

## CHAPTER 24—H.F.No. 453

*An act relating to the military; changing certain military requirements, procedures, and duties; clarifying certain language; changing armory provisions; amending Minnesota Statutes 1996, sections 190.02; 190.05, by adding subdivisions; 190.07; 190.16, subdivision 2; 190.25, subdivision 1; 192.19; 192.20; 192.23; 192.37; 192.38, subdivision 1; 192.40; 192.49, subdivisions 1 and 2; 193.142, subdivisions 1, 2, and 3; 193.143; 193.144, subdivisions 1, 2, and 6; 193.145, subdivisions 2, 4, and 5; 193.148; and 193.29, subdivision 4; repealing Minnesota Statutes 1996, sections 190.13; 190.29; 192.36; 192.435; 192.44; 192.45; 192.46; 192.47; and 192.51, subdivision 2.*

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

Section 1. Minnesota Statutes 1996, section 190.02, is amended to read:

**190.02 GOVERNOR TO BE COMMANDER-IN-CHIEF; RULES; STAFF.**

The governor shall be the commander-in-chief of the military forces, except so much thereof as may be in the actual service of the United States, and may employ the same for the defense or relief of the state or any other state, the enforcement of law, and the protection of persons and property therein.

The governor shall make and publish rules, not inconsistent with law, and enforce all the provisions of the military code.

The governor may appoint a staff, consisting of an adjutant general and six aides--camp of field grade who shall be detailed from the national guard.

Sec. 2. Minnesota Statutes 1996, section 190.05, is amended by adding a subdivision to read:

Subd. 3a. **MILITARY RESERVATIONS.** "Military reservations," without limitation, includes military installations, armories, air bases, and facilities owned or controlled by the state for military purposes.

Sec. 3. Minnesota Statutes 1996, section 190.05, is amended by adding a subdivision to read:

Subd. 6a. **OFFICER.** "Officer" includes commissioned officers and commissioned warrant officers in the army national guard and the air national guard.

Sec. 4. Minnesota Statutes 1996, section 190.07, is amended to read:

**190.07 APPOINTMENT; QUALIFICATIONS; RANK.**

There shall be an adjutant general of the state who shall be appointed by the governor. The adjutant general shall be a staff officer, who at the time of appointment shall be a commissioned officer of the national guard of this state, with not less than ten years military service in the armed forces of this state or of the United States, at least three of which shall have been commissioned and who shall have reached the grade of a field officer.

The adjutant general shall hold the rank equal to that of the highest rank authorized for the army and air national guard in the table of organization for units allotted to the state by the department of the army, or the department of the air force, or by both such departments, through the national guard bureau of major general. However, the adjutant general

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shall not be appointed to the rank of major general without having 20 years service in the national guard, of which one year has been in the rank of brigadier general.

The term of the adjutant general is seven years from the date of appointment. Section 15.06, subdivisions 3, 4, and 5, governs filling of vacancies in the office of adjutant general. The adjutant general shall not be removed from office during a term except upon withdrawal of federal recognition or as otherwise provided by the military laws of this state.

Sec. 5. Minnesota Statutes 1996, section 190.16, subdivision 2, is amended to read:

Subd. 2. **ACCEPTANCE OF MONEY.** The adjutant general may accept ~~federal moneys and other moneys~~ money, either public or private, for and in behalf of the state of Minnesota, for the support of the state's military forces, and for the construction, improvement, or maintenance of buildings, air bases, roads, utilities and any or all other structures or facilities required in the training, housing, and maintenance of the military forces of the state upon such terms and conditions as are or may be prescribed by the laws of the United States and any rules or regulations made thereunder.

Sec. 6. Minnesota Statutes 1996, section 190.25, subdivision 1, is amended to read:

Subdivision 1. The adjutant general is hereby authorized to acquire in the name of the state by purchase, lease, gift, or condemnation, and is authorized to lease all lands which the adjutant general may deem necessary, including lands already devoted to a public use, for military training purposes, adjacent to or in the vicinity of the military field training center at Camp Ripley, or at any other suitable place in this state, subject to the limitations of funds appropriated and available.

