forthwith~~ promptly fill the vacancies by appointment. ~~Every A newly appointed trustee, upon qualification, shall succeed succeeds to an equal share in all the rights and duties of such the board.~~

#### 306.36 NEW BOARD; ORGANIZATION.

In case of the death, removal, resignation, or disability of all the members of ~~such the~~ board, the trust, until the organization of a new board, ~~shall vest vests~~ in the district court of the county in which ~~such the~~ cemetery is situate located. The board may be reconstituted by ~~such the~~ court; upon application of any person interested and ~~such on~~ notice as ~~it the court~~ may direct. ~~The trustees so appointed, Upon qualifying, shall become vested with all the appointed trustees have the rights and powers of the original board. Every A vacancy in the board continuing for one year may be filled by such the court.~~

#### 306.37 CARE AND IMPROVEMENT FUND.

Twenty percent of the proceeds of all sales of cemetery lots and ten percent of the proceeds of all sales of burial space in a mausoleum made after the vote of the board of trustees of the association to establish ~~said the~~ care and improvement fund shall must be paid ~~over to such trustee or the~~ trustees of the fund, on January 1, April 1, July 1, and October 1, in each year. ~~Until so paid over, the~~

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~~foregoing these amounts shall must~~ be held in trust by the cemetery association for payment ~~thereof to the trustee or trustees of such the~~ fund. Any other income or funds of the association, in excess of its liabilities, may be added to ~~such the~~ fund by a two-thirds vote of the members of its board of trustees. The principal of ~~such the~~ fund ~~shall not be~~ is not subject to any minimum or maximum amount. The words "cemetery lots" as used in this section ~~shall not be construed to do not~~ include burial space in a mausoleum. The term "burial space" as used ~~herein shall include in this section includes~~ private rooms, crypts, niches, or other designated space in which the bodies or ashes of deceased persons are placed for permanent burial in a mausoleum.

### 306.38 ~~EXPENDITURE~~ EXPENDITURES AND INVESTMENTS.

Subdivision 1. **INVESTMENT AND INCOME.** Except as ~~otherwise~~ provided in subdivision 2, the principal of ~~such the~~ care and improvement fund shall remain intact and ~~inviolate~~, and may be invested in the ~~same~~ securities in which savings banks are by law permitted to invest, and not otherwise. The ~~fund~~ trustees thereof, on January 1 and July 1, in each year, shall turn over to the association all income arising from ~~such the~~ fund; ~~which shall~~. The income must be used solely for the care, maintenance, and improvement of the cemetery and the avenues leading thereto; ~~but in case any portion of such~~. If a part of the income remains unexpended and unappropriated for one year after being ~~so paid over to the association~~, it ~~shall~~ must be returned to the trustees of the fund and become a part of the principal.

Subd. 2. **INVESTMENTS BY CERTAIN ASSOCIATIONS.** ~~Every (a) A~~ cemetery association governed by the ~~provisions of~~ sections 306.31 to 306.40, ~~heretofore or hereafter~~ organized under the laws of this state law, including a private cemetery ~~associations; which shall maintain association that maintains~~ a public cemetery of ~~not less than at least~~ 20 acres ~~in extent~~ in or adjacent to any city of the first class of this state and ~~which that~~ has provided for a permanent care and improvement fund administered, whether in one trust or more than one trust, by one or more trust companies acting as trustee or trustees of ~~such fund; pursuant to the provisions of the fund under~~ section 306.32, when the aggregate principal of ~~such the~~ fund reaches \$100,000 or more; may act as provided in paragraph (b).

(b) The cemetery association may, by a resolution adopted by a vote of at least two-thirds of the members of its board of trustees at ~~any an~~ authorized meeting of its board, authorize the trust company or trust companies acting as ~~such~~ trustee or trustees, in investing, reinvesting, exchanging, and managing ~~such the~~ fund, to acquire every kind of investment, ~~specifically~~ including, but not by way of limitation, bonds, debentures, and other corporate obligations, and corporate stocks, ~~which any that an~~ ordinarily prudent person of discretion and intelligence, who is a trustee of the property of others, would acquire as ~~such a~~ trustee.

### 306.39 COMPENSATION.

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~~Every~~ A trustee of ~~such funds~~ a care and improvement fund shall receive \$5 for each day actually employed in the duties of ~~such the~~ the trust, but not exceeding \$100 in any one year. ~~Such~~ The fees shall be paid out of the general funds of the association until ~~such the~~ the trust fund reaches \$100,000, or \$2,000 for each acre of the cemetery. ~~Thereafter the same~~ After that time the fee shall be paid out of the income fund. A corporation acting as trustee may receive for its services ~~as such~~ any yearly compensation agreed upon, not exceeding five percent of the income or \$100 of ~~said the~~ the income if the trust fund is less than \$20,000.

#### 306.40 ~~SECRETARY; SECRETARY'S ANNUAL REPORT.~~

When ~~such a~~ a care and improvement fund is in the care of a board of trustees, the secretary of the association shall ~~act as be~~ its secretary and keep a full record of its proceedings. The board, on November ~~first,~~ 1 each year, shall make a full report of the condition of the fund to the trustees of the association; ~~which.~~ The report shall must be open to the inspection of all lot owners.

#### 306.41 ~~ESTABLISHMENT OF PERMANENT CARE AND IMPROVEMENT FUND; ESTABLISHMENT; PROCEDURE; WHERE DEPOSITED OR INVESTED.~~

(a) The board of supervisors of any town; or the governing body of any incorporated city or statutory city; or the board of trustees; or the directors; not less than three in number; of any religious incorporation or of any association formed under the provisions of law for the purpose of maintaining a cemetery in the state of Minnesota; ~~which shall have established and shall be maintaining a cemetery of not less than one-half an acre in area; a plat of which is on file in the office of the county recorder of the county in which such cemetery is located;~~ entities provided in paragraph (b) may by a unanimous vote of ~~such supervisors; members of governing body; trustees; or directors; which vote may be taken at any regular meeting of such board or governing body; or at a special meeting called for the that purpose, may provide; in accordance with the provisions of sections 306.41 to 306.54 for the establishment of a permanent fund to be deposited or invested as provided in section 306.44;~~ The income whereof shall of the fund must be devoted to the care, maintenance, and improvement of ~~such the~~ the cemetery; ~~which shall.~~ The fund must be known as the permanent care and improvement fund of the cemetery of ~~such the~~ the municipality or incorporation. ~~It is herein provided that The establishment of any such a permanent care and improvement fund shall not be deemed invalid as violating considered to violate any existing law against perpetuities or suspending suspend the power of alienation; provided; that such.~~ The fund shall never, in any case, authorized by this section must not be allowed to exceed \$25,000 per acre of the cemetery to be cared for.

(b) Any of the following entities may provide for the establishment of a fund if it has established and is maintaining a cemetery of at least one-half acre, a plat of which is on file in the office of the county recorder of the county in which the cemetery is located:

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(1) the board of supervisors of a town;

(2) the governing body of a city or statutory city; or

(3) the board of trustees, or the directors, not less than three in number, of a religious corporation or of an association formed under state law to maintain a cemetery in this state.

#### 306.42 **POWERS OF BOARD OF DIRECTORS; USE OF INTEREST.**

The board of directors of any such a cemetery is hereby given the power and authority to require and referred to in section 306.41 may provide that any certain part or portion of the price paid for a lot in such the cemetery shall be taken and must be deposited as a part of the permanent care and improvement fund, and that the interest accruing from the amount set aside from the lot shall be expended used by the board of directors of such the cemetery in caring to care for and beautifying such beautify the lot, except as provided in sections 306.41 to 306.54.

#### 306.43 **USE OF GIFTS TO FUND; USE OF FUND.**

The board of directors is hereby authorized and empowered to receive; referred to in section 306.41 may accept; and deposit any donation or gift of money made to such the fund so created and to may provide and require that the interest therefrom shall on the money be used in the care, maintenance, and beautifying of such lot or lots in such cemetery; or in the care and beautifying of such the cemetery, or for the care and beautifying of any particular lot or lots in such cemetery; or any particular lot and shall use the same money and the interest therefrom on it for the purpose specified by the donor; provided, that, If funds are lacking for the general care of such the cemetery, in the discretion of the board of directors a one-fifth part of the income, received annually from that portion the part of the permanent fund credited to any particular lot or lots, by sale or gift, may be used by the board for the general care of the cemetery.

#### 306.44 **DEPOSIT OR INVESTMENT AND USE OF FUNDS.**

Subdivision 1. **INVESTMENT.** From and after the vote to establish such permanent care and improvement fund the (a) A cemetery board of directors of any such cemetery voting to establish a fund under section 306.41 shall; quarterly, on the first days of January 1, April 1, July 1, and October, in 1 of each year, deposit or invest all money belonging to such permanent the fund as follows provided in this section.

(+) (b) The money may be deposited in the county treasury of the county in which such the cemetery is located and the treasurer of any such that county is hereby authorized, empowered, and directed to receive the same and all such and shall deposit it as hereinafter provided in this section.

(2) (c) The money may be invested in the same securities in which savings banks are by law permitted to invest. Any of the income unexpended and

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unappropriated for one year after becoming available for care, maintenance, or improvement ~~shall~~ must be returned to the fund and become a part of the principal.

(3) (d) The money may be deposited or invested as provided in ~~both (1) paragraphs (b) and (2); above;~~ (c) and may be withdrawn from either and deposited in the other, and the county treasurer is ~~directed to~~ shall return to the board any ~~moneys~~ money deposited in the county treasury which the board, by resolution, withdraws.

(e) When money is deposited in the county treasury, the board of directors shall also file with the county auditor ~~of the county~~ for record and future reference, at the time of the deposit ~~of these funds~~, a statement of each particular amount so set aside from the sale of a lot or the amount received by a gift or donation of money, ~~together~~ with the name of the owner of ~~such the~~ lot and the name of the donor of each particular gift and a description of the lot to which the income from ~~such the~~ particular amount as a part of ~~such the~~ permanent fund is applicable.

(f) If the board of directors invests permanent care and improvement funds in the securities in which savings banks are by law permitted to invest, the board shall designate certain of its members to handle ~~such those~~ funds. The designated persons ~~so designated~~ shall give bond to the association, corporation, or municipality maintaining the cemetery in ~~a sum not less than an amount at least equal to~~ the total amount of the fund at the time of posting ~~such the~~ bond, conditioned ~~for upon~~ the faithful discharge of the trust. On July 1 of each even-numbered year ~~thereafter~~ after making the original bond, the person shall give a new bond in the amount and with the conditions provided above.

