

Presented to the governor March 26, 1993

Signed by the governor March 29, 1993, 4:52 p.m.

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**CHAPTER 12—H.F.No. 97**

*An act relating to labor relations; regulating public employment labor relations; modifying the definition of a confidential employee; amending Minnesota Statutes 1992, section 179A.03, subdivision 4.*

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

Section 1. Minnesota Statutes 1992, section 179A.03, subdivision 4, is amended to read:

Subd. 4. **CONFIDENTIAL EMPLOYEE.** "Confidential employee" means any employee ~~who works in the personnel offices of a public employer or~~ who:

(1) has access to information subject to use by the public employer in meeting and negotiating; or

(2) actively participates in the meeting and negotiating on behalf of the public employer.

However, for executive branch employees of the state or employees of the regents of the University of Minnesota, "confidential employee" means any employee who:

(a) has access to information subject to use by the public employer in collective bargaining; or

(b) actively participates in collective bargaining on behalf of the public employer.

Presented to the governor March 29, 1993

Became law without the governor's signature March 31, 1993

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**CHAPTER 13—H.F.No. 358**

*An act relating to Minnesota Statutes; correcting erroneous, ambiguous, and omitted text and obsolete references; eliminating certain redundant, conflicting, and superseded provisions; making miscellaneous technical corrections to statutes and other laws; amending Minnesota Statutes 1992, sections 3.9741; 10A.01, subdivision 18; 10A.49, subdivisions 2 and*

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3; 11A.23, subdivision 1; 13.32, subdivisions 3 and 5; 13.791; 13.99, subdivision 82; 16B.06, subdivision 2a; 18C.551, subdivision 3; 43A.317, subdivision 9; 60A.74, subdivision 6; 62A.44, subdivision 2; 62J.21; 65B.09, subdivision 1; 79.251, subdivision 6; 79A.01, subdivision 1; 80C.18, subdivision 1; 80E.09, subdivision 2; 86B.321, subdivision 1; 103G.293; 116R.01, subdivision 6; 120.064, subdivision 6; 123.39, subdivision 8d; 144.878, subdivision 2; 148B.06, subdivision 2; 148C.11, subdivision 4; 168.187, subdivision 26; 169.797, subdivision 1; 240.011; 245A.18; 256B.0644; 256B.19, subdivision 1a; 268.071, subdivision 3; 289A.20, subdivision 4; 290.9201, subdivision 7; 290A.03, subdivision 13; 325E.0681, subdivision 9; 326.43; 349.151, subdivision 2; 349.19, subdivision 6; 349.31, subdivision 1; 352.03, subdivision 16; 352C.021, subdivision 6; 357.11; 471.617, subdivision 1; 473.516, subdivision 1; 473.704, subdivision 17; 473.811, subdivisions 6, 7, 8, and 9; 475.66, subdivision 3; 477A.13; 480.15, subdivision 9; 480.059, subdivision 7; 525.9221; 551.04, subdivision 14; 600.02; 609.3471; 626.556, subdivision 10; and 626.861, subdivision 3; repealing Minnesota Statutes 1992, sections 61A.011, subdivision 8; 240.01, subdivision 14; 240.011, subdivision 1; 334.011, subdivision 4; and 480.0591, subdivision 3; Laws 1991, chapter 254, article 3, section 21.

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

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## ARTICLE 1

### REVISOR'S BILL

#### STATUTORY CORRECTIONS

Section 1. Minnesota Statutes 1992, section 10A.01, subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

- (a) member of the legislature;
- (b) constitutional officer in the executive branch and the officer's chief administrative deputy;
- (c) member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) commissioner, deputy commissioner, or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) executive director of the state board of investment;

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- (g) executive director of the Indian affairs intertribal board;
- (h) commissioner of the iron range resources and rehabilitation board;
- (i) commissioner of mediation services;
- (j) deputy of any official listed in clauses (e) to (i);
- (k) judge of the workers' compensation court of appeals;
- (l) administrative law judge or compensation judge in the state office of administrative hearings or referee in the department of jobs and training;
- (m) solicitor general or deputy, assistant or special assistant attorney general;
- (n) individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher, legislative analyst, or attorney in the office of senate counsel and research or house research;
- (o) member or chief administrative officer of the metropolitan council, regional transit board, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission;
- (p) ~~the commissioner of gaming and director of each division in the department of gaming~~ the racing commission, the director of the gambling control board, the director of the state lottery board, and the deputy director of the state lottery board;
- (q) director of the division of gambling enforcement in the department of public safety;
- (r) member or executive director of the higher education facilities authority; or
- (s) member of the board of directors or president of the Minnesota world trade center corporation.

Sec. 2. Minnesota Statutes 1992, section 240.011, is amended to read:

**240.011 ~~DIVISION OF PARI-MUTUEL RACING~~ DIVISION OF PARI-MUTUEL RACING APPOINTMENT OF DIRECTOR.**

~~Subdivision 1. **DIVISION CREATED.** A division of pari-mutuel racing is created in the department of gaming. The division is under the supervision and control of the Minnesota racing commission.~~

~~Subd. 2. **DIRECTOR OF PARI-MUTUEL RACING.** The governor shall appoint the director of pari-mutuel racing~~ the Minnesota racing commission,

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who serves in the unclassified service at the governor's pleasure. The director must be a person qualified by experience in the administration and regulation of pari-mutuel racing to discharge the duties of the director. The governor must select a director from a list of one or more names submitted by the Minnesota racing commission.

Sec. 3. Minnesota Statutes 1992, section 349.151, subdivision 2, is amended to read:

Subd. 2. **MEMBERSHIP.** (a) ~~Until July 1, the board consists of six members appointed by the governor with the advice and consent of the senate and the commissioner of gaming as a voting member.~~

(b) On and after July 1, 1991, the board consists of seven members, as follows: (1) those members appointed by the governor before July 1, 1991, whose terms expire June 30, 1992, June 30, 1993, and June 30, 1994; (2) one member appointed by the governor for a term expiring June 30, 1994; (3) one member appointed by the commissioner of public safety for a term expiring June 30, 1995; and (4) one member appointed by the attorney general for a term expiring June 30, 1995.

(e) (b) All appointments under this subdivision are with the advice and consent of the senate.

(e) (c) After expiration of the initial terms, appointments are for four years.

(e) (d) The board shall select one of its members to serve as chair. No more than three members appointed by the governor under this subdivision may belong to the same political party.

Sec. 4. Minnesota Statutes 1992, section 349.19, subdivision 6, is amended to read:

Subd. 6. **PRESERVATION OF RECORDS.** Records required to be kept by this section must be preserved by a licensed organization for at least 3-1/2 years and may be inspected by the commissioner of revenue, the ~~commissioner of gaming board~~, or the commissioner of public safety at any reasonable time without notice or a search warrant.

Sec. 5. **REPEALER.**

Minnesota Statutes 1992, sections 240.01, subdivision 14; and 240.011, subdivision 1, are repealed.

Sec. 6. Minnesota Statutes 1992, section 10A.49, subdivision 2, is amended to read:

Subd. 2. **DISTRIBUTION OF MONEY AFTER PRIMARY.** Within two weeks after certification by the state canvassing board of the results of the primary, the state treasurer shall pay an incentive to each major political party or

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minor political party congressional candidate who has signed an agreement as required under section ~~10A.44~~ 10A.43 and is eligible to receive an incentive.

Sec. 7. Minnesota Statutes 1992, section 10A.49, subdivision 3, is amended to read:

Subd. 3. **INDEPENDENT AND NEW PARTY CANDIDATES.** Within two weeks after certification by the state canvassing board of the results of the state general election, the state treasurer shall pay an incentive to each independent or new political party congressional candidate who has signed an agreement as required under section ~~10A.44~~ 10A.43 and is eligible to receive an incentive. To be eligible to receive an incentive, an independent or new party congressional candidate must receive at least three percent of the vote cast at the general election for the office sought.

Sec. 8. Minnesota Statutes 1992, section 11A.23, subdivision 1, is amended to read:

Subdivision 1. **CERTIFICATION OF ASSETS NOT NEEDED FOR IMMEDIATE USE.** Each executive director administering a retirement fund or plan enumerated in subdivision 4 shall, from time to time, certify to the state board for investment those portions of the assets of the retirement fund or plan which in the judgment of the executive director are not required for immediate use. Assets of the fund or plan required for participation in the Minnesota postretirement adjustment fund, the combined investment fund, or the supplemental investment fund ~~or the variable annuity investment fund~~ shall be transferred to those funds as provided by sections 11A.01 to 11A.25.

