

Sec. 11. **REPEALER.**

Minnesota Rules, part 2875.3532, is repealed.

Sec. 12. **EFFECTIVE DATE.**

Sections 1 to 8 and 11 are effective the day following final enactment. Section 9 is effective for the 1993 assessment, taxes payable in 1994 and thereafter.

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 8:21 a.m.

CHAPTER 272—H.F.No. 584

An act relating to utilities; regulating telephone services to communication-impaired persons; requiring studies and reports; amending Minnesota Statutes 1992, sections 237.49; 237.50, subdivisions 3, 4, 11, and by adding subdivisions; 237.51, subdivisions 1, 2, 4, 5, and 6; 237.52, subdivisions 2 and 5; 237.54; 237.55; and 595.02, subdivision 1; Laws 1987, chapter 308, section 8.

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

Section 1. Minnesota Statutes 1992, section 237.49, is amended to read:

237.49 COMBINED LOCAL ACCESS SURCHARGE.

Each local telephone company shall collect from each subscriber an amount ~~or amounts~~ per telephone access line representing the total of the surcharges required under sections 237.52, 237.70, and 403.11. Amounts collected must be remitted to the department of administration in the manner prescribed in section 403.11. The department of administration shall divide the amounts received proportional to the individual surcharges and deposit them in the appropriate accounts. A company or the billing agent for a company shall list the surcharges as one amount on a billing statement sent to a subscriber.

Sec. 2. Minnesota Statutes 1992, section 237.50, subdivision 3, is amended to read:

Subd. 3. **COMMUNICATION IMPAIRED.** "Communication impaired" means certified as deaf, severely hearing impaired, ~~hard of hearing~~ hard-of-hearing, speech impaired, ~~or deaf and blind,~~ or mobility impaired if the mobility impairment significantly impedes the ability to use standard customer premises equipment.

Sec. 3. Minnesota Statutes 1992, section 237.50, subdivision 4, is amended to read:

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

Subd. 4. **COMMUNICATION DEVICE.** "Communication device" means a device that when connected to a telephone enables a communication-impaired person to communicate with another person utilizing the telephone system. A "communication device" includes a ring signaler, an amplification device, a telephone device for the deaf ~~with any auxiliary equipment,~~ a braille device for use with a telephone, and any other device the board deems necessary; ~~and a telebraille unit.~~

Sec. 4. Minnesota Statutes 1992, section 237.50, is amended by adding a subdivision to read:

Subd. 4a. DEAF. "Deaf" means a hearing impairment of such severity that the individual must depend primarily upon visual communication such as writing, lip reading, manual communication, and gestures.

Sec. 5. Minnesota Statutes 1992, section 237.50, is amended by adding a subdivision to read:

Subd. 6a. HARD-OF-HEARING. "Hard-of-hearing" means a hearing impairment resulting in a functional loss, but not to the extent that the individual must depend primarily upon visual communication.

Sec. 6. Minnesota Statutes 1992, section 237.50, subdivision 11, is amended to read:

Subd. 11. **MESSAGE TELECOMMUNICATION RELAY SERVICE.** "Message Telecommunication relay service" means a central statewide service through which a communication-impaired person, using a communication device, may send and receive messages to and from a non-communication-impaired person whose telephone is not equipped with a communication device and through which a non-communication-impaired person may, by using voice communication, send and receive messages to and from a communication-impaired person.

Sec. 7. Minnesota Statutes 1992, section 237.51, subdivision 1, is amended to read:

Subdivision 1. **CREATION.** The telecommunication access for communication-impaired persons board is established to establish and administer a program to distribute communication devices to eligible communication-impaired persons and to create and maintain a ~~message~~ telecommunication relay service.