Subd. 2. USE. The directors ~~are authorized to~~ may retain annually out of the money received not ~~to exceed~~ more than \$100 for upkeep, improvements, and expenses.

#### 306.45 COUNTY CEMETERY FUND; MANAGEMENT, INVESTMENT, INTEREST.

The aggregate All funds ~~so deposited in accordance with section 306.44~~ in the treasury of any county ~~in the state~~ by the boards of directors of all the cemeteries in ~~such the~~ county, ~~acting under the provisions of sections 306.41 to 306.54;~~ shall constitute the county cemetery permanent care and improvement fund, called county cemetery fund. The funds money in the fund shall be managed and invested by the board of county ~~auditors~~ commissioners of ~~such the~~ county. ~~The funds; and all thereof;~~ As soon as the money in the fund is received by the county treasurer, ~~shall it must~~ be deposited in a bank ~~or banks~~ designated as a depository of county funds by the board of ~~auditors~~ county commissioners of ~~such the~~ county. The interest due on the fund ~~shall become~~ becomes due and payable, as far as possible, on or about ~~the first day of~~ February, 1 of each year.

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**306.46 DEPOSIT OF AND INTEREST ON COUNTY FUND.**

For the purpose of ~~such~~ the deposit required by section 306.45 and except as otherwise provided, the fund ~~so created shall~~ must be treated as other funds in the county treasury; ~~except as otherwise provided~~, and shall draw ~~no less a~~ at least the rate of interest ~~than~~ is paid on the funds of the county deposited in the depository; ~~provided, that~~. The county board of ~~auditors of the county~~ may require all or part of the funds to be deposited on time certificates in the depository in the name of the county treasurer, payable to the treasurer or ~~the treasurer's successors in office; and~~. The county treasurer shall secure on ~~such~~ the time deposit the highest rate of interest ~~which that~~ the depository will pay ~~thereon on it~~ and not less than the current rate paid on time certificates by ~~such~~ the depository; and for ~~such principal and interest so deposited on time certificates; such~~. The county treasurer shall be is liable for the principal and interest deposited on time certificates in the same way ~~and manner~~ and to the same extent that the treasurer is liable upon the treasurer's bond for ~~moneys~~ money deposited on behalf of the county.

**306.47 DEPOSITORY FOR COUNTY FUND; BOND.**

The county cemetery fund ~~shall~~ must be deposited in a depository designated by the county board of ~~auditors~~, in the name of the county and at the highest rate of interest ~~which that~~ the depository will pay ~~thereon; and the~~ on the fund. The bond or security given to the county by ~~such the~~ depository ~~shall~~ must be taken and held ~~to be~~ as security for ~~such the~~ fund; ~~but~~. The treasurer of ~~such the~~ county shall keep an accurate and separate account ~~thereof of the fund~~ and ~~shall~~ annually draw from ~~such the~~ depository; ~~annually~~; the interest accruing on ~~such the~~ fund for the purpose of distribution to distribute as hereinafter provided.

**306.48 INVESTMENT OF ~~FUNDS~~ COUNTY CEMETERY FUND.**

The board of county auditors; pursuant to If required by a petition of at least two-thirds of the boards of directors of the cemeteries in ~~any such a~~ county requesting ~~such~~ action, the board of county commissioners shall, with the approval of the county attorney, invest all or a part of the county cemetery fund; ~~or a part thereof~~; in the same kind of bonds and securities that the permanent school fund of the state may be invested in ~~and for such purpose; and none other~~. The law as it ~~shall exist~~ exists at the time any money is received into this fund ~~shall~~ control ~~controls~~ the investment thereof and ~~such fund shall be invested only as the law provides at the time of the receipt of the money into of the fund; and no subsequent amendment or change in the law shall authorize of the law authorizes~~ the investment of any fund differently or in any other class of securities ~~save as provided in the law when the money is received into the fund~~. The county board of county auditors may require the treasurer of ~~any such the~~ county to withdraw all or any part of ~~such the~~ fund from ~~such the~~ depository for investment; ~~and~~. If the fund; ~~or any part thereof~~; be ~~so or part of it is~~ invested, the bonds or other securities ~~shall be and~~ must remain with the county treasurer.

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er ~~and~~. The bond of the county treasurer ~~shall at all times be~~ is security for the proper care ~~thereof of the bonds or other securities~~ and the payment of interest received ~~thereon on them~~ to the directors of ~~such the~~ cemeteries; ~~and upon~~. On payment of ~~any such the~~ bonds or other securities, the treasurer of ~~such the~~ county ~~upon such payment~~ shall deposit the same ~~them~~ in the depository in which county funds are deposited; ~~the treasurer of such county shall and~~ collect the interest upon the funds so loaned and pay the same ~~it~~ to the treasurers of ~~such the~~ cemeteries, as provided in sections 306.41 to 306.54.

#### 306.49 ACCOUNTS KEPT BY AUDITOR.

The auditor of any ~~such county wherein in which~~ the board of directors of a cemetery ~~or cemeteries~~ is acting under ~~the provisions of~~ sections 306.41 to 306.54 shall keep an account of the funds deposited in the county treasury; ~~as herein provided, crediting~~. The auditor shall credit to the permanent fund of each cemetery all money deposited by its board of directors and ~~preserving, record the following information~~ for historical reference and record; (1) the amount of each gift or ~~portion part~~ set aside from the sale of each lot; with; (2) the name of the donor of each gift and of the buyer of each lot; and (3) the description of each particular lot, or what part of the cemetery the income from the permanent fund is applicable for care, as provided in sections 306.41 to 306.54.

#### 306.50 ANNUAL REPORT BY SECRETARY; DEPOSIT OF EXCESS INTEREST.

On or before ~~the first day~~ of February, 1 of each year, the clerk or secretary of the board of directors of each ~~such cemetery referred to in section 306.49~~ shall ~~make and~~ file with the county auditor a report showing in detail the amount expended of the interest received from the county cemetery fund during the preceding calendar year. All excess of ~~such the~~ interest ~~over the sum not~~ necessary for the care and beautifying of the lots or cemetery, or that has not been expended, in any one year, ~~shall must~~ be deposited in the treasury of the county and be added to ~~and become a part of~~ the permanent fund credited to ~~such the~~ cemetery, no part of which shall ever be used.

#### 306.51 INTEREST ON COUNTY FUND, APPORTIONMENT.

On or before ~~the first day~~ of March 1 of each year, the county auditor shall apportion the interest from ~~such the~~ county cemetery fund that ~~shall have has~~ been collected by the county treasurer during the year, to each cemetery ~~herein~~ credited with a permanent fund in the proportion ~~as that~~ the amount of ~~such the~~ cemetery's permanent fund, ~~deposited in the county treasury, bears to the county cemetery fund; provided, that,~~ If the legal existence of ~~any a~~ religious incorporation or ~~any an~~ association formed under ~~the provisions of law for the purpose of maintaining to maintain~~ a cemetery has ~~terminated ended~~, the interest due from ~~such the~~ fund to ~~such the~~ defunct cemetery association or incorporation ~~shall must~~ be paid to the treasurer of the city or town in which ~~such the~~ cemetery is located, to be ~~expended spent~~ by ~~such the~~ municipality for the care,

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maintenance, or improvement of ~~such the~~ cemetery. Funds deposited according to the provisions of section 306.44 just before the close of ~~such the~~ year, on which no interest has been collected, ~~shall must~~ not be considered as a part of the permanent fund for that apportionment.

#### 306.52 REPORT BY AUDITOR TO SECRETARY.

Immediately after ~~such the~~ apportionment required by section 306.51 the county auditor shall report to the secretary of each ~~such the~~ cemetery the apportionment of interest due ~~such the~~ cemetery; ~~together with.~~ The auditor shall also give the secretary a statement of the total amount of funds received by the county treasurer under the terms of sections 306.41 to 306.54 during the preceding year closing on January first, 1 of each year, and also a statement of the total amount of ~~such the~~ permanent care and improvement fund belonging to ~~such that~~ cemetery.

#### 306.53 INTEREST PAID TO TREASURER OF BOARD.

On and after the first day of March, 1 of each year, if the board of each ~~such~~ cemetery ~~shall have~~ has made its report and deposited the excess of interest; as ~~provided in required by~~ section 306.50, ~~and not otherwise,~~ the county treasurer, under the warrant of the county auditor, shall pay to the treasurer of the board of directors of each cemetery acting under the provisions of sections 306.41 to 306.54 its apportioned share of the interest from ~~such the~~ cemetery fund.

#### 306.54 AUDIT OF COUNTY FUND; ~~COUNTIES EXCEPTED.~~

The first time in each year that the county board of ~~any such a~~ county ~~shall examine and audit governed by sections 306.41 to 306.54 examines and audits~~ the accounts, books, and vouchers of the treasurer of the county, it shall ~~make an examination of~~ examine the county cemetery fund of the county. A statement of the condition of this fund ~~shall must~~ be published in the official newspaper of the county; at the expense of the cemetery fund; ~~which shall.~~ The statement must show the total of all moneys money received under the provisions of sections 306.41 to 306.54 during the preceding calendar year and, a statement of the total amount then in ~~such the~~ county cemetery fund on the first day of ~~such the~~ calendar year, and the amount and kind of securities in which ~~such the~~ fund is invested, and a statement of the amount of interest collected on the fund during that year; provided, that, Sections 306.41 to 306.54 ~~shall do~~ not apply to ~~any a~~ county in this state ~~having that has~~ a population of 50,000 or more according to the last United States census.

#### 306.55 ASSESSMENTS LEVIED ~~ON LOTS FOR~~ LOT CARE THEREOF; ENFORCEMENT.

When ~~any~~ assessments are ~~duly~~ levied by ~~any a~~ cemetery association authorized to levy the ~~same~~ assessments by its articles of incorporation, bylaws, or otherwise for the care, upkeep, and maintenance of any lot or lots in ~~such the~~ cemetery and remain unpaid for a period of five years, ~~then~~ the unused portion

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of ~~such~~ the lot or lots ~~shall thereupon revert~~ reverts to and ~~become~~ becomes the absolute property of the cemetery association in which the lot or lots are ~~situat-~~ed; ~~provided, that such~~ located. The reversion shall become becomes effective only upon entry of judgment in the district court of the county in which the cemetery is ~~situat~~ located, in proceedings instituted ~~therefor upon for that purpose after~~ petition by the association to the court and after a hearing thereon on the petition, upon ~~such~~ notice to interested parties as ~~may~~ be prescribed by the court.