Sec. 7. Minnesota Statutes 1996, section 192.19, is amended to read:

**192.19 RETIRED OFFICERS MAY BE ORDERED TO ACTIVE DUTY.**

The commander-in-chief or the adjutant general may assign officers on the retired list, with their consent, to temporary active duty service in recruiting, upon courts-martial, courts of inquiry and boards, to staff duty not involving service with troops, or in charge of a military reservation left temporarily without officers. Such officers while so assigned shall receive the full pay and allowances of their grades at time of retirement.

Sec. 8. Minnesota Statutes 1996, section 192.20, is amended to read:

**192.20 BREVET RANK.**

General and field Officers, warrant officers, and enlisted persons of the national guard who have, after ten years active service, resigned or retired for physical disability or otherwise, may in the discretion of the commander-in-chief, on the recommendation of the adjutant general, be commissioned by brevet, in the next higher grade than that held by them at the time of their resignation or retirement. Brevet rank shall be considered strictly honorary and shall confer no privilege of precedence or command, nor pay any emoluments. Brevet officers, warrant officers, and enlisted persons may wear the uniform of their brevet grade on occasions of ceremony.

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Sec. 9. Minnesota Statutes 1996, section 192.23, is amended to read:

**192.23 SERVICE MEDALS.**

The commander-in-chief may, by general order, provide a suitable mark of distinction for all officers and enlisted members who have served in the military forces of the state for an aggregate period of three, five, ten, 15, and 20 years, respectively, and for like service thereafter; and medals to be awarded for valor, for distinguished service, and for good conduct. The commander-in-chief may authorize and prescribe regulations for the issuance of suitable marks of distinction to be awarded to officers and enlisted members who have served in the military forces of the state during periods of war or other declared emergencies, provided that these shall not be awarded for service for which service medals or bars are authorized by federal authority.

Sec. 10. Minnesota Statutes 1996, section 192.37, is amended to read:

**192.37 DISPOSING WRONGFUL DISPOSITION OF PROPERTY.**

Every person, whether a member of the military forces or not, who shall willfully sell or dispose of or buy or receive any arms, equipment or accoutrements issued by sells, buys, damages, destroys, disposes of, or retains any military property of the United States or of the state for the use of the military forces, or refuses to deliver or pay for the same upon lawful demand, without proper authority shall be guilty of a misdemeanor.

Sec. 11. Minnesota Statutes 1996, section 192.38, subdivision 1, is amended to read:

Subdivision 1. **TEMPORARY EMERGENCY RELIEF.** If any officer or enlisted member of the military forces is wounded or otherwise disabled, dies from disease contracted or injuries received, or is killed while in state active service as defined in section 190.05, subdivision 5a, the officer or member, or in the case of death the officer's or member's dependent spouse, child, or parent, may be provided with immediate temporary relief as necessary in cases of severe hardship, in an amount to be determined by the adjutant general and approved by the governor. All payments under this subdivision shall be made from appropriations for the maintenance of the state military forces. The adjutant general shall notify the workers' compensation commission department of employee relations of any payments made pursuant to this subdivision and the amount of it shall be subtracted from any award made by the commission department of employee relations.

Sec. 12. Minnesota Statutes 1996, section 192.40, is amended to read:

**192.40 GOVERNOR TO APPOINT UNITED STATES PROPERTY AND DISBURSING FISCAL OFFICER.**

The governor, upon the recommendation of the adjutant general and pursuant to federal authority, shall appoint, designate, or detail subject to the approval of the secretary of defense, the adjutant general, or an officer of the national guard who shall be regarded as property and disbursing officer for the United States the army and secretary of the air force, a qualified commissioned officer of the Minnesota national guard to be the United States property and fiscal officer for Minnesota. The officer appointed shall receipt and account for all funds and property belonging to the United States in possession of the national guard of this state and shall make such returns and reports concerning the same as may be required by the secretary of defense. The officer appointed shall render, through the defense department, such accounts of federal funds entrusted to that officer for disbursement as may be required by the treasury department.

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The property and disbursing officer shall, before entering upon the performance of duties, be required to give good and sufficient bond to the United States, the amount thereof to be determined by the secretary of defense, for the faithful performance of assigned duties and for the safekeeping and proper disposition of the federal property and funds entrusted to the care of that officer.

This property and disbursing officer may also be the quartermaster of the state chief, national guard bureau, and the appropriate service secretary.

Sec. 13. Minnesota Statutes 1996, section 192.49, subdivision 1, is amended to read:

Subdivision 1. **OFFICERS.** Every commissioned officer of the military forces shall receive from the state, while engaged in any service ordered by the governor, pay and allowances at the rate now or hereafter paid or allowed by law to officers of similar rank the same grade and length of service in the armed forces of the United States, but not less than \$130 a day.