Sec. 9. Minnesota Statutes 1992, section 13.32, subdivision 3, is amended to read:

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

- (a) Pursuant to section 13.05;
- (b) Pursuant to a valid court order;
- (c) Pursuant to a statute specifically authorizing access to the private data;
- (d) To disclose information in health and safety emergencies pursuant to the provisions of United States Code, title 20, section 1232g(b)(1)(I) and Code of Federal Regulations, title 34, section 99.36 which are in effect on July 1, ~~1989~~ 1993;
- (e) Pursuant to the provisions of United States Code, title 20, sections 1232g(b)(1), (b)(4)(A), (b)(4)(B), (b)(1)(B), (b)(3) and Code of Federal Regulations, title 34, sections 99.31, 99.32, 99.33, 99.34, and 99.35 which are in effect on July 1, ~~1989~~ 1993; or

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

Sec. 10. Minnesota Statutes 1992, section 13.32, subdivision 5, is amended to read:

Subd. 5. **DIRECTORY INFORMATION.** Information designated as directory information pursuant to the provisions of United States Code, title 20, section 1232g and Code of Federal Regulations, title 34, section 99.37 which are in effect on July 1, ~~1989~~ 1993, is public data on individuals.

Sec. 11. Minnesota Statutes 1992, section 13.791, is amended to read:

**13.791 REHABILITATION DATA.**

Subdivision 1. **GENERAL.** Unless the data is summary data or is otherwise classified by statute or federal law, all data collected and maintained by the department of labor and industry or the department of jobs and training that pertain to individuals applying for or receiving rehabilitation services is private data on individuals.

Subd. 2. **HARMFUL DATA.** Medical, psychological, or other rehabilitation data ~~that determined to be harmful to the individual by either the commissioner of labor and industry determines may be harmful to the individual or the commissioner of jobs and training~~ shall not be released directly to the individual but must be provided through the individual's legal representative, a physician, or a psychological practitioner.

Subd. 3. **DATA ON BLIND VENDORS.** The commissioner of ~~labor and industry~~ jobs and training may release the name, business address, and business telephone number of an individual licensed under section 248.07, subdivision 8. The state committee of blind vendors organized in accordance with Code of Federal Regulations, title 34, section 395.14, has access to private data in the department of jobs and training on an individual licensed under section 248.07, subdivision 8, to the extent necessary to complete its duties.

Sec. 12. Minnesota Statutes 1992, section 13.99, subdivision 82, is amended to read:

Subd. 82. **EMERGENCY JOBS PROGRAM.** Data maintained by the commissioner of ~~public safety~~ jobs and training for the emergency jobs program are classified under section 268.673, subdivision 5.

Sec. 13. Minnesota Statutes 1992, section 16B.06, subdivision 2a, is amended to read:

Subd. 2a. **EXCEPTION.** The requirements of subdivision 2 do not apply

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to state contracts distributing state or federal funds pursuant to the federal Economic Dislocation and Worker Adjustment Assistance Act, United States Code, title 29, section 1651 et seq; or Minnesota Statutes, sections 268.977 and 268.978. For these contracts, the commissioner of jobs and training is authorized to directly enter into state contracts with approval of the governor's job training council and encumber available funds to ensure a rapid response to the needs of dislocated workers. The commissioner shall adopt internal procedures to administer and monitor funds distributed under these contracts.

Sec. 14. Minnesota Statutes 1992, section 18C.551, subdivision 3, is amended to read:

Subd. 3. **INSPECTION FEES.** An inspection fee, at the rate of five cents per ton, must be paid to the commissioner for all agricultural liming material offered for sale or sold in this state. If more than one person is involved in the distribution of agricultural liming material, the person who first sells or imports the agricultural liming material is responsible for the inspection fee. A person licensed under section ~~18C.545~~ 18C.541 must retain invoices showing proof of inspection fees paid.

Sec. 15. Minnesota Statutes 1992, section 43A.317, subdivision 9, is amended to read:

Subd. 9. **PRIVATE EMPLOYERS INSURANCE TRUST FUND.** (a) **CONTENTS.** The private ~~employer~~ employers insurance trust fund in the state treasury consists of deposits received from eligible employers and individuals, contractual settlements or rebates relating to the program, investment income or losses, and direct appropriations.

(b) **APPROPRIATION.** All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other costs necessary to administer the program.

(c) **RESERVES.** For any coverages for which the program does not contract to transfer full financial responsibility, the commissioner shall establish and maintain reserves:

(1) for claims in process, incomplete and unreported claims, premiums received but not yet earned, and all other accrued liabilities; and

(2) to ensure premium stability and the timely payment of claims in the event of adverse claims experience. The reserve for premium stability and claim fluctuations must be established according to the standards of section 62C.09, subdivision 3, except that the reserve may exceed the upper limit under this standard until July 1, 1997.

(d) **INVESTMENTS.** The state board of investment shall invest the fund's assets according to section 11A.24. Investment income and losses attributable to the fund must be credited to the fund.

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Sec. 16. Minnesota Statutes 1992, section 60A.74, subdivision 6, is amended to read:

Subd. 6. **RESTRICTION ON BOARD APPOINTMENTS.** A reinsurer shall not appoint to its board of directors, any officer, director, employee, controlling shareholder, or subproducer of its RM. This subdivision does not apply to relationships governed by chapter 60D or, if applicable, the producer controlled property/casualty insurer act, sections ~~60J.04 to 60J.05~~ 60J.06 to 60J.11.

Sec. 17. **REPEALER.**

Minnesota Statutes 1992, section 61A.011, subdivision 8, is repealed.

Sec. 18. Minnesota Statutes 1992, section 62A.44, subdivision 2, is amended to read:

Subd. 2. **QUESTIONS.** (a) Application forms shall include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another Medicare supplement or other health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing the questions and statements may be used.

(1) You do not need more than one Medicare supplement policy or certificate.

(2) If you are 65 or older, you may be eligible for benefits under Medicaid and may not need a Medicare supplement policy or certificate.

(3) The benefits and premiums under your Medicare supplement policy or certificate will be suspended during your entitlement to benefits under Medicaid for 24 months. You must request this suspension within 90 days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your policy or certificate will be reinstated if requested within 90 days of losing Medicaid eligibility.

To the best of your knowledge:

(1) Do you have another Medicare supplement policy or certificate in force, including health care service contract or health maintenance organization contract? If so, with which company?

(2) Do you have any other health insurance policies that provide benefits that this Medicare supplement policy or certificate would duplicate? If so, with which company?

(3) If the answer to question 1 or 2 is yes, do you intend to replace these medical or health policies with this policy or certificate?

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(4) Are you covered by Medicaid?"

(b) Agents shall list any other health insurance policies they have sold to the applicant.

(1) List policies sold that are still in force.

(2) List policies sold in the past five years that are no longer in force.

(c) In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, shall be returned to the applicant by the insurer on delivery of the policy or certificate.

(d) Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, shall furnish the applicant, before issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, shall be provided to the applicant and an additional signed copy shall be retained by the issuer. A direct response issuer shall deliver to the applicant at the time of the issuance of the policy or certificate the notice regarding replacement of Medicare supplement coverage.

(e) The notice required by paragraph (d) for an issuer shall be provided in substantially the following form in no less than 12-point type:

"NOTICE TO APPLICANT REGARDING REPLACEMENT  
OF MEDICARE SUPPLEMENT INSURANCE

(Insurance company's name and address)

SAVE THIS NOTICE! IT MAY BE IMPORTANT TO YOU IN THE  
FUTURE.

According to (your application) (information you have furnished), you intend to terminate existing Medicare supplement insurance and replace it with a policy or certificate to be issued by (Company Name) Insurance Company. Your new policy or certificate will provide 30 days within which you may decide without cost whether you desire to keep the policy or certificate.

You should review this new coverage carefully. Compare it with all accident and sickness coverage you now have. Terminate your present policy only if, after due consideration, you find that purchase of this Medicare supplement coverage is a wise decision.

STATEMENT TO APPLICANT BY ISSUER, AGENT, (BROKER  
OR OTHER REPRESENTATIVE): I have reviewed your current

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medical or health insurance coverage. The replacement of insurance involved in this transaction does not duplicate coverage, to the best of my knowledge. The replacement policy or certificate is being purchased for the following reason(s) (check one):

\_\_\_\_\_ Additional benefits

\_\_\_\_\_ No change in benefits, but lower premiums

\_\_\_\_\_ Fewer benefits and lower premiums

\_\_\_\_\_ Other (please specify)

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(1) Health conditions which you may presently have (preexisting conditions) may not be immediately or fully covered under the new policy or certificate. This could result in denial or delay of a claim for benefits under the new policy or certificate, whereas a similar claim might have been payable under your present policy or certificate.