#### 306.56 FUND FOR PERPETUAL CARE OF LOTS OR GRAVES SET ASIDE BY PROBATE COURT; MAXIMUM AMOUNT.

Any court having jurisdiction of the estate of ~~any a~~ deceased person may, before its final distribution of ~~such~~ estate, may order set aside from the estate the reasonable and uniform ~~sum which has been fixed and amount~~ determined by the governing board of the cemetery ~~wherein the deceased in which the~~ person is interred, not to exceed ~~the sum of~~ \$100, for the perpetual care of the lot or grave of the deceased; ~~and. The court may direct payment thereof of the amount~~ to the treasurer of the permanent care and improvement fund of the cemetery association or other governing board having control of the cemetery ~~wherein where~~ the lot is situated located.

#### 306.57 APPLICATION.

Section 306.56 ~~shall~~ does not apply to ~~any a~~ cemetery association or other governing board in ~~any a~~ city of the first class, nor to such an association or board ~~having that has included~~ the cost of perpetual maintenance of graves ~~included in the established price of its cemetery lots; nor shall it. The section also does not apply where when~~ payment for the perpetual care of the lot or grave has been made to the cemetery association, nor ~~where such if the~~ deceased person has ~~made provision for such provided for~~ care either while living or by last will and testament; ~~but that has been~~ admitted to probate.

#### 306.58 REORGANIZATION OF CERTAIN ASSOCIATIONS.

~~Any cemetery association not having a capital stock; heretofore or hereafter organized under any law in this state; which has acquired a burial site and sold lots therein; and the managing officers of which are all deceased or moved from the county in which the burial site is situated; or have for three years or more failed to act as such officers; may reorganize in the manner prescribed in section 306.59.~~

A cemetery association organized before or after March 1, 1986, that does not have a capital stock may reorganize in the manner prescribed in section 306.59 if the association has acquired a burial site and sold lots in it and if the managing officers of the association are all deceased, have moved from the county where the burial site is located, or have failed to act as association officers for at least three years.

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**306.59 NOTICE FOR MEETING OF LOT OWNERS; NOTICE.**

Any three lot owners in ~~such~~ the cemetery may issue a notice, signed by them; that a meeting will be held at a time and place ~~to be fixed by them, and~~ designated in the notice, in the town or statutory city nearest the cemetery site, for the purpose of reorganizing the association. ~~Such~~ The notice ~~shall~~ must be published at least twice in a legal newspaper published in the city in which the meeting is held; ~~and~~. The time of the meeting ~~shall~~ must not be less than ten days after the second publication thereof.

**306.60 MEETING; ~~HOW CONDUCTED~~; AND ELECTION OF OFFICERS.**

The meeting must be held at the time and place mentioned in the notice ~~the meeting so called shall be held~~. Any owner of one or more lots in the cemetery may be present; in person or by proxy; and ~~shall be~~ is entitled to one vote at that and all subsequent meetings of the association. The meeting may be called to order by any lot owner and shall be organized by choosing in the usual manner a chair and a secretary. The meeting ~~shall thereupon~~ must then proceed to elect a president, secretary, treasurer, and three trustees. The officers ~~so elected~~ shall hold their offices until the next succeeding annual meeting of the association and until their successors are elected and have qualified. The voting at ~~such~~ the meeting shall be by ~~viva voce~~ voice vote, unless otherwise ordered by those present at the meeting. A majority shall elect.

**306.61 CERTIFICATE; RECORD; EFFECT.**

Within five days after the meeting is held, the chair and the secretary of the meeting shall; ~~within five days after the meeting is held~~; prepare a certificate; ~~which shall set forth that recites~~ the existence of the facts mentioned in section 306.58. It shall further must also state that the meeting was held, giving the names of the chair and the secretary and the names of the lot owners present and voting; ~~but~~. If more than ten are ~~so~~ present and voting, the names of ten ~~thereof shall be~~ are sufficient, but in ~~such~~ that case the number of lot owners present and voting ~~shall~~ must be stated. The certificate ~~shall~~ must also give the names of the persons elected as ~~such~~ trustees and other officers at ~~such~~ the meeting and ~~shall~~ must be recorded at length in the office of the county recorder ~~in and for the county in which such the cemetery is located; and~~. The certificate or the record ~~thereof shall be of the certificate is~~ prima facie evidence of all the facts stated ~~therein and in it that are~~ required to be ~~so~~ stated.

**306.62 POWERS AND DUTIES OF OFFICERS.**

The As soon as the certificate is recorded under section 306.61, the officers ~~so elected at such the meeting shall; as soon as the certificate is recorded; as provided in section 306.61; have power to under section 306.60 may~~ convey and execute deeds for lots in the cemetery for cemetery purposes, and ~~shall~~ have the same powers and duties and ~~be~~ are subject to the same rights and liabilities as ~~they would be had if they had~~ been elected in the manner originally provided by

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the law under which the association was organized or pursuant to ~~the its~~ articles or bylaws ~~thereof, and thereafter~~. After the election provided for in section 306.60 all meetings ~~shall~~ must be held and all affairs of the association ~~shall be~~ conducted in the manner provided by law and under the original articles of incorporation of the association.

#### 306.63 SALE OF CERTAIN REAL ESTATE.

Any cemetery corporation ~~which has been heretofore~~ incorporated under ~~the laws of this state~~ law before April 19, 1911, may sell and convey, for other than burial or cemetery purposes, any real estate lawfully acquired by it; ~~which that~~ is not suitable ~~or fit~~ for cemetery purposes; and ~~which that~~ has not been platted for ~~such~~ those purposes.

#### 306.64 REAL ESTATE, WHEN SOLD.

Any public cemetery corporation ~~which has been heretofore or may hereafter be~~ incorporated under ~~the laws of this state; and law before or after April 23, 1913,~~ that has acquired more than 100 acres of land; may sell and convey, for other than burial or cemetery purposes, any real estate in excess of ~~such that~~ 100 acres. ~~Any such~~ The sale shall must not include any land in which any interments have been made. Any ~~such~~ sale ~~shall must~~ be approved by the unanimous vote of all the trustees of ~~such the~~ corporation.

#### 306.65 PLATS FILED, CITIES OF OVER 50,000.

~~In any case where~~ If a cemetery corporation organized under ~~the laws of this state is; or may be hereafter,~~ maintaining and conducting law maintains a cemetery of more than 80 acres ~~in extent;~~ in ~~any a~~ city in this state ~~having with~~ a population of more than 50,000, ~~such the~~ corporation shall file in the office of the county recorder of the county in which its cemetery is located a plat showing the area and location of ~~such the~~ cemetery.

#### 306.66 SUBDIVISION OR REARRANGEMENT OF CEMETERIES.

The cemetery corporation mentioned in section 306.65 may from time to time subdivide or rearrange its cemetery; ~~from time to time;~~ as may be necessary in the conduct of the business, but no plat of ~~such the~~ subdivision or rearrangement ~~shall may~~ interfere with the rights and privileges of the several lot owners of ~~such the~~ cemetery without their consent, ~~nor need same and the plat need not~~ be filed in the office of the county recorder. A plat of the ~~same~~ shall subdivision or rearrangement must be kept for public inspection at ~~such the~~ cemetery and ~~there shall be placed at the corners of each lot of such subdivision or rearrangement.~~ Cement or other nondestructible markers at least three inches or more in diameter and at least eight inches or more in length, with one of such the markers showing the number of the lot, must be placed at the corners of each lot of the subdivision or rearrangement.

#### 306.67 APPLICATION.

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Sections 306.65 and 306.66 ~~shall do~~ not apply to cities with charters adopted pursuant to under the Minnesota Constitution of the state of Minnesota, article 4, section 36.

### 306.68 REORGANIZATION OF CERTAIN ASSOCIATIONS.

Subdivision 1. **AUTHORIZATION.** Any A cemetery association ~~not having a capital stock; heretofore organized under any law of this state; which law before April 25, 1913, that does not have a capital stock and that has acquired a burial site and sold lots therefrom; and from it may reorganize as provided in subdivision 2 if the management of which the association is confined to the original members of the association; either by the statutes then in force or by the certificate of organization; may reorganize in the manner prescribed in subdivision 2.~~

Subd. 2. **CALL FOR MEETING.** Any two or more of the original members of the association, or ~~in case if~~ all of the original members are deceased; then any three or more of the lot owners in the burial site, may ~~issue a call for a meeting of the association to.~~ The meeting must be held at a time and place designated in the notice; in the city nearest to the cemetery site; for the purpose of reorganizing the association. The notice ~~shall~~ must be published for two successive weeks in a legal newspaper printed in the place in which the meeting is to be held, and ~~shall~~ must give at least 30 days' notice of ~~such the~~ meeting.

Subd. 3. **ARTICLES OF REASSOCIATION.** At the time and place mentioned in the notice those present shall organize and proceed to prepare and adopt, or authorize to be prepared and adopted, articles of reassocation; ~~which articles of reassocation shall conform~~ conforming to the requirements of the general laws of this state law for the organization of public cemetery associations; and ~~shall.~~ The articles must name the first board of trustees and ~~such other officers as the meeting may determine; provided, that a determines.~~ A majority of the trustees and officers ~~shall~~ must be first named; and ~~afterwards~~ elected; from the members of the old association if there are sufficient survivors living in the county where the site is located or in adjoining counties.