Sec. 14. Minnesota Statutes 1996, section 192.49, subdivision 2, is amended to read:

Subd. 2. **UNIFORMS TO BE SUPPLIED ENLISTED PERSONS.** When expedient, the adjutant general may issue to commissioned officers from time to time any available articles of uniform and equipment suitable for field work. Articles so issued shall be charged to the officer and that officer shall account for them as provided in rules called into active service by the governor, other than for encampment or maneuvers, including the time necessarily consumed in travel, each enlisted person of the military forces shall be paid by the state the pay and the allowances, when not furnished in kind, provided by law for enlisted persons of similar grade, rating, and length of service in the armed forces of the United States, or \$130 a day, whichever is more.

Sec. 15. Minnesota Statutes 1996, section 193.142, subdivision 1, is amended to read:

Subdivision 1. **CORPORATION CREATED; OFFICERS.** For the purpose of constructing armories as provided by section 193.141, there shall be created a corporation to be known as the "Minnesota state armory building commission." The members and governing body of such corporation shall be the adjutant general and not less than two officers of the line of the national guard of the state above the grade of lieutenant colonel major, to be selected and appointed by the adjutant general. The adjutant general shall be chair of such commission. Such commission shall elect a secretary and a treasurer from the members thereof other than the adjutant general. The treasurer of the corporation shall give a security bond to the corporation in such sum as the corporation may determine, conditioned in like manner to the bonds of treasurers of public bodies, to be approved and filed as the corporation may determine.

Sec. 16. Minnesota Statutes 1996, section 193.142, subdivision 2, is amended to read:

Subd. 2. **FILING; OFFICERS; MEMBERS; VACANCY.** Upon the filing with the secretary of state of a certificate by the adjutant general naming the persons authorized to compose such commission and corporation, and declaring them to be constituted a commission and corporation hereunder, such persons shall forthwith become and be such commission and corporation without further proceeding. In case of a vacancy in the membership of such commission and corporation, the remaining members, provided

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there are not less than two, shall have power to act and to elect such temporary officers of the commission as may be necessary during the existence of the vacancy. In case at any time there shall not be at least two qualified officers of the national guard in addition to the adjutant general eligible to serve as members of such commission, the adjutant general may appoint a member or members of such commission from the lieutenant colonels of the line of the national guard of the state, so as to provide not more than two members of such commission in addition to the adjutant general. The membership of the members last so appointed shall automatically terminate upon the appointment and qualification of an officer of the national guard eligible under subdivision 1, to serve as a member of such commission, provided the total membership be not thereby reduced to less than three including the adjutant general. In case of a vacancy in the office of the adjutant general, or in case of the incapacity of the adjutant general to act as a member and chair of such commission, the officer who is appointed or authorized according to law to exercise the powers of the adjutant general for the time being, shall during the existence of such vacancy or incapacity act as a member and chair of such commission and have all the powers and duties herein vested in or imposed upon the adjutant general as a member and chair of such commission. The adjutant general shall certify to the secretary of state all changes in the membership of the commission, but failure to do so shall not affect the authority of any new member of the commission or the validity of any act of the commission after the accession of a new member.

Sec. 17. Minnesota Statutes 1996, section 193.142, subdivision 3, is amended to read:

Subd. 3. **TRUSTEE IN CERTAIN CASES.** In case at any time all or all but one of the line officers of the national guard who are members of the commission or who are eligible to serve as such are in active service outside the state, or where for any other reason there are not at least two qualified line officers of the national guard available within the state to serve as members of the commission, the adjutant general, or in case of incapacity or of a vacancy in that office, the officer who is appointed or authorized according to law to exercise the powers of the adjutant general for the time being, shall become trustee of the commission and shall have all the powers and perform all the duties of the commission and its officers so long as such conditions exist. Upon the occurrence of such conditions the officer becoming trustee shall file with the Secretary of State a certificate reciting the circumstances and declaring that that officer assumes office as such trustee, and thereupon shall be deemed to have qualified as such, with all the authority hereby conferred. Any change in such office shall be likewise certified by the officers succeeding as trustee. Upon the termination of such conditions, the adjutant general or an authorized substitute shall certify the circumstances in like manner, with the names of the officers then authorized by law to compose the commission, and thereupon such officers shall constitute the commission, and the authority of the trustee shall terminate.