(2) State law provides that your replacement policy or certificate may not contain new preexisting conditions, waiting periods, elimination periods, or probationary periods. The insurer will waive any time periods applicable to preexisting conditions, waiting periods, elimination periods, or probationary periods in the new policy (or coverage) for similar benefits to the extent the time was spent (deleted) under the original policy or certificate.

(3) If you still wish to terminate your present policy or certificate and replace it with new coverage, be certain to truthfully and completely answer all questions on the application concerning your medical and health history. Failure to include all material medical information on an application may provide a basis for the company to deny any future claims and to refund your premium as though your policy or certificate had never been in force. After the application has been completed and before you sign it, review it carefully to be certain that all information has been properly recorded. (If the policy or certificate is guaranteed issue, this paragraph need not appear.)

Do not cancel your present policy or certificate until you have received your new policy or certificate and you are ~~you~~ sure that you want to keep it.

\_\_\_\_\_  
 (Signature of Agent, Broker, or Other Representative)\*

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\_\_\_\_\_  
 (Typed Name and Address of Issuer, Agent, or Broker)

\_\_\_\_\_  
 (Date)

\_\_\_\_\_  
 (Applicant's Signature)

\_\_\_\_\_  
 (Date)

\*Signature not required for direct response sales.\*

(f) Paragraph (e), clauses (1) and (2), of the replacement notice (applicable to preexisting conditions) may be deleted by an issuer if the replacement does not involve application of a new preexisting condition limitation.

Sec. 19. Minnesota Statutes 1992, section 62J.21, is amended to read:

**62J.21 REPORTING TO THE LEGISLATURE.**

The commissioner shall report to the legislature by January 1, 1993, regarding the ~~process~~ progress being made within each region with respect to the establishment of a regional coordinating board and the development of a regional plan. In the event that the commissioner determines that any region is not making reasonable progress or a good-faith commitment towards establishing a regional coordinating board and regional plan, the commissioner may establish a public regional board for this purpose. The commissioner's report should also include the issues, if any, raised during the planning process to date and request any appropriate legislative action that would facilitate the planning process.

Sec. 20. Minnesota Statutes 1992, section 79A.01, subdivision 1, is amended to read:

Subdivision 1. **SCOPE.** For the purposes of sections 79A.01 to 79A.17 ~~and Laws 1988, chapter 674, section 23~~, the terms defined in this section have the meaning given them.

Sec. 21. Minnesota Statutes 1992, section 80C.18, subdivision 1, is amended to read:

Subdivision 1. The commissioner may promulgate rules to carry out the provisions of sections 80C.01 to 80C.22, including rules and forms governing public offering statements, applications, financial statements and annual reports, and defining any terms, whether or not used in sections 80C.01 to 80C.22, insofar as the definitions are not inconsistent with sections 80C.01 to 80C.22. The commissioner may define by rule false, fraudulent or deceptive practices in the offer and sale of franchises. For the purpose of rules and forms the commissioner may classify franchises, persons and matters within the commissioner's

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jurisdiction, and prescribe different requirements for different classes. Rules shall be promulgated in accordance with chapter ~~45~~ 14.

Sec. 22. Minnesota Statutes 1992, section 86B.321, subdivision 1, is amended to read:

Subdivision 1. **OPERATION IN EXCESS OF NOISE LIMITS PROHIBITED.** A person may not operate a motorboat under a any condition of load, acceleration, or deceleration in a manner that exceeds the noise limits contained in subdivision 2.

Sec. 23. Minnesota Statutes 1992, section 103G.293, is amended to read:

**103G.293 STATEWIDE DROUGHT PLAN.**

The commissioner shall establish a plan to respond to drought-related emergencies and to prepare a statewide framework for drought response. The plan must consider metropolitan water supply plans of the metropolitan council prepared under section 473.156. The plan must provide a framework for implementing drought response actions in a staged approach related to decreasing levels of flows. Permits issued under section ~~403G.264~~ 103G.271 must provide conditions on water appropriation consistent with the drought response plan established by this section.

Sec. 24. Minnesota Statutes 1992, section 116R.01, subdivision 6, is amended to read:

Subd. 6. **PROJECT.** "Project" means the facilities or any property described in section ~~116R.05~~ 116R.02, subdivision 5 or 6, as applicable.

Sec. 25. Minnesota Statutes 1992, section 120.064, subdivision 6, is amended to read:

Subd. 6. **ADVISORY COMMITTEE.** (a) The state board of education shall appoint an advisory committee comprised of ten members. At least two members shall be African American, two members shall be American Indian, two members shall be Asian Pacific American, and two members shall be Hispanic. One of each of the two members shall reside within the seven-county metropolitan area and one shall reside within Minnesota but outside of the seven-county metropolitan area. In addition, at least one of each of the two members shall be a parent of a child in any of the grades kindergarten through 12. ~~As~~ At least five of the ten members shall have family incomes that would make them eligible for free or reduced school lunches.

(b) Each sponsor listed in subdivision 3 shall request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately Caucasian to establish an outcome-based school in which one-half or more of the pupils are expected to be non-Caucasian.

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(c) Each sponsor listed in subdivision 3 may request the advisory committee to review and make recommendations about a proposal it receives from an individual or organization that is predominately non-Caucasian if requested to do so by the individual or organization.

Sec. 26. Minnesota Statutes 1992, section 123.39, subdivision 8d, is amended to read:

Subd. 8d. School districts may provide bus transportation along regular school bus routes when space is available for participants in early childhood family education programs and learning readiness ~~program~~ programs if these services do not result in an increase in the district's expenditures for transportation. The costs allocated to these services, as determined by generally accepted accounting principles, shall be considered part of the authorized cost for regular transportation for the purposes of section 124.225.

Sec. 27. Minnesota Statutes 1992, section 144.878, subdivision 2, is amended to read:

Subd. 2. **LEAD STANDARDS AND ABATEMENT METHODS.** (a) The commissioner shall adopt rules establishing standards and abatement methods for lead in paint, dust, and drinking water in a manner that protects public health and the environment for all residences, including residences also used for a commercial purpose. The commissioner shall adopt priorities for providing abatement services to areas defined to be at high risk for toxic lead exposure. In adopting priorities, the ~~commission~~ commissioner shall consider the number of children and pregnant women diagnosed with elevated blood lead levels and the median concentration of lead in the soil. The commissioner shall give priority to areas having the largest population of children and pregnant women having elevated blood lead levels, areas with the highest median soil lead concentration, and areas where it has been determined that there are large numbers of residences that have deteriorating paint. The commissioner shall differentiate between intact paint and deteriorating paint. The commissioner and political subdivisions shall require abatement of intact paint only if the commissioner or political subdivision finds that intact paint is a chewable or lead-dust producing surface that is a known source of actual lead exposure to a specific person. In adopting rules under this subdivision, the commissioner shall require the best available technology for abatement methods, paint stabilization, and repainting.

(b) The commissioner of health shall adopt standards and abatement methods for lead in bare soil on playgrounds and residential property in a manner to protect public health and the environment.

(c) The commissioner of the pollution control agency shall adopt rules to ensure that removal of exterior lead-based coatings from residential property by abrasive blasting methods and disposal of any hazardous waste are conducted in a manner that protects public health and the environment.

(d) All standards adopted under this subdivision must provide adequate

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margins of safety that are consistent with a detailed review of scientific evidence and an emphasis on overprotection rather than underprotection when the scientific evidence is ambiguous. The rules must apply to any individual performing or ordering the performance of lead abatement.

Sec. 28. Minnesota Statutes 1992, section 148C.11, subdivision 4, is amended to read:

Subd. 4. **HOSPITAL CHEMICAL DEPENDENCY COUNSELORS.** Except as provided in subdivision 4 3, paragraph (b), the licensing of hospital chemical dependency counselors shall be voluntary. Hospitals employing chemical dependency counselors shall not be required to employ licensed chemical dependency counselors, nor shall they require their chemical dependency counselors to be licensed.

Sec. 29. Minnesota Statutes 1992, section 168.187, subdivision 26, is amended to read:

Subd. 26. **DELINQUENT FILING OR PAYMENT.** If a fleet owner licensed under this section and section ~~168.041~~, ~~subdivision 11~~, 296.171 is delinquent in either filing or paying the international fuel tax agreement reports for more than 30 days, or paying the international registration plan billing for more than 30 days, the fleet owner, after ten days' written notice, is subject to suspension of the apportioned license plates and the international fuel tax agreement license.