Subd. 4. **POWERS AND DUTIES.** The trustees and officers ~~so named and elected shall,~~ as soon as ~~such the~~ certificate of reassocation is adopted; and recorded with the county recorder in the county where the cemetery is located, have ~~all the powers and perform all the duties and be subject to the same rights,~~ and liabilities as provided by the general laws of the state law pertaining to cemetery associations; ~~and amendments thereof.~~

### 306.69 CERTAIN CORPORATIONS MAY AMEND ARTICLES.

The board of trustees, board of administration, or other governing body of ~~any a~~ religious corporation; ~~which that~~ has established and is ~~now~~ maintaining a cemetery of more than five acres ~~in extent~~ in any county of this state ~~now or hereafter~~ having with a population of ~~not less than at least~~ 225,000 ~~nor and not~~ more than 350,000 may by resolution adopted by at least a two-thirds vote of its

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members at any authorized meeting of the board amend its certificates or articles of incorporation ~~in any or all of the following particulars~~ as follows:

(1) by providing for the management and conduct of the affairs of ~~such the~~ the cemetery by a board of associates and prescribing the number composing ~~such the~~ the board of associates, the title by which they ~~shall be~~ are designated, the time and manner of their election, by whom they ~~shall be~~ are elected, their term of office, their powers and duties, and for the division of ~~such the~~ the board into classes, if it is so desired, ~~with respect to~~ concerning the time for which they ~~shall severally the trustees~~ hold office;

(2) by specifying whether ~~such the~~ the board of associates ~~shall be~~ is elected by the owners of lots in the cemetery, either from among themselves, ~~or~~ from among the board of trustees, ~~or~~ board of administration, or other governing body of the religious corporation, ~~or~~ by the board of associates from their own number, ~~or~~ from among the lot owners in the cemetery, or from the board of trustees or other governing body of the religious corporation;

(3) by specifying the names and addresses of the first board of associates and their term of office;

(4) by providing that any vacancy in the board of associates, ~~caused by death, resignation, or otherwise,~~ may be filled by the board of associates for the unexpired term;

(5) by providing that the board of associates may elect its own officers and that the duties of the officers may be defined by the bylaws of the board;

(6) by providing that the board of associates may adopt bylaws and ~~promulgate~~ promulgate rules and regulations ~~with respect to~~ concerning the management and conduct of the cemetery;

(7) by providing that the board of associates may ~~create, provide, and~~ create, provide, and establish a permanent care and improvement fund, the income ~~whereof shall be from which is~~ devoted to the care, maintenance, and improvement of the cemetery; ~~to be known as a permanent care and improvement fund~~;

(8) by providing that the board of associates ~~shall have~~ has the ~~care, custody, and~~ care, custody, and control of the permanent care and improvement fund and all other trust funds donated for the permanent care of particular burial plots, ~~with authority in the board of associates and has authority~~ with authority to appoint trustees of ~~such the~~ the funds from among their number, or to ~~designate and~~ appoint as ~~such~~ one or more trustee one or more trust companies organized under the laws of this state; ~~or~~

(9) by any other lawful provision defining and regulating the powers or business of ~~such the~~ the board of associates, and the powers and duties of its officers, trustees, and lot owners ~~in such cemetery~~.

#### 306.70 CERTIFICATE OF AMENDED ARTICLES TO BE RECORDED.

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The board of trustees or other governing body of ~~such~~ the religious corporation shall ~~cause such~~ include the resolution ~~to be embraced~~ in a certificate ~~duly~~ executed and acknowledged by ~~its~~ the corporation's president and secretary or other presiding and recording officers under the corporate seal of the corporation; ~~which.~~ The certificate shall must be recorded in the office of the county recorder of the county in which the ~~cemetery of such association~~ association's cemetery is located and in the office of the secretary of state.

### **306.71 TO BE PRIVATE CEMETERY ASSOCIATION RIGHT AND DUTIES AFTER AMENDMENT.**

Every A religious corporation ~~which shall avail itself of the provisions of amending its certificates or articles of incorporation under~~ sections 306.69 to 306.72 and ~~provide~~ providing for the management and conduct of its cemetery; as ~~therein provided in those sections,~~ shall thereafter as to such cemetery be deemed in law is then considered to be a private cemetery association and as ~~such have all~~ having the rights, exemptions, and privileges, and ~~be subject to all~~ the duties, and liabilities; ~~that are~~ provided by law in respect of concerning private cemetery associations and, without regard to the fact that ~~such the~~ cemetery is established by a religious corporation.

### **306.72 ASSOCIATION, HOW GOVERNED.**

Every A religious corporation ~~which shall avail itself of the provisions of amending its certificates or articles of incorporation under~~ sections 306.69 to 306.72 and ~~establish~~ establishing a permanent care and improvement fund ~~shall is,~~ as to ~~such that~~ fund, be subject; ~~so far as not inconsistent therewith,~~ to the provisions of sections 306.76 to 306.85 to the extent that those sections are consistent with sections 306.69 to 306.72.

### **306.73 AMENDMENT OF ARTICLES OF INCORPORATION.**

The board of trustees of ~~any a~~ cemetery association organized under ~~the laws of this state; which law that~~ has established and is ~~now~~ maintaining a public cemetery in this state; may, by resolution ~~duly~~ adopted by at least a two-thirds vote of its members at any authorized meeting of the board, amend its certificate or articles of incorporation in any or all of the following particulars:

- (1) by providing for a board of associates, the number composing ~~such the~~ board, the time and manner of their election and by whom they ~~shall be~~ are elected, their term of office, their powers and duties and for the division of ~~such the~~ board into classes, if it is so desired, ~~with respect to concerning~~ the time for which ~~they shall severally the trustees~~ hold office;
- (2) by specifying the names and addresses of the members of the first board of associates and their term of office;
- (3) by providing that the management of the affairs of the association may

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be vested in a board of not more than nine trustees, and that ~~such the~~ trustees may be divided into classes ~~in respect to~~ concerning the time for which ~~they~~ shall severally the trustees hold office, or; ~~if it so stated~~; that only one trustee need be elected each year;

(4) by providing the time and manner of election of the trustees and specifying whether ~~such the~~ trustees ~~shall are to~~ be elected by the owners of lots in the cemetery of ~~such the~~ association, either from among themselves or from among the board of associates, ~~or~~ by the existing trustees from among lot owners or from among a board of associates, or by the board of associates from their own number or from the retiring trustees;

(5) by providing that ~~any a~~ vacancy in the board of trustees, caused by death, resignation, or otherwise, may be filled by the board of trustees for the unexpired term;

(6) by specifying the names and addresses of the first board of trustees and the time for which ~~they shall severally hold~~ each member holds office;

(7) by providing that the trustees may elect officers of the association and that the duties of ~~such the~~ officers may be defined by the bylaws;

(8) by providing that the trustees may adopt bylaws and ~~promulgate~~ rules and regulations ~~with respect to~~ concerning the cemetery of the association;

(9) by providing that the duration of the association ~~shall be is~~ perpetual or for a fixed period of time;

(10) by any other lawful provision defining and regulating the power or business of ~~such the~~ association and the powers and duties of its officers, trustees, associates, and lot owners.

#### 306.74 CERTIFICATE OF AMENDMENT.

The trustees shall ~~cause such~~ include the resolution ~~to be embraced~~ in a certificate ~~duy~~ executed and acknowledged by its president and secretary or other presiding and recording officers, under the corporate seal of the corporation; ~~which.~~ The certificate ~~shall must~~ be recorded in the office of the county recorder of the county in which the cemetery of the association is located and in the office of the secretary of state.

#### 306.75 APPLICATION.

Sections 306.73 to 306.75 ~~shall~~ also apply to the cemetery associations mentioned in section 306.73 maintaining ~~such~~ cemeteries in cities existing under a charter framed ~~pursuant~~ according to the Minnesota Constitution of the state of Minnesota, article 4, section 36; but shall. However, those sections do not apply to private cemeteries nor to cemeteries established by religious corporations.

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**306.76 PERMANENT CARE AND IMPROVEMENT FUND MAINTAINED BY CERTAIN ASSOCIATIONS.**

Every cemetery association ~~heretofore or hereafter~~ organized under the laws of this state, ~~which shall maintain law that maintains~~ a public cemetery in or adjacent to ~~any a~~ city of this state ~~having with~~ a population of more than 50,000, shall provide for the creation and establishment of a permanent fund, the income ~~whereof shall from which must~~ be devoted to the care, maintenance, and improvement of ~~such the~~ cemetery; ~~which~~. The fund shall must be known as the permanent care and improvement fund of ~~such the~~ cemetery association.

**306.761 PERMANENT CARE AND IMPROVEMENT FUNDS; MINIMUM AMOUNTS; REPORTING; PENALTIES.**

Subdivision 1. **NOTICE.** ~~Any A~~ cemetery association ~~which operates operating~~ a cemetery larger than ten acres shall establish a permanent care and improvement fund ~~and~~. All cemetery associations operating a cemetery larger than ten acres ~~and~~ having a permanent care and improvement fund shall ~~annually~~ file ~~annually~~, as part of the report required in subdivision 2, a notice with the county auditor of the county in which the cemetery is ~~situated located~~. The notice ~~shall must~~ include the names and addresses of each person or entity owning a five percent or greater interest in the cemetery, and the names and addresses of all officers if any change has taken place since the previous notice. The term "association" as used in this section ~~shall include includes~~ any person, firm, partnership, association, or corporation.

Subd. 2. **REPORT.** ~~Any A~~ cemetery association ~~which operates operating~~ a cemetery larger than ten acres and having a permanent care and improvement fund shall ~~annually~~ make a ~~full and~~ complete written ~~annual~~ report to the county auditor of the county in which the cemetery is ~~situated located~~ on the condition and state of the fund, including all deposits and withdrawals of principal amounts and all receipts and disbursements. The report ~~shall must~~ be filed on forms prescribed by the county auditor by March 31 for any cemetery association operating a cemetery larger than ten acres and operating on a calendar year basis and by 90 days after the end of the fiscal year for any cemetery association operating a cemetery larger than ten acres and operating on a fiscal year basis. ~~There shall be paid to the county auditor A filing fee of \$10 for each report must be paid to the county auditor.~~

Subd. 3. **PENALTY.** ~~Any A~~ person, firm, partnership, association, or corporation knowingly violating the ~~provisions of this section shall be is~~ guilty of a misdemeanor and for a second offense ~~shall be is~~ guilty of a gross misdemeanor.

Subd. 4. **APPLICATION.** This section ~~shall does~~ not apply to cemeteries owned and operated by a municipality, church, religious corporation, or religious association.

**306.77 FUNDS, IN CARE APPOINTMENT OF TRUST COMPANY.**

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The board of trustees of ~~any such~~ an association mentioned in section 306.76 shall, by a resolution adopted by a vote of at least two-thirds of its members, ~~designate and~~ appoint one or more trust companies organized under ~~the laws of this state law~~, or a board consisting of at least three individuals, to act as ~~trustee or~~ trustees of ~~such the~~ the permanent care and improvement fund. ~~In case If~~ more than one trust company ~~shall at any time be so designated and is~~ appointed, the board of trustees shall, from time to time, apportion all ~~moneys~~ money available for the fund between these trust companies in ~~such the~~ the proportion as ~~such that the~~ the board ~~by vote may direct or determine~~ determines. ~~This designation and The~~ appointment ~~shall must~~ be evidenced by a written instrument ~~duly~~ executed by the proper officers of the association under its corporate seal. Each trust company ~~and individual so designated and the~~ appointed individuals shall qualify as ~~such~~ trustee by filing a written acceptance of ~~such designation and the~~ appointment with the secretary of the association. All instruments of ~~designation and~~ appointment, ~~and any revocation of the same~~ appointment, and the written acceptances ~~shall must~~ be recorded at length by the secretary of the association in its corporate records. The appointment of any ~~such~~ trustee may be revoked by the board of trustees of the association at any time by a vote of two-thirds of its members. No trustee of ~~such the~~ the fund ~~shall be~~ is liable as ~~such a~~ a trustee except for neglect or willful default in the discharge of duties.