Sec. 18. Minnesota Statutes 1996, section 193.143, is amended to read:

**193.143 STATE ARMORY BUILDING COMMISSION, POWERS.**

Such corporation, subject to the conditions and limitations prescribed in sections 193.141 to 193.149, shall possess all the powers of a body corporate necessary and convenient to accomplish the objectives and perform the duties prescribed by sections 193.141 to 193.149, including the following, which shall not be construed as a limitation upon the general powers hereby conferred:

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(1) To acquire by lease, purchase, gift, or condemnation proceedings all necessary right, title, and interest in and to the lands required for a site for a new armory and all other real or personal property required for the purposes contemplated by the military code and to hold and dispose of the same, subject to the conditions and limitations herein prescribed; provided that any such real or personal property or interest therein may be so acquired or accepted subject to any condition which may be imposed thereon by the grantor or donor and agreed to by such corporation not inconsistent with the proper use of such property by the state for armory or military purposes as herein provided.

(2) To exercise the right of eminent domain in the manner provided by chapter 117, for the purpose of acquiring any property which such corporation is herein authorized to acquire by condemnation; provided, that the corporation may take possession of any such property so to be acquired at any time after the filing of the petition describing the same in condemnation proceedings; provided further, that this shall not preclude the corporation from abandoning the condemnation of any such property in any case where possession thereof has not been taken.

(3) To construct and equip new armories as authorized herein; to pay therefor out of the funds obtained as hereinafter provided and to hold, manage, and dispose of such armory, equipment, and site as hereinafter provided. The total amount of bonds issued on account of such armories shall not exceed the amount of the cost thereof; provided also, that the total bonded indebtedness of the commission shall not at any time exceed the aggregate sum of \$7,000,000.

(4) To sue and be sued.

(5) To contract and be contracted with in any matter connected with any purpose or activity within the powers of such corporations as herein specified; provided, that no officer or member of such corporation shall be personally interested, directly or indirectly, in any contract in which such corporation is interested.

(6) To employ any and all professional and nonprofessional services and all agents, employees, workers, and servants necessary and proper for the purposes and activities of such corporation as authorized or contemplated herein and to pay for the same out of any portion of the income of the corporation available for such purposes or activities. The officers and members of such corporation shall not receive any compensation therefrom, but may receive their reasonable and necessary expenses incurred in connection with the performance of their duties; provided however, that whenever the duties of any member of the commission require full time and attention the commission may compensate the member therefor at such rates as it may determine.

(7) To borrow money and issue bonds for the purposes and in the manner and within the limitations herein specified, and to pledge any and all property and income of such corporation acquired or received as herein provided to secure the payment of such bonds, subject to the provisions and limitations herein prescribed, and to redeem any such bonds if so provided therein or in the mortgage or trust deed accompanying the same.

(8) To use for the following purposes any available money received by such corporation from any source as herein provided in excess of those required for the payment of the cost of such armory and for the payment of any bonds issued by the corporation and interest thereon according to the terms of such bonds or of any mortgage or trust deed accompanying the same:

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(a) To pay the necessary incidental expenses of carrying on the business and activities of the corporation as herein authorized;

(b) To pay the cost of operating, maintaining, repairing, and improving such new armories;

(c) If any further excess moneys remain, to purchase upon the open market at or above or below the face or par value thereof any bonds issued by the corporation as herein authorized; provided, that any bonds so purchased shall thereupon be canceled.

(9) To adopt and use a corporate seal.

(10) To adopt all needful bylaws and rules for the conduct of business and affairs of such corporation and for the management and use of all armories while under the ownership and control of such corporation as herein provided, not inconsistent with the use of such armory for armory or military purposes.

(11) Such corporation shall issue no stock.

(12) No officer or member of such corporation shall have any personal share or interest in any funds or property of the corporation or be subject to any personal liability by reason of any liability of the corporation.

(13) The Minnesota state armory building commission created under section 193.142 shall keep all money and credits received by it as a single fund, to be designated as the "Minnesota state armory building commission fund," with separate accounts for each armory; and the commission may make transfers of money from funds appertaining to any armory under its control for use for any other such armory; provided such transfers shall be made only from money on hand, from time to time, in excess of the amounts required to meet payments of interest or principal on bonds or other obligations appertaining to the armory to which such funds pertain and only when necessary to pay expenses of construction, operation, maintenance, and debt service of such other armory; provided further, no such transfer of any money paid for the support of any armory by the municipality in which such armory is situated shall be made by the commission.