Sec. 30. Minnesota Statutes 1992, section 169.797, subdivision 1, is amended to read:

Subdivision 1. **TORT LIABILITY.** Every owner of a vehicle for which security has not been provided as required by section 65B.48, shall not by the provisions of ~~this~~ chapter 65B be relieved of tort liability arising out of the operation, ownership, maintenance, or use of the vehicle.

Sec. 31. Minnesota Statutes 1992, section 245A.18, is amended to read:

**245A.18 SEAT BELT USE REQUIRED.**

(a) When a nonresidential license holder provides or arranges for transportation for children served by the license holder, children four years old and older must be restrained by a properly adjusted and fastened seat belt and children under age four must be properly fastened in a child passenger restraint system meeting federal motor vehicle safety standards. A child passenger restraint system is not required for a child who, in the judgment of a licensed physician, cannot be safely transported in a child passenger restraint system because of a medical condition, body size, or physical disability, if the license holder possesses a written statement from the physician that satisfies the requirements in section 169.685, subdivision ~~5~~ 6, paragraph (b).

(b) Paragraph (a) does not apply to transportation of children in a school

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bus inspected under section 169.451 that has a gross vehicle weight rating of more than 10,000 pounds, is designed for carrying more than ten persons, and was manufactured after 1977.

Sec. 32. Minnesota Statutes 1992, section 256B.19, subdivision 1a, is amended to read:

Subd. 1a. **STATE REIMBURSEMENT OF COUNTIES.** Beginning July 1, 1991, the state will reimburse counties according to the payment schedule in section 256.025 for the county share of costs incurred under ~~this~~ subdivision 1 on and after January 1, 1991, except for costs described in subdivision 1, clause (2). Payment to counties under this subdivision is subject to the provisions of section 256.017.

Sec. 33. Minnesota Statutes 1992, section 268.071, subdivision 3, is amended to read:

Subd. 3. **ELIGIBILITY REQUIREMENTS FOR EXTENDED BENEFITS.** An individual shall be eligible to receive extended benefits with respect to any week of unemployment in the individual's eligibility period only if the commissioner finds that with respect to such week the individual:

(1) is an "exhaustee" as defined in subdivision 1, clause (9);

(2) has satisfied the requirements of this law for the receipt of regular benefits that are applicable to individuals claiming extended benefits, including not being subject to a disqualification for the receipt of benefits, except that an individual disqualified for benefits pursuant to section 268.09, subdivision 1, clause ~~(6)~~ (g) is not eligible for extended benefits unless the individual has, subsequent to the disciplinary suspension, earned at least four times the individual's weekly extended benefit amount; and

(3) has, during the individual's base period earned wage credits available for benefit purposes of not less than 40 times the individual's weekly benefit amount as determined pursuant to section 268.07, subdivision 2.

Sec. 34. Minnesota Statutes 1992, section 289A.20, subdivision 4, is amended to read:

Subd. 4. **SALES AND USE TAX.** (a) The taxes imposed by chapter 297A are due and payable to the commissioner monthly on or before the 20th day of the month following the month in which the taxable event occurred or following another reporting period as the commissioner prescribes, except that use taxes due on an annual use tax return as provided under section 289A.11, subdivision 1, are payable by April 15 following the close of the calendar year.

(b) A vendor having a liability of \$1,500 or more in May of a year must remit the June liability in the following manner:

(1) On or before June 20 of the year, the vendor must remit the actual May liability and one-half of the estimated June liability to the commissioner.

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(2) On or before August 20 of the year, the vendor must pay any additional amount of tax not remitted in June.

(3) If the vendor is required to remit by means of funds transfer as provided in paragraph (d), the vendor may remit the May liability as provided for in paragraph (e), but must remit one-half of the estimated June liability on or before June 14. The remaining amount of the June liability is due on August 14.

(c) When a retailer located outside of a city that imposes a local sales and use tax collects use tax to be remitted to that city, the retailer is not required to remit the tax until the amount collected reaches \$10.

(d) A vendor having a liability of \$240,000 or more during a fiscal year ending June 30 must remit all liabilities in the subsequent calendar year by means of a funds transfer as defined in section 336.4A-104, paragraph (a). The funds transfer payment date, as defined in section 336.4A-401, must be on or before the date the tax is due the 14th day of the month following the month in which the taxable event occurred, except for the one-half of the estimated June liability, which is due with the May liability on June 14. The remaining amount of the June liability is due on August 14. If the date the tax is due is not a funds transfer business day, as defined in section 336.4A-105, paragraph (a), clause (4), the payment date must be on or before the funds transfer business day next following the date the tax is due.

(e) If the vendor required to remit by electronic funds transfer as provided in paragraph (d) is unable due to reasonable cause to determine the actual sales and use tax due on or before the due date for payment, the vendor may remit an estimate of the tax owed using one of the following options:

(1) 100 percent of the tax reported on the previous month's sales and use tax return;

(2) 100 percent of the tax reported on the sales and use tax return for the same month in the previous calendar year; or

(3) 95 percent of the actual tax due.

Any additional amount of tax that is not remitted on or before the due date for payment, must be remitted with the return. A vendor must notify the commissioner of the option that will be used to estimate the tax due, and must obtain approval from the commissioner to switch to another option. If a vendor fails to remit the actual liability or does not remit using one of the estimate options by the due date for payment, the vendor must remit actual liability as provided in paragraph (d) in all subsequent periods. This paragraph does not apply to the June sales and use tax liability.

Sec. 35. Minnesota Statutes 1992, section 326.43, is amended to read:

**326.43 COMMISSIONER MAY REVOKE LICENSE.**

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The commissioner of health may revoke any license obtained through error or fraud, or if the licensee is shown to be incompetent, and for a willful violation of any of its rules, or of local ordinances applicable to such work, or of sections 326.37 to 326.45, or for knowingly aiding or abetting one to do plumbing work who is not properly licensed, or the employing by a master plumber of an unlicensed person to do plumbing work in places where licenses are required. The licensee shall have notice in writing, enumerating the charges, and be entitled to a hearing by the ~~board~~ commissioner upon at least five days' notice, with the right to produce testimony. The commissioner may appoint, in writing, any competent person to take testimony, who shall have power to administer oaths, issue subpoenas, and compel the attendance of witnesses. The decision of the commissioner shall be based on the testimony and records. One year from the date of revocations application may be made for a new license.

Sec. 36. **REPEALER.**

Minnesota Statutes 1992, section 334.011, subdivision 4, is repealed.

Sec. 37. Minnesota Statutes 1992, section 349.31, subdivision 1, is amended to read:

Subdivision 1. **INTENTIONAL POSSESSION; WILLFUL KEEPING.** The intentional possession or willful keeping of a gambling device on a licensed premises is cause for the suspension or revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found, provided that possession of gambling equipment as defined in section 349.12, subdivision ~~4~~ 18, which is used for lawful gambling authorized by this chapter, and the manufacture of gambling devices for use in jurisdictions where use of the gambling device is legal as provided for by section 349.40 shall not be cause for revocation of a license.

Sec. 38. Minnesota Statutes 1992, section 352.03, subdivision 16, is amended to read:

Subd. 16. **DATA PROCESSING SERVICES.** Notwithstanding chapter ~~46~~ 16B, or any law to the contrary, the executive director of the system may use the services of the department of administration, information services division, for electronic data processing and related services or may contract for all or a part of the services.

Sec. 39. Minnesota Statutes 1992, section 352C.021, subdivision 6, is amended to read:

Subd. 6. **DEPENDENT CHILD.** "Dependent child" means any natural or adopted child of a deceased constitutional officer or commissioner or a deceased former constitutional officer or commissioner who is under the age of 18, or who is under the age of 22 and is a full time student, and who in either case is unmarried and was actually dependent for more than one-half of the child's support upon the constitutional officer or commissioner or the former constitutional

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officer or commissioner for a period of at least 90 days immediately prior to the death of the constitutional officer or commissioner or the former constitutional officer or commissioner. The term shall also include a posthumous child of the constitutional officer or commissioner or the former constitutional officer or commissioner.

Sec. 40. Minnesota Statutes 1992, section 357.11, is amended to read:

**357.11 CORONERS.**

Fees for viewing or examining each dead body, for holding an inquest, for preparing folios, and allowances for mileage for necessary travel shall be determined by the county board.

(1) In performing the sheriff's duties a coroner shall receive the fees allowed to the sheriff for like services.