### 306.773 INVESTMENT OF FUND OF CEMETERY ASSOCIATIONS.

Subdivision 1. **AUTHORIZATION.** Every cemetery association ~~heretofore or hereafter~~ organized under ~~the laws of this state which has provided law that~~ provides for a permanent care and improvement fund administered by one or more trust companies acting as ~~trustee or~~ trustees of ~~such the~~ the fund; ~~pursuant to the provisions of under~~ section 306.77, may; adopt a resolution as provided in this subdivision. When the principal of ~~such the~~ the fund remaining after lawful withdrawals therefrom for purposes authorized by law ~~shall have reached an amount exceeding equals more than~~ \$100,000, by resolution adopted the association may adopt a resolution by a vote of at least two-thirds of the members of its board of trustees at any authorized meeting of the board, ~~authorize~~ authorizing the ~~trust company or~~ trust companies acting as ~~such trustee or~~ trustees; in investing, reinvesting, exchanging, and managing ~~such the~~ the fund, to acquire ~~every~~ any kind of investment, ~~specifically~~ including, but not by way of limitation, bonds, debentures, and other corporate obligations, and corporate stocks, ~~which any that an~~ ordinarily prudent person of discretion and intelligence; who is a trustee of the property of others; would acquire as ~~such the~~ the trustee.

Subd. 2. **TRUST LIMITATIONS INAPPLICABLE.** The ~~trustee or~~ trustees may invest the trust property ~~in accordance with~~ according to this section, notwithstanding any contrary limitation or condition contained in the trust instrument.

### 306.78 PERCENTAGE OF SALE OF LOTS TO BE AND MAUSOLEUMS PAID INTO FUND; OTHER ADDITIONS TO FUND.

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

Each ~~such~~ cemetery association creating a permanent care and improvement fund under section 306.77 shall take ~~not less than~~ for its cemetery fund at least 20 percent for such fund of the proceeds of all sales hereafter of cemetery lots, ~~which shall and ten percent of the proceeds of all sales of all burial space in mausoleums sold on or after December 31, 1927. That percentage must be paid over on the first days of January 1, April 1, July 1, and October 1 of each year to the trustee or trustees of said the fund, and such the payments shall thereafter then become a part of such the permanent care and improvement fund.~~ Any other income or funds not required by ~~such the~~ association for other purposes may from time to time be added to ~~said the~~ fund by a vote of at least two-thirds of the members of the ~~said the~~ board of trustees of the association. The words "cemetery lots" as used in this section shall not be construed to include burial space in a mausoleum. Each such cemetery association shall take not less than ten percent of the proceeds of all sales of burial space hereafter made in a mausoleum for such fund, which shall be paid over on the first days of January, April, July, and October of each year to the trustee or trustees of said fund, and such payments shall thereafter become a part of such permanent care and improvement fund. The term "burial space" as used herein shall include in this section includes private rooms, crypts, niches, or other designated space in which the bodies or ashes of deceased persons are placed for permanent burial in a mausoleum.

#### 306.79 PRINCIPAL INVIOLETE; INVESTED IN CERTAIN SECURITIES.

The principal of ~~such a~~ permanent care and improvement fund ~~shall created under section 306.76 must~~ forever remain intact and inviolable and invested by the ~~trustee or trustees only~~ in the same class of securities ~~only~~ in which savings banks are authorized by the laws of this state to invest their funds, ~~except that. However,~~ the association may, by resolution adopted by vote of at least two-thirds of the members of its board of trustees at any authorized meeting of the board, authorize the withdrawal and use of not more than 50 percent of the principal of ~~such permanent care and improvement the~~ fund ~~for any or all of the following purposes: for the acquisition of to acquire additional land for cemetery purposes for the erection of a chapel, greenhouse, or other buildings desirable or necessary for the operation of such the cemetery, or for the building or improvement of roads and avenues in such the cemetery; provided, or for both of those purposes. However, that the fund shall at no time must not be diminished to an amount less than \$1,000 per acre for each acre of land in the cemetery. Upon presentation to such trustee or the trustees of a certified copy of the adopted resolution adopted; as aforesaid, such trustee or the trustees shall at once comply therewith with it and thereupon be forever thereafter are then released and discharged from any and all further liability and responsibility for the part of such the funds so withdrawn and delivered to such the association. The trustee or trustees of such the funds shall, at least semiannually turn over to the association the entire net income arising from such the fund, which income shall be used by the association solely for the care, maintenance, and improvement of the cemetery and the avenues leading thereto; but in ease to it. But if any~~

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~~portion part~~ of the income ~~shall not be expended is not spent~~ or appropriated by the association for ~~the~~ a period of one year after the ~~same~~ income has been received by it, it ~~shall the~~ income must be ~~turned back returned~~ to the trustee or trustees and invested by it or them as a part of the principal of the fund. No trustee or board of trustees ~~shall~~ may receive as compensation for acting as ~~such trustee~~ any ~~sum amount~~ in each year in excess of five percent of the income derived from the fund in its hands.

### 306.80 TRUST COMPANY TO MAKE ANNUAL REPORT.

Any A trust company or board of trustees acting as trustees ~~pursuant to the terms hereof under sections 306.76, 306.77, 306.78, 306.79, and this section~~ shall on the first day of each year make a ~~full and complete written~~ report in ~~writing~~ to the association of the condition and state of the fund in its hands, ~~which~~. The report shall must at all times be open to the inspection of all owners of lots in ~~such the~~ cemetery.

### 306.81 SELECTION OF DISPOSITION OF PROPERTY TO SUCCESSOR TO TRUSTEE.

Upon the revocation of the appointment ~~or~~, resignation, or removal of any sole trustee or individual appointed ~~pursuant to the authority hereby conferred under section 306.77~~, the board of trustees of ~~such the~~ association shall ~~forthwith promptly~~ appoint a successor; ~~and thereupon the trustee so~~. The resigning or removed trustee shall ~~then~~ immediately turn over to the successor all property of every description belonging to or ~~appertaining pertaining~~ to ~~such the~~ fund. ~~Upon written notice to it by~~ When the board of trustees of the association gives written notice of the resignation or removal of any ~~such~~ trustee, or of ~~any an~~ application to the court for an accounting by; or removal of; any ~~such~~ trustee, ~~any a~~ bank, trust company, safety deposit company, or other corporation, institution, or individual ~~having in possession any of the moneys possessing money~~, securities, papers, or other property belonging or ~~appertaining pertaining~~ to ~~such the~~ fund, shall ~~thereupon~~ refuse payment or delivery of the same; ~~all or any part thereof, of it to the trustee or trustees named in the notice; and~~. Upon its or their check or other authorization, except upon a check or other authorization for the transfer, surrender, or delivery of the same, or any part thereof, the bank, company, or other entity shall pay or deliver the money, securities, papers, or other property to a the successor or successors.

### 306.82 DISTRICT COURT GIVEN POWER OF COURT TO REMOVE ANY TRUSTEE OR TO COMPEL ACCOUNTING.

The district court for the judicial district in which the trust estate is ~~situated shall have located has~~ the power, for good cause shown, upon the application of one or more trustees of ~~such the~~ association or of any other interested party, to remove any trustee or trustees of ~~such the~~ fund, or to compel an accounting by ~~any a~~ trustee of ~~such the~~ fund; ~~and shall have~~. The district court also has all the powers ~~now or hereafter~~ conferred by law upon district courts for the enforcement, execution, or regulation of express trusts.

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

**306.83 APPLICATION TO CERTAIN ASSOCIATIONS.**

Every cemetery association mentioned in section 306.76, ~~which that~~ has heretofore created and established such a permanent care and improvement fund pursuant to under any law of this state before December 31, 1927, shall, with respect to such fund, ~~comply with and be bound by the terms of is~~ subject to sections 306.76 to 306.85.

**306.84 CERTAIN SECTIONS NOT APPLICABLE.**

Sections 306.31 to 306.39 ~~shall do~~ do not apply to; ~~or be operative upon;~~ cemetery associations mentioned in section 306.76.

**306.85 APPLICATION.**

Sections 306.76 to 306.85 ~~shall~~ apply to cemetery associations mentioned in section 306.76 maintaining ~~such those~~ those cemeteries in cities existing under a charter framed pursuant to under the Minnesota Constitution of the state of Minnesota, article 4, section 36. The governing body of ~~any a~~ corporate public cemetery association wishing to avail ~~such corporation itself of~~ itself of the benefits of sections 306.76 to 306.85 may do so by adoption of a resolution by a two-thirds vote of the governing board. Sections 306.76 to 306.85 ~~shall do~~ do not apply to cemeteries established by religious corporations, nor to private cemetery associations.

**306.851 SECTIONS 306.76 TO 306.85 NOT APPLICABLE TO CERTAIN PUBLIC CEMETERIES FOR THE POOR.**

~~Any A~~ A public cemetery association organized under the laws of the state of Minnesota for the purpose of providing free burial for the poor and not with view to for purposes of profit, and which has been in existence for over 25 years prior to the enactment hereof before March 22, 1947, shall be is exempt from the provisions of Minnesota Statutes 1945, sections 306.76 to 306.85.

**306.86 CONVEYANCES OF CEMETERY LOTS AND LANDS TO HOLDING CORPORATIONS LEGALIZED; RECONVEYANCE TO CITIES OF FIRST CLASS FOR CEMETERY PURPOSES.**

In all cases where any person has heretofore executed A deed or other instrument of conveyance of ~~any a~~ a right, title, or interest in any cemetery land or lot in a cemetery in this state executed before March 31, 1927, conveying the land or plot to a corporation ~~empowered authorized~~ authorized to acquire, hold, and convey title to real estate; ~~such conveyances are hereby legalized is lawful~~ and shall have the effect of transferring and conveying to such corporation conveys all right, title, and interest of the grantor therein; and ~~such corporation shall, by such to the corporation. By the conveyance, acquire the corporation acquires~~ all right, title, and interest which that the grantor had in such the land and property; subject ~~only to the any~~ only to the limitations, if ~~any~~ any, contained in ~~such the~~ the instrument of conveyance; ~~and shall have. The corporation has~~ the corporation has the right to convey the same

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

property for cemetery purposes to any city of the first class in this state, including those organized and operating under a home rule charter adopted under the provisions of the Minnesota Constitution of the state of Minnesota, article 4, section 36, and the state laws relating thereto to it.