(14) The corporation created under section 193.142 may designate one or more state or national banks as depositories of its funds, and may provide, upon such conditions as the corporation may determine, that the treasurer of the corporation shall be exempt from personal liability for loss of funds deposited in any such depository due to the insolvency or other acts or omissions of such depository.

(15) The governor is empowered to apply for grants of money, equipment, and materials which may be made available to the states by the federal government for leasing, building, and equipping armories for the use of the military forces of the state which are reserve components of the armed forces of the United States, whenever the governor is satisfied that the conditions under which such grants are offered by the federal government, are for the best interests of the state and are not inconsistent with the laws of the state relating to armories, and to accept such grants in the name of the state. The Minnesota state armory building commission is designated as the agency of the state to receive such grants and to use them for armory purposes as prescribed in this chapter, and by federal laws, and regulations not inconsistent therewith.

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Sec. 19. Minnesota Statutes 1996, section 193.144, subdivision 1, is amended to read:

Subdivision 1. **AUTHORITY TO PROVIDE SITE.** Any county or municipality as defined in section 471.345, subdivision 1, desiring to construct a new armory may provide a site therefor as hereinafter provided.

Sec. 20. Minnesota Statutes 1996, section 193.144, subdivision 2, is amended to read:

Subd. 2. **ACQUISITION OF SITE; CONVEYANCE TO CORPORATION.** If such county or municipality as defined in section 471.345, subdivision 1, shall desire to have a new armory constructed, such county or municipality may secure by purchase, gift, or condemnation, and may convey to such corporation, a site for such new armory approved as suitable therefor by the adjutant general. In case such site or any part thereof or interest therein is owned or controlled by the board of park commissioners of such county or municipality or by any other governmental agency therein except the state or county or municipality, such board or other agency may convey the same by way of gift or sale to such corporation without charge.

Sec. 21. Minnesota Statutes 1996, section 193.144, subdivision 6, is amended to read:

Subd. 6. **DISPOSAL OF UNUSED SITE.** In case any land acquired for armory site purposes hereunder has been donated to such corporation by such county or municipality or by other governmental agency except the state, and in case such land or any part thereof shall thereafter not be used for armory purposes for a continuous period of more than ten years, not including the period of any war or other emergency in which the armed forces of the state may be engaged, ~~the title to such unused land or part thereof shall thereupon pass, revert and be vested in such county, municipality or other governmental agency which donated the same, subject to any encumbrances that may have been lawfully placed thereon by such corporation or otherwise the county or municipality may provide written notice to the adjutant general and, if the property is not used for armory purposes within one year from the notice, the adjutant general shall reconvey the property to the donor county or municipality.~~

Sec. 22. Minnesota Statutes 1996, section 193.145, subdivision 2, is amended to read:

Subd. 2. **TAX LEVY.** A county or municipality, as defined in section 471.345, subdivision 1, in which an armory has been constructed or is to be constructed hereunder may by resolution of its governing body irrevocably provide for levying and collecting annually for a specified period, not exceeding 40 years, a tax on the taxable property in the county or municipality.

The proceeds of the levy shall be paid to the corporation for the purposes herein prescribed. The county or municipality may make the levies and payments and bind itself thereto by resolution of its governing body. The provisions of the resolution may be made conditional upon the giving of an agreement by the adjutant general as authorized in subdivision 4. The obligations of the county or municipality to levy, collect, and pay over the taxes shall not be deemed to constitute an indebtedness of the county or municipality within the meaning of any provision of law or of its charter limiting its total or net in-

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debtedness, and such taxes may be levied and collected without regard to any charter provision limiting the amount or rate of taxes which such county or municipality is otherwise authorized to levy.

Sec. 23. Minnesota Statutes 1996, section 193.145, subdivision 4, is amended to read:

Subd. 4. **PAYMENTS BY ADJUTANT GENERAL.** ~~In addition to the payments by the state under subdivision 3,~~ The adjutant general is hereby authorized to pay to such corporation, out of any moneys which may from time to time be appropriated to and for the military department and not appropriated or set apart for any other specific purpose, the sum of not less than \$3,000 per year for each unit of the national guard quartered in such armory when only one such unit is so quartered, and the sum of not less than \$2,000 per year for each additional unit when more than one such unit is so quartered, and may bind the office of the adjutant general, both currently and in the future, by agreement to such corporation to make such payments in a specific amount or amounts out of such appropriations for a period of not more than 40 years.