(2) Fees and mileage for physicians called by the coroner to make autopsies shall be determined by the county board. A coroner or deputy coroner, who is duly licensed and registered to practice medicine and surgery in this state, shall not be disqualified from rendering medical care or hospitalization to a recipient of public relief or being appointed an examiner in insanity or incompetency hearings, or from being compensated therefor, by virtue of holding such office. A coroner or deputy coroner, who is a duly licensed funeral director or embalmer in this state, shall not be disqualified from performing any duties prescribed by law for each from rendering such services to a recipient of public relief, or from being compensated therefor, by virtue of holding such office. This chapter shall apply to all counties now having or hereafter having a population of less than 275,000 but shall not apply to any county where such fees are now fixed by special laws.

(4) ~~(3)~~ The county board of any such county may allow the reasonable and necessary expenses of any such coroner or coroner's deputies, incurred for ambulance, telephone tolls, telegrams, or postage, solely for official business.

Sec. 41. Minnesota Statutes 1992, section 471.617, subdivision 1, is amended to read:

Subdivision 1. A statutory or home rule charter city, county, school district, or instrumentality thereof which has more than 100 employees, may by ordinance or resolution self-insure for any employee health benefits including long-term disability, but not for employee life benefits. Any self-insurance plan shall provide all benefits which are required by law to be provided by group health insurance policies. Self-insurance plans shall be certified as provided by section 62E.05. ~~Employee wage deductions for the purpose of funding a self-insured health benefit plan are subject to the licensing provisions of section 60A.23, subdivision 7.~~

Sec. 42. Minnesota Statutes 1992, section 473.704, subdivision 17, is amended to read:

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Subd. 17. Members of the commission, its officers, and employees, while on the business of the commission, may enter upon any property within or outside the district at reasonable times to determine the need for control programs. They may take all necessary and proper steps for the control programs on property within the district as the director of the commission may designate. Subject to the paramount control of the county and state authorities, commission members and officers and employees of the commission may enter upon any property and clean up any stagnant pool of water, the shores of lakes and streams, and other breeding places for mosquitoes within the district. The commissioner of natural resources shall allow the commission to enter upon state property for the purposes described in this subdivision. The commission may apply insecticides approved by the director to any area within or outside the district that is found to be a breeding place for mosquitoes. The commission shall give reasonable notification to the governing body of the local unit of government prior to applying insecticides outside of the district on land located within the jurisdiction of the local unit of government. The commission shall not enter upon private property if the owner objects except for control of disease bearing mosquito encephalitis outbreaks.

Sec. 43. Minnesota Statutes 1992, section 475.66, subdivision 3, is amended to read:

Subd. 3. Subject to the provisions of any resolutions or other instruments securing obligations payable from a debt service fund, any balance in the fund may be invested

(a) in governmental bonds, notes, bills, mortgages, and other securities, which are direct obligations or are guaranteed or insured issues of the United States, its agencies, its instrumentalities, or organizations created by an act of Congress, or in certificates of deposit secured by letters of credit issued by federal home loan banks,

(b) in shares of an investment company (1) registered under the Federal Investment Company Act of 1940, whose shares are registered under the Federal Securities Act of 1933, and (2) whose only investments are in (i) securities described in the preceding clause, (ii) general obligation tax-exempt securities rated A or better by a national bond rating service, and (iii) repurchase agreements or reverse repurchase agreements fully collateralized by those securities, if the repurchase agreements or reverse repurchase agreements are entered into only with those primary reporting dealers that report to the Federal Reserve Bank of New York and with the 100 largest United States commercial banks,

(c) in any security which is (1) a general obligation of the state of Minnesota or any of its municipalities, or (2) a general obligation of another state or local government with taxing powers which is rated A or better by a national bond rating service, or (3) a general obligation of the Minnesota housing finance agency, or (4) a general obligation of a housing finance agency of any state if it includes a moral obligation of the state, or (5) a general or revenue obligation of

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any agency or authority of the state of Minnesota other than a general obligation of the Minnesota housing finance agency. Investments under clauses (3) and (4) must be in obligations that are rated A or better by a national bond rating service and investments under clause (5) must be in obligations that are rated AA or better by a national bond rating service,

(d) in bankers acceptances of United States banks eligible for purchase by the Federal Reserve System,

(e) in commercial paper issued by United States corporations or their Canadian subsidiaries that is of the highest quality and matures in 270 days or less, or

(f) in guaranteed investment contracts issued or guaranteed by United States commercial banks or domestic branches of foreign banks or United States insurance companies or their Canadian or United States subsidiaries; provided that the investment contracts rank on a parity with the senior unsecured debt obligations of the issuer or guarantor and, (1) in the case of long-term investment contracts, either (i) the long-term senior unsecured debt of the issuer or guarantor is rated, or obligations backed by letters of credit of the issuer or guarantor if forming the primary basis of a rating of such obligations would be rated, in the highest or next highest rating category of Standard & Poor's Corporation, Moody's Investors Service, Inc., or a similar nationally recognized rating agency, or (ii) if the issuer is a bank with headquarters in Minnesota, the long-term senior unsecured debt of the issuer is rated, or obligations backed by letters of credit of the issuer if forming the primary basis of a rating of such obligations would be rated in one of the three highest rating categories of Standard & Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency, or (2) in the case of short-term investment contracts, the short-term unsecured debt of the issuer or guarantor is rated, or obligations backed by letters of credit of the issuer or guarantor if forming the primary basis ~~of~~ of a rating of such obligations would be rated, in the highest two rating categories of Standard and Poor's Corporation, Moody's Investors Service, Inc., or similar nationally recognized rating agency.

The fund may also be used to purchase any obligation, whether general or special, of an issue which is payable from the fund, at such price, which may include a premium, as shall be agreed to by the holder, or may be used to redeem any obligation of such an issue prior to maturity in accordance with its terms. The securities representing any such investment may be sold or hypothecated by the municipality at any time, but the money so received remains a part of the fund until used for the purpose for which the fund was created.

Sec. 44. **REPEALER.**

Minnesota Statutes 1992, section 480.0591, subdivision 3, is repealed.

Sec. 45. Minnesota Statutes 1992, section 480.15, subdivision 9, is amended to read:

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Subd. 9. The court administrator shall formulate and submit to the ~~judicial council of this state and to the~~ respective houses of the legislature recommendations of policies for the improvement of the judicial system.

Sec. 46. Minnesota Statutes 1992, section 525.9221, is amended to read:

**525.9221 EXAMINATION, AUTOPSY, LIABILITY.**

(a) An anatomical gift authorizes any reasonable examination necessary to assure medical acceptability of the gift for the purposes intended.

(b) The provisions of sections 525.921 to 525.9224 are subject to the laws of this state governing autopsies.

(c) A hospital, physician, surgeon, coroner, medical examiner, local public health officer, enucleator, technician, or other person, who acts in accordance with sections 525.921 to 525.9224 or with the applicable anatomical gift law of another state or a foreign country or attempts in good faith to do so is not liable for that act in a civil action or criminal proceeding.

(d) An individual who makes an anatomical gift pursuant to section ~~525.921, subdivision 3 or 3a~~ 525.9211 or 525.9212, and the individual's estate are not liable for any injury or damage that may result from the making or the use of the anatomical gift.

Sec. 47. Minnesota Statutes 1992, section 551.04, subdivision 14, is amended to read:

Subd. 14. **DISCHARGE OF A THIRD PARTY.** Subject to subdivisions 6 and 15, the third party, after disclosure, shall be discharged of any further obligation to the judgment creditor ~~earnings~~ when one of the following conditions is met:

(a) The third party discloses that the third party is not indebted to the judgment debtor or does not possess any earnings, property, money, or indebtedness belonging to the judgment debtor that is attachable as defined in subdivision 2. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor which was disclosed.

(b) The third party discloses that the third party is indebted to the judgment debtor as indicated on the execution disclosure form. The disclosure is conclusive against the judgment creditor and discharges the third party from any further obligation to the judgment creditor other than to retain and remit all nonexempt disposable earnings, property, indebtedness, or money of the judgment debtor that was disclosed.

(c) The court may, upon motion of an interested person, discharge the third party as to any disposable earnings, money, property, or indebtedness in excess of the amount that may be required to satisfy the judgment creditor's claim.

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Sec. 48. Minnesota Statutes 1992, section 600.02, is amended to read:

**600.02 BUSINESS RECORDS AS EVIDENCE.**

A record of an act, condition, or event shall, in so far as relevant, be competent evidence if the custodian or other qualified witness testifies to its identity and the mode of its preparation, and if it was made in the regular course of business, at or near the time of the act, condition, or event, and if, in the opinion of the court, the sources of information, method, and time ~~or~~ of preparation were such as to justify its admission.