### 306.87 DEFINITIONS.

Subdivision 1. **WORDS, TERMS, AND PHRASES.** Unless the language or context clearly indicates that a different meaning is intended, the following ~~words, terms, and phrases, for the purposes of this chapter, shall be given the meanings subjoined to them~~ definitions apply to this chapter.

Subd. 2. **ASSOCIATES.** ~~The word "associates" shall mean~~ "Associates" means the original incorporators and their successors.

Subd. 3. **PUBLIC CEMETERIES.** All cemeteries ~~heretofore~~ started or established as public cemeteries and all cemeteries hereafter started or established, except cemeteries established by religious corporations, are ~~hereby declared to be~~ public cemeteries within the provisions of this chapter.

Subd. 4. **BOARD OF DIRECTORS.** ~~The term "Board of directors," as used in sections 306.41 to 306.54, shall refer to and include~~ means the board of supervisors of ~~any a~~ town, the governing body of ~~any a~~ city, the board of trustees or directors of ~~any a~~ religious corporation or of ~~any a~~ cemetery association described in section 306.41.

### 306.88 ACQUISITION OF CEMETERY.

Subdivision 1. **CONDITIONS OF ACQUISITION.** ~~Any A~~ lodge, order, or association of a purely religious, charitable, or benevolent description, ~~which may acquire the cemetery property of the cemetery association by gift or purchase and maintain and enlarge it if it:~~ (1) does not operate ~~with view to for purposes of profit and;~~ (2) is exempt from the provisions of chapter 64B under section 64B.38 thereof; ~~and which;~~ (3) has been organized under the laws of the state of Minnesota and state law; (4) has been in existence for 20 years; ~~and;~~ (5) one of whose ~~its~~ purposes as set forth in under its charter is to provide free burial ground for its members and their families; and (6) all of whose ~~its~~ members are also members of a cemetery association by virtue of a specific provision in the charter of ~~such cemetery the association so specifically providing, which and the~~ provision has been in effect for 15 years prior to the before enactment hereof, is hereby authorized to acquire, by gift or purchase, the cemetery lands and property of such cemetery association and to maintain and enlarge the same of this section. ~~Any such The~~ cemetery association is hereby authorized and empowered to may convey to any ~~such the~~ lodge, order, or association any cemetery land or property.

~~Any such A~~ lodge, order, or association that pursuant hereto has acquired ~~such acquires~~ cemetery lands land under this section in any a county having with a population of 600,000 or more and maintains the same land for cemetery

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purposes is hereby may also authorized to acquire by gift or purchase the cemetery lands land or any part thereof of it owned by a public or other cemetery association which that is adjacent thereto to the land maintained for cemetery purposes or is separated therefrom from it by a public highway or street. Any A public or other cemetery association owning such lands is hereby authorized to the land may convey the same it or any part thereof of it to any such the previously described lodge, order, or association by deed, pursuant to in accordance with authorization by its board of directors or trustees. Sections 306.76 to 306.85 shall do not apply to the proceeds of such the sale. Upon the On acquisition thereof, such the lodge, order, or association shall succeed succeeds to all the rights to maintain and use such the other lands land for cemetery purposes as were possessed by the public or other cemetery association from which they were the land was acquired.

Subd. 2. **APPLICATION.** Minnesota Statutes 1941, Section Sections 306.10 and sections 306.76 to 306.85, as amended by Laws 1943, chapters 32 and 133, shall do not apply to lodges, orders, or associations acquiring, maintaining, or enlarging cemeteries as authorized hereunder by this section. Section 306.14 shall apply applies to any land or property acquired or maintained by any such the lodge, order, or association for cemetery purposes. Sections 307.01 to 307.10, in so far as they relate to cemeteries owned or managed by religious corporations, shall also apply to any cemeteries acquired, owned, and managed by any such the lodge, order, or association under the within authorization this section.

## ARTICLE 6

Section 1. Minnesota Statutes 1986, chapter 451, is amended to read:

### UTILITY FRANCHISES, PERMITS, RIGHTS

#### CHARTER CITIES OF THE FOURTH CLASS

#### 451.04 FRANCHISE FOR CITY HEATING PLANTS SYSTEM.

Subdivision 1. RIGHT TO BUILD, RUN. Any A home rule charter city of the fourth class in this state is hereby authorized and empowered:

(1) To grant to any may give a person, persons, company, or corporation, the right of the to use of the streets, alleys, and other public grounds of the city for the erection, operation, and maintenance of any heating to construct, operate, and maintain a system to furnish heat to the inhabitants of the city, the same to be on such city residents.

Subd. 2. **COUNCIL SETS TERMS, CONDITION.** The city council must decide what terms and subject to such conditions as the governing body of the city shall determine, including therein the right to apply to the use of the right given under subdivision 1.

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Subd. 3. CITY SALE OF STEAM, HOT WATER. If the city owns and operates a plant that heats water or generates steam, the city may sell the steam or hot water to the person, persons, company, or corporation, user of the right given under subdivision 1 at a profit to the city; any steam generated or water heated by any plant owned and operated by the city, and to,

Subd. 4. ARRANGEMENTS FOR HEAT, CONTROL OF SYSTEM. The city may make contracts and arrangements for the furnishing of heat, using the city's steam or hot water, to the inhabitants of the city thereby, and for the regulation and city residents. The city may also make arrangements for the regulation and control of the heating system.

Subd. 5. MAY INSTALL SYSTEM EQUIPMENT. (2) To grant to any The city may give a person, persons, company, or corporation the right of the to use of the streets, alleys, and other public grounds of the city for the installation to install, without any at no expense to the city, of pipes, conduits, and other necessary and incidental equipment necessary and incidental to the construction, operation, and maintenance of a construct, operate, and maintain the heating system to furnish heat to the inhabitants of the city, the same to be on such terms and subject to such conditions as the governing body of. The city shall determine, including the right to make all council must decide what terms and conditions apply to the use of the plant.

Subd. 6. HEAT FROM CITY STEAM, HOT WATER. If the city owns and operates a plant that heats water or generates steam, the city may make the necessary and incidental contracts and arrangements for the furnishing of to furnish, at a profit to the city, heat to the inhabitants of the city, at a profit to the city, from any the steam generated or hot water heated by any plant owned and operated by the city, including the right to to the city's residents.

Subd. 7. CITY MAY BUY SYSTEM. The city may acquire, own, operate, and enlarge the heating system after the same shall have been it is installed; and including the right to,

Subd. 8. CITY DEBT PAYABLE IN FUTURE HEAT. The city may issue its certificates of indebtedness of the city payable in heat to be sold by the city; any.

Subd. 9. CITY'S STEAM, HOT WATER TO SERVICE COMPANY. If the city in which there is now in operation, or in which there may be hereafter in operation operates a municipal electric light and or water plant, or either, the city may agree with any a service company which the city may authorize to furnish that furnishes steam or hot water heat to its inhabitants, residents to supply from the municipal plant to the service company, upon such terms as may be mutually agreed upon between the city and the company, the necessary steam or hot water or both to be supplied to for the patrons of the company, and by such company's customers.

Subd. 10. TERMS OF AGREEMENT. The supply agreement between the

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city and the service company may include terms on the subjects in this subdivision.

(a) The agreement may provide for joint approval of the plans; and joint supervision of the construction and ascertainment and the definite determination at the time of completion, of the cost of the company's plant; and by.

(b) The agreement may:

(1) fix and establish the rates to be charged to the company's patrons customers for the heat supplied;

(2) fix the charges to be billed to and collected from the consumer customer either by the city or the service company, as agreed upon; and

(3) divide the revenue received therefrom to be apportioned and divided from the collections between the city and the service company upon such reasonable and proper basis of division as they may agree upon with appropriate provision.

(c) The agreement may provide for the purchase of the company's plant by the city at cost, plus reasonable interest thereon on the cost, and the and for payment therefor for the plant from the moneys received and accumulated money saved by the city as from its share of the derived revenues collections.

**Subd. 11. CITY MAY BUY PRIVATE SYSTEM.** (3) Any city of the fourth class in which there is already constructed, or in which there may be hereafter constructed any such If there is a heating system in the city that is not owned by the city is authorized to acquire, the city may buy the existing heating system by purchase at a price for not exceeding more than its fair value and on terms as may be agreed on between the city and the owners of the system and; in order to provide the funds for the purchase. The city and the owner of the system must agree on the terms of the sale.

**Subd. 12. PAY WITH BONDS.** The city council or other governing body, by whatever name denominated, is hereby authorized to may issue and sell the as many bonds of the city to such an amount as may, in its judgment, be it judges are necessary for the purpose, the bonds to be in such form and denomination, to bear a rate of interest not exceeding six percent per annum, payable semiannually, and to become due and payable at such time or times, to buy the heating system from its owners.

**Subd. 13. BOND FORMALITIES.** (a) The city council must decide:

(1) the bonds' form and denomination;

(2) the rate of interest on the bonds, not more than six percent per year, payable semiannually; and

(3) the time, not more than 20 years from their date, all as the city council or other governing body shall determine when the bonds are due and payable.

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(b) If the city issues the bonds, the bonds ~~shall~~ must be signed by the mayor, and countersigned by the clerk; ~~if issued by the city, and shall.~~

(c) The bonds must be sold for not less than par and accrued interest.

Subd. 14. ADD TO OTHER POWERS. The powers granted in this section are to be added to other powers granted by law.

**451.05 BONDS, OBLIGATIONS FOR HEAT NOT PART OF INDEBTEDNESS CITY DEBT.**

Subdivision 1. OBLIGATIONS. The obligations An obligation incurred by any a home rule charter city of the fourth class in the making of such contracts and arrangements shall to furnish heat to the city's residents under section 451.04 is not be considered as a part of its indebtedness the city's debt under the provisions of its governing charter or of any under state law of this state fixing the limit of indebtedness for the city limiting the city's debt. The powers conferred by sections 451.04 to 451.06 are additional to all other powers conferred by law; and

Subd. 2. BONDS. The amount of any bonds issued thereunder under section 451.04 and at any time outstanding shall are not be included in determining the part of the city's net indebtedness debt under the provisions of its charter or of any under other applicable law.