Sec. 8. Minnesota Statutes 1992, section 237.51, subdivision 2, is amended to read:

Subd. 2. **MEMBERS.** The board consists of 12 persons to include:

(1) ~~the commissioner of the department of human services or the commissioner's designee;~~

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

(2) the commissioner of the department of administration or the commissioner's designee;

(3) ~~five~~ seven communication-impaired persons appointed by the governor at least three of whom reside outside a metropolitan county, as defined in section 473.121, subdivision 4, at the time of appointment, at least four of whom are deaf, one of whom is speech impaired, one of whom is mobility impaired, and one of whom is hard-of-hearing;

(4) (3) one person appointed by the governor who is a professional in the area of communications disabilities;

(5) (4) one person appointed by the governor to represent the telephone company providing local exchange service to the largest number of persons;

(6) (5) one member of the Minnesota Telephone Association appointed by the governor to represent other affected telephone companies; and

(7) (6) one person appointed by the governor to represent companies providing inter-LATA interexchange telephone service; and

(8) one person to represent the organization operating the message relay service to be appointed by the governor at the time the board contracts with the organization pursuant to section 237.54 if the company with whom the person is employed does not have a contract to operate a telecommunication relay service under section 237.54 and agrees not to enter such a contract for at least one year after the person leaves the board.

Sec. 9. Minnesota Statutes 1992, section 237.51, subdivision 4, is amended to read:

Subd. 4. **MEETINGS.** The board shall meet at least ~~monthly until December 31, 1988;~~ and at least quarterly thereafter annually.

Sec. 10. Minnesota Statutes 1992, section 237.51, subdivision 5, is amended to read:

Subd. 5. **DUTIES.** In addition to any duties specified elsewhere in sections 237.51 to 237.56, the board shall:

(1) define economic hardship, special needs, and household criteria so as to determine the priority of eligible applicants for initial distribution of devices and to determine circumstances necessitating provision of more than one communication device per household;

(2) establish a method to verify eligibility requirements;

(3) establish specifications for communication devices to be purchased under section 237.53, subdivision 3;

(4) enter contracts for the establishment and operation of the message telecommunication relay service pursuant to section 237.54;

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

(5) inform the public and specifically the community of communication-impaired persons of the program;

(6) prepare the reports required by section 237.55;

(7) administer the fund created in section 237.52;

(8) reestablish and fill the position of program administrator whose position is in the unclassified service and establish and fill other positions in the classified service required to conduct the business of the board;

(9) adopt rules, including emergency rules, under chapter 14 to implement the provisions of sections 237.50 to 237.56; and

(10) ~~study the potential economic impact of the program on local communication device retailers and dispensers;~~ notwithstanding any provision of chapter 16B, ~~the board shall~~ develop guidelines for the purchase of some communication devices from local retailers and dispensers if the study board determines that otherwise they will be economically harmed by implementation of sections 237.50 to 237.56.

Sec. 11. Minnesota Statutes 1992, section 237.51, subdivision 6, is amended to read:

Subd. 6. **ADMINISTRATIVE SUPPORT.** The commissioner of the department of administration shall provide staff assistance not including the program administrator and other board staff who ~~is~~ are to be chosen by the board, administrative services, and office space under a contract with the board. The board shall reimburse the commissioner for services, staff, and space provided. The board may request necessary information from the supervising officer of any state agency.

Sec. 12. Minnesota Statutes 1992, section 237.52, subdivision 2, is amended to read:

Subd. 2. **ASSESSMENT.** The board shall annually recommend to the commission an adequate and appropriate mechanism to implement sections 237.50 to 237.56. The public utilities commission shall review the board's budget for reasonableness and may modify the budget to the extent it is unreasonable. The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the program administrator and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than ~~ten~~ 20 cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

Sec. 13. Minnesota Statutes 1992, section 237.52, subdivision 5, is amended to read:

Subd. 5. **EXPENDITURES.** Money in the fund may only be used for:

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

(1) expenses of the board, including personnel cost, public relations, board members' expenses, preparation of reports, and other reasonable expenses not to exceed 20 percent of total program expenditures;

(2) reimbursing the commissioner of human services for purchases made or services provided pursuant to section 237.53;

(3) reimbursing telephone companies for purchases made or services provided under section 237.53, subdivision 5; and

(4) contracting for establishment and operation of the message telecommunication relay service required by section 237.54.