Sec. 49. Minnesota Statutes 1992, section 609.3471, is amended to read:

**609.3471 RECORDS PERTAINING TO VICTIM IDENTITY CONFIDENTIAL.**

Notwithstanding any provision of law to the contrary, no data contained in records or reports relating to petitions, complaints, or indictments issued pursuant to section 609.342; 609.343; 609.344; or 609.345 which specifically identifies a victim who is a minor shall be accessible to the public, except by order of the court. Nothing in this section authorizes denial of access to any other data contained in the records or reports, including the identity of the defendant.

Sec. 50. Minnesota Statutes 1992, section 626.556, subdivision 10, is amended to read:

**Subd. 10. DUTIES OF LOCAL WELFARE AGENCY AND LOCAL LAW ENFORCEMENT AGENCY UPON RECEIPT OF A REPORT.**

(a) If the report alleges neglect, physical abuse, or sexual abuse by a parent, guardian, or individual functioning within the family unit as a person responsible for the child's care, the local welfare agency shall immediately conduct an assessment and offer protective social services for purposes of preventing further abuses, safeguarding and enhancing the welfare of the abused or neglected minor, and preserving family life whenever possible. If the report alleges a violation of a criminal statute involving sexual abuse or physical abuse, the local law enforcement agency and local welfare agency shall coordinate the planning and execution of their respective investigation and assessment efforts to avoid a duplication of fact-finding efforts and multiple interviews. Each agency shall prepare a separate report of the results of its investigation. When necessary the local welfare agency shall seek authority to remove the child from the custody of a parent, guardian, or adult with whom the child is living. In performing any of these duties, the local welfare agency shall maintain appropriate records.

(b) When a local agency receives a report or otherwise has information indicating that a child who is a client, as defined in section 245.91, has been the subject of physical abuse or neglect at an agency, facility, or program as defined in section 245.91, it shall, in addition to its other duties under this section, immediately inform the ombudsman established under sections 245.91 to 245.97.

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(c) Authority of the local welfare agency responsible for assessing the child abuse report and of the local law enforcement agency for investigating the alleged abuse includes, but is not limited to, authority to interview, without parental consent, the alleged victim and any other minors who currently reside with or who have resided with the alleged perpetrator. The interview may take place at school or at any facility or other place where the alleged victim or other minors might be found and may take place outside the presence of the perpetrator or parent, legal custodian, guardian, or school official. Except as provided in this paragraph, the parent, legal custodian, or guardian shall be notified by the responsible local welfare or law enforcement agency no later than the conclusion of the investigation or assessment that this interview has occurred. Notwithstanding rule 49.02 of the Minnesota rules of procedure for juvenile courts, the juvenile court may, after hearing on an ex parte motion by the local welfare agency, order that, where reasonable cause exists, the agency withhold notification of this interview from the parent, legal custodian, or guardian. If the interview took place or is to take place on school property, the order shall specify that school officials may not disclose to the parent, legal custodian, or guardian the contents of the notification of intent to interview the child on school property, as provided under this paragraph, and any other related information regarding the interview that may be a part of the child's school record. A copy of the order shall be sent by the local welfare or law enforcement agency to the appropriate school official.

(d) When the local welfare or local law enforcement agency determines that an interview should take place on school property, written notification of intent to interview the child on school property must be received by school officials prior to the interview. The notification shall include the name of the child to be interviewed, the purpose of the interview, and a reference to the statutory authority to conduct an interview on school property. For interviews conducted by the local welfare agency, the notification shall be signed by the chair of the county welfare board or the chair's designee. The notification shall be private data on individuals subject to the provisions of this paragraph. School officials may not disclose to the parent, legal custodian, or guardian the contents of the notification or any other related information regarding the interview until notified in writing by the local welfare or law enforcement agency that the investigation or assessment has been concluded. Until that time, the local welfare or law enforcement agency shall be solely responsible for any disclosures regarding the nature of the assessment or investigation.

Except where the alleged perpetrator is believed to be a school official or employee, the time and place, and manner of the interview on school premises shall be within the discretion of school officials, but the local welfare or law enforcement agency shall have the exclusive authority to determine who may attend the interview. The conditions as to time, place, and manner of the interview set by the school officials shall be reasonable and the interview shall be conducted not more than 24 hours after the receipt of the notification unless another time is considered necessary by agreement between the school officials and the local welfare or law enforcement agency. Where the school fails to com-

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ply with the provisions of this paragraph, the juvenile court may order the school to comply. Every effort must be made to reduce the disruption of the educational program of the child, other students, or school staff when an interview is conducted on school premises.

(e) Where the perpetrator or a person responsible for the care of the alleged victim or other minor prevents access to the victim or other minor by the local welfare agency, the juvenile court may order the parents, legal custodian, or guardian to produce the alleged victim or other minor for questioning by the local welfare agency or the local law enforcement agency outside the presence of the perpetrator or any person responsible for the child's care at reasonable places and times as specified by court order.

(f) Before making an order under paragraph ~~(d)~~ (e), the court shall issue an order to show cause, either upon its own motion or upon a verified petition, specifying the basis for the requested interviews and fixing the time and place of the hearing. The order to show cause shall be served personally and shall be heard in the same manner as provided in other cases in the juvenile court. The court shall consider the need for appointment of a guardian ad litem to protect the best interests of the child. If appointed, the guardian ad litem shall be present at the hearing on the order to show cause.

(g) The commissioner, the ombudsman for mental health and mental retardation, the local welfare agencies responsible for investigating reports, and the local law enforcement agencies have the right to enter facilities as defined in subdivision 2 and to inspect and copy the facility's records, including medical records, as part of the investigation. Notwithstanding the provisions of chapter 13, they also have the right to inform the facility under investigation that they are conducting an investigation, to disclose to the facility the names of the individuals under investigation for abusing or neglecting a child, and to provide the facility with a copy of the report and the investigative findings.

Sec. 51. Minnesota Statutes 1992, section 626.861, subdivision 3, is amended to read:

Subd. 3. **COLLECTION BY COURT.** After a determination by the court of the amount of the fine or penalty assessment due, the court administrator shall collect the appropriate penalty assessment and transmit it to the county treasurer separately with designation of its origin as a penalty assessment, but with the same frequency as fines are transmitted. Amounts collected under this subdivision shall then be transmitted to the state treasurer for deposit for peace officers training, in the same manner as fines collected for the state by a county. The state treasurer shall identify and report to the commissioner of finance all amounts deposited ~~in the general fund under this section~~ according to subdivision 4.

Sec. 52. **REPEALER.**

Laws 1991, chapter 254, article 3, section 21, is repealed.

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## ARTICLE 2

## OBSOLETE REFERENCES

## Section 1. REVISOR'S INSTRUCTION.

In each section of Minnesota Statutes referred to in column A, the revisor of statutes shall delete the reference in column B, and insert the reference in column C.