Sec. 24. Minnesota Statutes 1996, section 193.145, subdivision 5, is amended to read:

Subd. 5. **LEASE TO STATE.** Upon completion of each new armory such corporation shall lease the same to the state through the adjutant general, until such armory and site shall be conveyed to the state as hereinafter provided. Such lease shall be made upon such terms and conditions as shall secure to the state the full and complete use of such armory, for armory and military purposes so far as may be required for the headquarters, organizations, and units of the national guard stationed in such municipality, and upon such other terms and conditions not inconsistent therewith as may be agreed upon; provided, that, except for such use of such property for armory and military purposes which will be secured to the state as aforesaid, such lease shall be subject to any encumbrance placed upon the property to secure the payment of any bonds issued as herein provided. No further consideration for such lease shall be required than the payments to be made by the state as provided by subdivisions 3 and subdivision 4. Otherwise, and so far as it is not inconsistent with the terms and conditions of such lease to the state and so far as will not interfere with the use by the state of such property for armory or military purposes, such corporation may lease, rent, or otherwise make use of such new armory building or any part thereof for such purposes and upon such terms as such corporation may deem proper, and may use the rents and profits therefrom for the purposes herein provided.

Sec. 25. Minnesota Statutes 1996, section 193.148, is amended to read:

**193.148 CONVEYANCE TO STATE.**

When payment has been made of all indebtedness incurred by such corporation incident to the procurement, erection, equipment, and operation of any armory built under the provisions of sections 193.141 to 193.149, including the payment in full of the principal and interest of all bonds issued by such corporation to cover the cost of such armory or the full repayment of any commission funds expended for the construction of such armory, such corporation shall transfer and convey such armory building and the site thereof to the state of Minnesota, for military purposes, to be administered as are other state-owned armories.

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Any unencumbered balance then held by the commission accruing to such armory shall be paid over to the adjutant general retained to be applied to the future maintenance, repair, and equipment of such armory, as provided for in section ~~193.29~~ armories.

Sec. 26. Minnesota Statutes 1996, section 193.29, subdivision 4, is amended to read:

Subd. 4. **RENTALS; PROCEEDS.** The Armory Board may rent an armory to entities or individuals under terms and conditions the board determines, but rentals may not conflict with the use of the armory for military purposes. The proceeds of rentals and all other income accruing to each armory constitutes the Armory Fund and shall must be applied by the Armory Board of each armory, as the adjutant general shall direct, for the its maintenance, extension, improvement, and equipment thereof, but all armory funds and all allowances from the state accruing to commission-owned armories shall must be paid to the commission.

**Sec. 27. REPEALER.**

Minnesota Statutes 1996, sections 190.13; 190.29; 192.36; 192.435; 192.44; 192.45; 192.46; 192.47; and 192.51, subdivision 2, are repealed.

Presented to the governor April 7, 1997

Signed by the governor April 8, 1997, 10:27 a.m.

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**CHAPTER 25—H.F.No. 281**

*An act relating to utilities; providing performance regulation plans for gas utility services; amending Minnesota Statutes 1996, section 216B.16, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.*

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

Section 1. Minnesota Statutes 1996, section 216B.16, is amended by adding a subdivision to read:

Subd. 16. **PERFORMANCE REGULATION PLAN TARIFFS.** A public utility providing natural gas services that has a performance regulation plan approved pursuant to section 216B.1675 shall file tariff provisions incorporating the provisions of that plan. Changes in the cost recovery of natural gas supplies must not be included within the plan.

Sec. 2. **[216B.1675] PERFORMANCE REGULATION PLAN FOR GAS UTILITY SERVICES.**

Subdivision 1. PURPOSE. Performance-based regulation plans for public utilities offering natural gas services are authorized in order to provide quality service at rates that can reasonably and reliably be expected to be lower than rates would be under current regulation and to reduce the cost of regulation. Performance-based regulation plans are intended to provide the utility with increased earnings for efficient performance and decreased earnings for inefficient performance.

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