All costs directly associated with the establishment of the board and program, the purchase and distribution of communication devices, and the establishment and operation of the message telecommunication relay service are either reimbursable or directly payable from the fund after authorization by the board. Notwithstanding section 16A.41, the board may advance money to the contractor of the message telecommunication relay service if the contractor establishes to the board's satisfaction that the advance payment is necessary for the operation of the service. The advance payment may be used only for working capital reserve for the operation of the service. The advance payment must be offset or repaid by the end of the contract fiscal year together with interest accrued from the date of payment.

Sec. 14. Minnesota Statutes 1992, section 237.54, is amended to read:

237.54 MESSAGE TELECOMMUNICATION RELAY SERVICE.

Subdivision 1. **ESTABLISHMENT.** The board shall contract with an inter-LATA interexchange telephone service provider to establish a third-party message telecommunication relay service with an "800" number to enable telecommunication between communication-impaired persons and non-communication-impaired persons.

Subd. 2. **OPERATION.** The board shall contract with a local consumer organization that serves communication-impaired persons for operation of the message telecommunication relay system. The board may contract with other than a local consumer organization if the board finds by at least a two-thirds majority vote that no local consumer organization is available to enter into or perform a reasonable contract to operate a telecommunications relay system. The operator of the system shall keep all messages confidential, shall train personnel in the unique needs of communication-impaired people, and shall inform communication-impaired persons and the public of the availability and use of the system. The operator shall not relay a message unless it originates or terminates through a communication device for the deaf or a telebraille device braille device for use with a telephone.

Sec. 15. Minnesota Statutes 1992, section 237.55, is amended to read:

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237.55 REPORTS; PLANS.

The board shall prepare a report for presentation to the commission not later than December 31, 1987, to include plans for distributing communication devices and establishing a third-party message relay service and a recommendation for a funding mechanism pursuant to section 237.52, subdivision 2. The provision of service required under sections 237.50 to 237.56 may begin when the plan is approved by the commission or March 1, 1988, whichever is earlier.

Beginning in 1988, The board must prepare a report for presentation to the commission by December January 31 of each year through the year 1992. Each report must review the accessibility of the telephone system to communication-impaired persons, review the ability of non-communication-impaired persons to communicate with communication-impaired persons via the telephone system, describe services provided, account for money received and disbursed annually for each aspect of the program to date, and include predicted future operation until the final report.

The final report must, in detail, describe the program operation and make recommendations for the funding and service level for necessary ongoing services. The commission may recommend changes in the program to the legislature throughout its operation and shall make a recommendation to the legislature by February 1, 1993, for the future provision and maintenance of the services.

Sec. 16. Minnesota Statutes 1992, section 595.02, subdivision 1, is amended to read:
Subdivision 1. COMPETENCY OF WITNESSES. Every person of sufficient understanding, including a party, may testify in any action or proceeding, civil or criminal, in court or before any person who has authority to receive evidence, except as provided in this subdivision:

(a) A husband cannot be examined for or against his wife without her consent, nor a wife for or against her husband without his consent, nor can either, during the marriage or afterwards, without the consent of the other, be examined as to any communication made by one to the other during the marriage. This exception does not apply to a civil action or proceeding by one against the other, nor to a criminal action or proceeding for a crime committed by one against the other or against a child of either or against a child under the care of either spouse, nor to a criminal action or proceeding in which one is charged with homicide or an attempt to commit homicide and the date of the marriage of the defendant is subsequent to the date of the offense, nor to an action or proceeding for nonsupport, neglect, dependency, or termination of parental rights.

(b) An attorney cannot, without the consent of the attorney's client, be examined as to any communication made by the client to the attorney or the attorney's advice given thereon in the course of professional duty; nor can any employee of the attorney be examined as to the communication or advice, without the client's consent.