| <u>Column A</u>         | <u>Column B</u>             | <u>Column C</u>              |
|-------------------------|-----------------------------|------------------------------|
| <u>10A.31, subd. 8</u>  | <u>10A.32, subd. 3</u>      | <u>10A.322, subd. 1</u>      |
| <u>10A.31, subd. 11</u> | <u>10A.32, subd. 3</u>      | <u>10A.322, subd. 1</u>      |
| <u>18.333</u>           | <u>18.171, subd. 5</u>      | <u>18.77, subd. 8</u>        |
| <u>60A.11, subd. 10</u> | <u>60D.01, subd. 2</u>      | <u>60D.15, subd. 2</u>       |
| <u>60A.11, subd. 10</u> | <u>60D.01, subd. 4</u>      | <u>60D.15, subd. 4</u>       |
| <u>60A.11, subd. 10</u> | <u>60D.01, subd. 9</u>      | <u>60D.15, subd. 9</u>       |
| <u>60B.15</u>           | <u>60A.051</u>              | <u>60A.052</u>               |
| <u>62C.12</u>           | <u>60A.051</u>              | <u>60A.052</u>               |
| <u>62G.14</u>           | <u>60A.051</u>              | <u>60A.052</u>               |
| <u>62L.11, subd. 1</u>  | <u>60A.051</u>              | <u>60A.052</u>               |
| <u>62L.12, subd. 3</u>  | <u>60A.17, subd. 6c</u>     | <u>60K.11</u>                |
| <u>62L.12, subd. 3</u>  | <u>60A.17, subd. 6d</u>     | <u>60K.11</u>                |
| <u>71A.08, subd. 2</u>  | <u>60A.05</u>               | <u>60A.052</u>               |
| <u>79.252, subd. 4</u>  | <u>176.131</u>              | <u>Minnesota Statutes</u>    |
|                         |                             | <u>1990, section 176.131</u> |
| <u>160.02, subd. 14</u> | <u>18.171, subd. 5</u>      | <u>18.77, subd. 8</u>        |
| <u>174.06, subd. 1</u>  | <u>473.401</u>              | <u>473.404</u>               |
| <u>174.06, subd. 1</u>  | <u>473.451</u>              | <u>473.449</u>               |
| <u>176.1311</u>         | <u>176.131</u>              | <u>Minnesota Statutes</u>    |
|                         |                             | <u>1990, section 176.131</u> |
| <u>176.191, subd. 2</u> | <u>176.131</u>              | <u>Minnesota Statutes</u>    |
|                         |                             | <u>1990, section 176.131</u> |
| <u>383D.71</u>          | <u>458.196</u>              | <u>469.065</u>               |
| <u>458D.03, subd. 8</u> | <u>Const. art 5, sec. 8</u> | <u>Const. art 5, sec. 6</u>  |
| <u>514.945</u>          | <u>223A.03 and 223A.04</u>  | <u>336A.15 and 336A.16</u>   |
| <u>523.01</u>           | <u>523.25</u>               | <u>523.24</u>                |
| <u>523.05</u>           | <u>523.25</u>               | <u>523.24</u>                |
| <u>528.15, subd. 2</u>  | <u>523.25</u>               | <u>523.24</u>                |
| <u>550.37, subd. 13</u> | <u>571.55</u>               | <u>571.922</u>               |
| <u>590.05</u>           | <u>611.29</u>               | <u>611.27</u>                |

Sec. 2. Minnesota Statutes 1992, section 3.9741, is amended to read:

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

Upon the audit of the financial accounts and affairs of a commission 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, includ-

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ing 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.

Sec. 3. Minnesota Statutes 1992, section 65B.09, subdivision 1, is amended to read:

Subdivision 1. **AGENTS' RESPONSIBILITY.** Every person licensed under ~~section 60A.17~~ chapter 60K who is authorized to solicit, negotiate or effect automobile insurance on behalf of any member shall:

(1) Offer to place coverage through the facility for any qualified applicant who is ineligible or unacceptable for coverage in the insurer or insurers for whom the agent is authorized to solicit, negotiate or effect automobile insurance. Provided, that the failure of an agent to make such an offer to a qualified applicant shall not subject the agent to any liability to the applicant;

(2) Forward to the facility all applications and any deposit premiums which are required by the plan of operation, rules and procedures of the facility, if the qualified applicant accepts the offer to have coverage placed through the facility;

(3) Be entitled to receive compensation for placing insurance through the facility at the uniform rates of compensation as provided in the plan of operation, and all members shall pay such compensation.

Sec. 4. Minnesota Statutes 1992, section 79.251, subdivision 6, is amended to read:

Subd. 6. **AGENTS.** A person licensed under ~~section 60A.17~~ chapter 60K may submit an application for coverage to the assigned risk plan and receive a fee from the assigned risk plan for submitting the application. However, the licensee is not an agent of the assigned risk plan for purposes of state law. All checks or similar instruments submitted in payment of assigned risk plan premiums must be made payable to the assigned risk plan and not the agent.

Sec. 5. Minnesota Statutes 1992, section 80E.09, subdivision 2, is amended to read:

Subd. 2. **TIME IN WHICH PAYMENTS MUST BE MADE.** Fair and reasonable compensation shall be paid by the manufacturer when possible within 90 days of the effective date of termination, cancellation, or nonrenewal, provided the dealer has clear title to the inventory and other items, is in a position to convey that title to the manufacturer and as long as this period will allow compliance with the notification requirements of ~~sections 336.6-101 to 336.6-111~~ or any other state or federal laws relating to creditor notification.

Sec. 6. Minnesota Statutes 1992, section 148B.06, subdivision 2, is amended to read:

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

Subd. 2. **HEARING.** In lieu of the notice and hearing requirements of section ~~148B.16~~ 148B.175, when a licensee or applicant is required to obtain a clearance certificate under this subdivision, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice required in subdivision 1. The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the office of administrative hearings. Notwithstanding any other law, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

Sec. 7. Minnesota Statutes 1992, section 256B.0644, is amended to read:

**256B.0644 PARTICIPATION REQUIRED FOR REIMBURSEMENT UNDER OTHER STATE HEALTH CARE PROGRAMS.**

A vendor of medical care, as defined in section 256B.02, subdivision 7, and a health maintenance organization, as defined in chapter 62D, must participate as a provider or contractor in the medical assistance program, general assistance medical care program, and the health right plan as a condition of participating as a provider in health insurance plans or contractor for state employees established under section 43A.18, the public employees insurance plan under section 43A.316, the workers' compensation system under section 176.135, and insurance plans provided through the Minnesota comprehensive health association under sections 62E.01 to ~~62E.17~~ 62E.16. For providers other than health maintenance organizations, participation in the medical assistance program means that (1) the provider accepts new medical assistance patients or (2) at least 20 percent of the provider's patients are covered by medical assistance, general assistance medical care, or the health right plan as their primary source of coverage. The commissioner shall establish participation requirements for health maintenance organizations. The commissioner shall provide lists of participating medical assistance providers on a quarterly basis to the commissioner of employee relations, the commissioner of labor and industry, and the commissioner of commerce. Each of the commissioners shall develop and implement procedures to exclude as participating providers in the program or programs under their jurisdiction those providers who do not participate in the medical assistance program.

Sec. 8. Minnesota Statutes 1992, section 290.9201, subdivision 7, is amended to read:

Subd. 7. **WITHHOLDING ON COMPENSATION OF ENTERTAINERS.** The tax on compensation of an entertainer must be withheld at a rate of two percent of all compensation paid to the entertainment entity by the person or corporation having legal control of the payment of the compensation. The compensation subject to withholding under this section is not subject to the withholding provisions of section 290.92, subdivision 2a, 3, or 28, except the provisions of sections 290.92, ~~subdivisions~~ subdivision ~~6a and 18,~~ 270.06, para-

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graph (16), 289A.09, ~~subdivision~~ subdivisions 1, paragraph (f), and 2, 289A.60, and 289A.63 shall apply to withholding under this section as if the withholding were upon wages.

Sec. 9. Minnesota Statutes 1992, section 290A.03, subdivision 13, is amended to read:

Subd. 13. **PROPERTY TAXES PAYABLE.** "Property taxes payable" means the property tax exclusive of special assessments, penalties, and interest payable on a claimant's homestead before reductions made under section 273.13 but after deductions made under sections ~~273.132~~, 273.135, 273.1391, 273.42, subdivision 2, and any other state paid property tax credits in any calendar year. In the case of a claimant who makes ground lease payments, "property taxes payable" includes the amount of the payments directly attributable to the property taxes assessed against the parcel on which the house is located. No apportionment or reduction of the "property taxes payable" shall be required for the use of a portion of the claimant's homestead for a business purpose if the claimant does not deduct any business depreciation expenses for the use of a portion of the homestead in the determination of federal adjusted gross income. For homesteads which are manufactured homes as defined in section 274.19, subdivision 8, "property taxes payable" shall also include the amount of the gross rent paid in the preceding year for the site on which the homestead is located, which is attributable to the net tax paid on the site. The amount attributable to property taxes shall be determined by multiplying the net tax on the parcel by a fraction, the numerator of which is the gross rent paid for the calendar year for the site and the denominator of which is the gross rent paid for the calendar year for the parcel. When a homestead is owned by two or more persons as joint tenants or tenants in common, such tenants shall determine between them which tenant may claim the property taxes payable on the homestead. If they are unable to agree, the matter shall be referred to the commissioner of revenue whose decision shall be final. Property taxes are considered payable in the year prescribed by law for payment of the taxes.

In the case of a claim relating to "property taxes payable," the claimant must have owned and occupied the homestead on January 2 of the year in which the tax is payable and (i) the property must have been classified as homestead property pursuant to section 273.13, subdivision 22 or 23, on or before June 1 of the year in which the "property taxes payable" were levied; or (ii) the claimant must provide documentation from the local assessor that application for homestead classification has been made prior to October 1 of the year in which the "property taxes payable" were payable and that the assessor has approved the application.