**CITIES OF THE FIRST CLASS**

**451.07 CITIES MAY GRANT PERMITS UTILITY PERMIT AFTER FRANCHISE, LICENSE EXPIRE.**

Subdivision 1. TO CONTINUE EXISTING SERVICE. When, in any A city of the first class now or hereafter existing in this state, the franchise of any public service corporation supplying gas, or electric energy, or steam, for lighting, heating, or power purposes has expired; and the home rule charter of the city authorizes a limited number of temporary licenses of not more than one year each to use the streets and other public places for the purpose of supplying such service and all of these licenses have been given and have expired; and the corporation thereafter continues to furnish such service and in doing so uses the streets and other public property of the city; the governing body of the city is hereby authorized and empowered, notwithstanding anything to the contrary in the home rule charter of the city, by ordinance, to permit the public service corporation to use the streets and other public property located in the city; and to prescribe, from time to time, but not more often than once in each calendar year, reasonable rates which the public service corporation may charge for such service within the city; and to determine the amount which the public service corporation shall pay the city for the use and occupancy of its streets or other public property which are located in and under the control of the city and used by the corporation. If the home rule charter of the city contains provisions fixing a minimum amount that the public service corporation shall pay the city

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for the exercise of any franchise or privilege in, over, under, or upon any of the streets or public places in the city; when the public service corporation is not specifically relieved of such payment, the sum fixed by the governing body, pursuant to sections 451.07 and 451.08, for the use of the property and privilege, shall not be less than the minimum fixed by the charter to be paid in those cases wherein the grantee is not specifically relieved from such payment may by ordinance give a permit to a public service corporation to use the streets and other public property in the city to continue to supply gas, electric energy, or steam for light, heat, or power.

Subd. 2. DESPITE CONTRARY CHARTER. The permit may be issued even if issuing it is contrary to the city's charter.

Subd. 3. CONDITIONS: FRANCHISE, LICENSES EXPIRED. The permit is subject to the terms and conditions in this subdivision.

(a) The corporation must be supplying gas, electric energy, or steam for light, heat, or power, at the time the permit is issued.

(b) The corporation's franchise for supplying the utility service must have expired.

(c) The home rule charter of the city must allow for a limited number of licenses to use public property to supply utility service for not more than one year, and all the licenses must have been issued and must have expired.

Subd. 4. CITY MAY SET RATES. The city may set the rates the corporation may charge for its service in the city. The rates must not be set more often than once in a calendar year.

Subd. 5. CHARGE FOR STREET USE. The city may decide how much the corporation must pay to use the city's streets and other public property in the city.

Subd. 6. MINIMUM CHARGE; EXCEPTION. The city must charge the corporation at least the minimum franchise fee, if any, required by the city charter when the corporation is not specifically relieved of the payment.

Subd. 7. BOUND BY AGREED RATES, CHARGES. This section does not let the city change the rates or charges in this section if the city has fixed the rates or charges for a definite period in an agreement with the corporation.

#### HOME RULE CHARTER CITIES

#### **451.09 STEAM HEAT SYSTEMS; DISCONTINUANCE OR CONVERSION DISCONTINUED; NOTICE; COST TO CONVERT.**

**Subdivision 1. BY UTILITY BOARD, WITH COUNCIL APPROVAL. Any steam heat system operated by A public utilities board or commission that operates a steam heat system in any a home rule charter city may be discontin-**

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ued discontinue the system in whole or in part at the discretion of such board or commission if the city council approves.

**Subd. 2. MAY PAY TO CONVERT.** Funds may be expended at the discretion of such If the council approves, the board or commission to compensate persons to whom may spend money to pay those whose service is discontinued for the expense of converting to some other convert to another type of heat system. Prior to exercising any of the authority granted by this section, the public utilities board or commission shall obtain the approval of the governing body of the city. The authority granted by

**Subd. 3. SUPERSEDES OTHER LAW, CHARTER.** This section shall apply applies notwithstanding any statute, a contrary city charter, or other law to the contrary.

**Subd. 4. EXCEPTIONS: AUSTIN, MARSHALL, VIRGINIA.** This subdivision shall Subdivisions 1 to 3 do not apply to the cities of Austin, Marshall, and Virginia.

**Subd. 5. TWO YEARS' NOTICE.** A public utilities board or commission operating that operates a steam heat system in a home rule charter city shall inform must give the commissioner of energy and economic development two years' notice of its plans intended date to discontinue operation at least two years prior to the intended date of discontinuance of operation the system.

## Sec. 2. REPEALER.

Minnesota Statutes 1986, sections 451.06 and 451.08 are repealed.

## ARTICLE 7

Section 1. Minnesota Statutes 1986, chapter 456, is amended to read:

### WATERWORKS WATER FROM FIRST CLASS OR CHARTER CITIES

#### FIRST CLASS CITIES

#### 456.29 EXTENSION OF WATER MAINS INTO AND FURNISHING OF WATER TO CONTIGUOUS CITIES OR TOWNS BEYOND CITY.

Any A city of the first class, ~~which maintains a municipally-owned and operated that owns and operates~~ a water plant or department, whether ~~such the~~ water plant is under the control of the council or a board of water commissioners, is hereby authorized to may furnish water to; and extend its mains into; any a contiguous city or town ~~whose territory is contiguous to such city.~~ The furnishing city may extend its mains and ~~to~~ assess the cost of extending these mains them against the property abutting ~~on~~ the street ~~in which where~~ the mains are laid.

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**456.30 COST OF EXTENSION; REQUESTS FOR EXTENSION BY REQUEST ONLY; WHO AND HOW TO ASSESS.**

**Subdivision 1. BY RESOLUTION; NAME STREETS.** When any such A home rule charter city extends of the first class must not extend its mains and furnishes or furnish water to contiguous cities or towns; under the provisions of sections section 456.29 to 456.30; and is operating under a home rule charter adopted pursuant to the Constitution of the State of Minnesota; Article 4, Section 36; the cost of such mains shall be assessed and the assessment collected in the manner prescribed by its charter; provided that no such mains shall be extended or ordered furnished to any such a contiguous city or town except upon the adoption of a resolution requesting such unless the council or board of the contiguous city or town requests the service by. The request must be in a resolution adopted by the council or town board of such city or town; which. The resolution shall designate must name the streets, alleys, or and other public places wherein such where the mains may be laid; and; provided that.

**Subd. 2. ASSESS ABUTTING PROPERTY.** The total cost of constructing such mains a main that is extended into any the contiguous city or town shall must be assessed against the property abutting on the street where the mains are main is laid.

**Subd. 3. USE CHARTER PROCEDURES.** The city must make and collect the assessments as the charter says.

**456.31 ISSUE OF WATERWORKS MAY SELL ALL BONDS AT ONCE IN SPITE OF ORDINANCE.**

In all cases in which cities of the first class have been authorized by ordinance approved by If the people of such cities a city of the first class have approved an ordinance to let the city issue bonds for the purpose of extending, enlarging, and improving the public to extend, enlarge, and improve its city-owned and operated waterworks plants and waterworks systems owned and operated by such cities, and such if the ordinance authorizing such bond issue provides that allows only a specified portion of such authorized the bonds shall to be issued in any one year, such cities are hereby authorized to the city may issue all, or any part some, of such the bonds remaining unissued at any time, notwithstanding any provision in the ordinance authorizing such bond issue that only a specified portion of such bonds shall be issued in any one year.

**HOME RULE CHARTER CITIES**

**456.32 EXTENDING MAY PIPE WATER PIPES IN ROADS ANYWHERE BUT ANOTHER CITY.**

**Subdivision 1. WHERE PIPES MAY GO.** Any A home rule charter city in the state, owning and operating that owns and operates a waterworks, may extend its waterworks and water pipes over, under, and along any road, street, alley, or public highway in this state; whether within or without the corporate

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~~limits of such city, and supply water for a reasonable compensation to the occupants of property adjacent or accessible to the line so extended; whether within or without the corporate limits of such city; provided, extension. The waterworks may be extended over, under, or along any road, street, alley, or public highway in or out of the city. The extension must not interfere with the safety or convenience of ordinary travel on the road, street, alley, or public highway.~~

Subd. 2. NOT IN ANOTHER CITY. This section shall ~~does~~ not be construed as ~~granting~~ give a home rule charter city any rights to ~~any city within the corporate limits of in~~ any other city; ~~provided that such line shall be so extended as not to interfere with the safety or convenience of ordinary travel over these roads, streets, alleys, and public highways.~~

Subd. 3. MAY CHARGE REASONABLE FEE. A home rule charter city may charge a reasonable fee for supplying water under this section.

#### FIRST CLASS CITIES

#### 456.33 WATER RENTALS; AUTHORITY MAY MAKE RULES; APPLICATION FOR PAYMENTS.

In all cities of the first class in this state owning a municipal waterworks system; the board of water commissioners of such city; or other ~~The governing body or authority having the control and management of such a waterworks system; owned by a city of the first class~~ may adopt and enforce such rules and regulations as to the time that it considers advisable on when water rentals shall become payments for its water are due and payable as such body or authority may deem advisable.

### ARTICLE 8

Section 1. Minnesota Statutes 1986, chapter 560, is amended to read:

#### PART OWNERS, ACTION TO OPERATE MINES

#### MINERAL LAND; SUITS BY PART OWNERS TO MINE

#### 560.01 ACTION FOR OPENING MINES, QUARRIES, BELONGING TO PLURALITY OF OWNERS IN DISTRICT COURT, BY OWNERS OF HALF THE LAND.

Subdivision 1. IN COUNTY WHERE LAND IS. Where veins, lodes, deposits of iron, iron ores, minerals or mineral ores of any kind, stone, coal, clay, sand, gravel, or peat are known to, or do exist on or in lands which are shown by properly executed deeds or leases having more than one year to run of record in the county in which the lands are situated, to belong to a plurality of

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owners; The owner or owners of an a half interest or more equal to one-half or greater in the lands; as shown by the deeds or leases so recorded; mineral land that has more than one owner of record may bring an action in the district court in the county where the lands are situated; for permission to open, operate, and develop these veins, lodes, or deposits of iron, iron ores, minerals, or mineral ores of any kind, stone, coal, clay, sand, gravel, or peat that are found in or on these lands mine the land. The action must be brought in the district court in the county where the land is.

Subd. 2. MINERAL LAND DEFINED. In this chapter, "mineral land" or "land" means real property on or in which veins, lodes, deposits of iron, iron ores, minerals or mineral ores of any kind, stone, coal, clay, sand, gravel, or peat are known to or do exist.