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(c) A member of the clergy or other minister of any religion shall not, without the consent of the party making the confession, be allowed to disclose a confession made to the member of the clergy or other minister in a professional character, in the course of discipline enjoined by the rules or practice of the religious body to which the member of the clergy or other minister belongs; nor shall a member of the clergy or other minister of any religion be examined as to any communication made to the member of the clergy or other minister by any person seeking religious or spiritual advice, aid, or comfort or advice given thereon in the course of the member of the clergy's or other minister's professional character, without the consent of the person.

(d) A licensed physician or surgeon, dentist, or chiropractor shall not, without the consent of the patient, be allowed to disclose any information or any opinion based thereon which the professional acquired in attending the patient in a professional capacity, and which was necessary to enable the professional to act in that capacity; after the decease of the patient, in an action to recover insurance benefits, where the insurance has been in existence two years or more, the beneficiaries shall be deemed to be the personal representatives of the deceased person for the purpose of waiving this privilege, and no oral or written waiver of the privilege shall have any binding force or effect except when made upon the trial or examination where the evidence is offered or received.

(e) A public officer shall not be allowed to disclose communications made to the officer in official confidence when the public interest would suffer by the disclosure.

(f) Persons of unsound mind and persons intoxicated at the time of their production for examination are not competent witnesses if they lack capacity to remember or to relate truthfully facts respecting which they are examined.

(g) A registered nurse, psychologist or consulting psychologist shall not, without the consent of the professional's client, be allowed to disclose any information or opinion based thereon which the professional has acquired in attending the client in a professional capacity, and which was necessary to enable the professional to act in that capacity.

(h) An interpreter for a person handicapped in communication shall not, without the consent of the person, be allowed to disclose any communication if the communication would, if the interpreter were not present, be privileged. For purposes of this section, a "person handicapped in communication" means a person who, because of a hearing, speech or other communication disorder, or because of the inability to speak or comprehend the English language, is unable to understand the proceedings in which the person is required to participate. The presence of an interpreter as an aid to communication does not destroy an otherwise existing privilege.

(i) Licensed chemical dependency counselors shall not disclose information or an opinion based on the information which they acquire from persons consulting them in their professional capacities, and which was necessary to enable them to act in that capacity, except that they may do so:

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(1) when informed consent has been obtained in writing, except in those circumstances in which not to do so would violate the law or would result in clear and imminent danger to the client or others;

(2) when the communications reveal the contemplation or ongoing commission of a crime; or

(3) when the consulting person waives the privilege by bringing suit or filing charges against the licensed professional whom that person consulted.

(j) A parent or the parent's minor child may not be examined as to any communication made in confidence by the minor to the minor's parent. A communication is confidential if made out of the presence of persons not members of the child's immediate family living in the same household. This exception may be waived by express consent to disclosure by a parent entitled to claim the privilege or by the child who made the communication or by failure of the child or parent to object when the contents of a communication are demanded. This exception does not apply to a civil action or proceeding by one spouse against the other or by a parent or child against the other, nor to a proceeding to commit either the child or parent to whom the communication was made or to place the person or property or either under the control of another because of an alleged mental or physical condition, nor to a criminal action or proceeding in which the parent is charged with a crime committed against the person or property of the communicating child, the parent's spouse, or a child of either the parent or the parent's spouse, or in which a child is charged with a crime or act of delinquency committed against the person or property of a parent or a child of a parent, nor to an action or proceeding for termination of parental rights, nor any other action or proceeding on a petition alleging child abuse, child neglect, abandonment or nonsupport by a parent.

(k) Sexual assault counselors may not be compelled to testify about any opinion or information received from or about the victim without the consent of the victim. However, a counselor may be compelled to identify or disclose information in investigations or proceedings related to neglect or termination of parental rights if the court determines good cause exists. In determining whether to compel disclosure, the court shall weigh the public interest and need for disclosure against the effect on the victim, the treatment relationship, and the treatment services if disclosure occurs. Nothing in this clause exempts sexual assault counselors from compliance with the provisions of sections 626.556 and 626.557.