Sec. 10. Minnesota Statutes 1992, section 325E.0681, subdivision 9, is amended to read:

Subd. 9. **PROVISIONS OF CONTRACT SUPPLEMENTED.** This section is supplemental to an agreement between the dealer and the manufacturer

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covering the return of heavy and utility equipment. The dealer may elect to pursue either the dealer's contract remedy or the remedy provided in this section. An election by the dealer to pursue the contract remedy does not bar the dealer's right to the remedy provided in this section as to the heavy and utility equipment not affected by the contract remedy. Notwithstanding anything contained in this section, the rights of a manufacturer to charge back to the dealer's account amounts previously paid or credited as a discount incident to the dealer's purchase of goods is not affected. ~~A repurchase made under this section is not subject to the bulk transfers law, sections 336.6-101 to 336.6-111.~~

Sec. 11. Minnesota Statutes 1992, section 473.516, subdivision 1, is amended to read:

Subdivision 1. **ACQUISITION AND OPERATION.** Without limiting the grant or enumeration of any of the powers conferred on the council or commission under sections 473.501 to 473.549, the commission shall have the specific power to acquire by purchase, lease, condemnation, gift or grant any real or personal property ~~including development rights as defined in section 473.833,~~ positive and negative easements and water and air rights, and it may construct, enlarge, improve, replace, repair, maintain and operate waste facilities in the metropolitan area deemed to be necessary or convenient in connection with the processing or disposal of waste resulting from sewage treatment, and the commission may contract for the maintenance and operation of such waste facilities, subject to the bidding requirements of section 473.523. The commission may accept for processing waste derived from outside the metropolitan area in the state, as well as waste derived from within the metropolitan area, and may fix and collect fees and charges for the acceptance of waste as the commission determines to be reasonable.

Sec. 12. Minnesota Statutes 1992, section 473.811, subdivision 6, is amended to read:

Subd. 6. **GRANTS AND LOANS TO COUNTIES.** Each metropolitan county may accept gifts, may apply for and accept grants or loans of money or other property from the United States, the state, the metropolitan council, any local government unit, or any person, to accomplish the purposes specified in sections 473.149, 473.151, 473.801 to 473.823, ~~473.831,~~ and 473.834, may enter into any agreement required in connection therewith, and may hold, use, and dispose of the money or property in accordance with the terms of the gift, grant, loan or agreement relating thereto.

Sec. 13. Minnesota Statutes 1992, section 473.811, subdivision 7, is amended to read:

Subd. 7. **JOINT ACTION.** Any local governmental unit or metropolitan agency may act together with any county, city, or town within or without the metropolitan area, or with the pollution control agency or the office of waste management under the provisions of section 471.59 or any other appropriate law providing for joint or cooperative action between government units, to

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accomplish any purpose specified in sections 473.149, 473.151, 473.801 to 473.823, ~~473.831~~, 473.834, 116.05 and 115A.06.

Any agreement regarding data processing services relating to the generation, management, identification, labeling, classification, storage, collection, treatment, transportation, processing or disposal of waste and entered into pursuant to section 471.59, or other law authorizing joint or cooperative action may provide that any party to the agreement may agree to defend, indemnify and hold harmless any other party to the agreement providing the services, including its employees, officers or volunteers, against any judgments, expenses, reasonable attorney's fees and amounts paid in settlement actually and reasonably incurred in connection with any third party claim or demand arising out of an alleged act or omission by a party to the agreement, its employees, officers or volunteers occurring in connection with any exchange, retention, storage or processing of data, information or records required by the agreement. Any liability incurred by a party to an agreement under this subdivision shall be subject to the limitations set forth in section 3.736 or 466.04.

Sec. 14. Minnesota Statutes 1992, section 473.811, subdivision 8, is amended to read:

Subd. 8. **COUNTY SALE OR LEASE.** Each metropolitan county may sell or lease any facilities or property or property rights previously used or acquired to accomplish the purposes specified by sections 473.149, 473.151, 473.801 to 473.823, ~~473.831~~, and 473.834. Such property may be sold in the manner provided by section 469.065, or may be sold in the manner and on the terms and conditions determined by the county board. Each metropolitan county may convey to or permit the use of any such property by a local government unit, with or without compensation, without submitting the matter to the voters of the county. No real property or property rights acquired pursuant to this section, may be disposed of in any manner unless and until the county shall have submitted to the agency and the metropolitan council for review and comment the terms on and the use for which the property will be disposed of. The agency and the council shall review and comment on the proposed disposition within 60 days after each has received the data relating thereto from the county.

Sec. 15. Minnesota Statutes 1992, section 473.811, subdivision 9, is amended to read:

Subd. 9. **SOLID AND HAZARDOUS WASTE FUND.** All money received by any metropolitan county from any source specified in sections 473.149, 473.151, 473.801 to 473.823, ~~473.831~~, and 473.834 shall be paid into the county treasury, placed in a special fund designated as the county solid and hazardous waste fund, and used only for the purposes authorized in those sections, as appropriated by the county board, subject to any lawful restrictions, conditions, or pledges applicable thereto.

Sec. 16. Minnesota Statutes 1992, section 477A.13, is amended to read:

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**477A.13 TIME OF PAYMENT, DEDUCTIONS.**

Payments to the counties shall be made from the general fund during the month of July of the year next following certification. There shall be deducted from amounts paid any amounts paid to a county or township during the preceding year pursuant to sections ~~89.036~~, 97A.061, subdivisions 1 and 2, and 272.68, subdivision 3, with respect to the lands certified pursuant to section 477A.12.

Sec. 17. Minnesota Statutes 1992, section 480.059, subdivision 7, is amended to read:

Subd. 7. **EFFECT UPON STATUTES.** Present statutes relating to the pleadings, practice, procedure, and the forms thereof in criminal actions shall be effective until modified or superseded by court rule. If a rule is promulgated pursuant to this section which is in conflict with a statute, the statute shall thereafter be of no force and effect. Notwithstanding any rule, however, the following statutes remain in full force and effect:

(a) Statutes which relate to substantive criminal law, found in chapters 609, 617, and 624, except for sections 609.115, and 609.145;

(b) Statutes which relate to the rights of the accused, found in sections 611.01 to 611.033, 611.11 to ~~611.12~~, and 611.30 to 611.34 and Laws 1973, chapter 317;

(c) Statutes which relate to the prevention of crime, found in chapter 625;

(d) Statutes which relate to training, investigation, apprehension, and reports, found in chapter 626;

(e) Statutes which relate to privacy of communications, found in chapter 626A;

(f) Statutes which relate to extradition, detainers, and arrest, found in sections 629.01 to 629.404;

(g) Statutes which relate to judgment and sentence, found in sections 631.20 to 631.21 and 631.40 to 631.51;

(h) Statutes which relate to special rules, evidence, privileges, and witnesses, found in sections 595.02 to 595.025 and chapter 634;

(i) The supreme court shall not have the power to adopt or promulgate any rule requiring less than unanimous verdicts in criminal cases; and

(j) Statutes which relate to the writ of habeas corpus, including but not limited to, sections 589.01 to 589.30 and 484.03.

Whenever, pursuant to this section, the court adopts a rule which conflicts, modifies, or supersedes a statute not enumerated above it shall indicate the statute in the order adopting the rule.

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Presented to the governor March 29, 1993

Signed by the governor March 31, 1993, 3:38 p.m.

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CHAPTER 14—H.F.No. 29

*An act relating to child care; extending the prohibition on smoking to family day care providers; updating the reference to the rule governing child care centers; amending Minnesota Statutes 1992, section 144.414, subdivision 2.*

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

Section 1. Minnesota Statutes 1992, section 144.414, subdivision 2, is amended to read:

Subd. 2. **DAY CARE PREMISES.** Smoking is prohibited in a day care center licensed under Minnesota Rules, parts ~~9545.0510 to 9545.0650~~ 9503.0005 to 9503.0175, or in a family home or in a group family day care provider home licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, during its hours of operation.

Sec. 2. **EFFECTIVE DATE.**

Under section 1, the prohibition on smoking in day care licensed under Minnesota Rules, parts 9503.0005 to 9503.0175, is effective immediately, and the prohibition on smoking in day care licensed under Minnesota Rules, parts 9502.0300 to 9502.0445, is effective March 1, 1994.

Presented to the governor March 30, 1993

Signed by the governor March 31, 1993, 3:34 p.m.

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CHAPTER 15—S.F.No. 300

*An act relating to local government; permitting sheriff civil service commissions to expand eligible lists in certain circumstances; amending Minnesota Statutes 1992, section 387.36.*

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

Section 1. Minnesota Statutes 1992, section 387.36, is amended to read:

**387.36 RULES, PROMULGATION.**

(a) The commission shall; ~~immediately after its appointment and from time~~

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