Subd. 3. OWNER OF RECORD DEFINED. In this chapter, "owner" or "owner of record" of mineral land means one who has an interest in the land as shown by a properly executed deed or a lease having more than one year to run. The deed or lease must be of record in the county where the mineral land is.

#### 560.02 COMPLAINT DESCRIBES LAND; HEARING COURT DECIDES OWNERSHIP.

Subdivision 1. ABSTRACT ATTACHED TO COMPLAINT. The complaint shall in an action under this chapter must describe the mineral land to be affected; and there shall be mined. An abstract of the lands thereto land must be attached, showing to the complaint. The abstract must show the title thereof to the land as it appears by on the deeds or and leases recorded in the county where the land is situated.

Subd. 2. OWNERSHIP FROM RECORDS. Upon the case being brought on for hearing When the action is heard, the court shall determine must decide who are the owners of the property land described in the complaint; as appears by. The decision must be based on the properly executed deeds or leases thereof of record recorded in the county in which the same where the land is situated.

#### 560.03 ORDER; IF SUERS OWN HALF AND GET BOND, THEY MAY MINE.

Subdivision 1. BY COURT ORDER. If, upon the hearing, it appears that the complainant or complainants own in an action under this chapter owns one-half or more of the property; as shown by the properly executed deeds or leases of record in the county mineral land, the court shall must make an order permitting and authorizing allowing the complainant or complainants; upon the filing in the office of the court administrator of the court having jurisdiction of the action; of such bond, with such sureties as may be ordered and approved by the court; or a judge thereof; conditioned for the faithful, complete, and timely performance of all orders of the court made in the action or concerning the subject matter thereof; and for the faithful, complete, and timely performance of all the provisions of this chapter; to enter upon, open, develop, and operate these lands for the purpose of producing therefrom and from the veins, lodes;

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and deposits therein situate; on and mine the land to produce from it the iron, iron ore, or other minerals or, mineral ores of any kind, coal, clay, sand, gravel, and or peat, that may exist thereon or therein be on or in the land.

Subd. 2. BOND REQUIRED; CONDITIONS. The court order is effective only after the complainant files a bond with the court administrator. The bond must have the sureties that the court requires. The bond must be conditioned for the faithful, complete, and timely performance of court orders in, or on the subject of, the action, and for the timely performance of everything required by this chapter.

**560.04 ENTRY UPON LANDS MINING; ACCOUNTING; APPLICATION OF RECEIPTS; EXPENSES PROFITS; LIENS; LIABILITY.**

Subdivision 1. MAY MINE LAND. The complainant or complainants may thereupon, After the filing and approval of the bond provided for described in section 560.03 has been filed and approved, the complainant may enter upon these lands on the mineral land and develop the same, mine it, and develop the produce therefrom and from the lodes, veins, and deposits the iron, iron ore, minerals, mineral ores of any kind, coal, sand, clay, gravel, and peat that exist thereon or therein mining.

Subd. 2. DETAIL EXPENSES; OUTPUT; RECEIPTS. The mining operator must keep a strict account shall be kept, by the party or parties operating these properties and workings, of all the expenses and output in tons of opening and working any and all such mines, or iron or iron ores, minerals or mineral ores of any kind, coal, or deposits of clay, sand, gravel, or peat, and a true and correct account of the output of these workings in tons the mining and of the receipts from the sale or disposal of the output. The mining operator must make a monthly statement of such the expenses and the output shall be made by the parties operating these workings and properties and filed file the statement with the court administrator of the court where handling the complainant's action was commenced or is pending. The parties operating such properties shall be entitled to use so mining operator may use as much of the receipts from the sales disposal of the total output as may be is necessary for the payment of to pay the expenses and charges of opening and operating such property, and the surplus the mining operation.

Subd. 3. ALL OWNERS GET PROFITS. The balance of the receipts over the amount so paid out for expenses and charges of opening and operating such property shall must be divided pro rata prorated among all the owners of such property the mineral land according to their interests, and the amount to which any party is entitled shall be paid to that party by the parties operating such property upon demand at any time after the filing of any. An owner may demand payment after a monthly statement, as herein provided, which shows a surplus over the charges and expenses aforesaid. No part of the expenses or charges, and no showing a surplus is filed. The mine operator must make the payment when it is demanded.

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Subd. 4. OTHER OWNERS NOT LIABLE. An expense or a claim for work or labor performed in or about the opening, operating, or improvement of such property shall the mining operation cannot be a lien upon on or a charge against any portion part of the property land or interest therein not owned by the parties operating such property; and none of the owners of any part of or interest in the property in the land not owned by the owners mining the land. An owner who are is not operating such property shall be one of the owners mining the land is not liable for any of the charges or expenses of opening, operating, or improving such property a charge or expense related to the mining operation on the land.

**560.05 MINERS MAY USE SURFACE RIGHTS AS NECESSARY.**

Subdivision 1. INCLUDES OFFICE, HOUSING. The parties operating these veins, lodes, and deposits, as herein provided, shall have the right to operators mining the mineral land may use the surface of the ground land for placing and sheltering machinery and coverings therefor, for roads, tramways, drains, water pipes, steam and electric plants, and all for other appliances necessary in the operation and developing of the properties and workings, including buildings for offices to mine the land. The surface may also be used for office buildings, and for houses for workers; and shelter for animals; engaged and employed in and by the workings; without charge from coowners involved in the mining operation.

Subd. 2. NO CHARGE FOR USE. A nonoperating coowner must not charge an operating coowner for the use under subdivision 1 of the surface of the mineral land.

**560.06 RIGHTS OF NONOPERATING NONMINING OWNERS HAVE ACCESS.**

Subdivision 1. TO VERIFY ACCOUNTS. The owners An owner of said property mineral land who is not engaged in operating involved in mining the same shall have land has access to the property land and the workings therein of the mining operation at all reasonable times for the purpose of measuring up the to measure the workings and verifying thereby in so doing, to verify the accounts of the operators thereof; and shall have.

Subd. 2. TO TAKE DELIVERIES. A nonmining owner also has access to the property for the purpose of removing and taking away the to remove property delivered to them the nonmining owner on the dump of the property as herein provided. This right must be so exercised as not to In using the access for removal, a nonmining owner must not interfere with the parties operating mine operators, the property and land, the workings on or in the property land, or of any of the hoisting or working apparatus; railroads; roads; tramways; or other appliances thereon on the land, or of the workers; servants of the operators of the property those working for the operators on the land.

**560.07 ABANDONMENT OF WORK; RIGHTS OF IF MAJORITY DOES NOT ACT, MINORITY OWNERS MAY TAKE OVER.**

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In case the parties owning one-half or more of the property and land on which these veins, lodes, or deposits of iron, iron ores, minerals, or mineral ores of any kind, or coal, clay, sand, gravel, or peat, are known to or do exist, fail or refuse to proceed under this chapter, or if, after commencing the work and operations hereunder, these parties abandon the work for one year, then the owners of less than a half interest of the property, lands and the title therein, as shown by properly executed deeds recorded in the county in which the same is situate, may proceed to open and work the property in the same manner and under the same restrictions as provided herein.

An owner of less than a half interest in mineral land may mine the land under conditions in this section.

(a)(1) The owner of a half or greater interest must fail or refuse to use the procedure in this chapter; or (2) after starting to mine the land under this chapter, the owner of the half or greater interest must abandon the work for at least one year.

(b) The ownership of the interest must be shown by properly executed deeds recorded in the county where the land is.

(c) The owner of the interest must start to open and work the land according to this chapter.

#### **560.08 NO LIENS, ATTACHMENT EXCEPT JUDGMENTS MAY ATTACH TO THE LAND.**

No liens created by the statutes of this state, whether those of statute for mechanics, material suppliers, or laborers, or for other supplies or ~~any~~ other liens except those of judgment against owners of interests in the ~~lands~~, shall land, may attach to the lands mineral land on or in which mining operations for producing from the veins, lodes, or deposits of iron, iron ores, minerals, or mineral ores of all kinds, coal, clay, sand, gravel, or peat are carried on under and in accordance with this chapter.

#### **560.09 ACTIONS ACTION, PARTITION APPLY ONLY TO OUTPUT; PARTITION.**

Actions for operation of property in all cases where lands are held by a plurality of owners, are opened, operated, and developed for the purpose of obtaining therefrom the products of the veins, lodes, and deposits of iron, iron ores, minerals, mineral ores of any kind, coal, clay, sand, gravel, and peat under the provisions of this chapter, shall be held to apply An action under this chapter applies only to the output of the workings; and of the mineral land. A decree of partition shall be made by the courts to apply court applies only to the division of the output of the workings of these lands, and the veins, lodes, and deposits aforesaid therein the land.

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## ARTICLE 9

## Section 1. EFFECT OF CHANGES.

The legislature intends the changes in the language of the laws amended by this act to be exclusively changes in style. No change is intended to alter or shall be construed by a court or other authority to alter the meaning of a law.

If a section is amended by this act and also by another act adopted in 1988 and the amendments cannot be edited together in the next publication of Minnesota Statutes, the amendment by this act shall be without effect.

Approved April 6, 1988

## CHAPTER 470—S.F.No. 1819

*An act relating to landlord and tenant; authorizing tenants to pay for certain utilities and deduct the payments from rent due; proposing coding for new law in Minnesota Statutes, chapter 504.*

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

Section 1. [504.185] EMERGENCY CONDITIONS; LOSS OF ESSENTIAL SERVICES.

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

- (a) "Owner" has the meaning given to it in section 566.18, subdivision 3.
- (b) "Tenant" has the meaning given to it in section 566.18, subdivision 2.
- (c) "Building" has the meaning given to it in section 566.18, subdivision 7.

Subd. 2. PROCEDURE. When a municipality, utility company, or other company supplying home heating oil, propane, natural gas, electricity, or water to a building has discontinued the service to the building because an owner who has contracted for the service has failed to pay for it, a tenant or group of tenants may pay to have the service reconnected as provided under this section. Before paying for the service, the tenant or group of tenants shall give oral or written notice to the owner of the tenant's intention to pay after 48 hours, or a shorter period that is reasonable under the circumstances, if the owner has not already paid for the service. In the case of oral notification, written notice shall be mailed or delivered to the owner within 24 hours after oral notice is given.

(a) In the case of natural gas, electricity, or water, if the owner has not yet paid the bill by the time of the tenant's intended payment, or if the service

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