"Sexual assault counselor" for the purpose of this section means a person who has undergone at least 40 hours of crisis counseling training and works under the direction of a supervisor in a crisis center, whose primary purpose is to render advice, counseling, or assistance to victims of sexual assault.

(l) A person cannot be examined as to any communication or document, including worknotes, made or used in the course of or because of mediation pursuant to an agreement to mediate. This does not apply to the parties in the dis-

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pute in an application to a court by a party to have a mediated settlement agreement set aside or reformed. A communication or document otherwise not privileged does not become privileged because of this paragraph. This paragraph is not intended to limit the privilege accorded to communication during mediation by the common law.

(m) A child under ten years of age is a competent witness unless the court finds that the child lacks the capacity to remember or to relate truthfully facts respecting which the child is examined. A child describing any act or event may use language appropriate for a child of that age.

(n) A communication assistant for a telecommunications relay system for communication-impaired persons shall not, without the consent of the person making the communication, be allowed to disclose communications made to the communication assistant for the purpose of relaying.

Sec. 17. Laws 1987, chapter 308, section 8, is amended to read:

Sec. 8. EFFECTIVE DATE.

Sections 1 to 7 are effective July 1, 1987; ~~and are repealed effective June 30, 1993.~~

Sec. 18. REPORT BY TACIP BOARD.

The telecommunication access for communication-impaired persons board shall report to the legislature by February 1, 1994, on the reasonableness of charging for toll calls made through the telecommunication relay service. The report shall include the economic and policy factors considered by the board.

Sec. 19. PUBLIC UTILITIES COMMISSION TRANSITIONAL AUTHORITY.

The public utilities commission is authorized to do all things necessary to ensure that a surcharge increase authorized by section 11 is implemented by July 1, 1993.

Sec. 20. TELEPHONE SERVICE FOR THE BLIND.

The department of public service shall study the feasibility of providing free directory and operator services to blind individuals. The study shall analyze the cost to rate payers if the cost of the free services is included as part of the rate for local service by a telephone company.

Sec. 21. EFFECTIVE DATE.

Sections 2 to 7, 9 to 13, 15, and 18 are effective July 1, 1993. Sections 8, 14, 17, and 19 are effective the day following final enactment.

Presented to the governor May 15, 1993

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Signed by the governor May 19, 1993, 10:30 a.m.

CHAPTER 273—H.F.No. 988

An act relating to game and fish; allowing the taking of two deer in designated counties during the 1993 and 1994 hunting seasons.

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

Section 1. **AUTHORIZATION TO TAKE TWO DEER IN CERTAIN COUNTIES.**

Notwithstanding Minnesota Statutes, section 97B.301, subdivision 2, during the 1993 and 1994 hunting seasons, in Kittson, Lake of the Woods, Marshall, and Roseau counties a person may obtain one firearms deer license and one archery deer license in the same license year and may take one deer under each license.

Presented to the governor May 15, 1993

Signed by the governor May 19, 1993, 8:33 a.m.

CHAPTER 274—S.F.No. 192

An act relating to state lands; authorizing the sale of certain tax-forfeited and other state land that borders public water in Aitkin county.

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

Section 1. **SALE OF TAX-FORFEITED LAND; AITKIN COUNTY.**

(a) Notwithstanding Minnesota Statutes, sections 92.45 and 282.018, subdivision 1, Aitkin county may sell the tax-forfeited land bordering public water that is described in paragraph (c), under the remaining provisions of Minnesota Statutes, chapter 282.

(b) The conveyance must be in a form approved by the attorney general.

(c) The land that may be conveyed is located in Aitkin county, and is described as that part of Government Lot 2, Section 31, Township 45 North, Range 27 West, containing about 2.19 acres, as more particularly described in Document No. 178618 as recorded in the Aitkin county recorder's office.

(d) The county has determined that sufficient public access exists on the lake and that the county's land management interests would best be served if the lands were returned to private ownership.

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